

CAUSE NO. DC-22-02562

COMMISSION FOR LAWYER  
DISCIPLINE,

IN THE DISTRICT COURT

Plaintiff,

vs.

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

DALLAS COUNTY, TEXAS

Defendant.

116<sup>th</sup> JUDICIAL DISTRICT

FIRST AMENDED ANSWER

TO THE HONORABLE ANDREA K. BOURESSA:

Sidney Powell, Defendant (“Ms. Powell”) files her First Amended Answer in response to the First Amended Petition (“Petition”) filed by the Commission for Lawyer Discipline (“Commission”). This pleading **does not** amend, supplement or modify the Special Exceptions contained in the Original Answer and Special Exceptions.

**A. INTRODUCTION**

This is a baseless and illegitimate suit arising from the “law fare” of 13 disgruntled and politically motivated Democrats who filed numerous grievances

against Ms. Powell for suits she filed to investigate fraud in the 2020 Presidential Election. The grievants seek to intimidate, harass, and suppress the ability of public officials or individuals to secure legal representation when they had evidence of election fraud. The State Bar of Texas has given them a platform and now endorses their sham grievances with the Petition.

## **B. BACKGROUND**

1. Ms. Powell had an unblemished record until these illegitimate grievances. She has practiced law for 43 years. After being admitted to the Texas Bar in 1978, she became the youngest Assistant United States Attorney in the country at the time. First she served in San Antonio where her colleague, Carl Pierce, then head of the drug trafficking unit in San Antonio stated: “I was trying these cases, and Sidney was keeping them convicted on appeal.”<sup>1</sup> She has practiced law, primarily in the Fifth Federal Circuit for decades, and she served as lead counsel in more than 500 federal appeals – 350 of them as an Assistant United States Attorney and Appellate Section Chief in the Western and Northern Districts of Texas. Those appeals resulted in more than 180 published federal decisions.

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<https://d.docs.live.net/316e138707eeea63/Documents/Clients/Holmes/Sidney/Grievance/Amended%20Answer%20west.doc>

2. Ms. Powell is a past president of the American Academy of Appellate Lawyers and the Bar Association of the Fifth Federal Circuit, and she is a member of the American Law Institute. She edited the Fifth Circuit Reporter for twenty years and chaired or served on the faculty of the Fifth Circuit's annual Appellate Advocacy and Practice course for two decades. She has taught multiple courses for the Texas Bar including Criminal Trial and Advocacy and Appellate Practice. She taught multiple courses for the United States Department of Justice Attorney General's Advocacy Institute for years – including Criminal Trial Practice and Appellate Advocacy.

3. After some ten years in the Department of Justice, Ms. Powell went into private practice, was a partner in a large law firm, then struck out on her own as a federal appellate lawyer. She has taken cases that others fear because she seeks the truth. Some of those cases compelled her to write what became a national best-selling non-fiction book: *LICENSED TO LIE: Exposing Corruption in the Department of Justice*, after she saw a core group of federal prosecutors break all the rules, make up crimes, hide evidence, and send innocent people to prison.

4. Ms. Powell became lead counsel for Michael Flynn in 2019. During that representation, she was often labeled a “conspiracy theorist” as she is now, but she fought until evidence came to light that forced the reversal of two guilty pleas

General Flynn had entered and required the DOJ to move to dismiss the prosecution.

5. For decades there have been numerous allegations of election fraud – since at least the 2000 Presidential Election. With increased reliance on computers, the claims have become more prevalent. One may recall the Al Gore – George Bush election issues. Gore sued the State of Florida in a Florida State District Court; the District Court declared Bush the winner; Gore appealed; the Florida Supreme Court over-turned the state courts decision and held Gore the winner; then Bush petitioned the United States Supreme Court for certiorari, and the United States Supreme Court declared Bush to be the President. *Bush v. Gore*, 531 U.S. 98 (2000). The Election Fraud Suits which Ms. Powell filed are the sole reason the Commission seeks to suspend Ms. Powell from practicing law, if not take her license, thus prevent her from practicing law, yet the Election Fraud Suits raise issues based on *Bush v. Gore* and rely on the right to petition in the First Amendment.

6. In January 2020, an elections security researcher in Georgia, Logan Lamb, said in an affidavit filed in an Atlanta federal court that he had found evidence suggesting that a server used in the Georgia elections was compromised in December 2014. Lamb said the evidence suggests an attacker exploited a bug that

provided full control of the server. Lamb also said he determined from computer logs – which would have been critical to understanding what might have been altered on or stolen from the server, only go back to November 10, 2016, two days after Donald Trump was elected U.S. president. Two years later, Brian Kemp unexpectedly won the Georgia governor’s race by a narrow margin over Democrat Stacey Abrams.<sup>2</sup>

7. In 2017 Georgia politicians, Democrat and Republican politicians filed a lawsuit against the Georgia Secretary State, *Curling, et al v. Raffensperger et al*, Case No. 17-cv-02989-AT, United States District Court, Northern District of Georgia, seeking to protect voters’ constitutionally protected ability and right to cast a ballot that is counted and given the same weight as any other in the 2020 general election and thereafter. The Honorable Amy Totenberg, United States District Court Judge, believed that case was meritorious, not frivolous, and on September 28, 2020, issued an opinion and order<sup>3</sup> concluding:

“For the reasons set forth above, the Court GRANTS the Coalition Plaintiffs’ Motion for Preliminary Injunction on Paper Pollbook Backups, [Doc. 800] (supported by the Curling Plaintiffs) and the

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<https://d.docs.live.net/316e138707eeea63/Documents/Clients/Holmes/Sidney/Grievance/Amended%20Answer%20west.doc>, last visited on April 12, 2022

<sup>3</sup>Doc. No. 918, Case No. 20-cv-02989-AT, United States District Court, Northern District of Georgia.

relief requested, as more specifically set forth herein. The narrowly tailored relief ordered directs that the State protecting voters' constitutionally protected ability and right to cast a ballot that is counted and given the same weight as any other on this coming November 3rd general election day and thereafter. It is not too late for Defendants to take these reasonable concrete measures to mitigate the real potential harms that would otherwise likely transpire at precinct polling locations grappling with the boiling brew created by the combination of new voting equipment issues and old voter data system deficiencies.”

8. On March 26, 2020, a documentary film, *Kill Chain: The Cyber War on America's Elections* was released.<sup>4</sup> In a March 25, 2020, article by Stephanie Zacharek, Time Magazine<sup>5</sup> says:

“If you don't want to know how easy it is for a canny individual—or a malicious state actor—to hack into the electronic voting technology used in the U.S., don't watch *Kill Chain: The Cyber War on America's Elections* . . . . If nothing else, *Kill Chain* demands that we ask whom we're trusting, and why.”

Richard Roper, Chicago Sun-Times<sup>6</sup> stated:

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<https://d.docs.live.net/316e138707eeea63/Documents/Clients/Holmes/Sidney/Grievance/Amended%20Answer%20west.doc>, last visited on April 12, 2022

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<https://d.docs.live.net/316e138707eeea63/Documents/Clients/Holmes/Sidney/Grievance/Amended%20Answer%20west.doc>, last visited on April 12, 2022

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<https://d.docs.live.net/316e138707eeea63/Documents/Clients/Holmes/Sidney/Grievance/Amended%20Answer%20west.doc>, last visited on April 12, 2022

“Our jaws drop as we learn stunning truths about America’s messy, outmoded and far too vulnerable voting system.”

9. In 2021, *Kill Chain* was nominated for an Emmy award for Outstanding Investigative Documentary. The film reveals the hacking attack on the presidential election in 2016, through the exclusive on-camera interview with a hacker known as CyberZeist. CyberZeist penetrated the Alaska Division of Elections’ state vote tabulation computer system on 6 and 7 November 2016, and on election day, 8 November 2016. CyberZeist successfully achieved this attack only weeks after the Alaska Division of Elections admitted that Russian hackers had attempted to carry out a comparable attack.<sup>7</sup>

10. The film’s world-famous elections cybersecurity expert, Harri Hursti, discovered that most hackers install a range of software that will be hidden in multiple components of a computer, so that even wiping the hard drive will not remove the hackers’ access. CyberZeist told him, “I’ll go under their radar even if they are 24/7 monitoring it [the vote-counting server].” When reviewing the hack on the Alaska Division of Elections’ servers, Hursti discovered that CyberZeist could read or write any file, including system files. In other words, CyberZeist could have planted vote-stealing software that might still be there, waiting for a command to activate. As Hursti showed in *Kill Chain*, threat-actors might not even

be looking to change results in an election, but simply to sabotage democracy and bring the process into disrepute.<sup>7</sup>

11. Armed with knowledge from *Kill Chain*, the claims and decision in *Curling v. Raffensperger*, and observing the unprecedented election night events – including counting being stopped for hours across key swing states and numbers of votes rolling backwards (decreasing) on live television in the 2020 Presidential Election, Ms. Powell and others filed suits in four states challenging the 2020 Presidential Election. The suits:

(i) On November 25, 2020, *Pearson, et al. v. Kemp*, et al., Case No. 20-cv-04809-TCB, United States District Court, Northern District of Georgia (“Georgia Case”), a complaint containing 211 paragraphs with 29 exhibits including affidavits, a total of 587 pages<sup>8</sup> alleging:

Count 1: Defendants Violated the Elections and Electors Clauses;<sup>9</sup> and 42 U.S.C. § 1983;

Count 2: The Secretary of State and Georgia Counties Violated the Fourteenth Amendment United States Constitution and 42 U.S.C., § 1983; Denial of Equal Protection; Invalid Enactment of Regulations Affecting Observation and Monitoring of the Election;

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[https://en.wikipedia.org/wiki/Kill\\_Chain:\\_The\\_Cyber\\_War\\_on\\_America%27s\\_Elections#:~:text=Kill%20Chain%3A%20The%20Cyber%20War%20on%20America%27s%20Elections,foreign%20cyberwarfare%20operations%20and%202020%20presidential%20election%20interference.](https://en.wikipedia.org/wiki/Kill_Chain:_The_Cyber_War_on_America%27s_Elections#:~:text=Kill%20Chain%3A%20The%20Cyber%20War%20on%20America%27s%20Elections,foreign%20cyberwarfare%20operations%20and%202020%20presidential%20election%20interference.)

<sup>8</sup>Doc. No. 1, 20-cv-04809-TCB, United States District Court, Northern District of Georgia.

<sup>9</sup>[Article 1, Section 4 & Article 2, Section 1, Clause 2 United States Constitution](#)



Count 3: Fourteenth Amendment Equal Protection Clause United States Constitution; and 42 U.S.C. § 1983 Denial of Due Process Disparate Treatment of Absentee/Mail-In Voters among Different Counties;

Count 4: Fourteenth Amendment, United States Constitution; Art. I, Section 4, CL. 1; Art. II, Section 1, CL. 2; and 42 U.S.C. Section 1983, Denial of Due Process on the Right to Vote; and

Count 5: There was Widespread Ballot Fraud. OCGA 21-2-522.

(ii) On November 25, 2020, *King, et al. v. Whitmer, et al.*, Case No. 20-cv-13134-LVP-RSW, United States District Court, Eastern District of Michigan. The amended complaint containing 233 paragraphs with 30 exhibits including affidavits, a total of 960 pages<sup>10</sup> (“Michigan Case”) alleged:

Count 1: Defendants Violated the Elections and Electors Clauses<sup>9</sup> and 42 U.S.C. § 1983;

Count 2: Governor Whitmer, Secretary Benson and Other Defendants Violated the Equal Protection Clause of the Fourteenth Amendment United States Constitution; & 42 U.S.C. § 1983 Invalid Enactment of Regulations Affecting Observation and Monitoring of the Election & Disparate Implementation of Michigan Election Code;

Count 3: Fourteenth Amendment, Amend. XIV & 42 U.S.C. § 1983 Denial of Due Process on The Right to Vote; and

Count 4: Wide-Spread Ballot Fraud, Violations of Michigan Election Code (MCL 168.730-738) & Michigan Constitution, Art. II § 4.

(iii) On December 1, 2020, *Feehan, et al. v. Wisconsin Elections Comm’n, et al.*, Case No. 20-cv-01771-PP, United States District Court, Eastern District

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<sup>10</sup>Doc. No. 6, 20-cv-13134-LVP-RSW, United States District Court, Eastern District of Michigan.

of Wisconsin, a complaint containing 142 paragraphs with 19 exhibits including affidavits, a total of 354 pages<sup>11</sup> (“Wisconsin Case”), alleging:

Count 1: Defendants Violated the Elections and Electors Clauses<sup>9</sup> and 42 U.S.C. § 1983;

Count 2: Governor Evers and Other Defendants Violated the Equal Protection Clause of the Fourteenth Amendment United States Constitution; and 42 U.S.C. § 1983 Invalid Enactment of Regulations & Disparate Treatment of Absentee vs. Mail-In-Ballots;

Count 3: Fourteenth Amendment; and 42 U.S.C. § 1983, Denial of Due Process On The Right to Vote; and

Count 4: Wide-Spread Ballot Fraud. and

(iv) On December 2, 2020, *Bowyer, et al. v. Ducey, et al.*, Case No. 20 cv-02321, United States District Court, District of Arizona, a complaint containing 145 paragraphs with 31 exhibits including affidavits, a total of 377 pages<sup>12</sup> (“Arizona Case”), alleging:

Count 1: Defendants Violated the Elections and Electors Clauses<sup>9</sup> and 42 U.S.C. § 1983;

Count 2: Defendants Violated the Equal Protection Clause of the Fourteenth Amendment, United States Constitution; and 42 U.S.C. § 1983;

Count 3: Fourteenth Amendment; & 42 U.S.C. § 1983, Denial of Due Process on the Right to Vote; and

Count 4: Widespread Ballot Fraud;

jointly referred to as (“Election Fraud Suits”).

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<sup>11</sup>Doc. No. 9, 20-cv-01771-PP, United States District Court, Eastern District of Wisconsin.

<sup>12</sup>Doc. No. 1, Case No. 20-cv-02321-DJH, United States District Court, District of Arizona.

12. The Honorable Timothy C. Batten, Sr., United States District Court Judge, Northern District Georgia, believed the Georgia Case was meritorious enough to enter a TRO on November 29, 2020, enjoining and restraining Georgia from altering, destroying, or erasing, or allowing the alteration, destruction, or erasure of, any software or data on any Dominion voting machine in Cobb, Gwinnett, and Cherokee Counties, Georgia.<sup>13</sup> Judge Batten first protected all the voting machines in Georgia, but before the order was docketed, he withdrew it. On November 30, 2020, Judge Batten subsequently entered an Order certifying the case for an appeal, stating “Plaintiffs’ motion for a temporary restraining order involves a controlling question of law as to which there is a substantial ground for difference of opinion.”<sup>14</sup> The complaint on which Judge Batton entered the Order certifying the case contained the exhibit that the Commission now alleges was material and Ms. Powell intentionally altered; however, for the record no one in the Georgia Case objected to the exhibit ad it was immaterial to the outcome of the case; and moreover Ms. Powell was not the person who attached the document to that complaint and she was not designated as lead counsel in the case.

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<sup>13</sup>Doc No. 14, Case No. 20-cv-04809-TCB, United States District Court, Northern District Georgia.

<sup>14</sup>Doc No. 22, Case No. 20-cv-04809-TCB, United States District Court, Northern District Georgia.

13. The Honorable Pamela Pepper, Chief United States District Court Judge, Eastern District Wisconsin, found the Wisconsin Case was meritorious enough to enter an order on December 4, 2020, Granting in Part and Deferring Ruling in Part and set an expedited briefing schedule.<sup>15</sup>

14. Without hearing one word of evidence all the district courts denied the relief requested in the Election Fraud Suits. Ms. Powell appealed those cases along with the Georgia Case to the respective United States Court of Appeals.<sup>16</sup> When the appellate courts denied the requested relief, Ms. Powell filed Petitions for Writs of Certiorari in the United States Supreme Court.<sup>17</sup> The Supreme Court delayed its ruling on those emergency petitions until after January 6, 2021, declaring the Election Fraud Suits moot.

15. In the Michigan Case, Judge Parker, allowed the City of Detroit to intervene to seek sanction. After a hearing that did not allow the introduction of

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<sup>15</sup>Doc No. 29, Case No. 20-cv-1771-PP, United States District Court, Eastern District Wisconsin.

<sup>16</sup> Document No. 1, *Pearson, et al, v. Kemp, et al*, Case No. 20-14480 United States Court of Appeals, Eleventh Circuit; Documents No. 1, *King, et al, v. Whitmer, et al*, Case No. 20-2205 United States Court of Appeals, Sixth Circuit; Document No. 1, *Feehan, et al, v. Wisconsin Elections Commission, et al*, Case No. 20-3396 United States Court of Appeals, Seventh Circuit; and Document No. 1, *Bowyer, et al, v. Ducey, et al*, Case No. 20-17399, United States Court of Appeals, Ninth Circuit.

<sup>17</sup>*King, et al, v. Whitmer, et al*, Case No. 20-815, United States Supreme Court; *Pearson, et al, v. Kemp, et al*, Case No. 20-816, United States Supreme Court; *Bowyer, et al, v. Ducey, et al*, Case No. 20-858, United States Supreme Court; and *Feehan, et al, v. Wisconsin Elections Commission, et al*, Case No. 20-859, United States Supreme Court.

any evidence, issued a scathing opinion, ordered sanctions against Ms. Powell and other attorneys (“Michigan Order”).<sup>18</sup> Interestingly, other courts handling similar cases have either rebuffed efforts to impose sanctions<sup>19</sup> or have never been asked to impose sanctions in the first place.<sup>20</sup>

16. In conversations with the Commission’s attorney, undersigned counsel was informed that most likely the only witness at a trial in the case would be Dana Nessel, Michigan Attorney General, and the primary evidence would most likely be the Michigan Order. While Judge Parker’s opinion forms the basis for the Complaints and apparently ultimately this suit, that order is not a final order. Ms. Powell appealed the Michigan Order in the case styled: *King et al. v. Whitmer, et al.*, Case No. 21-1786, United States Court of Appeals, Sixth Circuit and has filed her opening brief.<sup>21</sup>

17. The Commission had no basis to elevate the grievances and then file this suit, as there is abundant precedence, both state and federal, protecting attorney’s right to petition for relief on behalf of clients without fear of grievance complaints

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<sup>18</sup>Doc No. 172, Case No. 2:20-cv-13134-LVP-RSW, United States District Court, Eastern District Michigan.

<sup>19</sup>Doc No. 178, *Trump v. Wisconsin Elections Comm’n*, No. 20-cv-1785-BHL (E.D. Wisc. Dec. 6, 2021)

<sup>20</sup>See the Georgia and Arizona Cases.

<sup>21</sup>Doc No. 22, Case No. 21-1786, United States Court of Appeals, Sixth Circuit

for filing a “frivolous” lawsuit. The First Amendment right to petition protects Ms. Powell and the Election Fraud Suits.<sup>22</sup>

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<sup>22</sup>(i) Under the Petition Clause of the First Amendment, a civil litigant cannot be sanctioned for bringing a non-baseless claim in court—unless the lawsuit is a mere “sham.” [\*Presidents Conference v. Noerr Motor Freight, Inc.\*, 365 U.S. 127, 138 \(1961\)](#). Furthermore, even an improper motive will not divest a non-baseless claim of Petition Clause protection. [\*Professional Real Estate Investors, Inc., v. Columbia Pictures Industries, Inc.\*, 508 U.S. 49 \(1993\)](#). (ii) Justice Douglas in [\*California Motor Transport Co. v. Trucking Unlimited\*, 404 U.S. 508 \(1972\)](#), stated “the right of access to the courts is indeed but one aspect of the right of petition.” [\*Id.\* at 510, 92 S.Ct. 609](#). The First Amendment also protects “litigation . . . as a form of political expression.” [\*NAACP v. Button\*, 371 U.S. 415, 429 \(1963\)](#). (iii) The Supreme Court has stated: “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. [\*Prof’l Real Estate Investors, Inc., v. Columbia Pictures Industries, Inc.\*, 508 U.S. 49, 60; 113 S.Ct. 1920 \(1993\)](#). On the flip side, 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](#). (iv) Judge McMahon 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.” [\*Advanced Video Techs. LLC v. HTC Corp.\*, No. 1:11 CIV. 06604 \(CM\), 2015 WL 7621483, at \\*10 \(S.D.N.Y. Aug. 28, 2015\), \*aff’d\*, 677 F. App’x 684 \(Fed. Cir. 2017\)](#). (v) “[P]laintiff’s counsel is entitled to rely on the representations of their client, without having to assess his credibility; ‘credibility is solely within the province of the finder of fact.’” (quoting [\*Healey v. Chelsea Res., Ltd.\*, 947 F.2d 611, 626 \(2d Cir.1991\)](#)). (vi) An attorney may file a pleading if there is “. . . from the advocate’s point of view . . . arguable grounds existed to support a reasonable belief that the case . . . [of the] possibility of obtaining a favorable result” from the advocates point of view. [\*Gray v. Turner\*, 807 S.W.2d 818, 823 \(Tex. App.–Amarillo 1991, no writ\)](#); [\*Ambrose v. Mack\*, 800 S.W.2d 380, 383 \(Tex.App.–Corpus Christi 1990, no writ \)](#); and all an attorney needs at the vantage point for assessing evidentiary support, the time the pleading is filed, is that the factual allegations have or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. Tex. Civ. Prac. & Rem.Code § 10.001; [\*Low v. Henry\*, 221 S.W.3d 609, 615 \(Tex. 2007\)](#). (vii) As the court in [\*Houston Mercantile Exch. Corp. v. Dailey Petroleum Services Corp.\*](#), held in 1993 “if a plaintiff has “probable cause” to institute legal proceedings, then a finding of sham litigation is precluded. [\*No. B14-92-00818-CV\*, 1993 WL 322901, at \\*3 \(Tex. App.–Houston \[14th Dist.\] Aug. 26, 1993, no writ\)](#), (citing [\*Prof’l Real Estate\* 508 U.S. at 61-62](#). Probable cause to institute civil proceedings requires no more than a reasonable belief that there is a chance that a claim may be held valid upon adjudication. [\*Id.\*](#)

18. Moreover, claims must be adjudicated by a trier of fact, after at least a hearing where the facts are heard and considered, before a final court decision.<sup>23</sup> That was not the case in any of the Election Fraud Suits. Despite being filed with hundreds of pages of supporting sworn statements of fact and expert reports under enormous time pressure, the Election Fraud Suits were summarily dismissed, no discovery was allowed, and not a single witness was heard. Although the Courts dismissed Election Fraud Suits, more evidence is uncovered by the day to support all the claims in the Election Fraud Suits.

### **C. RELEVANT FACTS**

19. At the time of filing the Election Fraud Suits, Ms. Powell had more than a reasonable basis for alleging serious election-law violations justifying relief under principles of [\*Bush v. Gore\*, 531 U.S. 98 \(2000\)](#) and the cases cited above in footnote 22. She also had non-frivolous arguments for the extension of law, if any was required – and, indeed, for application of settled law as well as substantial facts supporting the cases. Ms. Powell and her team performed a massive investigation of an extremely complex situation in a matter of a few weeks.

20. On March 1, 2022, the Commission sued Ms. Powell, alleging violation of the disciplinary rules pursuant to the State Bar Act, Tex. Govt. Code Ann.

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<sup>23</sup>[\*Takeda Pharm. U.S.A., Inc. v. Mylan Pharm. Inc.\*, 967 F.3d 1339, 1348 \(Fed. Cir. 2020\)](#).

§81.001 et seq., the Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. This suit purports to be based initially on grievances filed by ten disgruntled politically motivated Democrats. On March 25, 2022, the Commission filed a First Amended Petition alleging violation of the disciplinary rules based on three additional grievances filed by disgruntled politically-motivated Democrat Congressmen. The complainants are:

(a) defendants in the Michigan suit: Dana Nessel, Michigan Attorney General, Gretchen Whitmer, Michigan Governor, & Jocelyn Benson, Michigan Secretary of State;

(b) four third-party Democrat politicians: Ted L. Lieu, U.S. Congressman, California; Sylvia Garcia, U.S. Congressman, Texas; Veronica Escobar, U.S. Congressman, Texas; & Robert McWhirter, an aspiring Arizona politician; and

(c) six politically motivated third-party complainants who had absolutely no dog in the any of the fights they complain about: Paula K. Goldman, attorney in Virginia; Adam Charles Reddick, on information and belief a previously-sanctioned attorney in Florida; Eric Young, Janet Louise Lachman, an unlicensed Texas attorney; David M. Rubenstein, billionaire Co-Chair, Caryllye Group, Maryland.

(“Complaints”).

#### **D. DISCOVERY-CONTROL PLAN**

21. Ms. Powell intends to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.4 and requests the Court to enter a scheduling order with a trial set no later than the month of October 2022. Ms. Powell affirmatively pleads



that this suit is not governed by the expedited actions process in Texas Rule of Civil Procedure 169.

#### **E. GENERAL DENIAL**

22. Pursuant to Tex. R. Civ. P. 92, Ms. Powell denies each and every, all and singular, the material allegations in the Petition and demands strict proof.

#### **F. AFFIRMATIVE DEFENCES**

23. Ms. Powell pleads the following affirmative defences:

23.1. Privilege – Ms. Powell, in reliance on the Constitution and laws stated above, had the privilege (right to access to the courts) on behalf of her clients to file the Elections Fraud Suits.<sup>24</sup>

23.2. Legal Justification – Ms. Powell in reliance on the Constitution and laws stated above was legally justified on behalf of her clients to file the Elections Fraud Suits.<sup>25</sup>

#### **D. REQUEST FOR DISCLOSURES**

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<sup>24</sup>[\*Marathon Oil Co. v. Salazar\*, 682 S.W.2d 624 \(Tex. App.–Houston \[1st Dist.\] 1984, writ ref'd n.r.e.\); \*Gray v. Turner\*, 807 S.W.2d at 823; \*Ambrose\*, 800 S.W.2d at 383; \*Low\*, 221 S.W.3d at 615.](#)

<sup>25</sup>[\*California Motor Transport\*, 404 U.S. at 509; \*NAACP\*, 371 U.S. at 429; \*Civ. Prac. & Rem.Code\* § 10.001; \*Low\*, 221 S.W.3d at 615.](#)

24. Under Texas Rule of Civil Procedure 194, Ms. Powell requests that the Commission, within 30 days of the service of this request, provide the information and material described in Rule 194.2.

**E. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Ms. Powell respectfully requests the Court to dismiss this suit, render judgment that the Commission take nothing, award Ms. Powell reasonable and necessary attorney fees, assess costs against the Commission, and award such other relief as she is entitled.

Respectfully submitted,  
HOLMES LAWYER, PLLC

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COUNSEL FOR POWELL

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been delivered, by efileTexas.gov to all attorneys of record on April 15, 2022.

/s/ Robert H. Holmes  
Robert H. Holmes

### Automated Certificate of eService

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