

## **Attorneys Sanctioned for Filing a Suit to Overturn 2020 Presidential Election Results Without a Legal or Factual Foundation**

*King v. Whitmer*  
(*Linda V. Parker, E.D. Mich. 2:20-cv-13134*)

Twelve minutes before Thanksgiving Day 2020, a federal complaint sought decertification of Joe Biden’s presidential election victory in Michigan. The district judge denied immediate relief on December 7. In 2021, she sanctioned the plaintiffs’ attorneys for pursuing a lawsuit without a legal or factual foundation. The court of appeals affirmed the sanctions in part.

*Subject:* Voting irregularities. *Topics:* Enjoining certification; election errors; attorney discipline; attorney fees; laches; intervention; matters for state courts; Electoral College.

Six voters, including three prospective members of the Electoral College, filed a federal complaint in the Eastern District of Michigan at 11:48 p.m. on November 25, 2020, the day before Thanksgiving Day, alleging “massive election fraud” “for the purpose of illegally and fraudulently manipulating the vote count to manufacture an election of Joe Biden as President of the United States.”<sup>1</sup> Among the requested relief was an emergency order decertifying Michigan’s presidential election or certifying Donald Trump as the winner.<sup>2</sup>

Detroit moved to intervene as a defendant on Friday.<sup>3</sup> The plaintiffs filed an amended complaint<sup>4</sup> and a motion for a temporary restraining order<sup>5</sup> on Sunday.<sup>6</sup> The Democratic Party<sup>7</sup> and a voter<sup>8</sup> moved to intervene as defendants on Monday. Judge Linda V. Parker granted the three intervention motions on December 2.<sup>9</sup>

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1. Complaint at 2, *King v. Whitmer*, No. 2:20-cv-13134 (E.D. Mich. Nov. 25, 2020), D.E. 1; *King v. Wood*, 71 F.4th 511, 517–18 (6th Cir. 2023); *King v. Whitmer*, 556 F. Supp. 3d 680, 690 (E.D. Mich. 2021) (“Even though Michigan law establishes an extensive procedure for challenging elections, . . . Plaintiffs did not avail themselves of these procedures . . .”); *King v. Whitmer*, 505 F. Supp. 3d 720, 726 (E.D. Mich. 2020); see Dave Boucher, *Trump Allies Seeking to Overturn Mich. Results*, Detroit Free Press, Dec. 1, 2020, at A5; Craig Mauger, *Suit Citing Conspiracy Theories Wants Trump as Mich. Winner*, Detroit News, Nov. 27, 2020, at A6.

2. Complaint, *supra* note 1, at 72; *King*, 556 F. Supp. 3d at 691.

3. Intervention Motion, *King*, No. 2:20-cv-13134 (E.D. Mich. Nov. 27, 2020), D.E. 5.

4. Amended Complaint, *id.* (Nov. 29, 2020), D.E. 6.

5. Temporary-Restraining-Order Motion, *id.* (Nov. 29, 2020), D.E. 7.

6. *King*, 71 F.4th at 518; *King*, 556 F. Supp. 3d at 690; *King*, 505 F. Supp. 3d at 726.

7. Intervention Motion, *King*, No. 2:20-cv-13134 (E.D. Mich. Nov. 30, 2020), D.E. 14.

8. Intervention Motion, *id.* (Nov. 30, 2020), D.E. 12; see Motion to Expedite Briefing, *id.* (Dec. 1, 2020), D.E. 17.

9. Opinion, *id.* (Dec. 2, 2020), D.E. 28, 2020 WL 7053810; 71 F.4th at 518; *King*, 556 F. Supp. 3d at 691; *King*, 505 F. Supp. 3d at 726.

On December 1, Judge Parker ordered the defendants' response to the temporary-restraining-order motion filed by 8:00 p.m. on the following day and any reply filed by 8:00 p.m. on the day after that.<sup>10</sup>

On December 7, Judge Parker denied the plaintiffs immediate relief: "If granted, the relief would disenfranchise the votes of the more than 5.5 million Michigan citizens who, with dignity, hope, and a promise of a voice, participated in the 2020 General Election."<sup>11</sup> The claims were barred by Eleventh Amendment immunity from suits brought by citizens against their own states.<sup>12</sup> Among other reasons, they were also barred because of mootness and laches.<sup>13</sup>

The plaintiffs filed a notice of appeal on the following day<sup>14</sup> and a petition to the Supreme Court for a writ of certiorari three days after that.<sup>15</sup> The parties stipulated dismissal of the appeal on January 26, 2021,<sup>16</sup> and the Supreme Court denied the certiorari petition on February 22.<sup>17</sup>

Judge Parker imposed sanctions on the plaintiffs' attorneys on August 25, 2021.<sup>18</sup> "This lawsuit represents a historic and profound abuse of the judicial process. . . . *And this case was never about fraud—it was about undermining the People's faith in our democracy and debasing the judicial process to do so.*"<sup>19</sup> The sanctions included attorney fees and costs, twelve hours of continuing legal education on pleading standards and election law, and referral for possible suspension or disbarment.<sup>20</sup>

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10. Order, *King*, No. 2:20-cv-13134 (E.D. Mich. Dec. 1, 2020), D.E. 24; *King*, 556 F. Supp. 3d at 691; *King*, 505 F. Supp. 3d at 726.

11. *King*, 505 F. Supp. 3d at 725; see *King*, 71 F.4th at 518; *King*, 556 F. Supp. 3d at 691; see also Dave Boucher, *Judge Rejects Suit from Ex-Trump Attorney*, Detroit Free Press, Dec. 8, 2020, at A5; Craig Mauger, *Judge: "The People Have Spoken" in Michigan Election*, Detroit News, Dec. 8, 2020, at A5.

12. *King*, 505 F. Supp. 3d at 727–29.

13. *Id.* at 729–32.

14. Notice of Appeal, *King*, No. 2:20-cv-13134 (E.D. Mich. Dec. 8, 2020), D.E. 64; *King*, 556 F. Supp. 3d at 692; see Dave Boucher, Paul Egan & Clara Hendrickson, *Courts Reject Claims of Fraud, Misconduct in Legal Challenges*, Detroit Free Press, Dec. 13, 2020, at A11.

15. Certiorari Petition, *King v. Whitmer*, No. 20-815 (U.S. Dec. 11, 2020); *King*, 556 F. Supp. 3d at 692.

16. Order, *King v. Whitmer*, No. 20-2205 (6th Cir. Jan. 26, 2021), D.E. 12; *King*, 556 F. Supp. 3d at 693.

17. *King v. Whitmer*, 592 U.S. \_\_\_, 141 S. Ct. 1449 (2021); see *King v. Whitmer*, 592 U.S. \_\_\_, 141 S. Ct. 1044 (2021) (denying motions to expedite consideration of the petition).

18. *King*, 556 F. Supp. 3d 680; *King v. Wood*, 71 F.4th 511, 519 (6th Cir. 2023); see Alexa Corse & Jess Bravin, *Pro-Trump Attorneys Sanctioned Over Vote Claims*, Wall St. J., Aug. 26, 2021, at A4; Alan Feuer, *Judge Orders Sanctions for Pro-Trump Lawyers*, N.Y. Times, Aug. 26, 2021, at A19; Craig Mauger & Beth LeBlanc, *Lawyers Allied with Trump Penalized for Suit*, Detroit News, Aug. 26, 2021, at A2; see also Brent Kendall & Alexa Corse, *Election Suits Prompt Bids to Punish Lawyers*, Wall St. J., May 10, 2021, at A4.

19. *King*, 556 F. Supp. 3d at 688–89.

20. *Id.* at 735; *King*, 71 F.4th at 519; see Opinion, *King v. Whitmer*, No. 2:20-cv-13134 (E.D. Mich. Dec. 2, 2021), D.E. 179, 2021 WL 5711102; see also Clara Hendrickson, *Pro-Trump Lawyers Receive Training*, Detroit Free Press, Feb. 27, 2022, at A4 ("All nine attorneys submitted paperwork attesting that they completed legal training to comply with the

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The court of appeals held on June 23, 2023, that much of what was sanctioned was sanctionable, but some was not, and it trimmed the fee awards.<sup>21</sup>

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sanctions order.”); Clara Hendrickson, *Sanctions Ordered Against Pro-Trump Attorneys for Michigan Election Lawsuit*, Detroit Free Press, Dec. 3, 2021, at A16; Craig Mauger, *Election Case Lawyers Ordered to Pay \$175,250 in Fees*, Detroit News, Dec. 3, 2021, at A7.

21. *King*, 71 F.4th 511, *cert. pending*, Docket Sheet, No. 23-497 (U.S. Nov. 9, 2023), and Docket Sheet, No. 23-486 (U.S. Nov. 8, 2023).