



**LIBERTY LEGAL
FOUNDATION**

**P.O. Box 443
BENNINGTON, VERMONT 05201**

December 29, 2025

Christine T. Greenwood
Chief Disciplinary Counsel
Office of Professional Conduct
645 South 200 East
Salt Lake City, UT 84111

VIA EMAIL ONLY – opcfileing@opcutah.org

Dear Ms. Greenwood:

We represent Harry W. MacDougald, Esq., in filing this complaint against Michael J. Teter, Utah Bar No. 16734, admitted on May 4, 2018.

As stated in the October 28, 2024 complaint against Mr. Teter by America First Legal on behalf of Stefan C. Passantino, “As you know, the legal profession plays a critical role in a free society. Attorneys must be free to be zealous advocates on behalf of their clients, to take on matters or causes that might be unpopular in segments of society, and to do so without fear of meritless attacks on their reputations from those who have different viewpoints. When members of the bar seek to attack other members of the bar simply because of the clients they have, the causes they advance—or worse, because of meritless lies and half-truths advanced in the media—the entire profession suffers.” (Exhibit 1.)¹

For reasons described below and in the attached Exhibits, Mr. Teter’s conduct towards Mr. MacDougald warrants an investigation.

I. FACTUAL BACKGROUND

As part of 65 Project’s lawfare campaign against Trump-aligned attorneys, on or around February 15, 2023, Mr. Teter filed a grievance against our client, Harry W. MacDougald, with the Georgia State Bar alleging that Mr. MacDougald violated the Rules 3.1, 4.4, and 8.4 of Georgia Rules of

¹ See enclosed Rule 11 Project White Paper for further evidence of the extensive harm to the fabric of the United States caused by politically motivated bar discipline. (Exhibit 2.)

Professional Conduct in connection with two cases challenging the 2020 election, *Pearson v. Kemp* and *Wood v. Raffensperger*.² (Exhibit 3.)

Mr. Teter signed the grievance with an affirmation that “[he has] read and understand[s] the information and instructions. The information I have provided here is true to the best of my knowledge.” (Id. at 1.) At the top of the grievance form provided by the Georgia State Bar is, in capital letters, “CONFIDENTIAL.” (Id.)

On December 11, 2023, Mr. MacDougald filed a Response to the Georgia State Bar Notice of Investigation of the Grievance by Mr. Teter. (Document titled “Response to Grievance of the 65 Project and Michael Teter,” Exhibit 4.)

On or around August 21, 2024, the Georgia State Bar’s State Disciplinary Board dismissed Mr. Teter’s grievance after an investigation and careful consideration. The Board “concluded that the investigation did not disclose sufficient evidence to justify formal proceedings against [Mr. MacDougald.]” (Exhibit 5.)

II. ALLEGED RULE VIOLATIONS

This present complaint to the Utah State Bar Office of Professional Conduct incorporates Mr. MacDougald’s “Response to Grievance of the 65 Project and Michael Teter” by reference. Mr. MacDougald respectfully requests that Office of Professional Conduct take and consider the “Response to Grievance of the 65 Project and Michael Teter” as part of this present complaint the same as if it were fully set out herein. To summarize from said Response, the allegations against Mr. MacDougald were false and unsubstantiated. Worse, they appear to have been made in bad faith.

Mr. Teter alleges, “[t]he goal was never a complete victory in the courts. Mr. MacDougald, alongside his fellow election denying attorneys across the country, were simply trying to cast doubt on our election, and harm public confidence in our democracy...Mr. MacDougald knew that he neither the law nor the facts on his side, and yet he filed numerous lawsuits anyway. He did this to undermine faith in our electoral system. Mr. MacDougald's actions warrant discipline.” (Exhibit 4 at 7 [6 internal].) However, notably absent from the grievance is any indication that he had personal or firsthand knowledge of what he alleges about Mr. MacDougald, a stranger to him, relative to what Mr. MacDougald’s knowledge, understanding, intentions, beliefs, motives, or purposes were.

Further, the grievance was published by the 65 Project despite Rule 4-221.1(a) of the Georgia Rules of Professional Conduct that provides, “The State Bar of Georgia shall maintain as confidential all disciplinary investigations and proceedings pending at the screening or investigative stage, unless otherwise provided by these Rules.”³ As aforementioned, Mr. Teter signed a grievance form that states in large print at the top “CONFIDENTIAL.” By his signature on the grievance form, Mr. Teter affirmed, “I have read and understood the information and instructions,” which necessarily include the caption’s injunction that the grievance is confidential.

² The Georgia State Bar grievance by Attorney Michael Teter on behalf of The 65 Project against Mr. MacDougald is herein referred to as a “grievance.” This present UT State Bar complaint by Mr. MacDougald against Mr. Teter is herein referred to as a “complaint.”

³ 65 Project’s website published the complaint against Mr. MacDougald on or around June 13, 2023. <https://web.archive.org/web/20230613003137/https://the65project.com/ethics-complaint-against-harry-macdougald/>

A. Mr. Teter’s conduct appears to violate Rule 3.1 of the Rules of Professional Conduct

Utah’s Rule 3.1 provides, “A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous...” While Mr. Teter’s bar grievance in itself may not qualify as a “proceeding,” the bar discipline allegedly warranted would have necessitated proceedings of some form or another by the Georgia State Bar.

The complaint begins with an allegation that Mr. MacDougald had engaged in actions taken in “effort to overturn the 2020 presidential election” and that he “served as part of a coordinated attempt to abuse the judicial system to promote and amplify bogus, unsupported claims of fraud to discredit an election that Mr. Trump lost.” Mr. Teter states that Mr. MacDougald worked on the two aforementioned cases, *Pearson* and *Wood*, and that these cases “lacked any basis in law or fact” and “sought to create a false narrative about voter fraud []based on conjecture and conspiracy theories.” Mr. Teter closes this introduction with the conclusory allegation that a full investigation “will demonstrate the egregious nature of Ms. MacDougald’s actions, especially when considered in light of his purposes...” (Exhibit 3 at 2.)

The grievance next contains a section entitled “BACKGROUND,” which is [practically entirely] unrelated to our client and, instead, is a general description of the events surrounding the 2020 election and a condemnation of President Trump’s attempts to contest irregularities.... In fact, many of the complaints filed by the 65 Project contain identical “BACKGROUND” sections.

Mr. Teter states that lawyers bringing election challenges were sanctioned or referred to their state bars. (Exhibit 3 at 3.) That is true in some cases, but not in Mr. MacDougald’s. Sanctions were neither sought nor awarded against him. No one other than Mr. Teter complained about Mr. MacDougald to the Bar. He cites the trial court sanctions order in *King v. Whitmer* in Michigan but fails to mention that Mr. MacDougald did not even appear in *King* and was not sanctioned in that case.

In the next section, “Conduct Giving Rise to the Complaint,” Mr. Teter claims that Mr. MacDougald, “helped lead the charge on behalf of Mr. Trump in Georgia.” This is false. He did not file anything on behalf of President Trump in Georgia. He was never Mr. MacDougald’s client in, or party to, any of the litigation in which Mr. MacDougald was counsel.

Mr. Teter alleges, “The complaints Mr. MacDougald filed in [*Wood* and *Pearson*] all rely solely on unfounded conspiracy theories, easily proven false, with no basis in law or fact.” (Exhibit 3 at 4.)

As to *Wood*, the grievance accuses Mr. MacDougald of deliberate lies made in filings in the trial court and in the Eleventh Circuit Court of Appeals. However, Mr. MacDougald did not sign, file, or draft anything in that case in either court or otherwise have anything to do with that case in either court. The Complaint in *Wood* is [here](#), and the roster of attorney appearances in the case is [here](#). The allegations against Mr. MacDougald regarding this case are totally false—not a single word is true—and appear to be simply copied from the grievance Mr. Teter filed against Ray L. Smith, III. A comparison of the two grievances is [here](#). (Exhibit 4 at 3 [1 internal].)

As to *Pearson*, in which Mr. MacDougald was local counsel, Mr. Teter contends that the allegations were knowingly false when, in fact, they were supported by a large number of

affidavits. A comment to Rule 3.3 in Georgia states, a lawyer should resolve doubts about the veracity of testimony or other evidence in favor of the client” while disallowing lawyers to ignore an obvious falsehood. Given their nature and volume, and the fact that they did not contain any obvious falsehoods, it was reasonable for Mr. MacDougald to rely on the affidavits provided to him. Mr. Teter’s grievance rests on the proposition that Mr. MacDougald should have conclusively resolved any doubt about the evidence against the clients instead of in favor of them as he was obligated to do. (Exhibit 4 at 6 [4 internal].)

In *Pearson*, Judge Batten [ordered limited temporary injunctive relief](#). Therefore, when the Complaint was filed, not only was it reasonable to believe a court would grant at least some of the relief sought, the court actually did grant some of the relief sought. This refutes the claim that *Pearson* was frivolous within the meaning of Rule 3.1. (*Id.*)

Mr. Teter relies on the ultimate dismissal to suggest that *Pearson* was frivolous under Rule 3.1, but he conflates his merits arguments with the non-merits grounds relied upon by Judge Batten in dismissing the case. Judge Batten did not reach the merits upon which Mr. Teter relies in his grievance, and thus Judge Batten’s dismissal does not support the grievance. (*Id.* at 7 [5 internal].)

The example chosen by Mr. Teter of an unfounded and easily disproved conspiracy theory is taken from an introductory paragraph on page 7 of the *Pearson* Complaint. It addressed the effect of a water leak on counting absentee ballots at State Farm Arena, and the counting of ballots there after all observers had left. He contends that Mr. MacDougald knew from the surveillance video that the allegation was false. But this is itself a compound falsehood. (*Id.* at 8 [6 internal].)

First, the *Pearson* attorneys did not obtain the surveillance video until December 2, 2023, after the Complaint was filed on November 25, 2020, and only in response to a subpoena issued after the lawsuit was filed. Second, paragraphs 116-119 of the Complaint – unmentioned by Mr. Teter – make detailed allegations regarding the events at State Farm Arena based in the aggregate on (1) a statement by the Chairman of the Georgia GOP; (2) a news account quoting statements by officials of Fulton County; and (3) the affidavits of two eyewitnesses. Third, when the State Farm Arena video was obtained, it confirmed the events as described in the Complaint. (*Id.* at 10-11 [8-9 internal].)

Thus, far from “having no basis in fact,” the allegations on this topic were well-supported by evidence recited in or attached to the Complaint or subsequently discovered and filed with the Court.

Mr. Teter then quotes Gabriel Sterling castigating President Trump’s lawyers over statements made regarding the State Farm Arena videos. This is another case of misattribution, which Mr. Teter makes expressly and implicitly throughout the grievance. Mr. MacDougald did not make the statements to which Mr. Sterling was referring. Mr. MacDougald never spoke for President Trump regarding the videos, ever, and never made any public statements at all regarding *Pearson* or the election. (*Id.* at 11 [9 internal].)

Next, Mr. Teter describes the *Pearson* Complaint’s allegations addressing the Smartmatic software as being knowingly false. Mr. Teter makes no reference to the fact that these allegations were supported by lengthy affidavits attached to the Complaint. (*Id.*)

There is no evidence that Mr. MacDougald knew that anything about the Smartmatic allegations was false at the time of filing the Complaint in *Pearson*.

Mr. Teter provides no factual support for the aforementioned allegations that Mr. MacDougald's "goal was never a complete victory in the courts," that he was "simply trying to cast doubt on our election, and harm public confidence in our democracy," that he "knew that he neither the law nor the facts on his side, and yet he filed numerous lawsuits anyway," and that "he did this to undermine faith in our electoral system." These unfounded allegations attributed improper motives, purpose, and conduct to Mr. MacDougald. There is no support for Mr. Teter's allegations about Mr. MacDougald's state of mind other than Mr. Teter's own assumptions and unsupported conjectures. Discussions about the appeal within the group of lawyers handling the case are privileged work product about which Mr. Teter knows absolutely nothing. Mr. Teter's allegations are a compound misrepresentation. (*Id.* at 13 [11 internal].)

Mr. MacDougald filed one lawsuit relative to the 2020 election, not several. There were facts and law supporting the *Pearson* Complaint that Mr. Teter never bothers to mention. The accusation that Mr. MacDougald acted to "undermine faith in the electoral system" is hyperbole resting on a false premise. Mr. Teter's suggestion that Mr. MacDougald committed disciplinable apostasy against "faith in our electoral system" is without support and contrary to the law. (*Id.* at 14 [12 internal].)

Mr. Teter alleges a violation of Georgia's Rule 3.1 in summary and/or conclusory fashion. No new information is presented, and no additional factual allegations or legal arguments are identified as being frivolous. (*Id.* at 14-20 [12-18 internal].) There was no violation of Rule 3.1 in light of the evidence presented above and as detailed in Exhibit 4. The same applies to Mr. Teter's allegation that Mr. MacDougald violated Rules 4.4 and 8.4 (*Id.* at 21 [19 internal].)

On the other hand, evidence demonstrates that Mr. Teter himself violated Utah's Rule 3.1 with his numerous compound misrepresentations.

B. Mr. Teter's conduct appears to violate Rules 4.1 and 8.4(c) of the Rules of Professional Conduct

Utah's Rule 4.1 provides, "In the course of representing a client a lawyer shall not knowingly: (a) Make a false statement of material fact or law to a third person; or (b) fail to disclose a material fact, when disclosure is necessary to avoid assisting a [] fraudulent act by a client..." Rule 8.4(c) provides, "It is professional misconduct for a lawyer to: ... (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."⁴

As discussed above, in his grievance to the Georgia Bar, Mr. Teter made numerous misrepresentations -- from asserting that Mr. MacDougald participated in the *Wood* lawsuit and made deliberate lies therein; that statements regarding Smartmatic in the *Pearson* Complaint were "knowingly false," that Mr. MacDougald filed "several" lawsuits that "all rely solely on unfounded conspiracy theories, easily proven false, with no basis in law or fact," etc.

Comment 1 to Rule 4.1 states, in relevant part, "Misrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false

⁴ Utah Code Jud. Admin. R. 13-8.4.

statements.” The misrepresentations by Mr. Teter range the gamut from bald-faced untruths to misleading statements that ignore the evidence to conclusory rhetoric that has no connection to Mr. MacDougald.

C. Mr. Teter’s conduct appears to violate Rule 8.4(d) of the Rules of Professional Conduct

Utah’s Rule 8.4(d) provides, “It is professional misconduct for a lawyer to: . . . (d) engage in conduct that is prejudicial to the administration of justice.”⁵ The Supreme Court of Utah examined the application of Rule 8.4 and held:

The threshold question is the standard of ‘conduct prejudicial to the administration of justice’ as applied to the lawyer’s role of advising or opining on unresolved questions of law. Lawyers are often called upon to chime in on such questions. As Judge Stone noted, “[a]ttorneys and judges [often] take actions or advise others to take actions based on” the view they take on disputed questions of law. . . . [A]t least one side is generally wrong.’ And our legal system could not function if the side whose view is rejected is in jeopardy of a professional misconduct charge on that basis alone.”

Matter of Discipline of LaJeunesse, 2018 UT 6, ¶ 39.

The 65 Project was created by David Brock, who described its purposes to the press:

The 65 Project plans to file ethics complaints against 111 attorneys across 26 states while also airing ads against them in key battlegrounds such as Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin.

The goal is to prevent conservative attorneys from challenging election results in the future, including the upcoming 2022 midterms.

David Brock, the founder of Media Matters for America and a key fundraiser for the Democratic Party, is an adviser to The 65 Project. He told Axios the goal is to “not only bring the grievances in the bar complaints, ***but shame them and make them toxic in their communities and in their firms.***”

Victoria Marshall, *More than 100 Trump-Affiliated Lawyers Targeted by Dark Money Group*, THE FEDERALIST, July 22, 2022, <https://tinyurl.com/2fd8xuvz>. (Emphasis added.)

Brock told Axios that “***I think the littler fish are probably more vulnerable to what we're doing,***” Brock said. “***You're threatening their livelihood. And, you know, they've got reputations in their local communities.***” Lachlan Markay, *Scoop: High-powered group targets Trump lawyers’ livelihoods*, AXIOS, March 7, 2022, <https://tinyurl.com/sadhh8ca>. (Emphasis added). An anonymous source, likely Brock, added:

“This is mostly important for the deterrent effect that it can bring ***so that you can kill the pool of available legal talent going forward,***” according to a person involved with the effort, who asked to remain anonymous.

⁵ *Id.*

Id. (Emphasis added).

True to these declared and wrongful purposes, most of The 65 Project's bar complaints, were publicized. See <https://tinyurl.com/mr2ejxhj>.⁶ This includes the one against Mr. MacDougald, which was covered in the AJC (<https://tinyurl.com/w4fswzed>) and Law 360, among other outlets.

This present complaint re-alleges the following claims from Mr. Passantino's complaint:

Mr. Teter's numerous misconduct complaints appear based on a simple premise: that attorneys should not represent President Donald J. Trump or anyone associated with him, and that President Trump and his associates are not entitled to legal representation or zealous advocacy. Wherever serious disputes exist, it is a settled matter of legal ethics that it is always preferable for parties to be represented by attorneys. *Id.*; see also *Brotherhood of R.R. Trainmen v. Virginia ex rel. Va. State Bar*, 377 U.S. 1, 7 (1964) ("Laymen cannot be expected to know how to protect their rights when dealing with practiced and carefully counseled adversaries").

The reliance on boilerplate language[,] the...ad campaigns..., [and the publicity⁷] by the 65 Project demonstrate that the motivating principle underlying these complaints is the desire to punish lawyers associated with a single client, not any breach of a Rule of Professional Conduct. The Supreme Court of Utah's interpretation of Rule 8.4 does not allow lawyers to be penalized for representing or associating with a disfavored client. *LaJeunesse* at ¶ 43 ("Lawyers and judges are often called upon to opine on open questions of law. When they do so in good faith, they cannot be charged with a violation of Rule 8.4(d) just because their interpretation is ultimately rejected.").

(Exhibit 1 at 4.)

D. Mr. Teter's conduct appears to violate Rule 301 of the Rules Governing the Utah State Bar

Rule 301 of the Supreme Court of Utah's Rules Governing the Utah State Bar is entitled "Standards of Professionalism and Civility."⁸ The preamble to the rule states that "[c]onduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently. Such conduct tends to delay and often to deny justice."⁹ "The following standards are designed to encourage lawyers to meet their obligations to each other, ... and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service."¹⁰ Standard 3 states that: "Lawyers shall not, without an adequate factual basis, attribute to other counsel or the court improper motives, purpose, or conduct."¹¹

⁶ At least ten of the 65 Project's complaints were published on its website but later removed/deleted from its website. The attorneys' initials are: A.M., B.C., C.M., K.K., J.T., W.C., B.E., C.M., J.D., and P.D.

⁷ "It's 'problematic,' said Fordham Law School professor Bruce Green, that the group is 'accusing lawyers of misconduct in a very public way,' with news releases and a media rollout, before claims have been reviewed and validated by disciplinary boards." <https://perma.cc/SHR7-WM2V>

⁸ Utah Code Jud. Admin. R. 14-301.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at § 3.

The Standard continues, “Lawyers should avoid hostile, demeaning, or humiliating words in written and oral communications with adversaries. Neither written submissions nor oral presentations should disparage the integrity, intelligence, morals, ethics, or personal behavior of an adversary unless such matters are directly relevant under controlling substantive law.”¹²

Mr. Teter’s complaints were not based on personal knowledge or any adequate factual basis; instead, they relied on news reports, e.g. from CNN, Newsweek, the AP Press, etc., which have, in many cases, been proven false. Mr. Teter’s complaint does not indicate that he spoke with Mr. Wood or Mr. Pearson or other attorneys involved in the cases. Without any direct knowledge of the facts, Mr. Teter lacked an adequate factual basis to file his complaint.

Mr. Teter made uncited statements attributing improper motives, purpose, and conduct to Mr. MacDougald, as discussed above.

Standard 4 also provides, “Lawyers shall never knowingly attribute to other counsel a position or claim that counsel has not taken or seek to create such an unjustified inference or otherwise seek to create a “record” that has not occurred.”¹³ Standard 5 instructs, “Lawyers shall not lightly seek sanctions and will never seek sanctions against or disqualification of another lawyer for any improper purpose.”¹⁴

This present complaint re-alleges the following claims from Mr. Passantino’s complaint: “By his own admission, Mr. Teter sought misconduct sanctions against our client and many others for an improper purpose. He abused the grievance process to treat these attorneys uniformly, as a class, to create a ‘culture of deterrence’ and impact an unrelated set of attorneys who might hypothetically represent President Trump someday.¹⁵ His many misconduct complaints violated Standard 4 by seeking to create an inference in the mind of the public, namely that an organized cabal of Republican lawyers had attempted a coup against the United States in furtherance of a political narrative.” (Exhibit 1 at 6.)

Just like Mr. Passantino, Mr. MacDougald was “swept up in Mr. Teter’s vendetta against President Trump and his well-funded attempts to prevent others from representing the President in the future.” (*Id.*)

Mr. Teter’s systematic attempts to sanction any lawyer even tangentially associated with the President, the logical conclusion is that his grievance against our client was sought for an improper purpose, in violation of Standard 5.

D. Mr. Teter’s conduct appears contrary to the standards envisioned by the Rules of Professional Conduct

The preamble to the Utah Rules of Professional Conduct describes the spirit in which the rules should be interpreted and applied.

¹² *Id.*

¹³ Utah Code Jud. Admin. R. 14-301, § 4.

¹⁴ *Id.* at § 5.

¹⁵ Tierney Sneed, *Inside the Effort to Disbar Attorneys Who Backed Bogus Election Lawsuits*, CNN (Mar. 10, 2022), <https://perma.cc/SHR7-WM2V>.

The preamble to the Rules of Professional Conduct states, “[a] lawyer’s representation of a client ... does not constitute an endorsement of the client’s political, economic, social or moral views or activities.” It further provides, “[a] lawyer should use the law’s procedures only for legitimate purposes and not to harass or intimidate others” and “when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done.”¹⁶

Mr. Teter’s boilerplate complaints reflect the following illegitimate, harassing, and intimidating purpose in his statements: attorneys should be punished for representing, and in the future be afraid to represent, certain political leaders. Mr. MacDougald, Mr. Passantino, and the other attorneys attacked by Mr. Teter were seeking to represent their clients in the face of widespread condemnation both inside and outside of the legal profession. In doing so, they were exercising one of the most important rights in the nation as codified in the First Amendment: everyone is entitled to petition the government. Mr. Teter unethically sought to punish them through his organization’s smear campaign of ethics complaints.

III. Conclusion

For the reasons above, we respectfully request that the Office of Professional Conduct open a misconduct investigation into Michael Teter.

Thank you for your consideration.

Sincerely,
/s/ Stacey Bucci
General Counsel

CLO@libertylegalfdn.org

¹⁶ Utah Code Jud. Admin. R. 13 Preamble, at §§ 5, 8.

Exhibit 1



October 28, 2024

Christine T. Greenwood
Chief Disciplinary Counsel
Office of Professional Conduct
645 South 200 East
Salt Lake City, UT 84111

Dear Ms. Greenwood:

We represent Stefan C. Passantino, Esq., in filing this complaint against Michael J. Teter, Utah Bar No. 16734, admitted on May 4, 2018.¹

As you know, the legal profession plays a critical role in a free society. Attorneys must be free to be zealous advocates on behalf of their clients, to take on matters or causes that might be unpopular in segments of society, and to do so without fear of meritless attacks on their reputations from those who have different viewpoints. When members of the bar seek to attack other members of the bar simply because of the clients they have, the causes they advance—or worse, because of meritless lies and half-truths advanced in the media—the entire profession suffers.

For the reasons outlined below, Mr. Teter’s conduct towards our client and his conduct towards a substantial number of lawyers across the country falls short of the standards expected of members of the legal profession and warrants your Office initiating an investigation into his activities.

I. Factual Background

Mr. Teter is the Managing Director of the 65 Project, a left-of-center lawfare organization whose leadership includes Melissa Moss, a former Finance Chair of the Democratic National Committee, and prominent liberal political consultant David Brock.² The 65 Project was formed for the purpose of “disbarring [] Trump-aligned attorneys” and “Trump’s legal allies.”³ When it was formed, Mr. Teter told CNN that “[c]reating a system of deterrence requires that people know these complaints have

¹ *Member Directory: Michael Teter*, UTAH STATE BAR, <https://perma.cc/XW55-HS4G>.

² *Senior Advisor Melissa Moss*, THE 65 PROJECT, <https://perma.cc/6B5H-ZGSN>; Lachlan Markay & Jonathan Swan, *Scoop: High-Powered Group Targets Trump Lawyers’ Livelihoods*, AXIOS (Mar. 7, 2022), <https://perma.cc/7R3P-L6RD>.

³ Tierney Sneed, *Inside the Effort to Disbar Attorneys Who Backed Bogus Election Lawsuits*, CNN (Mar. 10, 2022), <https://perma.cc/SHR7-WM2V>.

been filed.”⁴ But critics, like Fordham law professor Bruce Green, have called such tactics “problematic” because they are “basically designed to embarrass these lawyers, and that may have the effect of discouraging lawyers from engaging in politically involved work, *even if they’re playing by the rules.*”⁵

In the last several years, the 65 Project, through Mr. Teter, has filed nearly 100 ethics complaints against lawyers it views as being aligned with former President Donald J. Trump.⁶ As part of this campaign, on February 15, 2023, Mr. Teter filed a complaint against our client, Stefan Passantino, alleging that Mr. Passantino was deficient in representing Cassidy Hutchinson before the January 6 Committee.⁷

In the complaint, Mr. Teter alleged that Mr. Passantino sought “to obstruct the Select Committee’s inquiry to uncover the full context of the January 6 attack on our nation’s Capital.”⁸ Mr. Teter claimed that our client breached confidentiality, advised his client to perjure herself, and sought to undermine the administration of justice. Notably absent from Mr. Teter’s complaint was any indication that he had firsthand knowledge of what he stated. Indeed, much of the language in his complaint against Mr. Passantino was the same boilerplate language used in many of his other complaints.⁹ The only allegations that *were* specific to Mr. Passantino relied entirely on allegations from the January 6 Committee, hearing transcripts, and one CNN news article that relied entirely on anonymous “sources.”

Our client represented Ms. Hutchinson in the leadup to her testimony before the House Select Committee on January 6.¹⁰ This month, the House Committee on Administration exposed that—far from being told to lie by Mr. Passantino—Ms. Hutchinson was communicating with and being coached by then-Representative Elizabeth Cheney without our client’s knowledge.¹¹ This brings into question Ms. Hutchinson’s September 2022 interview with the January 6 Committee, wherein she criticized our client’s representation and which formed a large part of the “factual” basis for Mr. Teter’s complaint. Indeed, new messages appear to indicate that the

⁴ *Id.*

⁵ *Id.* (emphasis added).

⁶ See, *Ethics Complaints*, THE 65 PROJECT, <https://perma.cc/K6DS-WP5P>.

⁷ See Letter from Michael Teter, Managing Director, the 65 Project, to the Office of the General Counsel, State Bar of Georgia (Feb. 15, 2023), <https://perma.cc/3GKY-EZJX>; see also Andrew Goudsward, *Group Wants Trump-Aligned Lawyer Investigated Over Capitol Riot Testimony*, REUTERS (Feb. 15, 2023), <https://perma.cc/MB4N-QSNG>.

⁸ *Id.* at 1.

⁹ See generally, *Ethics Complaints* supra note 6.

¹⁰ Zachary Cohen & Jim Acosta, *Former Meadows Aide May Testify Publicly After Dropping Trump-Linked Lawyer*, CNN (June 9, 2022), <https://perma.cc/AH27-KW9M>.

¹¹ See Press Release, Rep. Barry Loudermilk, Chairman, H. Comm. on Admin. Subcomm. on Oversight, *New Texts Reveal Liz Cheney Communicated with Cassidy Hutchinson About Her Select Committee Testimony—without Hutchinson’s Attorney’s Knowledge—Despite Cheney Knowing it was Unethical* (Oct. 15, 2024), <https://perma.cc/JB5M-9XHB>.

allegations were not just lacking in personal knowledge, but that they were objectively false.¹²

Not satisfied with unleashing a barrage of nearly 100 ethics complaints against attorneys with whom he had *no* personal knowledge or experience, last month, the 65 Project began running advertisements online and in legal journals in swing states, promoting the message, “Don’t lose your law license because of Trump.”¹³ These ads appear to seek to discourage lawyers who might be inclined to represent President Trump in the future from doing so.

II. Mr. Teter’s conduct appears to violate Rule 8.4 of the Rules of Professional Conduct

Rule 8.4 provides that “[i]t is professional misconduct for a lawyer to: ... (d) engage in conduct that is prejudicial to the administration of justice.”¹⁴ The Supreme Court of Utah recently examined the application of Rule 8.4 and held:

The threshold question is the standard of ‘conduct prejudicial to the administration of justice’ as applied to the lawyer’s role of advising or opining on unresolved questions of law. Lawyers are often called upon to chime in on such questions. As Judge Stone noted, “[a]ttorneys and judges [often] take actions or advise others to take actions based on” the view they take on disputed questions of law...[A]t least one side is generally wrong.’ *And our legal system could not function if the side whose view is rejected is in jeopardy of a professional misconduct charge on that basis alone.*”

Matter of Discipline of LaJeunesse, 2018 UT 6, ¶ 39 (emphasis added). Mr. Teter’s numerous misconduct complaints appear based on a simple premise: that attorneys should not represent President Donald J. Trump or anyone associated with him, and that President Trump and his associates are not entitled to legal representation or zealous advocacy. Wherever serious disputes exist, it is a settled matter of legal ethics that it is always preferable for parties to be represented by attorneys. *Id.*; *see also Brotherhood of R.R. Trainmen v. Virginia ex rel. Va. State Bar*, 377 U.S. 1, 7 (1964) (“Laymen cannot be expected to know how to protect their rights when dealing with practiced and carefully counseled adversaries”).

¹² Oversight Subcommittee (@OversightAdmn), X (Oct. 29, 2024, 10:24 AM), <https://perma.cc/A9W7-GCAL>.

¹³ Alan Feuer, *Legal Watchdog Group Warns Pro-Trump Lawyers Against Subverting Democracy in November*, NY TIMES (Sept. 19, 2024), <https://perma.cc/7K49-9C9D>.

¹⁴ Utah Code Jud. Admin. R. 13-8.4.

Mr. Teter’s allegations that our client was deficient in representing Ms. Hutchinson have been proven false.¹⁵ Congress has confirmed that Cassidy Hutchinson, when testifying before the House Select Committee on January 6, was acting on the advice of former Representative Liz Cheney, not our client.¹⁶

Additionally, the complaint contains a section entitled “BACKGROUND,” which is unrelated to our client and, instead, is a general description of the events surrounding the 2020 election and a condemnation of President Trump’s attempts to contest irregularities.¹⁷ Mr. Teter’s complaint concerned our client’s representation of a party before the January 6 Committee, which was not convened for the first time until months after the 2020 election. Many of the complaints filed by the 65 Project contain identical “BACKGROUND” sections.¹⁸

This reliance on boilerplate language and the recent ad campaigns currently being run by the 65 Project demonstrate that the motivating principle underlying these complaints is the desire to punish lawyers associated with a single client, not any breach of a Rule of Professional Conduct. The Supreme Court of Utah’s interpretation of Rule 8.4 does not allow lawyers to be penalized for representing or associating with a disfavored client. *LaJeunesse*, 2018 UT 6 at ¶ 43 (“Lawyers and judges are often called upon to opine on open questions of law. When they do so in good faith, they cannot be charged with a violation of rule 8.4(d) just because their interpretation is ultimately rejected.”).

III. Mr. Teter’s conduct appears to violate Rule 301 of the Rules Governing the Utah State Bar

Rule 301 of the Supreme Court of Utah’s Rules Governing the Utah State Bar is entitled “Standards of Professionalism and Civility.”¹⁹ The preamble to the rule states that “[c]onduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently. Such conduct tends to delay and often to deny justice.”²⁰ “The following standards are designed to encourage lawyers to meet their obligations to each other, ... and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.”²¹

Standard 3 states that: “Lawyers shall not, *without an adequate factual basis*, attribute to other counsel or the court improper motives, purpose, or conduct.”²² It

¹⁵ Teter, *supra* note 6.

¹⁶ Rep. Loudermilk, *supra* note 7.

¹⁷ Teter, *supra* note 6, at 1–2.

¹⁸ *See generally*, *Ethics Complaints* *supra* note 6.

¹⁹ Utah Code Jud. Admin. R. 14-301.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at § 3 (emphasis added.).

continues, “Lawyers should avoid hostile, demeaning, or humiliating words in written and oral communications with adversaries. Neither written submissions nor oral presentations should disparage the integrity, intelligence, morals, ethics, or personal behavior of an adversary unless such matters are directly relevant under controlling substantive law.”²³

Mr. Teter’s complaints were not based on personal knowledge or any adequate factual basis; instead, they repackaged news reports and hearing transcripts, which have, in many cases, been proven false.²⁴ Mr. Teter’s complaint does not indicate that he spoke with Ms. Hutchinson or was in any way able to provide insight into the representation she received from our client beyond what was available from either the highly partisan January 6 Committee or a single CNN report citing “sources.” Without any direct knowledge of the facts, Mr. Teter lacked an adequate factual basis to file his complaint.

For instance, he describes our client’s reminder that it is acceptable not to recall every detail of an event in the past as “advis[ing] his client against speaking truthfully to the Select Committee.”²⁵ Mr. Teter also made uncited statements attributing improper motives, purpose, and conduct to Mr. Passantino. Purporting to give insights into our client’s motives and purposes, which he could not possibly know, Mr. Teter alleged “[h]is other tactic was to prepare his client as little as possible, in the hopes she would be less able to answer basic questions during her testimony ... He wanted Ms. Hutchinson to stonewall the investigation and provided counsel in order to obstruct the Select Committee.”²⁶ He further disparaged our client’s morals and ethics, writing, “Mr. Passantino was apparently serving some other interest in advising his client in this way.”²⁷ Here, Mr. Teter suggested, without evidence or factual support, that Mr. Passantino used his client (Hutchinson) to further the interests of a previous client (Trump). If that were not enough, he concluded his letter with an allegation presented as fact, saying, “Mr. Passantino engaged in a dishonest effort to obstruct” justice.²⁸

Next, Standard 4 provides, “Lawyers shall never knowingly attribute to other counsel a position or claim that counsel has not taken or seek to create such an unjustified inference or otherwise seek to create a “record” that has not occurred.”²⁹ Standard 5 instructs, “Lawyers shall not lightly seek sanctions and will never seek sanctions against or disqualification of another lawyer for any improper purpose.”³⁰

²³ *Id.* at § 3.

²⁴ *See generally* Teter, *supra* note 4.

²⁵ *Id.* at 3.

²⁶ *Id.*

²⁷ *Id.* at 4.

²⁸ *Id.* at 7.

²⁹ Utah Code Jud. Admin. R. 14-301, § 4.

³⁰ *Id.* at § 5.

By his own admission, Mr. Teter sought misconduct sanctions against our client and many others for an improper purpose. He abused the grievance process to treat these attorneys uniformly, as a class, to create a “culture of deterrence” and impact an unrelated set of attorneys who might hypothetically represent President Trump someday.³¹ His many misconduct complaints violated Standard 4 by seeking to create an inference in the mind of the public, namely that an organized cabal of Republican lawyers had attempted a coup against the United States in furtherance of a political narrative.

Mr. Teter’s organized campaign of boilerplate misconduct complaints across numerous jurisdictions violates Standard 5’s prohibition on lightly seeking sanctions. Our client was swept up in Mr. Teter’s vendetta against President Trump and his well-funded attempts to prevent others from representing the President in the future. Considering the 65 Project’s ongoing ad campaign, Mr. Teter’s own stated desire to create a “system of deterrence,” and his systematic attempts to sanction any lawyer even tangentially associated with the President, the only possible conclusion is that these sanctions were sought for an improper purpose, contrary to Standard 5.

Lawyers must “meet their obligations to each other,” and Mr. Teter’s conduct betrays a fundamental lack of professionalism towards his fellow lawyers, based solely upon their representation of a disfavored client and advancement of arguments which, in his judgment, were spurious.³² These obligations are transgressed when one lawyer treats the law license of another as a means to an end.

IV. Mr. Teter’s conduct appears to be contrary to the standards of professionalism and civility envisioned by the Code of Judicial Administration and Rules of Professional Conduct.

The preambles to the Utah Rules of Professional Conduct and the Utah Code of Judicial Administration’s Standards of Professionalism and Civility describe the spirit in which the rules should be interpreted and applied. That system is one where the lawyers within the jurisdiction are expected to comport themselves to the highest standard, at all times.

The preamble to Rule 301 of the Standards of Professionalism and Civility states, “A lawyer’s conduct should be characterized at all times by personal courtesy and professional integrity *in the fullest sense* of those terms.”³³ It discusses how lawyers play an integral role in the “administration of justice, which is a *truth-seeking process* designed to resolve human and societal problems in a rational, peaceful, and efficient manner.”³⁴

³¹ Sneed, *supra* note 2.

³² Utah Code Jud. Admin. R. 14-301.

³³ Utah Code Jud. Admin. R. 14-301.

³⁴ *Id.*

Similarly, the preamble to the Rules of Professional Conduct notes that “[a] lawyer’s representation of a client ... does not constitute an endorsement of the client’s political, economic, social or moral views or activities.”³⁵ It further commands that “[a] lawyer should use the law’s procedures only for *legitimate purposes and not to harass or intimidate others*” and that “when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done.”³⁶

Mr. Teter’s many ethics complaints against lawyers, including the complaint against our client, who represented President Trump, transgress the spirit of the conduct by which Utah practitioners should abide. Far from exhibiting “personal courtesy,” “professional integrity,” respect for a “truth-seeking” process, or a willingness to “resolve human and societal problems in a rational ... manner,” Mr. Teter’s boilerplate complaints reflect the attitude in his statements: that people should be punished for representing, and in the future be afraid to represent, certain political leaders.

“The history of the legal profession is filled with accounts of lawyers who risked careers by asserting their independent status in opposition to popular and governmental attitudes, as John Adams did in Boston to defend the soldiers accused in what we know in our folklore as the ‘Boston Massacre.’”³⁷ Mr. Passantino and the other attorneys attacked by Mr. Teter were seeking to represent their clients in the face of widespread condemnation both inside and outside of the legal profession. They were embodying the highest ideals of the legal profession: that, in our system, everyone is entitled to legal representation. Mr. Teter improperly and unethically sought to punish them through his organization’s terror campaign of ethics complaints.

V. Conclusion

For the reasons above, we respectfully request that the Office of Professional Conduct open a misconduct investigation into Michael Teter.

Thank you for your consideration.

Sincerely,

/s/ Gene P. Hamilton
America First Legal Foundation

³⁵ Utah Code Jud. Admin. R. 13 Preamble, § 2.

³⁶ *Id.* at §§ 5, 8 (emphasis added).

³⁷ *Application of Griffiths*, 413 U.S. 717, 732 (1973) (Burger, C.J., dissenting).

Exhibit 2

RULE 11 PROJECT

- ending politically motivated bar discipline -

WHITE PAPER

Stacey Bucci, Esq.

ABSTRACT

Summary:

This white paper expresses concern about the use of legal processes and bar disciplinary actions to target attorneys who questioned the 2020 election. The document argues this trend, primarily led by the Democrat Party and organizations such as the 65 Project, chills free speech, and poses a grave threat to the constitutional republic.

Key Arguments and Themes:

Weaponization of the Legal System: The central argument is that the Democrat Party and affiliated organizations are using attorney disciplinary boards to punish those who questioned the legitimacy of the 2020 election.

Chilling Effect on Free Speech: The document contends that these actions are designed to discourage attorneys from raising concerns about election conduct, thus suppressing free speech.

Rule 11 Context: The paper provides a detailed overview of Rule 11 of the Federal Rules of Civil Procedure, which concerns the standards for reasonable inquiry and the potential for sanctions against attorneys who file frivolous or improperly motivated claims. The document highlights the history and amendments to Rule 11, emphasizing the balance between deterring frivolous litigation and protecting zealous advocacy.

Political Climate: The document references the House Judiciary Committee's report on the "weaponization of the federal government" and alleges a "censorship-industrial complex" under the Biden administration that pressured Big Tech to censor certain viewpoints, particularly regarding the 2020 election. The paper discusses how election laws and policies have become highly politicized, particularly in the context of the 2020 election and the COVID-19 pandemic.

INTRODUCTION

The 2020 general election was contentious. Most general elections, even as far back as to the country's founding, have been so. One preeminent case was the fiercely contested presidential election of 1800 which led to the seminal ruling of *Marbury v. Madison*. In more recent history, Al Gore repeatedly claimed that the 2000 election was "stolen" by George W. Bush. Hillary Clinton repeatedly claimed that the 2016 election was "stolen" by Donald Trump.

But not until 2020 has a political party (the Democrat Party) sought to weaponize the courts and the legal process to punish those who question an election. The Democrat Party set the precedent to unleash the power of federal, state, and county law enforcement officials to target political opponents with burdensome and costly criminal indictments and for politically-motivated litigants to pursue civil lawsuits for similar reasons.

Organizations claiming to be non-partisan or bipartisan, such as the 65 Project, Lawyers Defending American Democracy, States United Democracy Center, and States United Action, joined the lawfare efforts by setting upon attorney bar disciplinary boards across the country to punish attorneys who have been chastised in the court of public opinion as “election deniers” and worse. The obvious purpose of this strategy was, and is, to chill those who might raise concerns about the conduct of an election.

Using the power of government to attack political opponents who question elections is the biggest threat to our constitutional republic. **It is not the questioning itself.**

Inspired by Rule 11 of the Federal Rules of Civil Procedure, Rule 11 Project works to recalibrate law and order in the legal field so that attorneys can again zealously represent causes and clients, no matter how unpopular, without worry of being disciplined for political reasons.

WHAT IS REASONABLE UNDER RULE 11?

Rule 11 is a Federal Rule of Civil Procedure that provides:

(b) Representations to the Court. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery...¹

Under Rule 11, a court may impose sanctions on a lawyer “for advocating a frivolous position, pursuing an unfounded claim, or filing a lawsuit for some improper purpose.”² A party A claim is frivolous when it is “either not well-grounded in fact or unwarranted by existing law or a good faith argument for an extension, modification or reversal of existing law.”³ In determining whether a lawyer has offended Rule 11, a court generally must use an objective standard, asking

¹ https://www.law.cornell.edu/rules/frcp/rule_11

² *CQ Int'l Co. v. Rochem Int'l, Inc.*, USA, 659 F.3d 53, 60 (1st Cir. 2011).

³ *Cruz v. Savage*, 896 F.2d 626, 632 (1st Cir. 1990).

what is reasonable under the circumstances.⁴ Factors to be considered include “the complexity of the subject matter, the party’s familiarity with it, the time available for inquiry, and the ease (or difficulty) of access to the requisite information.”⁵ Typically, “some degree of fault is required, but the fault need not be a wicked or subjectively reckless state of mind; rather, an individual ‘must, at the very least, be culpably careless to commit a violation.’”⁶

For some history of the Rule, in 1983, Rule 11 (“The Rule”) of the Federal Rules of Civil Procedure was amended. Subsection (b) provided: By presenting to the court a pleading, written motion, or other paper – whether by signing, filing, submitting, or later advocating it – an attorney or unrepresented party certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances.... (Emphasis added.)

The Advisory Committee Note for the 1983 amendment stated in relevant part: The new language stresses the need for some prefiling inquiry into both the facts and the law to satisfy the affirmative duty imposed by the rule. The standard is one of reasonableness under the circumstances. [Citation omitted.] The rule is not intended to chill an attorney’s enthusiasm or creativity in pursuing factual or legal theories. The court is expected to avoid using the wisdom of hindsight and should test the signer’s conduct by inquiring what was reasonable to believe at the time the pleading, motion, or other paper was submitted. Thus, what constitutes a reasonable inquiry may depend on such factors as **how much time for investigation was available** to the signer; whether he had to rely on a client for information as to the facts underlying the pleading, motion, or other paper; whether the pleading, motion, or other paper was based on a plausible view of the law; or whether he depended on forwarding counsel or another member of the bar.

In one of the earlier decisions after the 1983 amendment to Rule 11, the court engaged defense counsel in a colloquy about what investigation he had undertaken to determine whether the allegations in the answer to the complaint were accurate or not.⁷ Upon learning that no inquiry whatsoever had been undertaken, the court determined sanctions were appropriate. The court explained, “Rule 11 compels an attorney to take some affirmative steps to determine that grounds exist to support his pleadings. [Citation omitted.] ‘In other words, the rule is intended to provide a minimal ethical standard to which attorneys are bound when they file pleadings with the court.’”⁸

Sanctions in civil litigation exploded in the 1980s with the 1983 amendment as the principal catalyst. From 1938 until the 1983 amendment, only about two dozen cases on Rule 11 were reported with courts rarely imposing sanctions.⁹ “As almost every attorney knows, things

⁴ See *id.* at 631.

⁵ *Navarro-Ayala v. Nunez*, 968 F.2d 1421 (1st Cir. 1992), 1429.

⁶ *Roger Edwards, LLC v. Fiddes & Son Ltd.*, 437 F.3d 140, 142 (1st Cir. 2006) (quoting *Young v. City of Providence ex rel. Napolitano*, 404 F.3d 33, 39 (1st Cir. 2005)).

⁷ *In re Two Star Surgical Supply, Inc.*, 70 B.R. 241 (Bankr. EDNY 1987).

⁸ *Id.*

⁹ Vairo, G., Rule 11 Sanctions: Case Law Perspectives and Preventive Measures § 2.02[b], at 31-40(1990); Kassin, S. An Empirical Study of Rule 11 Sanctions 2 (Fed. Jud. Ctr. 1985). The precise extent of old Rule 11’s limited reach is difficult to state with precision. See, e.g., 28 U.S.C.A. Fed R. Civ. R. 11 (West 1991) (counting annotations shows 20 reported Rule 11 decisions, four imposing sanctions); Risinger, *Honesty in Pleading and its Enforcement: Some “Striking” Problems with Federal Rule of Civil Procedure 11*, 61 Minn. L. Rev. 1, 34-37 (1976) (attributing disuse of Rule to its structure and language, 19 reported Rule 11 cases between 1938 and 1976, three imposing sanctions).

changed radically with the 1983 amendment to Rule 11” which resulted in approximately 700 Rule 11 opinions in the first four years.¹⁰

According to Professor of Law Jeffrey Stempel, some have focused on the problem of deterring and punishing frivolous litigation while trying to avoid chilling zealous advocacy and restricting access to the courts. The sanctions debate is a distributional political battle that has some unavoidable aspects of a zero-sum game.¹¹ If Rule 11 is written or interpreted stringently, some claims are sacrificed in the name of efficiency, deterring the unfounded or abusive, and thinning court dockets. If Rule 11’s text or application is made more forgiving, some of these values are sacrificed in favor of zealous advocacy, innovative lawyering, and claimants’ rights.

Some were so dissatisfied with the 1983 Rule amendment, that a significant percentage – upwards of forty percent - sought to eliminate it entirely. One reason in favor of repeal was the existence of a statute enacted in 1813 that applies financial penalties to attorneys who engage in unreasonable and vexatious litigation.¹² After a decade of widespread criticism in the legal community, in 1993, Rule 11 was amended again. In explaining an early version of the 1993 amendment, the Advisory Committee on Civil Rules explained that: (1) Rule 11, in conjunction with other rules, has tended to impact plaintiffs more frequently and severely than defendants; (2) it occasionally has created problems for a party which seeks to assert novel legal contentions or which needs discovery from other persons to determine if the party’s belief about the facts can be supported with evidence;...¹³

The 1983 standard for imposing sanctions because of written factual contentions submitted to a district court was changed by the 1993 amendment. Under the prior standard, a signature on a document certified that the contentions contained in it were “well grounded in fact.”¹⁴ Under the new and still current standard¹⁵, presenting a document to the court certifies “that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,...the allegations and other factual contentions have evidentiary support....”, as shown above.

The 1993 amendment also added a "safe harbor" provision to Rule 11, providing an opportunity to withdraw or correct a challenged submission. Where a sanction is initiated by a party's motion, this provision requires initial service of the motion but delays filing or presentation of the motion to the court for 21 days; filing of the motion is permitted 21 days after service only if the challenged submission is not “withdrawn or appropriately corrected.”¹⁶

¹⁰ Stempel, Jeffrey W. *Sanctions, Symmetry, and Safe Harbors: Limiting Misapplication of Rule 11 by Harmonizing It with Pre-verdict Dismissal Devices*. 60 Fordham Law Review 257 (1991-1992), 258.

¹¹ *Id.* at 260.

¹² 28 U.S.C. § 1927.

¹³ *Preliminary Draft of Proposed Amendments to the Federal Rules of Civil Procedure and the Federal Rules of Evidence*, reprinted in 137 F.R.D. 53, 64 (1991) (letter from Advisory Committee accompanying proposal); see also Carl Tobias, *Civil Rights Plaintiffs and the Proposed Revision of Rule 11*, 77 Iowa L. Rev. 1775 (1992) (1983 Rule 11 led to costly satellite litigation and had disproportionate impact on civil rights plaintiffs); Lawrence C. Marshall et al., *The Use and Impact of Rule 11*, 86 Nw. U. L. Rev. 943 (1992) (plaintiffs, particularly in civil rights cases, were sanctioned more than other litigants). But see Carl Tobias, *Reconsidering Rule 11*, 46 U. Miami L. Rev. 855, 864 (1992) (recent studies suggest few civil rights plaintiffs are sanctioned).

¹⁴ 2 Moore's Federal Practice § 11 App.02 [1] (3d ed.2001) (quoting Fed.R.Civ.P. 11 (1983)).

¹⁵ The most recent edition of the Rule is the 1993 version, shown in FN1.

¹⁶ https://www.law.cornell.edu/rules/frcp/rule_11 at (c)(1)(A).

In sum, “the mere fact that a claim ultimately proves unavailing, without more, cannot support the imposition of Rule 11 sanctions.”¹⁷ It is when...zealous advocacy is based on nothing more than a wing and a prayer that it is sanctionable.¹⁸ Further, the mental state applicable to liability for Rule 11 sanctions initiated by motion is objective unreasonableness, i.e., liability may be imposed if the lawyer's claim to have evidentiary support is not objectively reasonable.¹⁹ The Rule does not require the attorney conduct an exhaustive investigation, only a reasonable one. The 1993 amendment clarified that the reasonableness of an investigation must be assessed in light of the circumstances of each case, as the rule requires “an inquiry reasonable under the circumstances.”

Attorney discipline is a state administrative level process subject to each state’s different rules of professional responsibility. Discipline under the state-level administrative rules that govern the ethical requirements of attorneys does not include relitigating underlying court cases, if any litigation has been involved in the circumstances leading to the complaint. While litigation is usually subject to stringent procedural and evidentiary rules, such as Rule 11, the bar discipline process at the administrative level tends to have more relaxed rules of evidence and procedure.

Generally, courts agree that the purpose of attorney discipline is not to punish the attorney (and certainly not the attorney’s client, e.g. President Trump) but to protect the public, uphold the integrity of the legal system, assure the fair administration of justice, maintain high professional standards for attorneys, and deter other lawyers from similar misconduct.²⁰ Protection of the public is commonly cited as the first and foremost purpose for imposing lawyer discipline.²¹

¹⁷ *Protective Life Ins. Co. v. Dignity Viatical*, 171 F.3d 52 (1st Cir. 1999), 58.

¹⁸ *Alston v. Spiegel (In re Ames)*, 993 F.3d 27 (1st Cir. 2021).

¹⁹ See *Ted Lapidus, S.A. v. Vann*, 112 F.3d 91, 96 (2d Cir.1997).

²⁰ *In re Comstock*, No. 12-N-16765, 2015 WL 4238008, at *4 (Cal. Bar Ct. June 25, 2015) .

²¹ See, e.g., *In re Vance*, 421 P.3d 53 (Alaska 2018) (lengthy suspension not necessary to protect the public where the nature of misconduct coupled with mitigating factors warrants a suspension on low end of the possible range); *In re Hanlon*, 110 P.3d 937 (Alaska 2005) (three-year suspension imposed; rejecting argument that sanction effectively would end lawyer’s legal career, court observed that respondent admitted that primary purpose of lawyer discipline is to protect the public; more severe sanction warranted to serve the interests of the public and bar); *In re Comstock*, No. 12-N-16765, 2015 WL 4238008, at *4 (Cal. Bar Ct. June 25, 2015) (“The purpose of attorney discipline is not to punish the attorney but to protect the public, the courts and the legal profession, and to maintain high professional standards for attorneys.”); *Statewide Grievance Comm’n v. Ganim*, 87 A.3d 1078, 1092 (Conn. 2014) (“if a court disciplines an attorney, it does so not to mete out punishment to an offender, but so that the administration of justice may be safeguarded and the courts and the public protected from the misconduct or unfitness of those who are licensed to perform the important functions of the legal profession.”); *In re Bria*, 86 A.3d 1118, at *5 (Table) (Del. 2014) (attorneys owe duties not only to clients but to the general public as well; “[m]embers of the public are entitled to be able to trust lawyers to protect their property, liberty, and their lives.”); *In re Fry*, 806 S.E.2d 604, 606 (Ga. 2017) (“the primary purpose of a disciplinary action is to protect the public from attorneys who are not qualified to practice law due to incompetence or unprofessional conduct.”); *In re Harrington*, 385 P.3d 905, 916 (Kan. 2016) (“the ultimate goal in disciplinary matters is to protect the public...”); *Att’y Grievance Comm’n of Maryland v. Barnett*, 102 A.3d 310, 319 (Md. 2014) (“[t]his Court sanctions a lawyer not to punish the lawyer, but instead to protect the public and public’s confidence in the legal profession”); *In re Torre*, 127 A.3d 690, 696 (N.J. 2015) (“[t]he attorney disciplinary system is not designed to punish lawyers. Its goals are to protect the public and preserve the public’s confidence in the bar. The imposition of discipline in a particular case, thus, is meant to foster continued faith in the legal profession as a whole.”) (internal citations omitted); *In re Torres*, 374 P.3d 700, 701–02 (N.M. 2016) (where attorney’s neglect was an isolated occurrence, public would be protected by a sanction of a public censure and a one-year deferred suspension); *In re Hann*, 848 N.W.2d 725 (N.D. 2014) (court imposed several conditions on disciplined attorney’s return to practice of law in order to ensure that public protected); *Disciplinary Counsel v. Schuman*, 92 N.E.3d 850 (Ohio 2017) (primary purpose of attorney discipline is to protect the public, not to punish); *State ex rel. Oklahoma Bar Ass’n v. Bounds*, 415 P.3d 519, 520 (Okla. 2018) (“[p]rotection of the public and purification of the Bar are the primary

THE INTERPLAY OF THE RULE & THE CONSTITUTION

A further in-depth exploration of Rule 11 is not required for the purpose of this white paper. The basic premises and background regarding the Rule discussed above serve to provide context to the subject of bar discipline. However, it would be remiss of this author not to elucidate the extremely important interplay between the Rule and the Constitution.

The final clause of the First Amendment – the Petition Clause – guarantees the “right of the people...to petition the Government for a redress of grievances.” This right to petition, enshrined in the First Amendment of the U.S. Constitution, allows citizens to seek redress of grievances from the government.²² Closely related to other First Amendment rights, such as freedom of speech and assembly, courts have recognized that the right to petition includes both direct and indirect communications with the government. The Founders included the right in the First Amendment, thus recognizing its importance for democratic governance.

The earliest conceptions of the rights contained in the First Amendment can be traced back to ancient Greek and Roman philosophy from which emerged the idea that citizens have equal natural rights to political participation based on their human nature. For over two thousand years, these natural rights²³ have persisted as essential elements of western civilization.

In *The First Amendment Right to a Remedy*, Professor of Law Benjamin Plener Cover explains, “The historical antecedent to the Petition Clause is not only the English right to petition, but also the English right to a remedy, which governed petitions addressed to courts...²⁴ Scholars trace the right to a remedy from the courts and the right to petition the King to separate provisions of

purposes of disciplinary proceedings rather than to punish the accused lawyer.”); *In re Conduct of Ramirez*, 408 P.3d 1065, 1071 (Or. 2018) (“our purpose is to protect the public and the administration of justice from lawyers who have not discharged properly their duties to clients, the public, the legal system, or the profession.”) (internal citations omitted); *In re McMaster*, 795 S.E.2d 853, 855 (S.C. 2017) (“[t]he primary purpose of . . . suspension is the removal of an unfit person from the profession for the protection of the courts and the public, not punishment of the offending attorney.”) (citations omitted); *In re Disciplinary Proceeding Against Jones*, 338 P.3d 842, 856–57 (Wash. 2014) (protecting the public from dishonest lawyers is part of the lawyer disciplinary process).

²² U.S. CONST. amend. I. The Petition Clause has long been overshadowed by its clausal kin. See, e.g., Carol Rice Andrews, *A Right of Access to Court Under the Petition Clause of the First Amendment: Defining the Right*, 60 OHIO ST. L.J. 557, 558 & n.4 (1999) [hereinafter *Right of Access*]; Anita Hodgkiss, *Petitioning and the Empowerment Theory of Practice*, 96 YALE L.J. 569, 569 & n. 1 (1987); Gregory A. Mark, *The Vestigial Constitution: The History and Significance of the Right to Petition*, 66 FORDHAM L. REV. 2153, 2155-57 (1998); Julie M. Spanbauer, *The First Amendment Right to Petition Government for a Redress of Grievances: Cut from a Different Cloth*, 21 HASTINGS CONST. L.Q. 15, 16 & n.2 (1993) (citing William J. Brennan, Jr., *Why Have a Bill of Rights?*, 26 VAL. U. L. REV. 1, 1 (1991)) (omitting the right to petition from account of First Amendment rights). In recent decades, however, the right to petition has enjoyed a quiet renaissance of judicial and scholarly attention. See *Andrews, supra*, at 557; *Mark, supra*, at 2153; James E. Pfander, *Sovereign Immunity and the Right to Petition: Toward a First Amendment Right to Pursue Judicial Claims Against the Government*, 91 NW. U. L. REV. 899, 899 (1997); *Spanbauer, supra*, at 16. Significant Supreme Court cases include: *Borough of Duryea v. Guarnieri*, 131 S. Ct. 2488, 2491 (2011); *BE & K Construction Co. v. NLRB*, 536 U.S. 516, 524-25 (2002); and *Christopher v. Harbury*, 536 U.S. 403, 409-10 (2002).

²³ Coupled with the equally ancient right to armed self-preservation embodied in the Second Amendment

²⁴ Plener Cover, Benjamin, *First Amendment Right to a Remedy*, 50 UC Davis L. Rev. 1741, 1751 (2017).

Magna Carta codified eight centuries ago.²⁵ But the practices of petitioning the King and accessing remedies from his courts had developed even centuries before.”²⁶

These rights were codified in Chapter 40 of the original 1215 Magna Carta and reads as follows: “To no one will we sell, to no one deny or delay right or justice.”²⁷ This language – recognized as the first codification of the right to a remedy – was a capstone provision in a document designed in significant part to secure a judicial system that would respect and enforce individual rights. We can readily trace this language from the Magna Carta to its elaboration by Sir Edward Coke in his *Second Institutes*, to Blackstone’s restatement in his *Commentaries*, and ultimately to state constitutional provisions operative today.²⁸

With the development of a judicial power shift from local feudal courts to a unified system of royal courts came increasing concern about how adequately the courts remedied legal injuries. The English barons intended to use the Magna Carta to redress abuses and to ensure that justice would be dispensed not on royal whim but on the “law of the land.”²⁹

Fast forward to modern times, “**knowingly** frivolous” claims and “**intentional** falsehoods” do not advance First Amendment interests involved in private litigation. Such interests include compensation for violated rights and interests, the psychological benefits of vindication, and the public airing of disputed facts. ...[S]ham litigation, by definition, does not involve a bona fide grievance, it does not come within the first amendment right to petition.³⁰

- The key words here are “knowingly” and “intentional” which implicate Rule 11’s standard for a reasonable inquiry under the circumstances.

²⁵ Some argue there is a duty to receive, consider, or respond to petitions. See Stephen A. Higginson, *A Short History of the Right to Petition Government for the Redress of Grievances*, 96 YALE L.J. 142, 155 (1986); Hodgkiss, *supra*, at 572-73, but nobody argues there is a right to a favorable response to legal petitions. Andrews, *supra*, at 644 (“[N]o one contends that the mere right to petition guarantees that the government will grant the petitioner’s request.”). Scholars recognize Chapter 40 of the 1215 charter as the original codification of the right to a remedy. See Steven J. Heyman, *The First Duty of Government: Protection, Liberty and the Fourteenth Amendment*, 41 DUKE L.J. 507, 535 (1991); Jonathan M. Hoffman, *Questions Before Answers: The Ongoing Search to Understand the Origins of the Open Courts Clause*, 32 RUTGERS L.J. 1005, 1006 n.4 (2001); Thomas R. Phillips, *The Constitutional Right to a Remedy*, 78 N.Y.U. L. REV. 1309, 1319-1320 (2003); David Schuman, *The Right to a Remedy*, 65 TEMP. L. REV. 1197, 1198-99 (1992); Tracy A. Thomas, *Ubi Jus, Ibi Remedium: The Fundamental Right to a Remedy Under Due Process*, 41 SAN DIEGO L. REV. 1633, 1638 (2004); Shannon M. Roesler, Comment, *The Kansas Remedy by Due Course of Law Provision: Defining a Right to a Remedy*, 47 U. KAN. L. REV. 655, 657-58 (1999). Scholars recognize Chapter 61 of the 1215 charter as the original codification of the right to petition. See *Guarnieri*, 131 S. Ct. at 2499 (citing WILLIAM MCKECHNIE, *MAGNA CARTA: A COMMENTARY ON THE GREAT CHARTER OF KING JOHN 467* (rev. 2d ed., 1958); Gary Lawson & Guy Seidman, *Downsizing the Right to Petition*, 93 NW. U. L. REV. 739, 746 (1999); Norman B. Smith, “*Shall Make No Law Abridging...: An Analysis of the Neglected, but Nearly Absolute, Right of Petition*,” 54 U. CIN. L. REV. 1153, 1155 (1986); Mark, *supra*, at 2163. ²⁶ *Id.*, at 753.

²⁷ Scholars recognize Chapter 40 of the 1215 charter as the original codification of the right to a remedy. See Heyman, *supra*, at 535; Hoffman, *supra*, at 1006 n.4; Phillips, *supra*, at 1319-20; Schuman, *supra*, at 1199; Thomas, *supra*, at 1638; Shannon M. Roesler, Comment, *The Kansas Remedy by Due Course of Law Provision: Defining a Right to a Remedy*, 47 U. KAN. L. REV. 655, 657-58 (1999). Scholars recognize Chapter 61 of the 1215 charter as the original codification of the right to petition. See *Guarnieri*, 131 S. Ct. at 2499 (citing WILLIAM MCKECHNIE, *MAGNA CARTA: A COMMENTARY ON THE GREAT CHARTER OF KING JOHN 467* (rev. 2d ed., 1958); Andrews, *supra*, at 596 n.135; Gary Lawson & Guy Seidman, *Downsizing the Right to Petition*, 93 NW. U. L. REV. 739, 746 (1999); Smith, *supra*, at 1155.

²⁸ Plener Cover, *supra*, at 1755.

²⁹ Mark, *supra*, at 352-353.

³⁰ *Bill Johnson’s Restaurants, Inc. v. NLRB*, 461 U.S. 731, 743-744 (1983).

There is a broad judicial and scholarly consensus that the right to petition includes a negative right to be free from retaliation for or suppression of petitioning activity.³¹ The most well-known and relatively recent development in this area is the codification of the right against retaliation in what are known as “anti-SLAPP” state statutes. Although distinguishable from the bar complaints at issue, the concepts at work are the same and parallels can be drawn.

Anti-SLAPP statutes are laws designed to protect individuals’ right to petition the government by allowing them to quickly dismiss meritless lawsuits filed against them for exercising their First Amendment rights, including the right to speak out on public issues or participate in government processes, essentially shielding them from “strategic lawsuits against public participation” intended to silence criticism through expensive legal defense (aka “lawfare”).

At least some of the bar complaints, e.g. the 65 Project’s complaint against Alan Dershowitz, had little legal merit but were likely filed “to burden opponents with legal defense costs and the threat of liability and to discourage those who might wish to speak out in the future” – to borrow language from Anti-SLAPP law.³²

POLITICAL CLIMATE IN THE BACKGROUND

On December 20, 2024, the House of Representatives Committee on the Judiciary published its Final Staff Report of the Select Subcommittee on the Weaponization of the Federal Government. The 17,000-page Report documents how the Biden-Harris Administration, multiple federal agencies, including the White House, engaged in a vast censorship campaign against so-called mis-, dis-, or “malinformation.” “The Select Subcommittee revealed the extent of the ‘censorship-industrial complex,’ detailing how the federal government coordinated with academics, nonprofits, and other private entities to censor speech. The Select Subcommittee also revealed how the Stanford Internet Observatory’s Election Integrity Partnership - created ‘at the request of’ the Department of Homeland Security - urged Big Tech to censor Americans online.”³³

³¹ See, e.g., *BE & K Construction Co. v. NLRB*, 536-537 U.S. 516 (2002); *Professional Real Estate Investors, Inc. v. Columbia Pictures Industries, Inc.*, 508 U.S. 49, 56, 60-61 (1993); Norman B. Smith, “Shall Make No Law Abridging. . .”: An Analysis of the Neglected, but Nearly Absolute, Right of Petition, 54 U. CIN. L. REV. 1153, 1195 (1986); Spanbauer, *supra*, at 47-48. Most published opinions have involved claims of retaliation. The most common sanction challenged is adverse employment action. See, e.g., *Guarnieri, supra*, at 2492; *Gunter v. Morrison*, 497 F.3d 868, 872 (8th Cir. 2007); *Powell v. Alexander*, 391 F.3d 1, 6 (1st Cir. 2004). Other sanctions include: liability under federal antitrust law, e.g., *Cal. Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508 (1972); liability under federal labor law, e.g., *Bill Johnson’s Rests., Inc. v. NLRB*, 461 U.S. 731 (1983); permit denial or revocation, see, e.g., *Soranno’s Gasco, Inc. v. Morgan*, 874 F.2d 1310, 1312-13 (9th Cir. 1989); adverse zoning decisions, see, e.g., *EJS Props., LLC v. City of Toledo*, 698 F.3d 845, 864 n.14 (6th Cir. 2012); other official investigatory or enforcement actions, see, e.g., *Woodruff v. Mason*, 542 F.3d 545, 547 (7th Cir. 2008); costs and attorneys’ fees, see, e.g., *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 134 S. Ct. 1749, 1755 (2014); and retaliatory bad-faith counter-litigation or prosecution, see, e.g., *Hinds v. Dallas Indep. Sch. Dist.*, 188 F. Supp. 2d 664, 669-70 (N.D. Tex. 2002). Much of the disagreement about the right’s scope has been internal to this purely negative framework, concerning the circumstances, if any, under which the state can legitimately punish petitioning activity. Compare the majority and concurring opinions in *BE & K Construction Co.*, *supra*, at 516; *Professional Real Estate Investors, Inc.*, *supra*, at 49; and *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508 (1972).

³² *600 W. 115th St. v. Van Gutfeld*, 80 N.Y.2d 130, 137 n.1 (1992).

³³ <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/2024-12/Part-1-Final-Weaponization-Report-Compilation.pdf> at 2.

The evidence provided in the Report shows how Joe Biden’s censorship-industrial complex coerced big tech to censor Americans, true information, and critics of Biden and his administration.³⁴ As the Select Subcommittee conducted its legislative oversight, these facts would prove to be relevant to ongoing litigation concerning the federal government’s censorship efforts in the landmark free speech case, *Murthy v. Missouri* (formerly *Missouri v. Biden*). In this case, plaintiffs challenged the constitutionality of several federal agencies’ and officials’ efforts to induce social media platforms to suppress lawful content on matters of public concern, including the 2020 presidential election. While the Court ultimately ruled narrowly on procedural grounds in the case, Justices Samuel Alito, Clarence Thomas, and Neil Gorsuch noted in a dissent that the Select Subcommittee’s legislative oversight proved that the Biden White House “engaged in a covert scheme of censorship.”³⁵

For example, Rob Flaherty, the White House’s Digital Director, accused Facebook of increasing skepticism in the 2020 election and of allowing an “insurrection” to be plotted, in part, on its platform.³⁶ In July 2021, Flaherty targeted

a tweet from a CNN journalist claiming that after he watched “a few videos on the Arizona election ‘audit’” his YouTube algorithm was “feeding” him “anti-vaccine content.” The flagged videos included questioning from Senator Rand Paul at a congressional hearing and a debate between Robert F. Kennedy, Jr. and Alan Dershowitz.³⁷

In August 2021, Google thanked Flaherty for “ideas pertaining to how ‘Google platforms can help inform and educate voters’ and recommended that Flaherty meet with the company’s ‘Left-of-Center elections team’ so that he could ‘dive deeper’ into the topic of educating voters.”³⁸ Memoranda from White House communications with Facebook mention the company’s “proactive work” “around the election”³⁹ and algorithmic “upranking, or prioritizing in feed when a friend adopts it, or quick promotion (like [it] did with election info).”⁴⁰

In many meetings between federal agencies and Big Tech, the FBI raised the topic of potential “hack-and leak” operations amid conversations about “election security” and potential foreign influence operations.⁴¹ In response, some platforms even adopted new content moderation policies specifically designed to address allegedly hacked materials.⁴²

ELECTION SECURITY AS A POLITICAL LIGHTNING ROD

The way elections have been conducted has been of interest mainly to political parties and candidates over the past decades. In general, election laws - from voter identification and felon

³⁴ *Id.* at 11-891.

³⁵ *Id.* at 7-8.

³⁶ *Id.* at 23.

³⁷ *Id.* at 59.

³⁸ *Id.* at 66.

³⁹ *Id.* at 162.

⁴⁰ *Id.* at 166.

⁴¹ <https://www.nationalreview.com/news/fbi-spent-a-year-preparing-platforms-to-censor-biden-story-withheld-info-on-laptops-authenticity/> (Last visited January 13, 2025)

⁴² *Id.*

disenfranchisement to automatic registration and no-excuse/universal mail voting - are presumed to influence who votes; and, in turn, they are expected to impact partisan election outcomes.

Even though states have broad authority to administer their elections, the Supreme Court has recognized the potential for state election laws to burden the constitutionally protected associational rights of voters, candidates, and political parties.⁴³ Whether an election law governs the registration and qualifications of voters, the selection and eligibility of candidates, or the voting process itself, it inevitably affects an individual's right to vote and his right to associate with others for political ends.⁴⁴

Recent policies, passed by legislatures along partisan lines, have been highly polarizing. Many argue that the laws have dire consequences for American "democracy," such as they generate fraud or they amount to "democratic backsliding."⁴⁵ The run-up to the 2020 election was a particularly monumental time in the country's history when "the politicization of the election process was put on steroids."⁴⁶

Prior to the 2020 election, the COVID-19 pandemic caused many states to change their voting rules and processes. Litigation by Democrats sought measures to ease voting such as ballot drop boxes, curbside voting, relaxation of photo ID and signature verification requirements, extension of absentee ballot deadlines, expansion of mail-in/absentee voting, e.g. "no excuse" and "universal" mailing, etc.⁴⁷

Between January 1, 2020 and October 23, 2020, over 230 election-related federal lawsuits were filed, a greater amount than during the same time periods prior to the three preceding election years of 2008, 2012, and 2016.⁴⁸ In the couple weeks before the November 3, 2020 election, dozens additional lawsuits were filed contesting election processes, rule irregularities, vote counting, and the certification process in a number of states including Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin.⁴⁹ In total, over 500 cases and appeals arose out of the pandemic.⁵⁰ Of these hundreds of cases, a total of 93 dealt specifically with the 2020 Presidential Election.⁵¹

⁴³ See *Kusper v. Pontikes*, 414 U.S. 51, 57 (1973) ([I]n exercising their powers of supervision over elections and in setting qualifications for voters, the States may not infringe upon basic constitutional protections.). (Last visited January 13, 2025)

⁴⁴ *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983). (Last visited January 13, 2025)

⁴⁵ Justin Grimmer, Eitan Hersh, "How Election Rules Affect Who Wins," *Journal of Legal Analysis*, Volume 16, Issue 1, 2024, at 1. <https://academic.oup.com/jla/article/16/1/1/7641615?login=false> (Last visited January 12, 2025)

⁴⁶ Brief *Amicus Curiae* of Citizens United, Citizens United Foundation, and The Presidential Coalition, LLC, *Republican Party of Pennsylvania v. Kathy Boockvar*, US Case No. 20-542, at 2. https://www.supremecourt.gov/DocketPDF/20/20-542/161918/20201125175500651_Republican%20Party%20v.%20Boockvar%20Amicus%20Brief%20Final.pdf (Last visited January 12, 2025)

⁴⁷ <https://www.pbs.org/wgbh/frontline/article/covid-19-most-litigated-presidential-election-in-recent-us-history/> (Last visited January 10, 2025)

⁴⁸ https://www.washingtonpost.com/politics/trump-pennsylvania-legal-setback/2020/11/25/ba01c3aa-2f41-11eb-860d-f7999599cbc2_story.html (Last visited January 10, 2025)

⁴⁹ <https://apnews.com/article/virus-outbreak-election-2020-lawsuits-elections-courts-2ce54a32443cc65452f283e3c532d59e> (Last visited January 11, 2025)

⁵⁰ <https://healthyelections-case-tracker.stanford.edu/search> (Last visited January 12, 2025)

⁵¹ https://election-integrity.info/2020_Election_Cases.htm (Last visited February 20, 2025)

Attorney General William Barr raised the red flag in August 2020 about the push for greater mail-in voting, declaring it was “grossly irresponsible,” “wholesale reckless and wrong.” Barr described boxes of ballots left in apartment buildings and that he had “friends who haven’t lived in California in 21 years who received ballots.” Further, he warned that this “could create serious questions about the integrity of the election” and that the Democrats were “playing with fire.”⁵²

In early September 2020, Barr told CNN, “We’re a very closely divided country here, and people have to have confidence in the legitimacy of the government, and people trying to change the rules to this methodology, which as a matter of logic is very open to fraud and coercion, is reckless and dangerous, and people are playing with fire.” Barr warned, “we haven’t had the kind of widespread use of mail-in ballots that’s being proposed.”⁵³

On October 23, 2020, former Attorney General Eric Holder, “dismissed fears of widespread voter fraud as ‘nonsense’ and warned that” voter integrity measures such as poll watching were tactics of voter suppression — a loaded term that has long been used as a dog whistle by leftists to demonize opponents by implying racist motives.⁵⁴

It is important to note that there was only a two-month time period between the November 3, 2020 election and the January 2, 2021 required counting of the electoral votes by Congress. How much time for investigation was available to the attorneys should have been a very important factor to consider when scrutinizing their pleadings. Two months was simply not much time.

THE REAL BIG LIE

In Michigan, one of the “battleground states,” Donald Trump lost by a mere 154,188 votes in the 2020 election. This is a *fraction* of the vote when you consider the fact that there were approximately three million absentee ballots alone (the most in Michigan history). Consequently, Trump lost by only approximately five percent *of the absentee ballots*.

This is a critically important fact because Michigan Secretary of State Jocelyn Benson’s guidance on how these absentee ballots should be treated — clerks were directed “*to presume that signatures are valid*” — was declared unlawful.⁵⁵ Unfortunately, this court decision was issued too late to do anything to remedy the *unlawful* guidance or to prevent its adverse impact on the election.

This is particularly problematic as the courts have long held that mail-in ballots are exceedingly susceptible to fraud. In fact, mail-in voting is “*the largest source of potential voter fraud*,” according to the Commission on Federal Election Reform, a bipartisan commission chaired by former President Jimmy Carter and former Secretary of State James A. Baker III and cited

⁵² <https://www.foxnews.com/politics/william-barr-democrats-mail-in-voting> (Last visited January 12, 2025)

⁵³ <https://www.foxnews.com/politics/barr-mail-in-voting-playing-with-fire> (Last visited January 12, 2025)

⁵⁴ <https://chicagomaroon.com/28136/news/iop-talk-eric-holder-dismisses-fears-voter-fraud-w/> (Last visited January 12, 2025)

⁵⁵ See *Genetski v. Benson*, 2021 Mich. Ct. Cl. LEXIS 3, *12, 19 (March 9, 2021) (“[T]he standards issued by defendant Benson on October 6, 2020, with respect to signature-matching requirements amounted to a ‘rule’ that should have been promulgated in accordance with the APA. And absent compliance with the APA, the ‘rule’ is invalid.”).

extensively by the United States Supreme Court. “The ‘electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters.’”⁵⁶

Many well-regarded commissions and groups of diverse political affiliation agree that “when election fraud occurs, it usually arises from absentee ballots.”⁵⁷ Such fraud is easier to commit and harder to detect. As one federal court put it, “absentee voting is to voting in person as a take-home exam is to a proctored one...” [V]oting fraud is a “serious problem” and is “facilitated by absentee voting.”⁵⁸

In a 2008 Supreme Court case, Justice Stevens noted, “flagrant examples of [voter] fraud...have been documented throughout this Nation’s history by respected historians and journalists,” and “the risk of voter fraud” is “real” and “could affect the outcome of a close election.”⁵⁹ Similarly, Justice Souter observed that mail-in voting is “less reliable” than in-person voting.⁶⁰ [E]lection officials routinely reject absentee ballots on suspicion of forgery and “absentee-ballot fraud...is a documented problem...”⁶¹

In a 2016 Fifth Circuit case, the court concluded that mail-in ballot fraud is a significant threat - so much so that “the potential and reality of fraud is much greater in the mail-in ballot context than with in-person voting.”⁶² The court, recognizing “the far more prevalent issue of fraudulent absentee ballots,” stated that mail-in voting...is far more vulnerable to fraud.⁶³

We will never know the true impact of Secretary Benson’s unlawful guidance on the 2020 election. Furthermore, the Michigan Supreme Court denied a petition for an extraordinary writ that sought an independent audit of the votes in the 2020 election.⁶⁴ Secretary Benson vigorously opposed the request.

The petition ultimately failed by a vote of four to three. In his dissent, Justice Viviano stated, in relevant part, the following:

For the second time in recent weeks, individuals involved in last month’s election have asked this Court to order an audit of the election results under Const 1963, art 2, § 4... As in that case, *petitioners here allege that election officials engaged in fraudulent and improper conduct in administering the election*. In support of these claims, *petitioners have submitted hundreds of pages of affidavits and expert reports detailing the alleged improprieties*. Here, as in *Costantino*, I would grant leave to appeal so we can determine the nature and scope of the constitutional right to an election audit. After all, “[i]t is emphatically the province and duty of the judicial department to say what the law is.” [citation omitted] But I write

⁵⁶ *Building Confidence in U.S. Election*, Report of the Commission on Federal Election Reform at 46 (Sept. 2005).

⁵⁷ Morley, Michael T. *Election Emergency Redlines* at 2 (Mar. 31, 2020).

⁵⁸ *Griffin v. Roupas*, 385 F.3d 1128, 1130-1131 (7th Cir. 2004).

⁵⁹ *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 195-96 (2008) (plurality op of Stevens, J) (collecting examples).

⁶⁰ *Id.* at 212, n.4 (Souter, J., dissenting).

⁶¹ *Id.* at 225.

⁶² *Veasey v. Abbott*, 830 F.3d 216, 239, 256 (Fifth Cir. 2016) (en banc).

⁶³ *Id.* at 263.

⁶⁴ *Johnson v. Secretary of State*, 506 Mich. 975, 951 N.W.2d 310 (2020).

separately to highlight the lack of clarity in our law regarding the procedure to adjudicate claims of fraud in the election of presidential electors.⁶⁵

The bottom line is that the constant refrain from the Democratic Party (and its national media echo chamber) that there was “no evidence” of election malfeasance in the 2020 election was demonstrably false. The anti-Trump rhetoric even included the portrayal of questioning the election results as a “Big Lie,” a reference to the concept of a lie so ostentatious that people doubt that it could be credibly fabricated. This principle, based on the power of capturing the unthinking emotion of the masses, is credited to Second World War-era Nazi propaganda perfected by Adolf Hitler and Joseph Goebbels. However, the “Big Lie” that Democrats kept shouting was, in fact, the big lie itself.

JANUARY 6, 2021: RHETORIC ESCALATED TO CLAIMS OF “INSURRECTION!”

Between the November 2020 election and January 6, 2021, the mantra of “no evidence” evolved from “no evidence of widespread fraud” to “no evidence of fraud significant enough to have affected the outcome of the election.” The rhetoric grew with an increasingly vitriolic tone during this time.

Biden had won the tipping-point state, Wisconsin, by the slim margin of a scant 0.6 percent.⁶⁶ Across Arizona, Georgia, and Wisconsin, three states whose electoral votes contributed to Biden's win, Biden won by fewer than 45,000 votes.⁶⁷ Without the electoral votes from those three states, the results would have gone the other way. A mere few pivotal states with an infinitesimal margin can carry a Presidential election. In fact, only three large cities in swing states can be enough to decide an election; so, “widespread fraud” is not necessarily required for an election to be wrongfully decided.

On January 7, 2021, Biden claimed, “In more than 60 cases, in state after state after state, and then at the Supreme Court, judges, including people considered ‘his judges, Trump judges,’ to use his words, looked at the allegations that Trump was making and determined they were without any merit.”

However, despite this claim, at the time: in the twenty-six lawsuits with Trump as a plaintiff, Trump prevailed in four out of eight cases decided on the merits; in the thirty-seven cases without Trump as a plaintiff but with the Republican Party or other Trump-aligned plaintiff, the Republican Party or other Trump-aligned plaintiff prevailed in eight of eleven cases decided on the merits; and Trump et al. prevailed in one of the two cases with Trump et. al as defendants.⁶⁸

⁶⁵ *Id.* at 984-85, & *Id.* at 319 (Viviano, J., dissenting) (Emphasis added.).

⁶⁶ Coleman, J. Miles. “Wisconsin: Decisive Again In 2020.” *Center For Politics*. November 19, 2020. Archived at <https://web.archive.org/web/20201208215953/https://centerforpolitics.org/crystalball/articles/wisconsin-decisive-again-in-2020/> (Last visited January 13, 2025)

⁶⁷ Chinni, Dante (December 20, 2020). “Did Biden win by a little or a lot? The answer is ... yes”. *NBC News*. Archived at <https://web.archive.org/web/20220510154033/https://www.nbcnews.com/politics/meet-the-press/did-biden-win-little-or-lot-answer-yes-n1251845> (Last visited January 13, 2025)

⁶⁸ https://election-integrity.info/2020_Election_Cases.htm (Last visited February 20, 2025)

Facts did not hold back the mainstream media from its evident narrative on repeat. The false claims were that there was no fraud, no evidence of widespread fraud, that Trump sought to overturn the election, and that he had incited an insurrection at the Capitol on January 6, 2021. The most salacious rhetoric was, and still is, used by powerful organizations and institutions to depict the events.

For example, the Election Integrity Partnership describes January 6th as the day “an armed mob stormed the US Capitol to prevent the certification of what they claimed was a ‘fraudulent election.’... The January 6 insurrection was the culmination of months of online mis- and disinformation directed toward eroding American faith in the 2020 election.”⁶⁹

On June 30, 2021, the House of Representatives voted on H.Res. 504 (House Resolution 503) to create a panel to investigate January 6th. Democrat politicians compared the riotous day to Pearl Harbor and 9/11, calling it a violent attack on democracy and an insurrection incited by Trump. An essay in the *Journal of National Security Law & Policy* even describes January 6th as a “domestic terrorist attack” that was as bad or worse than 9/11:

Insurrection Day thankfully resulted in fewer deaths than 9/11 (less than ten versus nearly 3,000). But 1/6 was as bad or worse than 9/11 from the standpoints of Congress and democracy. On 9/11, American citizens interdicted a probable terrorist attack on the Capitol, subduing Flight 93’s hijackers at the cost of their own lives. On 1/6, Americans were the terrorists. A mob - encouraged by the President and some Members of Congress - used violence against the civilian seat of government for political purposes. Americans sacked their own Capitol. Insurrection Day was an attack our country conducted on itself. Insurrection in the United States inevitably gave aid and comfort to authoritarians in Moscow and Beijing, as well as Salafist militant groups and extremist movements in backsliding democracies. The 1/6 attack reflected a country deeply divided in terms of politics and demographic identity, one that could not respond with a post-9/11- like national sense of unity because a large part of one party - the Republican Party - remained in thrall to what fueled the attack: the lie of a stolen election, perpetrated by a defeated President at the center of a hyper-partisan cult of personality.⁷⁰

On September 11, 2001, nearly 3,000 men, women, and children were murdered in a series of coordinated terroristic attacks on New York City and Washington D.C. On January 6, 2021, four people died, including an unarmed protestor was shot to death by a Capitol police officer, during a poorly crowd-controlled riot that interrupted the assembly of the Congress just as a floor debate about alternate electors started to commence. All those killed that day were Trump supporters.⁷¹

Legacy media outlets and public officials not only portrayed January 6th as an “insurrection” to “overturn the election” carried out by “domestic terrorists” but characterized conservatives as a greater threat to the nation than Al-Qaeda. Trump supporters were even labeled by the New York Times as “enemies of the state,” making no obvious distinction between violent insurrectionists

⁶⁹ <https://www.atlanticcouncil.org/in-depth-research-reports/the-long-fuse-eip-report-read/> (Last visited January 13, 2025)

⁷⁰ Rudesill, Dakota S. “From 9/11 to 1/6: Lessons for Congress from Twenty Years of War, Legislation, and Spiraling Partisanship,” *Journal of National Security Law & Policy*, Vol. 12, 2021, at 45.

⁷¹ <https://www.nytimes.com/2021/01/11/us/who-died-in-capitol-building-attack.html>

and 74 million voters.⁷² USA Today published on May 13, 2021, “As surely as the terrorists of 9/11 wanted to tear down American democracy in 2001, the terrorists of Jan. 6 want to tear down our democracy as well, even as they pose as its defenders. And unlike the Sept. 11 attackers, they are going to get another chance.”⁷³

POLITICALLY MOTIVATED BAR DISCIPLINE COMPLAINTS

Historically, attorney bar discipline has been misused during times of national crisis and upheaval. Past instances of politically motivated bar actions (e.g., against communists, civil rights lawyers, defense attorneys in the “War on Terror,”⁷⁴ etc.) suggest pattern of using bar machinery to punish those with unpopular political views or those who represent unpopular clients. Underlying motives that are political or related to suppressing dissenting views have been masked by pretextual neutral-sounding reasons for the bar actions.⁷⁵

Politically motivated bar complaints are complaints that would not be lodged but for a political motivation. They are pursued to achieve a political goal or have a political effect, and they often play a part in a larger drama. “Commonly, politically motivated bar actions lack merit,” asserts James E. Moliterno. “Some politically motivated bar complaints or bar actions may have technical merit, at least at the time of their initiation. But even the meritorious ones would not be filed in the usual course of things without the impetus of some political or other untoward motivation...”⁷⁶

During Trump’s first administration, there emerged a growing movement of filing legal ethics complaints against high-ranking lawyers in the Trump Administration, termed “Ethics Resistance.” The complaints were effective as a tool for political defiance against Trump as they were able to influence public perception, prompt official action, and affect careers. Instead of criticizing the movement as political lawfare, legal scholars such as Professor Brian Sheppard, concluded that the movement was and is “legally permissible, institutionally sound, and prudent.”⁷⁷

⁷² <https://www.nbcnews.com/think/opinion/january-s-capitol-riot-wasn-t-9-11-here-s-ncna1275344> (Last visited February 17, 2025)

⁷³ <https://www.usatoday.com/story/opinion/voices/2021/05/13/jan-6th-insurrection-greater-danger-democracy-than-9-11-column/5057119001/> (Last visited February 17, 2025)

⁷⁴ See, e.g., In her New York Times op-editorial about the 2002 prosecution of criminal defense lawyer Lynne Stewart for materially assisting terrorism in her representation of a blind Egyptian Sheik accused of plotting to blow up various New York City landmarks, Professor Deborah Rhode, the second woman to be tenured at Stanford Law School and who was willing to stick her neck out on a range of controversial issues others shied away from, “America’s civil liberties depend on counsel willing to assert them. John Adams, who reported losing half his practice after defending British officers charged in the Boston Massacre, considered that case ‘one of the best pieces of service that I ever rendered for my country.’ If the indictment against Ms. Stewart signals a broader trend to crack down not just on terrorists but on those courageous enough to represent them, we are all at risk.” Rhode, Deborah L. *Terrorists and Their Lawyers*, N.Y. TIMES (Apr. 16, 2002), <https://www.nytimes.com/2002/04/16/opinion/terrorists-and-their-lawyers.html> [<https://perma.cc/3RL5-M3A5>]. For a discussion of the Stewart case, see Abbe Smith, *The Bounds of Zeal in Criminal Defense: Some Thoughts on Lynne Stewart*, 44 S. TEX. L. REV. 31 (2002).

⁷⁵ Moliterno, James E. “Politically Motivated Bar Discipline,” *Washington University Law Review*, Volume 83, Issue 3, at 725, 2005. (Available at <https://journals.library.wustl.edu/lawreview/article/id/3584/>. Last visited February 17, 2025)

⁷⁶ *Id.* at 7.

⁷⁷ Sheppard, Brian. *The Ethics Resistance*, 32 GEORGETOWN J. LEGAL ETHICS 235 (2019).

The period following the 2020 election was a particularly dreadful time for the legal profession, particularly since the weaponization of the attorney disciplinary process had already gained a foothold during the previous few years due to anti-Trump fervor.⁷⁸ Organizations such as the Lincoln Project successfully criticized, shamed, and vilified law firms working on behalf of the Trump campaign. Some legal scholars even contended that, contrary to a long history of the duty of zealous advocacy despite the popularity of the client or issue, attorneys should be “morally accountable for actions they take as professionals even when acting in an institutional role” and even have the unethical acts of clients attributed to them.⁷⁹

Many larger law firms tried to distance themselves from the efforts to challenge the election, whether due to fraud or other irregularities. For example, the firms of Porter Wright Morris & Arthur and Snell & Willmer withdrew from post-election cases amid public pressure, and Jones Day, which represented Republican lawmakers challenging a Pennsylvania voting law, released a statement clarifying it was not representing the Trump campaign or its voter fraud efforts.⁸⁰ Conservative attorney Cleta Mitchell, who was targeted by the 65 Project, resigned from her firm Foley & Lardner after it was reported she had aided in Trump’s efforts, after the firm said it was “aware of, and are concerned by” Mitchell’s involvement.⁸¹

It was also extremely difficult for many people seeking legal assistance for extremely unpopular cases, such as January 6th criminal defense, as well as for matters such as election security and integrity. The legal profession roiled under the tactics that were, and still are, used by the aforementioned groups (The 65 Project, Lawyers Defending American Democracy, States United Democracy Center, and States United Action) to punish attorneys who supported President Trump and to intimidate attorneys from doing the same in the future.

In March 2022, the 65 Project launched. The group’s goals included the disbarment of 111 attorneys from 26 states who were involved to some degree in efforts to challenge the 2020 election results. The targeted attorneys consisted of President Trump’s campaign and post-

⁷⁸ The fervor extended to attorneys involved in constitutionally unpopular cases, such as the pro-2nd Amendment United States Supreme Court case *New York State Rifle & Pistol Association v. Bruen*. Immediately after winning the 6-3 landmark decision, law firm Kirkland Ellis told partners Paul Clemente (a top, if not **the** top, Supreme Court litigator in the country) and Erin Murphy to ditch the 2nd Amendment or leave. <https://www.wsj.com/articles/2nd-amendment-bruen-new-york-gun-case-supreme-court-decision-kirkland-and-ellis-rule-of-law-constitution-11656017031>. “ABSURD: Lawyer fired for defending the 2A” <https://www.youtube.com/watch?v=9XQOknvpbfM> See also, in 2019, Harvard Law Professor Ronald Sullivan lost his position as faculty dean at Harvard College because he joined the defense team of sex abuser Harvey Weinstein. NB: The pressure is from the left upon the right, never the other way around. <https://lawliberty.org/why-bad-clients-need-good-lawyers/>

⁷⁹ Wendel, W. Bradley. “Lawyer Shaming,” *U. Ill. L. Rev.* 175 (2022). This cancel culture embracing concept [hallmark of the modern political left and strategy historically employed by fascists, marxists, and communists] strays far away from the classical liberal civil rights concepts of defending minority views. Moreover, this view starkly contradicts the standard set forth in the American Bar Association Defense Function Standard 4-1.6(c) that “Qualified defense counsel should be willing and ready to undertake the defense of a suspect or an accused regardless of public hostility or personal distaste for the offense or the client.” https://www.americanbar.org/groups/criminal_justice/resources/standards/defense-function/ In the 1950s, the American Bar Association could state without qualification that “One of the highest services the lawyer can render to society is to appear in court on behalf of clients whose causes are in disfavor with the public.”

⁸⁰ <https://www.forbes.com/sites/alisondurkee/2022/03/07/campaign-targets-111-trump-linked-election-lawyers-heres-some-already-facing-a-backlash/> (Last visited February 18, 2025)

⁸¹ *Id.*

election attorneys, attorneys who signed on as “alternate electors” for Trump (who planned to submit their names to the Electoral College if Trump-aligned legal challenges had succeeded), and attorneys who allegedly supported or were present at the January 6, 2021 protest.⁸²

According to the 65 Project, President Trump and a group of attorneys attempted to steal the 2020 presidential election by filing dozens of false lawsuits to disrupt the electoral process and permit Trump or his sympathizers to use their power to overturn the election results. The 65 Project refers to these attorneys as “Big Lie Lawyers who bring fraudulent and malicious lawsuits to overturn legitimate election results...”⁸³

The project’s rhetoric belies the organization’s purported goal of “protecting democracy” by “revitaliz[ing]the disciplinary process so that lawyers, including public officials, who subvert democracy will be punished.”⁸⁴ Propagandist “projection,” which is the act of accusing opponents of doing what the accuser is doing, can be found throughout the project’s statements. The project’s website’s “About” page – to this date - falsely claims, “Finding the assertions bogus and riddled with false statements, Republican- and Democratic-appointed judges uniformly dismissed the lawsuits.”⁸⁵ As shown above, not only have several cases survived motions to dismiss but were decided on the merits in favor of Trump and the Republican Party.

The website continues, “But success in the courtroom was not the only objective. Instead, the lawyers bringing these claims knew they were a key component of a larger effort to discredit the 2020 presidential election – and all future elections in which their preferred candidate lost.”⁸⁶ This sweeping generalization paints the Trump-aligned attorneys as mendaciously scheming – a picture that has likely damaged their reputations. In fact, that is an expressly intended effect!

David Brock, political activist and founder of left-leaning Media Matters for America, described the purpose of the 65 Project as to “not only bring the grievances in the bar complaints, but **shame them and make them toxic in their communities and in their firms...**I think the littler fish are probably more vulnerable to what we’re doing. You’re **threatening their livelihood[s] and...reputations...**”⁸⁷ Without a hint of irony, Advisory Board Member Paul Rosenzweig said about the project, “With great power comes great responsibility...It is all the worse, then, when [attorneys] use their special position to attack the foundations of the rule of law.”⁸⁸⁸⁹

⁸² Markay, Lachlan; Swan, Jonathan. “Scoop: High-powered group targets Trump lawyers’ livelihoods.” Axios. March 7, 2022. <https://www.axios.com/2022/03/07/trump-election-lawyers-disbar> (Last visited February 17, 2025)

⁸³ <https://the65project.com/about/> (Last visited February 18, 2025)

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ <https://www.axios.com/2022/03/07/trump-election-lawyers-disbar> (Last visited February 17, 2025)

⁸⁸ *Id.*

⁸⁹ There is a common misconception regarding the term “the rule of law.” Many people, including government officials, believe that it means that people should obey the law. But that’s not what it means. What it means is a society in which people answer only to the law - not to edicts or orders issued by government officials. A society in which people have must comply with edicts and orders issued by politicians and bureaucrats is what is called “the rule of men.” Hornberger, Jacob G. “The Rule of Men vs. the Rule of Law.” <https://www.fff.org/2016/02/26/the-rule-of-men-vs-the-rule-of-law/> (Last visited February 20, 2025)

Also without an iota of irony, the complaint letters begin with this introduction: “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, unethical conduct seeking to overturn legitimate election results.”⁹⁰ Despite this claim to bipartisanship, the project’s website contains no complaints relative to attorneys who represent Democratic candidates who have challenged election laws or results in the past (and of whom there have been plenty). There is nothing, for example, involving scandal-plagued attorney Marc Elias or his attempt to overturn the 2020 election of Republican Rep. Mariannette Miller-Meeke in Iowa’s 2nd Congressional District.⁹¹

Importantly, the very use of the term “bipartisan” denotes partisanship and political intentions. It is not synonymous with “nonpartisan.”

Texas attorney Paul Davis has described the project as “a desperate attempt by leftist hacks and mercenaries” and an effort “to neutralize anyone on the right with the ability to stand in the way of the left’s efforts to hide malfeasance in the 2020 elections and to clear the path for a repeat of similar malfeasance in the 2022 mid-terms.”⁹² Attorney Bruce Marks, a former Pennsylvania state senator who represented the Trump campaign before the Supreme Court, described the project as “an obvious political stunt designed to intimidate and discourage attorneys representing Donald Trump and other conservatives” and “an insidious attack on democracy when you attack the lawyers who were trying to ensure that elections are free and fair.”⁹³

In September 2024, ahead of the 2024 election, the 65 Project began launching a series of advertisements within legal journals published in key swing states leading up to the 2024 election. One ad read, “Don’t risk your law license by joining an effort to subvert democracy. [W]e — and the public — are watching...”⁹⁴ Another ad warned, “Don’t lose your law license because of Trump.”⁹⁵ According to the project’s website, the advertising campaign was targeted “to be directly seen by current and potential Big Lie Lawyers and conservative law firms.”⁹⁶ Several key states where online and in-print versions of the advertisements were published include Wisconsin, Arizona, Georgia, Michigan, and Pennsylvania. The project stated that it planned on spending \$2.5 million on the advertisement campaign.

The 65 Project’s Managing Director Michael Teter commented on the group’s ad campaign by claiming, “[l]awyers should know they’re risking their law licenses if they try to overturn free and fair elections.”⁹⁷ America First Legal (AFL) responded to the ads by claiming they “appear to seek to intimidate lawyers who might be inclined to represent President Trump in the future

⁹⁰ <https://tennesseestar.com/commentary/commentary-trump-lawyers-targeted-by-dark-money-group/admin/2023/06/20/> (Last visited February 18, 2025)

⁹¹ <https://www.foxnews.com/politics/republicans-dem-election-lawyer-iowa-house-race> (Last visited February 18, 2025)

⁹² <https://www.axios.com/2022/03/07/trump-election-lawyers-disbar> (Last visited February 17, 2025)

⁹³ <https://thefederalist.com/2022/07/22/more-than-100-trump-affiliated-lawyers-targeted-by-dark-money-group/> (Last visited February 20, 2025)

⁹⁴ Feuer, Alan. “Legal Watchdog Group Warns Pro-Trump Lawyers Against Subverting Democracy in November.” *New York Times*, September 19, 2024. <https://www.nytimes.com/2024/09/19/us/politics/trump-lawyers-election-results.html> (Last visited February 17, 2025)

⁹⁵ *Id.*

⁹⁶ <https://the65project.com/the-65-project-warns-aspirant-big-lie-lawyers-dont-lose-your-law-license-for-trump/> (Last visited February 18, 2025)

⁹⁷ <https://www.nytimes.com/2024/09/19/us/politics/trump-lawyers-election-results.html> (Last visited February 17, 2025)

from doing so.”⁹⁸ Ed Morrissey of Hot Air sees this as an electoral distraction, but also a vicious campaign of personal destruction⁹⁹: “65 Project is clearly not focused on narrowly punishing attorneys who violated the law or the canons. If that was the purpose, they wouldn’t need to launch a multimillion-dollar ad campaign, but instead focus their resources on bar complaints and demand for hearings.”¹⁰⁰ It is a well-known fact that Democrats have an enormous legal activist infrastructure on a scale that dwarfs the Republican side. William A. Jacobson, Professor of Law and Director of the Securities Law Clinic at Cornell Law School, concludes, “So if Brock can intimidate Republican lawyers not to risk their livelihoods by challenging election law changes, practices, and results, that’s a strategic advantage.”¹⁰¹

While states’ specific rules vary across the county, bar discipline is normally a private and confidential process investigated upon receipt of a credible report by an aggrieved party such as a [usually former] client who has reason to believe that ethical rules may have been violated by the client’s attorney. Usually, discipline is imposed when there has been some form of harm or damages to an individual or entity. By publishing the complaints that they sent to the state bars on their websites, the 65 Project, Lawyers Defending American Democracy, and States United Democracy Center, have weaponized the process to publicly shame Trump and Republican-aligned attorneys. Never in this country’s history has the discipline process been so abused as it has by these groups. The chilling effect has been so extreme that Hitler and Stalin would be impressed if they were alive today.¹⁰²

LEADERSHIP OF THE 65 PROJECT

The composition of the 65 Project and its affiliates should be noted. According to the media reports from March 2022, the group began filing the bar complaints in early March 2022. Its website, www.the65project.com, was registered on December 27, 2021 and became active on Wayback Machine on March 7, 2022.¹⁰³ The group’s website appears to have mutated along the way from its inception to today. It is unclear when the project was formed and began soliciting donations.

The first capture of 65 Project’s website by Wayback Machine shows its home page as stating:

[65 Project is a] bipartisan effort to protect democracy from abuse of the legal system by holding accountable lawyers who engage in fraudulent and malicious lawsuits to overturn legitimate election results and **fuel insurrection...**

⁹⁸ “America First Legal Fights Back Against Leftist ‘Lawfare,’ Files Bar Complaint Against 65 Project Director for Abusing the Attorney Grievance Process to Target Lawyers Affiliated with President Trump.” America First Legal, October 28, 2024. <https://aflegal.org/america-first-legal-fights-back-against-leftist-lawfare-files-bar-complaint-against-65-project-director-for-abusing-the-attorney-grievance-process-to-target-lawyers-affiliated-with/> (Last visited February 18, 2025)

⁹⁹ <https://legalinsurrection.com/2022/03/dem-operative-david-brock-to-launch-attack-on-republican-election-lawyers-make-them-toxic-in-their-communities-and-in-their-firms/> (Last visited February 20, 2025)

¹⁰⁰ https://hotair.com/ed-morrissey/2022/03/07/squirrel-clintonista-dark-money-group-targeting-trump-election-lawyers-n453419#google_vignette (Last visited February 20, 2025)

¹⁰¹ <https://legalinsurrection.com/2022/03/dem-operative-david-brock-to-launch-attack-on-republican-election-lawyers-make-them-toxic-in-their-communities-and-in-their-firms/> (Last visited February 20, 2025)

¹⁰² Lavrentiy Beria, head of Joseph Stalin’s secret police in the old Soviet Union, famously declared, “Show me the man, and I’ll show you the crime.”

¹⁰³ https://www.godaddy.com/whois/results.aspx?itc=dlp_domain_whois&domain=the65project.com

Our Mission: Following Biden’s victory an army of Big Lie Lawyers filed 65 lawsuits based on lies to overturn the election and give Trump a second term. While the nation’s legal institutions stood up to this attempted “**coup-via-courtroom**,” Trump has worked to further seize control of state and local election processes and ramp up malicious election litigation efforts — which only embolden future fraudulent legal actions aimed at overturning legitimate elections. Simultaneously, the lies and disinformation included in these lawsuits continue to give **oxygen to the Big Lie**, which festers in right-wing political and media circles and social media discussions and is a **long-term threat to American democracy**.¹⁰⁴ [Emphasis added]

The inflammatory political rhetoric appears to have been deliberately toned down over time. Noticeably removed from the website are the references to a “coup” and “Trump” and “Biden.”

65 Project’s original website displayed a nine person “Team” comprised of the above-mentioned Michael Teter plus two “senior advisors” non-attorneys Melissa Moss and David Brock; three “consulting counsel[ors]” attorneys David Fink, Kenneth Mogill, and Nathan Fink; non-attorney “researchers” Rollin King and Naji Thomson, and non-attorney “communications strategist” Eddie Vale. The website shows Teter as the “Managing Director of the 65 Project.” In addition to the Team, the website displays an “Advisory Board” with the following members, all of whom are attorneys: Chief Justice Christine Durham (Ret[ired, Utah Supreme Court]), Roberta Cooper Ramo, Renee Knake Jefferson, Paul Rosenzweig, and Stuart Gerson.¹⁰⁵

At some time between October 12, 2022 and October 14, 2022, the following was placed on the website’s home page:

Protecting Future Elections As the January 6th Committee’s work has confirmed, lawyers played a central role in then-President Trump’s attempt to stay in power despite losing the 2020 presidential election. Many of those lawyers, and their conduct, are subject to ethics rules. But just as Trump and his allies sought to exploit vagueness in the Electoral Count Act, so too have some lawyers evaded accountability because of gaps in the legal profession’s ethical rules. And just as Congress is rushing to fix those statutory holes, state supreme courts also must address certain weaknesses in the rules of professional conduct. We are working closely with law professors and professional responsibility practitioners to develop model rules, and we will push state bar associations to adopt them.¹⁰⁶

“State bar associations” advocate for amendment of rules governing conduct of attorneys, rules which must be codified by legislation to have any operational effect.

¹⁰⁴ <https://web.archive.org/web/20220307112309/https://the65project.com/> On the “Home” page, underneath the quoted “insurrection” and “coup” language appears a closeup photo of Rudy Guiliani next to an image of the January 6th protest. Last visited February 20, 2025.)

¹⁰⁵ <https://web.archive.org/web/20220307173320/https://the65project.com/about/#expand> (Last visited February 21, 2025)

¹⁰⁶ <https://web.archive.org/web/20221012123615/https://the65project.com/> and <https://web.archive.org/web/20221014200043/https://the65project.com/> (Last visited February 21, 2025)

At some time between September 22, 2022 and October 31, 2022, the three consulting attorneys were removed from the website with Teter as the only remaining attorney on the Team.¹⁰⁷ At some time, Brock was removed from the website as well.

The donation page for the project's website <https://the65project.com/donate/> was captured by the Wayback Machine 21 times between March 11, 2022¹⁰⁸ and November 21, 2024. From some time until September 19, 2024, the page stated, "The 65 Project is a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code. Donations are tax deductible as allowed by law. Federal Tax ID 46-3009324."¹⁰⁹ Between September 19, 2024 and October 4, 2024, the website's donation page was removed and replaced with an external link.¹¹⁰ The new page does not contain the verbiage that the previous page used to contain. It simply states, "Your gift supports our mission. Make a donation today" and provides fields to input donor data to transact the donation.¹¹¹

There is no mention of a Board of Directors or Board of Trustees on any versions of Project 65's website at any time, which would be indicative of a governing body of the project as a nonprofit business entity of its own. The website at the time of the first draft of this paper, February 21, 2025, displays only the three person Team of Teter, Moss, and Vale. The Advisory Board no longer appears.

David Brock was, and perhaps still is, deeply involved in the 65 Project. Brock has been described as "the darling of Democratic Party millionaires and billionaires."¹¹² Brock is the Chairman of The Franklin Education Forum ("FEF") which is a DC-based 501c3 nonprofit corporation formed on June 19, 2013. The incorporator of FEF, originally named American Advocacy Education Center, was Mark Elias. The corporation's Form, the IRS Application for Recognition of Exemption Under 501(c)3, was prepared and signed by Ezra Reese.

IRS Tax Exempt Organization searches for 65 Project and FEF by their names (search terms "the 65 project," "65 project," "the franklin education forum," and "franklin education forum") at the IRS website yield no results.¹¹³ However, a search by the EIN¹¹⁴ found on the project's "donate" page, 46-3009324, yields the following result: Democracy Matters Foundation with an "other name" of Franklin Education Forum.

The IRS database identifies Democracy Matters Foundation as operating under the organization name of "Franklin Education Forum" although this /dba is not noted on any of FEF's 990s, its tax-exemption determination letter from the IRS, or any other search for publicly available

¹⁰⁷ <https://web.archive.org/web/20220922172154/https://the65project.com/about/> and

<https://web.archive.org/web/20221031162441/https://the65project.com/about/> (Last visited February 21, 2025)

¹⁰⁸ The first capture appears to link to a Paypal account through Donorbox.

<https://web.archive.org/web/20220311013637/https://the65project.com/donate/> (Lat visited February 21, 2025)

¹⁰⁹ <https://web.archive.org/web/20240919192623/https://the65project.com/donate/> (Last visited February 21, 2025)

¹¹⁰ <https://secure.qgiv.com/for/the65project/> (Last visited February 21, 2025)

¹¹¹ *Id.*

¹¹² <https://www.thenation.com/article/archive/the-poisonous-politics-of-david-brock/> (Last visited February 20, 2025)

¹¹³ <https://apps.irs.gov/app/eos/>

¹¹⁴ EIN stands for "Employer Identification Number" which is akin to a Social Security Number for business entities. It is required by financial institutions, e.g. banks, to open accounts.

information. Tax-exempt organizations, nonexempt charitable trusts, and section 527 political organizations are required to file “Return of Organization Exempt from Income Tax” (Form 990) annually with the IRS to provide the information required by 26 U.S.C. Section 6033.¹¹⁵

FEF’s earliest available 990, dated 2015, names John Neffinger, President, as its principal officer and David Brock as the Chairman and one of the Directors. In Part VII, Section A, they are noted to have received reportable compensation from a related organization, Franklin Forum, a 501c4 directly controlled by Franklin Education Forum up until 2018. The relationship between the two appears to be parent-subsidiary with Franklin Education Forum controlling Franklin Forum. Appropriately, Franklin Forum had its own EIN (46-3018149) and filed its own 990s.

In an attachment to FEF’s 1023, the organization provided a Narrative Description of Activities. The narrative states that FEF’s mission is “an educational organization that provides grants for media training and ongoing coaching in order to improve and develop the capabilities of progressive messengers. We train and mentor voices to advance and brighten the appeal of the progressive cause - on air, online, and across the table at home.”

Its activities are “to provide restricted grants to Franklin Forum, an affiliated entity organized under section 501(c)(4) of the Internal Revenue Code, to fund intensive media training boot camps for rising and seasoned progressive pundits.”

The narrative states that FEF “monitors how grant funds are spent to ensure they are used to improve and develop the capabilities of individuals by training them to advocate more effectively, and not to educate individuals about specific legislative issues. FEF reviews FEF-funded training programs and materials to ensure that funds are not used to give instruction on, advocate for, any candidate for public office, any specific legislation, or any particular doctrine or theory which can become effective only by the enactment of legislation. FEF also monitors the selection of training attendees to ensure that FEF funds are not used to provide training to any candidates for public office, any employee of a public campaign or political party, or elected officials.”¹¹⁶

Neffinger is reported to have stopped receiving compensation sometime prior to January 1, 2017. Brock did not receive compensation in 2019, a year during which there was only approximately \$2,000 in assets of FEF on its Balance Sheet, or any year thereafter, according to the 990s.¹¹⁷ According to IRS filings by FEF as of 2019, neither FEF nor any related organization compensated any director or officer, which includes Brock and Neffinger.

¹¹⁵ Form 990 is the nonprofit equivalent to the commonly known Form 1040.

¹¹⁶ This document demonstrates an understanding that there are limitations associated with 501(c)(3) exempt status including a complete prohibition on engaging in any activities that constitute intervention in a political campaign and a requirement that no more than an insubstantial amount of a 501(c)(3)’s activities constitute lobbying. Lobbying essentially means influencing legislation. 501(c)(3) organizations have the option of making an election under IRC Section 501(h) to have their lobbying activities measured based solely on expenditures. 501(c)4s, on the other hand, may engage in an unlimited amount of lobbying, provided that it is related to the organization’s exempt purpose. They may also engage in campaigns on behalf of or in opposition to candidates for public office provided that such intervention does not constitute the organization’s primary activity.

¹¹⁷ The last available 990 for FEF from the IRS database is from 2022. (Last visited February 25, 2025) However, a copy of the 2023 990 was retrieved from a state Attorney General’s website.

In Part III of the 2015 990, FEF's mission is stated as "to provide grants for media training and ongoing coaching in order to improve and develop the capabilities of progressive messengers." On line 4a, the program services for which expenses were made (itemized in Part IX) are consistent with said mission. In Part VI, Section C, line 20, the keeper of the books and records is listed as Neffinger.

The next available 990 for FEF, dated 2016, names Brock, still Chairman and one of the Directors, as the principal officer and Neffinger, still as President. The parts of the 990 noted above for 2015 remained substantially the same in 2016. However, the keeper of the books and records changed to Brock in 2016 and he continued to be the corporation's recordkeeper until 2022. FEF's 2023 990 shows Pilar Martinez, CFO, as the recordkeeper for that year.¹¹⁸ Also that year, Neffinger replaced Brock at the Principal Officer. (The 990 notes that Brock would be replaced by Neffinger as Chairman on September 23, 2023.)

The recordkeeper places his signature in the Signature Block in Part II of the 990 which states that, "Under penalties of perjury, I declare that I have examined this return, including schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete..."

The 2017, 2018, and 2019 990s of FEF contain unchanged information relative to the data described above for 2016's mission statement and program services consistent with the mission. However, in 2020, significant differences appear on FEF's 990 compared to the previous years. Noticeably, the mission of the organization is no longer described as "to provide grants for media training and ongoing coaching in order to improve and develop the capabilities of progressive messengers." The mission was changed to "support of progressive communications and programs." As shown on line 22 of the 990 Part I Summary section, FEF went from having -\$19,228 in net assets or fund balances at the beginning of 2020 to \$367,383 by the end of the year.

Despite these differences, the answer to the following questions were "no" in 2020 (as well as in 2021 and 2022):

"Did the organization undertake any significant program services during the year which were not listed on the prior Form 990?" and "Did the organization...make significant changes in how it conducts any program services?"¹¹⁹

In 2021, FEF's net assets/fund balances increased from \$367,383 to \$1,818,331 after receiving \$4,915,995 in contributions and grants and spending \$3,221,207 in expenses on its programs. In 2022, FEF received \$6,901,639 in contributions and grants. In 2023, FEF received \$1,973,667 and closed out the year with \$1,122,4990 in net assets or fund balances.

In April 2022, the Board of Directors of FEF grew from two (Brock and Alexis McGill Johnson)¹²⁰ to seven members with the addition of five members. Since at least 2015, Brock continuously has held his positions as Director and Chairman and Neffinger has remained as

¹¹⁸ Martinez appears on several other organizations' documents as CFO alongside Brock as Chairman.

¹¹⁹ Part III, lines 2-3.

¹²⁰ DC law requires a minimum of three directors.

President. No compensation for any director, officer, or key employee was reported on any of FEF's 990s since at least 2018.

On Part I of Schedule R of the 990 for 2022, FEF reported a relationship between FEF as the Direct Controlling Entity of "65 Project LLC." Part I of Schedule R requires identifying information on any organizations that are treated for federal tax purposes as disregarded entities of the filing organization. This section must be completed when the organization has answered "yes" to the question, "Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3?" in Part IV, line 33. FEF answered "yes."

FEF answered "yes," and Part I of Schedule R shows that 65 Project LLC was reported to the IRS as an entity 100% owned by FEF. (100% ownership means "sole member.") The EIN of 65 Project LLC is the listed as the same as FEF's: 46-3009324.¹²¹ The address of FEF is also listed as the same as 65 Project LLC on the IRS filings.¹²² However, FEF did not own 100% of FEF. In fact, it owned none of the LLC at any time.

On 65 Project LLC's formation filing information with the District of Columbia's Department of Licensing and Consumer Protection (DLCP), 65 Project LLC commenced on July 13, 2022 and Registered with the department on July 19, 2022. The business addresses on the initial filing does not match the addresses associated with FEF. It is important to note that LLCs (limited liability companies) are virtually NEVER nonprofit and tax-exempt organizations. That type of business entity is used on occasion as a supporting organization of a 501c3, but it would not qualify as a tax-exempt nonprofit under Section 501 of the Internal Revenue Code.

The Beneficial Owners (also called "Members" in other jurisdictions) and Governors of 65 Project LLC are listed with the DLCP of DC as Michael Teter and Ezra Reese. Reese is Elias Law Group's Political Law Chair.¹²³ The firm's website states that Reese focuses his practice on nonprofit tax law and political law. 65 Project LLC dissolved at some point after its annual report filing on March 28, 2023. In any event, FEF was never made the owner of the LLC which would be reflected on the DC business search portal.¹²⁴

In column D of Part I of Schedule R shows that the income to FEF through "65 Project LLC" in 2022 was \$1,071, 825. There are two other LLCs in this section, reflecting income of over \$3mil, that also reflect FEF's EIN and could be similarly misreported and misrepresented; however, that issue strays from the subject of this paper. In 2023, the income to FEF through the project was \$83,182.

Also according to its 990 filing in 2022, FEF paid Teter's law firm, Teter Legal LLC, \$310,370 for "managing consulting services." FEF also paid Lyons LLC \$360,000 for "strategic consulting

¹²¹ If 65 Project had not published EIN information on its "donate" webpage, the connection between the project and Franklin Education Forum/etc. would have been virtually impossible to find. This was how the author of this paper discovered the relationship.

¹²² FEF and its "disregarded entities" maintained a physical address according to the 990s up to 2022. In 2023, the organization(s) began using a PO Box in DC for address purposes.

¹²³ <https://www.elias.law/team/ezra-reese> (Last visited February 21, 2025) This firm is headed by Mark Elias.

¹²⁴ FEF is not listed on 65 Project's initial filings, the annual report, or any other records with DC.

services.” The District of Columbia has no record of a Lyons LLC and the address on the 990 for the business is a single-family residence in Georgetown owned by the Jonathan M. Silver Revocable Trust.¹²⁵ FEF also paid Venio Inc. \$140,000 for “consulting services.” Venio Inc. is a US government contracting company that provides custom computer programming services.

The website of Democracy Fund, a 501c3 private foundation, states, “The 65 Project, an initiative within LawWorks, a fiscally sponsored project of the Franklin Education Forum, works to increase the adoption of ethics best practices by lawyers and state bar associations.”¹²⁶ However, Law Works (or “LawWorks”) is not mentioned anywhere on FEF’s 990 for 2022. Law Works or 65 Project are not mentioned anywhere on Democracy Fund’s 990 for 2022. The website www.lawworks.com states, “LawWorks is an end-to-end software solution designed with the expertise of experienced lawyers and built by engineers specializing in legal tech. It redefines how you manage, research, and resolve cases.”¹²⁷

Law Works, Inc., a 501c3 domiciled in Connecticut with EIN 55-0877808, is the only organization in the IRS database that has “Law Works” in its name.¹²⁸ The most recent 990 filing available is from 2022 with gross receipts of \$90,003. The filing does not contain any terms relative to 65 Project, Teter, Brock, FEF or any other matter discussed herein. The filing also did not include a Schedule R (for related organizations). Since this corporation already has IRS-recognition, no fiscal sponsorship relationship appears to exist for this entity which is most likely completely unrelated to any individual or business discussed herein this paper. Although it is possible.

On Democracy Fund’s 990 for 2023, “65 Project” appears twice. In Part XIV(3), the filing states that the foundation gave the public charity Global Impact a grant of \$200,000 and a grant of \$100,000 for “program support for The 65 Project.” However, “65 Project” appears nowhere on Global Impact’s 990 for tax/fiscal year beginning July 1, 2022 and ending June 30, 2023. An enormous 501c3 nonprofit, with gross receipts of over \$145,215,629 for said fiscal year, Global Impact’s mission is to “build[s] partnerships and resources for the world’s most vulnerable people.”

It is very difficult to see how 65 Project fits in with such a mission.

CONCLUSION

This paper demonstrates only a portion of this nation’s current need to rebalance what has become a very lopsided scale of justice. The greatest threat to our “democracy” is not

¹²⁵ A search for “Lyons,” “Lyons LLC,” and “Lyons, LLC” at the state Attorney Generals’ business entity search web portals for Delaware, New York, Virginia, Illinois, and California yields no matches. Given some facts provided on the 990s, it is possible that these strategic consulting services were provided by an attorney who represents corporations, committees, lenders and boards of directors in complex business reorganizations, acquisitions and divestitures, typically in distressed situations, in a broad variety of industries. A forensic accountant, tax examiner, or other investigator would be needed to uncover the true nature of this expense.

¹²⁶ <https://democracyfund.org/grant/lawworks-2/> (Last visited February 21, 2025)

¹²⁷ www.lawworks.com (Last visited February 26, 2025) America First Legal has FOIA requested communications between email addresses from the URL (@lawworks.com) relative to its complaint against Teter with the Utah state bar. Therefore, it is a reasonable inference that this website is related to 65 Project in some manner.

¹²⁸ A search for “LawWorks” yields no results.

challenging elections — which we have a right to do. Rather, it is the coordinated campaign by those who use the instruments of government to attack political opponents and to silence free speech. The right to an attorney as a zealous advocate is a crucial fundamental right in our legal system and it is afforded to even the worst of the worst. The chilling effect of the anti-Trump movement to weaponize the bar discipline process against a President, his attorneys, and other allies runs counter to our legal system.

Of the attorneys targeted by the 65 Project between 2022 and 2023, at least three complaints have been dismissed by disciplinary boards in Georgia and Pennsylvania. At least 12 lawyers against whom the 65 Project filed complaints have not faced discipline and are involved again in voting-related litigation on behalf of Trump allies. If the same logic is applied to the 65 Project that was applied to these attorneys, then the project lodged “fraudulent,” “malicious,” and “phony”¹²⁹ complaints in the instances in which they were disposed of by dismissal and without discipline.

To fight back against the lawfare committed by these groups, Rule 11 Project will investigate whether bar complaints against the attorneys involved in these politically motivated bar complaints are appropriate. On October 28, 2024, America First Legal lodged a bar complaint against Teter over claims he abused the attorney grievance process “to seek misconduct sanctions against lawyers associated with President Trump.”¹³⁰ The complaint contended that Teter was targeting lawyers based ‘solely upon their representation of a disfavored client.’... and “engaging in conduct prejudicial to the administration of justice by seeking to punish lawyers associated with a single client.”¹³¹

The complaint also accused Teter of possibly violating Rule 301 of the Rules Governing the Utah State Bar by “abusing the attorney grievance process to create a “culture of deterrence” and ascribing class-wide misconduct against anyone who seeks to represent President Donald J. Trump, and by seeking sanctions for an improper purpose—namely, based on their representation or affiliation with President Trump.”¹³² Seeking the personal destruction and financial ruin of another lawyer – simply because of the client he represented or the cause he took up – runs counter to...the letter and spirit of the law governing the activities of lawyers.”¹³³

After a reasonable inquiry, Rule 11 Project will lodge bar complaints and other administrative complaints where ethical and other legal violations may be rightfully alleged. In the discipline cases that remain pending disposition, Rule 11 Project will offer support to the attorneys through amicus briefs. Due to the highly political nature of the bar complaints and the composition and tactics used by the groups, Rule 11 Project will submit Freedom of Information Act requests for relevant communications between the organizations mentioned herein and the Biden-Harris administration as well as others.

¹²⁹ The 65 Project’s “About” webpage implies that “Big Lie Lawyers” have engaged in “lying to the court or the public about the factual grounds for phony claims.” <https://the65project.com/about/> (Last visited February 20, 2025)

¹³⁰ <https://www.nytimes.com/2024/09/19/us/politics/trump-lawyers-election-results.html> (Last visited February 17, 2025)

¹³¹ *Id.*

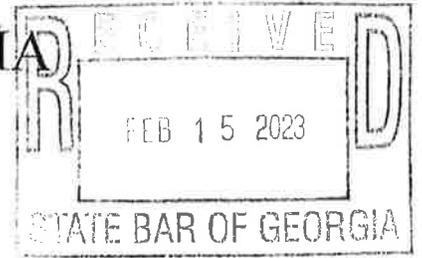
¹³² *Id.*

¹³³ <https://www.reuters.com/world/us/ahead-us-election-lawyers-duel-over-ethics-breach-accusations-2024-11-02/> (Last visited November 21, 2024)

Exhibit 3



STATE BAR OF GEORGIA
GRIEVANCE
CONFIDENTIAL



PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK ONLY
DO NOT ALTER THIS FORM

YOUR NAME: Michael Teter, Managing Director -- The 65 Project

MAILING ADDRESS: 470 L'enfant Plaza SW, Suite 604, P.O. Box 44099, Washington, DC 20024
Street or P.O. Box City State Zip

YOUR EMAIL ADDRESS: michael@the65project.com

YOUR PHONE NUMBERS: (H/CELL) (385) 297-1815 (W) _____

NAME OF THE ATTORNEY: Harry MacDougald
Fill out a separate form for each attorney. Do not list law firms.

ADDRESS OF THE ATTORNEY: Two Ravinia Drive, Suite 1600, Atlanta, GA 30346

DATE OF FIRST CONTACT WITH ATTORNEY: N/A DATE OF LAST CONTACT WITH ATTORNEY: N/A

DOES THIS ATTORNEY CURRENTLY REPRESENT YOU? YES NO WAS THIS YOUR ATTORNEY? YES NO

IS YOUR CASE: CRIMINAL CIVIL CASE # _____

COUNTY: _____ OR FEDERAL DISTRICT: NORTHERN MIDDLE SOUTHERN

CLEARLY DESCRIBE YOUR COMPLAINT AND ATTACH SUPPORTING DOCUMENTS:

Please see attached letter.

If more space is needed, please attach other pages. Please do not write on the back.

Return to: **State Bar of Georgia
Office of the General Counsel
104 Marietta St. NW, Suite 100
Atlanta, GA 30303**

"I affirm that I have read and understand the information and instructions.
The information I have provided here is true to the best of my knowledge."

SIGNATURE: Michael Teter

DATE: 2/15/2023

OPTIONAL: PLEASE PROVIDE THE NAME AND PHONE NUMBER OF SOMEONE WE CAN CONTACT IF WE HAVE DIFFICULTY CONTACTING YOU.

NAME OF CONTACT PERSON: _____

PHONE NUMBERS OF CONTACT PERSON: (H) _____ (CELL) _____



February 15, 2023

VIA ELECTRONIC MAIL: paulaf@gabar.org

State Bar of Georgia
Office of the General Counsel
104 Marietta Street, N.W., Suite 100
Atlanta, GA 30303

Dear General Counsel's Office:

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 General Counsel investigate the actions taken by Harry MacDougald relating to his effort to overturn the 2020 presidential election. Mr. MacDougald served as part of a coordinated attempt to abuse the judicial system to promote and amplify bogus, unsupported claims of fraud to discredit an election that Mr. Trump lost.

Mr. MacDougald worked on two matters, both in the state of Georgia: *Pearson v. Kemp*, and *Wood v. Raffensperger*. Both of these actions lacked any basis in law or fact. Indeed, they were nearly copies of litigation filed in other battleground states, as lawyers sought to create a false narrative about voter fraud that was based on conjecture and conspiracy theories.

A full investigation by the Office of General Counsel will demonstrate the egregious nature of Mr. MacDougald's actions, especially when considered in light of his purposes, the direct and possible consequences of his behavior, and the serious risk that Mr. MacDougald 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.¹ Mr. Trump's head of the U.S. Cybersecurity and Infrastructure Security Agency, Christopher Krebs, announced that the "November 3rd election

¹ See Federal Election Commission, *Official 2020 Presidential General Election Results*, available at <https://www.fec.gov/resources/cms-content/documents/2020presgeresults.pdf>.

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.²

Many of Mr. Trump’s own senior advisors agreed with Attorney General Barr and Mr. Krebs.³ 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.⁴ 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.⁵ 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.”⁶

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.⁷ 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.⁸

CONDUCT GIVING RISE TO THE COMPLAINT

Mr. MacDougald helped lead the charge on behalf of Mr. Trump in Georgia.

² M. Balsamo, *Disputing Trump, Barr says no widespread election fraud*, Associated Press (Dec. 1, 2020), <https://perma.cc/4U8N-SMB5>.

³ 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>.

⁴ 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>

⁵ Interview of Jeffrey Rosen.

⁶ Interview with Richard Donoghue.

⁷ 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/>.

⁸ 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.

On November 13, 2020, Mr. MacDougald initiated *Wood v. Raffensperger* in the United States District Court for the Northern District of Georgia. Mr. MacDougald then filed *Pearson v. Kemp* on November 25, 2020, in the United States District Court for the Northern District of Georgia. The complaints Mr. MacDougald filed in these cases all rely solely on unfounded conspiracy theories, easily proven false, with no basis in law or fact.

For example, in *Pearson v. Kemp*, which is full of baseless claims, the Plaintiffs stated:

[V]ideo from the State Farm Arena in Fulton County shows that on November 3rd after the polls closed, election workers falsely claimed a water leak required the facility to close. All poll workers and challengers were evacuated for several hours at about 10:00 PM. However, several election workers remained unsupervised and unchallenged working at the computers for the voting tabulation machines until after 1:00 AM.⁹

However, this is not what happened at all. Apparently, there was an overflowing urinal in the morning of November 3rd and it had no impact of vote tabulation that evening.¹⁰ No one was asked to leave, and there was no disruption in the chain of custody of the ballots.¹¹ As Gabriel Sterling, the Voting Implementation Manager of Georgia, said about the incident, “What’s really frustrating is the president’s attorneys had this same videotape. They saw the exact same things the rest of us could see and they chose to mislead state senators and the public about what was on that video.”¹² Mr. MacDougald knew the truth, and yet chose to promote lies to harm our democracy.

Furthermore, Mr. MacDougald asserted that Dominion Voting Systems and Smartmatic 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.”¹³ This is untrue for several reasons. Not only is there no evidence these technologies were used for vote switching anywhere, neither company was founded by oligarchs, and Dominion is a Canadian company and majority-owned by Americans.¹⁴ While Smartmatic founders are from Venezuela, they have called out the Venezuelan government for voter fraud in the past.¹⁵

Mr. MacDougald continually promoting falsehoods related to vote switching in Georgia. He argued “that hundreds of thousands of votes that were cast for President Trump in the 2020

⁹ *Pearson v. Kemp*, Case No. 1:20-cv-04809-TCB (N.D. Ga.) Nov. 25, 2020, Compl. at 7.

¹⁰ Shayna Greene, *Fact Check: Did Fabricated Water Main Break Affect Vote Counting in Georgia as Trump Says?*, NEWSWEEK (Jan. 4, 2021), <https://www.newsweek.com/fact-check-did-fabricated-water-main-break-affect-vote-counting-georgia-trump-says-1558876>.

¹¹ *Id.*

¹² *Id.*

¹³ *Pearson v. Kemp*, Case No. 1:20-cv-04809-TCB (N.D. Ga.) Nov. 25, 2020, Compl. at 4.

¹⁴ *Does the Dominion Voting Systems Organization Have Ties to Venezuelan President Hugo Chavez, George Soros and the Clinton Foundation*, CNN, https://www.cnn.com/factsfirst/politics/factcheck__829bf37c-cbd5-4a5c-8d87-7c53504997cb.

¹⁵ *Id.*

general election were transferred to former Vice-President Biden.”¹⁶ This has no basis in reality. According to the Cybersecurity & Infrastructure Security Agency, there is no truth to any claim that votes for Trump were switched in favor of Biden.¹⁷ As with so many of these lies, this claim was widely debunked before Mr. MacDougald filed the complaint, and yet Mr. MacDougald went ahead and filed it anyway.

While the myriad of allegations against Dominion Voting Systems in *Pearson v. Kemp* tell a tale of a global conspiracy to cheat Donald Trump out of a second term, there was never any proof to support any of these factual claims. As Chief Judge Timothy Batten of the United States District Court for the Northern District of Georgia declared, “although [the Plaintiffs] make allegations of tremendous worldwide improprieties regarding the Dominion voting machines, those allegations are supported by precious little proof.”¹⁸

Mr. MacDougald continued to promote baseless conspiracy theories in later court documents. In his response to the 11th Circuits questions over jurisdiction, Mr. MacDougald began accusing poll workers of committing voter fraud. He argued that poll workers took “‘votes’ out in suitcases from under the tables at which they were working,” and alleged they were attempting in plain sight to steal an election.¹⁹

Nothing in the above assertion is true. This “suitcases full of ballots” myth was promoted directly after the election and has no factual basis. There were no suitcases of ballots, but simply regular ballots storage containers, no announcement was made to get people to leave, and even if there was it is not against Georgia law to count ballots once some observers have left.²⁰ And Mr. MacDougald knew this allegation was false. This conspiracy theory was debunked, and yet Mr. MacDougald proceeded to make the claim in court documents.

In *Wood v. Raffensperger*, Mr. MacDougald alleges that two election workers observed “improprieties,” and could not “tell if any counting was accurate or if the activity was proper.”²¹ However, as Chief Judge William Pryor of the 11th Circuit noted, “Wood submitted two affidavits from volunteer monitors. One monitor stated that she was not allowed to enter the counting area because there were too many monitors already present, and she could not be sure from a distance whether the recount was accurate. The other explained that the counting was hard for her to follow and described what she thought were possible tabulation errors.”²² A far cry from fraud, these factually useless affidavits fail to provide any evidence of fraud or cast any doubt on the 2020 election.

¹⁶ *Pearson v. Kemp*, Case No. 1:20-cv-04809-TCB (N.D. Ga.) Nov. 25, 2020, Compl. at 9.

¹⁷ Ali Swenson, *AP Fact Check: Trump Legal Team's Batch of False Vote Claims*, AP (Nov. 19, 2020), <https://apnews.com/article/fact-check-trump-legal-team-false-claims-5abd64917ef8be9e9e2078180973e8b3>.

¹⁸ *Pearson v. Kemp*, Case No. 1:20-cv-04809-TCB (N.D. Ga.) Nov. 25, 2020, Hearing Trans. at 15-16.

¹⁹ *Pearson v. Kemp*, Case No. 1:20-cv-04809-TCB (N.D. Ga.) Nov. 25, 2020, Resp. to Jurisdictional Questions at 7.

²⁰ Angelo Fichera, *Video Doesn't Show "Suitcases" of Illegal Ballots in Georgia*, FACTCHECK.ORG (Dec. 4, 2020), <https://www.factcheck.org/2020/12/video-doesnt-show-suitcases-of-illegal-ballots-in-georgia/>.

²¹ *Wood v. Raffensperger*, Case No. 1:20-cv-04651-SDG (N.D. Ga.) Nov. 13, 2020, Compl. at 22-23.

²² *Wood v. Raffensperger*, Case No. 1:20-cv-04651-SDG (N.D. Ga.) Nov. 13, 2020, 11th Cir. Order at 6.

These complaints were not only factually deficient, but they were legally deficient as well. In *Wood v. Raffensperger*, Mr. MacDougald argued that a Settlement Agreement reached between Raffensperger and the Democratic Party of Georgia was unconstitutional, and thus votes cast legally because of this agreement should be thrown out, because Raffensperger had no authority to enter into the agreement.²³ In a baffling claim, Mr. MacDougald argues that the Constitution provides a nondelegable power to the state legislature to establish election law.²⁴ This was strongly rebuked by Judge Steven D. Grimberg of the United States District Court of the Northern District of Georgia, who argued that “State legislatures—such as the Georgia General Assembly—possess the authority to delegate their authority over elections to state officials in conformity with the Elections and Electors Clauses” and “[r]ecognizing that Secretary Raffensperger is ‘the state’s chief election official,’ the General Assembly enacted legislation permitting him (in his official capacity) to ‘formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections.’ The Settlement Agreement is a manifestation of Secretary Raffensperger’s statutorily granted authority.”²⁵

Not only was the central claim in *Wood v. Raffensperger* legally dubious, but the lawsuit was so legally deficient that it lacked basic requirements to be heard in court. Judge Grimberg found that the plaintiffs were relying on overruled precedent to argue standing, noting that “[o]stensibly, Wood believes he suffered a particularized injury because his preferred candidates—to whom he has contributed money—did not prevail in the General Election. This argument has been squarely rejected by the Eleventh Circuit.”²⁶ Judge Grimberg then highlighted the shoddy legal argument by adding that “the Court notes the futility of Wood’s standing argument is particularly evident in that his sole relied-on authority—*Meek v. Metropolitan Dade County, Florida*, 985 F.2d 1471 (11th Cir. 1993)—is no longer good law.”²⁷

Mr. MacDougald also fundamentally misunderstood basic issues related to mootness. Chief Judge Pryor found that “Wood’s arguments reflect a basic misunderstanding of what mootness is. He argues that the certification does not moot anything “because this litigation is ongoing” and he remains injured. But mootness concerns the availability of relief, not the existence of a lawsuit or an injury.”²⁸

Finally, Mr. MacDougald argued for relief without pointing to any relevant legal authority. When arguing that his client had a right to monitor vote counts, he presented nothing to support his claim. Judge Grimberg simply stated that “Wood presents no authority, and the Court finds none, providing for a right to unrestrained observation or monitoring of vote counting, recounting, or auditing.”²⁹

²³ *Wood v. Raffensperger*, Case No. 1:20-cv-04651-SDG (N.D. Ga.) Nov. 13, 2020, Compl. at 30.

²⁴ *Id.* at 29-30.

²⁵ *Wood v. Raffensperger*, Case No. 1:20-cv-04651-SDG (N.D. Ga.) Nov. 13, 2020, Order at 30-31.

²⁶ *Id.* at 18.

²⁷ *Id.*

²⁸ *Wood v. Raffensperger*, Case No. 1:20-cv-04651-SDG (N.D. Ga.) Nov. 13, 2020, 11th Cir. Order at 18.

²⁹ *Wood v. Raffensperger*, Case No. 1:20-cv-04651-SDG (N.D. Ga.) Nov. 13, 2020, Order at 36.

Including these types of allegations to support any lawsuit would be problematic. More troubling, though, is that Mr. MacDougald sought to disqualify *every vote* in Georgia so that Mr. Trump would prevail. Judge Grimberg put it best - “Wood seeks an extraordinary remedy: to prevent Georgia’s certification of the votes cast in the General Election, after millions of people had lawfully cast their ballots. To interfere with the result of an election that has already concluded would be unprecedented and harm the public in countless ways. Granting injunctive relief here would breed confusion, undermine the public’s trust in the election, and potentially disenfranchise of over one million Georgia voters. Viewed in comparison to the lack of any demonstrable harm to Wood, this Court finds no basis in fact or in law to grant him the relief he seeks.”³⁰

But the goal was never a complete victory in the courts. Mr. MacDougald, alongside his fellow election denying attorneys across the country, were simply trying to cast doubt on our election, and harm public confidence in our democracy. This became evident to Judge Andrew Brasher of the 11th Circuit Court of Appeals, who stated that “[i]n this case, the district court issued an emergency temporary restraining order at the plaintiffs’ request, worked at a breakneck pace to provide them an opportunity for broader relief, and was ready to enter an appealable order on the merits of their claims immediately after its expedited hearing on December 4, 2020. But the plaintiffs would not take the district court’s ‘yes’ for an answer. They appealed instead. And, because they appealed, the evidentiary hearing has been stayed and the case considerably delayed.”³¹ Mr. MacDougald’s main objective was to use the courts to delay, to confuse, and to harm our electoral process. This was not a good faith effort to make sure the right person won.

Mr. MacDougald knew he had neither the law nor the facts on his side, and yet he filed numerous lawsuits anyway. He did this to undermine faith in our electoral system.

Mr. MacDougald’s actions warrant discipline.

**A SUBSTANTIAL BASIS EXISTS FOR THE DISCIPLINARY COMMISSION TO
INVESTIGATE MR. MACDOUGALD’S CONDUCT AND TO
IMPOSE APPROPRIATE DISCIPLINE**

The Office of General Counsel should investigate Mr. MacDougald’s actions on the following basis:

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

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

³⁰ *Id.* at 38.

³¹ *Pearson v. Kemp*, Case No. 1:20-cv-04809-TCB (N.D. Ga.) Nov. 25, 2020, 11th Cir. Order Denying Appeal at 4-5.

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.”³²

Ample evidence demonstrates that Mr. MacDougald knew of the frivolous nature of the litigation he initiated. In *Pearson v. Kemp* and *Wood v. Raffensperger* the complaint was based on debunked conspiracy theories. Many of these theories had been proven false before he filed complaints. No reasonable person would consider the cited “evidence” a sufficient basis for throwing out millions of votes in Georgia.

In fact, the pleadings themselves make clear that when filing the claims, Mr. MacDougald 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.

Finally, the fact that Mr. MacDougald’s complaints were a part of a broad system of filings in 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. MacDougald knew the claims he was advancing in *Pearson v. Kemp* and *Wood v. Raffensperger* lacked any basis in law or fact.

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

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

Pursuant to Rule 4.4, “In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person.”

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

In the interests of his clients, Mr. MacDougald sought to have millions of voters lose their right to decide the 2020 presidential election. Every court addressing the complaint filed by Mr. MacDougald highlighted the extraordinary remedy they sought and the effect it would have on millions of Americans, with Judge Grimberg stating that “Wood seeks an extraordinary remedy: to prevent Georgia’s certification of the votes cast in the General Election, after millions of people had lawfully cast their ballots. To interfere with the result of an election that has already concluded would be unprecedented and harm the public in countless ways.”

³² Rule 1.0(f).

Mr. MacDougald 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.

3. Mr. MacDougald 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. MacDougald 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.

Mr. MacDougald misrepresented the availability of expert evidence to support the Complaint’s allegations. He knew that expert testimony did not exist and yet purported to rely on them anyway.

It all amounted to a dishonest attempt to undermine the public confidence in the 2020 election. It is easy – indeed, necessary – to also recognize the direct link between the use of the courts to sow these seeds of doubt and confusion and the events of January 6, 2021, when people believing that the 2020 was stolen stormed the Capitol in a violent insurrection.

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.”³³ 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.”³⁴ 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

³³ *Ohralik v. Ohio State Bar Assn.*, 436 U.S. 447, 465 (1978).

³⁴ *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1056, 1072 (1991).

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.³⁵

Mr. MacDougald 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 Georgia 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 General Counsel investigate Mr. MacDougald's conduct and pursue appropriate discipline.

Sincerely,



Managing Director
michael@the65project.com
On behalf of The 65 Project

³⁵ *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.



Kathya S. Jackson
Clerk, State Disciplinary Boards

MEMORANDUM

To: Lamar Jackson

From: Kathya S. Jackson

Date: November 6, 2023

Re: NOI Service for Mr. Harry W. MacDougald, SDB File No. 220138

Please serve the above-referenced attorney the attached documents. The State Bar of Georgia membership records indicate the attorney's address is:

Caldwell Carlson Elliott & DeLoach LLP
2 Ravinia Drive
Suite 1600
Atlanta, GA 30346
404-843-1956

KSJ

Exhibit 4

**STATE BAR OF GEORGIA
DISCIPLINARY BOARD**

In Re: Harry W. MacDougald

Disciplinary Board

File No. 230138

**RESPONSE TO GRIEVANCE OF THE 65
PROJECT AND MICHAEL TETER**

Harry W. MacDougald
Ga. Bar No. 463076
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2 Ravinia Dr., Suite 1600
Atlanta, GA 30328
hmacdougald@ccedlaw.com
404-843-1956

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Pursuant to Georgia Bar Rule 4-204.3, Harry W. MacDougald responds to the State Bar's Notice of Investigation of the Grievance filed by Michael Teter of The 65 Project as follows:

I. INTRODUCTION

I was retained on November 24, 2020 to serve as local counsel for the plaintiffs in the *Pearson v. Kemp* lawsuit. The case was filed on November 25, 2020. On November 29, 2020, Judge Batten granted Plaintiffs partial preliminary relief. Plaintiff filed an interlocutory appeal to the 11th Circuit with respect to the preliminary relief that was not granted, which was denied. When the case returned to the District Court, Judge Batten dismissed it after a hearing on December 7, 2020, on grounds of standing, laches, mootness and jurisdiction. After dismissal we filed an appeal to the 11th Circuit and a petition for extraordinary relief in the U.S. Supreme Court. After January 6, 2021 we voluntarily dismissed both appeals because they were moot.

The November 2020 election was the subject of intense controversy in the battleground states such as Georgia. Following the election, the Georgia legislature passed a law popularly known as S.B. 202 to reform Georgia's elections law to address a variety of problems in the 2020 election that fueled the controversy and that were at issue in *Pearson*.

The only acts complained of in this Grievance were undertaken in keeping with my duty to zealously represent my client. Neither Judge Batten, nor any of the Eleventh Circuit judges, or any of the 14 lawyers representing the defendants, sought any sanctions against me or referred me to the bar. The complainant, Mr. Teter, is a complete stranger to me and to the litigation and resides in another state. His complaint was filed two years after the litigation concluded.

II. FACTS

Mr. Teter contends that I violated the Georgia Rules of Professional Conduct ("Rules") in connection with two cases challenging the 2020 election, *Pearson v. Kemp* and *Wood v. Raffensperger*.

As to *Wood v. Raffensperger*, the grievance accuses me of deliberate lies made in filings in the trial court and in the Eleventh Circuit Court of Appeals. I did not sign, file, or draft anything in that case in either court or otherwise have anything to do with that case in either court. The Complaint in *Wood* is [here](#), and the roster of attorney appearances in the case is [here](#). The allegations against me regarding this case are totally false—not a single word is true—and appear to be simply copied from the grievance Mr. Teter filed against Ray L. Smith, III. A comparison of the two grievances is [here](#). While I did participate in the petition for cert. to the U.S. Supreme Court in the *Wood* case, Mr. Teter makes no complaint about that

and I do not address it here.

The abject falsity of this allegation is notable both in itself and because just above his signature on the grievance form Mr. Teter affirmed that “[t]he information I have provided is true to the best of my knowledge.”

The remainder of this response will relate to the *Pearson* lawsuit, in which I did participate as local counsel.

Pearson was pending in the trial court for 12 days, from November 25 to December 7, 2020, when it was dismissed by Judge Timothy C. Batten, Sr.

In *Pearson*, there were seven plaintiffs, six of whom were nominated Republican Presidential electors.¹ There were six original defendants, and three intervenor defendants. The defendants were represented by 14 lawyers in all, including a leading election lawyer, Marc Elias. The case was heard by a U.S. District Court Judge and an interlocutory appeal was heard by three Eleventh Circuit judges. None of these lawyers or judges filed a bar complaint or referred me for bar discipline, nor did any of them seek or impose sanctions. More than two years later, The 65 Project, through Mr. Teter, a complete stranger to the litigation, filed this grievance against me.

III. RESPONSE TO ALLEGATIONS REGARDING CONDUCT

Mr. Teter’s letter opens with so-called “background” information. Since almost none of this information relates to me, I will address a few points from this section. First, Mr. Teter claims that I “lead the charge on behalf of Mr. Trump in Georgia.” This is false. I did not file anything on behalf of President Trump in Georgia. He was never my client in, or party to, any of the litigation in which I was counsel.²

Mr. Teter also states that lawyers bringing election challenges were sanctioned or referred to their state bars. That is true in some cases, but not mine. Sanctions were neither sought nor awarded against me. No one other than Mr. Teter has complained about me to the Bar. He cites the trial court sanctions order in *King v. Whitmer* in Michigan but fails to mention that I did not appear in *King* and was not sanctioned in that case. Further, Mr. Teter fails to inform you that the sanctions order in *King v. Whitmer* was on appeal to the Sixth Circuit at the time of his grievance. The ruling in *King* award was later affirmed, but only in part. A cert.

¹ The *Pearson* case had nothing to do with the Republican electors casting their ballots as alternate electors on December 14, 2020, or the presentation of an alternate slate of electors to Congress.

² At one point I was retained by the Trump campaign and signed an engagement agreement. However, the campaign never asked me to do anything at all. I did no legal work and recorded zero time on the matter. I withdrew from the engagement and returned the retainer in full when I agreed to work on *Pearson*.

petition is now pending in the U.S. Supreme Court. The Texas State Bar's disciplinary case against Sidney Powell, which was based in significant part on *Pearson*, was dismissed *with prejudice* on February 22, 2023 in its entirety on summary judgment because the court found there was no evidence to support any of the charges against her. The Texas Bar's dismissed charges against Ms. Powell substantially mirror the charges in this case. See <https://tinyurl.com/yx4udrwd>. The Texas State Bar has appealed that decision.

Mr. Teter alleges that the Complaint in *Pearson* relies “*solely* on unfounded conspiracy theories, easily proven false, with *no basis in law or fact*” (emphasis added). As will be demonstrated below, these allegations, which are the factual bases for the alleged violations of Rules 3.1, 4.4 and 8.4, are themselves either knowingly or recklessly false.

The Complaint in *Pearson* was supported by 29 exhibits, which included 23 affidavits, of which six were expert affidavits. The exhibits also included a published article from a law journal, A. Appel, R. DeMillo, P. Stark, *Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters*, ELECTION LAW JOURNAL, Feb. 24, 2020 (Exh. 7), and a report from the Texas Secretary of State. The exhibits collectively provided substantial factual support for the allegations of the Complaint. Frequent reference will be made to the Complaint and Exhibits, which are available together at [Pearson Complaint with Exhs..pdf](#).

A. RULE 3.1 STANDARD.

Comment 2 to Rule 3.1 states:

The filing of an action or defense or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. *Such action is not frivolous even though the lawyer believes that the client's position ultimately will not prevail.*

(Emphasis added). Comment 3 states that “[i]f after filing it is discovered that the lawsuit has no merit, the lawyer will dismiss the lawsuit or in the alternative withdraw.” *Pearson* became moot when Congress counted the electoral votes on January 6, 2021. After that, we voluntarily dismissed the appeals in the Supreme Court and the Eleventh Circuit, just as the rule requires.

State Bar Formal Advisory Opinion 87-1 states

A claim is frivolous under EC 7-4 when there is no reasonable possibility of the existence of the factual basis for the cause of action. EC 7-4 does not require complete factual support for the

cause of action prior to the filing, but does require that a reasonable attorney would conclude that there is a reasonable possibility that facts supporting the claim can be established after the claim is filed.

There was no violation of this rule.

B. I REASONABLY RELIED ON AFFIDAVITS AND JUDGE BATTEN GRANTED SOME RELIEF.

Mr. Teter contends that allegations in *Pearson* were knowingly false when, in fact, they were supported by a large number of affidavits filed with the Complaint and additional affidavits filed thereafter. Comment 8 to Rule 3.3, Candor Toward the Tribunal, states affirmatively that “**a lawyer should resolve doubts about the veracity of testimony or other evidence in favor of the client**” while not allowing lawyers to ignore an obvious falsehood. Given their nature and volume, and the fact that they did not contain any obvious falsehoods, it was reasonable for me to rely on the affidavits provided to me. Mr. Teter’s grievance rests on the proposition that I should have conclusively resolved any doubt about the evidence *against* the clients instead of in favor of them as I was obligated to do.

In *Pearson*, Judge Batten [ordered limited temporary injunctive relief](#). Therefore, when we filed the Complaint, not only was it reasonable to believe a court would grant at least some of the relief we sought, *the court actually did grant some of the relief we sought*. This refutes the claim that *Pearson* was frivolous within the meaning of Rule 3.1.

C. LIMITED TIME TO PREPARE LAWSUIT.

Election contests are unlike ordinary civil litigation. They entail intense time pressures because the statute of limitations is only five days after certification of the election, and because the controversy must be resolved in time for the transfer of power. *See Martin v. Fulton County Board of Registrations and Elections*, 307 Ga. 193, 194 (2019). The extraordinarily compressed time frame puts election contests on a different footing than ordinary litigation where there is more time before filing.

In *Moss v. Bush*, 828 N.E.2d 994, 997 (Ohio 2005) the Ohio Supreme Court denied a motion for sanctions in an election contest brought by Democrats in the 2004 presidential election. The Court commented that Rule 11 in federal practice deters frivolous litigation: “the specter of Rule 11 sanctions encourages civil litigants to ‘stop, think and investigate more carefully before serving and filing papers.’” (internal citations omitted). But, the court held, this construct could not be applied to election contests because of unique time pressures in such cases:

An election contest ... is not a typical lawsuit. Because R.C. 3515.09 provides a very short time after an election within which an election contest petition may be filed, a prospective contestor has limited time to investigate all the facts surrounding an election, particularly where, as here, the challenge is to a statewide election. Yet the election contest statutes exist to ensure that the will of the electorate is correctly recorded.

Id. at 998. No sanctions were imposed in *Moss*.³

The time pressure referred to in *Moss v. Bush* was especially intense for me in *Pearson*. As local counsel, I received the draft Complaint for the first time on November 24, 2020, at 8:13 PM, with instructions to file on November 25th. It was a lengthy document at just over 100 pages. I worked on it from the moment of receipt until 3:00 AM on the 25th, when I sent it back with changes to the original drafting team. Later on the 25th, I received the voluminous exhibits at 6:30 PM, but they were not anywhere near ready to file, and required considerable work to confirm citations in the Complaint, prepare slip sheets, and make all other preparations for filing. After a long and very difficult scramble, I filed the Complaint just before midnight on November 25, 2020, the night before Thanksgiving. Since it was the day before Thanksgiving, I let the staff and other lawyers in my office go home to be with their families at a normal time, and did all of the work on my end, clerical and legal, myself. The elapsed time between my first laying eyes on the draft Complaint and filing a 576-page document consisting of a 103-page Complaint with 29 exhibits covering 473 additional pages was approximately 27.5 hours. In that period, I recorded 19.7 hours of work.

D. CONSTITUTIONAL RIGHT TO PETITION.

My advocacy on behalf of my clients is protected by the First Amendment right to petition for redress of grievances.

Justice William O. Douglas in *California Motor Transport*, 404 U.S. 508, stated: “the right of access to the courts is indeed but one aspect of the right of petition.” *Id.* at 510. The First Amendment protects “litigation . . . as a form of political expression.” *NAACP v. Button*, 371 U.S. 415, 429-430 (1963) (holding unconstitutional a statute that would prohibit the NAACP from filing suits to end racial discrimination).

Under the Petition Clause of the First Amendment, a civil litigant cannot be sanctioned for bringing a claim in court – unless the lawsuit is a mere “sham.” *Prof. Real Estate Investors Inc. v. Columbia Pictures Indus.*, 508 U.S. 49, 60 (1993). Even

³ Our Supreme Court has authorized sanctions in election contests in some cases and denied them in others. *Compare Davis v. Dunn*, 286 Ga. 582 (2010) and *Kendall v. Delaney*, 283 Ga. 34 (2008).

an improper motive will not divest a non-baseless claim of the Petition Clause protection. *Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127, 138 (1961) (railroads efforts to obtain change in legislation to gain advantage over trucking industry could not violate Sherman Act because protected exercise of right to petition).

The Supreme Court has explained: “Only if challenged litigation is objectively meritless may a court examine the litigant’s subjective motivation” to determine if there is an improper purpose in filing the case. *Columbia Pictures*, 508 U.S. at 60. Correlatively, an attorney or litigant is required to have “no more than a reasonable belief that *there is a chance that a claim may be held valid* upon adjudication” to obtain protection under the Petition Clause from being punished for instituting civil proceedings. *Id.* at 62–63 (emphasis added).

In *Pearson*, the Complaint alleged that Georgia’s non-legislative changes to absentee ballot procedures violated the elections and electors clauses of the Constitution. See [Complaint](#), Count I, pp. 66-67. In Georgia, these procedures were modified by a settlement agreement in a lawsuit, and not by the legislature.

The case of *Republican Party of Pennsylvania v. Degraffenreid*, 141 S. Ct. 732 (2021) presented an analogous challenge to non-legislative changes to Pennsylvania’s election procedures. Justice Thomas dissented from the denial of certiorari because non-legislative state officials had changed the statutory rules for federal elections and the appointment of presidential electors in violation of the Electors and Elections Clauses of the Constitution. See U.S. Const., art. II, § 1, cl. 2; art. 1, § 4, cl. 1. Justice Alito wrote a separate dissent joined by Justice Gorsuch to flag the same infirmity. Both dissents noted the public importance of resolving the questions presented.

Also relevant, Justices Thomas and Alito dissented from the Court’s refusal to hear the case of *Texas v. Pennsylvania*, 141 S. Ct. 1230 (2020), a 2020 election challenge filed by Texas (and later joined by 17 other States) that complained about similar unconstitutional election-rule changes made in the so-called battleground States.

Thus, three Justices of the Supreme Court and 18 state attorney generals took the same views as our arguments in *Pearson*. Those views were based on clear precedent – *McPherson v. Blacker*, 146 U.S. 1 (1892) and *Bush v. Gore*, 531 U.S. 98 (2000). Even after *Moore v. Harper*, 600 U.S. ____ (2023), the procedures for Presidential elections can only be modified by the legislature, subject to judicial review. Our position in *Pearson* that Georgia’s non-legislative modification of election procedures was contrary to law was thus well-founded.

In accord with Comment 8 to Rule 3.3, counsel are entitled to rely on the representations of the client, without having to resolve questions about the client’s

or witnesses' credibility against the client or witnesses. *Healey v. Chelsea Resources, Ltd.*, 947 F.2d 611, 625-26 (2nd Cir. 1991) held that the lawyer could not be sanctioned for his client's total lack of credibility so long as his client's testimony was not incredible as a matter of law at the time the lawyer accepted it as true. For example, Judge McMahon in *Advanced Video Techs. LLC v. HTC Corp.*, No. 1:11 CIV. 06604 (CM), 2015 WL 7621483, (S.D.N.Y. Aug. 28, 2015), *aff'd*, 677 F. App'x 684 (Fed. Cir. 2017), in addressing a motion for sanctions wrote:

I was once a practicing lawyer, and if my client came to me and told me he owned a patent, and showed me that the patent was registered to him at the PTO, I doubt very much whether I would have undertaken an extensive title search; lawyers are entitled to rely on their clients in such matters. Nor can bad faith be imputed to the firms for ultimately losing arguments on a complicated area of Delaware corporate law. The arguments were weak, to be sure, *but it would be unreasonable for this court to take the position that finding some arguable basis on which to argue for ownership, rather than abandoning one's client when the client finds itself in dire straits, constitutes bad faith.*

Id. at *10 (emphasis added). This is a facet of the duty of zealous advocacy.

In determining whether a claim was totally unfounded, the “[c]ourts [and here the bar] must strive to avoid the wisdom of hindsight in determining whether a pleading was valid when signed, and any and all doubts must be resolved in favor of the signer.” *Id.* at 626. “Even when the law or the facts appear questionable or unfavorable at the outset, a party may have an entirely reasonable ground for bringing suit.” *Christiansburg Garment Co. v. Equal Emp’t Opportunity Comm’n*, 434 U.S. 412, 422 (1978) (denying fees for frivolous Title VII claim).

E. JUDGE BATTEN’S RULING IN *PEARSON* DID NOT DECIDE THE MERITS OF THE LAWSUIT.

Pearson was not decided on the merits, but instead based on a mélange of standing, mootness, laches, and jurisdiction that was not even reduced to a written order. Thus, there was no adjudication on the merits of the case other than Judge Batten’s decision to grant temporary injunctive relief, which necessarily implies a finding of a likelihood of success on the merits under the test for such relief. *Cunningham v. Adams*, 808 F.2d 815, 818-19 (11th Cir. 1987).

Mr. Teter relies on the ultimate dismissal to suggest that *Pearson* was frivolous under Rule 3.1, but he conflates his merits arguments with the non-merits grounds relied upon by Judge Batten in dismissing the case. Judge Batten did not reach the merits upon which Mr. Teter relies in his grievance, and thus Judge Batten’s dismissal does not support the grievance.

But even on the questions that *were* decided by Judge Batten – about which Mr. Teter does not complain – our positions were not frivolous. First, the standing of the *Pearson* plaintiffs, as Republican presidential electors was based on *Carson v. Simon*, 978 F.3d 1051, 1058 (8th Cir. 2020), which held that presidential electors were candidates and had standing to challenge inaccurate elections. Georgia law analogously treats presidential electors as candidates. [O.C.G.A. § 21-2-10](#); [O.C.G.A. § 21-2-11](#); [O.C.G.A. § 21-2-480\(g\)](#) (a vote for a presidential candidate is a vote for their slate of electors).

Judge Batten ruled from the bench that *Carson* was distinguishable, and that the case was instead controlled by *Bognet v Sec’y of Commonwealth*, 980 F.3d 336, 351 (3d Cir. 2020), *cert. granted, judgment vacated sub nom. Bognet v. Degraffenreid*, 141 S. Ct. 2508 (2021). But the plaintiffs in *Bognet* were mere voters, not presidential electors, so we argued *Bognet* should not have controlled over *Carson*. See [Complaint](#), ¶ 23; [Response to Motions to Dismiss](#), p. 15. Thus, our standing argument was supported by the facts and the law and was certainly not frivolous.

Judge Batten also said from the bench there was no authority for “decertifying” an election. With due respect, we believe this statement was also incorrect. The election contest remedy provided by [O.C.G.A. § 21-2-520](#) et seq. is not even ripe until *after* certification. [O.C.G.A. § 21-2-524\(a\)](#) (election contest must be filed “within five days *after* ... certification”) (emphasis added). Since the election contest remedy provides for overturning a certified election, it is incorrect to say there is no authority for de-certification. See [O.C.G.A. § 21-2-527](#).

F. THE ALLEGATIONS IN THE *PEARSON* COMPLAINT WERE WELL-SUPPORTED.

The example chosen by Mr. Teter of an unfounded and easily disproved conspiracy theory is taken from an introductory paragraph on page 7 of the *Pearson* Complaint. It addressed the effect of a water leak on counting absentee ballots at State Farm Arena, and the counting of ballots there after all observers had left. He contends that I knew from the surveillance video that the allegation was false. But this is itself a compound falsehood.

First, we did not obtain the surveillance video until December 2, 2023, *after* the Complaint was filed on November 25, 2020, and only in response to a subpoena issued after the lawsuit was filed. See [Email making State Farm Arena video available for download](#), dated December 2, 2020.

Second, paragraphs 116-119 of the Complaint – unmentioned by Mr. Teter – make detailed allegations regarding the events at State Farm Arena based in the aggregate on (1) a statement by the Chairman of the Georgia GOP quoted in the Complaint at ¶ 116; (2) a news account quoting statements by officials of Fulton

County (<https://tinyurl.com/mt67r85s>), Complaint at ¶ 117; and (3) the affidavits of two eye-witnesses that were exhibits 28 and 29 to the Complaint. *See* Complaint, ¶ 119.

Third, when the State Farm Arena video was obtained, it confirmed the events as described in paragraphs 116-119 of the Complaint.

Thus far from “having no basis in fact,” the allegations on this topic were well-supported by evidence recited in or attached to the Complaint or subsequently discovered and filed with the Court.

Mr. Teter then quotes Gabriel Sterling castigating President Trump’s lawyers over statements they made regarding the State Farm Arena videos. This is another case of sloppily mistaken identity, as I did not make the statements to which Mr. Sterling was referring and I never spoke for President Trump regarding the videos or any other subject, ever. I never made any public statements at all regarding *Pearson* or the election.

Mr. Teter then describes the *Pearson* Complaint’s allegations addressing the Smartmatic software as being knowingly false. Mr. Teter makes no reference to the fact that these allegations were supported by lengthy affidavits attached to the Complaint as Exhs. 2 and 3. Under Rule 3.3, I was entitled to rely on these affidavits. As local counsel in *Pearson* I did not work with either of these witnesses prior to filing the Complaint, relying instead on other members of Ms. Powell’s team. I later learned that prior to filing the Complaint, the witness in Exh. 2 and his testimony were vetted by William Lewis Sessions, an attorney in Texas, who was helping Sidney Powell’s team, and that he was very confident of this witness’ testimony. Mr. Sessions was deposed on this topic in Ms. Powell’s Bar case, and that the transcript is available here: <https://tinyurl.com/bp5z5vzs>. Since this deposition is marked confidential, I will provide the password for this file upon request.

Exh. 3 to the Complaint was the affidavit of Ana Mercedes Diaz Cardozo, who recites her biography as a senior election official in Venezuela familiar with the implementation of Smartmatic election systems in Venezuela. Her Wikipedia page confirms the details of her biography in her affidavit. Her affidavit also supports the allegations in *Pearson*.

There is no evidence that I knew that anything about the Smartmatic allegations was false at the time of filing the Complaint in *Pearson*.

Mr. Teter then accuses me of promoting falsehoods about vote switching in Georgia, citing p. 9 of the Complaint. Page 9 consists of paragraphs 14 and 15, each relying on and summarizing expert declarations. The first of those was attached to the Complaint as Exh. 8 (mislabeled on the slip sheet as Exh. 7). The second was the declaration of Navid Keshavarez-Nia, Ph.D., referred to in the text as Exhibit

26. In fact, however, Dr. Keshavarez-Nia's declaration was not included with the Complaint. I have a copy of this declaration and it is available [here](#).

These two declarations provide more than sufficient support for the allegations on page 9 of the Complaint and rebut the contention that I made allegations totally unsupported by any evidence.

I had no reason to believe these affidavits were incorrect and there is no evidence I had knowledge that would negate my justifiable reliance under the Rule. Other affidavits cited in ¶¶s 8-9, 13 and 14 of the Complaint – upon which I was also entitled to rely – supported the allegations of those paragraphs regarding the Dominion machines. Mr. Teter's only evidence is a report from the Cybersecurity and Infrastructure Security Agency ("CISA") that the election was secure. While that report contradicts the evidence we filed, it establishes no more than a conflict in the evidence and is not evidence that the expert testimony we relied upon was all false, much less knowingly false, *much less still that I knew it was false when we filed*.

The alleged inaccuracy of the testimony of these witnesses was a matter for cross-examination, contradiction, or rebuttal, and ultimately a verdict by a trier of fact, not a bar grievance.

Mr. Teter then quotes Judge Batten's statement at the hearing on the request for temporary injunctive relief in *Pearson* that the allegations regarding Dominion were supported by "precious little proof." But Judge Batten nevertheless went on to grant plaintiffs limited injunctive relief. See [November 29, 2020 Temporary Restraining Order signed by Judge Batten](#).

Mr. Teter next accuses me of falsely stating in an Eleventh Circuit filing that poll workers at State Farm Arena pulled votes out of suitcases and resumed counting after poll workers were told to leave. Here again, Mr. Teter is simply incorrect. Apart from using the word "suitcase" instead of "ballot case" – a rather small distinction – the text to which he refers is entirely accurate and is validated by the State Farm Arena video, which depicts election workers initially closing up shop around 10:15 to 10:30 PM and placing ballots in ballot cases and placing the cases under a table. See <https://tinyurl.com/3f62z6ph> and <https://tinyurl.com/2vf8r2wf>. After all the observers had left, the few remaining poll workers removed the cases from under the table and resumed counting.

The allegation that observers were told to leave the absentee ballot counting room at State Farm Arena was supported by two eyewitnesses whose affidavits were attached to the Complaint as Exhs. 28 and 29. They said they were told to leave around 10:30 PM. See Complaint and Exhs. 28 and 29 at the link above. The State GOP Chair issued a public statement as follows:

Let me repeat. Fulton County elections officials told the media and our observers that they were shutting down the tabulation center at State Farm Arena at 10:30 p.m. on election night to continue counting ballots in secret until 1:00 a.m.

Complaint, ¶ 116. Fulton County had [publicly announced](#) earlier that they were going to stop counting at 10:30 that night.

The allegation that the counting proceeded illegally after the observers were sent home was based on O.C.G.A. § 21-2-483(b), which states “All proceedings at the tabulating center and precincts *shall be open to the view of the public.*” They were not conducted in public view because the observers were sent home. I never stated and we never alleged in any filing in *Pearson* that ballots were brought in from outside the ballot counting room. See [68 Plaintiffs' Consolidated Resp. Mtns to Dismiss and Reply in Support of Motion Inj. Relief.pdf.](#), p. 6, para. 1. In accusing me of lying about suitcases of ballots being brought in from outside, Mr. Teter is again falsely attributing to me statements, arguments, or allegations that I simply did not make.

We filed an interlocutory appeal of the partial denial of our motion for temporary injunctive relief, which the Eleventh Circuit rejected. Mr. Teter quotes the Eleventh Circuit ruling dismissing our interlocutory appeal regarding the delay in the progress of the case occasioned by the interlocutory appeal. Mr. Teter then contends that my “main objective was to use the courts to delay, to confuse and to harm our electoral process.”

There is no support for Mr. Teter’s allegations about my state of mind other than his own assumptions and unsupported conjectures. Discussions about the appeal within the group of lawyers handling the case are privileged work product about which Mr. Teter knows absolutely nothing. The decision to appeal was made not by me as local counsel but by lead counsel Sidney Powell. Ms. Powell has handled more than 450 federal appeals, which is far more than ten times as many as I have. She is a former president of the American Academy of Appellate lawyers. As noted above, she won summary judgment on all counts in her bar discipline case because the Texas State Bar had no evidence to support its charges against her.

As noted above, the grant of partial emergency injunctive relief establishes that the case was not frivolous.

Mr. Teter concludes his background by alleging that I knew I had neither the law nor the facts on my side, but filed “numerous lawsuits anyway,” and that I did this “to undermine faith in our electoral system.” Again, Mr. Teter’s allegations are a compound misrepresentation.

First, I filed one lawsuit, not several.

Second, as discussed above, there were facts and law supporting the Complaint that Mr. Teter never bothers to mention.

Third, the accusation that I acted to “undermine faith in the electoral system” is hyperbole resting on a false premise. The Bar rules do not provide that pointing out shortcomings in “our electoral system” in court filings is a heresy punishable by the Bar. To the contrary, the statutory election contest remedy provides for setting aside an election and requiring a new one whenever the outcome of election has been put in doubt by *any* fraud or irregularity. See O.C.G.A. §§ 21-2-520 – 529. Any successful election contest must *necessarily* tend to “undermine faith in our electoral system,” but *by definition* cannot be improper. Mr. Teter’s suggestion that I committed disciplinable apostasy against “faith in our electoral system” is without support and contrary to the law.

IV. RESPONSE TO ALLEGED RULE VIOLATIONS

A. THERE WAS NO VIOLATION OF RULE 3.1

Mr. Teter alleges a violation of Rule 3.1 in summary or conclusory fashion. No new information is presented, and no additional factual allegations or legal arguments are identified as being frivolous.

1. Evidence Submitted by Plaintiffs in Pearson Lawsuit.

As noted above, the Complaint in *Pearson* was supported by 29 exhibits, 23 of which were affidavits, and six of which were expert affidavits (Exhs. 1, 4, 5, 9, 10, 27). The other exhibits included a report of a study of the Dominion system by the Texas Secretary of State that rejected it as insecure and not in conformity with Texas law based on the findings of five experts (Exh. 23), and an article from a law journal that the Dominion BMD system could not assure the will of the voters (Exh. 7). In totality, the affidavits and exhibits provided substantial support for the allegations of the Complaint.

Mr. Teter never offers any evidence that any of these affidavits or exhibits were false, much less knowingly false, much less again that I knew they were false. He just claims the allegations in the Complaint are false as if his say so were sufficient to prove it. But as counsel for the plaintiffs, I was required to be a zealously advocate and to resolve doubts in their favor and not against them. See EC 7-1, Preamble to Rules, and Rule 1.3, Comment 1.

Mr. Teter never says a word about a single one of the many expert or eyewitness affidavits that supported the allegations in *Pearson*. One does not have to agree with the witnesses or with anything about the case to appreciate that as a lawyer I was entitled to rely on these affidavits and that Mr. Teter’s grievance fails

to show that they were obviously false.

Leading up to the hearing on the motions to dismiss held on December 7, 2020, we filed multiple additional affidavits, including: more eye witness affidavits; [initial](#) and [supplemental](#) expert witness affidavits of Eric Quinnell, Ph.D. and S. Stanley Young, Ph.D.; a supplemental expert report from [Russell Ramsland](#); and an expert affidavit from [Garland Favorito](#). These voluminous materials lent ample additional support to the allegations of the Complaint. Mr. Teter says not one word about any of this material. He does not acknowledge or rebut it. He does not prove any of it was false, and he does not explain how his allegation that I knowingly advanced arguments with zero factual support could be reconciled with this volume and quality of evidence.

The first and supplemental Quinnell-Young affidavits are particularly noteworthy. Dr. Quinnell has a Ph.D. in Computer Arithmetic and works in industry, and Dr. Young is a Ph.D. statistician and Fellow of the American Statistical Association and the American Association for the Advancement of Science in the field of statistics with over 60 published academic papers. They analyzed election time series data for Fulton County's absentee votes and found mathematically impossible anomalies. They stated:

14. Further calculations on this timeseries data starting November 5th show additional unexplainable statistical anomalies indicating that this timeseries data ***should be considered not only improbable, but a collection of votes over time that currently fails basic sanity and mathematical fidelity checks. ...***

15. If the analyzed data set agrees with other official timestamped voter count data, ***then we are obligated to suggest that there exists an inexplicable flaw or external event occurring on or after November 5th that compromises the [sic] either the fidelity of the absentee vote on and beyond that timestamp or the entire Edison timeseries data in Fulton County is corrupted.***

...

32. Results such as these that have 5-figure independent ballot counts land within 0.071 % of each other, precincts that track with each other in partial correlation, entire tails of initial distributions seemingly missing until the following day, and calculated skews not even in the range of their output, are what the engineering world considers "garbage data". ***These kinds of signatures are not merely improbable - even though we may assign a probability to each of these oddities - but further represent***

some kind of major external constraint or non-linear event that is corrupting the fidelity of the data.

See [Declaration of Eric Quinnell and S. Stanley Young](#), ¶s 14-15, 32. (Emphasis added). In their [Supplemental Declaration](#), responding to an expert for the intervenor defendants, Quinnell and Young said “[A]s it stands, the available data timeseries cannot co-exist mathematically.” *Id.* at p. 3.

The [Supplemental Report of Russell Ramsland](#) reflects a rigorous mathematical analysis and drew several significant conclusions. First:

“This indicates that the Dominion/Hart machines may have been programmed or manipulated to systematically add five percentage points to Biden's actual vote count. Again, the statistical significance level of these results is above 99%.”

Id., p. 21. Regarding Georgia specifically, the Supplemental Report said “Overall, based on the data examined, there is evidence of vote count manipulation, strong statistical suggestion of fraud, and very strong statistical evidence that algorithms were involved in the released vote counts.” *Id.*

Mr. Teter may not like the testimony of these experts, but I was entitled to rely on it and was not required to assume it was false.

In two days' time, we prepared and filed a 51-page brief in response to the Defendants' motions to dismiss which can be found [here](#). I was the principal but not sole author. After the hearing at which Judge Batten dismissed the case on December 7, 2020, I was approached in the courtroom by Joshua Belinfante and Corey Miller, attorneys for the State, who complimented the quality of our brief considering the time we had to prepare it.

I will not present a detailed recitation of all of the affidavits and exhibits we filed in the *Pearson* case as what I have mentioned should be sufficient to rebut Mr. Teter's contention that the lawsuit relied “***solely*** on unfounded conspiracy theories, easily proven false, with ***no basis in law or fact***” (emphasis added). In fact, the allegations about which he complains were supported by the evidence filed in the case.

One can disagree with or disparage our evidence, or be ardently opposed to President Trump, Sidney Powell, the *Pearson* plaintiffs, and the election challenges, but still recognize that as an attorney with a duty of zealous advocacy, *see* EC 7-1, Preamble to Rules, and Rule 1.3, Comment 1. I was obliged to resolve doubts in favor of the clients and permitted to rely on our evidence supporting the case, rather than conclusively resolve any doubts against the clients. In the course of repeatedly accusing me of lying, Mr. Teter never says a single word about any of the evidence

we submitted, much less prove that I knew it was false, relying instead on sweeping and unsupported hyperbole.

I certainly do not claim that the *Pearson* Complaint was entirely free of error. There are two errors that were not mentioned by Mr. Teter: (1) A witness appears to have incorrectly described his military service. I did not know anything about that at the time of filing. That subject was also covered in the deposition of that witness in Sidney Powell's bar case, which is available here: <https://tinyurl.com/298tntyzy>; (2) Two exhibits were in landscape rather than portrait orientation which cut off the dates at the bottom. Based on this error, the Complaint made clearly incorrect allegations that those documents were undated. The exhibits were like that when they were delivered to me the evening of November 25th and I did not catch the error in the intense press to file that night. I regret not catching it, but it was not a knowing misrepresentation, and I do not recall it being an issue in the short-lived *Pearson* litigation.

2. Evidence from Subsequent Analyses.

The preceding discussion has focused on the evidence we submitted during the brief 12-day life of the case in the trial court. As noted above, Formal Advisory Opinion 87-1 provides that there is no violation of Rule 3.1 if “a reasonable attorney would conclude that there is a *reasonable possibility that facts supporting the claim can be established after the claim is filed.*” (Emphasis added). In this case this is not merely a hypothetical question because several entirely independent subsequent investigations and analyses have been conducted by others, including experts, which lend additional support to the core contention that something was seriously amiss with the 2020 presidential election in Georgia, especially in Fulton County.

The Chairman's [Report](#) of the State Senate Election Law Subcommittee on December 17, 2020, though it came after our case was dismissed, made findings consistent with several of the allegations in *Pearson*, and recommended a forensic audit of ballots and machines and decertification of the election. *See* findings 1, 2, 3, 7, and 9 and recommendations G and H.

Pearson borrowed affidavits and analyses from the case of *Curling et al v. Raffensperger*, Case No. 1:17-cv-2989-AT (N.D. Ga.), which is totally independent and in which I had no role. Expert testimony in that case from some of the top cyber security, statistics and election system experts in the U.S. showed in powerful and persuasive fashion that the Dominion Voting System in Georgia was insecure, not voter verifiable, not auditable, and not in compliance with Georgia law, contentions with which U.S. District Court Judge Amy Totenberg agreed in her order in *Curling* on October 11, 2020. [Curling v. Raffensperger, 493 F. Supp. 3d 1264, 1308 \(N.D. Ga. 2020\)](#) (Emphasis added). The lengthy order also catalogs a grievous set of security flaws in the Dominion system, proven by nationally prominent cybersecurity expert affidavits. I studied that order *in depth* prior to filing *Pearson*. Affidavits from one

of the *Curling* experts, and a law review article written by another *Curling* expert were filed with the *Pearson* Complaint. *See* Exhs. 4, 5 and 7 to Complaint.

More recently, on November 10, 2023, Judge Totenberg issued a 135-page order denying in part the defendants' motions for summary judgment and finding a question of fact for trial on whether the copiously documented deficiencies of the Dominion system violated the constitutional rights of Georgia voters. The order is available here. <https://tinyurl.com/4dj9nad7>.

One of the *Curling* plaintiffs' experts is Professor J. Alex Halderman. He carried out a detailed security analysis of the Dominion Image Cast X Ballot Marking Device. The findings were so grave that the Judge Totenberg immediately sealed the report and kept it under seal for two years. She also directed the parties to deliver the report to the Cybersecurity & Infrastructure Security Agency (CISA) for review. CISA eventually issued a bulletin confirming Prof. Halderman's analysis and recommending a series of steps to mitigate the risk. *See* ICS Advisory, *Vulnerabilities Affecting Dominion Voting Systems ImageCast X*, June 3, 2023 (last visited Nov. 19, 2023) <https://www.cisa.gov/news-events/ics-advisories/icsa-22-154-01> Judge Totenberg's November 10, 2023 order summarized the key vulnerabilities identified by Prof. Halderman as follows:

1. Attackers can alter the QR codes on printed ballots to modify voters' selections (*id.* at 4–5);
2. Anyone with brief physical access to the BMD machines can install malware onto the machines (*id.* at 5);
3. Attackers can forge or manipulate the smart cards that a BMD uses to authenticate technicians, poll workers, and voters, which could then be used by anyone with physical access to the machines to install malware onto the BMDs (*id.*);
4. Attackers can execute arbitrary code with supervisory privileges and then exploit it to spread malware to all BMDs across a county or state (*id.*);
5. Attackers can alter the BMD's audit logs (*id.*);
6. Attackers with brief access to a single BMD or a single Poll Worker Card and PIN can obtain the county-wide cryptographic keys, which are used for authentication and to protect election results on scanner memory cards (*id.*); and

7. A dishonest election worker with just brief access to the ICP scanner's memory card could determine how individual voters voted (*id.*).

Curling Order of Nov. 10, 2023, p. 15.

Prof. Halderman's findings, the CISA advisory, and Judge Totenberg's October 10, 2020 and Nov. 10, 2023 orders all vindicate the allegations and evidence in *Pearson* that the Dominion system poses grave and illegal security vulnerabilities. Georgia law requires that the voting system be secure. See O.C.G.A. § 21-2-300(a)(2) (Secretary of State required to certify electronic voting equipment as "safe"). The Dominion systems abjectly fail to meet this requirement.

One of the *Curling* plaintiff's experts, Prof. Philip B. Stark, of the University of California at Berkeley, has given many declarations in that case. After the election, he performed extensive analyses that validate several core contentions of the plaintiffs in *Pearson* that the election was marred by serious irregularities, especially in Fulton County. For example, in a declaration filed January 9, 2023 (repeating multiple previous declarations), he found that for the first machine count, 376,863 image files were missing. [Stark Declaration](#), ¶ 63. For the second machine count, 17,852 image files were missing. *Id.* In other words, 17,852 votes were counted in the recount for which there was no corresponding ballot image, which should be impossible. He also said:

82. ... It is unreasonable for voters to trust that their votes were counted at all, much less counted correctly. Voters have good reason to believe that some votes counted more than others: some votes were included twice or thrice in the totals. There is no way to know how many votes were omitted from the tabulation, absent access to the physical ballots and BMD printout and evidence that the chain of custody is intact. From the records produced so far, it is impossible to determine whether malware, bugs, misconfiguration, or malfeasance disenfranchised voters or altered the election results.

83. Based on my review of the Fulton County post-election audit, it is clear that the audit planning, process, and controls did not detect the *double and triple counting documented above*. Even if Fulton County did not rely on ballot-marking devices for virtually all in-person voters, ***the lack of basic accounting controls makes it impossible to determine who really won an election contest***, even by hand counting the votes: the record of the vote could easily be incomplete or adulterated. This remains true even if BMDs could be relied upon to print voters' selections accurately.

[Stark Declaration](#), ¶ 82-83.

The key takeaway from this testimony is that “the lack of basic accounting controls makes it impossible to determine who really won an election contest.” These defects should have been easily detectable at the time.

Another *Curling* expert, Duncan A. Buell, gave a declaration, available [here](#), stating that: “Certainly this represents a failure of both the post election audit and the certification and canvassing process, although we do not know the root cause of the multiple counts of the same ballots.” *Id.* ¶ 29. “In my opinion, the concerning discrepancies of the type detected in the November 3, 2020 election may have been caused by system malfunctions, malware, by election workers at the state or county level, a systemic desire of election workers to “just get the job done” instead of to “get the job done right”, or perhaps even malfeasance.” *Id.* ¶ 56.

Two members of the Fulton County Board of Registrations and Elections twice voted against certification. See [FCBRE Minutes](#) (p. 5). One of the members, Mark Wingate, testified that he voted against certification because *there was no absentee ballot signature verification in Fulton County*. See <https://tinyurl.com/yzuxy22r>, ¶ 5. In the 2020 election, signature verification was required to count an absentee ballot. See 2020 version of [O.C.G.A. § 21-2-386](#). The failure to carry out proper signature verification was a prominent theme in *Pearson*. See, e.g., [Complaint](#), ¶s 47-5; [Resp. to Motion to Dismiss](#), pp. 7, para 8-9, p. 21.

Other totally independent analysts have made similar or consistent findings since the election. In view of the strength and length of what has already been said, I will not further belabor the point here, but can provide these analyses upon request.

3. Conclusion as to Rule 3.1.

The point of this recitation is not to prove that we would or should have won the *Pearson* case. Rather, it is to show under the relevant Rule 3.1 legal standard identified in FAO 87-1 that not only was it reasonable to believe that the allegations of meaningful irregularity *might* be proven after the Complaint in *Pearson* was filed, in significant part some of them *were* proven later, albeit by others. I was not required to assume that all of our witnesses were lying. To the contrary, under Rule 3.3 Comment 8, I was required to resolve any doubts I might have had in favor of our clients as long as the affidavits were not obviously false, which they were not.

Therefore, I respectfully submit that there is no reason to believe that I violated Rule 3.1.

B. THERE IS NO VIOLATION OF RULE 4.4.

Mr. Teter next alleges that my participation in *Pearson* violated Rule 4.4, which prohibits a lawyer from using “means that have no substantial purpose other than to embarrass, delay or burden a third person.”

For this claim Mr. Teter relies on a statement made by Judge Grimberg in *Wood v. Raffensperger* to the effect that granting the relief sought would harm the interests of people who had voted lawfully. I had no involvement with *Wood v. Raffensperger* in Judge Grimberg’s court, so his comments could be applied to me only by analogy. Nonetheless, the legislature has already struck the balance in the election contest statutes providing that elections be set aside where the outcome has been placed in doubt by any fraud, illegality, or irregularity, regardless of how many legal votes might be affected thereby. [O.C.G.A. §§ 21-2-522](#) and [21-2-527\(d\)](#).

Relying on alleged prejudice to lawful voters presumes the point in controversy – whether there was a basis for challenging the election. The legislature has decided conclusively there is no legally protectible interest in election results tainted by fraud, illegality or irregularity sufficient to affect the outcome. Under the election contest statutes, there is no prejudice to anyone sufficient to preclude invalidating such an election because *by statute* the public interest in a valid election more important. *Id.*

To the extent Mr. Teter would argue that Rule 4.4 was violated because *Pearson* was frivolous, we return the presentation above regarding the alleged violation of Rule 3.1. I was entitled to rely on the voluminous evidence filed to support the allegations and was not obliged to assume that everything all our witnesses said was false.

C. THERE IS NO VIOLATION OF RULE 8.4.

Mr. Teter’s final allegation is that I engaged in conduct involving dishonesty in violation of Rule 8.4.

No new facts are offered to support this charge. Mr. Teter alleges that I, as local counsel, knew that a Complaint with 29 exhibits, of which 23 were affidavits, including six were from expert witnesses, had no factual support, no supporting expert testimony, and no law to support it. Mr. Teter never acknowledges any of this supporting evidence, or bothers to show that any of it was false or that any of our witnesses were lying, *much less that I knew of any such thing*, or that any of our legal arguments were knowingly false or frivolous. He never mentions our 51-page brief in response to the motions to dismiss.

I was entitled as a lawyer to rely on the testimony of the witnesses who provided the affidavits we used, or the expert witness affidavits in other litigation

(that we re-used that to my knowledge no one claims were false). Rule 3.3, Comment 8. My clients, and indeed every citizen, is entitled to petition the courts for redress of grievances. And I was required to zealously represent my client. “Regardless of his personal feelings, a lawyer should not decline representation because a client or a cause is unpopular or community reaction is adverse.” EC 2-27.

V. MISUSE OF BAR DISCIPLINARY PROCESS BY THE 65 PROJECT

The 65 Project was created by David Brock, who described his purposes to the press:

The 65 Project plans to file ethics complaints against 111 attorneys across 26 states while also airing ads against them in key battlegrounds such as Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin.

The goal is to prevent conservative attorneys from challenging election results in the future, including the upcoming 2022 midterms.

David Brock, the founder of Media Matters for America and a key fundraiser for the Democratic Party, is an adviser to The 65 Project. He told Axios the goal is to “not only bring the grievances in the bar complaints, ***but shame them and make them toxic in their communities and in their firms.***”

Victoria Marshall, *More Than 100 Trump-Affiliated Lawyers Targeted By Dark Money Group*, THE FEDERALIST, July 22, 2022, <https://tinyurl.com/2fd8xuvz>. (Emphasis added).

Brock told Axios that “***I think the littler fish are probably more vulnerable to what we’re doing.***” Brock said. “***You’re threatening their livelihood. And, you know, they’ve got reputations in their local communities.***” Lachlan Markay, *Scoop: High-powered group targets Trump lawyers’ livelihoods*, AXIOS, March 7, 2022, <https://tinyurl.com/sadhh8ca>. (emphasis added). An anonymous source, likely Brock, added:

“This is mostly important for the deterrent effect that it can bring ***so that you can kill the pool of available legal talent going forward,***” according to a person involved with the effort, who asked to remain anonymous.

Id. (Emphasis added).

True to these declared and wrongful purposes, all of The 65 Project’s bar

complaints, some 70 by now, have been publicized. See <https://tinyurl.com/mr2ejxhj>. This includes the one against me, which was covered in the AJC (<https://tinyurl.com/w4fswzed>) and Law 360, among other outlets.

Rule 4-221.1(a) of the Georgia Rules of Professional Conduct provides that “The State Bar of Georgia shall maintain as confidential all disciplinary investigations and proceedings pending at the screening or investigative stage, unless otherwise provided by these Rules.” Mr. Teter signed a grievance form as a cover to his letter of February 15, 2023, which states in large print at the top “CONFIDENTIAL.” By his signature on the grievance form, Mr. Teter affirmed “that I have read and understood the information and instructions,” which necessarily include the caption’s injunction that the grievance is confidential.

Significant language is duplicated across many of the complaints. The introductions and perorations are nearly verbatim in most of the 70 complaints. Using the Bar disciplinary process for mechanized political warfare to settle political scores by destroying careers, reputations, and the availability of legal talent is a wrongful abuse of the process. It is all the worse for being predicated upon such an array of falsehoods, especially since Mr. Teter expressly but dishonestly affirmed that his allegations were true.

VI. CONCLUSION

I respectfully request that the State Bar dismiss this grievance and close its file on this matter.

Respectfully submitted, this 11th day of December, 2023.

/s/ Harry W. MacDougald
Harry W. MacDougald
Georgia Bar No. 453076

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Exhibit 5



Reply to:
P.O. Box 10085
Savannah, GA 31412

August 21, 2024

CONFIDENTIAL

Michael Teter
470 L'enfant Plaza SW
Suite 604
P.O. Box 44099
Washington, DC 20024

**Re: Grievance against Attorney Harry W. MacDougald, Bar #463076
Office of the General Counsel File #: 230138**

Dear Mr. Teter:

The State Disciplinary Board has completed its investigation into the grievance you filed against the above-referenced attorney.

The grievance was assigned to a member of the Board for thorough investigation to determine whether to recommend further proceedings against the lawyer. After completing the investigation, the Board member presented their findings to the State Disciplinary Board at a recent meeting.

After careful consideration, the Board concluded that the investigation did not disclose sufficient evidence to justify formal proceedings against the lawyer. For this reason, the Board has directed that the grievance be dismissed.

Although the Board has dismissed this grievance, the decision does not deprive you of any right of action you might otherwise have at law or in equity against the attorney. Rule 4-203(a)(2).

Sincerely,

Christian J. Steinmetz, III
Chair, State Disciplinary Board

c:
Harry W. MacDougald
Taylor Haley, SDB Member