

Backgrounder: John Eastman’s Trial Before the State Bar Court of California

Updated February 15, 2024

John Eastman is a lawyer licensed in California and Washington, D.C., who represented former President Trump in late 2020 and early 2021. Eastman was a key architect of Trump’s unlawful plan to stay in power after he lost the 2020 presidential election.

On Jan. 26, 2023, the State Bar of California filed a Notice of Disciplinary Charges against Eastman. The State Bar alleges that Eastman violated his ethical obligations by engaging in a course of conduct to plan, promote, and assist then-President Trump in executing a strategy, unsupported by facts or law, to overturn the legitimate results of the 2020 presidential election by obstructing the count of electoral votes of certain states.

The Latest

The disciplinary trial against Eastman proceeded June 20-23, June 29-30, August 24-25, September 5-8, September 12-15, September 26-29, October 3-4, October 6, October 17-20, and October 23-24 in the State Bar Court of California. Testimony concluded on November 3. Post-trial briefs were due December 1, 2023.

Following the August 1 [federal indictment](#) of Trump for his efforts to overturn the 2020 election, Eastman [confirmed](#) he is the unnamed, unindicted Co-Conspirator 2 in the federal indictment.

On August 4, Eastman filed a [motion](#) seeking to postpone his disciplinary trial, as a result of Trump’s indictment. The State Bar [opposed](#) Eastman’s motion, seeking to proceed with the trial as scheduled.

On August 14, Eastman was [indicted](#) in Fulton County, Georgia for his alleged participation in a scheme to overturn the results of the 2020 presidential election in the state. The State Bar [argued](#) that the trial should continue as scheduled. Eastman [argued](#) it should not.

On August 21, the court delayed the trial slightly to allow Eastman to [surrender](#) in Fulton County, Georgia, which he did on August 22.

On August 23, the court [denied](#) Eastman’s motion to exclude evidence that he conspired to create fake elector slates.

On August 25, the court [denied](#) Eastman’s request to postpone the trial, reasoning, in part, “if Respondent is culpable of the conduct alleged, public protection necessitates that this case be disposed of in a timely manner, particularly as there is an upcoming election in 2024.” In the same order, the court concluded that Eastman had waived his Fifth Amendment privilege against self-incrimination because he already testified for over eight hours at the trial without invoking it.

On October 4, the court [ruled](#) that William M. Briggs, Anthony Cox, Jr., Mark Finchem, Heather Honey, Sandy Juno, Jeffrey O'Donnell, and Wendy Rogers cannot testify as rebuttal witnesses for Eastman, because the testimony they intend to offer was anticipated and should have come in during his defense.

On November 2, the court made a [preliminary finding of culpability](#) against Eastman.

The 11 counts in the State Bar's Notice of Disciplinary Charges are:

- **Count 1** – [Failing](#) to uphold the Constitution and laws of the United States by planning, promoting, executing, and assisting Trump in executing a strategy for Trump to overturn the legitimate results of the election by obstructing the counting of electoral votes of certain states, which strategy Eastman knew, or was grossly negligent in not knowing, was not supported by either the facts or law. *Business and Professions Code section 6068(a)*.
- **Count 2** – Seeking to mislead the U.S. Supreme Court when he, on behalf of Trump, filed pleadings in [Texas v. Pennsylvania](#), seeking to block the counting of electoral votes from four states carried by President Biden. In doing so, Eastman adopted Texas's false and misleading factual allegations. *Business and Professions Code section 6068(d)*.
- **Count 3** – Committing an act involving moral turpitude, dishonesty, and corruption by, in his [two-page memo](#), falsely stating that seven states “have transmitted dual slates of electors to the President of the Senate.” *Business and Professions Code section 6106*.
- **Count 4** – Seeking to mislead the court in the Northern District of Georgia by filing a [pleading](#) on behalf of Trump in [Trump v. Kemp](#), seeking an emergency injunction to decertify Georgia's election results, which contained factual allegations Eastman knew were false and misleading. *Business and Professions Code section 6068(d)*.
- **Count 5** – Committing an act involving moral turpitude, dishonesty, and corruption when he [appeared](#) on the “Bannon's War Room” radio program and made statements about absentee ballot fraud that he knew, or was grossly negligent in not knowing, were false and misleading. He made these false and misleading statements with the intent to encourage the public to question the legitimacy of the election results. *Business and Professions Code section 6106*.
- **Count 6** – Committing an act involving moral turpitude, dishonesty, and corruption by, in his [six-page memo](#), making various false and misleading statements about the 2020 election. *Business and Professions Code section 6106*.
- **Count 7** – Committing an act involving moral turpitude, dishonesty, and corruption when he, on Jan. 6, 2021, with the intent of promoting doubt about the results of the election, [told](#) thousands of people at the rally that preceded the attack on the Capitol that Dominion electronic voting machines fraudulently manipulated results. He knew or was grossly negligent in not knowing that his statements were false and misleading. *Business and Professions Code section 6106*.

- **Count 8** – Committing an act involving moral turpitude, dishonesty, and corruption by [stating](#) to former Vice President Mike Pence's attorney, with the intent of pressuring Pence to adjourn the joint session of Congress, that there was "compelling" and "overwhelming" evidence that the election was "stolen," when he knew the statement was false and misleading. *Business and Professions Code section 6106.*
- **Count 9** – Committing an act involving moral turpitude, dishonesty, and corruption when, with the intent to encourage the general public to question the legitimacy of the election results, he published an [article](#) in the American Mind, a publication of the Claremont Institute, regarding the 2020 presidential election containing false and misleading statements. *Business and Professions Code section 6106.*
- **Count 10** – Committing an act involving moral turpitude, dishonesty, and corruption when he [proposed to Pence](#) that Pence had the legal authority to and should act unilaterally to resolve purported disputes regarding electoral votes on Jan. 6, 2021, or that Pence had the legal authority unilaterally to delay certification of the votes. Eastman advanced a radical and incorrect theory of constitutional law and election law, based on misinterpreted historical sources, misinterpreted law review articles, and law review articles which he knew, or was grossly negligent in not knowing, were themselves fundamentally flawed, and on the false premise that the seven states at issue had transmitted alternate slates of electors, such that no reasonable attorney with expertise in constitutional law or election law would conclude that Pence was legally authorized to take the actions that respondent proposed. *Business and Professions Code section 6106.*
- **Count 11** – Committing an act involving moral turpitude, dishonesty, and corruption when he [made](#) false and misleading [statements](#) that contributed to provoking the crowd to assault and breach the Capitol in an effort to intimidate Pence and prevent the electoral count from proceeding, when such harm was foreseeable. *Business and Professions Code section 6106.*

Key Takeaways from the Parties' Joint Pretrial Statement:

- The State Bar of California Office of Chief Trial Counsel (OCTC) seeks disbarment.
- Eastman seeks dismissal of the case. Eastman contends that his conduct was reasonable under the circumstances and protected by the First Amendment.
- After three settlement conferences, the parties did not agree to a settlement.

Trial Procedures:

The case is before State Bar Court Judge Yvette Roland.

1. **Procedure:** The bar trial proceeded very similarly to a standard civil trial, but with no jury. Both parties began by providing an opening statement. The bar has the burden of proof (clear and convincing evidence) and presented its case first by calling witnesses to testify and providing documents for the court to consider. Eastman's lawyers then cross-examined the bar's witnesses. After the bar finished presenting its case, Eastman began putting on his defense by calling witnesses and offering documents for the court's review. The bar's attorneys have also had the opportunity to cross-examine Eastman's witnesses. After the close of Eastman's defense, on November 2, the court issued a [preliminary finding of culpability](#) against Eastman. The court will determine the [appropriate sanction](#) in the final ruling, which will take into account aggravation and mitigation evidence presented by the parties. The parties both waived the opportunity to present brief oral closing arguments.
2. **Ruling:** The court set December 1, 2023, as the deadline for the parties' post-trial briefs, in which each side presented their strongest evidence and arguments in writing. The court typically files its decision within 90 days from the submission of the parties' post-trial briefs, however, on February 15, 2024, Judge Roland [extended](#) the timeline due to additional filings from the parties near the end of December. We expect a final ruling in late March 2024.
3. **Appeals:** Either party may request review of the trial court's decision by the State Bar Court's Review Department. In most cases, the parties would have 30 days after Judge Roland's order to [request that review](#). Thereafter, either party may [seek review](#) of the State Bar Court's decision by the California Supreme Court.

Overview of Witnesses:

Below is a brief overview of the witnesses who testified at the trial and their credentials, compiled from publicly available information.

State Bar Witnesses Who Testified

- [Jonathan Brater](#) – Director of Elections, Michigan Bureau of Elections.
- [Bo Dul](#) – Former State Elections Director and General Counsel, Arizona Secretary of State; currently general counsel to the Arizona governor.
- John Eastman – Respondent.
- [Justin Grimmer](#) – Professor of Political Science, Stanford University.
- [Greg Jacob](#) – Former chief counsel to former Vice President Mike Pence.
- [Jonathan Marks](#) – Deputy Secretary for Elections and Commissions, Pennsylvania Department of State.
- [Stephen Richer](#) – County Recorder, Maricopa County (Arizona); in charge of elections.
- [Jake Rollow](#) – Former Director of Communications, Michigan Department of State.
- [Matthew Seligman](#) – Partner, Stris & Maher LLP, Former Fellow, Constitutional Law Center at Stanford Law School.
- [Mark Wlaschin](#) – Deputy Secretary of State for Elections, Nevada Secretary of State's Office.

Eastman Witnesses Who Testified

- [William Allen](#) – Eastman's dissertation [advisor](#) at Claremont Graduate University. Following an unsuccessful run for U.S. Senate, Allen became chair of the U.S. Commission on Civil Rights during the Reagan Administration but [resigned](#) after being arrested by police during an incident on Arizona's White Mountain Apache Reservation.
- Ray Blehar – Gained prominence claiming a [cover-up](#) in the Penn State Sandusky scandal. Had no elections experience prior to 2020. Following 2020, Blehar claimed on his [personal blog](#) that because the Green Party candidate in Pennsylvania—who was not even on the ballot—received very few votes in the general election, the election equipment must have somehow transferred 70-80k Green Party votes to Biden. He has also [written](#) that he believes the Jan. 6 insurrection was a false-flag operation.
- Judge Janice Rogers Brown (character witness) – Former Circuit Judge, U.S. Court of Appeals for the D.C. Circuit (2005-2017); Associate Justice, California Supreme Court (1996-2005); Associate Justice, California Third District Court of Appeal (1994-1996). Per court [order](#), Brown was excluded as an expert witness because the court concluded that her opinion regarding the State Bar's decision to pursue charges against Eastman was irrelevant to the court's determination whether Eastman violated the Rules of Professional Conduct or Business and Professions Code.
- John Droz – Although Eastman identified him as a statistician in the parties' [joint pretrial memo](#), Droz holds an MS in physics [focused on energy policy](#) and [critiquing wind energy](#); has no professional experience with elections and [no expertise in statistics](#).
- Garland Favorito – Co-founder of VoterGA. Favorito is a frequent [guest](#) on shows hosted by conspiracy theorists, including Mike Lindell's programs "The Lindell Report" and "FrankSpeech," and Steve Bannon's "War Room" [show](#).
- Joseph Fried – Certified public accountant and author of a book that promotes numerous discredited claims of 2020 election irregularities. Per court [order](#), Fried, who was excluded as an expert witness, is limited to testifying "as a percipient witness—excluding any expert opinion testimony." Ultimately, after hearing some of Fried's testimony, the court [excluded](#) him as a percipient witness, finding he lacked the personal knowledge to provide such testimony.
- Michael Gableman – Former Wisconsin Supreme Court Justice, facing numerous [ethics complaints](#), who was retained by the state legislature to conduct an "audit" of the 2020 election, despite [admittedly](#) lacking any prior professional election experience.
- Judge Philip Mautino (character witness) – Former Los Angeles Superior Court Judge (2000-2018) and former Los Cerritos Municipal Court in Los Angeles County Judge (1993-2000).
- [Kurt Olsen](#) – Attorney in litigation [attempting to overturn](#) the 2020 election; [sanctioned](#) for making "false, misleading, and unsupported factual assertions" in Lake's 2022 election contest. Per court [order](#), "Olsen may testify as a percipient witness as specified on page 64 of the June 5, 2023 joint pretrial statement regarding his involvement with the *Texas v. Pennsylvania* case—excluding any expert opinion testimony."
- Laurie Stewart (character witness) – Adjunct professor at Trinity Law School of Trinity International University, which follows the doctrine of the [Evangelical Free Church of America](#). Stewart graduated from Chapman University School of Law in 2003.
- [Wendy Stone Long](#) – Ran unsuccessfully in 2012 and 2016 as Republican U.S. Senate candidate from New York. She was a delegate to the Republican National Convention in support of Donald Trump in 2016. In 2014, Dinesh D'Souza, who went on to direct "2016: Obama's America" and "2000 Mules", [pleaded guilty](#) to illegally reimbursing two 'straw donors' who donated \$10,000 each to Long's unsuccessful 2012 campaign.

- John C. Yoo – Constitutional law scholar and Emanuel S. Heller Professor of Law at the University of California, Berkeley. Longtime friend of Eastman [who said](#), “Unfortunately, he [Eastman] drank the Kool-Aid that President Trump was selling — that the election was a fraud.” Per [court order](#), Yoo is precluded from offering certain opinions concerning the tenability of Eastman’s advice to former Vice President Pence concerning his authority on January 6.
- S. Stanley Young – Statistician who holds a doctorate but had no professional experience analyzing election data before 2020 and has [no peer-reviewed publications about elections](#).

The Bar Court granted the State Bar’s motions to exclude testimony from several of Eastman’s proposed expert witnesses:

- [Rebecca Roiphe](#) was excluded because generally witnesses are not permitted to give expert opinions on legal issues—in this case, First Amendment defenses—that are for the court to decide.
- [Joseph N. Fried](#) and [John “Jay” Valentine](#) were excluded because the court concluded that they lacked relevant expertise and that their analyses, because of when they were produced, could not have been relevant to Eastman’s actions relating to the 2020 election.

The Bar Court [granted](#) the State Bar’s motion to exclude testimony from a number of Eastman’s other witnesses, because Eastman did not timely disclose them:

- William M. Briggs – Statistician who served as plaintiffs’ expert in *King v. Whitmer*, where the judge found the [evidence](#) to be an “amalgamation of theories, conjecture, and speculation,” [sanctioned](#) the plaintiffs’ attorneys, and ordered them to get remedial legal education. Also served as expert in *Bowyer v. Ducey*, which was [dismissed](#) due to insufficient evidence of fraud. Briggs hosts a [blog](#) where he outlined a plan to initiate a [violent coup](#) by killing government officials at the State of the Union address, and, in September 2020, recommended that President Trump declare the [election invalid and institute a coup](#) should he lose.
- Anthony Cox, Jr. – Associate professor at Colorado University at Denver Business School with [no professional experience](#) in elections and no peer-reviewed publications about elections.
- Mark Finchem – Former Arizona state representative and former [candidate](#) for secretary of state in Arizona who promoted falsehoods about elections throughout his campaign. He was [sanctioned](#) for filing a “baseless” [election lawsuit](#). Finchem is also a [self-identified](#) member of the Oath Keepers, the extremist group which played a role in the attack at the Capitol on Jan. 6.
- [Heather Honey](#) – [Witness](#) in failed Arizona gubernatorial candidate Kari Lake’s 2022 election contest, where she admitted [she had no election experience](#). She also [worked for the Cyber Ninjas](#) during their so-called forensic audit of the 2020 vote. Recently, Honey has led efforts to encourage states to leave the Electronic Registration Information Center (ERIC), presenting a report at an anti-ERIC summit at the Conservative Partnership Institute.
- Sandy Juno – Former County Clerk of Brown County, Wisconsin, during the 2020 election. She testified in an investigation into the 2020 election claiming the vote count was tainted but didn’t offer any [evidence](#). The Wisconsin Elections Commission (WEC) [corrected all her claims](#), and the investigation found no fraud.

- Jeffrey O'Donnell – O'Donnell, who also goes by “The Lone Raccoon” online, runs a website and social media community dedicated to unprofessional, online “investigations” into debunked misinformation topics. He has made several controversial claims on social media, including that the 2020 election was a coup [funded](#) by Europeans. He has no professional elections experience.
- [Wendy Rogers](#) – Arizona state senator who was [censured](#) last year by lawmakers from both parties for her remarks at a white nationalist conference calling for public hangings. She also helped organize Stop the Steal rallies in Arizona.
- Patrick Colbeck – Former Michigan state senator who [pressured](#) local clerks in the aftermath of the 2020 election, requesting to illegally examine election equipment. Colbeck has [spread](#) election disinformation and conspiracy theories and authored the book, “The 2020 Coup: What Happened. What We Can Do.” In a [ruling](#) on a 2020 election challenge, a Wayne County, MI judge said Colbeck’s “predilection to believe fraud was occurring undermines his credibility as a witness.” Unlike with the other witnesses, the court’s order left the door open for Colbeck to testify “as a percipient rebuttal witness—excluding any expert opinion testimony.” Ultimately, the court excluded Colbeck as a rebuttal witness finding his testimony was not appropriate rebuttal testimony.

Resources:

- [State Bar Court of California website](#)
- [States United's bar complaints against Eastman](#)
- [States United's statement on the Bar Court's preliminary finding of culpability against Eastman](#)
- [States United's statement on the trial](#)
- Backgrounder: [The Final Case for John Eastman's Disbarment: Breaking Down the California Bar's Closing Brief](#)
- American Oversight: [In The Documents: Witnesses For John Eastman's Disciplinary Trial](#)
- Sacramento Bee: [John Eastman faces the music for trying to swing the 2020 election to Donald Trump](#) (Opinion)
- CNN: [Ex-Trump attorney to face attorney disciplinary proceedings for 2020 election plot aimed at Pence](#)
- Orange County Register: [John Eastman's Law License Trial Raises Big Questions](#)
- Politico: [Eastman plan to keep Trump in power faces a reckoning, as authorities seek his disbarment](#)