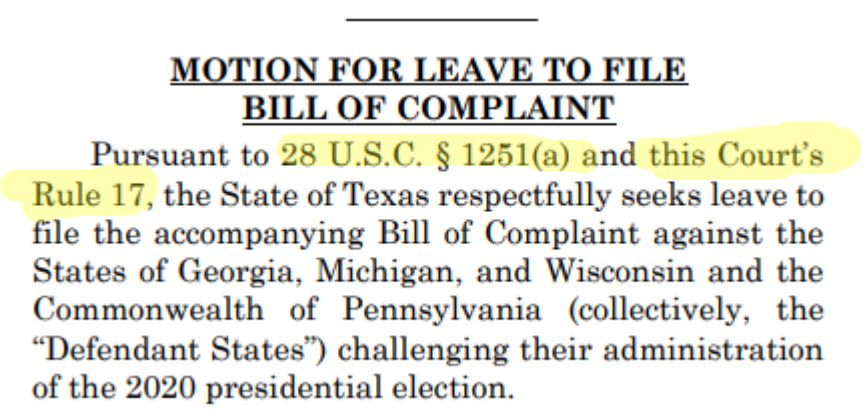
Twitter Thread by Akiva Cohen

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Goddamn it, Texas, I don't have time for this today.

Fine. Fine. A brief thread. (Yesterday I said I'd do a brief thread on the Michigan decision and finished an hour and a half later. Can't let this be that, today).

OK. Texas filed a motion for leave to file a complaint against PA, GA, MI and WI in the Supreme Court. Someone else can lawsplain to you how that works, or you can google the highlighted rules, but briefly, this is a thing they can theoretically do



MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

Pursuant to 28 U.S.C. § 1251(a) and this Court's Rule 17, the State of Texas respectfully seeks leave to file the accompanying Bill of Complaint against the States of Georgia, Michigan, and Wisconsin and the Commonwealth of Pennsylvania (collectively, the "Defendant States") challenging their administration of the 2020 presidential election.

There is a MASSIVE contradiction at the heart of this complaint, and its doomed for other reasons, too (standing, laches, abstention)

They have three theories for why they can sue:
1) Violation of the Electors Clause of the Constitution ("the Constitution gives state legislatures exclusive control of the manner of selecting electors and judicial action can't change it)
2) "Counties applied different rules"

As set forth in the accompanying brief and complaint, the 2020 election suffered from significant and unconstitutional irregularities in the Defendant States:

- Non-legislative actors' purported amendments to States' duly enacted election laws, in violation of the Electors Clause's vesting State legislatures with plenary authority regarding the appointment of presidential electors.



- Intrastate differences in the treatment of voters, with more favorable allotted to voters – whether lawful or unlawful – in areas administered by local government under Democrat control and with populations with higher ratios of Democrat voters than other areas of Defendant States.
- The appearance of voting irregularities in the Defendant States that would be consistent with the unconstitutional relaxation of ballot-integrity protections in those States' election laws.

And 3) "you didn't have as strict voter ID requirements as we'd like, and that's unconstitutional for reasons"

That's it. That's the case

They're also leaning into "every violation of state election law is a violation of the constitution" which will fly like a lead balloon

All these flaws – even the violations of *state* election law – violate one or more of the federal requirements for elections (*i.e.*, equal protection, due process, and the Electors Clause) and thus arise under federal law. *See Bush v Gore*, 531 U.S. 98, 113 (2000) ("significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question") (Rehnquist, C.J., concurring). Plaintiff State respectfully submits that the foregoing types of electoral irregularities exceed the hanging-chad saga of the 2000 election in their degree of departure from both state and federal law. Moreover, these flaws cumulatively preclude knowing who legitimately won the 2020 election and threaten to cloud all future elections.

OK, on to the Complaint

And the contradiction.

The core of their complaint is that when the Constitution gives state legislatures the right to direct the "Manner" of appointing electors, that right is exclusive, and the "Manner" set by the legislature can't be varied *at all* by courts or executives

So what relief do they want? "SCOTUS, please extend December 14th voting date for presidential electors, which Congress set by statute"

Presently, evidence of material illegality in the 2020 general elections held in Defendant States grows daily. And, to be sure, the two presidential candidates who have garnered the most votes have an interest in assuming the duties of the Office of President without a taint of impropriety threatening the perceived legitimacy of their election. However, 3 U.S.C. § 7 requires that presidential electors be appointed on December 14, 2020. That deadline, however, should not cement a potentially illegitimate election result in the middle of this storm—a storm that is of the Defendant States' own making by virtue of their own unconstitutional actions.

This Court is the only forum that can delay the deadline for the appointment of presidential electors under 3 U.S.C. §§ 5, 7. To safeguard public legitimacy at this unprecedented moment and restore public trust in the presidential election, this Court should extend the December 14, 2020 deadline for Defendant States' certification of presidential electors to allow these investigations to be completed. Should one of the two leading candidates receive an absolute majority of the presidential electors' votes to be cast on December 14, this would finalize the selection of our President. The only date that is mandated under

The 14th, btw, is NOT the deadline for "appointing" electors. The statutory deadline for appointing electors is Nov 3 (Election Day). (Everything that happens after election day, including later certifications, is just determining *who* was appointed that day, by the election)

The 14th is the day that Congress, by statute, set for the appointed electors to actually vote for President

But the Constitution - in the very same section that says State Legislatures decide the "Manner" in which Electors are appointed - also says this:

The Congress may determine the Time of choosing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

This creates 2 problems for Texas and Trumpian Dead-Enders.

First, Congress already set the day for choosing electors as November 3. No state can choose electors on any subsequent date

Second, Congress set the date for the vote as 12/14.

And if the delegation of "Manner" to state legislatures means that state courts can't, for example, extend ballot receipt deadlines because the delegation is EXCLUSIVE and only state legislatures can set those rules, then ...

The delegation of "Time" to Congress must - must, no way around it - ALSO be exclusive, meaning the Supreme Court would have no authority AT ALL to extend the December 14th date, either

Either they're both exclusive (in which case SCOTUS can't grant the requested relief) or they are both subject to judicial oversight (in which case Texas's substantive claim is doomed). There's no third option

Texas then adopts the crazy conspiracy theories that have already been presented to and repeatedly rejected by other courts around the country.

- *Dozens of witnesses testifying under oath about*: the physical blocking and kicking out of Republican poll challengers; thousands of the same ballots run multiple times through tabulators; mysterious late night dumps of thousands of ballots at tabulation centers; illegally backdating thousands of ballots; signature verification procedures ignored; more

than 173,000 ballots in the Wayne County, MI center that cannot be tied to a registered voter;[2]

Holy fuck they didn't

They did. They fucking did

9. Expert analysis using a commonly accepted statistical test further raises serious questions as to the integrity of this election.

10. The probability of former Vice President Biden winning the popular vote in the four Defendant States—Georgia, Michigan, Pennsylvania, and Wisconsin—independently given President Trump's early lead in those States as of 3 a.m. on November 4, 2020, is less than one in a quadrillion, or 1 in 1,000,000,000,000,000. For former Vice President Biden to win these four States collectively, the odds of

that event happening decrease to less than one in a quadrillion to the fourth power (*i.e.*, 1 in 1,000,000,000,000,000[4]). *See* Decl. of Charles J. Cicchetti, Ph.D. ("Cicchetti Decl.") at ¶¶ 14-21, 30-31. *See* App. 4a-7a, 9a.