

STATE OF MICHIGAN

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner/Appellee,

v

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| GREGORY J. ROHL, | P 39185 | Case No. 23-29-GA |
| RICHARD S. HAGERSTROM, | P 57885 | Case No. 23-30-GA |
| JULIA Z. HALLER, | DC 466921 | Case No. 23-32-GA |
| BRANDON C. JOHNSON, | DC 491370 | Case No. 23-33-GA |
| SIDNEY POWELL, | TX 16209700 | Case No. 23-34-GA |
| HOWARD R. KLEINHENDLER, | NY 2657120 | Case No. 23-36-GA |

Respondents/Appellants,

and

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| L. LIN WOOD, | GA 774588 | Case No. 23-37-GA |
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Respondent.

**ORDER GRANTING PETITION FOR INTERLOCUTORY REVIEW, AFFIRMING DENIAL OF
RESPONDENTS' MOTIONS FOR SUMMARY DISPOSITION AND PARTIAL SUMMARY
DISPOSITION, AND REMANDING TO HEARING PANEL FOR HEARINGS ON MISCONDUCT**

The Grievance Administrator filed a one-count formal complaint against respondents on May 1, 2023, for alleged misconduct stemming from a cause of action filed in federal court by respondents on behalf of three Michigan voters and three republican nominees to the electoral college in Michigan. The complaint and amended complaint sought to overturn the results of Michigan's 2020 presidential election. See *King, et al v Whitmer, et al*, USDC ED Mich, Case No 2:20-cv-13134. Ultimately the case against all defendants was voluntarily dismissed, and respondents were ordered to pay attorneys' fees in the amount of \$175,250.¹

As a result of respondents' actions in federal court, this disciplinary action was filed, alleging the following violations: bringing or defending a proceeding, or asserting or controverting an issue therein, where the basis for doing so is frivolous, in violation of MRPC 3.1; engaging in conduct that is prejudicial to the administration of justice, in violation of MRPC 8.4(c) and MCR 9.104(1); engaging in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and engaging in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3).

In lieu of filing an answer, respondents filed either a motion for summary disposition or a motion for partial summary disposition, as more fully detailed below. The Administrator filed a response to the motions, requesting that the panel deny respondents' motions for summary disposition, and schedule this matter for hearing. Respondents filed replies in support of their motions. On December 1, 2023, the hearing panel entered an order denying respondents' motions for summary disposition and partial summary disposition. Respondents filed motions for reconsideration, which were also denied by the panel in an order dated January 29, 2024.

Respondents filed a motion requesting a stay of the proceedings before the hearing panel

¹ On June 23, 2023, the Sixth Circuit Court of Appeals affirmed the district court's findings, but reduced the fees to a total of \$150,000. In August of 2023, the Sixth Circuit declined en banc reconsideration, and on February 21, 2024, the United States Supreme Court denied respondents' petition for writ of certiorari.

to allow respondents to pursue interlocutory review of the panel's January 29, 2024 order by the Board, pursuant to MCR 9.110(E)(5). The Grievance Administrator did not object to respondents' request for a stay. On February 14, 2024, the hearing panel issued an order granting the motion for stay.

MCR 9.110(E)(5) grants the Board the power to review, on leave granted by the Board, a non-final order of a hearing panel. Generally, the Board requires a demonstration that the appellant would suffer substantial harm by awaiting final judgment before taking an appeal. *Grievance Administrator v Timothy A. Stoepker*, 13-32-GA (ADB 2014). However, the review of an application for leave to appeal necessarily entails some evaluation of the merits of the applicant's claims. See *Halbert v Michigan*, 545 US 605, 618 (2005).

Pursuant to MCR 9.118(A)(1), respondents petitioned for interlocutory review of the opinion and order denying respondents' motions for summary disposition and partial summary disposition entered in this matter by Tri-County Hearing Panel #20 on December 1, 2023.² The Attorney Discipline Board has considered respondents' petitions for interlocutory review, the Grievance Administrator's responses, respondents replies, and the briefs before the panel, and is otherwise fully advised. Because the issues are purely legal questions and could eliminate the need for a hearing, we find that interlocutory review is appropriate. Furthermore, for the reasons stated in the hearing panel's December 1, 2023 opinion and order, we affirm the denial of respondents' motions for summary disposition and partial summary disposition, and remand to the hearing panel for a hearing on misconduct.³

² Respondents Rohl, Hagerstrom, Haller, Johnson, Powell, and Kleinhendler filed Petitions for Interlocutory Review of the December 1, 2023 order; respondent Wood has not sought interlocutory review.

³ We do need to clarify one misstatement in the hearing panel's opinion. In its discussion regarding the motion for partial summary disposition filed by respondents Rohl and Hagerstrom, the hearing panel indicated that two cases cited by the Grievance Administrator were not controlling. Specifically, the hearing panel stated that, although both *Grievance Administrator v Tindall*, 14-36-GA (ADB 2018) and *Grievance Administrator v Reed*, 10-140-GA (ADB 2014) involved disciplinary proceedings for acts committed in connection with federal court matters against licensed Michigan attorneys, "in both cases the Grievance Administrator only sought discipline relative to violations of the Michigan Rules of Professional Conduct and did not seek discipline for violations of MCR 9.104." This is not accurate. In both *Tindall* and *Reed*, the Grievance Administrator sought discipline for violations of MCR

9.104(1)-(4). In *Tindall*, the hearing panel found violations of MCR 9.104(1)-(4), and in *Reed*, violations of MCR 9.104(1), (2), and (4) were found. Therefore, both *Tindall* and *Reed* involved allegations and findings of misconduct under MCR 9.104 for conduct that occurred in connection with federal court matters.

NOW THEREFORE,

IT IS ORDERED that respondents' request for interlocutory review of the hearing panel's Order Denying Motion for Summary Disposition is **GRANTED**.

IT IS FURTHER ORDERED that the hearing panel's December 1, 2023 Opinion and Order denying respondents' motions for summary disposition and partial summary disposition is **AFFIRMED** in its entirety.

IT IS FURTHER ORDERED that the stay of proceedings entered on February 14, 2024 is hereby **DISSOLVED** and this matter is **REMANDED** to Tri-County Hearing Panel #20 for further proceedings, including an evidentiary hearing on the charges in the formal complaint, to be scheduled forthwith.

IT IS FURTHER ORDERED that each respondent shall file and serve an answer to their respective formal complaint within 21 days from the date of this order.

ATTORNEY DISCIPLINE BOARD

By: /s/ Alan Gershel, Chairperson

DATED: July 3, 2024

Board members Alan Gershel, Peter A. Smit, Rev. Dr. Louis J. Prues, Linda M. Orlans, Jason M. Turkish, Andreas Sidiropoulos, MD, Katie Stanley, Tish Vincent, and Kamilia Landrum concur in this decision.