

No. S214058

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PATRICIA J. BARRY

Plaintiff and Appellant,

v.

THE STATE BAR OF CALIFORNIA,

Defendant and Respondent.

SUPREME COURT
LODGED EXHIBITS

OCT 22 2013

Deputy

After a Published Decision by the Court of Appeal Second Appellate District, Division Two Case No. B242054, Reversing a Judgment Entered by the Superior Court for the County of Los Angeles, Case No. BC452239, The Honorable Dierdre Hill presiding

REQUEST FOR JUDICIAL NOTICE

Volume IV of IV

Exhibits DD-TT

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Attorneys for Defendant and Respondent
THE STATE BAR OF CALIFORNIA

REQUEST FOR JUDICIAL NOTICE

Pursuant to rule 8.54 of the California Rules of Court, Evidence Code section 452, subdivision (d), and Evidence Code section 459, Petitioner The State Bar of California (“State Bar”) moves for judicial notice of the following Superior Court actions, all of which were brought against the State Bar, its officials or employees:

1. *Alexander, Jon v. State Bar, et al*, San Francisco Sup. Ct., Case No. CGC-12-525073, filed October 12, 2012 (Exs. A-B).
2. *Brown, James Earl v. Guitierrez, et al.*, Los Angeles Sup. Ct., Case No. BC369840, filed April 23, 2007 (Exs. C-D).
3. *Chavarela, Nicholas v. State Bar et al.*, Orange County Sup. Ct. Case No. 30-2009-00311346, filed October 4, 2009, Fourth Dist. Ct. of App. Case No. G043727 (Exs. E-F).
4. *Dickson, Lorraine v. State Bar, Board of Governors, Streeter, Kim, et al.*, Los Angeles Sup. Ct., Case No. BC470523, filed September 28, 2011(Exs. G-H).
5. *Dydzak, Daniel v. Dunn, Joseph, et al.*, Orange County Sup. Ct., Case No 30-2012-00558031, filed May 2, 2012 (Exs. I-J).
6. *Fletcher, Michael v. State Bar et al.*, Los Angeles Sup. Ct., Case No. BS129414, filed November 24, 2010 (Exs. K-L).
7. *Foley, Natalia v. State Bar, B. Rodriguez*, Los Angeles Sup. Ct., Case No. BC445288, filed September 9, 2010 (Exs. M-N).
8. *Gjerde, Sean v. State Bar, et al.*, Sacramento Co. Sup. Ct., Case No. 34-2012-00134070, filed October 19, 2012 (Exs. O-P).
9. *Gottshalk, Ronald v. Public Defender et al*, Orange County Sup. Ct., Case No. 30-2010-00359752-CU-NP-CJC, filed April 5, 2010 (Exs. Q-R).
10. *Henschel, Bradford v. State Bar, et al.*, Los Angeles Sup. Ct., Case No. BC379051, filed December 4, 2007, Second Dist. Ct. of App., Case Nos. B206984, B213595 (Exs. S-T).

11. *Joseph, Joel v. the State Bar of California*, Los Angeles Sup. Ct., Case No. SC103749, filed June 26, 2009, Second Dist. Ct. of App., Case No. B221236 (Exs. U-V).
12. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-10-496869, filed February 16, 2010, First Dist. Ct. of App., Case No. A129515, Cal. Supreme Court Case No. S198578 (Exs.W-X).
13. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-10-502372, filed August 6, 2010, First Dist. Ct. of App., Case Nos. A132643, A134111, A137989 (Exs. Y-Z).
14. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-11-510717, filed May 4, 2011, First Dist. Ct. of App., Case Nos. A134205, A137989 (Exs. AA-BB).
15. *Kay, Philip E., Robin Kay, Chris Enos v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-11-514255, filed September 4, 2011 (Exs. CC-DD).
16. *Missud, Patrick v. State Bar of California*, San Francisco Sup. Ct., Case No. CGC-13-533811, filed September 3, 2013 (Ex. EE).
17. *Morris, Gregory A. v. State Bar of California, et al.*, San Francisco Sup. Ct., Case No. CGC-06-450766, filed November 29, 2006 (Exs. FF-GG).
18. *Morris, Gregory A. v. State Bar of California, et al.* San Francisco Sup. Ct., Case No. CGC-08-471504 (Exs. HH-II).
19. *Morrowatti, Nasrin v. State Bar of California*, Los Angeles Sup. Ct., Case No. BC 347921, filed February 23, 2006, Second Dist. Ct. of App., Case No. B196392 (Exs. JJ-KK).
20. *Oxman, Brian v. Chang, Alec, et al.*, Los Angeles Sup. Ct., Case No. BC516601, filed July 29, 2013 (Ex. LL).
21. *Scurrah, Robert v. State Bar et al.*, Orange County Sup. Ct., Case No. 30-2012-00595756, filed September 5, 2012 (Exs. MM-NN).
22. *Spadaro, Charlotte v. Phyllis Williams, The State Bar of California*, San Bernardino Co. Sup. Ct. , Case No. CIVRS1203310, filed April 30, 2012 (Ex. OO-PP).
23. *Taylor, Swazi v. State Bar*, Los Angeles Sup. Ct., Case No. BC476842, filed January 18, 2012 (Exs. QQ-RR).

24. *Viriyapanthu, Paul v. The State Bar of California, Viveros*, Orange County Sup. Ct., Case No. 30-2010-00418393, filed October 15, 2010 (Exs. SS-TT).

DATED: October 21, 2013

KERR & WAGSTAFFE LLP

By

A handwritten signature in black ink, appearing to read 'M. von Loewenfeldt', written over a horizontal line.

MICHAEL VON LOEWENFELDT
Attorneys for Respondent
The State Bar of California

MEMORANDUM OF POINTS AND AUTHORITIES

This request seeks judicial notice of all of the cases in which Petitioner and its officials, agents and employees have been sued in superior court regarding the attorney admissions and discipline process despite an absence of jurisdiction. Pursuant to California Rules of Court, rule 8.252(a)(2)(A), these lawsuits are relevant because they demonstrate that the State Bar has been sued numerous times in superior court regarding attorney admissions and discipline despite a lack of jurisdiction. The volume of these cases demonstrate the corresponding time and effort the State Bar has had to expend in order to get these cases dismissed.

As required under California Rules of Court, rule 8.252(a)(2)(B), Petitioner avers that these documents were not the subject of judicial notice at either the trial court or the appellate court level because the merits of the trial court's order granting the State Bar's special motion to strike were not at issue. See Declaration of Danielle Lee, attached hereto.

Judicial notice is the appropriate procedure for bringing these lawsuits before this court. (California Rules of Court, rule 8.252(a)(2)(C); see Evid. Code, §452, subd. (d); *Szetelea v. Discover Bank* (2002) 97 Cal.App.4th 1094, 1098; *Taus v. Loftus* (2007) 40 Cal.4th 683, 726 (records from other state court proceedings involving plaintiff relevant to discredit plaintiff's present intrusion-into-private-matters lawsuit);

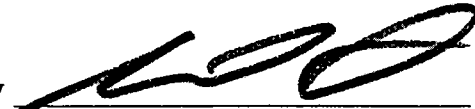
Based on the foregoing legal authority, and for the foregoing reasons, the State Bar respectfully requests this court to grant the motion for judicial notice.

DATED: October 2, 2013

Respectfully submitted,

KERR & WAGSTAFFE LLP

By



Michael von Loewenfeldt

Attorneys for Respondent
THE STATE BAR OF CALIFORNIA

DECLARATION OF DANIELLE LEE

I, Danielle Lee, hereby declare:

1. I am an attorney licensed to practice before all federal and state courts in the State of California, and am an attorney in the Office of the General Counsel of The State Bar of California, one of the attorneys of record for the State Bar of California. I have personal knowledge of the facts stated herein, and, if called as a witness, could and would competently testify to them under oath.

2. I was counsel of record in this matter for The State Bar of California when this matter was in Los Angeles Superior Court, Case number BC452239. I did not request judicial notice of the other cases to which the State Bar, its officials, agents and employees have been a party because the trial court had already granted that the State Bar's special motion to strike pursuant to Code of Civil Procedure section 425.16. The only issue for the hearing on the State Bar's motion for attorney's fees was the reasonableness of the State Bar's fee request.

3. I was counsel of record for the State Bar at the time Ms. Barry appealed the attorney fees award, Second District Court of Appeal, Case number B242054. Because Ms. Barry admitted that she was not appealing the order granting the State Bar's special motion to strike, and was only appealing the order granting the State Bar attorney fees, I did not

request judicial notice of the other cases to which the State Bar, its officials, agents and employees.

4. The State Bar's Office of General Counsel was counsel in each of the cases referenced in this Motion for Judicial Notice. The documents attached hereto are all true and correct copies from the court files in those cases.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 18, 2013, at San Francisco, California.



DANIELLE LEE

PROOF OF SERVICE

I, Lisa Ramon, declare that I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 100 Spear Street, 18th Floor, San Francisco, California 94105.

On October 21, 2013, I served the following document(s):

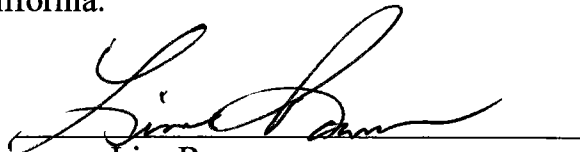
- **REQUEST FOR JUDICIAL NOTICE, VOLUME IV OF IV, EXHIBITS DD-TT**

on the parties listed below as follows:

Patricia J. Barry 634 Spring Street, #823 Los Angeles, CA 90014	Los Angeles Superior Court Stanley Mosk Courthouse 111 North Hill St. Los Angeles, CA 90012
California Court of Appeal 2nd Appellate District, Division 2 Ronald Reagan State Building - 300 S. Spring Street 2nd Floor, North Tower Los Angeles, CA 90013 <i>Via Electronic Submission to California Court of Appeal (Petition for Review <u>only</u>)</i>	

By first class mail by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid and placing the envelope in the firm's daily mail processing center for mailing in the United States mail at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 21, 2013 at San Francisco, California.



Lisa Ramon

TABLE OF CASES

Exhibit	Case
A.	<i>Alexander, Jon v. State Bar, et al.</i> , San Francisco Sup. Ct., Case No. CGC-12-525073, Complaint filed October 12, 2012.
B.	<i>Alexander, Jon v. State Bar, et al.</i> , San Francisco Sup. Ct., Case No. CGC-12-525073, dismissal filed November 16, 2012.
C.	<i>Brown, James Earl v. Guitierrez, et al.</i> , Los Angeles Sup. Ct., Case No. BC369840, Complaint filed April 23, 2007.
D.	<i>Brown, James Earl v. Guitierrez, et al.</i> , Los Angeles Sup. Ct., Case No. BC369840, dismissal of action filed September 16, 2008.
E.	<i>Chavarela, Nicholas v. State Bar et al.</i> , Orange County Sup. Ct. Case No. 30-2009-00311346, Fourth Dist. Ct. of App. Case No. G043727, Complaint filed October 4, 2009.
F.	<i>Chavarela, Nicholas v. State Bar et al.</i> , Orange County Sup. Ct. Case No. 30-2009-00311346, Fourth Dist. Ct. of App. Case No. G043727, order granting special motion to strike filed April 29, 2010.
G.	<i>Dickson, Lorraine v. State Bar, Board of Governors, Streeter, Kim, et al.</i> , Los Angeles Sup. Ct., Case No. BC470523, Complaint filed September 28, 2011.
H.	<i>Dickson, Lorraine v. State Bar, Board of Governors, Streeter, Kim, et al.</i> , Los Angeles Sup. Ct., Case No. BC470523, judgment of dismissal filed April 10, 2012.
I.	<i>Dydzak, Daniel v. Dunn, Joseph, et al.</i> , Orange County Sup. Ct., Case No 30-2012-00558031, First Amended Complaint filed May 2, 2012.
J.	<i>Dydzak, Daniel v. Dunn, Joseph, et al.</i> , Orange County Sup. Ct., Case No 30-2012-00558031, voluntary request for dismissal filed October 9, 2012.
K.	<i>Fletcher, Michael v. State Bar et al.</i> , Los Angeles Sup. Ct., Case No. BS129414, petition for writ of mandate filed November 24, 2010.

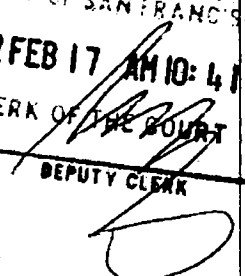
- L. *Fletcher, Michael v. State Bar et al.*, Los Angeles Sup. Ct., Case No. BS129414, dismissal minute order filed March 29, 2011.
- M. *Foley, Natalia v. State Bar, B. Rodriguez*, Los Angeles Sup. Ct., Case No. BC445288, Complaint filed September 9, 2010.
- N. *Foley, Natalia v. State Bar, B. Rodriguez*, Los Angeles Sup. Ct., Case No. BC445288, voluntary dismissal filed December 28, 2010, and minute order following voluntary dismissal filed February 14, 2011.
- O. *Gjerde, Sean v. State Bar, et al.*, Sacramento Co. Sup. Ct., Case No. 34-2012-00134070, Complaint filed October 19, 2012.
- P. *Gjerde, Sean v. State Bar, et al.*, Sacramento Co. Sup. Ct., Case No. 34-2012-00134070, Judgment of Dismissal following granting of special motion to strike filed April 11, 2013.
- Q. *Gottshalk, Ronald v. Daniels et al.*, Orange County Sup. Ct., Case No. 30-2010-00359752-CU-NP-CJC, Complaint filed April 5, 2010.
- R. *Gottshalk, Ronald v. Daniels et al.*, Orange County Sup. Ct., Case No. 30-2010-00359752-CU-NP-CJC, Notice of Dismissal filed August 22, 2011.
- S. *Henschel, Bradford v. State Bar, et al.*, Los Angeles Sup. Ct., Case No. BC379051, Second Dist. Ct. of App., Case Nos. B206984, B213595, Complaint filed December 4, 2007.
- T. *Henschel, Bradford v. State Bar, et al.*, Los Angeles Sup. Ct., Case No. BC379051, filed December 4, 2007, Second Dist. Ct. of App., Case Nos. B206984, B213595, order granting special motion to strike filed January 17, 2008.
- U. *Joseph, Joel v. the State Bar of California*, Los Angeles Sup. Ct., Case No. SC103749, Second Dist. Ct. of App., Case No. B221236, Complaint filed June 26, 2009.
- V. *Joseph, Joel v. the State Bar of California*, Los Angeles Sup. Ct., Case No. SC103749, Second Dist. Ct. of App., Case No. B221236 2009, Order sustaining demurrer without leave to amend October 27, 2009.

- W. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct, Case No. CGC-10-496869, First Dist. Ct. of Appeal, Case No. A129515, California Supreme Court, Case No. S198578, Complaint filed February 16, 2010.
- X. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct, Case No. CGC-10-496869, First Dist. Ct. of Appeal, Case No. A129515, California Supreme Court, Case No. S198578, order sustaining demurrer and taking special motion to strike off calendar filed July 29, 2010.
- Y. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CV 10-502372, First Dist. Ct. Appeal, Case Nos. A132643, A134111, A137989, Complaint filed August 6, 2010.
- Z. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CV 10-502372, First Dist. Ct. Appeal, Case Nos. A132643, A134111, A137989, order sustaining demurrer filed September 20, 2011.
- AA. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-11-510717, First Dist. Ct. Appeal, Case Nos. A134205, A137989, Complaint filed May 4, 2011.
- BB. *Kay, Philip E. v. State Bar, et al.*, San Francisco Sup. Ct., Case No. CGC-11-510717, First Dist. Ct. Appeal, Case Nos. A134205, A137989, order sustaining demur filed August 5, 2011.
- CC. *Kay, Philip E., Robin Kay, Chris Enos v. State Bar et al.*, San Francisco Sup. Ct., Case No. CGC-11-514255, Complaint filed September 14, 2011.
- DD. *Kay, Philip E., Robin Kay, Chris Enos v. State Bar et al.*, San Francisco Sup. Ct. , Case No. CGC-11-514255, voluntary dismissal filed February 17, 2012.
- EE. *Missud, Patrick v State Bar of California*, San Francisco Sup. Ct., Case No. CGC-13-533811, First Amended Complaint filed September 3, 2013.
- FF. *Morris, Gregory A. v. State Bar of California, et al.*, San Francisco Sup. Ct., Case No. CGC 06-450766, fifth Amended Complaint filed

October 9, 2009.

- GG. *Morris, Gregory A. v. State Bar of California, et al.*, San Francisco Sup. Ct., Case No. CGC 06-450766, order sustaining demurrer filed May 18, 2010.
- HH. *Morris, Gregory A. v. State Bar of California, et al.*, San Francisco Sup. Ct., Case No. CGC 08-471504, Complaint filed January 29, 2008.
- II. *Morris, Gregory A. v. State Bar of California, et al.*, San Francisco Sup. Ct., Case No. CGC 08-471504, order dismissing entire action filed January 12, 2009.
- JJ. *Morrowatti, Nasrin v. State Bar of California, et al.*, Los Angeles Sup. Ct., Case No. BC 347921, Second Dist. Ct. Appeal, Case No. B196392, Complaint filed February 23, 2006.
- KK. *Morrowatti, Nasrin v. State Bar of California, et al.*, Los Angeles Sup. Ct., Case No. BC 347921, Second Dist. Ct. Appeal, Case No. B196392, minute order sustaining demurrer filed November 17, 2006.
- LL. *Oxman, Brian v. Chang, Alec, et al.*, Los Angeles Sup. Ct., Case No. BC516601, Complaint filed July 29, 2013.
- MM. *Scurrah, Robert v. State Bar et al.*, Orange County Sup. Ct., Case No. 30-2012-00595756, Complaint filed September 5, 2012.
- NN. *Scurrah, Robert v. State Bar et al.*, Orange County Sup. Ct. , Case No. 30-2012-00595756, Minute order sustaining demurrer filed August 27, 2013.
- OO. *Spadaro, Charlotte v. Phyllis Williams, The State Bar of California*, San Bernardino Co. Sup. Ct., Case No. CIVRS1203310, Complaint filed April 30, 2012.
- PP. *Spadaro, Charlotte v. Phyllis Williams, The State Bar of California*, San Bernardino Co. Sup. Ct., Case No. CIVRS1203310, order sustaining demurrer filed October 3, 2013.
- QQ. *Taylor, Swazi v. State Bar*, Los Angeles Sup. Ct., Case No. BC476842, Complaint filed January 18, 2012.

- RR. *Taylor, Swazi v. State Bar*, Los Angeles Sup. Ct., Case No. BC476842, judgment of dismissal filed August 23, 2012.
- SS. *Viriyapanthu, Paul v. The State Bar of California, Viveros*, Orange County Sup. Ct., Case No. 30-2010-00418393, Complaint filed October 15, 2010.
- TT. *Viriyapanthu, Paul v. The State Bar of California, Viveros*, Orange County Sup. Ct., request for dismissal filed April 1, 2011.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Philip E. Kay 736 43rd Ave. San Francisco, CA 94121 TELEPHONE NO: 415-387-6622 FAX NO (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	<div style="text-align: right;"> <p>FILED FOR COPIES OF SUPERIOR COURT COUNTY OF SAN FRANCISCO</p> <p>2012 FEB 17 AM 10:41</p> <p>CLERK OF THE COURT</p> <p>BY:  DEPUTY CLERK</p> </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister St. MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94121 BRANCH NAME:	
PLAINTIFF/PETITIONER: Robin A. Kay, et al. DEFENDANT/RESPONDENT: State Bar, et al.	
REQUEST FOR DISMISSAL <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input checked="" type="checkbox"/> Other (specify): interference economic advantage	CASE NUMBER: <p style="text-align: center;">CGC-11-514255</p>
<p style="text-align: center;">- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -</p>	

1. TO THE CLERK: Please dismiss this action as follows:
- a. (1) With prejudice (2) Without prejudice
 - b. (1) Complaint (2) Petition
 - (3) Cross-complaint filed by (name):
 - (4) Cross-complaint filed by (name):
 - (5) Entire action of all parties and all causes of action
 - (6) Other (specify):*

on (date):
on (date):

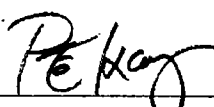
2. (Complete in all cases except family law cases.)

Court fees and costs were waived for a party in this case. (This information may be obtained from the clerk. If this box is checked, the declaration on the back of this form must be completed).

Date: Feb. 17, 2012

Philip E. Kay

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

▶ 
 (SIGNATURE)

*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Attorney or party without attorney for:
 Plaintiff/Petitioner Defendant/Respondent
 Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

▶ _____
 (SIGNATURE)

** If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

Attorney or party without attorney for:
 Plaintiff/Petitioner Defendant/Respondent
 Cross-Complainant

(To be completed by clerk)

- 4. Dismissal entered as requested on (date):
- 5. Dismissal entered on (date): as to only (name):
- 6. Dismissal not entered as requested for the following reasons (specify):
- 7. a. Attorney or party without attorney notified on (date):
- b. Attorney or party without attorney not notified. Filing party failed to provide
 a copy to be conformed means to return conformed copy

Date:

Clerk, by _____, Deputy

PLAINTIFF/PETITIONER: Robin A. Kay, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: State Bar, et al.	CGC-11-514255

Declaration Concerning Waived Court Fees

The court has a statutory lien for waived fees and costs on any recovery of \$10,000 or more in value by settlement, compromise, arbitration award, mediation settlement, or other recovery. The court's lien must be paid before the court will dismiss the case.

1. The court waived fees and costs in this action for *(name)*:
2. The person in item 1 *(check one)*:
 - a. is not recovering anything of value by this action.
 - b. is recovering less than \$10,000 in value by this action.
 - c. is recovering \$10,000 or more in value by this action. *(If item 2c is checked, item 3 must be completed.)*
3. All court fees and costs that were waived in this action have been paid to the court *(check one)*: Yes No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: 17 February 2012

Philip E. Kay

(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)

▶ 
(SIGNATURE)

1 Patrick Missud, SBN 219614
2 91 San Juan Ave.
3 San Francisco, CA, 94112
4 415-584-7251 ph/fax
5 missudpat@yahoo.com
6 **Engineer; BSME, MSCE, CSLB IE, GC 697370;**
7 **FBI Informant and Qui-Tam Relator;**
8 *Attorney in Pro-Per and good standing*

**ENDORSED
FILED**
Superior Court of California
County of San Francisco

SEP 03 2013

CLERK OF THE COURT
BY: ROSSALY DE LA VEGA
Deputy Clerk

9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO
11 UNLIMITED JURISDICTION
12 **Publicized Jury Trial Demanded**

13 PATRICK A. MISSUD
14 Plaintiff,

Case No.: CGC-13-533811

15 vs.

**FIRST AMENDED COMPLAINT FOR
CCP §43 ET SEQ. DEFAMATION AND
INTERFERENCE WITH A FEDERAL
INFORMANT**

16 STATE BAR OF CALIFORNIA;
17 DOES 1-100
18 Defendants

19 **I. INTRODUCTION**

20 On July 1, 2013 the State Bar of California [\$\$Bar\$\$] published to its website its
21 Decision and Order [D&O] putting Federal Informant-Engineer Missud: BSME; MSCE; CSLB
22 IE; GC; and simpleton's JD for which only an ability to simultaneous chew gum and walk are all
23 that are required to obtain, on "Involuntary Disbarment."

24 Since then, several judge\$, arbi-*traitors*, and even clients referred to the defamatory
25 publication which cast unfavorable light on FI Missud, damaged his reputation, and injured him
26 financially. The truth of these matters is an absolute defense for all parties, and all self-
27 authenticating facts, legal pleadings, official transcripts, orders, and rulings, are now or will soon
28 be registered and exposed in this case which will also be decided by federal authorities and 314
Million Americans, all of whom are monitoring the Bar's\$ real-time implo\$ion.

1 Patrick Missud, SBN 219614
2 91 San Juan Ave.
3 San Francisco, CA, 94112
4 415-584-7251 ph/fax
5 missudpat@yahoo.com
6 **Engineer; BSME, MSCE, CSLB IE, GC 697370;**
7 **FBI Informant and Qui-Tam Relator;**
8 *Attorney in Pro-Per and good standing*

9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO
11 UNLIMITED JURISDICTION
12 **Publicized Jury Trial Demanded**

13 PATRICK A. MISSUD
14 Plaintiff,

Case No.: CGC-13-533811

15 vs.

**FIRST AMENDED COMPLAINT FOR
CCP §43 ET SEQ. DEFAMATION AND
INTERFERENCE WITH A FEDERAL
INFORMANT**

16 STATE BAR OF CALIFORNIA;
17 DOES 1-100
18 Defendants

19 **I. INTRODUCTION**

20 On July 1, 2013 the State Bar of California [\$\$Bar\$\$] published to its website its
21 Decision and Order [D&O] putting Federal Informant-Engineer Missud: BSME; MSCE; CSLB
22 IE; GC; and simpleton's JD for which only an ability to simultaneous chew gum and walk are all
23 that are required to obtain, on "Involuntary Disbarment."

24 Since then, several judge\$, arbi-*traitors*, and even clients referred to the defamatory
25 publication which cast unfavorable light on FI Missud, damaged his reputation, and injured him
26 financially. The truth of these matters is an absolute defense for all parties, and all self-
27 authenticating facts, legal pleadings, official transcripts, orders, and rulings, are now or will soon
28 be registered and exposed in this case which will also be decided by federal authorities and 314
Million Americans, all of whom are monitoring the Bar's\$ real-time implo\$ion.

1 **II. FACTS AND CLAIMS**

2 The defendants' D&O was rigged because plaintiff Missud, who's been a Federal
3 Informant for four years, exposed corrupt Member\$, and corrupt Member\$ turned corrupt
4 judge\$. This First Amended Complaint and supporting documents prove every cause of action
5 and claim below. The self-authenticating exhibits include official court transcripts, orders,
6 rulings, federal records, USPS POS's,, and judicial admissions. They were all submitted into
7 evidence for the defendant's rigged Trial 12-O-10026-LMA, and now have to be acknowledged
8 and considered by this \$uperior Court and it\$ dozen\$ of 18 USC §201 Corrupt judge\$.

9 All exhibits without exception are the very same ones positively admitted, registered and
10 referenced by Bar Court judge Armendariz in her D&O, propriety of which is at issue herein.
11 Her and the Bar'\$ fraudulent and malicious allegations in the D&O will hereafter be compared
12 with all of the official court and government records which were already distributed to
13 syndicated media, consumer groups, and federal authorities like Washington DC's Public
14 Corruption Unit which has jurisdiction to indict corrupt public officials as done with former
15 judge\$ turned convicted felon\$ Conohan, Ciavarella, Porteus, Limas, Conn, Maloney, LeFevour,
16 Olsen, In Pennsylvania, Louisiana, Texas, Chicago, New Jersey, etc. The stark contrast
17 between the official court and government records, and D&O will prove beyond criminal
18 standards that the defendants rigged their Trial to conceal their own state and federal crime\$.

19 Over three dozen transcripts and related court orders must now be considered for this case
20 which exposes the California Bar, it\$ Member\$, and it\$ all-too-many corrupt Member\$ turned
21 corrupt 'judicially-immune' judge\$. Statements therein include damning, inculpatory
22 admission\$ made by \$uperior Court judge\$ Wick, Busch, Mahoney, Woolard, Giorgi, Alvarado,
23 Feinstein, Miller, Cheng, Kahn, Karnow, Alvarado, McDonald, Nichols, Lee, ... ; Appellate
24 judge\$ McGuinness, Pollak, Jenkins, Kline, Haerle, Lambden, Richman,; Federal judge\$
25 Armstrong, Benitez, Hamilton, Chen, Ryu, Gould, Clifton, Bybee, among many, many
26 others. Their judicial fraud is now pled to heightened standards as if in federal court under
27 FRCP Rule-9 to guarantee indictment\$ and life-long incarceration for their corruption.

28 **A. Judicial Racketeering Schemes**

There are four general racketeering schemes that judges from coast to coast partake in.
All RICO schemes are already very well documented, one of which even by the United States
Supreme Court. The RICO schemes are detailed and "**Labeled**" as such:

1 1. Caperton v. A.T. Massey Energy Company; and Citizen\$-United corporate "Donation\$"
2 which buy court opinion\$. In *Caperton*, Massey's CEO Blankenship 'donated' \$3 Million to
3 judge Benjamin's election campaign, *and* for his swing-vote in overturning an adverse \$50
4 Million jury verdict. It was later discovered that Blankenship also secretly wine-and-dined
5 judge 'Spike' Maynard far, far away on the French Riviera for thi\$ 2nd appellate ju\$stice's
6 corporate-favoring decision. \$COTU\$ said that there was only an 'appearance of corruption,'
7 but that the two West Virginia appellate-judicial-felon\$ hadn't actually committed 18 USC
8 §§201 Corruption, 1962 Racketeering, or 2381 Treason.

9 <http://www.scotusblog.com/case-files/cases/caperton-v-a-t-massey-coal-company-inc-et-al/>

10 The above ties into the D&O in the following way- ever since 2009 (in regards to Nevada
11 Supreme Court Appeal A56502), until SCOTUS Writ 12-9412 (in Conference September 30th
12 and seeking review of A60563), FI Missud confirmed that Nevada's Supreme Court [N\$C] is
13 indeed 'juiced' and the 8th most beholden state supreme court to the corporate special interests
14 which bankroll that high-court'\$ pricey Benjamin-like judicial elections:

15 <http://articles.latimes.com/2006/jun/08/nation/na-vegas8> and

16 <http://www.reviewjournal.com/news/elections/nevada-ranks-8th-supreme-court-election-fundraising> .

17 As a matter of fact (per official court transcripts, orders, rulings, minutes, the docket,
18 USPS records, fax transmissions, emails, screen snapshots, ... no less), Missud couldn't get
19 Nevada's highest judge\$ to even honor their very own NRS, NRAP, SRCR, Judicial Canons,
20 Foreclosure Mediation Rules, or plenary/preemptory federal rules. The N\$C was bought by D.R.
21 Horton Inc. (aka "DHI" which is Nevada's & America's largest residential builder presently
22 worth \$9 Billion on the NYSE), to ignore that Missud specifically identified 80 Nevada families
23 targeted for financial predation, bait-and-switch interests rates, antitrust bundling of loans to
24 home sales, predatory lending, and financial extortion to name but a few lucrative crimes worth
25 Billions to the Fortune-500 Company.

26 2. In Re: Chicago's Operation Greylord, Impeachment of Federal Judge Thomas Porteu\$; Recent
27 Indictment of Texas judge Lima\$; and "Secret Payoffs" between judge\$, attorney\$, and firm\$.

28 Ever since the late 70's "Operation Greylord" until last week's sentencing of Texas judge Abel
29 Limas, Washington's Public Corruption Unit has been very busy gathering information on

1 corrupt officials and judges who sell their supposedly 'officially and judicially-immune'
2 decisions to the highest bidder:
3 http://www.fbi.gov/news/stories/2004/march/greylord_031504 and
4 <http://www.fbi.gov/sanantonio/press-releases/2013/former-judge-abel-limas-gets-72-months-in-prison-for-taking-bribes> and
5 <http://abcnews.go.com/Politics/senate-convicts-crooked-federal-judge-thomas-porteous/story?id=12347138> and
6 http://www.ask.com/wiki/List_of_United_States_state_officials_convicted_of_federal_corruption_offenses?o=2800&qsrc=999&ad=doubleDown&an=apn&ap=ask.com and
7 http://www.ask.com/wiki/List_of_United_States_federal_officials_convicted_of_corruption_offenses?o=2800&qsrc=999&ad=doubleDown&an=apn&ap=ask.com and
8 http://www.ask.com/wiki/Category:Impeached_United_States_federal_judges?o=2800&qsrc=999&ad=doubleDown&an=apn&ap=ask.com and
9 <http://www.mysanantonio.com/news/local/article/Ex-judge-is-headed-for-prison-4749344.php>

14 The tie-in to this case naming the Bar is as such- while California Private Attorney
15 General Missud doesn't have direct proof of judicial payoffs, he's amassed hundreds of official
16 court records/documents catching judge\$ in blatant lie\$, ignoring crystal-clear laws, and
17 disseminating diamond-hard evidence dispositive to corporate and other special interest\$. When a
18 judge says that up is down, left is right, or that fire's cold, you know that a secret payoff\$ has been
19 made. Dozens of such examples of illegal judicial favoritism are also featured on September
20 30th when SCOTUS Writ 12-10006 comes up "in Conference."

21 3. In Re: Federal Incarceration of Judge\$ Turned Convicted Felon\$ Conahan and Ciavarella;
22 Financial Conflicts; and "Kickbacks."

23 Some judge\$ even have *direct financial conflicts* with corporations to which they funnel
24 lucrative business\$ through their 'courts of law:'

25 <http://www.fbi.gov/philadelphia/press-releases/2011/former-pennsylvania-county-president-judge-michael-conahan-sentenced> and
26 <http://www.fbi.gov/philadelphia/press-releases/2011/former-pennsylvania-county-president-judge-and-juvenile-judge-mark-ciavarella-sentenced-to-28-years-in-prison>

27 The tie-in of "kick-backs" to this case is two-fold: In a 1st underlying case, Qui-Tam
28 Relator Missud discovered Superior Court judge Woolard funneling a targeted litigant to her

1 retired court colleague Gene McDonald working at JAM\$. That's where McDonald rigged an
2 award to pay himself and employer JAM\$ \$450/hr by judicially foreclosing on the targeted
3 litigant's condominium. In a 2nd arbitration, Superior Court judge Mahoney illegally compelled
4 a 3rd party into judicial arbitration at ADR Services [ADR\$] where his colleague Michael
5 Carbone worked. Carbone likewise rigged an award to favor \$24 Billion Allstate Insurance
6 which did business at ADR\$ 234 lucrative time\$. When Carbone's ½ million dollar rigged-order
7 came before judge Woolard, she yet again ignored all the fraud to favor only the deep pocket\$.

8 Note that SCOTUS Writ 12-9981 was filed by the 2nd arbitration's target. It's also in
9 Conference on September 30th and proves to criminal standards that Superior Court judge\$ are
10 part of a RICO ring whereby they illegally compel rigged arbitrations to benefit themselves and
11 the corporate ADR firms that already employ their colleagues; and at which they all aspire to
12 work once retired with big fat pensions paid for by the very public which they seek to fleece.

13 4. In Re: The National Arbitration Forum's "Rigged Arbitration\$" in Two States, and to
14 Benefit Deep-Pocket\$, Corporation\$, and Repeat Bu\$ine\$\$ Entitie\$. In 2009 the NAF was
15 banished from California & Minnesota after exposed as illegally favoring credit card companies,
16 banks, and credit servicers to the detriment of consumers, the Constitution, and Bill of Rights.
17 The quasi-judicial, secretive, alternative dispute resolution forum relied on the FAA's non-
18 reviewability clauses to steal 100'\$ of millions of dollars under the cover of 'arbitral-immunity.'
19 http://www.ask.com/wiki/National_Arbitration_Forum?o=2800&qsrc=999&ad=doubleDown&a
20 [n=apn&ap=ask.com](http://www.businessweek.com/bwdaily/dnflash/content/jul2009/db20090714_952766.htm) and
21 http://www.businessweek.com/bwdaily/dnflash/content/jul2009/db20090714_952766.htm and
22 http://www.nytimes.com/2009/07/20/business/20credit.html?_r=0 and
23 <http://www.sfcityattorney.org/index.aspx?page=178> .

24 In *three* independent arbitrations at JAM\$, ADR\$, and the San Mateo County Bar
25 Association [MCBA], federally-protected Whistle-Blower Missud exposed judicial/arbitral
26 RICO rings which railroad results in the exact same way as did the NAF to benefit the repeat-
27 business corporations and other special interests with which they have financial tie\$.

28 'Rigged Arbitrations' relates to this case 533811 in the following way- the two JAM\$
and ADR\$ riggings described above in paragraph 3, are further bolstered by a 3rd fraudulent Fee
Arbitration #13-04 proving way-beyond criminal standards that three MCBA arbi-*traitors*, two
of whom are Bar Member\$, ignored 6 other Member\$' *ongoing* targeting of a California citizen

1 for a million-dollar fraud. At least 8 corrupt Member\$ are conspiring in real-time to orchestrate
2 and further million-dollar fraud targeting a member of the public who's supposed to be protected
3 from such criminal activities by the Bar. Sadly for 38 Million Californians, the Member-run Bar
4 provides cover for it\$ own Member\$' criminal act\$, namely stealing from the masses.

5 Know that SCOTUS Writ 12-9413 features two dozen Member\$ caught in such criminal
6 acts which include filing frivolous unsupported suits, and alleging bogu\$ claims for quick ca\$h
7 payouts in the form of extorted \$ettlement\$. At least 6 such larcenous\$ \$cheme\$ were detailed
8 to the Bar in-person, before it\$ entire Task Force, which did nothing but a\$\$i\$t Member\$'
9 financial predation of California's \$itizenry.

10 FI Missud's exposure of Bar Member\$ and Member\$ turned judicial-felon\$ are the
11 rea\$on why the Bar rigged it\$ D&O. The Bar wanted to disbar federally-protected Missud so
12 that SCOTUS could then invoke Rule-8 and ignore four Writs coming up in Conference on
13 September 30th: 12-9412, 9413, 9981, and 10006. Know that SCOTUS already denied review of
14 Writs 12-7817 & 8191 because they also proved Bar Member, and Ciavarella-Olsen-Lima\$-like
15 judicial corruption to Operation-Greylord 'criminal standards.'

16 The following discussion which implicates an additional 60 corrupt, \$cheming judge\$,
17 makes reference to the above well-known and nationally exposed schemes by their **Labels**:
18 **"Donation\$, Secret Payoff\$, Kickbacks, and Rigged Arbitration\$"**

19 **B. Officially Recorded Bar Court Lies/Admi\$\$ion\$ to Railroad the D&O**

20 Bar Court Judge Lucy Armendariz lied in her D&O at pages 1 and 2: "This court finds by
21 clear and convincing evidence that respondent is culpable of alleged misconduct... the following
22 findings of fact are based on respondent's response to the NDC and the testimony and evidence
23 presented at trial." Nothing could be farther from the truth. For instance....

24 Armendariz and Bar Counsel Dennings repeatedly lied about not receiving multiple
25 responses to the NDC served on them numerous verifiable times by several alternative means
26 including tracked USPS mail, email, personal service, registration in PACER, and automated
27 service on the Bar's attorneys of record- Overton and Randolph. Armendariz then based her
28 D&O in lies proffered by Dennings' three impeached Bar witnesses covering-up their own
corruption, rather than considering Missud's thousands of pages of reliable, self-authenticating,
and FRE Rule-803 court and government documents.

1 **C. Official Self-Authenticating: SF Superior, Clark County, and 9th District Court**
2 **Transcripts; State and Federal Court Orders, Dockets, Rulings, Minutes, USPS Records,**
3 **Verifiable Emails.....**

4 Court transcripts, orders, and a wide variety of reliable government records from Nevada
5 to California, and County to Circuit Courts indelibly and forever record judicial corruption.

6 Armendariz had no authority to ignore any of them. Their ultra-damning content which
7 Armendariz blatantly ignored is briefly and verifiably described as such:

8 **1. \$9 Billion D.R. Horton's [DHI] "Secret Payoff\$ and Donation\$" to Conceal Multi-**
9 **Billion-Dollar, 27-State Predatory Lending, Mortgage Fraud, Extortion, and Racketeering**
10 **8-30-06; Superior Court case CGC-05-447499;** Judge Diane Wick thought it was cute that DHI's
11 defense attorney knowingly scheduled an ex-parte motion to quash discovery of the company's
12 27-state predatory lending while Federal Informant Missud was out of town. She even said that
13 it was "nice to see Marquez again" on his way out the door. Wick thusly saved DHI Billion\$ in
14 disgorgeable RICO proceeds and laid the groundwork for the forthcoming \$4 Trillion Mortgage
15 Meltdown 2 ½ years later in November 2008.

16 **9-13-06; CGC-05-447499;** Judge Peter Busch ignored the discovery of 12 families identified as
17 DHI predatory lending victims, and was tickled to remind FI Missud that once DHI wa\$
18 dimi\$\$ed from this case that he could no longer present evidence of the looming Mortgage
19 Meltdown caused in-great-part by DHI.

20 **10-4-07; 9th District C:07-2625;** Federal Judge Sandra Armstrong was elated to cancel oral
21 argument on the eve of the hearing because she knew that FI Missud was bringing additional
22 copies of the *Betsinger* full faith and credit decision finding DHI liable for bait and switch
23 predatory lending throughout Nevada. By eliminating any possibility of a court transcript,
24 Armstrong could also ignore the fact that Missud's was bombed on a night that his websites
25 garnered 1200+/- 'hits,' and that Americans were educated about DHI's predatory lending which
26 would eventually contribute to \$4 Trillion in home-equity losses just one year hence.

27 **2-11-10; 9th District C:10-2015 dockets to #39;** Federal Judge Roger Hunt thought he should rig
28 Bevers' case on behalf of \$9 Billion DHI, because if DHI's predatory lending were ever
exposed, then that would prove why Nevada is the Country's foreclosure capitol. Hunt then
saddled Bevers with DHI's co\$t\$ of \$uit to send a very clear message to any other DHI-
defrauded mortal that if the powerful corporate 'citizen' were ever again hailed into court to

1 answer for state and federal crimes, that they too would be made to pay dearly for having tried to
2 exercise fundamental rights and redress their grievances in a 'court of law.'

3 3-5-10; Clark County NV A551662; Presiding Judge Elizabeth Gonzalez actually said for the
4 record that she wished she didn't know about some details Missud presented in the case.

5 Perhaps She was referring to the 80 families by-then identified from Las Vegas to Reno who
6 were either bankrupted or nearly so by the Fortune-500, RICO-operating, DHI Corporation
7 which bankroll\$ judicial election\$ like her\$ throughout \$in City?

8 4-12-10; 9th District C:08-592 dockets to #34; Federal Judge Roger Benitez acquiesced to DHI'\$
9 demand for judicial arbitration. He \$imply ignored the concrete fact that all five class actions
10 representatives were fraudulently induced into DHI'\$ contract\$ which contemplated RESPA,
11 TILA, and Sherman, and Clayton Antitrust Act violations. Benitez even allowed DHI to rig an
12 arbitration before retired judge William Pate at the \$ecretive JAM\$ ADR forum which rig\$
13 arbitrations on behalf of corporate special interests as proven through the NAF scandal which
14 exposed that forum as a cog in the nationwide corporate-ADR RICO machine.

15 6-2-10; A551662; Discovery Commissioner Bonnie Bulla played 'hear, \$ee, and \$peak no evil'
16 five times in ju\$t 30 seconds. She feigned not getting FI Missud's damning court pleadings
17 served on her by court-registration, email, fax, USPS priority mail tracked directly to her
18 chambers, or that pesky copy labeled "Exhibit I" stapled to DHI'\$ own Reply papers she had
19 right in front of her on her de\$k. Had she acknowledged any of those pleadings then 80 lowly
20 Nevada families might have received restitution from the Country's most rabid predatory lender,
21 which with Countrywide's Angelo Mozillo, and Well\$ Fargo'\$ John \$umpf are responsible for
22 tens if not hundreds of thousands families' financial evisceration.

23 7-13-10; Clark County NV A551662; Betsy Gonzalez could have championed 2.6 Million
24 Nevadans on this date, but instead opted to clear her courtroom of any media, and then ignored
25 over 600 pages of federal records proving that DHI preyed on her neighbors, and used Nevada as
26 a base of operation\$ to target citizens from 26 other states. Al Qaeda can learn a thing or two
27 from DHI and it\$ founder/chief financial-terrorist Donald Ray Horton.

28 7-20-10; Clark County NV A551662; Right off the bat, Betsy Gonzalez claims to have ruled on
FI Missud's Private Attorney General Motion the week before, but ala\$ it\$ nowhere in the
record. Had Bet\$y actually written an order it would have gone something like thi\$:

1 “Federally protected whistle-blower Missud appeared before me on July 13, 2010 with
2 over 600 FRE Rule-803 self-authenticating government records proving to criminal
3 standards that DHI is a RICO-operating company. Neverthele\$, I’ve opted to ignore that
4 even Nevada’s \$supreme Court deliberately interfered with FI Missud by sending Nevada
5 Bar agent Phillip Pattee to Missud’s March 5, 2010 hearing to scare his local counsel off
6 his case so that I and Commissioner Bulla could then ignore every scrap of evidence
7 detrimental to DHI’s \$ 27 state RICO enterprise.”

8 Then for the next 6 hours, Gonzalez held a discovery sanctions hearing and admitted over
9 1500 records into evidence. FI Missud has audio-video DVD’s of that exchange. Among the
10 three reams of evidence in evidence were 400 consumer recounts of how DHI caused their
11 foreclosures and bankruptcies by forcing them into-predatory loan\$.¹

12 8-2-10; Nevada Supreme Court A56502; The En-Banc Justices couldn’t let the public know why
13 colleague judge Pickering donated over \$650,000 to her own election campaign to that state’s
14 high-court. Namely, because once in\$stalled as corporate \$hill\$, the bought-judge\$ make all that
15 money back in \$pade\$ \$elling corporate-favoring decision\$ to the like\$ of DHI. The
16 magnificent \$even ignored, rewrote, and twisted their own NRS 1.235, 41.660; NRAP-9; SRCR
17 3(5)a; Judicial Canons; and Foreclosure Mediation Rule\$ to guarantee that DHI would never
18 have to answer for its major role in nearly destroying the nation’s economy five years ago
19 starting with the implosion of AIG, Bear-Stearns, Lehman Brothers, WaMu, Wachovia,

20 <http://caseinfo.nvsupremecourt.us/public/caseView.do?csIID=21950>.²
21 10-1-10; Clark County NV A551662; Betsy Gonzalez struck again, and lied for the record by
22 feigning non-receipt of FI Missud’s Motion to Retax. The MtR was even forwarded by the N\$C
23 per its official Proof of Service. Now that\$ quite the permanently recorded lie by Nevada’s
24 Presiding Judge! Bet\$y took thi\$ October 2010 opportunity to 18 USC §1513(e) Retaliate
25 against FI Missud by sanctioning him \$48,000 payable to DHI, -the criminal enterprise that
26 makes La Cosa Nostra look like a benevolent, brownie-baking, fundraising organization.³

27 1-19-11; CPF-10-510876; San Francisco \$uperior Court Judge Loretta Giorgi had her sister-state
28 girlfriend’s back when she herself ignored over 1500 records proving beyond criminal standards
that DHI bought judge\$ through Nevada’s \$upreme Court to cover-up it\$ multi-Billion predatory
lending \$cheme\$. Giorgi rubber-\$tamped Gonzalez and probably got DHI’s\$ really nice wire-

¹ FI Missud is starting to get a little peeved here.

² Really peeved.

³ Yum.

1 transfer to a Secret Cayman Island, Swiss, or Belgian account (where that other fine example of a
2 taxpaying American -Mitt Romney- also keep\$ lot\$ of tax-free a\$\$et\$).

3 3-15-11; A131566; California 1st District Court of Appeal; Division III Appellate Judge\$
4 McGuinness, Pollak, Jenkins are on audio record making believe that a necessary document to
5 schedule that very hearing wa\$ mi\$\$ing from their file\$. That way they could've bounced the
6 appeal on a technicality without considering any of the 5000 records they admitted receiving, but
7 nevertheless ignored to \$ave Donald Horton and his dozen\$ of corporate-bought judge\$ (like
8 McGuinness, Pollak, Jenkins) from life-long incarceration.⁴

9 <http://appellatecases.courtinfo.ca.gov/search.cfm?dist=1>.

10 3-23-11; CPF-10-510876; Judge Alvarado actually tried to finagle a code section not motioned
11 under for this hearing. That way he could've rigged a \$50,000 bond that DHI could've instantly
12 executed with a quick \$wipe of Alvarado's\$ pen. FI Missud \$u\$pect\$ that Alvarado got a whole
13 lot more than ju\$t \$50k for hi\$ role in trying to unfairly raise a code section that Missud hadn't
14 briefed and was unprepared to argue that day. Too bad, so sad.

15 4-13-11; CPF-10-510876; Giorgi had another 'go' at covering for Gonzalez. She ignored dozens
16 of Gonzalez' indiscretions like failure to abide by Nevada laws, and flaunting California
17 subpoenas for evidence. 'Judicial Immunity' is even better than 'it\$ good to be the queen/king!'

18 6-30-11; CPF-10-510876; Giorgi is so 'judicially-immune' that she completely ignored that
19 Nevada's Sheriff served subpoenas on Gonzalez and Court CEO Grierson, who contemptuously
20 flaunted the demands for public documents which should've been registered in the Nevada case.
21 Now why were supposedly public documents being \$uppre\$\$ed by Nevada's top officer\$?
22 Perhap\$ DHI's\$ Donald Horton can an\$wer thi\$ que\$tion after quenching hi\$ thir\$t with a gla\$\$
23 of juice?

24 3-9-12; 9th District C:11-3567 #110, 88; Federal Judge Eddie Chen isn't very bright. He
25 positively heard on March 9, 2012 that DHI compelled a rigged judicial arbitration before
26 colleague\$ Benitez and Pate, but that was in\$ufficient for him to claim jurisdiction over the
27 corporate predator in hi\$ own San Franci\$co courtroom. Why i\$\$\$\$ that???

28 3-15-12; A551662; FI Missud went back to \$in-City to set up Betsy Gonzalez one last time. He
wanted to look into her eyes to make her understand that under no uncertain terms she would die

⁴ Note that these three judges are rather old, and will likely suffer heart attacks from all the stress regarding their looming impeachments and indictments prior to incarceration. That'll at least save taxpayers some money.

1 in prison for having sold the County out to Donald Horton- one of many corporate oligarchs
2 looking to take over America along with Sheldon Adelson and the Koch Brothers.⁵
3 3-19-12; CPF-10-510876; Harold Kahn is among the dumbest of the corrupt judges. A Federal
4 Informant can even personally tell the Schmuck that he's being set-up in real time, but Kahn just
5 doesn't get it. Missud's goldfish is brighter.
6 3-29-12; Nevada Supreme Court A60563; The En Banc Court was set-up this 2nd time because
7 FI Missud simply doesn't want any of the miscreants to get out of prison. Missud would prefer
8 that the traitors get the same treatment as did Julius and Ethyl Rosenberg, but unfortunately
9 that's not his choice. <http://caseinfo.nvsupremecourt.us/public/caseView.do?csIID=28728> .
10 4-3-12; A135015; CA 1st Appellate District; Division III did exactly what attorneys shouldn't
11 do- needlessly increase litigants' costs of litigation. Just a week after they denied Missud's IFP
12 and demanded an additional \$800+/- in various appeal fees, they immediately denied the appeal
13 on a (contrived) technicality. Did they really think that by driving Qui-Tam Relator Missud
14 financially into the ground, all of their 18 USC §201 Corruption would miraculously disappear?⁶
15 4-11-12; 9th District C:12-161 #79; Federal Judge Donna Ryu coordinated with colleague Eddie
16 Chen to sever/split C:11-3567 to double Missud's costs and efforts. In her half, Ryu tried to
17 break the nexus between DHI and the SEC which Donald Horton bought in much the same way
18 that Madoff did to conceal his own Ponzi Scheme for a decade. Rich guys like Bernie and
19 Donald buy SEC officials to do things like break SEC Rule 14(A)-8 three times, and flaunt
20 FOIA demands for records for as long as four years. They then buy judges like Ryu to ignore
21 the SEC's five discrete violations of its own and Congressional Laws and Acts.
22 4-11-12; CPF-10-510876; Superior Court Judge Marla Miller also did her best at trying to drive
23 Private Attorney General Missud financially into the ground. In April 2012 she denied Missud's
24 IFP even though he'd proven that he was drawing from retirement funds to expose the ultra-
25 corrupt judiciary which was doing everything it could to further DHI's extortion of the "99%."
26 Strangely though, just two months later on 6-13-12, when Marla finally realized that her goose
27 was cooked, she granted FI Missud's 2nd IFP because to do otherwise would have added a 2nd
28 count of purposeful interference with a federal informant [18 USC 1513(e) ten years per count].

⁵ Missud hoped that Betsy would have suffered a stroke at that hearing, but his efforts unfortunately fell short.

⁶ Ironically, Qui-Tam Relator Missud will get from 10-30% of this trio's wages and benefits clawed-back from years' worth of disservice to California's public. *Now that's poetic justice.*

1 4-25-12; CPF-10-510876; Kahn is \$o dumb that he actually tried to claim that FI Missud hadn't
2 emailed the court to contest his tentative ruling which assited DHI's criminal cover-up.

3 Missud not only emailed the court contestdept302tr@sftc.org, but also copied it to Kahn's email
4 address hkahn@sftc.org, the FBI, DOJ, and a couple hundred syndicated media and other
5 contacts for corroboration. Now why did Kahn lie like that?

6 5-29-12; A135531; CA 1st Appellate District; FI Missud absolutely wanted to screw Division III,
7 so he appealed yet another corporate-bought Superior Court decision to the Mental-Midgets. The
8 M-M's were caught for a 2nd time ignoring every record registered in the lower court. Missud
9 again used the same 5000 records to better-prove DHI's predatory lending scheme than when
10 Harry Markopolos exposed Madoff's Ponzi scheme to the SEC per his Congressional testimony.
11 You see, Missud and Markopolos know a little something about statistics and stochastic math,
12 whereas the M-M's need to take their sock\$ off to count.

13 6-4-12; CPF-10-510876; Missud wanted Kahn to suffer an embolism from the bench so he
14 scheduled one last hearing before the idiot. In June 2012, FI Missud asked Kahn why he'd
15 thrown 38 Million Californians under DHI's corporate wheels of greed. Missud faintly recalls
16 hearing Kahn mutter under his breath that his corporate pay-off was just too good to pass up.

17 10-15-12; 9th Circuit 12-16602; By October 2012, Circuit Stooge\$ Gould, Clifton, and Bybee
18 formulated a plan to conceal DHI's purchase of Chen and Ryu- both of whom declared
19 federally-protected informant Missud "vexatious" because he'd uncovered the origins of the
20 Mortgage Meltdown- namely that judge\$ like them sold-out America and are the reason why
21 corporation\$ get everything they want in our corporate-bought court\$\$\$\$\$\$\$\$ of law.

22 11-15-12; Judicial Misconduct Complaint # 12-90139 detailing Chen's Official Corruption-Lies
23 in C:11-3567 #88; Even 9th Circuit C.J. Alex Kozinski has to ignore that his entire Circuit and
24 District does corporate-bidding. 100 Million Americans in the 9th Circuit's jurisdiction are but
25 sheep for corporate- fleecing. The Koz will make sure that none of his underlings are ever
26 investigated by his Circuit because the few dozen judge\$ who protect a few hundred corporate
27 oligarchs are far more important than 314 Million Americans. It's the .000159% (the 'judicially-
28 immune' and 'friend\$ of Mozillo') vs. the 99.999841% (real flesh-and-blood, non-corporate
Americans). Clearly, the 'Occupy Movement' is off by a factor of 10,000.

1 12-24-12; S207619; En Banc CA Supreme Court; Chief Justice Cantil-Sakauye and her merry-
2 men knew their state underlings were caught in Official Corruption \$o \$imply didn't weigh-in to
3 protect 38,000,000 constituents: <http://www.courts.ca.gov/supremecourt.htm> .

4 4-15-13; SCOTUS Writ 12-8191; En Banc U.S. Supreme Court; Chief Justice Roberts and his
5 band of con\$ervative merry-men knew their federal underlings were caught in corruption, \$o
6 \$imply denied review and failed to protect 314,000,000 fellow Americans. They're in the
7 proce\$\$ of selling the nation-off to the *Citizen\$-United* corporate \$pecial intere\$t\$ like the
8 Koch\$, and so can't be bothered with such mundane things as the Chamber of Commerce' and
9 Fortune-500'\$ owner\$hip of the SEC thank\$ to Chri\$ Cox and Mary \$chapiro:⁷

10 <http://www.supremecourt.gov/docket/docket.aspx> .

11 5-21-13; 9th Circuit 12-15658; Since Murguia, Leavy, and Thomas don't want Gould, Clifton,
12 and Bybee to get lonely in Leavenworth, they al\$o \$ided with DHI after ignoring the smallest
13 iota of evidence proving that DHI committed the exact same crimes as Ryland, KB Home, and
14 Beazer- each of which signed federal consent agreements promising to get out of mortgage

15 origination because they'd been caught in ma\$\$ive predatory lending:

16 <http://www.fbi.gov/charlotte/press-releases/2009/ce070109.htm> and
17 [http://www.fbi.gov/charlotte/press-releases/2011/former-beazer-mortgage-loan-officer-charged-](http://www.fbi.gov/charlotte/press-releases/2011/former-beazer-mortgage-loan-officer-charged-with-mortgage-fraud)
18 [with-mortgage-fraud](http://www.fbi.gov/charlotte/press-releases/2011/former-beazer-mortgage-loan-officer-charged-with-mortgage-fraud) . Capiche???\$\$\$\$???

19 8-12-13; SCOTUS Writ 13-5888: Because Engineer Missud [BSME, MSCE, CSLB IE] is
20 having too much fun effortlessly exposing low-IQ, nit-wit judge\$ [just jd's] up through the Circuit
21 Court, he filed for a Writ of 12-15658. Getting Murguia, Leavy, and Thomas indicted for 18
22 USC §1962 racketeering will be a whole lot easier than mastering just one concept in sophomore
23 year's "Thermodynamics-I." Missud still doesn't understand entropy (for a chemical system):

24 "Boltzmann proposed the following equation to describe the relationship between entropy
25 and the amount of disorder in a system: $[S = k \ln W]$ In this equation, S is the entropy of
26 the system, k is a proportionality constant equal to the ideal gas constant divided by
27 Avogadro's constant, \ln represents a logarithm to the base e , and W is the number of
28 equivalent ways of describing the state of the system. According to this equation, the
entropy of a system increases as the number of equivalent ways of describing the state of
the system increases."

<http://chemed.chem.purdue.edu/genchem/topicreview/bp/ch21/entropy.php>

⁷ Note that \$COTUS Denied Review of Writs 12-7817 & 12-8191 on 4-15-13, -the same exact day that the Bar \$tarted rigging FI Missud's Bar Court Trial 12-O-10026 to disbar him \$o that \$COTUS\$ could invoke Rule-8 to ignore 8 remaining Writs: 12-9412, 9413, 9981, 10006, 13-5888; of 12-17622, 13-15357; and Rule-11 of 13-16510.

1 Yes that's math- Bueller, Scalia, Thomas, Robert, anyone?

2 9-30-13; SCOTUS Writ 12-9412: Because Stuyvesant grad Patrick Missud wants fellow
3 Stuyvesant grad Eric Holder⁸ to give the five SCOTUS conservatives 'a facial,' he outed
4 Nevada's entire Supreme Court and set-up the Country's highest Court to ignore their State
5 counterpart's criminal racketeering. Once John, Antonin, Anthony, Clarence, and Sammy deny
6 Review of Writ 12-9412 on September 30th, 314 Million real, non-corporate people will learn
7 that they've been sold-out to *Citizen-United* corporate 'people.' That way, Americans and the
8 United States can have a 2nd [non-violent] revolution and oust the corporate and judicial
9 oligarchs who like the monarchy in 1776 financially raped the Colonials and their Colonies.

10 **2. ADR Service' and Business-Partner \$24 Billion Allstate Insurance's "Kickbacks, and**
11 **Rigged Arbitration" to Save over One Million Dollars at Super-Secretive Arbitration**
12 8-27-07; CGC-07-464022; At this hearing Mahoney completely ignored FAA §2 to illegally
13 compel non-signatory Finkelson into a rigged judicial arbitration where his colleague and their
14 well-connected special interests would benefit handsomely....

15 4-30-10; ADRS-08-4394-MC; The Superior Court's "court approved" arbi-traitor Michael
16 Carbone then ignored over 10 days' transcribed testimony in which Allstate's two experts were
17 caught in 62 lies including: 32"=36"; \$8000=0; \$4000= \$1476; and \$79,000=0.

18 10-26-10; CGC-07-464022; At this hearing Superior Court Judge Charlotte Woolard got a 20-
19 page "Opposition to Confirmation" of the rigged award and decided to address only one of five
20 grounds to vacate the fraud which saved Allstate Insurance over a million dollars. Not only did
21 she intentionally fail to completely rule in the case, but even admitted to not having jurisdiction
22 over Mahoney's target Finkelson, -who she then saddled with \$56,080 in Allstate's cost.

23 That's right- Woolard admitted having no power over Finkelson, but then picked his pocket to
24 pay Carbone, ADR Service, and Allstate for having rigged their arbitration. Cha-ching, and it's
25 really good to be the 'judicially-immune' Queen!!!

26 12-6-10; A130482; CA 1st Appellate District- Division II; The Trio's, Haerle, Lambden, and
27 Kline tried all sorts of shenanigans to avoid considering their underlings' crystal-clear Federal
28 Arbitration Act Racketeering -of the exact same type which caused the NAF's banishment from
two states. They twice-struck two Opening Briefs because they alleged fraud and pled FAA §10

⁸ <http://www.biography.com/people/eric-holder-391612> and
http://www.nytimes.com/2008/12/01/nyregion/01holder.html?_r=0&adxnnl=1&pagewanted=all&adxnnlx=1378160127-q50Q/HUghGzZIVsVwRfTeg

1 to FRCP-9 too specifically (as required); and then violated their own CAR Rule 8.200 by
2 forbidding an as-of-right Reply Brief, *even after* All\$state requested sanctions to financially drive
3 the appellants into the ground. Ye\$ that\$ right- the experienced Trio of Appellate felon\$ tried to
4 vitiate their own California Rules of Appellate Procedure to give All\$state and it\$ corporate-
5 bought officials cover.

6 7-21-11; CGC-07-464022; At this hearing FI Missud explained to Giorgi that she could review
7 and reverse her own order to save appellate court judicial resources. \$he stubbornly refused
8 because reversing would've admitted that FAA RICO doe\$ indeed existi\$ in her Court.

9 2-8-12; 9th District C:11-1856; Federal Judge Phyllis Hamilton had the chance to independently
10 review the \$tate Court\$' gaming of the Federal Arbitration Act but instead opted to give
11 Mahoney, Giorgi, Woolard, Carbone, McDonald, Kline, Haerle, Richman, and Lambden
12 absolute cover for their absolute criminal acts. You \$ee, the\$e nine phuking [sic] felon\$ with
13 combined intelligence quotients of 1, are far more important than 38,000,000 Californians.

14 9-6-12; 9th Circuit 12-15371; Since FI Missud wanted to insure that Hamilton rots in federal
15 prison, he appealed that piece of \$#!t'\$ ruling to Reinhardt, Wardlaw, and Bea. Since their
16 combined IQ<1, they did as expected and rubber-stamped their lower court colleague stating that
17 "issues presented in the appeal are so insubstantial as to not require further argument." Gotcha!

18 12-3-12; S206342; En Banc CA Supreme Court; Once again, the peoples' champion decided to
19 throw real people under the corporate 'people\$' wheels of greed. Cantil-Sakauye just doesn't
20 want anyone to know that California's judiciary i\$ full of corporate-bought felon\$ looking to
21 fleece the masses under veil\$ of 'ab\$olute judicial-immunity' which corrupt absolutely.

22 4-15-13; SCOTUS Writ 12-7817: John Robert\$ didn't want to review Woolard's admi\$\$ion to
23 not having power to order a non-party to pay Fortune-500 All\$state \$56k because he'\$ too busy
24 guaranteeing that corporate-bought judge\$ like himself and Woolard, and the corporate 1% like
25 All\$state, take over the nation. Recall that he authored *Shelby County v. Holder* to strip a large
26 percentage of real Americans' fundamental rights to vote. By erecting financial and spatial
27 hurdles before the nation's lower-income brackets, he virtually made the next corporate-bought
28 Manchurian candidate a 'shoe-in' for our next Presidential election. After all- if the lower and
middle classes can't get to ever-dwindling polling stations, with ever-shrinking polling hours,
and ever-increasing voting lines, then a Wall \$treet bank\$ter like Mitt Romney can 'win' the
White House. That way, All\$state can get even more corporate-favoring legislation like the FAA,

1 non-enforcement of the Consumer Protections Act, and corporate-favoring SCOTUS decisions
2 as in *American Express v. Italian Colors*. Isn't today's American 'democracy' great?⁹
3 <http://www.scotusblog.com/case-files/cases/american-express-co-v-italian-colors-restaurant/> and
4 <http://www.scotusblog.com/case-files/cases/shelby-county-v-holder/> .
5 8-27-13; CGC-07-464022; Two hours before Superior Court Judge Cynthia Lee was to rule in
6 this OSC hearing, FI Missud predicted that she'd try to deprive Missud's clients their day in
7 court. Sure enough, in her public courtroom chock-full of witnesses, she cited the Bar's rigged
8 D&O to prevent Missud from representing Finkelson and another litigant who'd also been
9 financially raped by her fellow judge Woolard, Giorgi, and "court-approved" Carbone.
10 9-30-13; SCOTUS Writ 12-9981: Finkelson neither likes being financially raped by judge
11 Woolard, Giorgi; nor wants to pay Allstate Insurance \$56k+++ for rigging the ADR Service
12 arbitration held before "court-approved" Carbone. He therefore Petitioned SCOTUS for
13 independent review of his concrete case. It's so well-proven it's as if Finkelson discovered the
14 meaning of life, shown that Martians do exist, and that Jimmy Hoffa, Elvis Presley, and Tupac
are alive and well partying together in Las Vegas.¹⁰

15 **3. JAMS' Nationwide "Kickbacks, and Rigged Arbitration" to Favor its Own Interests,
16 Employee, and Repeat-Business Entities**

17 10-19-10; CPF-10-510760; Woolard also committed FAA RICO in this 2nd independent case.
18 She knowingly compelled arbitration under a defunct agreement, and even heard the motioning
19 attorney lie in person before her, but nevertheless wanted to give her retired court colleague
20 Gene McDonald some lucrative business and so assigned him to the arbitration....
21 3-3-11; JAMS-1100064391; Retired Judge McDonald railroaded his target's judicial foreclosure
22 by parsing a defunct, unrecorded Tenancy in Common agreement which was superseded by
23 officially-recorded Condominium Documents. Then to give his judicial foreclosure color-of-
24 law, he attached as "Exhibit A," the superseding Condo Documents -upon which his rigged
25 award wasn't based. That way, the sheriff could seize Cunningham's million-dollar-Condo to
26 pay McDonald's hefty arbi-traitor bill and that of his employer, the ultra-lucrative JAMS

27
28 ⁹ Only if you can afford it.

¹⁰ SCOTUS will likely repeat what was done in Writs 12-7817, 8191, 9412, and 9413, -namely 1st increase costs of litigation of 12-9981 by upgrading it to pricey Rule 33.1 Booklets to make it go away, and then quickly-summarily Deny Review to avoid considering that all 'judicially immune' judges are thieves.

1 award-rigging, for-profit, quasi-judicial, conflicted, repeat-business-favoring, Obtaining-Title-
2 By-Fraud, Alternative Dispute Resolution firm.

3 4-13-11; CPF-10-510760; Giorgi (who someday hopes to rig arbitrations at JAMS) yet again tag-
4 teamed with Woolard (who someday hopes to rig arbitrations at ADR Service) to rubberstamp
5 their RICO. She also attached "Exhibit A" to her order de jour so that their victim's Condo
6 could be illegally seized and sold out from under him.

7 5-9-11; A131914; CA 1st Appellate District; Division II; Kline, Haerle, Richman. These three
8 judicial felon, whose undergraduate work merely included reading at a 6th grade level, dragged
9 their collective feet for over a year to schedule oral argument in this appeal on September 17,
10 2013. This Trio- who didn't become doctors, scientists, or engineers because they simply
11 weren't smart enough, will have to ignore that mental-maven Woolard, Giorgi, and McDonald
12 tried to steal a million-dollar Condo from their target, and knowingly did so per over a half dozen
13 official court transcripts, only two of which are referenced above.¹¹

14 5-12-11; CPF-10-510760; Giorgi was repeatedly motioned to vacate McDonald's rigged award,
15 but since she favor million-dollar grand-larceny she let the railroad award stand.

16 8-1-11; CPF-10-510760; Judge Busch then appointed a receiver to insure that their victim's
17 Condo would be illegally 'taken' in violation of the Constitution and Bill of Rights.

18 9-16-11; CGC-11-511994; After lot of hearing-date shuffling, Criminal Court Judge Cheng was
19 assigned to Cunningham's newest case exposing judicial graft and alleging 42 USC §1983
20 Deprivation of Civil Rights. This hearing's date was twice-changed because FI Missud notified
21 syndicated media and law enforcement that the Superior Court's FAA RICO was in session.

22 11-17-11; CGC-11-511994; Cheng actually lied about not getting pleadings twice-served on him
23 by email as corroborated by hundreds of cyberspace witnesses, and even by the USPS -which
24 delivered a confirmed mail priority package directly to his chamber. Why would a criminal
25 court judge lie about not receiving damning documents tying his colleagues to criminal act?

26 2-2-12; CGC-11-511994; Cheng procured the unavailability of his own court reporter just hours
27 before this hearing convened. FI Missud desperately tried to get a court reporter but was unable.
28 He then motioned Cheng for a continuance until such time that a record could be made, but Chen
refused because he doesn't like being caught in lies which'll get him indicted for 18 USC §201.

¹¹ Note that this Trio will hold argument two weeks before SCOTUS will either deny or grant review of companion Writ 12-9981, -which is but half of Writ 12-7817, -which SCOTUS already denied on 4-15-13 by playing 'hear, See, and Speak no evil.'

1 However, the court's clerk was kind enough to produce an accurate rendition of Chen's
2 shenanigans in the official court minutes.

3 5-25-12; FDI-03-753770; This was a family court hearing in which Cunningham is also
4 involved. His ex-wife's family is rich, and since judge\$ love money, \$he always gets favorable
5 ruling\$. Cunningham has for years been trying to get family court judge\$ like Woolard and
6 Mahoney to follow the binding *Elkins* decision which requires full-evidentiary hearings when
7 fathers are completely stripped of their parental rights. On this date, Mahoney 1st moved the
8 hearing down the hall so that his court reporter wouldn't be present. He then confiscated
9 Missud's Rule 1.150 personal recording device to prevent any audio records. In his order,
10 Mahoney then sanctioned federally-protected informant Missud for trying to make a legal tape-
11 recording as requested before that very hearing, as proven by emails and documents federally-

12 9-17-12; CPF-10-510760; Superior Court judge Curti\$ Karnow wouldn't allow Cunningham to
13 contest hi\$ tentative ruling on this day because Karnow claimed that notice of appearance hadn't
14 been made. However the docket very clearly evinces that Cunningham registered and served
15 *four notices weeks in advance*, demanding oral argument and the taking of depositions in-person
16 on 9-17-12. Even Karnow was now denying Cunningham's day in court, and preventing
17 evidentiary hearing\$. Aren't courts supposed to search for the truth?

18 3-8-13; CGC-12-527273; Cunningham collaterally attacked Cheng's\$ deci\$ion to ignore his
19 many colleague\$' judicial corruption. Santa Clara County's former Presiding Judge Leslie
20 Nichols was taken out of retirement and brought up to San Francisco to rule in this 2nd Civil
21 Rights suit. As before, court reporting was made unavailable, and personal recording devices
22 banished from hi\$ courtroom in violation of due process and fairness. Thereafter, Nichols' order
23 at pg-2 whimsically referenced FI Missud's status as a federal whistle-blower who'd "brought
24 down some 60 judge\$." Non-believer Nichol\$ was instantly among them as #61. What a
25 moron! Presiding judge\$ like Gonzalez and Nichol\$ aren't bright enough to know they're being
26 set-up *even as they're being set-up*. Nichols ultimately required Cunningham to furnish ¾
27 million dollar\$ in bonds to pursue his legal grievance and continue Petitioning the Superior Court
28 which tried to \$teal hi\$ home. Wow!¹²

¹² Nichol\$ might be dummerer than Kahn.

1 9-17-13; A131914; Division II; In a scant two weeks, Kline, Haerle, and Richman will hear
2 Cunningham's oral argument. He'll produce the Superior Court's own self-authenticating
3 documents/admission which prove that a ring of judicial thieves compelled his rigged
4 arbitration under a defunct TIC agreement, and that all the judicial officers then attached the
5 superseding, recorded Condo Documents giving their grand larceny color-of-law. No less than
6 9 judges will be 'outed' in one fell-swoop.

7 9-30-13; SCOTUS Writ 12-10006: The reason why the Koch Brothers' favorite Heritage
8 Foundation Keynote Speaker- Antonin Scalia and Clarence Thomas will deny review of Writ
9 12-10006 (FI Missud's Private Attorney General Motion) coming up in Conference September
10 30th is because it proves to DNA-fingerprint standards that FI Missud fingered and "brought
11 down over 61 judge," and is now seeking to add Antonin and Clarence to that total.

12 **4. San Mateo Bar Association "Kickbacks, and Rigged Arbitration" to favor its own
Repeat-Business Entities**

13 9-24-12; 9th District C:12-3117; Federal Judge William Alsup dismissed this case naming the
14 Bar as a RICO organization which allows its Member to target the public for financial
15 predation. He dismissed the Bar only after illegally deleting docket #'s 81-85, 87, 88 which
16 prove judge's criminal acts to criminal standards. Further, some other un-named court or judge
17 also changed the title of docket #86 from "*Citizen-United Corporate Purchase of the Judiciary*"
18 to "The U.S. Supreme Court Knows of Your Corporate Corruption." Now why and who
19 changed that title U.S. Supreme Court Chief Justice John Roberts?

20 2-5-13; 9th District C:12-5468; Federal Judge Edward Chen then also decided to dismiss this case
21 which detailed the Bar's furtherance of its Member's racketeering which includes targeting the
22 public for financial predation. Chen dismissed the Bar only after he and Alsup tried to bury the
23 RICO case as an "insurance claim" deep within the court's "internal database." See the court's
very own official docket #'s 6-11, evincing obfuscation, concealment, and suppression.

24 7-22-13; SMCBA Arbitration #13-04; Just like its larger, affiliated state organization, the San
25 Mateo County Bar Association also furthers its own Member's crime targeting the public.
26 SMCBA Member Fegley, Pomeroy, and Patterson all lied in their July 2013 Fee Arbitration
27 Award feigning that a consumer-petitioner hadn't served subpoenas on corrupt Bar Member for
28 production of evidence they-themselves claimed was vital for award determination. The Trio
received copies of multiple rounds of federal subpoenas served on their corrupt colleague who

1 flaunted each and every demand for essential documents only within their control. The
2 subpoenas were even federally-registered, and then served on law enforcement and syndicated
3 media to corroborate services.

4 8-16-13; #13-04; Just two weeks ago Fegley tried to weasel-out of reconsidering his crystal-clear
5 lie regarding lack of service of the subpoenas. Fegley cited the Bar's rigged D&O to get out of
6 having to commit to more lies which will get him indicted for corruption and racketeering.

7 8-19-13; 9th Circuit 12-17622; Then 3 days later, judge's Shroeder, Graber, and Paez finally ruled
8 in the appeal which detailed how Al'sup illegally deleted 8 sets of documents from PACER
9 because he wanted them hidden from public view. This Trio naturally had Al'sup's back since
10 doing otherwise would cause a complete judicial collapse all the way up through their 9th Circuit.

11 8-19-13; 9th Circuit 13-15357; Shroeder, Graber, and Paez likewise played 'hear, See, and Speak
12 no evil' in this appeal which proves that Chen and Al'sup mischaracterized the RICO case as an
13 innocuous insurance claim because they don't want SCOTUS exposed for changing docket #86.

14 8-29-13; Notice of Petition for SCOTUS Writ of 9th Circuit 12-17622 & 13-15357: FI Missud
15 already filed these Notices of Petition for Writ of Certiorari before SCOTUS. Carnegie-Mellon
16 Engineer Missud¹³ wants to go head-to-head with Harvard University's John Robert's to prove
17 that getting a JD is just a simple matter of reading to a 6th grade level (or knowing an archaic
18 language like Latin).¹⁴ People who can barely read shouldn't be making decisions for the rest of
19 US. Accomplished people like Benjamin Franklin, Mary Curie, Lord Kelvin, Michael Faraday,
20 Jonas Salk, Bill Gates, Steve Jobs, Sanjay Gupta, Christine Lagarde, ... and other professionals
21 who did more than just settle for philosophy degrees and are trained in the sciences, math, and
22 physics ought to determine whether environmental degradation is indeed happening rather than:
23 (a) allow companies like Chevron to dictate: energy policies, EPA guidelines, emissions
24 regulations, and CAFÉ standards; or (b) appoint representatives like Bab's Bachman to the House
25
26
27

28 ¹³ FI Missud graduated at the bottom of his CMU Mechanical Engineering class, but at the top of SFSU's Civil Engineering Program. Can you imagine how much faster the numb-nutz corrupt judge's could've been exposed had Missud's superior college buddies John F, John G, or Melissa K been disgruntled attorneys specializing in exposing corrupt judge's?

¹⁴ http://www.ask.com/wiki/John_Roberts?o=2800&qsrc=999&ad=doubleDown&an=apn&ap=ask.com#cite_note-nytimes-1

1 of Representative's "Science Committee" or "legitimate rape" Todd Aiken to weigh-in on global
2 warming or women's health.¹⁵

3 9-30-13; SCOTUS Writ 12-9413: Since Missud wants to absolutely nail the Bar, and SCOTUS
4 which colluded with it to "involuntarily disbar" Missud per their rigged D&O, this pleading will
5 become a supplemental briefing to be distributed prior to September 30th's Conference. It'll be
6 sent by tracked USPS mail, forwarded by verifiable email, federally-registered, and copied to
7 thousands of 3rd parties as corroboration of service to put Scalia, Thoma\$, Alito, Kennedy, and
8 Robert\$ on the \$pot. The five bachelor-of-arts conservative\$ will have to ignore that well over
9 60 of their dim-wit underling\$ sold their decision\$ to the *Citizen\$-United* -just like the four far
10 brighter progressives warned them would happen if corporation\$ were given unfettered ability to
11 buy officials, and unlimited \$peech right\$. Know that Missud has no doubt that Ginsberg,
12 Sotomayor, Kagen, and Breyer could have been magnificent medical doctors or NASA
13 Engineers. Their decisions are extraordinarily well-reasoned and even prophetic.

14 **D. Official Self-Authenticating Pre-Trial California Bar Court Transcripts which have to
15 be Considered for their Content in this Defamation Case**

16 On January 27, 2011 Missud testified before the complete "Governance in the Public Interest
17 Task Force" and provided them with 6 crystal-clear examples of Bar Member fraud targeting the
18 public for financial predation. Those criminal acts were of the exact same type that were
19 supposed to be prevented and investigated by those very Board Members who'd convened that
20 very hearing. Unfortunately, none of the Board Members did anything to prevent specifically-
21 detailed Bar Member crimes taking place in real-time.

22 On January 22, 2013 Bar Court judge Armendariz first lied about not getting FI Missud's
23 pleadings and then refused to acknowledge member-of-the-public Wong, who'd attended that
24 hearing to testify about 6 Bar Member\$ who targeted him for financial predation. Armendariz
25 non-fea\$ed and refu\$ed to invoke Bar Court Rule 5.109 to take Wong's testimony.

26 On February 11, 2013 Bar Court judge Armendariz and Chief Counsel Denning\$ again lied
27 about not receiving Missud's pleadings, and then Armendariz refused to acknowledge over 3000
28

15 <http://www.nationalmemo.com/5-anti-science-congressmen-on-the-house-science-committee/> and
http://www.huffingtonpost.com/2013/01/14/michele-bachmann-petition_n_2472682.html and
http://www.huffingtonpost.com/2013/04/15/michele-bachmann-john-brennan_n_3085481.html .

1 FTC, HUD, FBI, and other government records which proved that the Trial was based in
2 trumped-up charges to conceal corporate purchase of the judiciary, and that judge\$ routinely lie
3 to benefit the corporate \$pecial interest\$ appearing before them.

4 On April 5, 2013 Armendariz and Dennings lied yet again about not receiving Missud's
5 pleadings which were simultaneously federally-registered and copied to hundreds of
6 corroborating recipients. Neither Bar official wanted to consider over 20 transcripts catching
7 judge\$ in lie\$, *including Armendariz* who lied about not receiving pleadings in January and
8 February per the above. It's due to all this judicial lying that Armendariz was railroading the
9 Trial, *as specifically detailed* in the Bar's official, self-authenticating Transcript at page 12.

10 **E. Official Self-Authenticating Bar Court Trial Transcripts, for which the Federally-**
11 **Registered July 12, 2013 Narration is Herein Incorporated by Reference**

12 **1. Multiple Demands for the Illegally Withheld Transcripts**

13 Note that just 10 days after April 19th's submission of rigged Bar Court Trial 12-O-
14 10026, Missud demanded the Transcripts by certified Letter #7012 0470 0000 3088 -1524. The
15 Letter was then attached to emails received by the Bar, syndicated media, and law enforcement.
16 It outlined how the Bar was caught at Trial trying to conceal its crystal-clear racketeering, which
17 is detailed to heightened FRCP-9 in SCOTUS Writ 12-9413. Then a follow-up demand was
18 made on May 7, 2013, again before cyberspace witnesses who can corroborate receipt of the
19 same. Per the USPS, item #-1548 "was delivered [to the Bar] at 10:49 am on May 9, 2013 in
20 LOS ANGELES, CA 90015" <https://tools.usps.com/go/TrackConfirmAction.action> .

21 Thereafter, additional weekly demands for production of the Transcripts were made by email and
22 other certified postings, all of which before corroborating witnesses like the FBI. Multiple
23 federal subpoenas were even served on the Bar and publicly registered in PACER cases C:12-
24 3117 & -5468 on and through June 26, 2013, dockets #162,164 & #165,167 respectively.

25 Now recognize that according to Court Reporter Materazzi's Certification, the Transcript
26 was promptly and dutifully prepared by her *the month prior* on May 21, 2013. However, the
27 Bar's LA office didn't mail the Transcript until July 1, 2013, *40 days later*. July 1st happens to
28 be the same day that the Bar also served it\$ rigged D&O from it\$ San Francisco office, in which
it recommended Informant Missud's disbarment by July 4th, 2013- a federal holiday. Missud
received the Bar's\$ rigged D&O on July 2nd, and Transcript on the 3rd. The Bar's\$ D&O notified
Missud that he'd be placed on "involuntary disbarment" by July 4th, unless he filed and served

1 Bar Court Motions for review, reconsideration, and/or for new trial. Per the Bar's official
2 website, Missud's rigged disbarment is now only "pending:"

3 <http://members.calbar.ca.gov/fal/Member/Detail/219614>

4 Thankfully, Missud timely served the Bar, and filed in PACER, those all-important
5 written Motions on July 3rd, the day before the federal holiday and FI Missud's automatic
6 "involuntary disbarment." Otherwise the U.S. Supreme Court's conservative majority could
7 have invoked SCOTUS Rule-8 to deny review of all *four* criminally-proven Writs, all of which
8 are in Conference on September 30th, and expose an ultra-corrupt legal system:

9 "Whenever a Member of the Bar of this Court has been disbarred or suspended from
10 practice in any court of record, or has engaged in conduct unbecoming a member of the
11 Bar of this Court, the Court will enter an order suspending the member from practice
before this Court and affording the member an opportunity to show cause, within 40 days,
why a disbarment order should not be entered."

12 See Missud's many Motions permanently registered in C:12-5468 #169; and C:12-3117
13 #166, and which are publicly accessible to 314 Million people. Now 314,000,000 Americans are
14 secure in knowing that SCOTUS won't be tricked by the Bar, but will rather GRANT review of
15 Writs 12-9412, 9413, Finkelson's 9981, and 10006 which prove to criminal standards that state
16 and federal judge\$ colluded with California's Bar to rig a wide variety of arbitrations, court
17 cases, and Bar Court Trials to conceal evidence of rampant 18 USC judicial §201 corruption,
18 §1962 racketeering, and §2381 treasonous act\$ by judge\$ who \$hould know better \$ince they're
19 entru\$ted with the foundations of American democracy. What a bunch of criminal\$!

20 2. Narration of the Illegally-Withheld Bar Court Trial Transcripts

21 The following paragraphs generally describe the 749-page Bar Court Trial Transcript(s)
22 that was illegally withheld for 40 days, save pp. 433-599 which have yet to be produced although
they've been state and federally subpoenaed an inordinate amount of time\$\$\$\$\$....

23 1-10: Bar Court Counsel Dennings makes her broad Opening Statement to begin the Trial's
24 railroading. Right from page 1, Bar Court judge Armendariz' mind was set to rig her July 1,
25 2013 "Decision and Order;"

26 10-51: Unbeknownst to Dennings and Armendariz, Federal Informant Missud sets-up them up at
27 their own Trial and then began generally outlining the overwhelming proof to be detailed over
the next four days;

28 51-108: Dennings takes Direct Examination of Qui-Tam Relator Missud who refutes most of

1 what Dennings says by specifically citing to detailed exhibits and referring to real FRE Rule-803
2 documents;

3 108-129: Dennings then takes Direct Examination of her first Witness, Hastings College of the
4 Law, Civil Procedure Professor James Wagstaffe. She lobs him softballs, and avoids that he
5 participated in FAA racketeering which included defending corrupt judge\$ forcing litigants into
6 rigged arbitrations despite lack of jurisdiction and in violation of FAA Section 2;

7 129-172: California Private Attorney General Missud Cross Examines Wagstaffe and elicits that
8 the College Professor hasn't a clue about the very subject he professes, *and* neither understands
9 first year Real Property.

10 172-252: Dennings takes Direct Examination of her second Witness, \$9 Billion D.R. Horton
11 [DHI] Defense Attorney Odou. Odou filed Bar Complaint 12-O-10026 to rig Federal Whistle-
12 Blower Missud's disbarment because he'd exposed DHI's multi-billion dollar fraud on the U.S.
13 government's HUD, Fannie-Mae, Freddie Mac, and other agencies which bought DHI'\$
14 predatory/defaulting loans. Odou's Complaint was then accompanied by District judge Chen'\$
15 12-O-12270. Chen took only ten days after dismissing DHI from RICO C:11-3567-EMC
16 wherein he declared Missud "vexatious," *to also retaliate* against the Informant who's been
17 exposing *Citizen\$-United* corporate corruption of the federal judiciary for four years.

18 253-346: Missud Cross Examines Odou who unwittingly assisted Missud in exposing (8) judicial
19 jurisdictions as corporate-bought: Nevada's Clark County and Supreme Courts; California's
20 Superior, First District Court of Appeal, and Supreme Courts; 9th District and Circuit Courts; and
21 even U.S. Supreme Court is now being exposed in real-time, *with this very pleading no le\$\$*, as
22 *Citizen\$-United* byproduct\$ of how corporate money corrupts government ab\$olutely.

23 347-367: Dennings continues Direct Examination of Missud, who for four years marched into
24 courtrooms just like the Bar'\$ to get half-wit attorneys like Dennings and mental midgets like
25 Armendariz on official records, getting themselves indicted. Dennings just dug two holes even
26 deeper, the first for herself, and second for her colluding, railroad-conductor/partner Armendariz
27 who ignored all Trial evidence to Rig their July 1st D&O.

28 368-384: Dennings takes Direct Examination of her third Witness Colleen Ryan. Dennings tries
to get Colleen to paint a really bad picture of Missud, who for the past four years assembled a
1000-piece puzzle revealing the judiciary'\$ crystal-clear racketeering in Technicolor.

385-441: Missud Cross Examines Ryan about two under-lying cases, both of which repeat

1 Federal Arbitration Act Racketeering which already exposed San Francisco's Superior Court.
2 Three nationwide arbitration firms are featured- the NAF, JAMS, and ADR Services, each of
3 which hires retired judge\$ to: rig awards in judicial-arbitrations for corporate and other special
4 interests; and who then send the rigged awards back to their active, arbitration-compelling
5 colleagues to rubber-stamp the multi-million dollar racketeering from San Diego to points North.
6 Literally, a RICO-ring of just a few corrupt 'judicially-immune' judge\$ is all it takes to steal
7 millions-billions from the masses. Note that Transcript pp. 433-441 aren't furnished because the
8 Bar 'lost or misplaced' them, but knows they have to be produced per Bar Court Rules, and
9 multiple state and federal subpoenas for production.

10 442-467: These are some more mi\$\$ing pages that the Bar ha\$ illegally withheld. They should
11 be the Direct Examination of Dennings' fourth Witness Leonard Marquez; but since the Bar lost,
12 misplaced, or \$uppre\$\$ed them, Missud has to remember details from memory (or reference his
13 personal digital recording). Dennings elicited from this 2nd of many, many DHI defense
14 attorneys that the \$9 Billion corporation spent over a half million dollars to \$upre\$\$ evidence of
15 its ongoing, multi-billion-dollar, 27-state racketeering. That's a lot of fight by lots of attorneys,
16 so DHI must have a really big dog with a voracious, predator's appetite in the ring!

17 468-507: Should be Missud's Cross of Marquez. Missud remembers grilling Marquez about his
18 very own statements wherein he admitted knowledge that Missud was out of town but
19 nevertheless scheduled an Ex-Parte Motion for the next day, knowing Missud couldn't attend.
20 Marquez' ultra-illegal maneuver allowed DHI to bury and build upon its years' worth of rampant
21 cross-country predatory lending for another 2½ years before America's economic collapse –
22 caused by predatory lending orchestrated by corporate 'people' like DHI and it\$ preferred
23 lenders Countrywide, Amerique\$t, Wa-Mu, Indymac, and Well\$ Fargo. Had judge Diane Wick
24 \$imply held Marquez in contempt at the subsequent August 30, 2006 sanctions hearing, rather
25 than pat him on the back on his way out of her courtroom [8-30-06 Transcript page 5/2 "nice to
26 see you again Mr. Marquez"], perhaps November '08's \$4 Trillion Mortgage Meltdown might
27 never have happened. That \$ingle, \$olitary, 'judicially-immune' judge could have saved
28 hundreds of thousands of families from foreclosures and bankruptcies. That in and of itself
brings the breadth and ramifications of this judicial corruption into very \$arp, la\$er-focus.

508-550: Missud's re-direct by nit-wit Dennings who has: a liberal arts background; 'big
brother' California Bar driving her 'win record;' and actually thinks she's bright enough to

1 match wits with an dually-degreed Engineer who's been a businessman relying solely on himself
2 and none others for 25 years. Half-wits like Dennings pervade the legal community which
3 explains why it's so easy to expose them, and especially \$o after they've been promoted to half-
4 wit, hubris\$-full, (non) 'judicially-immune' judge\$ like Armendariz.

5 551-672: For most of that day, Defendant Missud (cross) examines himself although the
6 schizophrenic witness is predictably sympathetic to Defendant Missud. Per Armendariz'
7 admission at 670/17 split-personality Missud testified under direct examination of himself for 6
8 hours regarding DHI's initiation of that very Trial to cover-up its federal crimes that bankrupted
9 thousands of families from Florida to California. Then the California Bar'\$ compulsive liar-
10 Lucy Armendariz feigns that nothing Gemini Missud said was remotely relevant to the
11 proceedings. Which Missud twin failed to convince Lucy?

12 From 673-696: Lucy admits all sorts of Federal Rules of Evidence self-authenticating Exhibits
13 including: official transcripts, orders, federal documents, state agency letters, and court missives
14 into the record. These are the same Exhibits she admitted to basing her D&O in and at page 2:
15 "The following findings of fact are based on respondent's response to the NDC and the testimony
16 and evidence presented at trial."

17 Specific Details in the 4-19-13 Bar Court Trial Transcript

18 At page 674, I -Missud recapped the four prior days' events, including impeachment of 3 of 4
19 Bar witnesses who were subpoenaed to lie and rig my disbarment. I then motioned judge
20 Armendariz to dismiss the case since it was based in "trumped-up charges." She refused. \$o
21 \$ad. [See page 674].

22 At 675:5, I recapped how Bar Witne\$\$ Wagstaffe lied before judge Hamilton by concealing two
23 rigged federal arbitrations proven fraudulent by using nothing but the FRE-803 arbitration
24 awards, and court orders/transcripts. [See exh. "675-5"].

25 At 675:18, I recapped how Bar Witne\$\$ Marquez lied before judge Wick after he scheduled an
26 Ex Parte Motion knowing that I was out of town, and to save DHI from exposure for its 27-state
27 predatory lending which in two years would lead to the mortgage meltdown. [See "675-18"].

28 At 676:9, I recapped how Bar Witne\$\$ Odou lied before judges Bulla, Gonzalez, Giorgi,
McGuinness, Pollak, Jenkins, and Chen to save Fortune-500 DHI at least a Billion dollars in
disgorgeable racketeering proceeds 'earned' by illegally tying predatory loans to home sales, an

1 illegal Sherman, Clayton, and RESPA antitrust practice which had already, in great part, caused
2 the mortgage meltdown. ["676-9a....9e"].

3 At 678:15, I brought up how Division II filed four Orders in A130482 which violated FAA §10,
4 FRCP-9, and California's own CAR 8.200, but favored \$26 Billion All\$state In\$urance which
5 rigged the arbitration award. [678-15].

6 At 679:13, I referenced the *Bevens* case which is a near carbon-copy of cases filed coast to coast
7 all alleging that once consumers' thousands in forfeitable deposits are put into escrow, DHI
8 switches and inflates interest rates, and closing co\$t\$. [679-13].

9 At 680:16, I referenced *Wilson* and *Betsinger* which are carbon-copies of *Bevens* (and *Moreno*,
10 *Dodson*, and dozens of other state & federal cases). [680-16a,b].

11 At 681:7, I discussed Judicial Corruption C:12:5306, "internally" hidden as "insurance claim"
12 12-mc-80246 by judge Al\$up, -who eventually relinquished it after miscla\$\$ifying it "in error,"
13 and then eventually assigned to judge Chen for quick disposal. [C:12-5468 #6, 11; and 681-7].

14 At 681:25, I brought up how Chen filed Bar Complaint 12-O-12270 to initiate Bar Court Trial
15 12-O-10026 just 10 days after he di\$mi\$\$ed DHI from C:11-3567 based in 'lack of jurisdiction'
16 even though he knew the opposite from oral argument held the month before [C:11-3567
17 #88,110; and 681-25a,b].

18 From 682:13 to 683:13, I identified where Nevada's presiding judge Gonzalez lied about not
19 getting notice of my Motion to Retax so that \$he could give DHI what it wanted- a \$48,000+
20 sanction meant to derail my exposure of its multi-billion dollar fraud on Freddie-Mac and
21 Fannie-Mae which guaranteed billions of dollars DHI'\$ worthle\$\$, predatory, defaulting loans.
22 [682-13; 683-13].

23 At 683:24 I spoke of Magi\$trate Coltrane's citing DHI'\$ corporate profits as the 'compelling
24 state interest' to censor two groups' speech and assembly rights at public places, -traditional
25 public forums for such communications. [683-24].

26 At 685:7 I noted that DHI'\$ in-house counsel Morice, and four other Board Member\$ received
27 summons for several cases identifying their corporate predation of çitizens in 27 states, and yet
28 did nothing to prevent it. [685-7].

Starting at 686:7, Police Report 070793172 was admitted into evidence. The Report details how
my truck was bombed on a night when my websites exposing DHI'\$ interstate crimes were
getting upwards of 1200 'hits.'

1 At 687:8 I explained that Beazer was fined a scant \$50 Million just in N. Carolina for the same
2 exact type of predatory lending that DHI, which is 3 times larger, was committing in at least 20
3 states. [\$50M x 20 = \$1 Billion; and 687-8].

4 At 688:3 I brought up that DHI again lied in C:08-1324 #1-8, wherein it claimed "high customer
5 satisfaction scores" when in fact it wa\$ ju\$ \$lightly better than Angelo Mozilo'\$ Countrywide
6 which caused tens of thousands of families' foreclosures by knowingly originating predatory,
7 bottom-of-the-barrel, sub-prime loan\$. [688-3].

8 At 688:18 DHI'\$ defen\$e attorney Odou (and the Bar'\$ witne\$\$ since he'\$ \$o hone\$t) came up
9 yet again. This time he lied to Nevada's Division of Mortgage Lending claiming that my DHI
10 inside-loan was only "preliminarily approved" when even DHI'\$ loan officer Michael Mason
11 swore that he "fully approved" my full-document loan in a SF Superior Court declaration, and
12 before he learned that my much more competitive non-DHI outside loan would cost half as
13 much. That\$ when DHI changed it\$ tune, claimed I hadn't completed my loan application,
14 threatened to \$teal my \$10,000 in escrow, and take back my home which had appreciated
15 approximately \$60,000. All that hapened because I didn't acquiesce to the Fortune-500
16 company'\$ extortion. Nice huh? [688-18].

17 At 689:10 I launch into yet another example of Odou's di\$honesty. Way back in 2006 Odou
18 covered-up for DHI'\$ shoddy home construction by feigning non-receipt of documents and
19 digital pictures of my home's extensive damages. Nevada's Contractors' Board and Building
20 Dept. each discovered major structural defects caused by "racking," but \$ince DHI i\$n't in the
21 bu\$ine\$\$ of customer service, warranty or repairs, *but just consumer predation*, I was on my
22 own to get the repairs. [689-10].

23 At 690:1, I decided to impeach Bar Counsel Dennings and judge Armendariz in their very own
24 courtroom. I reminded them of the email they and FBI got which identified another entire
25 development in Vacaville which DHI targeted for financial predation. That\$ how ea\$y it i\$ to
26 catch the \$\$Bar\$\$ in racketeering, cover-up\$, and rigged Bar Court Trial\$. [690:1].

27 At page 691, I start whining about how dumb-a\$\$ judge\$ \$crewed with me for four year\$, which
28 is the rea\$on why each and every one will likely be indicted and imprisoned for decades. [No
exhibit- *just a hopeful prediction*].

1 Then on page 692 I predict how this U.S. Supreme Court will GRANT Review of Writ 12-9412
2 which proves that Nevada's en-banc Supreme Court is corporate-bought to make sure that 2.6
3 Million Nevadans fall prey to any Nevada corporate citizen's scheme seeking to fleece them.
4 From the bottom of page 692 into 694, I describe my 'M-O' which I've successfully used to set
5 up dumb-a\$\$ judge after dumb-a\$\$ judge: "You set up the [dumb-a\$\$] judge with overwhelming
6 evidence... [so that when they ignore it all] ... you get them for 18 USC §201 official
7 corruption." That's how I got Giorgi, Bulla, Woolard, Cheng, Gonzalez, Kline, Haerle,
8 Richman, Lambden, McGuinness, Pollak, Jenkins, Chen, Alsup, Hamilton, Gould, Clifton, Bybee,
9 Bea, Wardlaw, Reinhardt, Nevada's Supreme Court, at least 30 other\$, *plus one more*.....
10 From the bottom of page 694 to 695 I finish direct examination of myself by informing Dennings
11 Armendariz that I'm using the same 'M-O' to set them up in real-time:

12 "Now Ms. Dennings, you are hereby forewarned that if you would like to continue with
13 another question implying that I actually had moral turpitude in pursuing these various
14 grievances, you will again be interfering with a federal informant and furthering the
15 underlying racketeering schemes and using your position of public trust corruptly. You
16 will be violating all of the following. 18 USC §§201, 1513, 1962 among other statutes;"

17 To which Bar Court counsel Dennings countered with more questions, and then I said that

18 "I'm going to again motion this court that Ms. Dennings has not met her burden of proof
19 with clear and convincing evidence that I have moral turpitude in uncovering and
20 discovering and exposing Federal Arbitration Act racketeering as well as nationwide
21 predatory lending by a Fortune-500 company which is being defended by two, if not three,
22 if not many more corporate defense firms, who have a stake in the RICO proceeds, as well
23 as their employees Joel Odou and Leonard Marquez, who you had on the stand and who
24 were testifying under oath and perjured themselves, and you do have Bar Court Rule 5.109
25 jurisdiction to order an investigation into their lies. I'm motioning this court to dismiss
26 this case."

27 To which Armendariz respectively refused to investigate, and denied.

28 After successfully applying my 'M-O,' I finally rested my case in chief at 695:19.....

At page 696:7, Bar Counsel Dennings pu-pu's the official police report memorializing my
Chevy's August 3, 2007 bombing.

At page 698:1, I then add that upon my return from Las Vegas where I caught Discovery
Commissioner lying for Fortune-500 DHI Corporation, a ratty briefcase was put in my 2nd
truck's cargo bed as DHI's retaliation/intimidation for my having exposed their corporate-
bought judge on June 2, 2010. See the official 6-2-10 Transcript.

1 At 699:17 Dennings brings up \$F Superior Court ca\$e CPF-10-510876 wherein on January 19,
2 2011 judge Giorgi decided to ignore every fact in the record to give the multi-billion dollar
3 predatory lender more cover in California. That was explained at 700:8.

4 At 700:17 Dennings bring\$ up Appeal A131566 wherein McGuine\$\$, Jenkin\$ and Pollak
5 admitted to receiving a CD containing 5000 records of DHI'\$ interstate predatory lending.

6 Those are the same documents filed in CPF-10-510876, the best of which submitted in paper for
7 the appeal. Each and every one was ignored by the three rubber-stamping \$upposedly
8 'judicially-immune' judge\$ who wanted to: (a) \$ave the \$9 Billion DHI Corporation billions in
9 disgorgeable profits; and (b) their colleagues from federal life sentence\$ for official corruption.

10 At 701:8 Dennings bring\$ up my CCP §1021.5 Private Attorney General Motion which Kahn
11 twice-denied despite 5000 records filed in CPF-10-510876. Kahn was even caught lying in two
12 Transcripts feigning lack of notice to contest his tentative ruling\$ and his violating *Elkins* when I
13 start reading from other transcripts into those records. [Note that at 702:1 "did" should read
14 "didn't"].

15 At 703:3 Dennings bring\$ up District case C:11-3567 which Chen presided over, and DHI
16 defen\$e attorney Odou testified about. Odou and Chen then re\$pectively filed State Bar
17 Complaint\$ 12-O-10026 and -12270 to cover-up their tag-team lying to protect \$9 Billion DHI'\$
18 RICO proceeds at the March 9, 2011 hearing registered as docket #110 in the federal RICO ca\$e.

19 At 704:25 Dennings bring\$ up District case C:12-161 which Ryu presided over, and was severed
20 from Chen's -3567. Ryu ignored *five* SEC violations of its own rules and Congress' Freedom of
21 Information Act. The SEC \$imply didn't want DHI exposed as a Sherman/Clayton antitrust
22 bundler, \$o allowed the Fortune-500 corporation to mislead the public, and SEC to illegally
23 withhold public FOIA documents for four long year\$.

24 At 704:25 Dennings asks whether Ryu was appealed, and then I added that thi\$ Circuit'\$ Gould,
25 Clifton and Bybee, and even U.S. \$upreme Court played 'hear, \$ee, and \$peak no evil' regarding
26 *Citizen\$-United* DHI'\$ corporate predation of real \$itizens in Circuit Appeal 12-16602 and
27 SCOTUS Writ 12-8191.

28 At 706:15 I added that \$COTU\$ Denied Review of Writ 12-7817 because it also proved judicial
racketeering to criminal standards. Isn't it remarkably coincidental that \$COTU\$ Denied
Review of two criminally-proven Writ\$ on the very same day that my rigged Bar Court Trial

1 started? I gue\$\$ that \$hould have taken the wind from my \$ail\$ and gotten me to drop my
2 exposure of all these nitwit judge\$?

3 THEN at 707:2 Dennings cuts to the chase. She asks about two other Writs I still have pending
4 with \$COTU\$: (1) 12-9412 naming Nevada's \$upreme Court which creates a safe haven for
5 DHI's RICO in Nevada, and then partakes in the financial crimes targeting citizens in 26 other
6 states; and (2) 12-9413 naming the Bar which targets a potential 38 Million çitizens for financial
7 predation in California. That'\$ when it got really, *really* interesting....

8 At 707:12 I detailed the purpose of the Bar'\$ Trial- namely to rig my disbarment because I'd
9 already proven the Bar to be a RICO organization. That must have hit a nerve because....

10 At 707:25 Bar Court Coun\$el Denning\$ needed to confer with Bar Court judge Armendariz...

11 At 708:23 Dennings proves that she'\$ a glutton for punishment. She brings up judge Al\$up'\$
12 C:12-3117 from which he expunged 8 dockets no longer publicly available. What i\$ Al\$up
13 trying to hide in docket #'s 79, 81-85, 87, and 88; and why was #86 changed from "*Citizen\$-
14 United Corporate Purchase of the Judiciary*" to the much more innocuou\$ "*The U.S. Supreme
15 Court knows of your Corporate Corruption?*"

16 From 709:20 to 710:15 I bring up that if judge Armendariz railroads my disbarment, then
17 Al\$up'\$ \$upre\$\$ion of those 8 docket\$ from the public become a non-i\$\$ue, and the Circuit
18 judge\$ won't have to explain his judicial obfu\$cation and complete affront to judicial
19 transparency. Al\$up'\$ having tried to hide a complete ca\$\$e- Judicial Corruption C:12-5306 a\$
20 an "insurance claim" then won't have to be addre\$\$ed either!

21 At 710:19 Armendariz asks whether Missud would like to call additional witnesses. *I would
22 have loved to ask Armendariz and Dennings why they: repeatedly lied about not getting my
23 pleadings positively served on them; and if the United States Supreme Court was pulling their
24 strings to disbar me so that Writ 12-9413 naming the Bar could be dismi\$\$ed under \$COTU\$
25 Rule-8 which allows criminally-proven Writs like that to be \$imply di\$\$mi\$\$ed because the
26 Petitioner is disbarred.*

27 *America-- Can you 314 Million people believe that the entire judiciary is corrupt all the way up
28 to \$COTUS which seek\$ to keep you all in the dark that the judiciary is corporate-bought all the
way up to \$COTUS? Is that bad?*

Trial reconvened at 1:35PM per 716:1. The Bar didn't object to any of my evidence which was
self-authenticating and FRE Rule-803 exempt. The Bar had no choice especially since the

1 evidence was already publicly distributed, and had any of it been rejected by Dennings or
2 Armendariz, then red flags would have flown!!!

3 From page 717 to 720, I talked about a bunch of official transcripts catching a bevy of judge\$ in
4 lie\$ and wanted to make sure that the Bar and it\$ railroading judge Armendariz had copie\$.

5 From 720:18 to 723 I noted that FBI, SEC, HUD and FTC records were either already in
6 evidence and/or publicly available at official government websites and subject to judicial notice
7 because judge\$ will otherwise ignore them to \$upport corporate \$pecial inter\$t\$ and corrupt Bar
8 Member\$ who do their bidding.

9 From 724-725 I submitted copies of the 8 dockets which judge Al\$up deleted from public view.
10 I have eight PACER confirmations that the District'\$ database registered 1000+/- pages of
11 evidence, -which Al\$up essentially destroyed because he doe\$ n't want known that he and hi\$
12 colleague\$ are corrupt.

13 Now note how at 724:11 Armendariz freaked-out a bit....

14 3. Bar Court Trial Closing Arguments

15 a. Dennings' Closing drones on from 727-737. As any good soldier would, \$he did as told
16 and tried to wrap-up the railroading by ignoring every scrap of evidence including that three of
17 her four witne\$\$e\$ were impeached using their own words recorded in transcript\$ and FRE-803
18 admi\$\$ion\$. She also didn't consider the 30++ transcripts in which judge\$ are caught in lies
19 including feigning non-receipt of pleadings, and ignoring evidence which must be considered
20 under state and federal rules of evidence. When judge\$ lie about simple things like getting
21 federally tracked mail dropped in their laps while sitting in their chambers, you know that
22 judicial racketeering is endemic.

23 At page 731 Dennings even furthers the judicial racketeering by suggesting that various court\$'
24 protective orders, and cen\$or\$hip of information evincing corporate corruption of the judiciary
25 should have been honored by Missud, -who doesn't like it when judge\$ commissioned to protect
26 democracy target Americans for all their a\$\$et\$, and destroy fundamental right\$ in that proce\$\$.

27 At 733 \$he does her best to protect California's \$upreme Court [C\$C] which \$upposedly
28 \$upervises her California Bar. Denning\$ states that the C\$C indicated that all of Missud's
"appeals were wholly without merit." She glossed over the fact that the C\$C Denied four
criminally-proven Writ\$ using only the following two word\$: "Review Denied." That'\$ it! The

1 C\$C'\$ job i\$ apparently to ignore all evidence which proves Writs to criminal standards. That's
2 what it has to do otherwise lot\$ of colleague\$ go to prison for 18 USC §201 abu\$e of office.

3 At 735:23 Dennings says that Missud failed to produce any witnesses in his defense. *Remember*
4 *that* because there's a whole lot more below....

5 In her wrap-up at 737, Dennings accurately represents that Missud has disdain for the legal
6 community and \$y\$tem, and the Bar Court's duty is to protect the public. Righto!

7 b. Missud's Closing then drones on from 738-749. I opened by reminding Armendariz that
8 it was indeed her duty to protect the public and then launched into the litany of judicial lies
9 specifically identified in transcripts and other official evidence. I even pointed out to
10 Armendariz that Dennings lied just five minutes before, and Armendariz three months prior
11 when she refused to exercise Bar Court Rule 5.109 and take testimony from my two witnesses
12 attending the January 22, 2013 hearing to tell her about how 8 Bar Members targeted them for
13 financial predation of over \$400,000 each. That'\$ a lot of ca\$h-i\$h.

14 At 739:14 I remind Armendariz that this very Transcript being parsed right now, in this very
15 pleading, in real time (hint: *as you read this*) will be used to prove that she was railroading me
16 three months ago. I\$n't *that* ironic?

17 At the top of 740 I remind Armendariz of the January 27, 2011 transcript wherein I educated the
18 Bar's entire Board that rampant Member fraud was afoot, *but* could be stopped if they acted
19 timely -right then and there. However, the Bar'\$ entire Governance in the Public Interest Task
20 Force instead opted to allow Member predation of the public. \$o much for the Bar'\$ mi\$\$ion
21 Statement to "protect and serve the public."

22 From 740:13 to 741:4, I list only 4 of the dozens of judge\$, Member\$, and official\$ lying about
23 not receiving pleadings, notices, and evidence. It's easy to set these moron\$ up when you know
24 they won't acknowledge 'smoking gun' documents. You simply send everything by multiple
25 verifiable means that they'll all invariably claim not receiving- like Dennings and Armendariz
26 for the rigged Bar Court Trial.

27 In the middle of 741, I summarize Bar witne\$\$ #3, Marquez' impeachment by using his own
28 words in his two phone messages, and two emails. The transcript, calls, and emails prove with
100% certainty that Marquez knew I was out of town but nevertheless quickly scheduled Ex-
Parte the next day to conceal his client'\$ multi-billion dollar predatory lending which would
eventually contribute to the \$4 Trillion mortgage meltdown 2 years later in November 2008.

1 At the top of 742 I rehash how the Superior Court's "approved" arbitrator Carbone ignored 62
2 lies recorded in official transcripts to give Allstate Insurance the win. Thereafter, judge after
3 'judicially-immune' judge had his back, otherwise their FAA RICO Scheme would come
4 crashing down, and dozens of corrupt judges would do perp walk like Conohan and Lima.
5 At the bottom of 742, I tell Armendariz that I anticipate her forthcoming D&O will disbar me
6 because she simply can't allow my exposure of the entire legal system which specifically
7 targets the unknowing public for fraud. I even clued her into a sting called Operation Greylord
8 which happened 30 years ago, and netted 17 corrupt judges just like her.

9 Pages 743 through 744:15 contain some facts about \$9 Billion D.R. Horton which has so much
10 to lose that it buys pretty much every 'judicially-immune' judge it can to conceal its multi-
11 billion scheme to steal from the public.

12 At the bottom of 744, I recap District case C:11-1856 held before District judge Hamilton. She
13 simply ignored official transcripts and orders which proved that the same ring of judicial thieves
14 were rigging arbitrations left and right to steal hundreds of thousands of dollars at a time. The
15 'judicially-immune' are absolutely corrupt!

16 At the top of 745, I described the March 9, 2012 hearing in C:11-3567 held before the District's
17 Chen (not Cheng). I warned Chen that the corporate special interests wouldn't again pull his
18 strings, but the marionette didn't listen because DHI's money stuffed his ears. See C:11-3567
19 #110; Transcript at 14/10.

20 Starting at the middle of 745, I whine 'woe is me,' and then describe how I easily caught a dozen
21 "phucking" [to beat the profanity filters- I'd much rather use the right word] judges in lies to
22 favor the corporate special interests.

23 At 747:6, I kvetched that the past five days were wasted in lieu of making sure that Scalia and
24 Thomas were investigated and impeached for conspiring with the Kochs to vanquish
25 fundamental rights in America's 'court of law.'

26 Then I hit one of Armendariz's nerves at 748:2 when I mentioned the January 22, 2013 hearing
27 when she failed to interview two witnesses in attendance to offer testimony about eight corrupt
28 Bar Members targeting them for just short of a million dollars in fraud. Uh-ohhhh.....that's
when Armendariz told me my "time was up." That's when I had to rub it into Armendariz' and
Dennings' faces that their forthcoming D&O would get them each 10 years in prison. That's at
749.

1 **III. CAUSES OF ACTION against all defendants:**

2 Plaintiff complains and alleges the following causes of action:

3
4 1. Plaintiff is an individual who at all times mentioned in this complaint was a resident of San
5 Francisco County, California. Plaintiff has worked as a professionally-licensed General Building
6 Contractor, Engineer, Consultant, Small Business Owner, California Department of Consumer
7 Affairs Contractors' Board Industry Expert, and Attorney for times varying from 10 to 20 years,
and has resided San Francisco since 1992. Plaintiff has during all this time enjoyed an excellent
reputation, both generally and in every one of his occupations.

8 2. Defendant State Bar of California [Bar] is a professional organization and is now, and at all
9 time mentioned in this complaint was a resident of California.

10 3. Defendant Bar is now, and at all times mentioned in this complaint was, a corporation
11 organized and existing under the laws of the State of California, with its principal place of
business in Los Angeles California.

12 4. The true names of individual and corporate defendants DOES 1 through 100, inclusive, are
13 unknown to plaintiff at this time. Plaintiff sues those defendants by such fictitious names
14 pursuant to Code of Civil Procedure §474. Plaintiff is informed and believes, and based on that
15 information and belief alleges, that each of the defendants designated as a DOE is legally
responsible for the events and happenings referred to in this complaint, and unlawfully caused
the injuries and damages to plaintiff alleged in this complaint.

16 6. Plaintiff is informed and believes, and based on that information and belief alleges, that at all
17 times mentioned in this complaint, defendants were the agents and employees of their
18 codefendants and in doing the things alleged in this complaint were acting within the course and
scope of such agency and employment.

19 7. On July 1, 2013 defendants permanently published their Decision and Order [D&O] for Bar
20 Court Case 12-O-10026 to Bar Member Missud's publicly accessible profile page:
21 <http://members.calbar.ca.gov/fal/Member/Detail/219614>.

22 8. The D&O referred to plaintiff by name throughout, was made of and concerning plaintiff, and
23 was so understood by those who read the D&O.

24 9. The entire D&O as it pertains to plaintiff is defamatory, said D&O having been rigged because
25 Plaintiff Missud is a Federal Informant exposing the defendants as a Racketeering Organization
targeting the public for financial predation.

26 10. The D&O is libelous on its face. It clearly exposes plaintiff to hatred, contempt, ridicule, and
27 obloquy because it charges plaintiff with having committed acts of moral turpitude and been
28 found liable for court-imposed sanctions levied in 18 USC §1513(e) Retaliation for his functions
as a 31 USC §3279 Qui-Tam Relator exposing rampant Bar Member, Bar Official, defendants',
and judicial corruption from multiple states' County to 9th Circuit Court\$.

1 11. The D&O was seen and read immediately upon publication on either July 1st or 2nd, 2013. It
2 was somehow mysteriously discovered by the public *three days before* it was to take effect and
3 served on Missud! It was first referenced by Attorney Thomas Gill on July 3, 2013 in SF
4 Superior Court case CGC-07-464022, the day before it was to be published! It was thereafter
5 cited by Federal Judge Spero and Chen in respective 9th District cases C:12-2967 #78 and -5468
6 #179; San Mateo County Bar Association *arbi-traitor* Fegley mentioned it in Fee Arbitration #13-
7 04 on August 16th; and Missud's clients Cunningham, Wong, Finkelson, Sanochkina, and co-
8 counsel Nash caught wind regarding the defamatory statements in a variety of other cases in
9 which Missud is attorney of record. Further, Gill forwarded Notice of the D&O to Lafleur,
10 Barfield, Wheeler, Huguenin, Schopoff, Smith, his own clients, and presumably co-counsel's
11 clients per POS's; and even registered the D&O in the San Francisco Superior Court for the
12 world to see. Even on today's date, Superior Court judge Cynthia Lee used the D&O to deny
13 Missud's clients their day in court. At the 10:30 OSC Hearing held August 27, 2013 for case
14 464022 at approximately 10:40AM she prevented Missud from representing Finkelson and
15 Sanochkina who've been targeted by her colleague judge Mahoney, Woolard, and Giorgi for
16 financial predation. Each of these dozens to now potentially thousands of individuals have taken
17 the defendants' malicious and libelous statements made in the rigged D&O as true and/or were
18 shocked as to its contents.

19 12. As a proximate *and direct* result of the above-described publication, plaintiff who has a
20 Bachelors in Science in Mechanical Engineering from top-10 Carnegie-Mellon University;
21 Masters in Science in Civil Engineering from San Francisco State University; been a State of
22 California Contractors' Board Industry Expert since 1992; licensed General Building Contractor
23 who's rehabilitated, remodeled, and seismically-retrofitted hundreds of structures in the Bay
24 Area; and been an Attorney in good standing for over 10 years has suffered: loss of his
25 reputation, shame, mortification, and financial injury in a total amount to be established by proof
26 at a very public trial.

27 13. The above-described publication was not privileged because it was published by defendants
28 with scienter, malice, hatred, ill will, and with the intent to interfere with Missud, -a federally-
protected whistle-blower who's been cooperating with federal authorities for over 4 years.

14 14. Defendants desired and endeavored to injure Missud by doing such things as "involuntary
15 disbaring" him, having him labeled "vexatious," and levying hundreds of thousands of dollars in
16 illegal sanctions to deter his efforts at exposing their criminal activities which include interstate
17 racketeering and consumer extortion.

18 15. Because of defendants' malice in publishing, plaintiff seeks punitive damages in the amount
19 of \$192 Million, which represents 3 years of the Bar's operating budget based in admissions-
20 published figures available at: <http://calbar.ca.gov/AboutUs/StateBarOverview.aspx> .
21 Alternatively a total amount can be established by proof at a very, very public trial before a jury
22 comprised of among the 38 Million Californians that these defendants seek to fleece and extort.

23 //

24 //

1 **IV. DEMAND FOR BAR COURT TRIAL TRANSCRIPT PP 433-599**

2 Find enclosed SUBP-002 subpoena for the production of Bar Court Trial Transcript
3 pages 433-599 for case 12-O-10026-LMA. These pages were repeatedly federally subpoenaed,
4 are due under the Bar's own Court Rules because they're public records, and are owed per the
5 US Constitution's Due Process, Fairness, Impartial Judiciary, and Redress Grievances clauses, to
6 name but a few. The Bar's repeated flaunting of at least a dozen legal demands is proof-positive
7 that Bar Officials will be indicted and committed to federal prison for official corruption. Now
8 produce the phuking Transcript pages.

9 **V. PRAYER FOR RELIEF**

10 WHEREFORE, plaintiff and Informant Missud demands judgment against defendants, and each
11 of them, for:

- 12 1. Compensatory damages according to proof;
13 2. Punitive damages;
14 3. Interest as allowed by law;
15 4. Costs of suit;
16 5. Declaratory relief including a finding that these defendants are in fact racketeers;
17 6. Referral of the many corrupt judge\$ to federal law enforcement agencies so that criminal
18 investigations can ensue;
19 7. An order dissolving the California Bar; and
20 8. Such other and further relief as this court may deem just and proper.

21 //

22 //

23 Submitted,

24 *Patrick Missud*

25 Patrick Missud

26 9-3-2013

1 **VI. SUBMITTED AND VERIFIED,**

2 I, Patrick Missud am the Pro-Se Federal Informant, California Private Attorney General and
3 Plaintiff in the above-entitled action. I read the foregoing Complaint and attachments in support
4 thereof and know their contents to be true. The same is true of my own knowledge, except as to
5 those matters which are therein alleged on information and belief, and as to those matters, I
believe them to be true.

6 I declare under penalty of perjury that the foregoing is true and correct and that this declaration
7 was executed in San Francisco, California.

8 //

9 *Patrick Missud*

10 Patrick Missud 9-3-2013

11
12 18 USC §1513 Federal Informant, 31 USC §3279 Qui-Tam Relator, and CCP §1021.5 Private
13 Attorney General
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SUBP-002

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Patrick Missud, 219614 91 San Juan Ave., SF, CA, 94112 TELEPHONE NO: 415-845-5540 FAX NO: 415-584-7251 E-MAIL ADDRESS: missudpat@yahoo.com ATTORNEY FOR (Name): Patrick Missud, Pro-Se		FOR COURT USE ONLY
NAME OF COURT: Superior Court STREET ADDRESS: 400 McAllister St. MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA, 94102 BRANCH NAME: Superior Court of San Francisco		
PLAINTIFF/ PETITIONER: PATRICK A. MISSUD DEFENDANT/ RESPONDENT: STATE BAR OF CALIFORNIA		
CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION		CASE NUMBER: CGC-13-533811

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of witness, if known):

STATE BAR OF CALIFORNIA; EFFECTUATIONS DEPT.

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below UNLESS your appearance is excused as indicated in box 3b below or you make an agreement with the person named in item 4 below.

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Div.:	<input type="checkbox"/> Room:
b. Address:				

2. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

3. YOU ARE (item a or b must be checked):

- a. Ordered to appear in person and to produce the records described in the declaration on page two or the attached declaration or affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
- b. Not required to appear in person if you produce (i) the records described in the declaration on page two or the attached declaration or affidavit and (ii) a completed declaration of custodian of records in compliance with Evidence Code sections 1560, 1561, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose the original declaration of the custodian with the records. Seal the envelope. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number; your name; and the date, time, and place from item 1 in the box above. (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party listed at the top of this form.

4. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE YOU ARE TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name of subpoenaing party or attorney: MISSUD b. Telephone number: 415-845-5540

5. **Witness Fees:** You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 4.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: 9-3-2013

Patrick Missud; 31 USC 3279 Qui Tam Relator

(TYPE OR PRINT NAME)



(SIGNATURE OF PERSON ISSUING SUBPOENA)

18 USC 1513 Federal Informant

(Declaration in support of subpoena on reverse)

(TITLE)

Page 1 of 3

SUBP-002

PLAINTIFF/PETITIONER: PATRICK A. MISSUD	CASE NUMBER: CGC-13-533811
DEFENDANT/RESPONDENT: STATE BAR OF CALIFORNIA	

The production of the documents, electronically stored information, or other things sought by the subpoena on page one is supported by (check one):

- the attached affidavit or the following declaration:

DECLARATION IN SUPPORT OF CIVIL SUBPOENA (DUCES TECUM) FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND THINGS AT TRIAL OR HEARING (Code Civ. Proc., §§ 1985,1987.5)

1. I, the undersigned, declare I am the plaintiff defendant petitioner respondent
 attorney for (specify): other (specify): CCP 1021.5 Private Attorney General
in the above-entitled action.

2. The witness has possession or control of the documents, electronically stored information, or other things listed below, and shall produce them at the time and place specified in the Civil Subpoena for Personal Appearance and Production of Records at Trial or Hearing on page one of this form (specify the exact documents or other things to be produce; if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):

BAR COURT TRIAL 12-O-10026-LMA TRANSCRIPT PP. 433-599 WHICH HAVE SO FAR BEEN: ILLEGALLY WITHHELD IN VIOLATION OF BAR COURT RULES & FUNDAMENTAL RIGHTS; AND NOT PROVIDED DESPITE SERVICE OF FEDERAL SUBPOENAS FOR PRODUCTION

Continued on Attachment 2.

3. Good cause exists for the production of the documents, electronically stored information, or other things described in paragraph 2 for the following reasons:

THE PAGES ARE REQUIRED TO PROVE THAT THE BAR RIGGED ITS TRIAL AND IS A RACKETEERING ORGANIZATION TARGETING THE PUBLIC FOR FINANCIAL PREDATION

Continued on Attachment 3.

4. The documents, electronically stored information, or other things described in paragraph 2 are material to the issues involved in this case for the following reasons:

THE PAGES WILL PROVE THAT BAR OFFICIALS DENNINGS AND ARMENDARIZ LIED TO RAILROAD THE TRIAL AND THAT THEIR \$TAR WITNESS\$ LIED UNDER OATH.

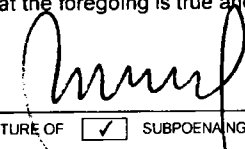
Continued on Attachment 4.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 9-3-2013

Patrick Missud; 18USC1513 Federal Informant

(TYPE OR PRINT NAME)


(SIGNATURE OF SUBPOENAING PARTY ATTORNEY FOR SUBPOENAING PARTY)

Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the date on which you are to appear. Contact the clerk's office or go to www.courts.ca.gov/forms for Request for Accommodations by Persons With Disabilities and Response (form MC-410). (Civil Code, § 54.8.)



(Proof of service on page 3)

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

STATE BAR OF CALIFORNIA

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

PATRICK MISSUD; 18 USC 1513 FEDERAL INFORMANT

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): San Francisco Superior Court,
400 McAllister Street, SF, CA, 94102

CASE NUMBER:
(Número del Caso) **CC-13-533811**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

DATE: **AUG 27 2013** 8-27-2013
(Fecha) CLERK OF THE COURT Clerk, by **MEREDITH GRIER** Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons. (POS-010)).

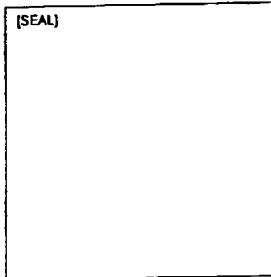
NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):

4. by personal delivery on (date):



CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): PATRICK MISSUD, 91 SAN JUAN AVE, SAN FRAN, CA, 94112 Pro-Per Bar #219614 TELEPHONE NO.: 415-845-5540 FAX NO.: 415-584-7251 ATTORNEY FOR (Name):		FOR COURT USE ONLY ENDORSED FILED Superior Court of California County of San Francisco AUG 27 2013 CLERK OF THE COURT MEREDITH GRIER Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA, 94102 BRANCH NAME: Superior Court of San Francisco		CASE NAME: Missud v. State Bar of California
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: CGC-13-533811 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PPD/WD (23) Non-PI/PPD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input checked="" type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PPD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 15

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 8-27-2013
 Patrick Missud _____
(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

NOTICE TO PLAINTIFF

A Case Management Conference is set for:

DATE: JAN-29-2014
TIME: 10:30AM
PLACE: Department 610
400 McAllister Street
San Francisco, CA 94102-3680

All parties must appear and comply with Local Rule 3.

CRC 3.725 requires the filing and service of a case management statement form CM-110 no later than 15 days before the case management conference.

However, it would facilitate the issuance of a case management order **without an appearance** statement is filed, served and lodged in Department 610 twenty-five (25) days before the case management

Plaintiff must serve a copy of this notice upon each party to this action with the summons and complaint. Proof of service subsequently filed with this court shall so state.

ALTERNATIVE DISPUTE RESOLUTION POLICY REQUIREMENTS

**IT IS THE POLICY OF THE SUPERIOR COURT THAT EVERY CIVIL CASE PARTICIPATE IN EITHER MEDIATION, JUDICIAL OR NON-JUDICIAL ARBITRATION, THE EARLY SETTLEMENT PROGRAM OR SOME SUITABLE FORM OF ALTERNATIVE DISPUTE RESOLUTION PRIOR TO A TRIAL.
(SEE LOCAL RULE 4)**

Plaintiff must serve a copy of the Alternative Dispute Resolution Information Package on each defendant along with the complaint. All counsel must discuss ADR with clients and opposing counsel and provide clients with a copy of the Alternative Dispute Resolution Information Package prior to filing the Case Management Statement.

[DEFENDANTS: Attending the Case Management Conference does not take the place of filing a written response to the complaint. You must file a written response with the court within the time limit required by law. See Summons.]

Superior Court Alternative Dispute Resolution Coordinator
400 McAllister Street, Room 103
San Francisco, CA 94102
(415) 551-3876

See Local Rules 3.3, 6.0 C and 10 B re stipulation to judge pro tem.



Superior Court of California, County of San Francisco Alternative Dispute Resolution Program Information Package



The plaintiff must serve a copy of the ADR information package on each defendant along with the complaint. (CRC 3.221(c))

WHAT IS ADR?

Alternative Dispute Resolution (ADR) is the term used to describe the various options available for settling a dispute without a trial. There are many different ADR processes, the most common forms of which are mediation, arbitration and settlement conferences. In ADR, trained, impartial people decide disputes or help parties decide disputes themselves. They can help parties resolve disputes without having to go to court.

WHY CHOOSE ADR?

"It is the policy of the Superior Court that every noncriminal, nonjuvenile case participate either in an early settlement conference, mediation, arbitration, early neutral evaluation or some other alternative dispute resolution process prior to trial." (Local Rule 4)

ADR can have a number of advantages over traditional litigation:

- **ADR can save time.** A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- **ADR can save money,** including court costs, attorney fees, and expert fees.
- **ADR encourages participation.** The parties may have more opportunities to tell their story than in court and may have more control over the outcome of the case.
- **ADR is more satisfying.** For all the above reasons, many people participating in ADR have reported a high degree of satisfaction.

HOW DO I PARTICIPATE IN ADR?

Litigants may elect to participate in ADR at any point in a case. General civil cases may voluntarily enter into the court's ADR programs by any of the following means:

- Filing a Stipulation to ADR: Complete and file the Stipulation form (attached to this packet) at the clerk's office located at 400 McAllister Street, Room 103;
- Indicating your ADR preference on the Case Management Statement (also attached to this packet); or
- Contacting the court's ADR office (see below) or the Bar Association of San Francisco's ADR Services at 415-982-1600 or www.sfbar.org/adr for more information.

For more information about ADR programs or dispute resolution alternatives, contact:


Superior Court Alternative Dispute Resolution
400 McAllister Street, Room 103, San Francisco, CA 94102
415-551-3876

Or, visit the court ADR website at www.sfsuperiorcourt.org

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McGINNIS LAW FIRM
SOUTHERN PACIFIC STATION
1713 Tulare Street Suite 110
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FILED
Superior Court of California
County of San Francisco
OCT 09 2000
GORDON PARK-LI, Clerk
BY:  Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

Gregory Morris) Case No.: CGC-06-450766
Plaintiff,)
vs.) **FIFTH AMENDED COMPLIANT**
SAFECO; GENERAL INSURANCE)
COMPANY OF AMERICA; CRAWFORD)
AND COMPANY; CRAWFORD)
INVESTIGATIONS; CHARLES)
ALLRED(DOE21); OPTION ONE)
MORTGAGE COMPANY; PREMIER)
TRUST DEED SERVICES COMPANY;)
CITY OF FRESNO; FRESNO FIRE)
DEPARTMENT; STATE BAR OF)
CALIFORNIA, ET AL; GREGORY)
MILLER; MICHAEL MAACKS; DON)
MCALPINE; DOES 1-250)
Defendant)

PROCEDURAL NOTES

This 5th Amended Complaint simply incorporates in reference as though fully set forth herein each and every paragraph of the 4th Amended Complaint, except the First Three Causes of Action. Since Plaintiff is amending his complaint as to Option One and Premier, the 6th Amended Complaint will be a compilation and embodiment of all the Causes of Action against

23 all the parties. Therefore, to all of the allegations of all the parties except the Bar Defendants are
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24 contained in the 4th Amended Complaint, which is hereby incorporated by reference.

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1. The actions of the other defendants herein, caused plaintiff to experience emotional distress so severe that he became mentally ill and unable to function normally. Because of this Plaintiff was homeless, living on the streets of downtown San Francisco in 2005 and 2006.

2. During this time, a complaint was filed by the State Bar of California that alleged plaintiff to have moral turpitude violations. The allegations were false.

3. At all times herein defendant LAP (Lawyers Assistance Program) was a business organization engaged in providing mental health and neurological health care to patients or money. They also provided Social Services and had "case managers: they they assigned to participants in their LAP program.

4. LAP advertised and represented to attorney's and members of the public that it was specially staffed and experienced with experts in the treatment of Lawyers who have psychiatric and neurological illnesses.

The State Bar assigned Dr. Greg Doe to be plaintiff's case manager on or about November 31, 200

LAP assumed complete control of Plaintiff's mental health and neurological health care. Plaintiff was instructed not to seek outside help.

5. Defendant LAP is a California public entity not registered with the Secretary of State.

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6. Plaintiff complied with the claims statute, but is also excused because of disability.

Plaintiff has been mentally disabled and insane at all times relevant herein .

7. Dr. Doe and LAP set up a treatment program for Plaintiff's psychological and neurological health care that included sessions with Dr. Doe, meetings with the Executive Committee of the program, weekly visits with the case manger, Gregory Doe. LAP undertook complete control of the responsibility to provide and finance plaintiff's medication needs, as long as the medication was for neurological or psychiatric care.

8. In the meantime, plaintiff was being investigated a State Bar investigator, Michael Maacks.

9. Plaintiff was not properly referred buy LAP to a neurologist/psychiatrist for medication evaluation because of recklessness and negligence, and his condition was so severe at that time that without medication, he could not function. As such, plaintiff was completely unaware of the investigation or that disbarment charges had been filed.

10. False documents prepared by the State Bar investigator Michael Macke, during his investigation were then used to cause Plaintiff's disbarment pursuant to a recommendation of the State Bar Court on or about May 25, 2006. On May 28, 2006 the State Bar investigator and a Fresno District Attorney Investigator agreed to have plaintiff arrested for felonies on the basis of the same false documents, without probable cause and charges were filed against plaintiff on or about May 28, 2006.

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These actions followed the filing of the instant lawsuit (CGC-06-450766) by three months.

11. Although Lap was engaged in the treatment of psychiatric and neurological illnesses, they were also a source of information for Bar prosecutions. They were an organization designed to assist the State Bar Prosecutors in prosecuting lawyers for alleged violations of professional conduct, by gathering confidential information about the lawyer and sharing it with State Bar Prosecutors to be used as evidence in prosecutions against the lawyers that were mentally disabled.
12. Plaintiff was first disbarred by def or about August 5, 2006 plaintiff was arrested and imprisoned for over two years as a pretrial detainee, prior to being found not guilty on all counts. The prosecution ended on or about July 1, 2009.
13. While in jail awaiting trial on the charges filed three months after this lawsuit, plaintiff was found to be only marginally and borderline able to assist counsel in his defense by two out of three court appointed psychologists, after he was administered a combination of three psychotropic medications. Fresno County caused two of them to be withdrawn from plaintiffs medication regime shortly prior to trial. Because of the withdrawal of this medication, plaintiff was unable to testify in his case. Nevertheless, despite plaintiff's inability to assist counsel, and inability to testify he was found not guilty or dismissed twenty two of the twenty five charges.
14. After learning that Fresno County had unilaterally stopped 2/3 of the psychotropic medications being prescribed to plaintiff, for **reasons unconnected with the plaintiff's mental health**, the Court appointed a psychiatrist to evaluate and properly medicate plaintiff, so he could testify in the sanity phase of the remaining three

90 counts.

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92 15. In the meantime one of the counts, Richard Willis, was dismissed after it was
93 discovered that false testimony had been presented during the trial.
94
95 16. After being properly medicated, plaintiff was able to testify and explain to the jury
96 that the remaining two counts were clearly the result of simple mistakes caused by
97 plaintiffs then un-medicated mental illness. (The Elam case involved a mistake in not
98 protecting the trust checks from a thief who unbeknownst to plaintiff stole and cashed
99 checks in the amount of the Elam funds on or around the date of the Deposit of his
100 check; The James case involved costs and expenses of litigation deducted from the
101 clients share of a settlement.) Accordingly, the jury had no difficulty finding plaintiff
102 not guilty by reason of insanity on the remaining two counts.
103

104 17. Plaintiff was not found to be guilty of any other wrong doing by the jury.

105 18. These actions of the part of the State Bar and its investigators violate several Local,
106 State and Federal Constitutional and Statutory laws. Plaintiff seeks injunctive
107 declaratory and other forms of relief as more fully specified herein. Plaintiff Incorporates
108 by reference all of the allegations previously set forth.
109

110 I.

111 PRIVACY

112 (Cal Const Article I, Section 1)

113 19. The State Bar California requires all members to waive their confidentiality for all
114 members so that random audits of trust accounts may be conducted in order to
115 maintain compliance with accepted trust account practices by its membership.
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20. However, this waiver does not exempt the State Bar from complying with the Government Code pertaining to investigative subpoenas. Investigative subpoenas of bank records are targeted at specific instances of possible wrongdoing, and the breadth of the subpoena necessarily must have some relationship to the act being investigated. Otherwise, subpoenas can be used to single out unpopular attorneys for investigation and harassment by the State Bar.

21. The prosecution, which is the subject matter of this litigation did not arise out of a random trust account audit, but was instead fueled by a bank account subpoena requesting over 10 times the allowable time period for an investigative subpoena.

22. Thereafter, the approximately three years of trust account records were scrutinized by clerks, investigators, and attorneys.

23. Plaintiff was singled out and his trust account scrutinized because of his mental disability;

24. Because the Plaintiff was disabled and unable to participate in the State Bar Proceedings, mistakes made by those scrutinizing his trust account resulted in his disbarment.

15. Plaintiff, Gregory Morris, is an individual a
nd is a resident of San Francisco

County, California.

16. The State Bar of California is a Public entity duly registered with the Secretary of State of California with its principal place of business in the City and County of San Francisco, California.

17. The true names of defendants DOES 1 through 250 inclusive, are unknown to

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plaintiff at this time. Plaintiff is informed and believes that the defendants designated as
DOEs is legally responsible for the events and happenings referred to in this complaint,
and unlawfully caused the injuries and damages to plaintiff as alleged in this complaint.

18. Each defendant is sued individually and as the agent of every other defendant and in
doir the acts complained of was acting within the course and scope of that agency, with
the knowledge and consent of their codefendants.

19. Defendant Lawyer's Assistance Program (LAP) is a public entity with its principal place
of business in the City and County of San Francisco, State of California, not registered
with the Secretary of State of California.

20. DOE 16(Michael Maacks) is a peace officer in California and an individual and a
resident of the City of San Francisco and State of California.

20. a)Defendant Greg Miller is an employee in California.

21. Plaintiff has been incapacitated, mentally ill, and insane within the meaning
of the tolling provisions of the Government Code at all times herein mentioned.

32. A government code notice of claim is filed, since plaintiff has returned to sanity on
or at the earliest March 15, 2009.

33. Plaintiff only discovered the conduct of Michael Maacks on or about February 25,
2009 because the checks were plucked from the files prior to being turned over to
plaintiff in the criminal case after a motion to compel after sanctions forced the
production of a disc containing the previously omitted documents.

34. The disclosure described above constitutes a serious invasion of plaintiffs privacy
interest and violates plaintiffs right to privacy, as protected by Article I, Section 1 of the
California Constitution.

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35. Plaintiff is informed and believes that, unless restrained and enjoined by this court, Michael Maacks and the State Bar of California will continue to subpoena the records of mentally disabled lawyers in violation of Government Code 7460. It is extremely likely that defendants will continue to subpoena without probable cause, the bank records and files, without first obtaining the members consent and without affording them any notice so that they can seek an appropriate protective order that recognizes their privacy interest in the requested information.

36. As a direct and proximate result of Defendants actions, plaintiff has suffered damages including but not limited to extreme embarrassment, humiliation, anxiety, ridicule, physical upset, and emotional distress. The full extent of plaintiff's injuries is not known at this time but it is in excess of jurisdictional minimums at this court.

37. The acts of the individual defendants were intentional and/or reckless and in conscious disregard of the rights of Plaintiff, and done with an intent to vex, annoy, or injure Plaintiff.

WHEREFORE, plaintiff prays for:

1. Injunctive and declaratory relief in the form of a declaration that these matters are false, an Order that further proceedings take place at the State Bar Court level, and that plaintiff be served personally with all documents in connection with the proceedings.
2. For an order that the State Bar remove the false findings from its website.
3. For medical expenses, lost wages and other type of special damages.
4. For an order prohibiting defendants from illegally subpoenaing records in violation of government code section 7460.

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5. For an award of costs and attorneys fees in pursuant to civil procedure 1021.

6. For such other and further relief as the court finds proper.

7. For general damages according to proof.

ADA VIOLATIONS

DISABILITY BASED DISCRIMINATION

(Unrue Act Civil Code Section 51;

Govt. Code Section 12940)

38. The Americans with Disabilities Act is necessary to enforce the 14th Amendment in the context of State Bar Disciplinary proceedings prosecuted against mentally disabled members. Plaintiff was disbarred by default because of mistakes made by bar investigators and prosecutors during an audit of his trust account. Plaintiff had no opportunity to correct the State Bar's Errors and prevent his disbarment, because he was not accommodated by the State Bar and therefore unable to participate in the State Bar Proceedings.

39. Defendant Greg Doe (Doe 17) is an individual and plaintiff is informed and believes that he is a resident of San Francisco, California, is sued in his individual and official capacity.

40. Defendant Doe 16 (Michael Maacks) is a peace officer and an investigator for the State Bar of California, an individual and a resident of the City and State of California, County of San Francisco, is sued in his individual and official capacity.

41. Defendant State Bar of California violated Plaintiffs fundamental right to "access of the courts" under the United States Constitution by violating the provisions of Americans with Disabilities Act.

- 204
1 42. The application of the ADA to the State Bar of California and the Lawyers Assistance
2052 Program is necessary to enforce the provisions of the 14th Amendment to the United
2063 States Constitution. The governmental conduct which caused plaintiff's disbarment
2074 occurred in San Francisco County.
- 2085 43. At all times herein mentioned up until May 15, 2009 plaintiff has been incapacitated,
2096 mentally ill, and insane within the meaning of the tolling provisions of the Government
2107 Code and the Code of Civil Procedure.
- 2119 44. The actions of the *other* defendants herein, caused plaintiff to experience emotional
21210 distress so severe that he became mentally ill and unable to function normally. Plaintiff
21311 found himself homeless, mentally ill, living on the streets of downtown San Francisco
21412 in 2005 and 2006.
- 2154 45. On or about November 15, 2005 a complaint requesting disbarment was filed against
21615 plaintiff by the State Bar.
- 21716 46. The Complaint alleged that plaintiff had misappropriated the money of his clients. The
21817 allegations were false.
- 21918 47. From on or about November 31, 2005 to August 5, 2006 plaintiff's whereabouts were
22019 known by the State Bar because he had a State Bar "case manager" for his mental
22120 illness, Greg Doe.
- 22221 48. At all times herein mentioned defendant State Bar of California ran a "Lawyer's
22322 Assistance Program" (LAP) that advertised itself as being experts in the treatment of
22423 lawyers who have psychiatric illnesses.
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49. Plaintiff was a patient in the San Francisco branch of the program beginning on or about November 31, 2005. The State Bar assigned Dr. Greg Doe to be plaintiff's personal case manager.

50. The program took on the responsibility of directing Plaintiff's psychiatric care, at a time when Plaintiff was not competent.

51. Plaintiff was disbarred because the State Bar failed to accommodate his disability. If the Plaintiff had been accommodated, he would have been able to prove the allegations for which he was disbarred were absolutely false.

52. Plaintiff should have been accommodated by the State Bar because of his known disability. The accommodation provided would have simply amounted to waiting until the plaintiff was restored to sanity, or at least personally serving him with service of process, so he could have had an opportunity to get help. Either of these simple accommodations would have sufficed, neither was done. Instead, the State Bar served a known wrong address repeatedly, having the papers returned to them with notations of "return to sender", "addressee unknown" "undeliverable".

54. From on or about November 15, 2005 until August 6, 2006 plaintiff attended the branch of the program for San Francisco area residents, in San Francisco.

55. Plaintiff was diagnosed by the program with Post Traumatic Stress Disorder.

56. On or about November 31, 2009, during plaintiff's first meeting with Dr Greg Doe (Doe 17) Doe 17 asked Morris sign an authorization for him to speak with State Bar prosecutors, in case Morris had any issues with the State Bar. At this time plaintiff was not aware that the State Bar had filed a Complaint against him for disbarment, making serious but false allegations of misappropriation of client funds.

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57. Plaintiff no longer practiced law and his office had long since been closed.

58. Plaintiff was reluctant to sign an authorization for State Bar Prosecutors because the symptoms of his illness had already caused him to have problems with the State Bar. His ability to communicate and his ability to manage his time and schedule were both gravely affected by the Post Traumatic Stress Disorder. However, nothing like disbarment had ever been suggested by anyone. A one-year suspension was being sought by default, because plaintiff could not timely respond. Plaintiff was aware of that action, but was not able to do anything because he was in default and because he was too ill to oppose it. However, Dr Doe persisted explaining that part of his duties included assisting with any State Bar problems that his patients had by working with the State Bar prosecutors.

59. Plaintiff finally agreed that Doe could communicate with the State Bar on his behalf.

60. Plaintiff had no discipline from the State Bar of California since his admission in 1979 prior to the conduct of the defendants herein.

61. Plaintiff is a disabled person for mental illness and has been so declared by the Social Security Administration of the United States.

62. Plaintiff contends that the State Bar of California, through its investigator, Michael Maacks and through its psychologist, Greg Doe singled him out, solely because of his disability for differential treatment, to wit, purposely failing to give him notice of disbarment proceedings, failure to halt proceedings when he was clearly incompetent, insane and incapacitated and totally unable to address the proceedings, preparing false documents to cause plaintiff's disbarment at a time when he was not capable of defending himself and not arranging for a psychiatrist to see plaintiff to be medicated, after promising to do so. The psychiatrist was delayed from December of 2006 until July

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of 2007 while plaintiff was essentially prevented from defending himself before the State Court due to his unmedicated status.

63. Then, finally when plaintiff was disbarred and the time for review had expired with the Supreme Court it was announced to him that he had been disbarred by Dr. Doe and he was personally served with the order. The State Bar, who controlled plaintiff's psychiatric treatment essentially prevented plaintiff from being well enough to respond to the charges.

64. Plaintiff contends that defendants Greg Doe and LAP program would have communicated on his behalf with the State Bar, investigated his case properly to exonerate him, but for the fact that plaintiff was seriously mentally ill, because plaintiff was an embarrassment to the other lawyers due to the severity of his condition, that caused him to be homeless, without a change of clothes and acting strangely due to his disability in the meetings and unable to keep appointments due to his illness. If plaintiff had a physical injury that caused him to be incapacitated the Bar would have halted the proceedings once they got word of them.

65. All other persons were assisted in their bar proceedings, but plaintiff was not due to the nature of his disability. Non mentally ill patient's cases are properly investigated. In plaintiff's case false documents were prepared by the Bar investigator Michael Maacks to cause plaintiff's disbarment at a time when plaintiff was too ill to defend himself, a fact that the State Bar knew about and used to cause plaintiff's disbarment for acts he did not commit. (A sample of some of the incorrect Bar findings, along with checks that prove them to be incorrect is attached as exhibit.

66. On or about December 1, 2005 to July, 2006 the false documents prepared by a State Bar

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investigator during his investigation were used to cause plaintiffs disbarment.

67. Subsequently the same false documents were used to charge plaintiff with 25 felonies.

Plaintiff was incarcerated as a pre-trial detainee from August 5, 2006 to September 11, 2008. Plaintiff was found not guilty on all counts.

68. As a result of the conduct of the defendants, plaintiff suffered severe emotional distress, embarrassment, and anguish.

69. The acts of the individual defendants were intentional and/or reckless and in conscious disregard of the rights of Plaintiff, and done with an intent to vex, annoy, or injure Plaintiff.

WHEREFORE plaintiff requests:

1. The matter be remanded to the state Bar court for further proceedings since Plaintiff has been properly medicated and thereby able to defend himself, after serving plaintiff personally with process.
2. For an order that the State Bar remove the false findings from its website.
3. For medical expenses and other special damages.
4. For general damages according to proof times three.
5. For punitive damages against the individual defendants
6. For attorneys fees and costs and for other and further relief that the court may unjust deem and proper

For the Nineteenth, twentieth, twenty first and twenty second causes of action, plaintiff requests:

1. The matter be remanded to the state Bar court for further proceedings.
2. For medical expenses and other special damages.
3. For general damages according to proof times three.

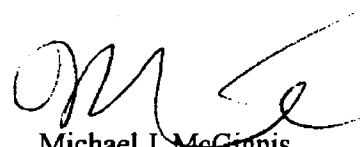
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4. For punitive damages against the individual defendants

5. For attorneys fees and costs and for other and further relief that the court may

deem just and proper

Dated this 10/08/09



Michael J. McGinnis

Attorney for Plaintiff

SHORT TITLE: Morris v Safeco	CASE NUMBER: CGC-06-450766
---------------------------------	-------------------------------

19th

CAUSE OF ACTION—Breach of Contract

(number)
ATTACHMENT TO Complaint Cross - Complaint

(Use a separate cause of action form for each cause of action.)

BC-1. Plaintiff (name): Gregory Morris

alleges that on or about (date): 09/15/05

a written oral other (specify):

agreement was made between (name parties to agreement):

Gregory Morris and LAP

A copy of the agreement is attached as Exhibit A, or

The essential terms of the agreement are stated in Attachment BC-1 are as follows (specify):

LAP agreed to manage and finance planitiff's care for Post Traumatic Stress Disorder, including but not limited to getting him evaluated for medication and prescriptions. LAP agreed to advise State Bar of plaintiffs inability to participate in proceedings; agreed to keep plaintoiff informed of any action against his license.

BC-2. On or about (dates): 08/15/06

defendant breached the agreement by the acts specified in Attachment BC-2 the following acts (specify):

Refusing to advise State Bar of plaintiff's incompetance and insanity.; refusing to arrange medication that would have enabled him to defend State Bar false charges until plaintiff could be disbarred by default and time to request review has expired; Did inform plaintiff of nature of charges.

BC-3. Plaintiff has performed all obligations to defendant except those obligations plaintiff was prevented or excused from performing.

BC-4. Plaintiff suffered damages legally (proximately) caused by defendant's breach of the agreement

as stated in Attachment BC-4 as follows (specify):

plaintiff was prosecuted, disbarred and jailed for 2 years as a pretrial detainee before being found not guilty on all charges. Plaintiff lost income

BC-5. Plaintiff is entitled to attorney fees by an agreement or a statute

of \$

according to proof.

BC-6. Other:

SHORT TITLE: Morris v Safecp	CASE NUMBER: CGC-06-450766
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20th

(number)

CAUSE OF ACTION—General Negligence

Page _____

ATTACHMENT TO Complaint Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Gregory Morris

alleges that defendant (name): LAP; Greg Müller; Doe

Does 30 to 40

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): 9/05-present

at (place): san francisco

(description of reasons for liability):

LAP and Miller undertook to manage and finance plainingtiffs medical care through outside physicians; Miller agreed to act as personal case manager for Morris, but he was below the standard of care of case managers in San Francisco, becuae he did nothing to assist pliantiff and failed to notify reckless and negligently the state mar that Plainitff was incompetent and unable to defend himself because of illness. LAP failed to arrainge or finance plaintiff's psychiatric care and that fell below the standard of care for organizations that manage health care. Plaintiff was unable to defend himself in bar and subsequent criminal proceedings due because he was not properly evaluated and prescribed. If he had been prescribed proper medication he would have been able to defend self and been competent.

SHORT TITLE
Morris v Safeco

CASE NUMBER:
CGC 06 450765

21st
(number)

CAUSE OF ACTION—Fraud

ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

FR-1. Plaintiff (name): Gregory Morris

alleges that defendant (name): LAP, State Bar of California; Greg Doe, PhD; Michael Maacks

on or about (date): May 25, 2009

defrauded plaintiff as follows:

FR-2. Intentional or Negligent Misrepresentation

a. Defendant made representations of material fact as stated in Attachment FR-2.a as follows:

1. Defendant State Bar of California represented that they would provide a Physician Psychiatrist for plaintiff and arrange for plaintiff to be evaluated and prescribed psychotropic medications to alleviate and reduce the amount of symptoms plaintiff was having. They said they would provide the money to pay for the treatment, as well.
2. Defendant Greg Doe told plaintiff that he would assist with any State Bar issues if plaintiff would sign up for help for his mental illness, with LAP. Defendant Doe said he would keep plaintiff informed and advise the Bar that he was insane and PC 1368. Lulled false security.

b. These representations were in fact false. The truth was as stated in Attachment FR-2.b as follows:

1. Defendant State Bar, LAP, Doe committee that manages LAP and Greg Doe did not intend to provide a psychiatrist to evaluate plaintiff or alternatively were reckless.
2. Defendant Doe did not assist with and State Bar issues, nor did he inform plaintiff, except after plaintiff was disbarred and the time to seek review with the Supreme Court expired.

c. When defendant made the representations,

- defendant knew they were false, or
 defendant had no reasonable ground for believing the representations were true.

d. Defendant made the representations with the intent to defraud and induce plaintiff to act as described in item FIR-5. At the time plaintiff acted, plaintiff did not know the representations were false and believed they were true. Plaintiff acted in justifiable reliance upon the truth of the representations.

FR-3. Concealment

a. Defendant concealed or suppressed material facts as stated in Attachment FR-3.a as follows:

Defendant never advised plaintiff of the true nature of the State Bar proceedings.

b. Defendant concealed or suppressed material facts

- defendant was bound to disclose.
 by telling plaintiff other facts to mislead plaintiff and prevent plaintiff from discovering the concealed or suppressed facts.

c. Defendant concealed or suppressed these facts with the intent to defraud and induce plaintiff to act as described in item IFIR-5. At the time plaintiff acted, plaintiff was unaware of the concealed or suppressed facts and would not have taken the action if plaintiff had known the facts.

Page _____

SHORT TITLE:
Morris v Safeco

CASE NUMBER.

C-6-C 28430766

CAUSE OF ACTION—Fraud

(number)

FR-4. **Promise Without Intent to Perform**

a. Defendant made a promise about a material matter without any intention of performing it as stated in Attachment FR-4 a as follows:

1. That medication evaluation and prescriptions would be provided for plaintiff by defendants.
2. Greg Doe, PhD told plaintiff he would fully inform and assist plaintiff in any State Bar proceedings stop or delay the proceedings until plaintiff's health permitted defense and keep the State Bar informed of his condition, in case there were any actions on plaintiff's license..
3. Greg Doe told plaintiff he would function as Morris's "case manager" and that LAP would control and finance his medication, provide services of "case manager"
4. Greg Doe told plaintiff that his job was to assist mental patients with State Bar prosecutions, by evaluating and explaining their condition and "going to bat" for them.

b. Defendant's promise without any intention of performance was made with the intent to defraud and induce plaintiff to rely upon it and to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of defendant's intention not to perform the promise. Plaintiff acted in justifiable reliance upon the promise.

FR-5. In justifiable reliance upon defendant's conduct, plaintiff was induced to act as stated in Attachment FR-5 as follows:

1. Plaintiff did not seek psychotropic medication and evaluations from other health care facilities.
2. Plaintiff did not have others discover and assist, regarding false charges of stealing money were being made at the State Bar level in concert with the Fresno D.A. so he could have "nipped it at the bud" by showing true facts.d
3. Morris turned down offers from others to function as:"case managers" that would have taken steps to stop the Bar Proceedings until plaintiff became competent to address them.
4. Plaintiff did not seek the help of anyone else to explain and act on his behalf or take action himself and the matter was blown way out of proportion, plaintiff was disbarred, jailed, and prosecuted for stealing money that was properly paid out to and on behalf of clients.'

FR-6. Because of plaintiff's reliance upon defendant's conduct, plaintiff has been damaged as stated in Attachment FR- 6 as follows:

- 1.. Plaintiff did not get the medication he needed, could not address the State Bar Charges, could not testify in his criminal case, Plaintiff was disbarred, plaintiff was jailed and prosecuted. became totally disabled, lost wages, pain and suffering, mental anguish.
2. False charges continued, plaintiff was disbarred at a time when he was incompetent and insane. important medical information was not provided to the State Bar that would have delayed the matter until plaintiff was sane and able to testify.
3. Plaintiff lost license, embarrassing false. publications were made, plaintiff was not competent while proceedings continued. 4. Plaintiff lost standing and earnings, emotional distress

FIR - 7 Other:

Page

1 LAWRENCE C. YEE, SBN 84208
2 MARK TORRES-GIL (SBN 91597)
3 DANIELLE A. LEE (SBN 223675)
4 OFFICE OF GENERAL COUNSEL
5 THE STATE BAR OF CALIFORNIA
6 180 Howard Street
7 San Francisco, CA 94105-1639
8 Tel: (415) 538-2000
9 Fax: (415) 538-2321

FILED
San Francisco County Superior Court

MAY 18 2010

CLERK OF THE COURT
BY: [Signature]
Deputy Clerk

6 Attorneys for Defendant
7 THE STATE BAR OF CALIFORNIA, THE STATE
8 BAR OF CALIFORNIA LAWYER ASSISTANCE
9 PROGRAM; THE STATE BAR OF
10 CALIFORNIA'S BOARD OF GOVERNORS and
11 MICHAEL MAACKS

12 **Exempt from Filing Fees Pursuant to**
13 **Government Code Section 6103**

14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTY OF SAN FRANCISCO – UNLIMITED CIVIL JURISDICTION**

16 GREGORY MORRIS,
17 Plaintiff,
18 v.
19 SAFECO, et al.,
20 Defendants.

Case No. CGC-06-450766
21 **[PROPOSED] JOINT ORDER AFTER**
22 **HEARING RE: DEFENDANTS'**
23 **DEMURRERS TO FIFTH AMENDED**
24 **COMPLAINT**
Date: March 26, 2010
Time 9:30 a.m.
Dept: 301
Hon: Peter J. Busch

25 The following matters came on regularly for hearing in Department 301 of this Court on
26 March 26, 2010:

- 27 1. Defendant Option One Mortgage Company's Demurrer to the Fifth Amended
28 Complaint;
2. Defendant General Insurance Company of America's and Defendant Crawford &
Company's Demurrer to the Fifth Amended Complaint;
3. Defendant Premier Trust Deed Services' Demurrer to the Fifth Amended

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Complaint; and

- 4. Defendants The State Bar of California, The State Bar of California Board of Governors, The State Bar of California Lawyer Assistance Program, and MichaelMaacks Demurrer to the Fifth Amended Complaint.

Danielle Lee appeared on behalf of Defendants The State Bar of California, The State Bar of California Board of Governors, The State Bar of California Lawyer Assistance Program, and Michael Maacks. There were no appearances by the Plaintiff, Gregory Morris, nor his counsel, Michael J. McGinnis. There were no appearances by defendants Option One Mortgage Corporation and Premier Trust Deed Services Company, or by defendants General Insurance Company of America and Crawford and Company. Joseph Rubin appeared on behalf of defendant city of Fresno, Fresno FireDepartment, and Don McAlpine.

The Court, having reviewed all papers supporting and opposing the demurrers, and all judicially noticeable materials, and good cause appearing, adopted its tentative rulings as follows:

IT IS HEREBY ORDERED:

- 1. Defendant Option One Morage Corporation’s Demurrer to the Fifth Amended Complaint.

The Demurrer to the Fifth Amended Complaint is sustained with leave to amend. Plaintiff Morris has ten (10) days to plead a section 1983 or fraud claim if plaintiff can do so in good faith.

- 2. Defendant Premier Deed Trust Services’ Demurrer to the Fifth Amended Complaint.

The Demurrer to the Fifth Amended Complaint is sustained with leave to amend. Plaintiff Morris has ten (10) days to plead a section 1983 or fraud claim if plaintiff can do so in good faith

- 3. Defendants General Insurance Company of America’s and Crawford & Company’s Demurrer to Fifth Amended Complaint.

The Demurrer to the Fifth Amended Complaint is sustained with leave to amend. Plaintiff Morris has ten (10) days to plead a section 1983 or fraud claim if plaintiff can do so in good faith.

- 4. Defendants The State Bar of California, The State Bar of California Board of Governors, The State Bar of California Lawyer Assistance Program, and Michael

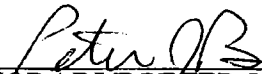
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Maacks's Demurrer to the Fifth Amended Complaint.

The Demurrer to the Fifth Amended Complaint is sustained without leave to amend because the relief sought is inextricably intertwined with the disciplinary decision.

IT IS SO ORDERED

Dated: MAY 17 2010



①②③ HONORABLE PETER J. BUSCH
JUDGE OF THE SUPERIOR COURT

SEE EXHIBIT "A" RE
COMPLIANCE WITH CRC 3.1312

*Case #: 450766
Morris vs Safeco*



THE STATE BAR
OF CALIFORNIA

OFFICE OF GENERAL COUNSEL

CHARLENE J. FOSTER
LEGAL SECRETARY

180 HOWARD STREET, SAN FRANCISCO, CA 94105-1639

TELEPHONE (415) 538-2347 / FAX: (415) 538-2321

April 28, 2010

APR 30 2010

VIA MAIL

Clerk Department 301
San Francisco Superior Court
400 McAllister Street
San Francisco, CA 94102

Re: *Morris v. Safeco, et al.*, Case No. CGC-06-450766

Dear Clerk:

Enclosed are an original and two copies of the [Proposed] Joint Order After Hearing Re: Defendants' Demurrers to Fifth Amended Complaint in the above-referenced matter. The [Proposed] Order has been served on all parties and no objections or corrections have been received. We are thus submitting this Order to the Hon. Peter J. Busch for signature, if it so pleases him.

Also enclosed for your convenience, is a self-addressed, stamped envelope for use in returning the executed, filed endorsed copy to us.

If there are any questions or problems, please contact me at (415) 538-2347 or charlene.foster@calbar.ca.gov. Thank you for your attention to this matter.

Sincerely yours,

Charlene J. Foster
Legal Secretary

Enclosure(s)

EXHIBIT "A"

Σ
SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: STATE BAR OF CALIFORNIA;
(AVISO AL DEMANDADO): STATE BAR OF CALIFORNIA, LAWYER'S ASSISTANCE PROGRAM; DOES 1-25

YOU ARE BEING SUED BY PLAINTIFF: GREGORY MORRIS
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted puede usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: SAN FRANCISCO SUPERIOR COURT
 (El nombre y dirección de la corte es): 450 McAllister
 San Francisco, California 94102

CASE NUMBER: 88-471504
 (Número de caso)

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
 (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Gregory Morris
 1432993-0674243

P. O. Box 872, Fresno, Ca. 93712

DATE:

(Fecha) JAN 29 2008

Gordon Park-Li

Clerk, by

P. NATT

Deputy
 (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
 (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
 2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):

4. by personal delivery on (date):



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State number, and address): Gregory Morris 1432993-0674243 P. O. Box 872, Fresno, California 93712 TELEPHONE NO.: Plaintiff, pro. per. FAX NO.:		FOR COURT USE ONLY FILED San Francisco County Superior Court JAN 29 2008 GORDUN FAN LI, Clerk <i>Parony Matt</i> Deputy Clerk
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 450 McAllister MAILING ADDRESS: San Francisco, California 94107 CITY AND ZIP CODE: BRANCH NAME: Civic Center-Downtown		
CASE NAME: Gregory Morris v State Bar of California, et. al.		CASE NUMBER: CGC-08-471504
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) <input type="checkbox"/> Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/DPD/W (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input checked="" type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/DPD/W (23) Non-P/DPD/W (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/DPD/W tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	---

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |

3. Remedies sought (check all that apply): a. monetary b. nonmonetary, declaratory or injunctive relief c. punitive

4. Number of causes of action (specify):

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 01/03/08
Gregory Morris

Gregory Morris
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

(TYPE OR PRINT NAME)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Gregory Morris 1432993-0674243 P. O. Box 872 Fresno, California 93712 <small>TELEPHONE NO. FAX NO. (Optional):</small></p> <p>F-MAIL ADDRESS (Optional):</p> <p>ATTORNEY FOR (Name): Plaintiff, pro. per..</p>	<p><small>FOR COURT USE ONLY</small></p> <p>SUMMONS ISSUED FILED San Francisco County Superior Court</p> <p>JAN 29 2008 GORDON PARK-LI Clerk BY: <i>[Signature]</i> Deputy Clerk P. NATT</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO</p> <p><small>STREET ADDRESS:</small> 450 McALLISTER <small>MAILING ADDRESS:</small> <small>CITY AND ZIP CODE:</small> SAN FRANCISCO, CALIF. 94102 <small>BRANCH NAME:</small> CIVIC CENTER - DOWNTOWN</p>	<p>CASE MANAGEMENT CONFERENCE SET</p> <p>JUN 27 2008 - 9⁰⁰AM</p> <p>DEPARTMENT 212</p>
<p>PLAINTIFF: Gregory Morris; State Bar of California; State Bar of California, Lawyers Assistance Program; DEFENDANT: Does 1-25</p> <p><input checked="" type="checkbox"/> DOES 1 TO 25</p>	<p>CASE NUMBER:</p> <p>CGC-08-471504</p>
<p>COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): malpractice <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):</p>	
<p>Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited</p>	

1. Plaintiff (name or names): Gregory Morris State Bar of California; State Bar of California Lawyer's Assistance Program; alleges causes of action against defendant (name or names): California Lawyer's Assistance Program; Does 1-25.

2. This pleading, including attachments and exhibits, consists of the following number of pages:

3. Each plaintiff named above is a competent adult

- a. except plaintiff (name):
- (1) a corporation qualified to do business in California
 - (2) an unincorporated entity (describe):
 - (3) a public entity (describe):
 - (4) a minor an adult
 - (a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) other (specify):
 - (5) other (specify):
- b. except plaintiff (name):
- (1) a corporation qualified to do business in California
 - (2) an unincorporated entity (describe):
 - (3) a public entity (describe):
 - (4) a minor an adult
 - (a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) other (specify):
 - (5) other (specify):

Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE: Morris v State Bar	CASE NUMBER:
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4. Plaintiff (name):
 Is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person
 a. except defendant (name): **State Bar of California**

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):

(4) a public entity (describe): **muni-corp.**

(5) other (specify):

c. except defendant (name):

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

b. except defendant (name): **State Bar Lawyer's Assistance Program,**

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):

(4) a public entity (describe): **capacity unk.**

(5) other (specify):

d. except defendant (name):

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. Doe defendants (specify Doe numbers): **1-25** were the agents or employees of other named defendants and acted within the scope of that agency or employment.

b. Doe defendants (specify Doe numbers): _____ are persons whose capacities are unknown to plaintiff.

7. Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. at least one defendant now resides in its jurisdictional area.

b. the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.

c. injury to person or damage to personal property occurred in its jurisdictional area.

d. other (specify):

9. Plaintiff is required to comply with a claims statute, and

a. has complied with applicable claims statutes, or

b. is excused from complying because (specify): **Claims statute pre-empted by Federal Law, 342 U.S.C. 1983, as to civil rights violations**

SHORT TITLE: Morris v State Bagr	CASE NUMBER:
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10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):
- a. Motor Vehicle
 - b. General Negligence
 - c. Intentional Tort
 - d. Products Liability
 - e. Premises Liability
 - f. Other (specify): **Malpractice; Conspiracy to violate Civil Rights, 42 U. S. C. 1983**

11. Plaintiff has suffered
- a. wage loss
 - b. loss of use of property
 - c. hospital and medical expenses
 - d. general damage
 - e. property damage
 - f. loss of earning capacity
 - g. other damage (specify): **Loss of profession and reputation**

12. The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
- a. listed in Attachment 12.
 - b. as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for
- a. (1) compensatory damages
 - (2) punitive damages
- The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):
- (1) according to proof
 - (2) in the amount of: \$

15. The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: 01/15/08

Gregory Morris

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE: Morris v State Bar of California	CASE NUMBER:
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1

CAUSE OF ACTION—General Negligence

Page _____

(number)

ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): **Gregory Morris**

alleges that defendant (name): **State Bar of California; State Bar of California, Lawyer's Assistance Program;**

Does 1 to 25

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): **09/15/03- present**

at (place): **San Francisco, California ;and Fresno California**

(description of reasons for liability): **Defendants failed to properly treat and diagnose plaintiff, which caused delay in treatment!**

SHORT TITLE: Morris v State Bar	CASE NUMBER
---------------------------------	-------------

3 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
CAUSE OF ACTION—Intentional Tort Page _____

(number)

ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

IT-1. Plaintiff (name): Gregory Morris

alleges that defendant (name): State Bar of California; State Bar of California, Lawyer's Assistance Program;

Does 1 to 25

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff

on (date): 09/15/03 - present

at (place): San Francisco and Fresno, California

(description of reasons for liability): Defendants intentionally failed to properly treat and diagnose plaintiff and in so doing intentionally inflicted emotional distress.

SHORT TITLE: Morris v. State Bar	CASE NUMBER
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CIVIL RIGHTS VIOLATIONS- 42 U.S.C. §1983
CAUSE OF ACTION—Intentional Tort

_____ 2 _____ Page _____
 (number)

ATTACHMENT TO Complaint Cross - Complaint

(Use a separate cause of action form for each cause of action.)

IT-1. Plaintiff (name): **Gregory Morris**

alleges that defendant (name): **State Bar of California; State Bar of California, Lawyer's
 Assistance Program; Does 1-25**

Does 1 to 25

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff
 on (date): **September 15, 2003-present**
 at (place): **San Francisco, California and Fresno, California**

(description of reasons for liability): **Defendant violated plaintiff's right to Due Process of Law in violation of 42 U. S. C. 1983, by intentionally failing to properly treat plaintiff, so plaintiff would be to ill to participate in subsequent State Bar disciplinary proceedings**

SHORT TITLE: <p style="text-align: center;">Morris v State Bar</p>	CASE NUMBER:
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Exemplary Damages Attachment

Page _____

ATTACHMENT TO Complaint Cross - Complaint

EX-1. As additional damages against defendant (name): Does 1-25

Plaintiff alleges defendant was guilty of

- malice
- fraud
- oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows: intentional violation of plaintiff's civil rights in violation of the United States Constitution and title 32 U.S.C. 1983;

Defendants intentionally inflicted severe emotional distress upon plaintiff

EX-3. The amount of exemplary damages sought is

- a. not shown, pursuant to Code of Civil Procedure section 425.10.
- b. \$

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

400 MCALLISTER STREET, SAN FRANCISCO, CA 94102

GREGORY MORRIS

PLAINTIFF (S)

VS.

STATE BAR OF CALIFORNIA et al

DEFENDANT (S)

**Pretrial Department 212
Case Management Order**

NO. CGC-08-471504

Order Dismissing Entire Action

TO: ALL COUNSEL AND PARTIES IN PROPRIA PERSONA

An order to show cause for failure of Plaintiff to comply with court orders and rules was called for hearing on JAN-12-2009 at 1:30PM in Department 212.

There was no appearance.

Having reviewed the file,

IT IS HEREBY ORDERED that this case is dismissed.

The court finds no good cause or substantial justification for failure to comply with the previous court orders. A less severe sanction would not be effective due to the history of lack of compliance.

DATED: JAN-12-2009

ARLENE T. BORICK

JUDGE/COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, certify that I am an employee of the Superior Court of California, County of San Francisco and not a party to the above-entitled cause and that on JAN-12-2009 I served the foregoing Order Dismissing Entire Action on each counsel of record or party appearing in propria persona by causing a copy thereof to be enclosed in a postage paid sealed envelope and deposited in the United States Postal Service mail box located at 400 McAllister Street, San Francisco CA 94102-4514 pursuant to standard court practice.

Dated : JAN-12-2009

By: YOLANDA MAZARIEGOS

GREGORY MORRIS
1432993--0674243; P.O. BOX 872
FRESNO, CA 93712

90012

FEE WAIVER

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)
 NASRIN MORROWATI
 426 S. SEPULVEDA BLVD. #116
 LA, CA 90049 IN PAPER
 TELEPHONE NO 210 1943-6820 FAX NO (Optional):
 E-MAIL ADDRESS (Optional):
 ATTORNEY FOR (Name):

FOR COURT USE ONLY
 FEB 23 2006
 D-38

Case assigned to
 Maureen Duffy-Lewis

FILED
 LOS ANGELES SUPERIOR COURT
 FEB 23 2006
 JOHN A. CLAYTON, EXECUTIVE OFFICER/CLEK
 BY D. GILES, DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
 STREET ADDRESS 111 151 Hill St
 MAILING ADDRESS LA, CA 90012
 CITY AND ZIP CODE
 BRANCH NAME

PLAINTIFF: NASRIN MORROWATI
 DEFENDANT: CALIFORNIA STATE BAR OF CALIFORNIA
 STATE BAR OF CALIFORNIA
 GALT MURPHY

DOES 1 TO 200

COMPLAINT AMENDED COMPLAINT (Number):
 CROSS-COMPLAINT AMENDED CROSS-COMPLAINT (Number):

Jurisdiction (check all that apply):
 ACTION IS A LIMITED CIVIL CASE
 Amount demanded does not exceed \$10,000
 exceeds \$10,000 but does not exceed \$25,000
 ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)
 ACTION IS RECLASSIFIED by this amended complaint or cross-complaint
 from limited to unlimited
 from unlimited to limited

CASE NUMBER
 BC347921

1. Plaintiff (name or names): NASRIN MORROWATI
 alleges causes of action against defendant* (name or names): CALIFORNIA STATE BAR OF CALIFORNIA; GALT MURPHY.
2. This pleading, including attachments and exhibits, consists of the following number of pages: 200
3. a. Each plaintiff named above is a competent adult
 except plaintiff (name):
 (1) a corporation qualified to do business in California
 (2) an unincorporated entity (describe):
 (3) other (specify):
 b. Plaintiff (name): NASRIN MORROWATI
 a. has complied with the fictitious business name laws and is doing business under the fictitious name (specify):
 b. has complied with all licensing requirements as a licensed (specify):
 c. Information about additional plaintiffs who are not competent adults is shown in Attachment 3c.
4. a. Each defendant named above is a natural person
 except defendant (name) CALIFORNIA STATE BAR OF CALIFORNIA
 (1) a business organization, form unknown
 (2) a corporation
 (3) an unincorporated entity (describe):
 (4) a public entity (describe):
 (5) other (specify):
 except defendant (name): CALIFORNIA STATE BAR OF CALIFORNIA
 (1) a business organization, form unknown
 (2) a corporation
 (3) an unincorporated entity (describe):
 (4) a public entity (describe):
 (5) other (specify):

000005

SHORT TITLE: <i>MASRI MORROWAITI</i>	CASE NUMBER
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4. (Continued)
- b. The true names of defendants sued as Does are unknown to plaintiff.
- (1) Doe defendants (specify Doe numbers): _____ were the agents or employees of the named defendants and acted within the scope of that agency or employment.
- (2) Doe defendants (specify Doe numbers): _____ are persons whose capacities are unknown to plaintiff.
- c. Information about additional defendants who are not natural persons is contained in Attachment 4c.
- d. Defendants who are joined under Code of Civil Procedure section 382 are (names):

5. Plaintiff is required to comply with a claims statute, and
- a. has complied with applicable claims statutes, or
- b. is excused from complying because (specify):

6. This action is subject to Civil Code section 1812.10 Civil Code section 2984.4.

7. This court is the proper court because
- a. a defendant entered into the contract here.
- b. a defendant lived here when the contract was entered into.
- c. a defendant lives here now.
- d. the contract was to be performed here.
- e. a defendant is a corporation or unincorporated association and its principal place of business is here.
- f. real property that is the subject of this action is located here.
9. other (specify):

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):
- Breach of Contract
- Common Counts
- Other (specify):

9. Other allegations: + *CIVIL RIGHTS + SEE ATTACHED ADDENDUM (FEDERAL ASIDE)*

10. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for
- a. damages of: \$
- b. interest on the damages
- (1) according to proof
- (2) at the rate of (specify): _____ percent per year from (date):
- c. attorney's fees
- (1) of: \$
- (2) according to proof.
- d. other (specify):

11. The paragraphs of this pleading alleged on information and belief are as follows (specify paragraph numbers):

Date: FEB. 23, 2006

 (TYPE OR PRINT NAME)

 (SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

000006

ADDENDUM

CAUSES OF ACTION

- 1- "ADA" CIVIL RIGHTS VIOLATION
TITLE III(3); I; STATE'S UNLAWFUL ACT;
; STATE REGULATIONS
- 2- TORTS PERSONAL INJURY (NEGLIGENT, INTENTIONAL
TORTS, INTENTIONAL
MISREPRESENTATION
& NEGLIGENCE
REPRESENTATION)
- 3- FRAUD;
- 4- BREACH OF CONTRACTS WRITTEN & ORAL;
- 5- DECLARATORY RELIEF, INJUNCTION;
- 6- UNJUST ENRICHMENT, AND
- 7- OTHERS
NORVA MARRIAGE
FGB 23, 206

Lined writing area with horizontal lines and a dashed midline.

000008

SHORT TITLE: NASRIN MARRONWITZ	CASE NUMBER: BC347921
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**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:
 JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL 30 HOURS DAYS.

Item II. Select the correct district and courthouse location (4 steps - If you checked "Limited Case", skip to Item III, Pg. 4):

- Step 1:** After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.
- Step 2:** Check one Superior Court type of action in Column B below which best describes the nature of this case.
- Step 3:** In Column C, circle the reason for the court location choice that applies to the type of action you have checked.
- For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- Class Actions must be filed in the County Courthouse, Central District.
- May be filed in Central (Other county, or no Bodily Injury/Property Damage).
- Location where cause of action arose.
- Location where bodily injury, death or damage occurred.
- Location where performance required or defendant resides.
- Location of property or permanently garaged vehicle.
- Location where petitioner resides.
- Location wherein defendant/respondent functions wholly.
- Location where one or more of the parties reside.
- Location of Labor Commissioner Office.

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4. 1., 2., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.
		<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 2., 3.
<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1., 2., 4.	
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.	
Non-Personal Injury/Property	Civil Rights (08)	<input checked="" type="checkbox"/> A6005 Civil Rights/Discrimination <i>OTHERS</i>	1., 2., 3., 4., 5., 6., 7., 8., 9. <i>RIGHT VERM</i>
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
	Intellectual Property (19)	<input type="checkbox"/> A6016 Intellectual Property	2., 3.

000009

Non-Personal Injury/Property Damage/
Wrongful Death Tort (Cont'd.)

Employment

Contract

Real Property

Judicial Review Unlawful Detainer

SHORT TITLE:	CASE NUMBER
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A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1., 2., 3.
	<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2,3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1., 2., 3.
	<input type="checkbox"/> A6109 Labor Commissioner Appeals	10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction)	2., 5.
	<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2., 6.
	<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1., 2., 5.
	<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	2., 5., 6.
	<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1., 2., 3., 5.
	<input type="checkbox"/> A6031 Tortious interference	1., 2., 3., 5.
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2., 6.
	<input type="checkbox"/> A6032 Quiet Title	2., 6.
	<input type="checkbox"/> A6050 Other Real Property(not eminent domain, landlord/tenant, foreclosure)	2., 6.
Unlawful Detainer- Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.

SHORT TITLE:	CASE NUMBER
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Judicial Review (Cont'd.)

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus	2., 8.
	<input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter	2.
	<input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2., 9.
	<input type="checkbox"/> A6160 Abstract of Judgment	2., 6.
	<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2., 9.
	<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2., 8.
	<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2., 8.
	<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO),Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1., 2., 8.
	<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
	<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
	<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8.
Partnership Corporation Governance(21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2., 3., 9.
	<input type="checkbox"/> A6123 Workplace Harassment	2., 3., 9.
	<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2., 3., 9.
	<input type="checkbox"/> A6190 Election Contest	2.
	<input type="checkbox"/> A6110 Petition for Change of Name	2., 7.
	<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2., 3., 4., 8.
	<input type="checkbox"/> A6100 Other Civil Petition	2., 9.

SHORT TITLE: <u>NASRIN MARRUJATI</u>	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: <u>CALIFORNIA MARI OLIVE ST & 2ND.</u>
CITY: <u>LA</u>	STATE: <u>CA</u>	ZIP CODE: <u>90012</u>

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the _____ courthouse in the _____ District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: FEB. 23, 2006


 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form CIV 109, 03-04 (use latest revision)
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form 982(a)(27), if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) <i>NASRI MORROWAITI</i> <i>426 S. SEPULVEDA ST #116</i> <i>LOS ANGELES, CA 90049</i> TELEPHONE NO. <i>310 342-6820</i> FAX NO.: ATTORNEY FOR (Name):	FOR COURT USE ONLY <h1 style="margin: 0;">FILED</h1> LOS ANGELES SUPERIOR COURT FEB 23 2006 JOHN A. CLARKE, EXECUTIVE OFFICER/CLERK BY <i>[Signature]</i> D. GILES, DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: <i>111 151 14 11 51</i> MAILING ADDRESS: <i>LA, CA, 90012</i> CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER: BC347921 JUDGE: DEPT:
CASE NAME: <i>MORROWAITI v. STATE BAR</i>	CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 1811)

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/VPD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/VPD/W/D (23) Non-P/VPD/W/D (Other) Tort <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <i>OTHER SEE ABOVE</i> <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/VPD/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input checked="" type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	--	--

2. This case is is not complex under rule 1800 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Type of remedies sought (check all that apply):
 a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify):

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: *FEB 23 2006*
NASRI MORROWAITI
 (TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 201.8.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 1800 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

000013

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers

If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 5 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. You do not need to submit a cover sheet with amended papers. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 201.8(c) and 227 of the California Rules of Court.

To Parties in Complex Cases

In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 1800 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Wrongful Death
- Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (not asbestos or toxic/environmental) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
 - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (not medical or legal)
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)
 - Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
 - Negligent Breach of Contract/Warranty
 - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage (not provisionally complex) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 1800-1803)

- Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (non-domestic relations)
 - Sister State Judgment
 - Administrative Agency Award (not unpaid taxes)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (not specified above) (42)
 - Declaratory Relief Only
 - Injunctive Relief Only (non-harassment)
 - Mechanics Lien
 - Other Commercial Complaint Case (non-tort/non-complex)
 - Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (not specified above) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief from Late Claim
 - Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/17/06

DEPT. 38

HONORABLE MAUREEN DUFFY-LEWIS

JUDGE

R. ALVA

DEPUTY CLERK

HONORABLE
008.

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

M. CLARK, CA

Deputy Sheriff

G. VIRAY #7267

Reporter

9:30 am

BC347921

Plaintiff
Counsel

NASRIN MORROWATTI (X)

NASRIN MORROWATTI
VS

Defendant
Counsel

ALAN S. GUTMAN (X)
COLIN P. WONG (X)

STATE BAR OF CALIFORNIA ET AL

NATURE OF PROCEEDINGS:

1. DEMURRER OF DEFENDANT, JAMISON CALIFORNIA MARKET CENTER LP, ERRONEOUSLY SERVED AS CALIFORNIA MART TO COMPLAINT
2. DEMURRER OF DEFENDANTS, THE STATE BAR OF CALIFORNIA, THE COMMITTEE OF BAR EXAMINERS, AND GAYLE MURPHY, TO COMPLAINT;
- 3 CASE MANAGEMENT CONFERENCE
4. ORDER TO SHOW CAUSE RE: PROOF OF SERVICE

1. Off calendar.
2. As to the Complaint as a whole and each and every cause of action individually, the demurrers are SUSTAINED for the following reasons:
 - a. Lack of Jurisdiction - The Supreme Court has retained sole, exclusive jurisdiction over matters involving the admission and discipline of lawyers. Saleeby v. State Bar (1985) 39 Cal. 3d 547, 557. The Superior Court lacks the requisite subject matter jurisdiction over proceedings relating to the State Bar's admission function. Determinations and recommendations by the State Bar in such matters are directly reviewable by the Supreme Court. Smith v. State Bar (1989) 212 Cal. App. 3d 971,

MINUTES ENTERED 11/17/06 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/17/06

DEPT. 38

HONORABLE MAUREEN DUFFY-LEWIS

JUDGE

R. ALVA

DEPUTY CLERK

HONORABLE
008.

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

M. CLARK, CA

Deputy Sheriff

G. VIRAY #7267

Reporter

9:30 am

BC347921

Plaintiff
Counsel

NASRIN MORROWATTI (X)

NASRIN MORROWATTI

VS

Defendant
Counsel

ALAN S. GUTMAN (X)

STATE BAR OF CALIFORNIA ET AL

COLIN P. WONG (X)

NATURE OF PROCEEDINGS:

976-8.

b. Government Code - Claims for money damages against a public entity such as the State Bar requires a Government Tort claim. Government Code 905 and 911.2. Plaintiff has not alleged any such filing.

c. Immunity - The State Bar and its employees are immune from suit for failure to certify an applicant for admission. Government Code 818.4.

No leave to amend.

3. Responsive pleading to be filed by defendant California Market Center LLC by 01/17/07.

Case management conference continued to 01/31/07 at 8:30 am in Department 38.

4. Order to show cause DISCHARGED.

Clerk to give notice.

**CLERK'S CERTIFICATE OF MAILING/
NOTICE OF ENTRY OF ORDER**

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served Notice of Entry of the above minute order of

MINUTES ENTERED 11/17/06 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/17/06

DEPT. 38

HONORABLE MAUREEN DUFFY-LEWIS

JUDGE

R. ALVA

DEPUTY CLERK

HONORABLE
008.

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

M. CLARK, CA

Deputy Sheriff

G. VIRAY #7267

Reporter

9:30 am

BC347921

Plaintiff
Counsel

NASRIN MORROWATTI (X)

NASRIN MORROWATTI

VS

Defendant
Counsel

ALAN S. GUTMAN (X)

STATE BAR OF CALIFORNIA ET AL

COLIN P. WONG (X)

NATURE OF PROCEEDINGS:

11/17/06 upon each party or counsel named below by depositing in the United States mail at the courthouse in Los Angeles, California, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

Date: 11/17/06

John A. Clarke, Executive Officer/Clerk

By:

ROBERT R. ALVA

Nasrin Morrowatti
426 S. Selpulveda Boulevard
#116
Los Angeles, CA 90049

Colin P. Wong
Senior Assistant General Counsel
The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

MINUTES ENTERED
11/17/06
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/17/06

DEPT. 38

HONORABLE MAUREEN DUFFY-LEWIS

JUDGE

R. ALVA

DEPUTY CLERK

HONORABLE
008.

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

M. CLARK, CA

Deputy Sheriff

G. VIRAY #7267

Reporter

9:30 am

BC347921

Plaintiff

NASRIN MORROWATTI (X)

Counsel

NASRIN MORROWATTI

VS

Defendant

ALAN S. GUTMAN (X)

STATE BAR OF CALIFORNIA ET AL

Counsel

COLIN P. WONG (X)

NATURE OF PROCEEDINGS:

Alan S. Gutman
LAW OFFICES OF ALAN S. GUTMAN
9401 Wilshire Boulevard
Suite 575
Beverly Hills, CA 90212-2918

A6151
90015

FILED
LOS ANGELES SUPERIOR COURT

JUL 29 2013

JOHN A. CLARKE, CLERK
BY L. JOHNSON, DEPUTY

1 Brian Oxman
2 14126 East Rosecrans Blvd.
3 Santa Fe Springs, California 90670
4 (562) 921-5058
5 oxman2008@aol.com

6 Attorney in Pro Se

7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF LOS ANGELES

9 BRIAN OXMAN)
10 Plaintiff,)
11 v.)
12 ALEC CHANG, MICHAEL COLANTUONO,)
13 NANCY FINEMAN, KAREN GOODMAN,)
14 AGUSTIN HERNANDEZ, CRAIG HOLDEN,)
15 PATRICK KELLY, LOREN KIEVE, JESSICA)
16 LIENAU, DENNIS MANGERS, PEARL MANN,)
17 GWEN MOORE, GRETCHEN NELSON, DAVID)
18 PASTERNAK, KRISTIN RITSEMA, LUIS)
19 RODRIGUEZ, HEATHER ROSING, MARK)
20 SHEM, STATE BAR OF CALIFORNIA, A)
21 CALIFORNIA CORPORATION; CHRISTOPHER)
22 TODD, DAVID TORRES; and DOES 1 through)
23 20, Inclusive,)
24 Defendant.)

Case No.

BC510601

COMPLAINT FOR
VIOLATION OF CIVIL RIGHTS;
PETITION FOR WRIT OF
MANDAMUS, NOBIS, AND HABEAS
CORPUS VIOLATION OF UNRUH
CIVIL RIGHTS ACT

JURY TRIAL DEMANDED

D38 Maureen Duffy-Kearns

25 Plaintiff, Brian Oxman, complains of defendants, and each of them, and by this verified
26 complaint, alleges as follows:

27 PARTIES

28 1. On July 27, 2012, Plaintiff and Petitioner, Mr. Oxman is a resident of the County of Los Angeles, State of California. Mr. Oxman is unaware of the true names and identities of defendants Does 1 through 20, inclusive, and therefore sues them by these fictitious names. Mr. Oxman is informed and believes that each defendant designated as a doe is legally responsible for the events and happenings described in the Complaint, cause or contributed to his injuries or damages, or was the

CIT/CASE: BC510601
LEA/DEF#:
RECEIPT #: CH43993118
DATE PAID: 7/22/13 04:27 PM
PAYMENTS: \$35.00
RECEIVED: 310
CHECK # 435-00
\$435.00
\$0.00
\$0.00
\$0.00

1 agent, representative, or employee of the other defendants. At such time as Mr. Oxman become aware
2 of their identities, he will amend the complaint to include their identities.

3 2. On that date, Alec Chang was and now is a citizen and resident of the City of Palo Alto,
4 State of California, and a Member of the Board of Trustees of the State Bar. Defendant Chang is sued
5 in his individual capacity only.

6 3. On that date, Michael Colantuono was and now is a citizen and resident of the City of Pen
7 Valley, State of California, and a Member of the Board of Trustees of the State Bar. Defendant
8 Colantuono is sued in his individual capacity only.

9 4. On that date, Nancy Fineman was and now is a resident of the City of Burlingane, State of
10 California, and a Member of the Board of Trustees of the State Bar. Defendant Fineman is sued in her
11 individual capacity only.

12 5. On that date, Karen Goodman was and now is a resident of the City of Sacramento, State of
13 California, and a Member of the Board of Trustees of the State Bar. Defendant Goldman is sued in her
14 individual capacity only.

15 6. On that date, Agustin Hernandez was and now is a resident of the City of Los Angeles, State
16 of California, and employed as a trial counsel by the State Bar. Defendant Hernandez is sued in his
17 individual capacity only.

18 7. On that date, Craig Holden was and now is a resident of the City of San Francisco, State of
19 California, and a Member of the Board of Trustees of the State Bar. Defendant Holden is sued in his
20 individual capacity only.

21 8. On that date, Patrick Kelly was and now is a resident of the City of Los Angeles, State of
22 California, and a Member of the Board of Trustees of the State Bar. Defendant Kelly is sued in his
23 individual capacity only.

24 9. On that date, Loren Kieve was and now is a resident of the City of San Francisco, State of
25 California, and a Member of the Board of Trustees of the State Bar. Defendant Kieve is sued in her
26 individual capacity only.

27 10. On that date, Jessica Lienau was and now is a resident of the City of Los Angeles, State of
28 California, and an employee of the State Bar. Defendant Lienau is sued in her individual capacity.
29
30

1 11. On that date, Dennis Mangers was and now is a resident of the City of San Francisco,
2 State of California, and a Member of the Board of Trustees of the State Bar. Defendant Mangers is
3 sued in his individual capacity.

4 12. On that date, Pearl Mann was and now is a resident of the City of Fullerton, State of
5 California, and a Member of the Board of Trustees of the State Bar. Defendant Mann is sued in her
6 individual capacity.

7 13. On that date, Gwen Moore was and now is a resident of the City of Los Angeles, State of
8 California, and a Member of the Board of Trustees of the State Bar. Defendant Moore is sued in her
9 individual capacity.

10 14. On that date, Gretchen Nelson was and now is a resident of the City of Los Angeles, State
11 of California, and a Member of the Board of Trustees of the State Bar. Defendant Nelson is sued in
12 her individual capacity.

13 15. On that date, David Pasternak was and now is a resident of the City of Los Angeles, State
14 of California, and a Member of the Board of Trustees of the State Bar. Defendant Pasternak is sued in
15 his individual capacity.

16 16. On that date, Kristin Ritsema was and now is a resident of the City of Los Angeles, State
17 of California, and a an employee of the State Bar. Defendant Ritsema is sued in her individual
18 capacity.

19 17. On that date, Luis Rodriguez was and now is a resident of the City of Los Angeles, State of
20 California, and a Member of the Board of Trustees of the State Bar. Defendant Rodriguez is sued in
21 his individual capacity.

22 18. On that date, Heather Linn Rosing was and now is a resident of the City of San Diego,
23 State of California, and a Member of the Board of Trustees of the State Bar. Defendant Rosing is
24 sued in her individual capacity.

25 19. On that date, Mark Shem was and now is a resident of the City of San Jose, State of
26 California, and a Member of the Board of Trustees of the State Bar. Defendant Shem is sued in his
27 individual capacity.

28 20. On that date, the State Bar of California, a Corporation, is a public corporation regulated
29
30

1 by the Business and Professions Code organized and existing under the laws of the State of California
2 engaged in business in the County of Los Angeles, State of California.

3 21. On that date, Christopher Todd was and now is a resident of the City of San Diego, State
4 of California, and a Member of the Board of Trustees of the State Bar. Defendant Todd is sued in his
5 individual capacity.

6 22. On that date, David Torres was and now is a resident of the City of Bakersfield, State of
7 California, and a Member of the Board of Trustees of the State Bar. Defendant Torres is sued in his
8 individual capacity.

9 **SUMMARY OF REQUEST FOR WRIT OF ADMINISTRATIVE MANDAMUS**

10 **AND COMPLAINT FOR VIOLATION OF CIVIL RIGHTS**

11 23. Mr. Oxman was admitted to practice law in California in 1976. His license to practice law
12 was revoked on July 27, 2012, pursuant to a Decision and Order of the California Supreme Court dated
13 June 27, 2012.

14 24. Mr. Oxman's Complaint and Petition is based on the following:

15 (1) Mr. Oxman's punishment of disbarment did not fit the offense in this case, and his
16 license to practice law should be reinstated under defendant Trial Court's determination based on its
17 assessment of the full view of the evidence, Mr. Oxman's character, and the overall state of the
18 evidence, that a two (2) year suspension was the appropriate punishment;

19 (2) defendant's Review Department increase of Mr. Oxman's punishment to
20 disbarment for commingling funds in his trust account was unduly harsh and without clear and
21 convincing evidence because Mr. Oxman did not misappropriate any money, no client lost money, no
22 member of the public was harmed, and Mr. Oxman did not seek to evade creditors because he owed no
23 money to the California Franchise Tax Board;

24 (3) Defendant's punishment of disbarment based was a violation of due process and
25 Mr. Oxman's civil rights under 42 U.S.C. section 1983 and the Unruh Civil Rights Act, Civil Code
26 section 51 et seq., because there was no clear or convincing evidence that Mr. Oxman owed taxes or
27 evaded creditors, and the disbarment of an attorney for using his trust account to evade taxes when the
28 undeniable evidence was there were no taxes owed "tainted" the proceeding resulting in an excessive
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1 and harsh punishment which was arbitrary, capricious, an abuse of discretion and violated due process
2 and Mr. Oxman's civil rights.

3 25. Mr. Oxman has given a timely Preliminary Notice required under the California
4 Government Code as a prerequisite of bring this suit against a state entity. The Notice was not acted
5 upon and was deemed rejected. Mr. Oxman has filed this action within the time allotted for the
6 bringing of actions
7 under the Government Code.

8 26. Mr. Oxman previously filed this action on October 25, 2012, in the United States District
9 Court for the Northern District of California, in case number C 12-5517 SI. The action was previously
10 commenced within 90-days of the effective date of the July 27, 2013, Order. That case was and will
11 be dismissed for lack of subject matter jurisdiction in posing a federal question, and pursuant to 28
12 U.S.C. section 1367(d) an action filed within 30-days of such dismissal shall relate back to the time of
13 filing of the federal proceeding.

14 STATEMENT OF THE CASE

15 A. Defendant's Notice of Disciplinary Charges.

16 27. Mr. Oxman was admitted to the State Bar of California on December 22, 1976. He has
17 practiced law as a member of the Firm of Lawler, Felix & Hall, his own firm of Oxman and Jaroscak,
18 and he has been an Associate Professor of Law at Western State University College of Law and Irvine
19 University College of Law. He has taught continuing legal education course for various MCLE
20 Providers, including LawTalk, and he has represented many high profile clients, including Governor
21 Edmund G. "Jerry" Brown, Michael Jackson, Denver Broncos' Owner Patrick Bowlan, Apollo
22 Astronauts Richard Gordon and Ron Evans, and members of the Jackson Family.

23 28. On May 7, 2010, the State Bar initiated Notice of Disciplinary Charges against Mr. Oxman
24 and his wife, Maureen Jaroscak, who was his law partner following her admission to the State Bar in
25 1985. Four of the eight counts were directed to Mr. Oxman:¹

26 ¹ Counts Three, Four, and Eight were directed to Maureen Jaroscak individually, and alleged that she
27 had neglected to properly handle a separate matter involving the administration of the Lyle Quatrochie
28 Trust, and that he had also participated in administering the Marjorie Jaroscak Living Trust through the
attorney trust account, and commingling individual funds with trust funds. Ms. Jaroscak is not a
petitioner in this Complaint. The State Bar imposed a suspension on her for 18 months.

1 29. Count One of the charges alleged that Mr. Oxman violated Business & Professions Code
2 section 6103 for failure to obey a court order to pay sanctions. That count was dismissed with
3 prejudice at the beginning of the trial by stipulation. (Trial Court 3-3-11 Decision, p. 1). The fact was
4 that Mr. Oxman had paid the sanction almost immediately upon him learning of it.

5 30. Count Two alleged a violation of Business & Professions Code section 6068(o) for failure
6 to report a Bankruptcy Court sanction within thirty (30) days of having knowledge of it, although Mr.
7 Oxman did report the sanction 117 days after it was entered claiming he was unaware of it until then;

8 31. Count Five alleged violation of Rule 4-100(A) of the Rules of Professional Conduct and
9 Business & Professions Code section 6106. The State Bar charged Mr. Oxman with commingling
10 personal funds in his attorney trust account in connection with the administration of the Marjorie
11 Jaroscak Living Trust dated December 15, 2007, which the State Bar contended was an improper use
12 of the trust account. The State Bar charged the trust administration was designed to evade Mr.
13 Oxman's and his wife's creditors including tax liens from the State of California. The State Bar also
14 alleged that Mr. Oxman deposited \$7,421.53 in his account from earnings from his teaching positions
15 in order to evade creditors.

16 32. Count Seven alleged a violation of Business & Professions Code section 6068(I) for failure
17 to cooperate in the State Bar investigation. Mr. Oxman stipulated to and admitted the allegation.
18 (Trial Court 3-3-11 Decision, p. 21).²

19 **B. Basis for Petition for Writ of Mandamus, Coram Nobis, or Habeas Corpus**

20 33. Mr. Oxman submits his Petition for Writ of Mandate, Coram Nobis, or Habeas Corpus
21 requesting the Court to find the disbarment of Mr. Oxman was unwarranted, unduly harsh, and a
22 violation of due process because it determined Mr. Oxman had evaded a tax which was never due or
23 owed. In the alternative, Mr. Oxman requests the Court to find the decision of the State Bar Trial
24 Court dated March 3, 2011, for a two (2) year suspension appropriate. The defendant violated due
25 process by knowingly maintaining a position it knew as false by claiming Mr. Oxman owed taxes to

26 ² The Disciplinary charges also included allegations of prior matters before the State Bar where Mr.
27 Oxman had received a reproof for failing to determine that a declaration had been signed by another
28 attorney before he used the declaration in a court proceeding, and that Mr. Oxman had been placed on
probation for maintaining a civil rights action which did not appear warranted by the evidence.

1 the State of California when it knew that no such tax was owed.

2 34. Defendant's proceedings were quasi-criminal in nature. Defendant failed and refused to
3 utilize the mandatory standard of "clear and convicting" evidence as required by law. They were
4 arbitrary, capricious, an abuse of discretion, and did not comply with due process of law. They
5 determined that Mr. Oxman failed to pay a tax which was not owed was a violation of Mr. Oxman's
6 civil rights and the product of false and manufactured evidence during the State Bar investigation.
7 This case presents an appropriate circumstance to set aside the Trial Court decision of March 3, 2011,
8 and Review Department Decision of January 13, 2012, along with the Order of June 27, 2012,
9 revoking Mr. Oxman's license to practice law. In the alternative, the Court should reinstate the Trial
10 Court's determination of punishment because of the "taint" of increasing Mr. Oxman's punishment for
11 using his trust account to avoid a tax lien on which he owed no taxes, which was arbitrary and
12 capricious abuse of discretion.

13 **C. There Was No Money Owed to the State of California and the Punishment**
14 **of Disbarment Did Not Fit the Offense**

15 **1. Mr. Oxman did not use his Trust Account to evade taxes.**

16 35. Mr. Oxman and Maureen Jaroscak drafted the Marjorie Jaroscak Trust which Marjorie
17 signed on December 15, 2007. Under the powers of the Trust, Maureen Jaroscak had discretion to
18 disburse trust assets for the benefit of her Mother, including her health, care, maintenance, and any
19 expenditure required by her mother. In addition, Maureen Jaroscak had additional authorities under an
20 "Advance of Funds Agreement" to use the trust's funds to maintain her business and to advance to pay
21 for her client's expenses the "Advance of Funds Agreement was signed by "Marjorie Jaroscak,
22 Individually and as Grantor and as Beneficiary" and by Maureen Jaroscak, Individually and as Trustee
23 of the Marjorie Jaroscak Trust." Additional distributions from the trust, or within the scope of the trust
24 agreement, included cash contributions form Marjorie Jaroscak, and were placed in the client trust
25 account at the specific direction of Marjorie Jaroscak. These funds were all paid out with her
26 consultation and direction. The trust made Maureen Jaroscak the sole trustee. The Trust permitted
27 the Grantor to make additional contributions to the Trust, which Marjorie Jaroscak did on two
28 occasions in the amount of \$8,000.

1 36. In Count Five, the State Bar alleged that Mr. Oxman violated Rule 4-11(A) by
2 commingling funds belonging to he and his wife in their client trust account during the period of
3 January 1,2008, through July 31, 2009. The State Bar alleged that 42 deposits were made into the trust
4 account during this period totaling \$46,921.53, and that Mr. Oxman's personal funds of \$7,421.53
5 from his employment as a professor with Irvine University and LawTalk were commingled into the
6 account along with \$39,500.00 from the Marjorie Jaroscak Living Trust. Defendant alleged that 49
7 checks were written on the account to pay personal expenses for Mr. Oxman.

8 **2. The funds were not Mr. Oxman's or his wife's property.**

9 37. None of the deposit transactions involved personal funds of either himself or his wife, and
10 no personal funds were deposited into the trust account. The \$39,500 came from the Marjorie
11 Jaroscak Living Trust dated December 15, 2007, and was a trust which his wife Maureen Jaroscak
12 administered for her mother, Marjorie Jaroscak. It was undisputed at trial that Ms. Jaroscak handled
13 all of the client trust account transactions, including deposits and the issuing of checks, and that she
14 handled all of the record keeping. With Mr. Oxman's authorization, Ms. Jaroscak signed his name in
15 endorsing checks for deposit and issued checks which she signed.

16 38. Maureen Jaroscak kept meticulous records of each trust transaction, and the accounting
17 showed each deposit to the Marjorie Jaroscak Trust, its expenditure, and that none of the money
18 deposited to the account of Marjorie Jaroscak was used for a purpose other than trust purposes. Each
19 of the entries showed that money came from a Manhattan Life Insurance Account that was established
20 on December 15, 2007, when Marjorie Jaroscak cashed in a life insurance policy she had maintained
21 on her life, and the sum of \$110,000.00 was deposited to the name of Maureen Jaroscak. On
22 December 15, 2007, Marjorie Jaroscak executed the Marjorie Jaroscak Living Trust which established
23 the Manhattan Trust Account as a Trust for her daughter, Maureen Jaroscak, for herself, Marjorie
24 Jaroscak, and for her granddaughters, Marissa and Ariel Oxman, along with a written instruction of the
25 same date, December 15, 2007, that Maureen Jaroscak was to use the trust funds to assist Maureen
26 Jaroscak in her business and with her clients.

27 **3. There was no basis to find the Trust was a "sham."**

28 39. The Trial Court believed that the Marjorie Jaroscak Trust was a "sham to seek to further

1 protect the funds being given to Respondent Jaroscak by her mother from respondents' creditors."
2 (Trial Court 3-3-11 Decision, p. 19). The decision ignored that \$70,000.00 remained at the time in the
3 Manhattan Life account subject to creditor execution. The creditor, according to the Trial Court was
4 the State of California, which had recorded a tax lien on December 11, 2007, for \$10,373.00 for the tax
5 year 2005, and a tax lien on April 24, 2008, on Maureen Jaroscak for 2005 taxes in the amount of
6 \$10,725.00. (Trial Court 3-3-11 Decision, p. 17 ¶ 2). Both of these tax liens were for the year 2005,
7 and because Mr. Oxman and Ms. Jaroscak were husband and wife who filed a joint return, the tax liens
8 were for the same amount and the maximum claimed was a total of \$10,725.00 for both individuals.

9 40. Defendant's Decision that the Marjorie Jaroscak Trust was "sham" violated due process
10 and was arbitrary, capricious, and an abuse of discretion because the only creditor involved was the
11 State of California to whom Mr. Oxman and Ms. Jaroscak owed no money. Mr. Oxman and Ms.
12 Jaroscak testified the tax liens arose because of their delay in filing tax returns, and that when the
13 matter was asserted by Defendant, they completed their tax returns and filed them without paying any
14 taxes because no taxes were due. Mr. Oxman and Ms. Jaroscak testified no money was due for unpaid
15 taxes. The State Bar presented no evidence that the tax liens represented a "real" debt or than any
16 money was ever due or paid under the tax liens.

17 41. Both Mr. Oxman and Ms. Jaroscak testified they did not use the attorney trust account to
18 evade taxes because they both knew there was no money owing for the tax years in question and that
19 the tax liens were the product of delay in filing returns. They testified there was no reason to evade the
20 tax liens by an elaborate ruse of a sham trust involving extensive work, labor, record keeping, and
21 reporting to Marjorie Jaroscak, when all that would be necessary was the preparation of the delayed
22 tax returns to obtain a release of the liens. Both Mr. Oxman and Ms. Jaroscak testified they did not
23 seek to evade the State of California because the State of California knew where Mr. Oxman was
24 employed at Irvine University and LawTalk because of 1099 Forms delivered to them on a yearly
25 basis and was subject to garnishment had the State been owed actual money, which it was not, or had
26 the State actually sought to enforce the non-existent debt, which the State did not ever do. In addition,
27 \$70,000.00 remained in the Manhattan Life account subject to any creditor.

28 42. Defendant identified no other reason for its belief the Marjorie Jaroscak Trust was a sham.

1 There was no attempt in the Trial Court's Decision to describe any reason the trust was a "sham"
2 verses a legitimate living trust, and there was no evidence that Maureen Jaroscak failed to perform her
3 duties as trustee or did any activity which was not authorized by the trust. The evidence was that
4 Maureen Jaroscak kept her mother informed of the Trust's administration and provided her with
5 accounts and reports contained in her trust accounting introduced during the trial. Defendant's
6 decision was arbitrary, capricious, an abuse of discretion, and violated due process of law.

7 **4. Mr. Oxman did not evade a judgment from his former attorney.**

8 43. In addition, the Defendant claimed at trial that Mr. Oxman and Ms. Jaroscak's former State
9 Bar attorney Zachery Wechsler had obtained a default judgment against them on September 4, 2007,
10 for \$24,868.35, and they were evading the judgment through use of their attorney trust account.
11 However, there Trial court found there had been no effort to evade the judgment because Mr. Oxman
12 did not learn of the judgment until January, 2008, which was after the Trust was established. When
13 Mr. Oxman discovered it, he moved to set it aside and filed an appeal from the adverse ruling.

14 44. The Trial Court stated:

15 "With regard to the Wechsler judgment, the evidence at trial indicated that this judgment was
16 on appeal at the time of the misconduct. There was no evidence that Wechsler ever sought to
17 collect on the judgment during the appeal (or at all) or that the mishandling of the CTA actually
18 caused any harm to him." (Trial Court 3-3-11 Decision, p. 23).

19 45. Mr. Wechsler was Mr. Oxman's attorney and had his tax returns. He knew where Mr.
20 Oxman worked, and he could have garnished Mr. Oxman's wages. However, he did not do so, and
21 the trial court correctly concluded Mr. Oxman did not attempt to evade the judgment because he could
22 not have done so. The Trial Court's finding was based on real and substantial evidence, and it was the
23 only evidence before the Trial Court.

24 46. Defendant's Review Department January 13, 2012, decision that Mr. Oxman evaded
25 Wechsler claim was arbitrary, capricious, and an abuse of discretion because there was no evidence or
26 basis to change or alter the Trial Court's evidentiary determination. The decision was made pursuant
27 to a policy to ignore the "clear and convincing evidence standard." The use of the Wechsler matter as
28 a basis to increase the punishment from the Trial Court's 2-year suspension violated due process and

1 was not based on any new or different evidence. The decision to disbar Mr. Oxman violated the rules
2 and procedures of the State Bar, and the determination violated Mr. Oxman's civil rights.

3 **5. Mr. Oxman believed in good faith the Jaroscak Trust administration**
4 **was proper.**

5 47. Mr. Oxman testified that he was an Associate Professor of Law at Western State College
6 of Law and Irvine University College of Law where he taught Trusts and Wills, and that the Trust was
7 administered Trust according to the requirements of trust law, including the Restatement of Trusts. A
8 fair and impartial review of the entire record in this case disclosed no witness, no document, and no
9 evidence from the State Bar to support the notion that the Marjorie Jaroscak Trust was a "sham," that it
10 was in any way improper, or administered improperly. She was a client and it was proper to place her
11 funds in the attorney trust account. Mr. Oxman testified he relied upon section 84 of the Restatement
12 (Third) of Trusts from the American Law Institute which permitted attorneys to administer various
13 client trusts through their Attorney Trust Accounts. The accusation that Mr. Oxman evaded a creditor
14 to whom he did not owe money improperly "tainted" the case and resulted in an arbitrary and
15 capricious decision which was an abuse of discretion and violated due process of law.

16 **B. Mr. Oxman Did Not Owe Money to the State of California.**

17 **1. No money was owed to the California Franchise Tax Board.**

18 48. The defendant's Review Department stated there were \$51,310.82 in unpaid taxes,
19 penalties, and interest to the California Franchise Tax Board for five (5) liens against Mr. Oxman and
20 his wife, Maureen Jaroscak, and that the purpose of running money through the Attorney Trust
21 Account was to evade payment of these liens. (Review Dept. Decision, p. 10, ¶ 2). However, these
22 liens were duplicative between Mr. Oxman and his wife, and all of them were released without
23 payment of any taxes owing. Only two (2) were outstanding in 2008, for the tax year 2005, for a total
24 of \$10,725.08, and they too were released without the payment of any tax.

25 49. The defendant's Review Department stated:

26 "Oxman and Jaroscak testified that they owed no money and had simply not filed tax returns
27 for several years, but they presented no supporting evidence that the liens were released
28 without payment." (Decision, p. 10, ¶ 2).

1 50. However, the undisputed evidence was that the liens were released without the payment of
2 any tax or penalty because no money or taxes were owed. The claim was made based on a policy to
3 ignore the clear and convincing evidence standard and shift the burden to Mr. Oxman. The disbarment
4 was ordered against Mr. Oxman based on what the Review Department saw was an absence of
5 evidence when not only had that evidence been presented showing no money was owed, but also it
6 was the State Bar's burden to present contrary evidence, which it failed to do. The Review
7 Department increased Mr. Oxman's penalty to disbarment based on its "conjecture" there was an
8 absence of evidence. The decision was arbitrary, capricious, an abuse of discretion, and a violation of
9 due process of law because the evidence was undeniable Mr. Oxman owed no tax.

10 **2. The claim that Brian Oxman owed taxes violates due process.**

11 51. It was only the 2005 tax lien for \$10,373.25 that was recorded December 11, 2007, that
12 was at issue in the case. The 2007 tax lien against Mr. Oxman was not recorded until December 9,
13 2009, and the 2006 lien was not recorded against Ms. Jaroscak until April 20, 2009. The 2007, lien
14 against Ms. Jaroscak was not recorded against Ms. Jaroscak until February 17, 2010. These liens
15 played no part in the charges that between January and July, 2008, Mr. Oxman sought to avoid tax
16 liens. More important, on September 27, 2010, all of the liens were release, including the 2005 lien,
17 when tax returns were filed without any payment of any taxes because no taxes were owing.

18 52. The undisputed fact is Mr. Oxman owed and paid no tax for 2005. Mr. Oxman owed no
19 tax, and that the State recorded the liens only because of a delay in filing a tax return as Mr. Oxman
20 and Ms. Jaroscak both testified.

21 53. It was arbitrary, capricious, an abuse of discretion, and contrary to law for Defendant to
22 ignore the prior final decision of an agency of the State of California that no taxes were due or paid. It
23 was a violation of due process of law under the California and U.S. Constitution to reject the finding
24 from the Franchise Tax Board that no tax was paid or owing. Mr. Oxman's license to practice law was
25 a property right which the Defendant denied him on a fundamentally unfair and contrary to fact claim
26 without due process of law under the 14th and 5th Amendments.

27 **FIRST CLAIM**

28 **(For Writ of Mandamus, Coram Nobis, or Habeas Corpus against Defendant State Bar)**

1 54. Mr. Oxman refers to paragraphs 1, paragraph 20, and paragraphs 23 through 34 inclusive,
2 and incorporates them in this Claim.

3 **A. Defendant Violated Due Process of Law.**

4 55. Mr. Oxman's license revocation was erroneous in that the proceeding was the product of
5 the failure to use the mandatory clear and convincing standard of evidence and a violation of due
6 process of law. No tax was owed to the State of California and it was an impossibility to make the
7 findings made by the State Bar Court in the face of such fact. The proceedings violated due process
8 and should be reviewed through a Writ of Mandamus, Coram Nobis, or Habeas Corpus.

9 56. The proceedings were the product of numerous surprises and violations of due process.
10 The proceeding was based on a charge not made in the accusation. Defendant made a determination
11 based on a hearing where there was repeated claims not plead in the Accusation. The presumption that
12 a tax was owing was neither plead nor proved in the proceeding, and the claim was sprung on Mr.
13 Oxman during the hearing, depriving Mr. Oxman of a reasonable opportunity to prepare a defense or
14 confront witnesses who never testified or proved any tax was owing. Because of the surprise, Mr.
15 Oxman was not able to present the evidence necessary to demonstrate his innocence and non-liability
16 for the surprise charges and evidence presented against him.

17 57. Mr. Oxman does not have a plain, speedy and adequate remedy at law in that Mr. Oxman's
18 license revocation cannot be set aside unless this Court grants a writ of mandamus, Coram Nobis, or
19 Habeas Corpus and order defendant to set aside its Decision. Mr. Oxman has been deprived of the
20 fundamental right to practice his profession, which will result in a significant restraint of his liberty,
21 irreparable injury to him, economically, emotionally, and in terms of his reputation in the community.

22 **2. Defendant Violated Mr. Oxman's Civil Rights**

23 48. Defendant's decision to disbar Mr. Oxman denied him due process and he did not receive a
24 fair hearing because, among other things, defendant made findings on issues not charged or raised in
25 the Accusation, claims which were never presented, claims which were contrary to the findings of the
26 California Franchise Tax Board. Defendant based its disciplinary action on those findings and charges
27 which were never plead nor proven.

28 59. Defendant violated due process by bringing new charges and springing new claims without
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1 evidence on Mr. Oxman during the hearing that taxes were owing when defendant never plead nor
2 proved any such event. The surprise and failure of proof deprived Mr. Oxman a reasonable
3 opportunity to prepare a defense or confront defendant's witnesses because it presented no witness nor
4 proof of such a fact.

5 60. Defendant failed to proceed in a manner required by law on grounds
6 that include, but are not limited to, the following:

7 A. Defendant incorrectly presumed that taxes were owing without presenting any proof
8 of the fact and made an improper "presumption" based on the assertion of a tax lien that taxes were
9 due and owing;

10 B. Defendant's presumption of taxes due and owing created an "irrebuttable"
11 presumption contrary to fact when the Franchise Tax Board had determined no taxes were due, owing,
12 or otherwise paid;

13 C. Defendant maintained a position before an administrative proceeding it knew was
14 contrary to the truth;

15 D. Defendant made findings on issues not charged or raised in the Accusation, and
16 based its disciplinary action on those findings and charges;

17 E. Defendant brought new charges and sprung new claims on Mr. Oxman during the
18 hearing, depriving Mr. Oxman of a reasonable opportunity to prepare a defense or confront the
19 defendant's witnesses;

20 F. Defendant incorrectly failed to require evidence on the issues not charged in the
21 Accusation over Mr. Oxman timely and sufficient relevancy and due process objections;

22 G. Defendant incorrectly used evidence incorrectly admitted for credibility,
23 rehabilitative, and impeachment purposes as substantive evidence going towards the acts charged.

24 61. Defendant engaged in a prejudicial abuse of discretion by making legal conclusions not
25 support by the evidence or findings on a number of grounds, including, but not limited to, the
26 following:

27 A. Defendant illegally concluded that Mr. Oxman intended to deceive creditors without
28 any evidence that he could intend to deceive a state agency to whom he owed no taxes and which

1 acknowledged that no taxes were due or owing;

2 B. Defendant illegally concluded that Mr. Oxman owed taxes when no taxes were
3 owing;

4 C. Defendant illegally concluded that the Marjorie Jaroscak Family Trust was a sham
5 when no evidence existed to support the conclusion;

6 D. Defendant illegally concluded that Mr. Oxman administered his trust account in a
7 manner which showed moral turpitude;

8 E. Defendant illegally concluded that the discipline imposed by the Trial Court of a 2-
9 year suspension should be increased to disbarment contrary to the factual findings of the trial court
10 regarding discipline;

11 F. Defendant's legal conclusions were inconsistent with one another in
12 that, on the one hand, defendant concluded that Mr. Oxman did not evade the Wechsler judgment and
13 then upon review by the Review Department changed that determination without evidence or factual
14 basis;

15 G. Defendant illegally concluded that Mr. Oxman administered his trust account in a
16 manner which constituted unprofessional conduct to include dishonesty and moral turpitude related to
17 the qualifications, functions, or duties of a lawyer, yet failed to make any finding that such conduct
18 was precluded by any substantive rule of law, case authority, or statute, or that such conduct was
19 substantially related to the qualifications, functions, or duties of an attorney.

20 62. Defendant abused its discretion by making findings not supported by the evidence on a
21 number of grounds, including, but not limited to, the following:

22 A. There is no evidence and insufficient evidence to support defendant's finding that
23 Mr. Oxman intended to evade creditors to whom he owed no money and who acknowledged he owed
24 no money;

25 B. There is no evidence and insufficient evidence to support defendant's finding that
26 Mr. Oxman's conduct in not paying a tax he did not owe was "material" misconduct or the product of
27 moral turpitude in the administration of his Attorney Trust Account;

28 C. There was no evidence and insufficient evidence that Mr. Oxman's administration

1 of the Marjorie Jaroscak Family Trust through his Attorney Trust Account was "material" misconduct
2 or the product of moral turpitude in the administration of his Attorney Trust Account;

3 D. There was no evidence and insufficient evidence that the Marjorie Jaroscak Trust
4 was a sham designed to evade creditors;

5 E. There was no evidence and insufficient evidence to support defendant's finding that
6 Mr. Oxman "intended" to deceive creditors or evade creditors because he owed no money or tax to the
7 State of California Franchise Tax Board;

8 G. There was no evidence and insufficient evidence to support defendant's finding that
9 Mr. Oxman's reliance on relevant legal authority to administer the Marjorie Jaroscak Family Trust
10 through his Attorney Trust Account was unreasonable or the product of moral turpitude;

11 H. Defendant's findings regarding factors in aggravation are not supported by the
12 evidence in that the evidence defendant relied upon in finding aggravation is actually evidence in
13 mitigation and evidence of evasion of taxes did not exist.

14 63. Defendant incorrectly interpreted the evidence code and burden of proof requirements of
15 the State Bar Act by receiving incompetent evidence despite timely and sufficient objection by Mr.
16 Oxman on a number of grounds, including, but not limited to, the following:

17 A. Defendant incorrectly presumed that a filed tax lien constituted an adjudication of
18 the validity of the tax owed instead of a unadjudicated assertion of the taxing authority which must be
19 proven in any administrative or judicial proceeding before it could be given legal effect;

20 B. Defendant incorrectly gave effect to the tax liens recorded with the County Recorder
21 as being conclusive to the existence of a tax owed when such a conclusion was contrary to law and the
22 evidence showed no tax was owing;

23 C. Defendant incorrectly used admitted evidence that the tax lien filed by the California
24 Franchise Tax Board constituted a determination of the validity of the tax owed when no such
25 evidence existed and the conclusion was contrary to both law and fact.

26 64. Defendant incorrectly interpreted applicable law on a number of grounds, including, but
27 not limited to, the following:

28 A. Concluding that failure to pay an unadjudicated tax lien constituted evidence of
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1 evasion of creditors;

2 B. Concluding that Mr. Oxman had the "intent" to evade creditors by not paying a tax
3 lien he knew was incorrect and for which he owed no taxes;

4 C. Concluding that administration of the Marjorie Jaroscak Family Trust through Mr.
5 Oxman's Attorney Trust Account was the product of moral turpitude, dishonesty, and an effort to
6 evade creditors;

7 D. Concluding that the recommended suspension of 2-years from the Trial Court
8 should be changed and increased to a permanent disbarment.

9 C. **Mr. Oxman is Under a Restraint of his Liberty.**

10 65. As a result of defendant's conduct, Mr. Oxman's liberty has been restrained to the extent
11 that his freedom of mobility has been irreparably impaired, his right to freedom of movement and
12 pursuing his livelihood have been unduly restrained, and he under a "restraint" entitling him to Habeas
13 Corpus. The restraints include:

14 A. The disbarment forcibly required him under threat of further penalties and sanctions
15 to notify all of his clients concerning the Order which resulted in humiliation, stigma, loss of clients,
16 and resulted in a "forced action" and "restraint" of his freedom significantly impairing his freedom and
17 livelihood, and resulting in stigma restricting his freedom and liberty on an ongoing basis for the rest
18 of his life;

19 B. The disbarment forcibly required under threat of further penalties and actions that
20 all attorneys with whom he works to be notified of the disbarment which resulted in humiliation,
21 stigma, loss of clients, and resulted in "forced action" and "restraint" of his freedom significantly
22 impairing his liberty and livelihood, and resulting in stigma restricting his freedom and liberty on an
23 ongoing basis for the rest of his life;

24 C. The disbarment forcibly required under threat of further penalties and sanctions that
25 he notify the clients for any attorney with whom he works be notified of the disbarment which resulted
26 in humiliation, stigma, loss of clients, and resulted in "forced action" and "restraint" of his freedom
27 impairing his liberty and livelihood and resulting in stigma restricting his freedom and liberty on an
28 ongoing basis for the rest of his life;

1 D. The disbarment forcibly required under threat of further penalties and sanctions that
2 Irvine University be notified to end its relationship with him which resulted in humiliation, stigma,
3 loss of clients, and resulted in "forced action" and "restraint" of his freedom significantly impairing his
4 liberty and livelihood, and resulting in stigma restricting his freedom and liberty on an ongoing basis
5 for the rest of his life;

6 E. The disbarment was the product of a violation of due process of law which
7 restricted and impaired his right to the privileges and immunities accorded to every citizen, made an
8 exception of him where he received lesser and impaired process that accorded others, and used
9 standards of evidence, the creation of fabricated evidence, to impair his freedom and liberty;

10 F. The disbarment was the product of the State Bar Trial Court and Review
11 Department using a false standard of evidence and failing to employ the mandatory standard of "clear
12 and convincing evidence" to increase the penalty from a suspension to a disbarment which violated
13 due process of law, impaired his liberty, and resulted in penalties and obligations which restrict his
14 freedom and liberty on an ongoing basis for the rest of his life;

15 G. The disbarment imposed costs and a restitution order which restrict his liberty,
16 impair his freedom, and result in a "forced action" to pay the State Bar thereby imposing an obligation
17 which restricts freedom and liberty of his actions, along with a stigma restricting his freedom and
18 liberty on an ongoing basis

19 66. The restraint on Mr. Oxman's liberty is significant, material to his right to freedom and
20 mobility, and a confinement and restraint as required for Habeas Corpus relief. The Court's
21 determination was contrary to, or involved an unreasonable application of clearly established federal
22 and state law as determined by the Supreme Court of the United States. Mr. Oxman has no other
23 plain, adequate, or speedy remedy at law regarding the illegal restraint placed on him. Mr. Oxman has
24 made no other application for a Writ of Mandate, Coram Nobis, or Habeas Corpus.

25 67. Mr. Oxman requests the Court to issue a Writ of Mandamus, Coram Nobis, or Habeas
26 Corpus ordering that defendant set aside the Decisions, dated March 3, 2011, and January 13, 2012,
27 and effective July 27, 2012, in its entirety, and ordering defendant to remove Mr. Oxman's name and
28 information pertaining to Mr. Oxman from all public databases which show his disbarment, including

1 but not limited to, the defendant's website. In the alternative, Mr. Oxman requests the Court to issue a
2 peremptory Writ requiring defendant to show cause why its decision of January 13, 2012, and effective
3 July 27, 2012, should not be set aside and defendant required to act in accordance with law.

4 **SECOND CLAIM**

5 **(For Violation of Federal Civil Rights Against Defendants Alec Chang, Michael Colantuono,**
6 **Nancy Fineman, Karen Goodman, Augustine Hernandez, Craig Holden, Patrick Kelly, Loren**
7 **Kieve, Jessica Lienau, Dennis Mangers, Pearlmann, Gwenn Moore, Gretchen Nelson,**
8 **David Pasternak, Kristin Ritsema, Luis Rodriguez, Heather Rosing, Mark Shem,**
9 **Christopher Todd, David Torres)**

10 68. Mr. Oxman refers to paragraphs 1 through 34, paragraphs 36 through 53, and paragraphs
11 55 through 67, inclusive, and incorporates them in this Claim.

12 69. Defendants are individual Members of the State Bar Board of Trustee, with the exception
13 of defendant Augustine Hernandez and Jessica Lienau, who were trial counsel, and Kristin Ritsema,
14 who was appellate counsel in the Review Department for defendant State Bar. Each of them acted in
15 their individual capacity within the scope of their employment pursuant to a policy of failing to use
16 "clear and convincing evidence" in the proceeding in a violation of due process of law. Defendants
17 acted in their individual capacities to create false evidence during Mr. Oxman's investigation.

18 70. Defendant deprived Mr. Oxman of his federal civil rights pursuant to an official policy,
19 custom, and practice whereby defendant engaged in an unfair, arbitrary, capricious, and abuse of
20 discretion proceeding to revoke Mr. Oxman's license to practice law. Mr. Oxman challenges the
21 constitutionality of the rule under which the proceeding was conducted because it was made pursuant
22 to a de facto and implicit policy to ignore the mandates of law requiring clear and convicting evidence
23 as the standard of proof. Mr. Oxman is entitled to relief because the rules and proceeding by which he
24 was punished were unfair, arbitrary, capricious, and a violation of due process.

25 71. Defendants in their individual capacity engaged in a violation of Mr. Oxman's right to due
26 process of law and a fair hearing by creating during the investigation evidence they knew was
27 fabricated, false, and contrary to the truth and reaching conclusion which were contrary to both law
28 and fact. Defendants engaged in a knowing, reckless, intentional, and malicious conduct which

1 violated Mr. Oxman's civil rights, and they acted pursuant to a policy and custom of acting under the
2 color of state law to deprive Mr. Oxman of his property, rights to due process, and right to his law
3 license in violation of the Fourth and
4 Fourteenth Amendment to the United States Constitution and his rights under federal law.

5 72. Defendants acted with deliberate indifference to Mr. Oxman's rights and failed to observe
6 the rules of governing the proceeding. Defendant had a policy of inaction toward Mr. Oxman to create
7 false evidence and violate the rules of evidence, including but not limited to making presumptions
8 contrary to fact, failing to require clear and convincing evidence, and rendering conclusions contrary
9 to law as alleged in this Complaint. Defendants had no procedures in place to prevent the violation of
10 Mr. Oxman's legal and civil rights, and defendants were not only aware of the false evidence, but also
11 the false resulting findings of fact and conclusion of law. They took no action to prevent the conduct.

12 73. Defendants conduct violated 42 U.S.C. section 1983.

13 74. Under the provisions of section 1983, Mr. Oxman seeks Declaratory Relief that defendants
14 engaged in conduct which violated Mr. Oxman right to due process and resulted in a decision of the
15 State Bar Court which was procured with false, fraudulent, and created evidence which had no basis in
16 fact, violated due process of law, and that the decision of the State Bar Court and Mr. Oxman's
17 disbarment was contrary to law.

18 75. As to the individual defendants in their individual capacity only, they acted not as
19 prosecutors or trustees, but as investigators conducting a false investigation and approving of the false
20 investigation, resulting in fabricating false evidence of a tax owing when no such tax was owing. They
21 acted as investigators in knowing, intentional, and deliberate violation of law to create and
22 manufacture false evidence against Mr. Oxman knowing that Mr. Oxman owed no tax.

23 76. As to the individual defendants only, in their individual capacities, as a proximate result of
24 defendant's conduct, Mr. Oxman has been injured in his business and property in an amount not
25 presently ascertained. Such damages include loss of income, loss of the right to practice law, injury to
26 his reputation, loss of clients, and other costs, expenses, emotional distress, pain, suffering, general
27 damages, and injures not presently ascertained. At such time as Mr. Oxman has ascertained such
28 injuries, he will amend this Complaint to include such damages.

THIRD CAUSE OF ACTION

(For Violation of Unruh Civil Rights Act, Civil Code § 51 et seq. against defendant State Bar)

77. Mr. Oxman refers to paragraphs 1, paragraphs 20, paragraph 23 through 34, paragraph 36 through 53, paragraph 55 through 67, and paragraph 69 through 78, inclusive, and incorporates them in this Claim.

78. Mr. Oxman seeks Declaratory Relief under the Unruh Civil Rights Act, C that defendant engaged in conduct which violated Mr. Oxman right to due process and resulted in a decision of the State Bar Court which was procured with false, fraudulent, and created evidence which had no basis in fact, violated due process of law, and that the decision of the State Bar Court and Mr. Oxman's disbarment was contrary to law.

79. As a proximate result of defendant's conduct, Mr. Oxman has been injured in his business and property in an amount not presently ascertained. Such damages include loss of income, loss of the right to practice law, injury to his reputation, loss of clients, and other costs, expenses, emotional distress, pain, suffering, general damages, and injures not presently ascertained. At such time as Mr. Oxman has ascertained such injuries, he will amend this Complaint to include such damages.

WHEREFORE, Brian Oxman prays for Judgment against defendants California State Bar, a Corporation, as follows:

A. The Court issue a Writ of Mandamus, Coram Nobis, or Habeas Corpus ordering that defendant set aside the Decisions dated March 3, 2011, and dated January 13, 2012, and effective July 27, 2012, in their entirety, and ordering defendant to remove Mr. Oxman's name and information pertaining to Mr. Oxman from all public databases which show his disbarment, including but not limited to, the defendant's website. In the alternative, Mr. Oxman requests the Court to issue a peremptory Writ of Mandamus, Coram Nobis, or Habeas Corpus requiring defendant to set aside its Decisions of March 3, 2011, and January 13, 2012, and effective July 27, 2012, and to act in accordance with law.

B. On the Second Claim for Violation of Federal Civil Rights for compensatory damages to be proved at time of trial and Declaratory Relief that defendants engaged in conduct which violated Mr. Oxman right to due process and resulted in a decision of the State Bar Court which was procured with

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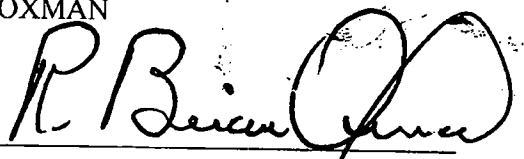
false, fraudulent, and created evidence which had no basis in fact, violated due process of law, and that the decision of the State Bar Court and Mr. Oxman's disbarment was contrary to law.

C. On the Third Cause of Action for Violation of the Unruh Civil Rights Act for compensatory damages to be proved at time of trial and Declaratory Relief that defendants engaged in conduct which violated Mr. Oxman right to due process and resulted in a decision of the State Bar Court which was procured with false, fraudulent, and created evidence which had no basis in fact, violated due process of law, and that the decision of the State Bar Court and Mr. Oxman's disbarment was contrary to law.

- D. For costs of suit incurred in this action;
- E. For such further relief the Court deems appropriate.

DATED: July 29, 2013

BRIAN OXMAN

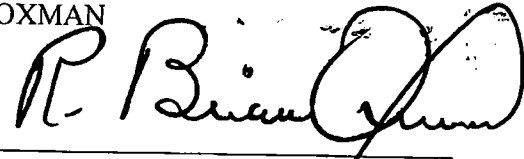
By: 

Brian Oxman Attorney in Pro Se

Mr. Oxman demands a jury trial.

DATED: July 29, 2013

BRIAN OXMAN

By: 

Brian Oxman Attorney in Pro Se

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VERIFICATION

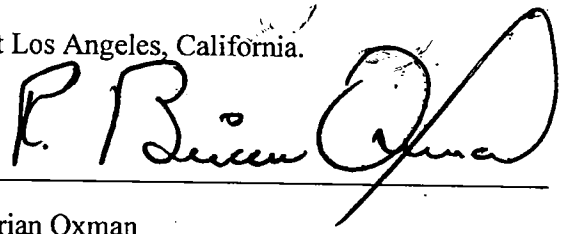
COUNTY OF LOS ANGELES)
STATE OF CALIFORNIA) ss.

I, Brian Oxman, declare and say:

I am the Plaintiff and Petitioner in the above-entitled action. I have read the following complaint for Violation of Civil Rights and Petition, Writ Mandamus, Coram Nobis, or Habeas Corpus, and Violation of the Unruh Civil Rights Act, and know the contents of thereof, and that it is true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29th day of July, 2013, at Los Angeles, California.



Brian Oxman

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Brian Oxman, In Pro Per
14126 E. Rosecrans Blvd.
Santa Fe Springs, CA 90670
TELEPHONE NO.: (562) 921-5058 FAX NO.:
ATTORNEY FOR (Name): Plaintiff

FOR COURT USE ONLY
FILED
LOS ANGELES SUPERIOR COURT
JUL 29 2013
JOHN A. CLARKE, CLERK
BY L. JOHNSON, DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS: Los Angeles, CA 90012
CITY AND ZIP CODE:
BRANCH NAME: Central District

CASE NAME:
OXMAN v. CHANG, et al.

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter **Joinder**
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
BC516601
JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|---|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46) <p>Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PIP/DWD (23) <p>Non-PIP/DWD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PIP/DWD tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input checked="" type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): Three

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 29, 2013
(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

- NOTICE**
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
 - File this cover sheet in addition to any cover sheet required by local court rule.
 - If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
 - Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

SHORT TITLE: Oxman v. Chang, et. al.	CASE NUMBER: BC 516601
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**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:
 JURY TRIAL? YES CLASS ACTION? YES LIMITED CASE? YES TIME ESTIMATED FOR TRIAL ⁵ HOURS/ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. 2. May be filed in central (other county, or no bodily injury/property damage). 3. Location where cause of action arose. 4. Location where bodily injury, death or damage occurred. 5. Location where performance required or defendant resides. | <ol style="list-style-type: none"> 6. Location of property or permanently garaged vehicle. 7. Location where petitioner resides. 8. Location wherein defendant/respondent functions wholly. 9. Location where one or more of the parties reside. 10. Location of Labor Commissioner Office |
|---|---|

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4. 1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 4. 1., 3. 1., 4.

SHORT TITLE:

Oxman v. Chang, et. al.

CASE NUMBER

Non-Personal Injury/Property
Damage/Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1., 2., 3.
	<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1., 2., 3.
	<input type="checkbox"/> A6109 Labor Commissioner Appeals	10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2., 5.
	<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2., 5.
	<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1., 2., 5.
	<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	2., 5., 6.
	<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1., 2., 3., 5.
	<input type="checkbox"/> A6031 Tortious Interference	1., 2., 3., 5.
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2., 6.
	<input type="checkbox"/> A6032 Quiet Title	2., 6.
	<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE:

Oxman v. Chang, et. al.

CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input checked="" type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Miscellaneous Civil Complaints	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

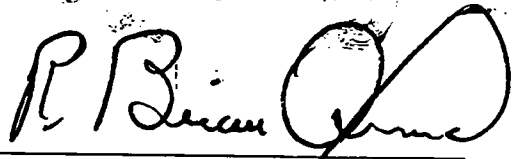
SHORT TITLE: Oxman v. Chang, et. al.	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 1149 S. Hill Street
CITY: Los Angeles	STATE: CA	ZIP CODE: 90015

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: July 29, 2013


 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

07/29/2013

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6 ROBERT G. SCURRAH, JR.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

SEP 05 2012

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ORANGE

10 30-2012

11 ROBERT G. SCURRAH, JR., an individual,

Case No. 00595756

12 Plaintiff,

COMPLAINT FOR DECLARATORY
RELIEF

13 vs.

14 STATE BAR OF CALIFORNIA, and
15 JAYNE KIM, in her personal capacity and
also in her official capacity as Chief Trial
16 Counsel of the State Bar of California, and
DOES 1-100, inclusive,

JUDGE WILLIAM M. MONROE
DEPT. C16

17
18 Defendants.
19

20 Plaintiff ROBERT G. SCURRAH, JR. ("Plaintiff") alleges as follows:

21 1. Defendants are conducting themselves in such a manner that legal services
22 provided by experienced attorneys may not be delivered to one of the neediest groups in our
23 nation: homeowners threatened with foreclosure on their homes. The recent recession and
24 collapse of the housing bubble wreaked havoc on the lives of millions of California homeowners.
25 Facing job losses, forced early retirements, and decimated savings and investment accounts, many
26 homeowners have been unable to keep up with their mortgages. Desperate to hang on to their
27 family homes, homeowners increasingly have looked to loan modification and forbearance to help
28

1 avoid foreclosure and eviction. But loan modification is only possible if the lenders, and in some
2 cases the investors behind the lenders, agree to modification. Obtaining that agreement is no small
3 feat, especially given the now well documented "unsafe and unsound" servicing practices by
4 banks, who have illegally foreclosed upon homes and denied eligible borrowers loan modification
5 assistance. Banks, mortgage companies and investors are focused on protecting their own self-
6 interest, and employ many highly-paid lawyers and professional advisors to help them achieve that
7 goal.

8 2. Homeowners need help dealing with lenders and servicers. They face unfamiliar
9 and labyrinthine processes, jargon-laden documents full of legalese and fine print, and seemingly
10 contradictory directives and requirements from banks, mortgage companies, investors and
11 government regulators. This can leave even the most educated and diligent homeowners
12 flummoxed, as the time bomb of foreclosure and eviction ticks away. Making matters worse,
13 many of the nation's leading banks stand accused of engaging in unfair, deceptive and unlawful
14 loan modification practices that create additional roadblocks and pitfalls for homeowners trying to
15 save their homes. The United States Department of Justice, along with 49 States' Attorneys
16 General, filed a lawsuit charging the country's five largest banks and their mortgage servicing
17 arms with unfair, deceptive, and unlawful loan modification and loss mitigation processes. The
18 case was recently settled, with the banks agreeing to payments and homeowner credits valued at
19 \$25 billion, \$18 Billion of it directed to California Homeowners. California Attorney General
20 Kamala D. Harris announced that the Homeowner Bill of Rights, which will protect homeowners
21 and borrowers during the mortgage modification and foreclosure process, was signed into law July
22 11, 2012 by Governor Edmund G. Brown Jr.

23 3. With the deck so thoroughly stacked against them, many homeowners have sought
24 the assistance of attorneys who offer experience and expertise in understanding and navigating the
25 loan modification process, and who will zealously protect their clients' interests the way the
26 banks' and investors' lawyers look out for their interests. That expertise, experience, familiarity
27 with lender personnel and procedures, and zealous advocacy can mean the difference between
28 keeping a family home and losing it to foreclosure. In fact, many homeowners who have

1 attempted to modify their own loan only to be denied have turned to attorneys for help. As a
2 result, many have achieved a loan modification with the intervention of their lawyer despite the
3 previous denial by their bank.

4 4. For years, attorneys and homeowner clients have entered into legal service
5 agreements separated into components, so-called “unbundled” legal service agreements,¹ in which
6 the discrete services that a homeowner may need along the path toward possible loan modification
7 are broken down into separate and distinct agreements for services. A separate fee is charged and
8 collected after each and every service contained within the component agreement is completed.
9 These agreements allow attorneys to tailor their services to each client’s specific needs, rather than
10 forcing a one-size-fits-all model onto clients. The agreements also afford clients greater flexibility
11 in deciding, at any stage of the process, if it is advisable to continue to move forward toward
12 modification. This is an important element because in some cases a client may decide during the
13 process that a short sale or bankruptcy is a more suitable remedy. In other circumstances, the
14 attorney may discover the identity of the investor and realize that the particular investor does not
15 participate in modification programs, making any further expenditure by the client or effort by the
16 attorney unwarranted. In the absence of these agreements, many if not most of the homeowners
17 facing foreclosure would be unable to obtain legal representation at all given the Defendants’
18 unjustified and unconstitutional interpretation of Senate Bill 94 (“SB 94”) as alleged below. That
19 interpretation requires attorneys to provide loan modification services on an “all or nothing” basis,
20 although there is no such language or prohibition contained within SB 94 as it relates to attorneys
21 and unbundling.

22
23 ¹ “Unbundled legal services, also known as discrete task legal services or limited scope legal
24 assistance ‘is a practice in which the lawyer and client agree that the lawyer will provide some, but
25 not all, of the work involved in traditional full service representation.’ Hon. Fern Fisher-
26 Brandveen & Rochelle Klemptner, *Unbundled Legal Services: Untying the Bundle in New York*
27 *State*, 29 Fordham Urb. L.J. 1107, 1108 (2002). Proponents of unbundled legal services have
28 touted its benefits, including increased access to justice for the poor, efficiency in *pro se* matters,
enfranchisement of clients and opportunities for attorneys. *Id.* at 1107-1114.” *Delso v. Trustees*
For Retirement Plan For Hourly Employees of Merck & Co., Inc. (D.N.J., Mar. 6, 2007, CIV
04-3009 AET) 2007 WL 766349

1 5. In October 2009, the California Legislature enacted SB 94 to address certain abuses
2 it found occurring in the loan modification industry, primarily by Department of Real Estate
3 (“DRE”) licensees working as Foreclosure Consultants. SB 94 treats real estate professionals and
4 attorneys differently, as reflected by the language of the statute itself. That language expressly
5 prohibits real estate professionals dividing services into components, in other words, unbundling,
6 as follows: “Neither an advance fee nor the services to be performed shall be separated or divided
7 into components for the purpose of avoiding the application of this division.” Cal. B&P Code
8 § 10026. But the legislature chose not to add that provision to any statute governing lawyers. See
9 California Civil Code §§ 2944.6 and 2944.7; California Business and Professions Code § 6106.3.
10 After SB 94 was enacted, the State Bar of California (“State Bar”) and its agents made
11 representations that discrete task legal services, or unbundled, engagement agreements were
12 permissible and did not violate SB 94. Representatives of the State Bar communicated this same
13 message to Plaintiff as recently as November 2011. Nonetheless, on their own and without
14 authority, Defendants have recently interpreted SB 94 as if the provision prohibiting unbundling
15 did apply to lawyers, even though that language was left out of the statute by the Legislature.

16 6. The State Bar’s recent about-face and current interpretation of SB 94 as prohibiting
17 attorneys from entering into unbundled fee agreements threatens to make it impossible for many
18 homeowners to obtain legal representation. Attorneys cannot be hired and recompensed for doing
19 necessary components of the modification task unless they carry it all the way through to “the
20 end”; however “the end” may be interpreted at the discretion of the State Bar. It also leaves
21 attorneys in an impossible ethical position. They can bring themselves into compliance with the
22 State Bar’s new interpretation of SB 94, but only by abandoning their clients; or they can honor
23 their duties to their clients, but only at risk of professional and financial peril threatened by the
24 State Bar.

25 7. The State Bar’s new interpretation of SB 94, codified in, without limitation,
26 California Civil Code §§ 2944.6 and 2944.7 and California Business and Professions Code
27 § 6106.3, is contrary to legislative intent and contrary to what SB 94 actually states. Of central
28 importance here, it also violates the rights of Plaintiff and others like him under the United States

1 and California Constitutions by prohibiting attorneys from entering into discrete task or unbundled
2 fee agreements when representing clients in connection with loan modification services.
3 Defendants lack any constitutional, statutory or regulatory authority for their actions as alleged
4 herein.

5 8. Plaintiff Scurrah is a resident of the County of Orange and an attorney licensed by
6 the State Bar of California to practice law, is beneficially interested in this matter and has suffered
7 injury within one year of the filing of this action by virtue of the unconstitutional interpretation
8 and application of SB 94 by the State Bar. Plaintiff brings this suit for declaratory relief on behalf
9 of himself and all other persons damaged by the actions of the State Bar by its illegal application
10 of SB 94, including other members of the State Bar and citizens of California seeking legal
11 representation in dealing with financial institutions with respect to loan modifications during this
12 era of severe financial crisis.

13 9. Defendant State Bar is a public corporation within the judicial branch of
14 government, serving as an arm of the California Supreme Court. It maintains offices in Los
15 Angeles County at 1149 South Hill Street, Los Angeles.

16 10. Defendant Jayne Kim is the Chief Trial Counsel of the State Bar and is a resident
17 of Los Angeles County. Plaintiff is informed and believes, and, on that basis, alleges that
18 Defendant Kim is responsible in part for the interpretation and enforcement of the provisions of
19 SB 94 challenged by Plaintiff herein. She is sued both in her official and personal capacities.

20 11. The true names of Defendants named herein as 1 through 100 inclusive are sued
21 both in their official and personal capacities and are presently unknown to Plaintiff, who therefore
22 sues such Defendants by fictitious names. Plaintiff will amend this Complaint to show the true
23 names and identities of these Defendants when they have been ascertained. Does 1-100 are
24 responsible for the interpretation and/or the enforcement of some of the provisions of SB 94
25 challenged by Plaintiff herein.

26 12. Plaintiff is informed and believes, and thereon alleges, that each Defendant herein
27 was the agent or employee of each of the other co-Defendants and, in doing the things hereinafter
28 alleged, was acting within the course and scope of such agency or employment and with the

1 permission and consent of their co-Defendants.

2 13. This controversy began with the enactment of SB 94 on October 11, 2009. SB 94
3 was codified in, among other sections, California codes, Civil Code §§ 2944.6 and 2944.7 and
4 California Business and Professions Code § 6106.3.

5 14. The State Bar now publicly takes the position that an attorney who provides a
6 borrower loan modification or other forbearance services may not agree with the borrower that the
7 services requested will be broken down into component parts and that a fee for each component
8 part may not be earned and collected as each component part is completed.

9 15. The State Bar also now publicly takes the position that if the services to be
10 provided are in fact loan modification services or other forbearance services, or are an integral part
11 of such services, but the services are not expressly designated as "loan modification" services in
12 the fee agreement, SB 94 would apply even if the services are labeled as something other than loan
13 modification services.

14 16. The State Bar recently has publicized to its members and to the public at large that
15 the positions stated in the prior two paragraphs must govern the conduct of its members. In so
16 doing, the State Bar has threatened, coerced and intimidated its members, with the goal being to
17 force those members to acquiesce to the State Bar's unconstitutional interpretation of SB 94.
18 Plaintiff has entered into retainer agreements with clients that specify that he will perform services
19 in representing clients related to loan modification services in three different discrete groups of
20 services, each group further describing discrete tasks within the group. This type of agreement is
21 sometimes referred to as an "unbundled" fee agreement or a discrete task legal services agreement.
22 Clients and Plaintiff agree that they will pay Scurrah only after each and every service Scurrah
23 represents he will perform is completed, in each of the three distinct component agreements and,
24 in fact, do pay on that basis.

25 17. Plaintiff has on some occasions before and after the enactment of SB 94 charged
26 and collected fees for discrete components of agreements after his firm fully performed the
27 specific component it contracted to perform and represented that it would perform. Plaintiff did so
28 in the firm belief that his interpretation of SB 94 was correct and that Defendants herein lacked the

1 authority to interpret SB 94 in the unconstitutional and facially incorrect manner that they did.
2 The first of the separately contracted services involves a thorough analysis of the client's
3 circumstances. Plaintiff's analysis includes the submission of the prospective client's data through
4 sophisticated analytics to determine whether a proposed modification request will meet HAMP
5 (the federal "Home Affordable Modification Program") or other servicer guidelines. If it does not,
6 the client is advised what steps, if any, the client may take to address any inadequacies in the
7 modification submission, or otherwise not to proceed. Rendering this service takes time and is a
8 valuable service. If the client does appear to qualify for a modification, the separate service of
9 preparation of the loan modification package takes place. After this service has been completed,
10 Plaintiff by contract is entitled to and does collect a fee for that service. Should the client wish,
11 the client may terminate the service and submit the package and negotiate with the lender without
12 representation. If the client instructs Plaintiff's firm to continue, Plaintiff's firm will submit the
13 package and engage with the Bank.

14 18. Plaintiff is informed and believes and on that basis alleges that many other
15 members of the State Bar have structured engagement letters and have collected fees in the same
16 manner as Plaintiff alleges above.

17 19. A violation of Civil Code § 2944.7 subjects a person to substantial fines and
18 penalties, including criminal penalties. The statute states, in pertinent part:

19 (a) Notwithstanding any other provision of law, it shall be unlawful for
20 any person who negotiates, attempts to negotiate, arranges, attempts to
21 arrange, or otherwise offers to perform a mortgage loan modification or
22 other form of mortgage loan forbearance for a fee or other compensation
23 paid by the borrower, to do any of the following:

24 (1) Claim, demand, charge, collect, or receive any compensation until after
25 the person has fully performed each and every service the person
26 contracted to perform or represented that he or she would perform.

27 (2) Take any wage assignment, any lien of any type on real or personal
28 property, or other security to secure the payment of compensation.

(3) Take any power of attorney from the borrower for any purpose.

(b) A violation of this section by a natural person is a public offense
punishable by a fine not exceeding ten thousand dollars (\$10,000), by
imprisonment in the county jail for a term not to exceed one year, or by
both that fine and imprisonment, or if by a business entity, the violation is
punishable by a fine not exceeding fifty thousand dollars (\$50,000). These

1 penalties are cumulative to any other remedies or penalties provided by
2 law.

3 A violation of the section by a natural person is a public offense punishable by a fine not
4 exceeding ten thousand dollars (\$10,000), by imprisonment in the county jail for a term not to
5 exceed one year, or by both that fine and imprisonment.

6 20. Plaintiff is informed and believes, and, on that basis alleges, that no other law
7 enforcement agency in the state of California, including the Attorney General of the State, has
8 initiated any prosecution based upon unbundled engagement arrangements between attorneys and
9 clients or published anything interpreting SB 94 as Defendants here do.

10 21. From the time SB 94 was enacted until the present, the State Bar has been aware
11 that many California attorneys have been using unbundled engagement agreements related to loan
12 modification services and collecting fees pursuant to unbundled engagement agreements. The
13 State Bar stood aside and allowed those attorneys, including Plaintiff, to continue engaging in
14 such practices – further indicating the State Bar’s assent to the propriety of such practices. Based
15 on the actions and statements of the State Bar, Plaintiff entered into unbundled engagement
16 agreements with numerous clients. Plaintiff owes those clients a duty to zealously represent their
17 interests in loan modification matters in which the opposing parties are sophisticated banks and
18 mortgage companies who are routinely represented by counsel.

19 22. Defendants’ current position that unbundled agreements violate SB 94 represents
20 an abrupt about-face from its earlier statements and conduct. Statutes enforcing SB 94 regulating
21 real estate professionals expressly prohibits unbundling. *See* Cal. B&P Code § 10026. California
22 Civil Code §§ 2944.6 and 2944.7 and California Business and Professions Code § 6106.3 omit
23 that prohibition entirely. Yet Defendants have inserted it illegally in their application of the statute
24 and in their threats to members of the Bar and the public in general.

25 23. Commercial ratings services such as the Better Business Bureau have lowered the
26 rating assigned to Plaintiff’s law firm solely on the basis of Defendants’ illegal interpretation of
27 SB 94 and publication thereof.

28

1 24. Plaintiff has been forced to choose between two alternatives that make it
2 impossible for him to provide services without violating the Defendants' unconstitutional
3 interpretation of SB 94. He and his firm must perform all of the unbundled services in order to get
4 paid. Thus, in spite of the fact that in some situations his duty to represent the best interests of a
5 client may, as facts are determined and documents reviewed, reasonably call for performing fewer
6 than all of the discrete tasks of loan modification services and charging only for those services of
7 value he has completed, he must instead simply stop serving the client and forego payment for all
8 that he has done. This leaves Plaintiff with choosing between taking cases and performing
9 services that he may not get paid for, even though the services are of aid to the client, or simply
10 not taking any loan modification clients at all. Thus, Plaintiff is foreclosed from delivering legal
11 services to clients who need help in dealing with large financial institutions and others in a manner
12 tailored to each client's situation, even if the client agrees to the unbundled arrangement and even
13 though the interim discrete legal services may be of great value to the client. Plaintiff is informed
14 and believes and on that basis alleges that many other members of the State Bar are now forced to
15 conduct themselves in a similar fashion.

16 25. The plain language of SB 94 does not prohibit attorneys from entering into
17 unbundled engagement agreements nor does the legislative history of the bill lend support to such
18 a prohibition.

19 26. By acting and threatening to act in the manner alleged above, Defendants have
20 violated the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

21 27. By acting and threatening to act in the manner alleged above, Defendants have
22 violated the Due Process Clauses of Article 1, Section 7 of the California Constitution.

23 28. The challenged application of SB 94 by the State Bar violates the Due Process
24 Clauses of the Fourteenth Amendment of the United States Constitution and Article 1, Section 7
25 of the California Constitution in at least the following ways:

26 a) By causing agents of the State Bar to apply SB 94 to members of the State Bar as
27 they arbitrarily choose rather than as the language of SB 94 states, and threatening Plaintiff
28 and others with potential penalties and sanctions under provisions of SB 94 that were not

1 intended to apply to them under circumstances as they are being applied, thus depriving
2 Plaintiff and others of property and potentially of liberty without due process of law.

3 b) By exposing Plaintiff and others to a risk of potential sanctions and penalties,
4 including criminal penalties, for failing to comply with provisions of SB 94 as applied
5 which lack standards that give Plaintiff and others adequate notice of their obligations, thus
6 depriving Plaintiff of property and potentially of liberty without due process of law.

7 29. As alleged above, an actual and immediate controversy exists between Plaintiff and
8 Defendants. Plaintiff contends that Defendants' interpretation of the challenged provisions of
9 SB 94 and their publicizing of the inaccurate and illegal interpretation of SB 94 violate the
10 constitutional rights of Plaintiff, as set forth above. Defendants, on the other hand, maintain that
11 Defendants' acts and efforts are constitutional.

12 30. An actual controversy has arisen and now exists between Plaintiff and Defendants
13 concerning their respective rights and duties in that Plaintiff contends that Defendants are
14 interpreting SB 94 illegally, whereas Defendants dispute these contentions.

15 31. Plaintiff is entitled to a judicial declaration that Defendants' interpretation of SB 94
16 and the applicable statutes arising therefrom do not prohibit unbundling of engagement
17 agreements between attorneys and clients. Without such a declaration, Plaintiff will be uncertain
18 about his rights and responsibilities under the challenged provisions. He will face loss of standing
19 in the legal and business community, loss of clients and potential clients and possible legal action
20 if he does not comply with the provisions wrongfully interpreted by the State Bar and will be
21 forced to choose between not providing any loan modification services to clients who are sorely in
22 need of aid or suffer the consequences, all of said consequences occurring due to the Defendants'
23 unconstitutional interpretation of SB 94. Without such a declaration, Plaintiff will be required to
24 forego rights guaranteed him under the United States and California Constitutions and other
25 provisions of law to avoid risking such detriment.

26 32. Plaintiff has no plain, adequate or speedy remedy at law and is suffering and will
27 continue to suffer irreparable damages absent the declaration sought. Said irreparable damages
28 include, without limitation, the loss of potential and present clients, the inability to provide

1 services to clients already retained in an appropriate manner and to the best of his ability, the
2 decimation of his law practice and loss of business reputation and standing.

3 33. Pursuant to Cal. Code Civ. Proc. § 1062.3, this action is required to be set for trial
4 at the earliest possible date and shall take precedence over all other cases, except older matters of
5 the same character and matters to which special precedence may be given by law.

6 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
7 follows:

- 8 1) A declaratory judgment that the Defendants' interpretation of the challenged provisions of
9 SB 94 is invalid on the face of the statute and is contrary to the specific intent of the California
10 Legislature and violates the United States and California Constitutions, and that SB 94 and the
11 statutes enacted to put it into effect do not prohibit unbundling of engagement arrangements
12 between attorneys and clients and payment by clients for valuable and reasonable services
13 performed as part of loan modification proceedings;
- 14 2) An award of attorneys' fees according to law;
- 15 3) For costs of suit; and
- 16 4) For such other relief as the Court may deem just and proper.

17 Dated: September 5, 2012

BOSTWICK & JASSY LLP

18
19
20 By



GARY L. BOSTWICK

21
22 Attorneys for Plaintiff
ROBERT G. SCURRAH, JR.

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**Department C16 Law & Motion Calendar
Date: August 27, 2013**

The Court will hear oral argument on all matters at the time noticed for the hearing. If you would prefer to submit the matter on your papers without oral argument, please advise the clerk by calling **(657) 622-5216**. Court Call appearances are permitted. Court Call must be contacted to appear by phone. Call 1-888-88Court for more details. **The court will not entertain a request for continuance nor filing of further documents once the ruling has been posted.**

<http://www.courts.ca.gov/directory/civil/tentative-rulings>

<u>The Court having taken this matter under submission now rules as follows:</u>	
<p>2012-595756 Scurrah vs State Bar of California</p>	<p>The Court in Jacobs 20 Cal.3d 191(1977) considered whether superior courts have jurisdiction to review proceedings which the State Bar has undertaken. The Court concluded that superior courts have no authority over the State Bar.</p> <p>Plaintiff asks the court to consider separate, the State Bar's actions from the disciplinary proceedings plaintiff was engaged in.</p> <p>Looking at the whole picture, the plaintiff's conduct was in violation of a state bar rule regarding the type of practice the plaintiff was engaged in. The State Bar is the Supreme Court's administrative arm, the California Supreme Court retains inherent and exclusive power to control all matters related to attorney discipline. The proper course would have been to appeal directly to the California Supreme Court who the State Bar directly answers to. The Supreme Court would then take an independent determination of the law and facts, then exercise its inherent jurisdiction over the matter. I re Rose 22 cal.4th 430(2002).</p> <p><u>The State Bar immune from such claims.</u> Cal. Gov. Code § 815 does away with common law tort liability. Plaintiff fails to find a state or non-common law basis for State Bar liability.</p> <p>The rule from Rosenthal 229 Cal.App. 3d 69 (1991) states that a public entity, the State Bar is protected from liability for damages by provisions of the Government Tort Claims Act. Provisions of the Tort Claims Act further immunize public entities and their employees from tort liability even if employees acted maliciously and without probable cause.</p> <p>The plaintiff argues that his common law torts arise from the State Bar's Constitutional violation of his Due Process rights. This argument cuts right into the State Bar's interpretation of SB 94, which this court has already stated it won't touch. This leaves the plaintiff no actual path to establishing State Bar liability on a state or Constitutional level. As a result, the State Bar maintains its immunity.</p> <p>Plaintiff has not adequately alleged independently wrongful acts to support the prospective economic claims.</p> <p><u>Plaintiff's Demurrer to First Amended Complaint is Overruled.</u></p> <p>Defendant to give notice.</p>

CHARLOTTE SPADARO
Attorney at Law
6185 Magnolia Ave., #41
Riverside, CA 92506
(909) 229-6368

Plaintiff, *in pro per*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

CHARLOTTE SPADARO,)
)
Plaintiff,)
)
v.)
)
PHYLLIS WILLIAMS,)
BUSINESS MATTERS,)
THE STATE BAR OF CALIFORNIA)
)
Respondents.)
_____)

CIV#57203310

COMPLAINT FOR
DECLARATORY RELIEF

1. Plaintiff, Charlotte Spadaro, complains for declaratory relief upon the following grounds:

JURISDICTION, VENUE, PARTIES

2. California Code of Civil Procedure section 1060 states in pertinent part as follows:

“Any person interested under ... a contract, ... who desires a declaration of his or rights or duties with respect to another, ... may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an original action or cross-complaint in the superior court for a declaration of his or her rights and duties ... including a determination of any question of construction or validity arising under the instrument or contract. He or she may ask for a declaration of rights or duties, either alone or with other relief; and the court may make a binding declaration of these rights or duties, whether or not further relief is or could be claimed

COMPLAINT FOR DECLARATORY RELIEF

at the time. The declaration may be either affirmative or negative in form and effect, and the declaration shall have the force of a final judgment. The declaration may be had before there has been any breach of the obligation in respect to which said declaration is sought."

3. An actual controversy has arisen and now exists among Plaintiff and Respondents concerning their respective rights and duties, in that Respondents have claimed that Plaintiff is or was the attorney for Respondent, Phyllis Williams. Plaintiff disputes said contention and maintains that Plaintiff never was hired to be the attorney for Phyllis Williams (or for Respondent, Business Matters).

0 4. Under *Houston Gen. Ins. Co. v. Superior Court (Thomsen)*, 108 Cal.App.3d 958
1 (1980): "With the exception of a court appointment, the relationship of a lawyer and client is
2 created by contract" (citing *American Mut. Liab. Ins. Co. v. Superior Court*, 38 Cal.App.3d 579
3 (1974). "The contract may be express or implied ... and the general rules of agency apply. ...
4 The existence of a contract is generally an issue and question of law."

5 5. Plaintiff requires a judicial determination of Plaintiff's rights and duties, and a
6 declaration as to whether or not Plaintiff is or was the attorney for Phyllis Williams and/or
7 Business Matters and/or Angel White.
8

9 6. A judicial declaration is necessary and appropriate at this time under the
0 circumstances in order that plaintiff may ascertain her rights and duties.
1

2 7. Whereas the core transactions in this matter occurred in the City of Ontario,
3 California, and whereas Respondents, Phyllis Williams and Business Matters are, and were at all
4 relevant times, situated therein, this Court has jurisdiction over this case.
5

6 8. Whereas Code of Civil Procedure section 1060, as quoted above, provides for the
7 filing of such case in Superior Court, this Court is the proper venue for this case.
8

9. Plaintiff is, and was during the period relevant to this matter, an individual residing in the State of California, and is addressed at 6185 Magnolia Ave., Riverside, CA 92506.

10. Respondent, Phyllis Williams, is, and was during the period relevant to this matter, an individual residing in the State of California, and is addressed at 1243 E. Merion Ct., Ontario, CA 91761.

11. Respondent, Business Matters, is apparently a fictitious California business entity owned by Phyllis Williams, who apparently does business under that name, and is addressed at 1243 E. Merion Ct., Ontario, CA 91761.

12. Respondent, The State Bar of California, is a California administrative entity, and is addressed at 180 Howard Street, San Francisco, CA 94105, and at 1149 South Hill Street, Los Angeles, CA 90015.

FACTUAL ALLEGATIONS

13. On September 14 and 15, 2011, The State Bar of California, conducted a disciplinary hearing for member attorney, Plaintiff, pursuant to allegations made by Phyllis Williams that Plaintiff had acted as the attorney for Phyllis Williams and that certain business transactions between attorney and client followed.

14. In her defense, Plaintiff testified that Plaintiff was never actually hired to be the attorney for Phyllis Williams, and so there was no relevance for the Bar disciplinary process against Plaintiff.

15. On October 19, 2011, the Bar issued an order in said disciplinary matter, in which the Bar found that Plaintiff was culpable, relative to activities occurring between Plaintiff and Phyllis Williams as attorney and client, respectively (Exhibit A).

16. In the same order, the Bar found that Plaintiff had been paid "for legal services ... to help with" the case of a friend of Phyllis Williams, named Angel White (Exhibit A, page 4).

17. Angel White never presented a complaint about Plaintiff to the Bar, and never testified about such matters before the Bar, and never testified about such matters in any other venue.

18. Said order by the Bar implies that Plaintiff was the attorney for Angel White, potentially imposing responsibilities upon Plaintiff under the law, even though Angel White has never come forward to claim that anyone hired Plaintiff to be her attorney.

19. Plaintiff has no recourse under the law and has no recourse under the rules of the Bar to complain for declaratory or compensatory relief from the Bar, especially as to matters between Plaintiff and someone who has never complained to, nor testified before, the Bar.

20. Evidence presented at said Bar hearing included checks, from Phyllis Williams to Plaintiff, and from Business Matters to Plaintiff, leading to the question of whether Plaintiff was the attorney for Phyllis Williams or for Business Matters, if indeed Plaintiff acted as the attorney for any entity involved.

21. Some of the questioning at said Bar hearing concerned whether or not Phyllis Williams deducted, on her tax returns, money paid to Plaintiff. Had Phyllis Williams indeed claimed such deductible business expenses, this would indicate that Plaintiff was hired for Phyllis Williams' business, Business Matters, rather than for Phyllis Williams as an individual, if indeed Plaintiff was hired to be the attorney for any entity involved.

22. As a result of these open questions, Plaintiff requires declaratory relief.

FIRST CAUSE OF ACTION
(DECLARATORY RELIEF)

23. Plaintiff herein incorporates paragraphs 1 through 22 above, as if fully set forth herein.

24. Because of the professional responsibilities of attorneys to clients and to former clients, under the law and under the rules of the Bar, Plaintiff must know what is and will be expected of her. Plaintiff must know whether the State of California determines her to be the attorney or former attorney for Phyllis Williams and/or Business Matters and/or Angel White.

25. Therefore, Plaintiff seeks an order of this Court declaring whether or not Plaintiff is or was the attorney for any of these entities.

26. There exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment. A judicial declaration pursuant to Code of Civil Procedure section 1060 is necessary and appropriate at this time so that Plaintiff's responsibilities may be determined with certainty.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests relief as follows:

For an order of this Court declaring whether or not Plaintiff is, or was, the attorney for Phyllis Williams and/or Business Matters and/or Angel White.

Respectfully submitted,


CHARLOTTE SPADARO
Plaintiff, *in pro per*

VERIFICATION

I, Charlotte Spadaro, am the Plaintiff in the above-entitled action. I have read the foregoing Complaint for Declaratory Relief and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe such to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Los Angeles, California, on 4/30/12.

Charlotte Spadaro
CHARLOTTE SPADARO
Plaintiff, *in pro per*

EXHIBIT A

PUBLIC MATTER

FILED

OCT 19 2011

**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of)	Case No. 08-O-14222-RAP
)	
CHARLOTTE SPADARO,)	
)	
Member No. 47163,)	DECISION
)	
A Member of the State Bar.)	
)	

I. INTRODUCTION

In this contested, original disciplinary proceeding, Charlotte Spadaro (respondent) is charged with six counts of misconduct in one client matter. The court finds respondent culpable of five counts, including failing to return unearned fees of \$7,500 and failing to avoid interests adverse to a client. Respondent represented herself in this matter. The State Bar of California, Office of the Chief Trial Counsel (State Bar), was represented by Deputy Trial Counsel Erin McKeown Joyce.

In view of respondent's misconduct and the evidence in aggravation and mitigation, the court recommends, among other things, that respondent be suspended from the practice of law for one year, that execution of suspension be stayed, that she be placed on probation for three years and that she be actually suspended for six months.

II. PROCEDURAL HISTORY

The State Bar initiated this proceeding by filing a notice of disciplinary charges (NDC) on May 20, 2011. Respondent filed a response on June 7, 2011.

Trial was held on September 14 and 15, 2011. The matter was submitted for decision at the conclusion of trial.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Jurisdiction

Respondent was admitted to the practice of law in the State of California on June 26, 1970, and was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

B. Credibility Determinations

With respect to the credibility of the witnesses, the court has carefully weighed and considered their demeanor while testifying; the manner in which they testified; their personal interest or lack thereof in the outcome of this proceeding; and their capacity to accurately perceive, recollect, and communicate the matters on which they testified. (See, e.g., Evid. Code, § 780 [lists of factors to consider in determining credibility].) Except as otherwise noted, the court finds the testimony of the witnesses to be credible.

The court, however, finds that the testimony of respondent was not credible. For example, the court rejects respondent's claims that Phyllis Williams was not her client; that the advanced attorney fees of \$7,500 was actually a loan; or that she never received the client's July 17, 2008 letter, requesting for an accounting and refund and confirming the termination of her employment.

C. Findings of Fact

1. \$7,500 Legal Fees

On or about July 28, 2007, Phyllis Williams (Williams) hired respondent for a potential criminal matter that she anticipated would be filed against her (the Williams legal matter). That day Williams provided respondent with a check for advanced fees in the amount of \$5,000 for legal services. The memo section of the check notes "Retainer."

On or about August 3, 2007, Williams provided respondent with a second check in the amount of \$2,500 for advanced fees for legal services. The memo section of the check notes "Legal Svc." In total, Williams paid respondent \$7,500 in advanced attorney fees for representation in the Williams legal matter. Respondent did not provide Williams with a written attorney-client agreement for the legal services she agreed to perform for Williams.

In August 2007 Williams and her friend, Angel White (White), met with respondent and attorney Ann Cunningham (Cunningham) to discuss an upcoming post-seizure hearing and potential criminal charges against both Williams and White. When Williams and White were arrested, White's dogs had been seized at an unlicensed dog kennel and an administrative post-seizure hearing was scheduled. Williams had helped finance White's unlicensed dog kennel operation. No criminal charges were pending against either White or Williams at the time of the meeting. Cunningham went to the meeting to discuss possible representation of White at the post-seizure hearing.

When she arrived at the meeting, Cunningham was introduced to respondent as Williams's attorney. Respondent did not dispute her characterization as Williams's attorney when introduced to Cunningham. Furthermore, Cunningham did not attend the meeting to discuss possible representation of Williams, since Williams already was being represented by respondent.

On July 17, 2008, Williams mailed a letter to respondent in which she renewed her request for an accounting and for a full refund of all unearned advanced attorney fees, and in which she confirmed her termination of respondent. Respondent denies receiving the letter.

Respondent contacted Cunningham in December 2008, shortly after respondent was contacted by the State Bar, to discuss repayment of the debts owed to Williams. The parties could not reach an agreement on a payment plan. Respondent testified she felt that Williams did not need the money.

Respondent failed to provide an accounting to Williams for the advanced attorney fees paid in the Williams legal matter and never provided a refund of any unearned advanced attorney fees to Williams. Other than attending the August 2007 meeting with Williams, White, and Cunningham, respondent performed no other legal services in the Williams legal matter and did not earn the \$7,500 advanced fees paid by Williams. Her services were of no value to Williams.

2. \$9,000 Personal Loans

Shortly after Williams hired respondent to represent her in the Williams legal matter, Williams made a series of loans to respondent, totaling \$9,000, in August and September 2007. Initially, respondent contacted Williams and demanded Williams to make a personal loan to respondent since respondent was a little short. On August 9, 2007, Williams presented respondent with two checks totaling \$2,500 as a loan from Williams. Respondent did not offer to pay any interest on the loan, but promised to fully repay Williams the next week. Respondent did not provide a written agreement memorializing the loan or collateral for the loan.

Respondent did not repay the loan to Williams by the next week. Instead, respondent requested a second loan from Williams, telling her that respondent would repay double. On August 16, 2007, Williams loaned respondent an additional \$500. At that time, respondent

promised to repay Williams, but failed to provide collateral for the loan and failed to provide any written agreement or promissory note to secure the loan.

On August 18, 2007, at respondent's third request, Williams loaned an additional \$4,500 to respondent. Again, respondent promised to repay Williams, but offered no certain terms for interest and provided no collateral for the loan. Respondent failed to provide any written agreement or promissory note to secure the loan.

On or about August 30, 2007, at respondent's fourth request, Williams loaned an additional \$1,000 to respondent. At that time, respondent promised to repay Williams, but offered no certain terms of interest and provided no collateral for the loan. Respondent failed to provide any written agreement or promissory note to secure the loan.

On or about September 6, 2007, at respondent's fifth request, Williams loaned an additional \$500 to respondent. At that time, respondent promised to repay Williams, but offered no certain terms of interest and provided no collateral for the loan. Respondent failed to provide any written agreement or promissory note to secure the loan.

After terminating respondent's employment as her attorney in June 2008, Williams requested that respondent repay the \$9,000 loans Williams made to her. Williams renewed her request for full repayment of the loans in writing in July 2008 and made multiple requests to respondent thereafter for full repayment of the outstanding loans. Respondent received the requests from Williams to repay the loans.

Respondent failed to provide any promissory note or security to Williams for any of the loans she sought from Williams. The terms of the loan made by Williams to respondent were neither fair nor reasonable. The loans and their terms were not fully disclosed and transmitted in writing to Williams in a manner which should reasonably have been understood by the client. Respondent failed to notify Williams in writing that she could seek the advice of an independent

lawyer of her choice to review the transactions. Williams was never given a reasonable opportunity to seek the advice of an independent lawyer concerning the transactions with respondent. Williams never consented in writing to the terms of the loans to respondent.

Respondent has not repaid any of the loans to Williams or made any interest payments to Williams. In total, respondent took \$9,000 in unsecured loans from Williams, as follows:

<u>Date</u>	<u>Loan Amount</u>
8/9/07	\$2,500
8/16/07	\$ 500
8/18/07	\$4,500
8/30/07	\$1,000
9/6/07	\$ 500
Total	\$9,000

3. *\$5,000 Investment Loan for Foreclosure Company*

A few weeks after respondent began taking the series of loans from Williams, respondent approached Williams about investing in a company that respondent was forming named Foreclosure Company.

On August 25, 2007, Williams provided respondent with a check for \$5,000 for purportedly a 25% share of respondent's share of the Foreclosure Company. The only document concerning the formation of Foreclosure Company provided to Williams by respondent at the time respondent solicited the \$5,000 investment from Williams was an agreement whereby respondent and a non-attorney agreed to start the company:

- a. To give legal assistance to individuals having problems due to foreclosure issues;
- b. To buy and sell real estate;
- c. To provide loans; and
- d. To buy and sell trust deeds.

Before the transaction, respondent failed to provide security to Williams for the transaction or documents reflecting the actual formation of Foreclosure Company. The terms of the

acquisition of a portion of respondent's interest in the to-be-formed Foreclosure Company were neither fair nor reasonable. The acquisition of the interest in Foreclosure Company was not fully disclosed and transmitted in writing to Williams in a manner in which should have been understood by the client. Respondent never notified Williams in writing that she could seek the advice of an independent lawyer of her choice to review the transaction. Williams was never given a reasonable opportunity to seek the advice of an independent lawyer of the transaction with respondent. Williams never consented in writing to the terms of the transactions and acquisition with respondent.

Respondent never formed Foreclosure Company. Respondent took the \$5,000 for the purported acquisition of interest in Foreclosure Company, which conferred no benefit to Williams.

4. \$5,000 Investment Loan for the Redlands Project

Shortly after respondent began taking the series of loans from Williams, she approached Williams about investing in a real property project in Redlands in which respondent was purportedly a partner (the Redlands project). Respondent told Williams that respondent and an individual named Cliff Waldrep (Waldrep) were partners in the Redlands project, which was nearing completion. Respondent told Williams that once the Redlands project was completed, respondent would be able to repay Williams from respondent's portion of the proceeds of the project.

On or about August 18, 2007, respondent provided Williams with an agreement she drafted purportedly between Waldrep and Williams, whereby Williams agreed to loan Waldrep \$5,000 to complete an addition at the Redlands project property. Under the agreement, once the Redlands property was completed and refinanced, Williams was supposed to receive \$7,500 for her \$5,000 investment. Respondent signed the agreement she drafted on behalf of Waldrep. There is no

credible evidence that Waldrep was ever aware of the agreement or authorized respondent to sign on his behalf.

Respondent took \$5,000 in cash from Williams for the investment in the Redlands project. There is no credible evidence that respondent used the \$5,000 to finance the Redlands project. Williams was never repaid the \$5,000 by respondent or Waldrep. Respondent failed to provide a deed of trust or other collateral for the \$5,000 investment in the Redlands project to Williams.

The terms of the investment in the Redlands project were neither fair nor reasonable to Williams. The investment in the Redlands project and its terms were not fully disclosed and transmitted in writing to Williams in a manner which should reasonably have been understood by the client.

Respondent never informed Williams in writing that she could seek the advice of an independent lawyer of her choice to review the transaction. Williams was not given a reasonable opportunity to seek the advice of an independent lawyer concerning the transaction with respondent.

Williams never consented in writing to the terms of the transaction and acquisition with respondent.

D. Conclusions of Law

Count One – Rule 4-100(B)(3) of the Rules of Professional Conduct¹ – Failure to Render Accounts of a Client

Rule 4-100(B)(3) provides that an attorney must maintain complete records of funds, securities, and other properties of a client coming into the possession of the attorney and render appropriate accounts to the client.

¹ All further references to "rules" are to this source.

Respondent denies that she has ever represented Williams and claims that the two checks totaling \$7,500 were loans made by Williams to respondent. Without any evidence to support her claim, respondent asserts that Williams placed the notations on two checks so that Williams could deduct the \$7,500 from her taxes, and that respondent never noticed the notations on the two checks until much later. The court finds respondent's testimony to be not credible.

The court finds that there is clear and convincing evidence that respondent willfully failed to render appropriate accounts to a client, in violation of rule 4-100(B)(3), by failing to provide an accounting of the \$7,500 in advanced legal fees and costs to Williams.

Count Two – Rule 3-700(D)(2) – Failure to Refund Unearned Fees

Rule 3-700(D)(2) provides that an attorney whose employment has been terminated must promptly refund any part of a fee paid in advance that has not been earned.

The court finds that there is clear and convincing evidence that respondent willfully failed to promptly refund any part of a fee paid in advance, in violation of rule 3-700(D)(2), by failing to return any of the unearned \$7,500 in advanced legal fees to Williams.

Count Three – Rule 3-300 – Business Transaction With Client (Personal Loans)

Rule 3-300 provides that an attorney must not enter into a business transaction with a client; or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client, unless each of the following requirements has been satisfied: (A) the transaction or acquisition and its terms are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which should reasonably have been understood by the client; (B) the client is advised in writing that the client may seek the advice of an independent lawyer of the client's choice and is given a reasonable opportunity to seek that advice; and (C) the client thereafter consents in writing to the terms of the transaction or the terms of the acquisition.

The purpose of this rule is to "recognize the very high level of trust a client reposes in his attorney and to ensure that that trust is not misplaced. [Citations.] Sadly, this case stands with too many others as an example of an attorney's preference of his personal interests in manifest disregard of the interests of his client." (*In the Matter of Kittrell* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 615, 623.)

Here, respondent entered into a series of loans and received \$9,000 from her client without ever repaying the funds. Those transactions were unfair and unreasonable. By failing to fully disclose that the loans were not secured; failing to advise Williams in writing that she may seek the advice of an independent attorney; failing to give Williams a reasonable opportunity to seek the legal advice; and failing to obtain Williams's written consent to the loans, respondent clearly and convincingly violated rule 3-300.

Count Four – Rule 3-300 – Business Transaction With Client (Foreclosure Company)

The court finds that there is clear and convincing evidence that respondent willfully failed to avoid interests adverse to a client, in violation of rule 3-300, by entering into a transaction for acquisition of a 25% share in respondent's interest in Foreclosure Company with Williams without security or documentation and without proper disclosures.

Count Five – Rule 3-300 – Business Transaction With Client (Redlands Project)

The court finds that there is clear and convincing evidence that respondent willfully failed to avoid interests adverse to a client, in violation of rule 3-300, by convincing Williams to invest in the Redlands project, in which respondent was purportedly a partner with Waldrep, when the terms of the investment were neither fair nor reasonable to Williams, without security or documentation, and without proper disclosures.

Count Six – Business and Professions Code Section 6106² – Moral Turpitude

Section 6106 prohibits an attorney from committing an act involving moral turpitude, dishonesty or corruption.

The court finds that there is no clear and convincing evidence that respondent willfully committed an act involving moral turpitude, dishonesty or corruption, in violation of section 6106. Although respondent entered into a series of loans and business transactions with Williams, there is no clear and convincing evidence that respondent acted dishonestly with Williams in securing the loans and business transactions. Without the testimony of Waldrep, there is no clear and convincing evidence that respondent acted without authority in the Redlands project.

In addition, there is no clear and convincing evidence that respondent acted dishonestly toward Williams in the Foreclosure Company business transaction. The evidence shows that an investment was made by Williams in the company through respondent and that the company was never formed. Without more evidence, the court is unable to find respondent culpable of violating section 6106.

IV. MITIGATING AND AGGRAVATING CIRCUMSTANCES

The parties bear the burden of establishing mitigation and aggravation by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, standard 1.2(b) and (e).)³

A. Mitigation

No Prior Record Of Discipline

Respondent has been a member of the State Bar of California since June 26, 1970, and has no prior record of discipline. (Std. 1.2(e)(i).) Her lack of a prior record of discipline in 37 years of

² All further references to "sections" are to this source.

³ All further references to standards are to this source.

practice of law at the time of her misconduct in 2007 is a mitigating factor. "Absence of a prior disciplinary record is an important mitigating circumstance when an attorney has practiced for a significant period of time." (*In re Young* (1989) 49 Cal.3d 257, 269 [20 years without prior record of discipline].)

Community Work

Although respondent testified that she provided pro bono legal services, no specific cases or matters were provided. Thus, there is no clear and convincing evidence of significant pro bono activities. (Std. 1.2(e)(vi).)

B. Aggravation

The record establishes three factors in aggravation by clear and convincing evidence. (Std. 1.2(b).)

Multiple Acts

The current misconduct evidences multiple acts of wrongdoing. (Std. 1.2(b)(ii).) Respondent failed to render a proper accounting, failed to return unearned fees and engaged in multiple business transactions without avoiding interests adverse to the client.

Significant Harm

In addition, respondent's present misconduct significantly harmed her client. (Std. 1.2(b)(iv).) Respondent failed to refund a total of \$26,500 to Williams: (1) \$7,500 in legal fees; (2) \$9,000 in personal loans; (3) \$5,000 investment loan for Foreclosure Company; and (4) \$5,000 investment loan for the Redlands project.

Indifference

Respondent has demonstrated indifference toward rectification of or atonement for the consequences of her misconduct. (Std. 1.2(b)(v).) Respondent still does not recognize the harm she caused Williams. She has yet to pay her loans back or return the unearned fees.

V. DISCUSSION

In determining the appropriate discipline to recommend in this matter, the court looks at the purposes of disciplinary proceedings and sanctions. Standard 1.3 sets forth the purposes of disciplinary proceedings and sanctions as "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession."

In addition, standard 1.6(b) provides that the specific discipline for the particular violation found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing disciplinary sanctions.

In this matter, the standards call for the imposition of a minimum sanction ranging from reproof to suspension. (Stds. 2.2(b), 2.8, and 2.10.)

Standard 2.2(b) provides that culpability of a member of commingling of entrusted funds or property or the commission of another violation of rule 4-100, none of which offenses result in the willful misappropriation of entrusted funds or property must result in at least a three-month actual suspension from the practice of law, irrespective of mitigating circumstances.

Standard 2.8 provides that culpability of a member of willful violation of rule 3-300 must result in suspension unless the extent of the member's misconduct and the harm to the client are minimal, in which case, the degree of discipline would be reproof.

Standard 2.10 provides that culpability of other provisions of the Business and Professions Code or Rules of Professional Conduct not specified in these standards must result in reproof or suspension depending upon the extent of the misconduct and the degree of harm to the client.

The standards, however, "do not mandate a specific discipline." (*In the Matter of Van Sickie* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.) It has long been held that the court is "not bound to follow the standards in talismanic fashion. As the final and independent

arbiter of attorney discipline, [the Supreme Court is] permitted to temper the letter of the law with considerations peculiar to the offense and the offender.” (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) Yet, while the standards are not binding, they are entitled to great weight. (*In re Silvertown* (2005) 36 Cal.4th 81, 92.)

The State Bar urges that respondent be actually suspended from the practice of law for six months, citing several cases in support of its recommendation, including *In the Matter of Gillis* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387.

Respondent argues that discipline should be no more than a stayed suspension.

“The relationship between an attorney and client is a fiduciary relationship of the very highest character. All dealing between an attorney and his client that are beneficial to the attorney will be closely scrutinized with the utmost strictness for any unfairness.” (*Clancy v. State Bar* (1969) 71 Cal.2d 140, 146.) “When an attorney-client transaction is involved, the attorney bears the burden of showing that the dealings between parties were fair and reasonable and were fully known and understood by the client.” (*Hunnicuttt v. State Bar* (1988) 44 Cal.3d 362, 372-373.)

In *In the Matter of Gillis*, the attorney with 26 years of discipline-free record was actually suspended for six months for failing to avoid interests adverse to a client and committing acts of moral turpitude in a single client matter.

In *Hunnicuttt*, the attorney convinced a client to invest the proceeds of a personal injury judgment in a real estate venture and was unable to repay the money when the venture suffered large losses. He was actually suspended for 90 days.

One of the purposes of rule 3-300 is to protect clients from their attorneys’ personal use of financial information gained from confidences disclosed during the attorney-client relationship. (*In the Matter of Hagen* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153.) Attorneys are

subject to discipline for inducing clients to invest in business enterprises without fully apprising them of the risks. (*Ibid.*)

Here, in 2007 respondent repeatedly requested and received personal and business loans by persuading her client with promises of unrealistic and unreasonable financial returns. Exerting such undue influence and enticement as Williams's attorney, she clearly breached her fiduciary relationship with her client.

After balancing all relevant factors, including the underlying misconduct and the aggravating circumstances, the court concludes that a six months' actual suspension is proper and necessary for the protection of the public, the courts and the legal profession.

VI. RECOMMENDATIONS

Accordingly, it is recommended that Charlotte Spadaro be suspended from the practice of law for one year, that execution of the suspension is stayed, and that respondent be placed on probation for three years, with the following conditions:

1. Respondent must be actually suspended from the practice of law for the first six months of probation;
2. Respondent must pay restitution to Phyllis Williams (or the Client Security Fund, if it has already paid) in the amount of \$7,500,⁴ plus ten percent (10%) interest per annum, accruing from August 3, 2007, and provides satisfactory proof of such payment to the Office of Probation;
3. Respondent must pay restitution to Phyllis Williams (or the Client Security Fund, if it has already paid) in the amount of \$9,000,⁵ plus ten percent (10%) interest per

⁴ \$7,500 represents the unearned legal fees that Williams paid respondent.

⁵ \$9,000 represents the personal loans from Williams to respondent.

annum, accruing from September 6, 2007, and provides satisfactory proof of such payment to the Office of Probation;

4. During the period of probation, respondent must comply with the State Bar Act and the Rules of Professional Conduct;
5. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. If the first report will cover less than thirty (30) days, the report must be submitted on the next following quarter date, and cover the extended period;

In addition to all the quarterly reports, a final report, containing the same information is due no earlier than twenty (20) days before the last day of the probationary period and no later than the last day of the probationary period;

Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation, which are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with the conditions contained herein;

6. Within ten (10) days of any change, respondent must report to the Membership Records Office of the State Bar, 180 Howard Street, San Francisco, California 94105-1639, and to the Office of Probation, all changes of information, including current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code; and

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7. Within one year after the effective date of the discipline herein, respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, given periodically by the State Bar at either 180 Howard Street, San Francisco, California, 94105-1639, or 1149 South Hill Street, Los Angeles, California, 90015, and passage of the test given at the end of the session. Arrangements to attend Ethics School must be made in advance by calling (213) 765-1287, and paying the required fees. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School (Rules of Proc. of State Bar, rule 3201).

The period of probation will commence on the effective date of the order of the Supreme Court imposing discipline in this matter.

At the expiration of the period of this probation, if respondent has complied with all the terms of probation, the order of the Supreme Court suspending respondent from the practice of law for three years will be satisfied and that suspension will be terminated.

A. California Rules of Court, Rule 9.20

The court also recommends that respondent be ordered to comply with California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court order in this matter.⁶

⁶ Respondent is required to file a rule 9.20(c) affidavit even if she has no clients to notify on the date the Supreme Court files its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

B. Multistate Professional Responsibility Exam

It is further recommended that respondent take and pass the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners, MPRE Application Department, P.O. Box 4001, Iowa City, Iowa, 52243, (telephone 319-337-1287) and provide proof of passage to the Office of Probation within one year after the effective date of the Supreme Court imposing discipline in this matter. Failure to pass the MPRE within the specified time results in actual suspension by the Review Department, without further hearing, until passage.

C. Costs

The court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Dated: October 19, 2011.



RICHARD A. PLATEL
Judge of the State Bar Court

CIV-131003-CIV-RS1203310-ORDR-134302



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**Order SUSTAINING STATE BAR OF CALIFORNIA'S
DEMURRER WITH PREJUDICE, AND TAKING
ANTI-SLAPP MOTION filed**



NEW FILE

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8 **Exempt from Filing Fees Pursuant to**
9 **Government Code Section 6103**

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
RANCHO CUCAMONGA DISTRICT

OCT 03 2013

BY Leandra Hendrix
LEANDRA HENDRIX, DEPUTY

10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SAN BERNARDINO

12 CHARLOTTE SPADARO,
13 Plaintiff,
14 vs.
15 PHYLLIS WILLIAMS, BUSINESS
MATTERS, and THE STATE BAR OF
16 CALIFORNIA,
17 Defendants.

) Case No. CIVRS1203310
)
) ~~[PROPOSED]~~ ORDER SUSTAINING
) DEFENDANT THE STATE BAR OF
) CALIFORNIA'S DEMURRER WITH
) PREJUDICE, AND TAKING THE ANTI-
) SLAPP MOTION OFF CALENDAR AS
) MOOT
)
) Date: October 3, 2012
) Time: 8:30 a.m.
) Place: Dept. R8
) Judge: The Honorable Gilbert Ochoa
)

19
20 This matter came before the Court on October 3, 2012 for Defendant The State Bar of
21 California's Demurrer to Complaint and Motion to Strike.

22 Danielle A. Lee appeared on behalf of Defendant The State Bar of California; Defendant
23 Phyllis Williams appeared In Propria Persona; Plaintiff Charlotte Spadaro appeared In Propria
24 Persona.

25 The Honorable Gilbert Ochoa, Judge of the San Bernardino County Superior Court,
26 presided.

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The Court, having heard arguments of counsel, and having reviewed all papers supporting and opposing the demurrer and motion to strike, and all judicially noticeable materials, and good cause appearing, rules as follows:

IT IS HEREBY ORDERED that the Court adopts its tentative ruling, attached hereto as Exhibit A, as the final order of the Court.

IT IS SO ORDERED.

Dated: 10-3-13


HONORABLE GILBERT OCHOA
JUDGE OF THE SUPERIOR COURT
GILBERT G. OCHOA

Approved as to form only:



CHARLOTTE SPADARO
Plaintiff

1 **BOSTWICK & JASSY LLP**
2 **GARY L. BOSTWICK, Cal. Bar No. 79000**
3 **JEAN-PAUL JASSY, Cal. Bar No. 205513**
4 **KEVIN L. VICK, Cal. Bar No. 220738**
5 **12400 Wilshire Boulevard, Suite 400**
6 **Los Angeles, California 90025**
7 **Telephone: 310-979-6059**
8 **Facsimile: 310-314-8401**

9 **Attorneys for Plaintiff**
10 **SWAZI ELKANZI TAYLOR**

**CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court**

JAN 13 2012

John A. Clarke, Executive Officer/Clerk
By *[Signature]*, Deputy
DOROTHY SWAIN

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

SWAZI ELKANZI TAYLOR, an individual,
Plaintiff,

vs.

**STATE BAR OF THE STATE OF
CALIFORNIA, and JAYNE KIM, in her
capacity as Interim Chief Trial Counsel of the
State Bar of the State of California, and DOES
1-100, inclusive,**

Defendants.

Case No. BC476842

COMPLAINT FOR:

**VIOLATION OF ARTICLE I, SECTION 10
OF THE UNITED STATES CONSTITUTION
AND ARTICLE 1, SECTION 9 OF THE
CALIFORNIA CONSTITUTION;**

**VIOLATION OF THE DUE PROCESS
CLAUSE OF THE FOURTEENTH
AMENDMENT OF THE UNITED STATES
CONSTITUTION AND ARTICLE 1,
SECTION 7 OF THE CALIFORNIA
CONSTITUTION;**

DECLARATORY RELIEF;

INJUNCTIVE RELIEF;

**VIOLATIONS OF 42 U.S.C. §
1983; AND**

VIOLATIONS OF CAL. CIV. CODE § 52.1

1 Plaintiff SWAZI ELKANZI TAYLOR ("Plaintiff") alleges as follows:

2 **INTRODUCTION**

3 1) This lawsuit challenges the constitutionality of Senate Bill 94 ("SB 94"), codified in,
4 without limitation, California Civil Code §§ 2944.6 and 2944.7 and California Business and
5 Professions Code § 6106.3, as it is being applied and enforced by the State Bar of California
6 ("State Bar") to prohibit attorneys from entering into phased or "unbundled" fee agreements when
7 representing clients related to loan modification services. Plaintiff Taylor seeks to enjoin the
8 enforcement of SB 94 in that regard and prays for declaratory judgment that these provisions as
9 applied and interpreted by the State Bar violate the United States and California Constitutions.

10 **PARTIES**

11 2) Plaintiff Taylor is a resident of the county of Los Angeles and an attorney licensed by the
12 State Bar of California to practice law, is beneficially interested in this matter and has suffered
13 injury within one year of the filing of this action by virtue of the unconstitutional interpretation
14 and enforcement of SB 94 by the State Bar. He also brings this suit for declaratory relief on behalf
15 of all other persons damaged by the actions of the State Bar by its illegal application of SB 94,
16 including on behalf of other members of the State Bar and citizens of California seeking legal
17 representation in dealing with financial institutions with respect to loan modifications during this
18 era of severe financial crisis.

19
20 3) Defendant State Bar is a public corporation within the judicial branch of government,
21 serving as an arm of the California Supreme Court. It maintains offices in Los Angeles County at
22 1149 South Hill Street, Los Angeles.

23
24 4) Defendant Jayne Kim is the Interim Chief Trial Counsel of the State Bar and is a resident
25 of Los Angeles County. Defendant Kim is responsible for the enforcement of some of the
26 provisions of SB 94 challenged by Plaintiff herein. She is sued both in her official and personal
27 capacity.

28

1 5) The true names of defendants named herein as 1 through 100 inclusive are sued both in
2 their official and personal capacities and are presently unknown to Plaintiff, who therefore sues
3 such defendants by fictitious names. Plaintiff will amend this Complaint to show the true names
4 and identities of these defendants when they have been ascertained. Does 1-100 are responsible
5 for the interpretation and/or the enforcement of some of the provisions of SB 94 challenged by
6 Plaintiff herein.

7
8 6) Plaintiff is informed and believes, and thereon alleges, that each defendant herein was the
9 agent or employee of each of the other co-defendants and, in doing the things hereinafter alleged,
10 was acting within the course and scope of such agency or employment and with the permission
11 and consent of their co-defendants.

12 **COMMON FACTUAL AND LEGAL ALLEGATIONS**

13 7) This controversy began with the enactment of SB 94 on October 11, 2009. SB 94 was
14 codified in, among other sections of California codes, Civil Code §§ 2944.6 and 2944.7 and
15 California Business and Professions Code § 6106.3.

16
17 8) The State Bar publicly takes the position that an attorney who provides a borrower loan
18 modification or other forbearance services may not agree with the borrower that the services
19 requested will be broken down into component parts and that a fee for each component part may
20 not be earned and collected as each component part is completed.

21
22 9) The State Bar also publicly takes the position that if the services to be provided are in fact
23 loan modification services or other forbearance services, or are an integral part of such services,
24 but the services are not expressly designated as "loan modification" services in the fee agreement,
25 SB 94 would apply even if the services are labeled as something other than loan modification
26 services.

27
28

1 10) The State Bar has publicized to its members that the positions stated in the prior two
2 paragraphs must govern the conduct of its members and those positions will be relied upon in
3 disciplinary proceedings.

4
5 11) Plaintiff has entered into engagement agreements with clients that specify that he will
6 perform services described, among other things, as: (a) Perform Financial Analysis of Client's
7 Case; (b) Formulate Theory of Client's Case for Loan Modification; (c) Prepare Loan
8 Modification Package on Behalf of Client (Budget, Profit & Loss, Etc.); (d) Prepare a Demand
9 Letter Directed to Lender. This type of agreement is sometimes referred to as phased or
10 "unbundled" fee agreements in representing clients related to loan modification services. Plaintiff
11 and clients have entered into engagement agreements containing the above terms.

12
13 12) Plaintiff has on some occasions in the past and prior to the enactment of SB 94 charged
14 and collected fees for each service listed in the paragraph above after his firm fully performed the
15 specific service his firm contracted to perform and represented that it would perform.

16
17 13) Plaintiff is informed and believes and on that basis alleges that many other members of the
18 State Bar have structured engagement letters and have collected fees in the same manner as
19 Plaintiff alleges above.

20
21 14) A violation of Civil Code § 2944.7 subjects a person to substantial fines and penalties,
22 including criminal penalties. The statute states, in pertinent part:

23 (a) Notwithstanding any other provision of law, it shall be unlawful for
24 any person who negotiates, attempts to negotiate, arranges, attempts to
25 arrange, or otherwise offers to perform a mortgage loan modification or
26 other form of mortgage loan forbearance for a fee or other compensation
27 paid by the borrower, to do any of the following:

26 (1) Claim, demand, charge, collect, or receive any compensation until after
27 the person has fully performed each and every service the person
28 contracted to perform or represented that he or she would perform.

28 (2) Take any wage assignment, any lien of any type on real or personal
property, or other security to secure the payment of compensation.

1 (3) Take any power of attorney from the borrower for any purpose.
2 (b) A violation of this section by a natural person is a public offense
3 punishable by a fine not exceeding ten thousand dollars (\$10,000), by
4 imprisonment in the county jail for a term not to exceed one year, or by
5 both that fine and imprisonment, or if by a business entity, the violation is
6 punishable by a fine not exceeding fifty thousand dollars (\$50,000). These
7 penalties are cumulative to any other remedies or penalties provided by
8 law.

9 A violation of the section by a natural person is a public offense punishable by a fine not
10 exceeding ten thousand dollars (\$10,000), by imprisonment in the county jail for a term not to
11 exceed one year, or by both that fine and imprisonment.

12 15) Defendants have initiated proceedings in the State Bar Court against Plaintiff for, among
13 other things, the practice of phased engagement agreements and subsequent collection of fees
14 pursuant to phased engagement agreements.

15 16) The State Bar has provided Plaintiff and many other citizens contradictory and vague
16 directives and instructions about the interpretation and enforcement of SB 94. Shortly after SB 94
17 was enacted, the State Bar and its agents made statements that were communicated to Plaintiff and
18 others that phased or unbundled engagement agreements did not violate SB 94's provisions.

19
20 17) Plaintiff has been forced to alter his mode of entering into engagements with clients so that
21 in spite of the fact that in some given situations his duty to represent the best interests of a client
22 would reasonably call for performing fewer than all of the phases of loan modification services
23 and charging only for those services of value he had completed, he and his firm must, in spite of
24 contrary indications, perform all of the phased services in order to get paid. Thus, Plaintiff is
25 foreclosed from aiding clients who need help in understanding and dealing with large financial
26 institutions and their agents in a manner tailored to each client's situation and as agreed to by the
27 client. Plaintiff is informed and believes and on that basis alleges that many other members of the
28 State Bar are now forced to conduct themselves in a similar fashion.

1 18) The illegal application of SB 94 has caused monetary and other damages to Plaintiff by
2 limiting the manner in which he may enter freely into agreements with clients to aid them as he
3 has done for many clients in the past and for which he has been justly compensated.

4
5 19) The plain language of SB 94 does not prohibit phased or unbundled engagement
6 agreements nor does the legislative history of the bill lend support to such a prohibition.

7
8 20) The State Bar takes the position in the application of SB 94 to its members that it does not
9 apply to contracts or fee agreements entered into prior to October 11, 2009, but qualifies that
10 position in its public pronouncements by stating only that "advanced fees paid to an attorney prior
11 to October 11, 2009 are not affected by SB 94." This statement thus leaves open the possibility of
12 enforcement of SB 94 by the State Bar as to contracts formed by its members before October 11,
13 2009 that result in services rendered and payments made after October 11, 2009.

14
15 **FIRST CAUSE OF ACTION**

16 (For Violations Against All Defendants of Article I, Section 10 of the United States
Constitution and Article 1, Section 9 of the California Constitution)

17 21) Plaintiff incorporates paragraphs 1 to 20 above as though set forth in full herein.

18
19 22) The challenged provisions of SB 94, as applied by the State Bar, unconstitutionally
20 infringe upon the rights of Plaintiff, other members of the State Bar and citizens of California
21 seeking legal representation under Article I, Section 10 of the United States Constitution, which
22 states that no State shall pass any law "impairing the Obligation of Contracts."

23
24 23) The challenged provisions of SB 94 as applied by the State Bar unconstitutionally infringe
25 upon the rights of Plaintiff, other members of the State Bar and citizens of California seeking
26 legal representation under Article 1, Section 9 of the California Constitution, which states that a
27 "law impairing the obligation of contracts may not be passed."

28

1 24) By acting and threatening to act under the color of law to deprive Plaintiff and other State
2 Bar members of rights guaranteed by the United States and California Constitution, defendants
3 have caused and threaten grave and irreparable damage to Plaintiff and others.

4
5 25) As a direct and legal result of the acts and omissions of these defendants, and each of them,
6 Plaintiff has suffered damages in an amount to be proven at trial.

7
8 **SECOND CAUSE OF ACTION**

9 (For Violations Against All Defendants of the Due Process Clause
10 of the Fourteenth Amendment of the United States Constitution and Article I, Section 7 of
11 the California Constitution)

12
13 26) Plaintiff incorporates paragraphs 1 to 25 above as though set forth in full herein.

14 27) By acting and threatening to act in the manner alleged above, defendants have violated the
15 Due Process Clause of the Fourteenth Amendment of the United States Constitution.

16 28) By acting and threatening to act in the manner alleged above, defendants have violated the
17 Due Process Clauses of Article 1, Section 7 of the California Constitution.

18
19 29) The challenged application of SB 94 by the State Bar violates the Due Process Clauses of
20 the Fourteenth Amendment of the United States Constitution and Article 1, Section 7 of the
21 California Constitution in at least the following ways:

22
23 a) By causing agents of the State Bar and prosecutors of the State Bar's Office of
24 Chief Trial Counsel ("OCTC") to apply SB 94 to members of the State Bar as they choose
25 rather than as the language of SB 94 states, and subjecting Plaintiff and others to penalties
26 and potential penalties under provisions of SB 94 that were not intended to apply to them
27 under circumstances as they are being applied, thus depriving Plaintiff of property and
28 potentially of liberty without due process of law.

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35) Plaintiff is entitled to preliminary and permanent injunctive relief. Defendants are acting and threaten to act under color of law to deprive Plaintiff of his constitutional rights. Plaintiff is suffering and will continue to suffer irreparable injury as a result of the enforcement and threatened enforcement of the challenged provisions of SB 94 by the State Bar as set forth above.

36) Plaintiff is faced with the choice of complying with an unconstitutional scheme of enforcement by the State Bar or risking substantial penalties if he does not comply with the challenged provisions of SB 94.

37) Plaintiff has no plain, adequate or speedy remedy at law.

FIFTH CAUSE OF ACTION
(For Violations of 42 U.S.C. § 1983 Against Defendant Kim and Defendants Does 1-100 in their official capacities)

38) Plaintiff incorporates paragraphs 1 to 37 above as though set forth in full herein.

39) The actions of Defendant Kim and Does 1-100 described above deprived the Plaintiff of procedural and substantive Due Process rights conferred upon him by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

40) The actions of the State Bar, as described above, were arbitrary and capricious and therefore violated the substantive Due Process rights of Plaintiff. In addition, Plaintiff's procedural Due Process rights were violated because there was no "process" by which Plaintiff could challenge the unconstitutional interpretation and enforcement of SB 94 in the State Bar Court. He has been forced to bring this action to protect his Due Process Rights. The deprivations of the procedural and substantive Due Process rights of Plaintiff were a proximate result of the policies, procedures, practices, and/or customs maintained by Defendants, and each of them.

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41) Defendants Kim and Does 1-100, and each of them, acted with deliberate indifference to the rights of Plaintiff. As a direct and legal result of the acts and omissions of these defendants, and each of them, Plaintiff has suffered damages in an amount to be proven at trial.

42) The aforementioned acts of defendants Kim and Does 1-100, and each of them, were willful, wanton, malicious and oppressive thereby justifying the awarding of exemplary and punitive damages against those defendants.

SIXTH CAUSE OF ACTION
(For Violations of Cal. Civil Code § 52.1 Against All Defendants)

43) Plaintiff incorporates paragraphs 1 to 42 above as though set forth in full herein.

44) The aforementioned acts of defendants, and each of them, interfered with the exercise and/or enjoyment of rights secured by the Constitution and laws of the United States and the Constitution and laws of California, including, but not limited to, procedural and substantive Due Process rights. Said interference was accomplished by the inaccurate and illegal interpretation and enforcement of SB 94.

45) As a direct and legal result of the acts and omissions of these defendants, and each of them, Plaintiff has suffered damages in an amount to proven at trial.

46) Plaintiff will suffer immediate and irreparable injury for which there is no adequate remedy at law if the aforementioned acts of defendants are allowed to continue.

47) Plaintiff therefore seeks injunctive relief, both preliminary and permanent, to stop defendants' unlawful acts described above.

1 48) Plaintiff also seeks to recover the costs of this suit and, pursuant to California Civil Code §
2 52.1(h), their reasonable attorney fees.

3
4 **REQUEST FOR ATTORNEYS' FEES**

5 49) This Court has the power under Code of Civil Procedure §1021.5, the "Private Attorney
6 General Doctrine," to award attorneys' fees to Plaintiff where (a) a significant benefit, whether
7 pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons,
8 (b) the necessity and financial burden of private enforcement are such as to make the award
9 appropriate, and (c) payment of such fees is more appropriately made by defendants rather than
10 from the recovery of funds at issue in this action.

11
12 50) This Court has the power under Government Code §800 to award attorneys' fees to
13 Plaintiff where the actions of a public entity or official are found to be wholly arbitrary or
14 capricious.

15
16 51) This Court also has the power to award attorney fees and costs pursuant to 42 U.S.C.
17 § 1988 to a plaintiff prevailing upon a 42 U.S.C. § 1983 cause.

18
19 52) This Court also has the power to award attorney fees and costs pursuant to Cal. Civ. Code
20 52.1(h).

21
22 WHEREFORE, Plaintiff prays for judgment against defendants, and each of them, as
23 follows:

24 1) A declaratory judgment holding that the challenged provisions of SB 94 as interpreted and
25 enforced by the defendants violate the United States and California Constitutions;

26 2) A preliminary and permanent injunction prohibiting the defendants from enforcing the
27 challenged provisions of SB 94 against members of the State Bar;

28 3) General and compensatory damages, according to proof;

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- 4) An award of attorneys' fees pursuant to 42 U.S.C. § 1988, California Civil Code § 52.1(h), Cal. Code Civ. Proc. § 800 and California Code of Civil Procedure § 1021.5 against all defendants, jointly and severally;
- 5) For costs of suit; and
- 6) For such other relief as the Court may deem just and proper.

Dated: January 12, 2012

BOSTWICK & JASSY LLP

By Gary Bostwick / KLV
GARY L. BOSTWICK
Attorneys for SWAZI ELKANZI TAYLOR

COPY

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10 Attorneys for Defendants

11 STATE BAR OF CALIFORNIA, erroneously sued
as STATE BAR OF THE STATE OF
12 CALIFORNIA, and JAYNE KIM, in her capacity
as Chief Trial Counsel of the State Bar of California

13
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 FOR THE COUNTY OF LOS ANGELES

16 SWAZI ELKANZI TAYLOR, an individual,

17 Plaintiff,

18 vs.

19 STATE BAR OF THE STATE OF
CALIFORNIA, and JAYNE KIM, in her
20 capacity as Interim Chief Trial Counsel of the
State Bar of the State of California, and DOES
21 1-100, inclusive,

22 Defendants.
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Exempt from Filing Fees
Pursuant to Government
Code Section 6103

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

AUG 23 2012

John A. Clarke, Executive Officer/Clerk
By E. I. ESPINOZA, Deputy

Case No. BC476842

~~PROPOSED~~ JUDGMENT

BY FAX

KERR
&
WAGSTAFFE
LLP

[PROPOSED] JUDGMENT

1 Pursuant to this Court's July 27, 2012 order sustaining without leave to amend the
2 demurrer of Defendants State Bar of California, erroneously sued as State Bar of the State of
3 California, and Jayne Kim to Plaintiff Swazi Elkanzi Taylor's Complaint, the Court hereby
4 enters JUDGMENT for Defendants State Bar of California and Jayne Kim.
5

6 Dated: AUG 23 2012 2012

Joanne O'Donnell

HON. JOANNE O'DONNELL
JUDGE OF THE SUPERIOR COURT

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

OCT 15 2010

ALAN CARLSON, Clerk of the Court

A. Ibarra
BY F. IBARRA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

30-2010

00418393

PAUL VIRIYAPANTHU, an individual,
LAW OFFICES OF PAUL
VIRIYAPANTHU, DBA IMMIGRATION
WESTLAW, P.C., a California Corporation,

CASE NO. :
**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Plaintiffs,

vs.

STATE BAR OF CALIFORNIA, and CESAR
VIVEROS, an individual

JUDGE GEOFFREY T. GLASS
DEPT. C33

Defendants.

Plaintiffs allege as follows:

1. Plaintiff PAUL VIRIYAPANTHU (hereinafter "VIRIYAPANTHU" or "Plaintiff") is an individual, and at all times relevant herein, resided in the city of Garden Grove, County of Orange, State of California. Plaintiff VIRIYAPANTHU is an attorney duly licensed in the State of California.

2. Plaintiff THE LAW OFFICES OF PAUL VIRIYAPANTHU, P.C. DBA IMMIGRATION WESTLAW (hereinafter "LAW OFFICE") is a professional corporation formed under the laws of the State of California, with its principal place of operations being Orange County, and its activities consisting of practicing law.

1 TEEBKEN'S clients. Among the clients who transferred their case from KEN TEEBKEN was
2 Defendant CESAR VIVEROS.

3 9. In October 2008, Plaintiff PAUL VIRIYAPANTHU incorporated and created a
4 new corporation entitled IMMIGRATION WEST LAW P.C. A true and correct copy of the
5 California Secretary of State Records for IMMIGRATION WEST LAW P.C. is attached hereto
6 as Exhibit 2.

7 10. MR. VIRIYAPANTHU and IMMIGRATION WEST LAW P.C. never received
8 any payment, or any monies from MR. VIVEROS. Furthermore, PAUL VIRIYAPANTHU and
9 IMMIGRATION WEST LAW P.C. never performed any legal work for MR. VIVEROS.

10 11. On November 30, 2009 MR. VIVEROS initiated an attorney client fee arbitration
11 against PAUL VIRIYAPANTHU and IMMIGRATION WEST LAW P.C. pursuant to
12 California Business and Professions Code § 6200 et. seq. Defendant VIVEROS did not name
13 KEN TEEBKEN or IMMIGRATION WEST LAW CENTER in the arbitration.

14 12. Pursuant to Business and Professions Code §6200 et. seq., an arbitration before
15 the ORANGE COUNTY BAR ASSOCIATION was held on February 2, 2010. Defendant
16 VIVEROS did not appear at the hearing. The arbitration proceeded, despite MR.
17 VIRIYAPANTHU'S objection that Defendant VIVEROS was not in attendance, and MR.
18 VIRIYAPANTHU was thus precluded from examining him.

19 13. On June 3, 2010 the ORANGE COUNTY BAR ASSOCIATION mailed its
20 arbitration decision to the parties. A true and correct copy of the arbitration award is attached as
21 Exhibit 3.

22 14. In its findings, the arbitration panel made a determination of fact that the
23 payments were made to KEN TEEBKEN and PAUL VIRIYAPANTHU, and that PAUL
24 VIRIYAPANTHU did not perform any legal work for CESAR VIVEROS. The arbitration
25 award at page 2 paragraph 2, states: "According to the attachment to the petition, Mr. Viveros
26 spoke with Ms. Dangcil at the first appointment and gave her \$10,000. He was asked to deposit
27 an additional \$3,500 to Immigration West Law's bank account. He then paid \$1,035 for ad
28 placement (which was a prerequisite for obtaining a labor certification) plus \$500 on 9/14/07.

1 He paid an additional \$500 on 10/15/07, 11/16/07, and 12/1/07 as well as \$2,000 on 12/6/07,
2 plus another \$475 (which was required to process the application for permanent residency—i.e.,
3 the I-140 petition for alien worker), for a grand total of \$10,010 paid to Immigration West Law
4 Center. Mr. Viveros claims he was never provided with any billing statements explaining the
5 work performed or time billed.”

6 15. Page 2, footnote 2: “Although Mr. Viveros claims he was told to meet with Mr.
7 Viriyapanthu, the evidence submitted by Mr. Viriyapanthu reveals that he had not yet acquired
8 Immigration West Law in August 2007. Mr. Viveros’ apparent confusion is understandable
9 given he apparently never met with any attorneys, only Ms. Dangcil, and given that he signed a
10 retainer agreement in 2008 with Mr. Viriyapanthu for the same services that were supposed to be
11 provided by Mr. Teebken in 2007, and given both retainers refer to the attorney as Immigration
12 West Law.”

13 16. Despite the fact that the arbitration panel determined that MR. VIRIYAPANTHU
14 did not “yet acquire Immigration West Law” at the time MR. VIVEROS made his payments, the
15 arbitration panel nonetheless made an award against PAUL VIRIYAPANTHU on grounds that
16 MR. VIRIYAPANTHU had “assumed responsibility” for the work performed by KEN
17 TEEBKEN. The arbitration award at page 6, paragraph 1 states: “C. Mr. Viriyapanthu’s
18 Responsibility for Reimbursement of Fees: Although Mr. Viriyapanthu did not provide the legal
19 services at issue, his retainer agreement evidences an intent to assume liability for the services
20 rendered. Specifically, both retainer agreements cover the exact same legal services.
21 Additionally, both agreements identify Immigration West Law as the attorney and indicate that
22 the attorney received a \$4,500 deposit from Mr. Viveros. Most importantly, both agreements
23 indicate that “any unused deposit at the conclusion of the Attorney’s services will be refunded.”
24 Based on the above, Mr. Viriyapanthu is responsible for the reimbursement of any unused
25 deposit to Mr. Viveros”.

26 17. On July 2, 2010, MR. VIRIYAPANTHU filed a petition to vacate the arbitration
27 award, Orange County Superior Court Case 30-2010-00387006-CL-PA-CJC. Among the
28 grounds for vacating the award, Plaintiff alleged that the arbitration panel, in making the award,

1 exceeded its authority and acted in excess of jurisdiction for holding Plaintiff financially
2 responsible for repaying monies paid to and services rendered by another attorney, KEN
3 TEEBKEN, prior to Plaintiff's involvement in MR. VIVEROS'S case. Plaintiff makes the same
4 argument herein and argues that under an attorney fee arbitration pursuant to Business &
5 Professions Code §6200, that an award may only be made for the fees paid to the attorney
6 involved in the arbitration.

7 18. On September 22, 2010, Plaintiff received notification from Defendant STATE
8 BAR that the STATE BAR intended to seek Plaintiff's involuntary suspension due to his failure
9 to pay the arbitration award. A true and correct copy of the letter Plaintiff received is attached
10 as Exhibit 4. Pursuant to California Business and Professions Code §6200 et seq. an attorney
11 may be sanctioned by the STATE BAR—including DISBARRMENT—for failure to pay an
12 arbitration award.

13 19. Plaintiff herein initiates this lawsuit, in conjunction with the Petition to Vacate
14 Arbitration Award, for a judicial determination of the rights, duties, and responsibilities of the
15 parties under Business and Professions Code §6200 et. seq., which governs attorney client fee
16 arbitrations.

17 **CAUSE OF ACTION FOR DECLARATORY AND INJUNCTIVE RELIEF**

18 20. California Business and Professions Code § 6200 et. seq. is a series of statutory
19 provisions which creates a system in which clients can demand arbitration of any fee disputes for
20 fees billed by their attorney. Pursuant to the terms of the Code, it is mandatory for an attorney
21 to participate in arbitration if demanded by the client.

22 21. Also pursuant to Bus. & Prof. Code §6200, if an arbitration award is made against
23 the attorney, the California State Bar may initiate discipline against the attorney, including
24 involuntary inactive status and disbarment, if the award is not paid by the attorney.

25 22. An actual case or controversy exists, and Plaintiffs herein seeks judicial
26 determination of the rights, duties, responsibilities and obligations of the parties in this lawsuit in
27 regards to interpretation of California Business & Professions Code §6200 et seq.

28

1 23. Plaintiffs seek judicial determination of whether, pursuant to Business &
2 Professions Code §6200 et. seq., an attorney may be disciplined or disbarred for the acts of
3 *another attorney*, which occurred prior to his involvement in the case. Specifically, in this case
4 the monies paid by Defendant VIVEROS were paid to another attorney, Ken Teebken, and the
5 work performed was also by another attorney, Ken Teebken.

6 24. Plaintiff further seeks judicial determination of whether a claim based on
7 corporate successor liability may even be heard in an attorney client fee dispute arbitration.
8 Plaintiff alleges under the Statutory scheme of Business & Profession Code §6200 et. seq., the
9 arbitration arising under Business & Professions Code can only relate to the amount paid to the
10 particular attorney by the client.

11 25. Plaintiff alleges that pursuant to the statutory scheme, the Mandatory Fee
12 Arbitration Act (hereinafter "MFAA") is designed to provide an quick resolution to disputes
13 between an attorney and client over fees paid, and that any claim against an attorney for acts and
14 monies taken by a previous attorney (under successor liability), may only be made under a civil
15 lawsuit, not an MFAA fee arbitration.

16 26. Arbitration pursuant to Business & Profession Code § 6200 et seq. is a *limited*
17 proceeding. The code provision itself states it cannot be used for claims for affirmative relief
18 against the attorney for damages or otherwise ("(b) This article shall not apply to any of the
19 following: (2) Claims for affirmative relief against the attorney for damages or otherwise".
20 Making an award against one attorney for the fees and the work performed by another attorney is
21 in excess of jurisdiction, and amounts to a claim for "affirmative relief against the attorney".

22 27. In an MFAA arbitration there is no right to discovery, and there is no right for
23 MR. VIRIYAPANTHU to cross complain against Ken Teebken. The purpose of the MFA is to
24 allow a client to have an expedient and cost efficient method to resolve disputes involving the
25 amount of fees paid to the attorney. Since it is undisputed that VIVEROS never paid
26 VIRIYAPANTHU, an MFAA arbitration is inappropriate. If MR. VIVEROS wished to obtain a
27 judgment against VIRIYAPANTHU based upon successor liability, he needs to proceed in a
28 court and not pursuant to Mandatory Fee Arbitration. MFAA only applies to "refunds" of

1 attorney's fees paid by the client to the attorney and cannot be used to make a successor attorney
2 liable for the acts of a previous attorney.

3 28. That is evidenced by the terms of the MFAA/Business and Professions Code
4 §6200 et. seq. itself. Bus. & Prof. Code §6203 (d)(1)(A) states that if an "attorney has not
5 complied with that award, judgment, or agreement the State Bar shall enforce the award,
6 judgment, or agreement by placing the attorney on involuntary inactive status until the refund
7 has been paid."

8 29. The operative word is "refund". MR. VIVEROS has never paid MR.
9 VIRIYAPANTHU and that was never in dispute. Under the arbitration award, unless PAUL
10 VIRIYAPANTHU pays for another attorney (Ken Teebken), he will lose his license to practice
11 law. Furthermore, under other provisions of the MFA Act, an attorney can be disbarred for
12 failure to comply with an MFA award. Petitioner VIRIYAPANTHU'S position is that it is in
13 excess of jurisdiction for an arbitration panel acting under provisions of the MFA to order an
14 attorney to refund monies paid and work done by another attorney.

15 PRAYER FOR RELIEF

16 WHEREFORE, Plaintiffs prays for judgment against Defendants, and Each of them for:

- 17 1. A Declaratory judgment that any arbitration under the Mandatory Fee Arbitration
18 Act ("MFAA"), Business & Professions Code §6200 et. seq. does not authorize
19 an award against one attorney based upon the acts and payments to another
20 attorney;
- 21 2. For injunctive relief, prohibiting the California State Bar from disciplining PAUL
22 VIRIYAPANTHU for failure to pay the arbitration award;
- 23 3. Costs of suit herein incurred;
- 24 4. Such other relief as the court deems just and proper.

25 Dated: October 4, 2010

26
27 By: Paul Viriyapanthu

28 Paul Viriyapanthu, Esq.,

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EXHIBIT 1



Secretary of State Administration Elections Business Programs Political Reform Archives Registries

Business Entities (82)

Online Services

- Business Search
- Disclosure Search
- E-File Statements
- Processing Times

Main Page

Service Options

Name Availability

Forms, Samples & Fees

Annual/Biennial Statements

Filing Tips

**Information Requests
(certificates, copies &
status reports)**

Service of Process

FAQs

Contact Information

Resources

- Business Resources
- Tax Information
- Starting A Business
- International Business
Relations Program

**Customer Alert
(misleading business
solicitations)**

Business Entity Detail

Data is updated weekly and is current as of Friday, October 08, 2010. It is not a complete or certified record of the entity.

Entity Name:	IMMIGRATION WEST LAW CENTER, PC
Entity Number:	C2667173
Date Filed:	07/27/2004
Status:	SUSPENDED
Jurisdiction:	CALIFORNIA
Entity Address:	1901 E LAMBERT RD STE 112
Entity City, State, Zip:	LA HABRA CA 90631
Agent for Service of Process:	W KENNETH TEEBKEN
Agent Address:	1901 E LAMBERT RD STE 112
Agent City, State, Zip:	LA HABRA CA 90631

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code section 2114 for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to Name Availability.
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to Information Requests.
- For help with searching an entity name, refer to Search Tips.
- For descriptions of the various fields and status types, refer to Field Descriptions and Status Definitions.

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EXHIBIT 2



Secretary of State

Administration Elections Business Programs Political Reform Archives Registries

Business Entities (BE)

Online Services

- Business Search
- Disclosure Search
- E-File Statements
- Processing Times

Main Page

Service Options

Name Availability

Forms, Samples & Fees

Annual/Biennial Statements

Filing Tips

Information Requests
(certificates, copies & status reports)

Service of Process

FAQs

Contact Information

Resources

- Business Resources
- Tax Information
- Starting A Business
- International Business Relations Program

Customer Alert
(misleading business solicitations)

Business Entity Detail

Data is updated weekly and is current as of Friday, October 08, 2010. It is not a complete or certified record of the entity.

Entity Name:	IMMIGRATION WEST LAW, A PROFESSIONAL CORPORATION
Entity Number:	C3133827
Date Filed:	10/15/2008
Status:	ACTIVE
Jurisdiction:	CALIFORNIA
Entity Address:	2601 E CHAPMAN AVE STE 106
Entity City, State, Zip:	FULLERTON CA 92831
Agent for Service of Process:	PAUL Y VIRIYAPANTHU
Agent Address:	2601 E CHAPMAN AVE STE 106
Agent City, State, Zip:	FULLERTON CA 92831

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

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EXHIBIT 3

ORANGE COUNTY BAR ASSOCIATION
MANDATORY FEE ARBITRATION COMMITTEE

Post Office Box 6130, Newport Beach, California 92658
Telephone: 949-440-6700 Facsimile: 949-440-6710

In the Matter of the Arbitration of

Cesar Viveros
PETITIONER

and

Paul Viriyapanthu, Esq.
RESPONDENT

OCBA CASE NO.: AP-09-4970

ARBITRATION AWARD

Recitals and Findings:

1. Attorney: Paul Y. Viriyapanthu was present was not present and
 was not represented by counsel was represented by Attorney: _____
2. Client: Cesar Viveros was present was not present and
 was not represented by counsel was represented by Attorney: John C. Nelson
3. Total Amount in Dispute per Petitions: \$ 10,010.00
4. This arbitration is Advisory only Binding (pursuant to pleadings written stipulation dated: _____)
5. Pursuant to notice dated 11/30/09 stipulation dated _____,
the arbitration hearing was held on 2/2/10 at the following location:
200 N. Main Street, 2nd Floor
Santa Ana, CA 92702

6. The hearing of this matter was held before a single arbitrator a three arbitrator panel.
7. Attorney Client failed to appear at the arbitration hearing.
The failure to appear was willful not willful no finding on this issue.
8. A Statement of Decision of the issues presented in this arbitrated dispute is attached.

Award

Arbitration Filing Fee

- a. Total filing fee (see Petition): \$ 500.50
- filing fee prepaid by Client filing fee prepaid by Attorney

Attorney Fees, Costs and Interest Charges

- b. Total attorneys' fees and costs that should have been charged: \$ 687.50
- c. Pre-Award interest is is not awarded to Attorney in amount of: + \$ _____
- d. Total Attorney Fees, Costs and Interest Charges \$ 687.50
(Item "b" plus item "c") (Insert amount of item "b" PLUS amount of item "c" at item "d")

Client Payments and Credits

- e. Amounts paid to Attorney by or for the benefit of Client: \$ 4,500.00
- f. Amount of filing fee prepaid by Client: + \$ 500.50
- g. Portion of filing fee Client should pay: - \$ 0.00
- h. Pre-Award interest is is not awarded to Client in amount of: + \$ _____
- i. Total Client Payments and Credits (Item "e" plus item "f" minus item "g" plus item "h") \$ 5,000.50
(Insert amount of item "e" PLUS amount of item "f" MINUS amount of item "g" PLUS amount of item "h" at item "i")

Payments, Refunds and Adjustments

- j. Neither Attorney nor Client shall make any further payment or refund to the other.
(Check box "j" only if amount of item "d" and amount of item "i" are equal)
- k. Attorney shall refund to Client: (Item "i" minus item "d") \$ 4,313.00
(Complete item "k" only if amount of item "d" is less than amount of item "i")

Payment of this award shall be by the following responsible attorney(s):

- (1) Attorney: Paul Y. Virivapanthu SBN 220325
- (2) Attorney: _____ SBN _____

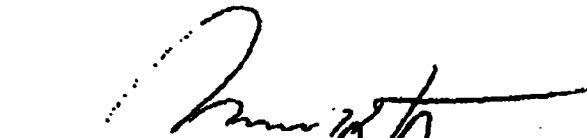
- l. Client(s) shall pay to Attorney: (Item "d" minus item "i") \$ _____
(Complete item "l" only if amount of item "d" is greater than amount of item "i")

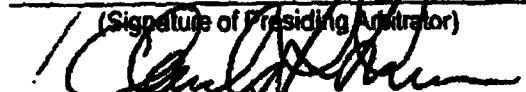
Dated: 5/21/10

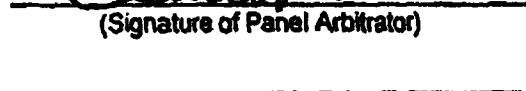
Sherri L. Honer, Esq.
(Name of Presiding Arbitrator)

Charles Larson, Esq.
(Name of Panel Arbitrator)

Raymond Kaldenbach
(Name of Panel Arbitrator)


(Signature of Presiding Arbitrator)


(Signature of Panel Arbitrator)


(Signature of Panel Arbitrator)

Award:

Arbitration Filing Fee

- a. Total filing fee (see Petition): \$ 500.50
- filing fee prepaid by Client filing fee prepaid by Attorney

Attorney Fees, Costs and Interest Charges

- b. Total attorneys' fees and costs that should have been charged: \$ 687.50
- c. Pre-Award interest is is not awarded to Attorney in amount of: + \$ _____
- d. Total Attorney Fees, Costs and Interest Charges \$ 687.50
(Item "b" plus item "c") (insert amount of item "b" PLUS amount of item "c" at item "d")

Client Payments and Credits

- e. Amounts paid to Attorney by or for the benefit of Client: \$ 4,500.00
- f. Amount of filing fee prepaid by Client: + \$ 500.50
- g. Portion of filing fee Client should pay: - \$ 0.00
- h. Pre-Award interest is is not awarded to Client in amount of: + \$ _____
- i. Total Client Payments and Credits (item "e" plus item "f" minus item "g" plus item "h") \$ 5,000.50
(insert amount of item "e" PLUS amount of item "f" MINUS amount of item "g" PLUS amount of item "h" at item "i")

Payments, Refunds and Adjustments

- j. Neither Attorney nor Client shall make any further payment or refund to the other.
(Check box "j" only if amount of item "d" and amount of item "i" are equal)
- k. Attorney shall refund to Client: (item "i" minus item "d") \$ 4,313.00
(Complete item "k" only if amount of item "d" is less than amount of item "i")

Payment of this award shall be by the following responsible attorney(s):

- (1) Attorney: Paul Y. Viriyapathu SBN 220325
- (2) Attorney: _____ SBN _____

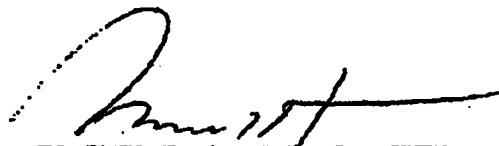
- l. Client(s) shall pay to Attorney: (item "d" minus item "i") \$ _____
(Complete item "l" only if amount of item "d" is greater than amount of item "i")

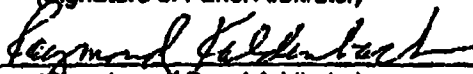
Dated: 5/21/10

Sherri L. Honer, Esq.
(Name of Presiding Arbitrator)

Charles Larson, Esq.
(Name of Panel Arbitrator)

Raymond Kaldenbach
(Name of Panel Arbitrator)


(Signature of Presiding Arbitrator)

(Signature of Panel Arbitrator)

(Signature of Panel Arbitrator)

Award

Arbitration Filing Fee

- a. Total filing fee (see Petition): \$ 500.50
 filing fee prepaid by Client filing fee prepaid by Attorney

Attorney Fees, Costs and Interest Charges

- b. Total attorneys' fees and costs that should have been charged: \$ 687.50
c. Pre-Award interest is is not awarded to Attorney in amount of: + \$ _____
d. Total Attorney Fees, Costs and Interest Charges \$ 687.50
(item "b" plus item "c") (insert amount of item "b" PLUS amount of item "c" at item "d")

Client Payments and Credits

- e. Amounts paid to Attorney by or for the benefit of Client: \$ 4,500.00
f. Amount of filing fee prepaid by Client: + \$ 500.50
g. Portion of filing fee Client should pay: - \$ 0.00
h. Pre-Award interest is is not awarded to Client in amount of: + \$ _____
i. Total Client Payments and Credits (item "e" plus item "f" minus item "g" plus item "h") \$ 5,000.50
(insert amount of item "e" PLUS amount of item "f" MINUS amount of item "g" PLUS amount of item "h" at item "i")

Payments, Refunds and Adjustments

- j. Neither Attorney nor Client shall make any further payment or refund to the other.
(Check box "j" only if amount of item "d" and amount of item "i" are equal)
k. Attorney shall refund to Client: (item "i" minus item "d") \$ 4,313.00
(Complete item "k" only if amount of item "d" is less than amount of item "i")

Payment of this award shall be by the following responsible attorney(s):

- (1) Attorney: Paul Y. Viriyapanthu SBN 220325
(2) Attorney: _____ SBN _____

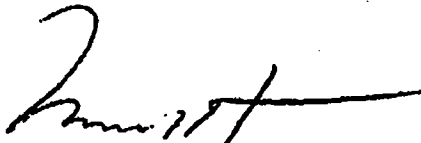
- l. Client(s) shall pay to Attorney: (item "d" minus item "k") \$ _____
(Complete item "l" only if amount of item "d" is greater than amount of item "k")

Dated: 5/21/10

Sherri L. Honer, Esq.
(Name of Presiding Arbitrator)

Charles Larson, Esq.
(Name of Panel Arbitrator)

Raymond Kaldenbach
(Name of Panel Arbitrator)


(Signature of Presiding Arbitrator)

(Signature of Panel Arbitrator)

(Signature of Panel Arbitrator)

**ARBITRATION AWARD
STATEMENT OF DECISION
Viveros v. Viriyapanthu
OCBA Case No.: AP-09-4970**

I. Background and Appearances

This binding arbitration was conducted on 2/2/10, at 200 North Main Street, Second Floor, Santa Ana, California 92702. The arbitrators who heard the matter were as follows: Sherri L. Honer, presiding arbitrator, Charles Larson, Esq., second arbitrator, and Raymond Kaldenbach, lay arbitrator. After waiting approximately 20 minutes for petitioner and his counsel to appear, the arbitration convened at approximately 3:20 p.m. in accordance with the Notice of Continuance of Hearing. The hearing lasted approximately three hours.

Petitioner, Cesar Viveros, failed to appear, but his counsel, John C. Nelson, was present. The arbitrators find Mr. Viveros failure to appear was non-willful. Respondent, Paul Viriyapanthu, Esq. was present; he was not represented by counsel. Also present was respondent's witness, Marisela Dancil. Mr. Nelson, Mr. Viriyapanthu, and Ms. Dancil were sworn and testified. Each party was given a full opportunity to present all relevant evidence and arguments.

At the conclusion of the hearing, briefing was ordered on the issue of whether an attorney that acquires a legal practice from another attorney may be held liable for reimbursement of legal fees paid to the original attorney for services rendered by the original attorney. Mr. Viriyapanthu's brief was received on or about 3/15/10, and Mr. Nelson's brief was received on about 3/29/10. The briefs having been received, the matter stood submitted on 3/29/10.

II. Relief Requested

Petitioner Cesar Viveros requests that he be refunded \$10,010.00 in attorney's fees that he claims were paid to respondent Paul Viriyapanthu. Respondent Paul Viriyapanthu claims he owes nothing to Mr. Viveros, because attorney Wayne Teebken is the responsible party.

III. Facts

A. Petition

Preliminary Note: Although the attachment to the fee petition was not signed or executed under penalty of perjury, the petition itself was so executed. Moreover, according to the executed petition, the facts, circumstances and information recited in the petition "are true and correct." Thus, although Mr. Viveros failed to appear and testify at the arbitration proceedings, the facts asserted in the attachment to petition were considered by the arbitrators (though the attachment was given less weight than the testimony of those appearing in person who testified and were subject to cross-examination).

According to the attachment to the petition, in September 2007,¹ Mr. Viveros' employer asked him to make an appointment with Mr. Viriyapanthu² regarding immigration related services. (Mr. Viveros is an undocumented alien and wanted to obtain legal status through sponsorship by his employer.) Also attached to the petition is an attorney-client retainer agreement between Mr. Viveros, who is listed as the client, and the Law Offices of Paul Viriyapanthu doing business as Immigration West Law. According to the retainer agreement, Immigration West Law (which is identified as the attorney) was hired to provide the following services: "preparation and process of permanent residency and preparation and process of PERM." According to the agreement, Mr. Viveros paid an initial deposit of \$4,500 on 8/3/07. According to the agreement, any unused deposit would be refunded.

According to the attachment to the petition, Mr. Viveros spoke with Ms. Dangcil at the first appointment and gave her \$1,000. He was then asked to deposit an additional \$3,500 to Immigration West Law's bank account. He then paid \$1,035 for ad placement (which was a prerequisite for obtaining a labor certification) plus \$500 on 9/14/07. He paid an additional \$500 on 10/15/07, 11/16/07, and 12/1/07, as well as \$2,000 on 12/6/07, plus another \$475 (which was required to process the application for permanent residency - i.e., the I-140 petition for alien worker), for a grand total of \$10,010 paid to Immigration West Law Center. Mr. Viveros claims he was never provided with any billing statements explaining the work performed or time billed.

Although Mr. Viveros fails to state in his petition exactly why he was dissatisfied with the services provided, it appears that the application for permanent residency was unsuccessful, due in part to his employer-sponsor's financial problems. According to Mr. Viveros, he became worried about his application when his employer began experiencing tax problems, and Ms. Dangcil promised that everything was going to be all right. It was not. Additionally, she promised that he would receive his work permit within a year to a year-and-a-half. He did not.

Mr. Viveros claims he never met with an attorney, only Ms. Dangcil, who is a paralegal. Mr. Viveros claims he thought Ms. Dangcil was the attorney, because she "runs the place." (At the hearing, Mr. Viveros' counsel, John Nelson argued that Ms. Dangcil, who has a Juris Doctorate but is not a licensed attorney, is the real owner of Immigration West Law, and both Mr. Viriyapanthu and Mr. Teebken have assisted her in practicing law without a license.)

¹ Although Mr. Viveros contends that he was asked to make an appointment in September 2007, this appears to be a typo, because he also states that he made an appointment on 8/3/07, and the retainer agreement indicates a deposit was received on 8/3/07.

² Although Mr. Viveros claims he was told to meet with Mr. Viriyapanthu, the evidence submitted by Mr. Viriyapanthu reveals that he had not yet acquired Immigration West Law in August 2007. Mr. Viveros' apparent confusion is understandable given he apparently never met with any attorneys, only Ms. Dangcil, and given that he signed a retainer agreement in 2008 with Mr. Viriyapanthu for the same services that were supposed to be provided by Mr. Teebken in 2007, and given both retainers refer to the attorney as Immigration West Law.

B. Response to Petition

According to the response to the petition, on 8/3/07, Mr. Viveros hired attorney Kenneth Teebken to represent him with respect to immigration related services. As proof of same, Mr. Viriyapanthu attached a retainer agreement between Mr. Teebken and Mr. Viveros. As with the retainer agreement between Mr. Viriyapanthu and Mr. Viveros, the retainer agreement between Mr. Teebken and Mr. Viveros identifies Mr. Viveros as the client and Immigration West Law as the attorney, and indicates that Immigration West Law was hired to provide the same services – i.e., “preparation and process of permanent residency and preparation and process of PERM.” The retainer also notes the same initial deposit of \$4,500 paid by the client on 8/3/07. The original agreement also contains the same language regarding a refund of any unused deposit.

According to Mr. Viriyapanthu, Mr. Teebken was hired for preparation and process of a PERM application (i.e., a labor certification) and preparation and process of permanent residency. Approval of the labor certification was a necessary first step in obtaining permanent resident status, and Mr. Teebken began to process the labor certification through Mr. Viveros’ employer, La Rana Restaurant. The labor certificate was approved on 1/14/08. Thereafter, an application for permanent residency (i.e., a I-140 petition for alien worker) was submitted on 1/31/08. (Ultimately, on or about 4/8/09, the I-140 petition was denied for failure to submit evidence of Mr. Viveros’ employer’s ability to pay the proffered wage throughout the permanent residency application process. An appeal was filed by Immigration West Law and was still pending at the time of the arbitration hearing. Ultimately, the employer, not Mr. Viveros, was charged for the appeal)

In the interim, Mr. Viveros’ employer filed bankruptcy. Ms. Dangcil explained to Mr. Viveros in Spanish, under Mr. Viriyapanthu’s direction, that his employer’s bankruptcy was not related to the immigration process or the company’s ability to pay his wages in relation to the I-140 petition. She also explained that his employer was still continuing to cooperate with the immigration process. (According to testimony, the employer apparently has since withdrawn its bankruptcy filing.)

According to the response, it was explained to Mr. Viveros on numerous occasions that no work permit was going to be immediately available to him, and the only viable option was to obtain permanent residency status through the U.S. Consulate. Mr. Viveros was told that the law office had no power over the allocation of visa preferences, and he was given a copy of a 2007 visa bulletin showing the preference level for skilled workers.

On 8/1/08, Mr. Viveros was notified that Mr. Teebken was retiring due to health reasons, and he was releasing all of Mr. Viveros’ files to Mr. Viriyapanthu, who accepted all previous monies as paid for each process. Mr. Viveros was asked to sign a new retainer agreement, and the previous amount paid to Mr. Teebken (i.e., the initial deposit of \$4,500) was stated in the retainer.

Although no time records were submitted substantiating the amount charged, according to the response, it takes approximately 25 to 30 hours to obtain a labor certification. Additionally, preparation of the I-140 petition takes approximately 10 to 15 hours of work, not

including phone calls to the client and his employer. (The testimony at the arbitration contradicted the time listed in the response with respect to preparation of the I-140 petition.) Also, \$1,035 of the amount paid by Mr. Viveros went towards the cost for placing advertising necessary to obtain the labor certification, and \$475 went towards the I-140 application fee.

V. Parties' Contentions

A. Petitioner, Viveros

Mr. Viveros claims he paid \$10,010 for legal services that were of no value. Specifically, he claims the case was doomed from the beginning, because no analysis was ever conducted regarding the economic viability of the employer, and Mr. Viveros could only be sponsored by his employer if his employer remained economically viable throughout the entire immigration process, which it did not. Moreover, by law, the employer, not Mr. Viveros, should have been charged for processing the labor certification (i.e., PERM), and the failure of the employer to do so rendered the application void. Additionally, the I-140 petition was filled out incorrectly, because it failed to indicate that Mr. Viveros would apply for a visa abroad at the U.S. Consulate, and instead indicated that Mr. Viveros would apply for adjustment of status while in the U.S. Since, however, Mr. Viveros entered this country illegally, and was being sponsored by his employer as opposed to a legal-resident relative, he could not qualify for adjusted status. Finally, Mr. Viveros claims that Mr. Viriyapanthu is liable for repayment of the fees paid, because Mr. Viriyapanthu agreed to represent Mr. Viveros with respect to the same services Mr. Teebken allegedly already provided, both attorneys accepted the same initial deposit, and in reality, Immigration West Law was, and is, illegally run by paralegal Ms. Dangcil.

B. Respondent, Viriyapanthu

Mr. Viriyapanthu claims that the case was not doomed from the beginning, because the employer was financially viable at the time the labor certification was being processed, and the employer has since resolved its bankruptcy issue and still is willing to continue with permanent application process. Additionally, the employer, not Mr. Viveros, paid for processing the labor certification. Moreover, although the I-140 petition was filled out incorrectly and no supporting documents were submitted with the petition, the mistake could be corrected, and it is not unusual to wait until an appeal from a denial to submit the necessary evidence. Finally, Mr. Viriyapanthu claims he cannot be held responsible for reimbursing any fees to Mr. Viveros, because Mr. Teebken was Mr. Viveros' attorney of record for the immigration proceedings, and Mr. Viriyapanthu never received any fees from Mr. Viveros. Since it is undisputed that he never received any fees from Mr. Viveros there is no "fee dispute" between him and Mr. Viveros to arbitrate, and any award issued against Mr. Viriyapanthu would result in unjust enrichment, because Mr. Viveros still could recover from Mr. Teebken. Additionally, when he acquired Mr. Teebken's practice, Mr. Viriyapanthu never agreed to assume liability for Mr. Teebken's debts.

V. Discussion

A. Value of Legal Services Rendered

With respect to the processing of the labor certification, the arbitrators find that although the employer filed bankruptcy after the application for the labor certification was submitted, there was no evidence that the employer was financially unstable at the time the application for labor certification was submitted, or that Ms. Dangcil or Mr. Teebken were aware, or should have been aware, of any potential financial instability. Accordingly, Mr. Viveros has failed to establish a lack of value of the legal services at the time they were rendered. In any event, according to Ms. Dangcil's testimony, the employer, not Mr. Viveros, paid for the legal services rendered in connection with the labor certification process.

With respect to the I-140 petition, although it is undisputed that the petition was filled out incorrectly and no evidence was submitted along with the petition, testimony revealed that the mistake could be corrected, and it was not unusual to submit the necessary evidence with an appeal from a denial. Additionally, the evidence reveals that Mr. Viveros was informed that he would have to apply for his visa through the U.S. Consulate in Mexico. Although it could be argued that it is highly unlikely Mr. Viveros' petition, even if corrected, would ever be approved, no evidence was submitted establishing that it was an impossibility. Accordingly, it cannot be said that the legal services rendered were of no value.

As for the reasonable value of the service rendered with respect to the I-140 petition, conflicting evidence was submitted regarding the amount of time it should take to prepare the petition. Since no billing records or requests for payment were submitted (and indeed, it appears none were prepared), the arbitrators were required to rely on the testimony of the witnesses regarding the amount of time it takes to prepare and process the I-140 petition. Mr. Nelson testified it should take approximately 2 hours, with just over an hour-and-a-half that time being spent by a paralegal and 20 minutes by an attorney to review the paralegal's work. Ms. Dangcil testified that it takes between 4 to 5 hours for a paralegal to prepare the petition. Based on the evidence submitted, the arbitrators find that the reasonable value of services rendered was \$687.50 (calculated as follows: 4.5 hours of paralegal time at \$125 per hour, plus 0.5 hours of attorney time to review at \$250 an hour). Since, however, the I-140 petition was filled out incorrectly, the arbitrators find that Immigration West Law should be responsible for the application fee of \$475.

B. Amount of Fees Paid by Mr. Viveros

There is a dispute as to the amount Mr. Viveros paid for legal service. Although Mr. Viveros claims he paid \$10,010, Ms. Dangcil testified that only \$4,500 was paid by Mr. Viveros; the rest was paid by the employer. Since Mr. Viveros failed to appear at the arbitration hearing and was not subjected to cross-examination, the arbitrators have given greater weight to Ms. Dangcil's testimony in this regard, and find that Mr. Viveros only paid \$4,500.

C. Mr. Viriyapanthu's Responsibility for Reimbursement of Fees

Although Mr. Viriyapanthu did not provide the legal services at issue, his retainer agreement evidences an intent to assume liability for the services rendered. Specifically, both retainer agreements cover the exact same legal services. Additionally, both agreements identify Immigration West Law as the attorney and indicate that the attorney received a \$4,500 deposit from Mr. Viveros. Most importantly, both agreements indicate that "any unused deposit at the conclusion of the Attorney's services will be refunded." Based on the above, Mr. Viriyapanthu is responsible for the reimbursement of any unused deposit to Mr. Viveros.

(Note: Mr. Nelson argued that both Mr. Teebken and Mr. Viriyapanthu have been assisting Ms. Dangcil in the unauthorized practice of law. In support of his contention, Mr. Nelson attempted to submit evidence that disciplinary charges were filed against Mr. Teebken by the State Bar, in part, for aiding Ms. Dangcil in the unauthorized practice of law, and Mr. Teebken "retired" with disciplinary charges pending. The arbitrators, however, refused Mr. Nelson's request to submit the evidence, because the evidence had not been served on the arbitrators or Mr. Viriyapanthu prior to the arbitration, and Mr. Teebken was not present to counter the charges.)

As for Mr. Nelson's contention with respect to Mr. Viriyapanthu, the arbitrators note that Mr. Teebken was the one who provided the legal services at issue, not Mr. Viriyapanthu. That being said, it was apparent to the arbitrators that Mr. Viriyapanthu relies very heavily on Ms. Dangcil in helping him understand immigration law. Indeed, it is somewhat troubling that at the time Mr. Viriyapanthu acquired Mr. Teebken's full-time immigration law practice, he had relatively no experience practicing immigration law, and his lack of experience was evident from his testimony and continual deference towards Ms. Dangcil with respect to questions concerning the immigration process. One wonders how an attorney can be responsible for supervising and/or controlling the work of his/her paralegal when the attorney is relying on the paralegal to inform him/her on the law. Although Ms. Dangcil may have a Juris Doctorate, she is not a licensed attorney.)

VI. Arbitration Award

Based on the above, the arbitrators find in favor of petitioner Cesar Viveros and against respondent Paul Viriyapanthu. Mr. Viriyapanthu is ordered to pay Mr. Viveros \$4,313.00 (calculated as follows: \$4,500 in legal fees paid by Mr. Viveros, plus \$500.50 filing fee, less \$687.50 for the reasonable value of legal services provided).

**PROOF OF SERVICE BY MAIL
STATE OF CALIFORNIA, COUNTY OF ORANGE**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 4685 MacArthur Court, Suite 300 Newport Beach, California 92660.

I caused the service of the foregoing documents described as

**FINDINGS AND AWARD OF A THREE PANEL ARBITRATION AND NOTICE OF YOUR RIGHTS
AFTER FEE ARBITRATION**

to the individuals named below by placing a true copy thereof enclosed in separate sealed envelopes for the addressees as noted below.

I then sealed the envelopes and, with the postage thereon fully prepaid, deposited each into the United States Postal Service in Newport Beach, California.

**CESAR VIVEROS
PETITIONER
C/O JOHN NELSON, ESQ.
1500 QUAIL ST., #460
NEWPORT BEACH, CA 92660**

**PAUL VIRIYAPANTHU, ESQ.
RESPONDENT
2601 E. CHAPMAN AVE., #106
FULLERTON, CA 92831**

**PAUL VIRIYAPANTHU, ESQ.
RESPONDENT
P.O. BOX 1451
GARDEN GROVE, CA 92842**

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on June 3, 2010.



JOSSIE DIAZ

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EXHIBIT 4



**THE STATE BAR
OF CALIFORNIA**

MANDATORY FEE ARBITRATION

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

TEL: (415) 538-2020
FAX: (415) 538-2335

September 22, 2010

Paul Viriyapanthu, Attorney at Law
P.O. Box 1451
Garden Grove, CA 92842

Re: Request for Enforcement of Fee Arbitration Award
Viveros v. Viriyapanthu, State Bar Case No. 10-E-120

Dear Mr. Viriyapanthu:

Under Business and Professions Code section 6203, subdivision (d), Cesar Viveros has requested the assistance of the State Bar's Office of Mandatory Fee Arbitration with the enforcement of a fee arbitration award served by the Orange County Bar Association on June 3, 2010. The arbitrator in that matter awarded the sum of \$4,313.00 to Cesar Viveros. Copies of the enforcement request, the arbitrator's award and other related documents are hereby served upon you.

In accordance with the agreement of the parties, the fee arbitration award was binding. No request to correct or vacate the award was filed under Code of Civil Procedure section 1285, et seq., and the award is now final.

According to rule 45.1 of the Rules of Procedure for Fee Arbitrations and the Enforcement of Fee Arbitration Awards by the State Bar of California (Rules of Procedure), you have 30 days from today's service of the request for enforcement to (1) provide satisfactory proof to this office of your payment of the arbitration award; (2) agree to a payment plan that is satisfactory to Mr. Viveros or the State Bar; or (3) provide reasons, under Business and Professions Code section 6203, subdivision (d)(2)(B), why you should not be required to comply with the arbitration award. According to rules 45.1 and 51.4 of the Rules of Procedure, your response to this office is due on or before October 22, 2010. Enclosed for your reference are copies of Business and Professions Code sections 6200 through 6206, as well as relevant excerpts from the Rules of Procedure.

Your failure to comply with a final and binding fee arbitration award can result in the imposition of administrative penalties. Under rule 48.0 of the Rules of Procedure, the administrative penalty that can be assessed against you is the greater of \$1,000.00 or

Paul Viriyapanthu
September 22, 2010
Page 2

20 percent of the award. In the event the penalty is assessed and you fail to pay it, the penalty will be added to your annual membership fee for next year.

Finally, please note that if no response is received on or before October 22, 2010, under Business and Professions Code section 6203, subdivision (d) and Rules of Procedure, rule 50.0, the Presiding Arbitrator of the State Bar's Mandatory Fee Arbitration Program may file a motion in the State Bar Court seeking to have you involuntarily enrolled as an inactive member of the State Bar until such time as you pay the arbitration award and any assessed penalties and costs. As you may know, an inactive member of the State Bar may not practice law. (Bus. & Prof. Code, §§ 6125, 6126, subd. (b).)

Your prompt response to this matter is greatly appreciated. Please use the State Bar case number on any correspondence that you send to this office. If you have any questions, please contact me at (415) 538-2008.

Sincerely,



Elizabeth A. Lew
Mandatory Fee Arbitration Program

Enclosures

cc: Cesar Viveros c/o John C. Nelson, Esq., without enclosures



5-16

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Paul Viriyapanthu, SBN 220325 Law Offices of Paul Viriyapanthu 12072 Henry Evans Drive Garden Grove, CA 92840 TELEPHONE NO.: (714) 917-9464 FAX NO. (Optional): (714) 638-1581 E-MAIL ADDRESS (Optional): paulviriyapan@yahoo.com ATTORNEY FOR (Name): Plaintiff Paul Viriyapanthu		RECEIVED SUPERIOR COURT OF CALIFORNIA CENTRAL JUSTICE CENTER APR 01 2011 BY: E. IBARRA FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER APR 01 2011 ALAN CARLSON, Clerk of the Court BY: E. IBARRA DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 700 W. Civic Center Drive MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, CA 92701 BRANCH NAME: Central Justice Center		
PLAINTIFF/PETITIONER: Paul Viriyapanthu DEFENDANT/RESPONDENT: State Bar of California, Cesar Viveros		
REQUEST FOR DISMISSAL <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input checked="" type="checkbox"/> Other (specify): Declarative and injunctive relief		CASE NUMBER: 30-2010-00418393
- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -		

1. TO THE CLERK: Please dismiss this action as follows:
- a. (1) With prejudice (2) Without prejudice
 - b. (1) Complaint (2) Petition
 - (3) Cross-complaint filed by (name): _____ on (date): _____
 - (4) Cross-complaint filed by (name): _____ on (date): _____
 - (5) Entire action of all parties and all causes of action
 - (6) Other (specify):*

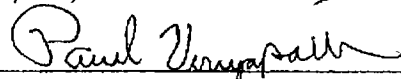
2. (Complete in all cases except family law cases.)

Court fees and costs were waived for a party in this case. (This information may be obtained from the clerk. If this box is checked, the declaration on the back of this form must be completed).

Date: March 31, 2011

Paul Viriyapanthu

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)


(SIGNATURE)

*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Attorney or party without attorney for:
 Plaintiff/Petitioner Defendant/Respondent
 Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

(SIGNATURE)

** If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

Attorney or party without attorney for:
 Plaintiff/Petitioner Defendant/Respondent
 Cross-Complainant

(To be completed by clerk)

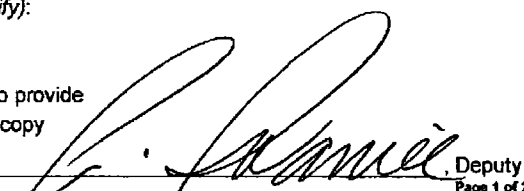
- 4. Dismissal entered as requested on (date): APR 01 2011
- 5. Dismissal entered on (date): _____ as to only (name): _____
- 6. Dismissal not entered as requested for the following reasons (specify): _____

- 7. a. Attorney or party without attorney notified on (date): _____
- b. Attorney or party without attorney not notified. Filing party failed to provide a copy to be conformed means to return conformed copy

Date: APR 01 2011

ALAN CARLSON

Clerk by


Deputy

PLAINTIFF/PETITIONER: Paul Viriyapanthu	CASE NUMBER:
DEFENDANT/RESPONDENT: State Bar of California, Cesar Viveros	30-2010-00418393

Declaration Concerning Waived Court Fees

The court has a statutory lien for waived fees and costs on any recovery of \$10,000 or more in value by settlement, compromise, arbitration award, mediation settlement, or other recovery. The court's lien must be paid before the court will dismiss the case.

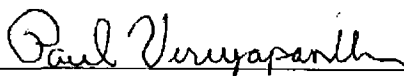
1. The court waived fees and costs in this action for *(name)*: Paul Viriyapanthu
2. The person in item 1 *(check one)*:
 - a. is not recovering anything of value by this action.
 - b. is recovering less than \$10,000 in value by this action.
 - c. is recovering \$10,000 or more in value by this action. *(If item 2c is checked, item 3 must be completed.)*
3. All court fees and costs that were waived in this action have been paid to the court *(check one)*: Yes No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: March 31, 2011

Paul Viriyapanthu

(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)



(SIGNATURE)