

CAUSE NO. DC-22-02562

COMMISSION FOR LAWYER  
DISCIPLINE

V.

SIDNEY POWELL  
(File Nos. 202006349, 202006347,  
202006393, 202006599, 202100006,  
202100652, 202101297, 202101300,  
202101301, 202103520, 202106068,  
202106284, 202106181)



IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

116<sup>th</sup> JUDICIAL DISTRICT

**THIRD AMENDED DISCIPLINARY PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the COMMISSION FOR LAWYER DISCIPLINE, Petitioner, and would respectfully show the following:

I.

**DISCOVERY CONTROL PLAN**

Pursuant to Rules 190.1 and 190.3, Texas Rules of Civil Procedure, Petitioner asserts discovery in this case is to be conducted under the Discovery Control Plan Level 2 – By Rule.

II.

**PARTIES**

The Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a standing committee of the State Bar of Texas.

The Respondent, Sidney Powell, State Bar Number 16209700 (Respondent), is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas.

### III.

#### **JURISDICTION AND VENUE**

The cause of action and the relief sought in this case are within the jurisdictional requirements of this Honorable Court.

Venue of this case is proper in Dallas County, Texas, pursuant to Texas Rules of Disciplinary Procedure Rule 3.03, because Dallas County is the county of the Respondent's principal place of practice.

Pursuant to Texas Disciplinary Rule of Professional Conduct 8.05(a), Respondent is subject to the disciplinary authority of the State of Texas.

### IV.

#### **PROFESSIONAL MISCONDUCT**

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Govt. Code Ann. §81.001 *et seq.*, the Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint, which initiated these proceedings, was filed by Paula Kerry Goldman on December 2, 2020, Adam Charles Reddick on December 2, 2020, Eric Young on December 1, 2020, Janet Louise Lachman on December 14, 2020, Robert McWhirter on December 23, 2020, David M. Rubenstein on January 19, 2021, Dana Nessel on February 5, 2021, Gretchen Whitmer on February 5, 2021, Jocelyn Benson on February 5, 2021, Paul Steven Zoltan on June 18, 2021, Ted W. Lieu on October 20, 2021, Sylvia Garcia on October 26, 2021, and Veronica Escobar on October 29, 2021.

The acts and omissions of Respondent, as hereinafter alleged, constitute professional misconduct.

V.

**FACTUAL BACKGROUND AND INTRODUCTION**

In late November 2020, after the states certified the results of the November 3, 2020 general election (the Election) Respondent filed multiple federal lawsuits against state election officials and state government officials to prevent the certification of the election results in Arizona, Georgia, Michigan, and Wisconsin. The lawsuits alleged, *inter alia*, election fraud had occurred in these “swing” states via a vast conspiracy involving U.S. Dominion Inc. (Dominion), a company that manufactures voting machines, foreign actors, officials of the Democratic and Republican parties, state officials, and county elections workers, among others, to inflate the vote count in favor of Joseph Biden.

Respondent had no reasonable basis to believe the lawsuits she filed were not frivolous. Not only did the lawsuits lack a plausible factual basis, the lawsuits were wholly procedurally barred on various grounds including but not limited to, Eleventh Amendment immunity, state law requiring election contests to be brought in state court, lack of standing, and mootness.

While there is some variance between the lawsuits filed by Respondent, each suit lacked plausible claims. The suits were not supported by evidence and instead relied on speculation and conjecture. The general theory the lawsuits relied on was that foreign oligarchs and dictators manipulated elections in favor of Hugo Chavez (the late Venezuelan dictator) using a software system called “Smartmatic.” The complaints then make the implausible leap that the Dominion machines used in some states were hacked and votes were manipulated in favor of Mr. Biden. The “evidence” Respondent attached to the complaints included affidavits and declarations from

sources judicially determined to be “wholly unreliable.”<sup>1</sup> For example, Respondent sponsored an affidavit from an anonymous source who claimed to be a “military intelligence expert” who used the code-name “Spyder.” This source has now been identified as Joshua Merritt, who admits he has never actually worked in military intelligence.<sup>2</sup>

During the course of the lawsuits, Respondent took positions that unreasonably increased the costs or other burdens of the cases, including her failure to dismiss the lawsuit in Michigan despite her admission that her requested relief was moot.

In the lawsuit in Georgia, Respondent attached a certificate from the Secretary of State that she purported to the Court was “undated.” This was a false statement. Respondent included the undated certificate to support her unfounded argument that a contract with Dominion was “rushed through” prior to the election. However, the certificate was altered to remove the date.

Ultimately, none of the lawsuits prevailed. The Eastern District of Michigan sanctioned Respondent for her misconduct.

**THE GEORGIA CASE: PEARSON ET AL. V. KEMP ET. AL., U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, CASE NO. 1:20-CV-04809-TCB**

On November 25, 2020 Respondent filed a complaint in the Northern District of Georgia (the Georgia case) seeking to decertify or stay the delivery of the certified results of the Election in Georgia to the Electoral College or to certify Mr. Trump as the winner of the Election.

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<sup>1</sup> Order at 24-25, *Bowyer v. Ducey*, No. 2-20-cv-02321 (D. Ariz. Dec. 9, 2020) [Dkt. 84].

<sup>2</sup> Emma Brown, Aaron C. Davis & Alice Crites, *Sidney Powell’s secret ‘military intelligence expert,’ key to fraud claims in election lawsuits, never worked in military intelligence*, Wash. Post (Dec. 11, 2020), available at, [https://www.washingtonpost.com/investigations/sidney-powell-spider-spyder-witness/2020/12/11/0cd567e6-3b2a-11eb-98c4-25dc9f4987e8\\_story.html](https://www.washingtonpost.com/investigations/sidney-powell-spider-spyder-witness/2020/12/11/0cd567e6-3b2a-11eb-98c4-25dc9f4987e8_story.html)

In support of Respondent's conspiracy theory that Dominion, in concert with Georgia officials, committed "massive election fraud," Respondent claimed in her petition that the Georgia Secretary of State "rushed through the purchase of Dominion voting machines and software..." To that end, Respondent claimed "A certificate from the Secretary of State was awarded to Dominion Voting Systems but is undated... Similarly a test report signed by Michael Walker a Project Manager but is also undated." The Respondent attached as exhibits the purportedly undated certificate and test report. However, both the certificate and the test report were available online in November of 2020 on the Secretary of State's website. The certificate is actually signed and dated and contains the official seal of the State of Georgia. The test report was also available on the Secretary of State's website at the time of the Respondent's filing of the petition. The test report was also dated and contained an additional signature from Wendy Owens, a Program Manager. This information was removed in order to support Respondent's claim. In fact, the top portion of Ms. Owen's signature is still visible on the exhibit attached by Respondent.

District Court Judge Timothy Batten granted the defendant's motion to dismiss on December 7, 2020, ruling, among other things, that Respondent's clients did not have standing and were procedurally barred from obtaining the relief requested.

**THE MICHIGAN CASE: KING ET AL. V. WHITMER ET AL., U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, CASE NO. 2:20-CV-13134-LVP-RSW**

On November 25, 2020, Respondent filed a complaint in the Eastern District of Michigan (the Michigan case) seeking, *inter alia*, to decertify or stay the transmission of the certified election results of the Election in Michigan to the Electoral College, or to simply certify Mr. Trump as the winner of the Election in Michigan.

On December 7, 2020, the District Court, Judge Linda Parker, denied the Respondent's emergency motion.

On December 11, 2020, Respondent filed a petition for writ of certiorari in the United States Supreme Court. In the petition, Respondent stated that the relief sought would be "moot" by December 14, 2020, which is the date the Michigan electors cast their votes. However, Respondent failed to dismiss the case on December 14, 2020, despite her admission that the relief sought was now moot. The Michigan defendants filed a motion to dismiss on December 22, 2020. Some of the defendants also filed a motion for sanctions against Respondent on January 28, 2021. Judge Parker heard the sanctions motion on July 16, 2021, and August 5, 2021. Judge Parker granted the motion for sanctions against Respondent. Among other things, the Court noted in the ruling that the lawsuit was procedurally barred and supported by mere conjecture and belief, rather than evidence.<sup>3</sup>

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<sup>3</sup> See *King v. Whitmer*, 505 F. Supp. 3d 720, 729 (E.D. Mich. 2020), appeal dismissed, No. 20-2205, 2021 WL 688804 (6th Cir. Jan. 26, 2021) ("This case represents well the phrase: 'this ship has sailed.' The time has passed to provide most of the relief Plaintiffs request in their Amended Complaint; the remaining relief is beyond the power of any court. For those reasons, this matter is moot.")

*Id.* at 732 (E.D. Mich. 2020), appeal dismissed, No. 20-2205, 2021 WL 688804 (6th Cir. Jan. 26, 2021) (Plaintiffs could have lodged their constitutional challenges much sooner than they did, and certainly not three weeks after Election Day and one week after certification of almost three million votes. The Court concludes that Plaintiffs' delay results in their claims being barred by laches.)

*Id.* at 738 (E.D. Mich. 2020), appeal dismissed, No. 20-2205, 2021 WL 688804 (6th Cir. Jan. 26, 2021) (The closest Plaintiffs get to alleging that election machines and software changed votes for President Trump to Vice President Biden in Wayne County is an amalgamation of theories, conjecture, and speculation that such alterations were *possible*.)

**THE WISCONSIN CASE: *FEEHAN V. WISC. ELECTIONS COMM’N*, U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN, CASE NO. 2:20-CV-01771-PP**

On December 1, 2020, Respondent filed a complaint in the Eastern District of Wisconsin (the Wisconsin case) seeking to decertify or stay the delivery of the Election results in Wisconsin or to certify Mr. Trump as the winner of the Election.

On December 9, 2020, District Court Judge Pamela Pepper entered an order dismissing the Wisconsin case. Judge Pepper ruled, among other things, that state law governed the election process, the court had no authority to grant the relief requested, that the claims were moot, and that Respondent’s clients had no standing.<sup>4</sup>

**THE ARIZONA CASE: *BOWYER V. DUCEY*, U.S. DISTRICT COURT FOR THE DISTRICT OF ARIZONA, CASE NO. 1:20-CV-02321-DJH**

On December 2, 2020, Respondent filed a complaint in the District Court for the District of Arizona (the Arizona case) seeking to decertify or stay the transmission of the certified results of the Election in Arizona or to certify Mr. Trump as the winner of the Election.

District Court Judge Diane Humetewa dismissed the Arizona case on December 9, 2020. Judge Humetewa noted in her order the lack of factual support for Respondent’s claims.<sup>5</sup>

**VI.**

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<sup>4</sup> See *Feehan v. Wisconsin Elections Comm’n*, 20-CV-1771-PP, 2020 WL 7250219 (E.D. Wis. Dec. 9, 2020)

<sup>5</sup> See *Bowyer v. Ducey*, No. CV-20-02321-PHX-DJH, 2020 WL 7238261 (D. Ariz. Dec. 9, 2020) (“The allegations they put forth to support their claims of fraud fail in their particularity and plausibility. Plaintiffs append over three hundred pages of attachments, which are only impressive for their volume. The various affidavits and expert reports are largely based on anonymous witnesses, hearsay, and irrelevant analysis of unrelated elections. Because the Complaint is grounded in these fraud allegations, the Complaint shall be dismissed.”)

See *Id.* at 57 (“Not only have Plaintiffs failed to provide the Court with factual support for their extraordinary claims, but they have wholly failed to establish that they have standing for the Court to consider them. Allegations that find favor in the public sphere of gossip and innuendo cannot be a substitute for earnest pleadings and procedure in federal court. They most certainly cannot be the basis for upending Arizona’s 2020 General Election. The Court is left with no alternative but to dismiss this matter in its entirety.”)

**DISCIPLINARY RULES OF PROFESSIONAL CONDUCT VIOLATED**

The facts alleged herein constitute a violation of the following Texas Disciplinary Rules of

Professional Conduct:

**3.01 - A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous.**

**3.02 - In the course of litigation, a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter.**

**3.03(a)(1) - A lawyer shall not knowingly: make a false statement of material fact or law to a tribunal.**

**3.03(a)(5) - A lawyer shall not knowingly: offer or use evidence that the lawyer knows to be false.**

**3.04(c)(1) – A lawyer shall not: except as stated in paragraph (d), in representing a client before a tribunal: habitually violate an established rule of procedure or of evidence.**

**8.04(a)(3) - A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.**

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Petitioner prays that a judgment of professional misconduct be entered against Respondent, and that this Honorable Court determine and impose an appropriate sanction, including an order that Respondent pay reasonable attorneys' fees, costs of court and all expenses associated with this proceeding. Petitioner further prays for such other and additional relief, general or specific, at law or in equity, to which it may show itself entitled.



Respectfully submitted,

**Seana Willing**  
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**ATTORNEYS FOR PETITIONER**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document was forwarded to Respondent, by and through his counsel of record, Robert H. Holmes, S. Michael McColloch, and Karen Cook, on this the 13<sup>th</sup> day of September 2022, pursuant to the Texas Rules of Civil Procedure.

/s/Kristin V. Brady  
\_\_\_\_\_  
**Kristin V. Brady**

/s/Rachel Craig  
\_\_\_\_\_  
**Rachel Craig**

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