

had convened and cast their ballots for president and vice president, Respondent and his co-counsel filed a federal lawsuit against then-Vice President Michael Pence in the United States District Court for the Eastern District of Texas. *Gohmert v. Pence*, Case No. 6:20-cv-00660-JDK. In the pleadings, Respondent provided his D.C. Bar license number and a D.C. address.

3. Respondent and his co-counsel named as plaintiffs Republican Congressman Louis Gohmert from Texas, and the Republican slate of electors in Arizona – the same Republican slate of electors who were included as plaintiffs in the federal court action that Respondent’s co-counsel filed in the United States District Court for the District of Arizona, *Bowyer v. Ducey*, Case No. 2:20-cv-02321-DJH (D. Ariz), and which the District Court dismissed on December 9, 2020.

4. In the complaint filed in Texas, Respondent claimed that the Republican slate of electors in Arizona, whom he referred to as “[t]he Arizona Electors,” had convened in the Arizona State Capitol with the knowledge and permission of the Republican-majority Arizona Legislature and, pursuant to the requirements of applicable state laws and the Electoral Count Act, had cast their votes for Trump. Respondent made the same allegation with respect to the Republican electors in Georgia, Pennsylvania, and Wisconsin and claimed that the Michigan Republican electors met on the grounds of the State Capitol, not in the Capitol.

5. Respondent knew that the claims about a “competing slate” of electors in Arizona (as well as the slates in other “Contested States”) had no factual basis and was false.

6. The state legislature in Arizona had not permitted, authorized, or endorsed the Republican slate of electors as competing or alternative electors for the state.

7. Nor had any of the state legislatures in any of the other “Contested States” permitted, authorized, or endorsed the Republican slate of electors as competing or alternative electors for their states.

8. Respondent referred to and attached as an exhibit to the complaint a document entitled “A Joint Resolution of the 54th Legislature, State of Arizona” Respondent stated:

On December 14, 2020, members of the Arizona Legislature passed a Joint Resolution in which they: (1) found that the 2020 General Election “was marred by irregularities so significant as to render it highly doubtful whether the certified result accurately represents the will of the voters;” (2) invoked the Arizona Legislature’s authority under the Electors Clause and 5 U.S.C. § 2 to declare the 2020 General Election a failed election and to directly appoint Arizona’s electors; (3) resolved that the Plaintiff Arizona Electors’ “11 electoral votes be accepted for . . . Donald J. Trump or to have all electoral votes nullified completely until a full forensic audit can be conducted;” and (4) further resolved “that the United States Congress is not to consider a slate of electors from the State of Arizona until the Legislature deems the election to be final and all irregularities resolved.”

9. Respondent's claims about the "Joint Resolution" had no basis in fact and were false, as Respondent knew. The document that Respondent referred to in the Complainant and attached as an exhibit was a five-page document (although Respondent included only the first four pages) signed by just 22 members of the Republican state legislators – 17 of the 60 members of the Arizona House, and five of the 30 members of the Arizona Senate (with eight "Members-Elect," who were not part of the Arizona legislature at the time, concurring).

10. The Arizona Legislature had not "passed" the "Joint Resolution." The Arizona Legislature is deemed to act only upon the vote of a "majority of all members elected to each house." And the bicameral majority vote is necessary to "pass" any bill or joint resolution, which is then presented to the Governor for his approval or disapproval. None of these things happened, which Respondent knew.

11. On December 4, 2020, weeks before Respondent filed the action with the District Court in Texas, Arizona House Speaker Rusty Bowers, a Republican, issued a news release stating that people representing Trump came to Arizona and made what he described as a "breathtaking request" – "that the Arizona Legislature overturn the certified results of last month's election and deliver the state's electoral college votes to President Trump." Bowers stated that the "rule of law forbids us to do that." Bowers went on to state that Arizona Legislature can act only when it is in session, and it could be called into a special session only with the support of a

bipartisan supermajority of its members, which had not happened. But even if it had, Bowers explained that the Legislature could not deliver the state's electoral votes to Trump because, under Arizona law, the state's electors are required to cast their votes for the candidates who receive the most votes in the official statewide election canvass.

12. In other pleadings, Respondent referred to the Republican slate as the Arizona Electors, and falsely claimed they were "duly qualified." Respondent knew that the Arizona legislature had never qualified or authorized another slate of electors, but he never corrected his claims or withdrew as an exhibit the Joint Resolution, which he knew had not even been presented to, much less passed by the Arizona legislature.

13. Based on the "competing slates" of electors, Respondent asked the District Court in Texas to declare the Electoral Count Act unconstitutional and further declare that Pence had "exclusive authority and sole discretion" to determine which electoral votes should count.

14. On January 1, 2021, the District Court in Texas dismissed Respondent's lawsuit because the plaintiffs lacked standing.

15. That same day, Respondent and his co-counsel filed a notice of appeal with the United States Court of Appeals for the Fifth Circuit.

16. On January 2, 2021, the Fifth Circuit affirmed the judgment of the District Court and denied Respondent's motion for an expedited appeal as moot.

17. On January 6, 2021, Respondent and his co-counsel filed with the Supreme Court of the United States an emergency application for a stay and interim relief pending the resolution of their petition for a writ of certiorari (which they had not filed). In the application to the Supreme Court, Respondent repeated his false claims that there were "competing slates of Republican and Democratic electors" not only in Arizona, but in Georgia, Michigan, Pennsylvania, and Wisconsin. Respondent attached to the application to the Supreme Court the "Joint Resolution" which falsely purported to be of the 54th Legislature of the State of Arizona.


18. On January 7, 2021, the Supreme Court denied the emergency application.

19. Respondent's conduct violated the following Texas and/or D.C. Rules of Professional Conduct and constituted conduct unbecoming an attorney (*see* Rule 46(c) of the Federal Rules of Appellate Procedure and Rule 8 of the Rules of the Supreme Court of the United States):


a. Texas Rule 3.01 / D.C. Rule 3.1, in that Respondent brought a proceeding and asserted issues therein when there was not a non-frivolous basis for doing so;

- b. Texas Rule 3.03 / D.C. Rule 3.3, in that Respondent made false statements of material fact and/or failed to correct false statements of material facts to a tribunal;
- c. Texas Rule 8.04(a)(1) / D.C. Rule 8.4(a), in that Respondent violated or attempted to violate the Rules, knowingly assisted or induced another to do so, or did so through the acts of another;
- d. Texas Rule 8.04(a)(3) / D.C. Rule 8.4(c), in that Respondent engaged in conduct involving dishonesty, fraud, deceit, and/or misrepresentation; and
- e. D.C. Rule 8.4(d), in that Respondent engaged in conduct that seriously interfered with the administration of justice.


Respectfully submitted,



Hamilton P. Fox, III
Disciplinary Counsel



Julia L. Porter
Deputy Disciplinary Counsel

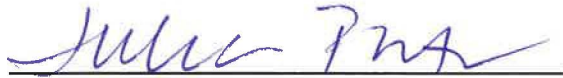


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VERIFICATION

I verify under penalty of perjury that the facts stated in the Specification of
Charges are true and correct.



Julia L. Porter
Deputy Disciplinary Counsel

Hearing Committee.

(2) **Filing Answer** -- Respondent must respond to the Specification of Charges by filing an answer with the Board and by serving a copy on the Office of Disciplinary Counsel within 20 days of the date of service of this Petition, unless the time is extended by the Chair of the Hearing Committee. Permission to file an answer after the 20-day period may be granted by the Chair of the Hearing Committee if the failure to file an answer was attributable to mistake, inadvertence, surprise, or excusable neglect. If a limiting date occurs on a Saturday, Sunday, or official holiday in the District of Columbia, the time for submission will be extended to the next business day. Any motion to extend the time to file an answer, and/or any other motion filed with the Board or Hearing Committee Chair, must be served on the Office of Disciplinary Counsel at the address shown on the last page of this petition.

(3) **Content of Answer** -- The answer may be a denial, a statement in exculpation, or a statement in mitigation of the alleged misconduct. Any charges not answered by Respondent may be deemed established as provided in Board Rule 7.7.

(4) **Mitigation** -- Respondent has the right to present evidence in mitigation to the Hearing Committee regardless of whether the substantive

allegations of the Specification of Charges are admitted or denied.

(5) **Process** -- Respondent is entitled to fifteen days' notice of the time and place of hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

E. In addition to the procedures contained in D.C. Bar R. XI, the Board has promulgated Board Rules relating to procedures and the admission of evidence which are applicable to these procedures. A copy of these rules is being provided to Respondent with a copy of this Petition.

WHEREFORE, the Office of Disciplinary Counsel requests that the Board consider whether the conduct of Respondent violated the District of Columbia Rules of Professional Conduct, and, if so, that it impose/recommend appropriate discipline.

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