

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

<p>DONALD J. TRUMP FOR PRESIDENT, INC., MATTHEW, SEELY, ALEXANDRA SEELY, PHILIP O’HALLORAN, ERIC OSTERGREN, MARIAN SHERIDAN, MERCEDES WIRSING, and CAMERON TARSA,</p> <p>Plaintiffs,</p> <p>v.</p> <p>JOCELYN BENSON, in her official Capacity as Michigan Secretary of State, MICHIGAN BOARD OF STATE CANVASSERS, WAYNE COUNTY, MICHIGAN, and WAYNE COUNTY BOARD OF COUNTY CANVASSERS,</p> <p>Defendants,</p> <p>and</p> <p>DEMOCRATIC NATIONAL COMMITTEE, MICHIGAN DEMOCRATIC PARTY, CITY OF DETROIT, THE MICHIGAN STATE CONFERENCE NAACP, WENDELL ANTHONY, YVONNE WHITE, and ANDRE WILKES,</p> <p>Intervenor-Defendants.</p>	<p>No. 1:20-cv-01083</p> <p>Judge Janet T. Neff</p>
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CITY OF DETROIT’S MOTION TO STRIKE

The City of Detroit (the “City”) respectfully submits this Motion to Strike from the Record the affidavits submitted with Plaintiffs’ Notice of Voluntary Dismissal filed by Plaintiffs on November 19, 2020, ECF No. 33, as well as the immaterial, impertinent and false language in the Notice itself.

The Notice falsely claims that the Wayne County Board of Canvassers “met and declined to certify the results of the presidential election.” In fact, as has been reported publicly, the Wayne

County Board of Canvassers voted to certify the election results, and there is no legal mechanism for that action to be rescinded by affidavits.

Fed. R. Civ. P. 41(a)(1)(A) allows Donald J. Trump for President, Inc. and the other Plaintiffs to voluntarily dismiss their claims, but it does not allow them to use a Notice of Dismissal to spread disinformation.

This Court has the inherent authority to manage its own docket and strike documents, including non-pleadings, from the record. *See, e.g., Am. Civil Liberties Union of Kentucky v. McCreary Cty., Ky.*, 607 F.3d 439 (6th Cir. 2010); *Reed v. Rhodes*, 179 F.3d 453 (6th Cir. 1999); *Martinez v. United States*, 865 F.3d 842 (6th Cir. 2017).

Moreover, Fed. R. Civ. P. 11 gives the Court the authority to strike materials from the record as a sanction. The Rule holds that when an attorney submits a document to the Court, the attorney is certifying, among other things, that to the best of their “knowledge, information, and belief, formed after an inquiry reasonable under the circumstances” the document is not being presented for any improper purpose, and is supported by evidence. Plaintiffs’ claims in this lawsuit clearly did not satisfy Rule 11. The affidavits and the impertinent text in the Notice were submitted for an improper purpose: to make a gratuitous, public statement about their purported reason for voluntary dismissal, before the Court could reject their baseless claims of election fraud.

On November 19, 2020, the City sought concurrence in the relief requested in this Motion. Concurrence was not obtained.

November 19, 2020

Respectfully submitted,

FINK BRESSACK

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 19, 2020, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to all attorneys of record registered for electronic filing.

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