The State Bar of California

OPEN SESSION
AGENDA ITEM
60-1 MARCH 2023

DATE: **March 16, 2023**

TO: **Members, Board of Trustees**
Sitting as the Regulation and Discipline Committee

FROM: **Erika Doherty, Program Director, Office of Professional Competence**

SUBJECT: **Proposed Rule of Professional Conduct 8.3 (Reporting Professional Misconduct): Request to Circulate for Public Comment**

EXECUTIVE SUMMARY

At the November 17, 2022, Board of Trustees meeting, Chair Ruben Duran directed the State Bar's Standing Committee on Professional Responsibility and Conduct (COPRAC) to prepare a proposal for a new Rule of Professional Conduct addressing a lawyer's duty to report the misconduct of another lawyer. This item seeks Board approval to release COPRAC's proposed new Rule of Professional Conduct 8.3 with minor staff revisions, described as Alternative 1 and provided as Attachment A, for a 45-day public comment period. While staff recognizes COPRAC's significant investment of time and effort in drafting the proposed rule, it is narrower than ABA Model Rule 8.3 and other jurisdictions' parallel rules, and narrower than recently introduced legislation as described in detail below. For these reasons, staff recommends that the Board also release an alternative, expanded option for proposed rule 8.3, described as Alternative 2 and provided as Attachment B. Alternative 2 is identical to Alternative 1, except that it expands the type of misconduct that must be reported.

BACKGROUND

COPRAC is charged with addressing matters involving legal ethics, including studying and recommending changes to the Rules of Professional Conduct to the Board, which if approved by the Board must be adopted by the California Supreme Court. (See Bus. & Prof. Code, § 6077; State Bar Board Book, Section 4.12 & Appen. B.) In furtherance of this responsibility, on November 17, 2022, the chair of the State Bar Board of Trustees assigned COPRAC to prepare a

proposal for a new Rule of Professional Conduct addressing a lawyer's duty to report the misconduct of another lawyer. Specifically, the chair directed COPRAC to:

> prepare a proposal for a new Rule of Professional Conduct addressing a lawyer's duty to report the misconduct of another lawyer. While all other United States jurisdictions have adopted a rule on this topic, California has not. Adoption of a rule will enhance public protection which is the primary mission of the State Bar. In carrying out this assignment, COPRAC should consider American Bar Association Model Rule 8.3 (Misconduct) and the adoption of that rule, and variations thereof, by other jurisdictions. COPRAC should also review the past consideration of Model Rule 8.3 by the State Bar's Commission for the Revision of the Rules of Professional Conduct.

At the direction of the Board chair, COPRAC formed a drafting team to prepare a proposed rule at its December 2, 2022, meeting. COPRAC reviewed and modified the drafting team's proposed rule at its January 13, 2023, meeting, and voted to issue the proposed rule for a 30-day public comment period and to hold a public hearing to receive comment.

In the interim, on December 5, 2022, Senator Umberg introduced Senate Bill 42 which would establish a statutory duty to report by adding section 6090.8 to the Business and Professions Code. At this writing, the bill would impose a duty on a licensee to report to the State Bar if the licensee "knows that another licensee has engaged in professional misconduct that raises a substantial question as to that licensee's honesty, trustworthiness, or fitness as an attorney in other respects." This duty to report lawyer misconduct is identical to the duty set forth in ABA Model Rule 8.3.

During the public comment period, COPRAC received 84 written public comments and five comments at the February 15, 2023, public hearing. On March 3, 2023, COPRAC met and considered the public comments, further considered ABA Model Rule 8.3 and other jurisdictions' versions of the rule, and approved a proposed rule 8.3 for the Board's consideration. COPRAC's proposed rule, described as Alternative 1, is provided as Attachment A.

DISCUSSION

HISTORY OF CONSIDERATION OF THE DUTY TO REPORT IN CALIFORNIA

The State Bar has considered adding a duty to report to the Rules of Professional Conduct on two recent occasions as part of the first Rules Revision Commission (RRC1) and the second Rules Revision Commission (RRC2). In 2010, RRC1 proposed adoption of a version of rule 8.3, which was not adopted by the Board. In 2016, RRC2 declined to recommend a version of rule 8.3 as part of the new Rules of Professional Conduct that were adopted effective November 1, 2018.

RRC1's version of proposed rule 8.3 would have required a lawyer to report another lawyer who committed a felonious criminal act that raised a substantial question as to that lawyer's honesty, trustworthiness or fitness—a narrower requirement than is currently proposed. The

RRC1 version provided that a lawyer could, but was not required to, report any other misconduct what would implicate a lawyer's fitness to practice. At its July 2010 meeting, the Board rejected the RRC1's proposed rule. The Board's rejection appeared to be based on its concern that lawyers would have to determine whether misconduct would constitute a felony. Also, it appeared that the Board shared some of the concerns expressed by a minority of RRC1: any mandatory reporting rule was the wrong public policy for California.

RRC2 voted ten-to-four against recommending the adoption of a version of rule 8.3 in June 2016. The drafting team raised, and the RRC2 considered, four primary concerns. First, the rule would require a lawyer to determine whether a known violation raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness as an attorney. Second, there would be a potential conflict between a lawyer and their client, and that the lawyer may seek for their client to waive confidentiality to further the reporting interests of the lawyer. Third, the rule could create potential conflicts with a lawyer's duty of loyalty where making a report would be detrimental to a current or former client's interest. Finally, the rule could be construed as inconsistent with Canon 3D(2) of the California Code of Judicial Ethics, which requires a judge take appropriate corrective action where the judge has personal knowledge or concludes in a judicial decision, that a lawyer has committed misconduct or has violated the Rules of Professional Conduct but makes it discretionary for a judge to report the lawyer misconduct.

SUMMARY OF COPRAC'S JANUARY 2023 VERSION OF PROPOSED RULE 8.3

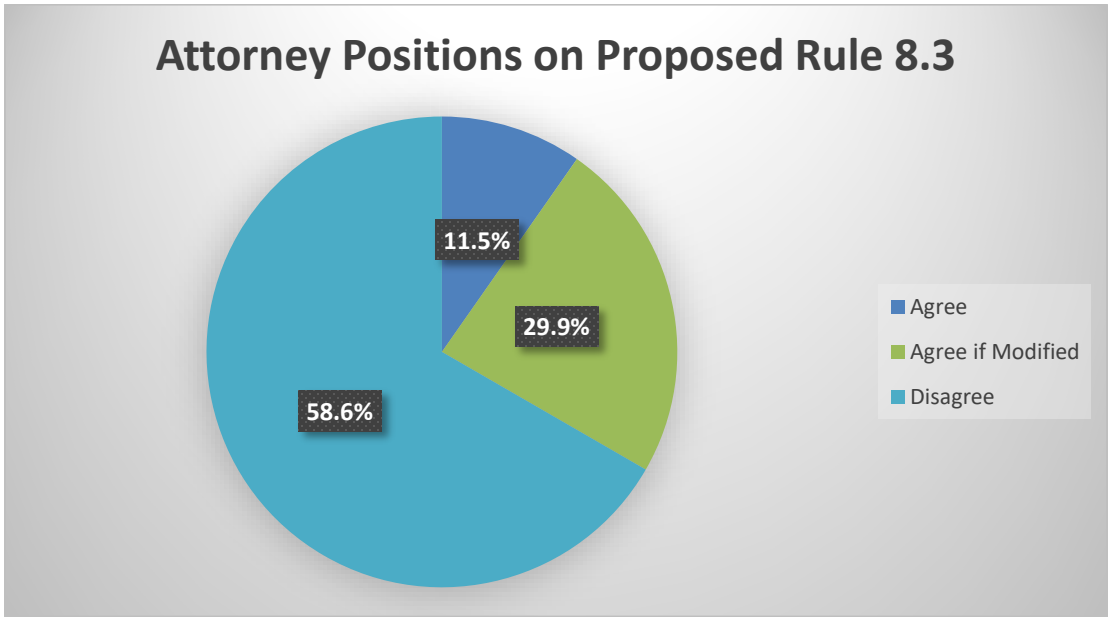
At the direction of the Board chair and following meetings by a drafting team and the full committee, COPRAC issued a proposed rule 8.3 for a 30-day public comment in January 2023 that would have created a duty to report if the lawyer knows through their own observations that another lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.

The type of misconduct that a lawyer would have been required to report was broader than the RRC1 version of the rule that was rejected by the Board in 2010, which was limited to the reporting of felonious criminal acts that raise a substantial question as to a lawyer's honesty, trustworthiness or fitness. However, the January version of proposed rule 8.3 was narrower than ABA Model Rule 8.3.

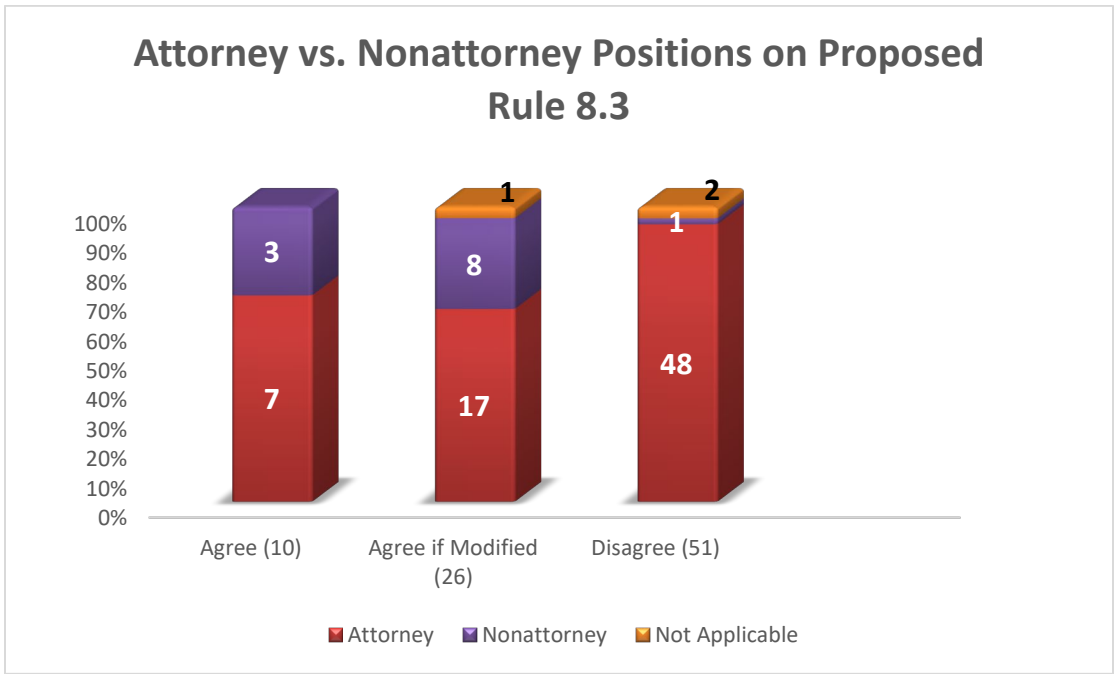
OVERVIEW OF THE PUBLIC COMMENTS RECEIVED

COPRAC received 84 written public comments and five comments at a public hearing[1]. Most commenters, 58.6 percent, disagree with the proposed rule. Nearly 30 percent agree with the proposed rule if modified; 11.5 percent agree with the proposed rule.

[1] At the public hearing, two commenters provided comment that was previously provided as, and considered with, their written public comment.



The overwhelming majority of commenters who disagree with the proposed rule self-identified as attorneys:



As part of the request for public comment, staff requested that commenters indicate if they preferred COPRAC's proposed version of rule 8.3 or ABA Model Rule 8.3. Three attorney commenters responded that although they were not in favor of any version of rule 8.3, they preferred the COPRAC-proposed version to the ABA Model Rule or the proposed language in Senate Bill 42. The Association of Discipline Defense Counsel stated in written comment that it was not in favor of a version of rule 8.3, but preferred the ABA Model Rule version of paragraph

(a). Three commenters, two attorneys and one nonattorney, indicated that they were in favor of a rule 8.3, but preferred the ABA Model Rule or the proposed language in Senate Bill 42.

The commenters in support of the rule stated that the rule would help protect clients and rebuild public trust in attorneys. Other commenters more generally indicated that there was a need for the rule in California.

Many of the commenters who criticized the rule stated that they oppose creating a duty to report for attorneys at all, with several stating that there should not be a "snitch" rule. Additional criticisms included confusion about what must be reported, with many recommending that the rule should be modified to further limit the type of misconduct that must be reported. Some were concerned that the personal knowledge definition was too vague. Many commenters were also concerned that the proposed rule has potential for abuse, will be weaponized and will reduce civility. Several also expressed concern that the number of complaints will create a burden for the Office of Chief Trial Counsel (OCTC), that the State Bar fails to investigate the complaints it already receives, and that the rule is simply a reaction to the Girardi matter.

Other than the comments expressing support for the ABA Model Rule version of 8.3, OCTC provided the only comment recommending expansion of the type of misconduct that must be reported and the knowledge standard for reporting. OCTC provided an alternative version of the rule for COPRAC's consideration that would clarify when a lawyer must report, expand the type of misconduct that must be reported to include conduct involving dishonesty, fraud,*[2] deceit, or reckless or intentional misrepresentation, expand the knowledge standard returning to the "knows" standard as defined in rule 1.0.1(f) so that more misconduct is likely to be reported, and other clarifying changes. As described in the next section, COPRAC's revised proposed rule 8.3, described as Alternative 1 and provided as Attachment A, adopts several of OCTC's recommendations, but does not fully adopt OCTC's recommendation to expand the type of misconduct that must be reported, and retains a slightly higher knowledge standard than the one OCTC proposed.

A summary of the public comments COPRAC received and the version of the rule that was circulated for public comment are provided as Attachment C. The complete set of comments, and the auto-generated Zoom transcript of the public hearing are provided as Attachment D.

DISCUSSION AND SUMMARY OF COPRAC'S PROPOSED RULE 8.3 – ALTERNATIVE 1

Staff recommends that the Board release two versions of proposed rule 8.3 as alternative options[3] for a 45-day public comment period. Alternative 1 and Alternative 2 are identical except for paragraph (a), which describes what conduct must be reported. The Alternative 1

[2] See footnote 4 for an explanation of the use of asterisks to denote defined terms in the Rules of Professional Conduct.

[3] Alternative 1 and Alternative 2 are used to describe the proposed rule where there are differences between the proposed versions. Where the Alternatives are identical, it is described as proposed rule 8.3.

version of paragraph (a) requires a lawyer to report less types of misconduct than the Alternative 2 version.

What Misconduct Must Be Reported – Paragraphs (a) and (c)

Paragraph (a) of Alternative 1 requires that a lawyer shall, without undue delay, inform the State Bar when the lawyer knows* of credible evidence that another lawyer has committed a criminal act, engaged in fraud,* or misappropriated funds or property in violation of rule 1.15 when that conduct raises a substantial question as to a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.[4] Relatedly, paragraph (c) defines criminal act to exclude conduct that would be a criminal act in another state, United States territory, or foreign jurisdiction, but not a crime in California. Staff made nonsubstantive revisions to paragraph (a) to clarify COPRAC's intent that the duty to report any misconduct as required by the rule should be limited to where that conduct raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. COPRAC's leadership is supportive of these staff revisions.

As proposed, the lawyer misconduct that must be reported in Alternative 1 is narrower than ABA Model Rule 8.3 and all other jurisdictions.[5] It is most closely aligned with but still narrower than the Illinois version of rule 8.3, which limits the duty to report to criminal acts that reflect adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects and conduct involving dishonesty, fraud, deceit, or misrepresentation.

Public Comment Considered and Included

COPRAC revised the degree of knowledge that establishes a duty to report. As originally proposed, the reporting lawyer would have only been required to report another lawyer based on a "personal knowledge" standard, which was limited to instances in which the reporting lawyer had firsthand observation of the misconduct. Several of the commenters indicated that this was not a clear definition. Additionally, OCTC indicated that the originally proposed "personal knowledge" standard would have unduly limited the reporting obligation. In light of these comments, Alternative 1 has a broader knowledge standard and would now require that a reporting lawyer "knows* of credible evidence" of another lawyer's misconduct. "Knows" is a defined in rule 1.0.1(f) and "means actual knowledge of the fact in question. A person's*

[4] Asterisks are used throughout the rules to denote defined terms, which are provided in rule 1.0.1. "Knows" means actual knowledge of the fact in question and may be inferred from circumstances. (Rules of Prof. Conduct, rule 1.0.1(f).) "Fraud" means conduct that is fraudulent under the law of the applicable jurisdiction and has a purpose to deceive. (Rules of Prof. Conduct, rule 1.0.1(d).)

[5] 47 jurisdictions have adopted a duty to report misconduct that is substantially similar to the duty to report set forth in ABA Model Rule 8.3: where a "lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority." A few of the jurisdictions have clarified that the duty to report is limited to violations of the rules within the jurisdiction. Three jurisdictions, Alabama, Illinois, and Michigan have narrowed the type of misconduct that must be reported. Alabama requires a lawyer to report a violation of rule 8.4, Illinois requires a lawyer to report a violation of rule 8.4(b) or (c), and Michigan requires a lawyer to report a "significant violation" of the Rules of Professional Conduct. Georgia has a version of rule 8.3 that is substantially similar to ABA Model Rule 8.3; however, there is no disciplinary penalty for a violation of the rule.

knowledge may be inferred from circumstances." The revision, which would also require credible evidence, is intended to be less limiting, but still create a higher threshold to create a duty to report.[6]

Alternative 1 also expands the type of misconduct that must be reported from COPRAC's January version of proposed rule 8.3, which was limited to reporting criminal acts. Specifically, it added f the duty to report fraud and misappropriation of funds or property in violation of rule 1.15 to include more types of misconduct that are likely to result in harm, but that may not rise to the level of criminal acts. The expansion was responsive to some of the public comment received, specifically OCTC's comment highlighting that under the originally proposed rule, a lawyer who knows that the opposing lawyer received settlement funds on behalf of a client, and that the opposing lawyer made a false statement to the client that the opposing lawyer had not received the funds, would not be obligated to report. In response, COPRAC expanded Alternative 1's requirement to report fraud and misappropriation of funds or property to account for this scenario.

Also in response to public comment received, Alternatives 1 and 2 clarify the definition of criminal acts in paragraph (c). Some commenters were concerned that a lawyer could be in violation of rule 8.3 for failing to report another lawyer who assisted a woman in seeking or receiving abortion care based on other states' law. Paragraph (c) would address this situation and create an exception to account for other situations in which California law and another jurisdiction's laws are inconsistent.

Public Comment Considered But Not Included

Alternative 1, does not include the duty to report all of the additional misconduct that OCTC suggested should be included in the rule, and excludes dishonesty, deceit, or reckless or intentional misrepresentation. Several attorney members of COPRAC felt that the inclusion of a duty to report these expanded categories of misconduct would lead to weaponization of the rule and could cause confusion as to the level of misconduct in these areas that would create a duty to report. In declining to accept OCTC's proposed language, the majority of the members of COPRAC expressed their belief that the inclusion of fraud and misappropriation in the duty to report properly balanced the need for the State Bar to receive complaints that may implicate client harm against the committee's concerns about the weaponization of the rule.[7] As discussed in detail below, Attachment B would include OCTC's proposal to include additional types of misconduct.

More than 20 percent of public commenters were critical of the duty to report criminal acts, indicating that there would be confusion about what must be reported, what may constitute a criminal act is a vague standard, and that the obligation to report on a criminal act would create

[6] The majority of jurisdictions require that a lawyer knows another lawyer has committed misconduct. Virginia requires that a lawyer have "reliable information."

[7] A nonattorney member of the committee spoke in favor of adopting OCTC's proposed paragraph (a) to include dishonesty, deceit, or reckless or intentional misrepresentation. The committee members who were not in favor of adding these types of misconduct are attorneys.

an undue burden on the reporting attorney to know or learn criminal law. Similar concerns were raised by the Board when it declined to adopt RR1's proposed rule 8.3 in 2010, albeit the Board was primarily concerned with a lawyer's knowledge of whether a crime is a felony, which would have required reporting, or a misdemeanor. Nearly every jurisdiction has a version of rule 8.4(b), which establishes that it is misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects. Additionally, as already discussed, nearly every jurisdiction's rule 8.3 has a duty to report a violation of the Rules of Professional Conduct. As such, in every jurisdiction, lawyers are required to determine whether another lawyer has committed a criminal act that might require a lawyer to report. Any burden regarding knowledge of criminal law exists in every jurisdiction's duty to report under rule 8.3.

The Reporting of Other Misconduct is Permitted, but not Required – Paragraph (b)

Paragraph (b) of Alternatives 1 and 2 provides that a lawyer may, but is not required to, report other violations of the Rules of Professional Conduct or the State Bar Act. The language is intended to clarify that a lawyer can still report other misconduct that is not required to be reported under the rule. Similar language was approved by RRC1 in the 2010 version of the rule that was rejected by the Board and recommended by several commenters.

Exceptions to the Duty to Report – Paragraph (d)

Substance Use and Mental Health Programs

Paragraph (d) of Alternatives 1 and 2 sets forth the exceptions to the duty to report. As proposed, the rule would not require or authorize a lawyer to report another lawyer if the lawyer gained the information while participating in any substance use or mental health program. This exception is much broader than ABA Model Rule 8.3 and the majority of other jurisdictions, which limit the exception to information gained by a lawyer while participating in a State Bar or Supreme Court approved lawyer assistance program. Two other jurisdictions, including Kansas and Minnesota, further exempt from reporting participation in other substance use programs, such as Alcoholics Anonymous. As clarified by proposed Comment [4], this exception is intended to encourage lawyers to seek treatment and to prevent or reduce the risk of harm to a lawyer's career, their clients, and the public by obtaining treatment.[8]

Confidential and Privileged Information

Paragraph (d) would relieve licensees from the duty to report if the information is protected by the duty of confidentiality or the attorney-client privilege. ABA Model Rule 8.3 and most other jurisdictions provide that the exception to the duty to report is limited to when the information is protected by the lawyer's duty of confidentiality and do not address attorney-client privilege. Proposed (d) would also provide that an attorney need not report misconduct if the lawyer learned about it in the context of information that is protected by other rules and laws, such as statutory mediation confidentiality under Evidence Code section 1119. In response to public

[8] The State Bar's Lawyer Assistance Program Oversight Committee supports the paragraph (d) exception for information obtained while participating in a substance use and mental health program and related Comment [5].

comment, paragraph (d) now explicitly includes mediation confidentiality as an exception to the duty to report, which is consistent with six other jurisdictions.

Comments to Proposed Rule 8.3

Alternatives 1 and 2 of proposed rule 8.3 both include eight comments that are intended to clarify the rule and provide cross-references to other related authorities. Some changes were made to these comments in response to the public comment, including changes to Comment [6] that suggested that a lawyer's failure to report could implicate rule 8.4(a), which provides that it is misconduct for a lawyer to knowingly assist, solicit, or induce another to violate the rules or State Bar Act or do so through the acts of another.

Comment [1] clarifies that a lawyer still has a duty to report their own conduct as required by the Rules of Professional Conduct and the State Bar Act, with references to the relevant authorities.

Comments [2] through [5] clarify what must be reported, exceptions to the duty to report such as client confidentiality and information obtained while participating in a substance use or mental health program, and the timing in which a lawyer should report if making a report would be contrary to the interests of a client. In Comment [2], staff proposes an additional exception to the duty to report information about misconduct that is obtained while participating as a member of a state or local bar association ethics hotline or similar service. Similar exceptions exist in eight jurisdictions and would encourage lawyers to consult the State Bar Ethics Hotline and similar programs administered by local bar associations without fear of being reported for such consultations and in furtherance of compliance with their professional responsibility obligations. Staff revised COPRAC's approved Comment [3] to clarify that a lawyer has a duty to report as soon as the lawyer reasonably believes the reporting would not cause material prejudice or damage to the interests of a client of the lawyer or a client of the lawyer's firm. COPRAC's leadership is supportive of the Comments [2] and [3] revisions.

Comments [6] through [8] clarify that a lawyer may also report misconduct to another appropriate agency, as well as related authorities that address the prohibition on threatening to report to obtain an advantage in a civil dispute (rule 3.10), the prohibition on participating in an agreement that precludes the reporting of a violation of the rules (rule 5.6(b) and Bus. & Prof. Code, § 6090.5), and protections for a lawyer who does report (Bus. & Prof. Code, § 6094) or criminal penalties for a lawyer who files a false or malicious report (Bus. & Prof. Code, § 6043.5).

An additional concept that is not included in Alternative 1 is an exception to the duty to report where the lawyer knows the conduct has already been reported to the State Bar. COPRAC requested that staff inform the Board that COPRAC expressly requests the Board consider this additional exception, and proposed consideration of this exception: "No duty to report exists under paragraph (a) where the lawyer knows* the conduct has already been reported to the State Bar." COPRAC did not have sufficient time to fully discuss that additional language, but

asked that the Board of Trustees consider whether to include the language as an additional exception to the duty to report.[9]

Following discussion of all the public comments received, ABA Model Rule 8.3, and versions of rule 8.3 adopted by other jurisdictions, and with the amendments to the previously circulated version of the proposed rule, COPRAC voted unanimously in favor of providing its proposed rule 8.3 (Alternative 1) for the Board's consideration; the vote was 8-0-0.

DISCUSSION AND SUMMARY OF PROPOSED RULE 8.3 – ALTERNATIVE 2

Staff recommends that the Board also release an alternative, expanded proposed rule 8.3 for a 45-day public comment period. It is described as Alternative 2 and provided as Attachment B. Alternative 2 is identical to Alternative 1, except for paragraph (a), which expands the type of misconduct that must be reported. Alternative 2 is still narrower than the version rule 8.3 in every other jurisdiction; however, the types of misconduct that a lawyer would be required to report are the same as in Illinois.[10]

The Alternative 1 version would require that a "lawyer shall, without undue delay, inform the State Bar when the lawyer knows* of credible evidence that another lawyer has committed a criminal act, engaged in fraud*, or misappropriated funds or property in violation of rule 1.15 if that conduct raises a substantial question as to a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects." Alternative 2 is substantially similar Illinois' rule 8.3 and would require reporting of all the things in the Alternative 1 version, plus dishonestly, deceit, or reckless or intentional misrepresentation. The majority of COPRAC did not want to include these additional categories of misconduct in the duty to report because of concerns that the rule would be weaponized in a litigation context. Another key difference in Alternative 2 is that there is no qualifier that the misconduct must raise a "substantial question" as to a lawyer's "honesty, trustworthiness, or fitness as a lawyer in other respects" for a lawyer to have a duty to report.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

This agenda item requests Board adoption of proposed new rule 8.3 of the California Rules of Professional Conduct.

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

[9] Staff is aware of one other jurisdiction, Alaska, that has a similar exception to the duty to report.

[10] Alternative 2 is still narrower than the Illinois version of rule 8.3 based on the higher knowledge threshold that creates a duty to report. Additionally, there are more exceptions to reporting than in Illinois rule 8.3.

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 1. Protect the Public by Strengthening the Attorney Discipline System

d. 2. Develop strategies to effectively investigate and prosecute attorneys who commit misconduct, regardless of the nature of their practice, including attorneys in large organizations and firms.

RECOMMENDATIONS

Should the Board of Trustees, sitting as the Regulation and Discipline Committee, concur in the proposed action on the Committee on Professional Responsibility and Conduct's proposed new Rule of Professional Conduct 8.3, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees, sitting as the Regulation and Discipline Committee, authorizes staff to make available for public comment, for a period of 45 days, the Committee on Professional Responsibility and Conduct's proposed new rule 8.3 of the California Rules of Professional Conduct with staff revisions as provided in Attachment A;

FURTHER RESOLVED, that the Board of Trustees, sitting as the Regulation and Discipline Committee, authorizes staff to make available for public comment, for a period of 45 days, the expanded proposed new rule 8.3 of the California Rules of Professional Conduct as provided in Attachment B; and it is

FURTHER RESOLVED, that this authorization for release of public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed new Rule of Professional Conduct.

ATTACHMENTS LIST

A. Alternative 1 – Proposed Rule 8.3

B. Alternative 2 – Proposed Rule 8.3

C. COPRAC January 2023 Version of Proposed Rule 8.3 and Summary of Public Comments

D. Public Comment Table, Written Public Comments, and Public Hearing Transcript

Alternative 1: Proposed Rule 8.3 Reporting Professional Misconduct

(a) A lawyer shall, without undue delay, inform the State Bar when the lawyer knows* of credible evidence that another lawyer has committed a criminal act, engaged in fraud,* or misappropriated funds or property in violation of rule 1.15 when that conduct raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects.

(b) Except as required by paragraph (a), a lawyer may, but is not required to, report to the State Bar a violation of these Rules or the State Bar Act.

(c) For purposes of this rule, "criminal act" as used in paragraph (a) excludes conduct that would be a criminal act in another state, United States territory, or foreign jurisdiction, but not a crime in California.

(d) This rule does not require or authorize disclosure of information gained by a lawyer while participating in a substance use or mental health program, or require disclosure of information protected by Business and Professions Code section 6068, subdivision (e) and rules 1.6 and 1.8.2; mediation confidentiality; the lawyer-client privilege; other applicable privileges; or by other rules or laws, including information that is confidential under Business and Professions Code section 6234.

Comment

[1] This rule does not abrogate a lawyer's obligations to report the lawyer's own conduct as required by these rules or the State Bar Act. (See, e.g., rule 8.4.1(d) and (e); Bus. & Prof. Code, § 6068, subd. (o).)

[2] The duty to report under paragraph (a) is not intended to discourage lawyers from seeking counsel. This rule does not apply to a lawyer who is consulted about or retained to represent a lawyer whose conduct is in question, or to a lawyer consulted in a professional capacity by another lawyer on whether the inquiring lawyer has a duty to report a third-party lawyer under this rule. The duty to report under paragraph (a) does not apply if the report would involve disclosure of information that is gained by a lawyer while participating as a member of a state or local bar association ethics hotline or similar service.

* "Knowingly," "known," or "knows" means actual knowledge of the fact in question. A person's* knowledge may be inferred from circumstances. (Rules Prof. Conduct, rule, 1.0.1(f).)

* "Fraud" or "fraudulent" means conduct that is fraudulent under the law of the applicable jurisdiction and has a purpose to deceive. (Rules Prof. Conduct, rule, 1.0.1(d).)

[3] The duty to report without undue delay under paragraph (a) requires the lawyer to report as soon as the lawyer reasonably believes* the reporting will not cause material prejudice or damage to the interests of a client of the lawyer or a client of the lawyer's firm. The lawyer should also consider the applicability of other rules such as rules 1.4 (the duty to communicate) and 1.7(b) (material limitation conflict).

[4] This rule limits the reporting obligation to those offenses that a self-regulating profession must vigorously endeavor to prevent. A measure of judgment is, therefore, required in complying with the provisions of this rule. The term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware.

[5] Information about a lawyer's misconduct or fitness may be received by a lawyer while participating in a substance use or mental health program, including but not limited to the Attorney Diversion and Assistance Program. (See Bus. & Prof. Code, § 6234.) In these circumstances, providing for an exception to the reporting requirement of paragraph (a) of this rule encourages lawyers to seek treatment through such programs. Conversely, without such an exception, lawyers may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public.

[6] In addition to reporting as required by paragraph (a), a report may also be made to another appropriate agency. A lawyer must not threaten to present criminal, administrative or disciplinary charges to obtain an advantage in a civil dispute in violation of rule 3.10.

[7] A lawyer may also be disciplined for participating in an agreement that precludes the reporting of a violation of the rules. See rule 5.6(b) and Business and Professions Code section 6090.5.

[8] Communications to the State Bar relating to lawyer misconduct are "privileged and no lawsuit predicated thereon may be instituted against any person." See Business and Professions Code section 6094; but see Business and Professions Code section 6043.5 with respect to criminal penalties for false and malicious reports or complaints.

Alternative 2: Proposed Rule 8.3 Reporting Professional Misconduct

(a) A lawyer shall, without undue delay, inform the State Bar when the lawyer knows* of credible evidence that another lawyer has:

(1) committed a criminal act that reflects adversely on that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; or

(2) engaged in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation or misappropriation of funds or property.

(b) Except as required by paragraph (a), a lawyer may, but is not required to, report to the State Bar a violation of these Rules or the State Bar Act.

(c) For purposes of this rule, "criminal act" as used in paragraph (a) excludes conduct that would be a criminal act in another state, United States territory, or foreign jurisdiction, but not a crime in California.

(d) This rule does not require or authorize disclosure of information gained by a lawyer while participating in a substance use or mental health program, or require disclosure of information protected by Business and Professions Code section 6068, subdivision (e) and rules 1.6 and 1.8.2; mediation confidentiality; the lawyer-client privilege; other applicable privileges; or by other rules or laws, including information that is confidential under Business and Professions Code section 6234.

Comment

[1] This rule does not abrogate a lawyer's obligations to report the lawyer's own conduct as required by these rules or the State Bar Act. (See, e.g., rule 8.4.1(d) and (e); Bus. & Prof. Code, § 6068, subd. (o).)

[2] The duty to report under paragraph (a) is not intended to discourage lawyers from seeking counsel. This rule does not apply to a lawyer who is consulted about or retained to represent a lawyer whose conduct is in question, or to a lawyer consulted in a professional capacity by another lawyer on whether the inquiring lawyer has a duty to report a third-party lawyer under this rule. The duty to report under paragraph (a) does not apply if the report would involve disclosure of information that is gained by a lawyer while participating as a

* "Knowingly," "known," or "knows" means actual knowledge of the fact in question. A person's* knowledge may be inferred from circumstances. (Rules Prof. Conduct, rule, 1.0.1(f).)

* "Fraud" or "fraudulent" means conduct that is fraudulent under the law of the applicable jurisdiction and has a purpose to deceive. (Rules Prof. Conduct, rule, 1.0.1(d).)

member of a state or local bar association ethics hotline or similar service.

[3] The duty to report without undue delay under paragraph (a) requires the lawyer to report as soon as the lawyer reasonably believes* the reporting will not cause material prejudice or damage to the interests of a client of the lawyer or a client of the lawyer's firm. The lawyer should also consider the applicability of other rules such as rules 1.4 (the duty to communicate) and 1.7(b) (material limitation conflict).

[4] This rule limits the reporting obligation to those offenses that a self-regulating profession must vigorously endeavor to prevent. A measure of judgment is, therefore, required in complying with the provisions of this rule. The term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware.

[5] Information about a lawyer's misconduct or fitness may be received by a lawyer while participating in a substance use or mental health program, including but not limited to the Attorney Diversion and Assistance Program. (See Bus. & Prof. Code, § 6234.) In these circumstances, providing for an exception to the reporting requirement of paragraph (a) of this rule encourages lawyers to seek treatment through such programs. Conversely, without such an exception, lawyers may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public.

[6] In addition to reporting as required by paragraph (a), a report may also be made to another appropriate agency. A lawyer must not threaten to present criminal, administrative or disciplinary charges to obtain an advantage in a civil dispute in violation of rule 3.10.

[7] A lawyer may also be disciplined for participating in an agreement that precludes the reporting of a violation of the rules. See rule 5.6(b) and Business and Professions Code section 6090.5.

[8] Communications to the State Bar relating to lawyer misconduct are "privileged and no lawsuit predicated thereon may be instituted against any person." See Business and Professions Code section 6094; but see Business and Professions Code section 6043.5 with respect to criminal penalties for false and malicious reports or complaints.

COPRAC JANUARY 2023 VERSION OF PROPOSED RULE 8.3 AND SUMMARY OF PUBLIC COMMENTS

COPRAC JANUARY 2023 VERSION OF PROPOSED RULE 8.3: REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer shall inform the State Bar when the lawyer has personal knowledge that another lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by rule 8.4(b).

(b) For purposes of this rule, "personal knowledge" is distinct from the definition of "[k]nowingly," "known," or "knows" under rule 1.0.1(f) and is limited to information based on firsthand observation gained through the lawyer's own senses.

(c) This rule does not require or authorize disclosure of information gained by a lawyer while participating in a substance use or mental health program, or require disclosure of information protected by Business and Professions Code section 6068, subdivision (e) and rules 1.6 and 1.8.2; the lawyer-client privilege; or by other rules or laws, including information that is confidential under Business and Professions Code section 6234.

Comment

[1] This rule does not abrogate a lawyer's obligations to report the lawyer's own conduct as required by these rules or the State Bar Act. (See, e.g., rule 8.4.1(d) and (e); Bus. & Prof. Code, § 6068, subd. (o).)

[2] The duty to report under paragraph (a) is not intended to discourage lawyers from seeking counsel. This rule does not apply to a lawyer who is consulted about or retained to represent a lawyer whose conduct is in question, or to a lawyer consulted in a professional capacity by another lawyer on whether the inquiring lawyer has a duty to report a third-party lawyer's professional misconduct.

[3] If a lawyer reasonably believes* that it would be contrary to the interests of a client of the lawyer or a client of the lawyer's firm promptly to report under paragraph (a), the lawyer should report as soon as the lawyer reasonably believes* the reporting will no longer cause material prejudice or damage to the client. The lawyer should also consider the applicability of other rules such as rules 1.4 (the duty to communicate) and 1.7(b) (material limitation conflict).

[4] Information about a lawyer's misconduct or fitness may be received by a lawyer while participating in a substance use or mental health program, including but not limited to the

Attorney Diversion and Assistance Program. (See Bus. & Prof. Code, § 6234.) In these circumstances, providing for an exception to the reporting requirement of paragraph (a) of this rule encourages lawyers to seek treatment through such programs. Conversely, without such an exception, lawyers may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public.

[5] In addition to reporting professional misconduct as required by paragraph (a), a report may also be made to another appropriate agency. A lawyer must not threaten to present criminal, administrative or disciplinary charges to obtain an advantage in a civil dispute in violation of rule 3.10.

[6] A failure to report may also implicate rule 8.4(a) with respect to the prohibitions against assisting, soliciting, or inducing another lawyer's ethical violation; see also rule 5.6(b) and Business and Professions Code section 6090.5 with respect to the prohibition on agreements that preclude the reporting of a violation of the rules.

[7] Communications to the State Bar relating to lawyer misconduct are "privileged and no lawsuit predicated thereon may be instituted against any person." See Business and Professions Code section 6094; but see Business and Professions Code section 6043.5 with respect to criminal penalties for false and malicious reports or complaints.

SUMMARY OF PUBLIC COMMENTS ON COPRAC JANUARY 2023 VERSION OF PROPOSED RULE 8.3

COPRAC received 84 written public comments and five comments at a public hearing.[1] Of those comments, 10 agree with the rule (seven attorneys and three nonattorneys), 26 agree if modified (17 attorneys, eight nonattorneys, and one not applicable), and 51 disagree (48 attorneys, one nonattorney, and two not applicable).[2]

Common Themes Among Comments:[3]

Support for Proposed Rule 8.3:

- Three commenters (one attorney and two nonattorneys) stated that the rule would help to protect clients and rebuild public trust in attorneys.
- Two attorney commenters were in support of the expanded exemptions for substance use information that is shared during participation in substance use programs.

Criticisms of Proposed Rule 8.3:

- 21 attorney commenters stated that they are opposed to creating this duty for attorneys and several stated that there should not be a "snitch" rule.
- 18 commenters (17 attorneys and one nonattorney) stated that there would be confusion about what must be reported, including that:
    - What may constitute a criminal act is vague;
    - The proposed rule's obligation to report on a criminal act would create an undue burden on the reporting attorney to know or learn criminal law. Some commenters stated that an attorney would have to be aware of federal criminal law, California criminal law, and criminal law in every other state.
- 14 attorney commenters had concerns that the proposed rule had potential for abuse, would be weaponized and reduce civility and, relatedly, 7 attorney commenters expressed concern that the number of violations reported would create a burden for OCTC.
- Ten commenters (seven attorneys and three nonattorneys) stated that the State Bar fails to investigate the complaints it already receives and some of these commenters further stated that the proposed rule was a reaction to the Girardi matter.
- Six attorney commenters had concerns with the Personal Knowledge standard, including that it would be difficult to prove an attorney has personal knowledge of another attorney's criminal act and that the proposed definition of criminal knowledge is a vague standard. Some suggested proposed revisions, some of which have been incorporated into the revised, proposed rule.
- Three attorney commenters were concerned that comment [6] suggests that the failure to report could constitute a violation of rule 8.4(a).

[1] At the public hearing, two commenters provided comment that was previously provided as, and considered with, their written public comment.

[2] Commenters, including organizations, self-identified whether they were attorneys, nonattorneys, or not applicable.

[3] Most commenters provided input on multiple concepts within the proposed rule. As such, the numbers reflected in the common themes is larger than the number of individual comments received.

- Two attorney commenters suggested explicitly included mediation confidentiality as an exemption. Conversely, one attorney commenter suggested that information obtained that is protected by mediation confidentiality should not be exempted.
- Two attorney commenters stated that the rule is unlikely to lead to discipline, two attorney commenters stated that the rule will lead OCTC on a "wild goose chase," and two attorney commenters stated that the rule will not promote public protection.
- Other individual, but significant criticism of the proposed rule included that the proposed rule may disincentivize lawyers to attempt to self-police the profession and encourage lawyers to "look the other way" to avoid having knowledge of another lawyer's criminal acts.

Suggested Changes to Proposed Rule 8.3:

- Ten attorney commenters suggested that what must be reported is too broad and some suggested limitations, such as limiting to criminal acts that occur in connection with the practice of law; criminal acts that raise a "substantial question" vs. "reflect adversely" on a lawyer's honesty, trustworthiness or fitness as a lawyer; violations of California law and excluding the criminal use of controlled substances; situations in which the attorney has placed another person in physical danger; reporting acts of another lawyer that are also harmful to that other lawyer's client; and exclude the duty to report any act regarding an attorney's role in obtaining or aiding one to obtain an abortion in violation of another state's laws restricting abortion.
- Nine commenters (seven attorneys and two nonattorneys) suggested that the rule should include a duty to report judges or asked why judges were excluded since they're included in the model rule.
- Six commenters (five attorneys and one nonattorney) suggested that the rule should make reporting optional.
- Two attorney commenters suggesting added language that states that a lawyer may, but is not required to, report a violation of the Rules of Professional Conduct or the State Bar Act that is not required to be reported pursuant to proposed paragraph (a). This has been added to the revised, proposed rule.
- Other individual commenters suggested (a) limiting the rule to attorneys licensed in California or admitted pro hac vice; (b) adding language to paragraph (a) to require the reporting of client trust account related rule violations; (c) creating an exemption from the duty to report where there are concerns about the health and safety if the attorney reports; (d) adding protection from retaliation for an attorney who reports that is similar to whistleblower protection or other protections against retaliatory reporting; (e) clarifying what might constitute material prejudice or damage to a client that would justify waiting to report as provided in proposed rule 8.3 Comment [3]; (f) clarifying or identifying the kinds of information that is protected by section 6068(e) and rules 1.6 and 1.8.2.

OCTC's Public Comment

Other than the comments expressing support for the ABA Model Rule version of 8.3, OCTC provided the only comment stating that the proposed rule is too narrow in the type of

misconduct that must be reported and the knowledge standard for reporting. OCTC provided a recommended version of the rule that would clarify when a lawyer must report, expand the type of misconduct that must be reported to be substantially similar to the Illinois version of rule 8.3, expand the knowledge standard returning to the "knows" standard as defined in rule 1.0.1(f) so that more misconduct is likely to be reported, and other clarifying changes.

- Add a timing component to subparagraph (a) ("promptly");
- Revise paragraph (a) to be closer to the Illinois version of rule 8.3;
- Remove the "personal knowledge" standard and return to the "knows" standard as defined in rule 1.0.1(f);
- Move Comment [3] into the body of the rule as new paragraph (b);
- Add a new Comment [2] that cross-references the rules and statute that set forth the conduct that must be reported; and
- Other clarifying changes to paragraph (c) and the comments.

ATTACHMENT D

TOTAL **= 84 A = 10**
D = 50
AM = 24
NP = 1

Proposed New Rule 8.3 Reporting Professional Misconduct
Synopsis of Public Comments

File No.	Commenter/Signatory	Attorney? (Y/N)	Position[1] (A/D/ AM/NP)	Comment
16656243	Anonymous	Y	D	
16675359	Anonymous	N	AM	"ABA Model Rule 8.3 requires a lawyer to report any violation of the Rules of Professional Conduct by another lawyer that raises a substantial question as to the other lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." Having been the victim of another lawyer's misconduct as described above, and having reported said misconduct to the Bar, to no avail. Such a rule is meaningless unless the Bar enforces the rules of professional conduct. Why make reporting mandatory if the State Bar is going to do nothing? As a result of the Bar's inaction and opposing counsel's conduct, I got to the point where I stepped in front of moving traffic, not caring whether the van would stop or not. It stopped. I sought help. But never again would I want to file a complaint with the Bar about another lawyer's misconduct, and have turned a blind eye to subsequent incidences. I would support such a rule if it were optional.
16675488	Anonymous	Y	D	The rule is not clear and the requirement is strong. There would be a lot of confusion about what types of acts would be required to be reported, as well as what observations would be sufficient to determine if someone committed such acts. There is also the potential for abuse by adversaries in litigation, for example, or potential exposure and liability if one misunderstands or is incorrect in filing a report when they genuinely believe it to be the case.
16682273	Anonymous	Y	D	By the rule's terms, an attorney is subject to discipline when he/she knows that another member has (1) committed a criminal act, which (2) reflects adversely on (3) a lawyer's honesty or (4) trustworthiness, or (5) fitness as a lawyer in other respects as prohibited by rule 8.4(b). But even if it be shown clearly that the non reporting lawyer has actual knowledge of the underlying facts, there are many reasons why the non reporting attorney would reasonably fail to report. "Criminal acts" are presumably defined as misdemeanors or felonies. (It is assumed that the rule does not cover infractions—though perhaps a stretch since misdemeanor theft is often pled down to an infraction.) Even still, criminal statues occupy not only many inches of our Penal Code, but Labor

[1] A = Agree D = Disagree AM = Agree if Modified NP = No Position

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D = 50
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Proposed New Rule 8.3 Reporting Professional Misconduct
Synopsis of Public Comments

File No.	Commenter/Signatory	Attorney? (Y/N)	Position[1] (A/D/ AM/NP)	Comment
				Code violations are misdemeanors in many instances, the W & I Code, H & S Code, the Gov. Code, and of course the entire Federal Statutory library are all replete with criminal statutes. Many of these provisions are not intuitive (as evidenced by the trope "ignorance of the law is not a defense".) It would be unfair, indeed immoral, to threaten discipline to a non reporting attorney lacking knowledge of all criminal laws. But this proposed rule does precisely that. The remaining elements "reflecting adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by rule 8.4(b)" evidences a (forgive the vernacular) wishy washy standard that can be challenging to apply in many circumstances for a reporting attorney. Just for an example, say the reporting attorney knows that on a Saturday night, the member engaged in consumption of contraband mushrooms in the privacy of her home. Is it clear that this..... felonious possession and use of a narcotic reflects adversely on the traits outlined? In sum, the rule is fraught with vagueness and Lawyers are not, ipse facto, trained prosecutors.
16684983	Anonymous	N	AM	As a member of the public, whose faced multiple civil rights violations, and whose career and reputation were severely damaged by police misconduct, judicial misconduct, prosecutorial misconduct, and misconduct of family law attorneys, I fully support this rule, and would also support a requirement that attorneys report judicial misconduct to the Judicial Council and Council on Judicial Performance. I appreciate that the State Bar is proposing the rule mandating reporting of misconduct of other attorneys; the general public has very little trust or respect for the legal community. This rule could help clean up the profession and rebuild public trust.
16736943	Anonymous	Y	D	The proposed rule would be useless given the positions of the prosecutors that work for the State Bar of California. I addressed false statements made in an affidavit under penalty of perjury. The prosecutors response was if the judge doesn't care if the statements are false, we don't care. The person who made those false statements happen to be their friends. If the state bar isn't going to do anything about perjury, why would they care about other behavior reported to them by another lawyer. A perfect example is the 205 complaints against Thomas Girardi that had resulted in no public discipline. A rule requiring reporting a lawyer like Girardi would have not made any difference in how the state bar of California dealt with him.

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NP = 1

Proposed New Rule 8.3 Reporting Professional Misconduct
Synopsis of Public Comments

File No.	Commenter/Signatory	Attorney? (Y/N)	Position[1] (A/D/ AM/NP)	Comment
16748050	Anonymous	Y	AM	Prefer “Encourage” to “Require”
16751433	Anonymous	Y	D	I oppose the rule. If the rule uses shall "SHALL," the rule should apply to anyone associated with the courts, including but not limited to judges, EC730 experts, mediators, parole officers, clerks, bailiffs, etc. And then you've got the problem of the white lie used by many of the above to reach an agreement. Yes, it's technically accurate that a judge in a family law case could turn a case that is in deadlock into a dependency case because neither of the parents is, in the judge's mind, looking out for the minor's best interest. I've never seen it done. And it's technically accurate that 17-year-olds who are consensually having sex could be charged with unlawful intercourse with a minor, but I don't think I've ever seen it charged by a DA. However, I've heard it used as an argument for stipulated restraining orders (and to put the fear that criminal charges or restraining orders could issue) to bring down the temperature in a case. These are just borderline issues; many more black-and-white facts that result in good and bad results that can't be listed here. An argument can be made that the problems listed above speak to the "lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer." I take legal positions. At times they may be absurd legal positions. However, they may be those that the client wants to hear - and then we get to a settlement after the histrionics are over. Sometimes, clients... ... lie to an attorney or on the witness stand. If my client goes "sideways," I'm not permitted to cross examine him so that the "truth" comes out. I have certain responsibilities as an officer of the court. Do not require me to tattle on another attorney, who's in a similar situation when I know more facts than the attorney questioning the witness. If I wanted to be a police officer, a private investigator, or similar I would have been trained for those jobs and/or taken the POST training. Do not change my job to one where I potentially become a witness in every case that I take. The person, whom I'm a witness against, is the poor sod who's got the unsavory client on the other side of the "vs." NO! I'm an attorney. I take legal positions within the confines of being an officer of the court. I know when to suggest my client proceeds by narrative. However I don't know about the other guy, nor should I be required to be investigator, judge and/or jury or snitch regarding the attorney on the other side of the "vs." Thankfully I've been practicing long

TOTAL = 84 A = 10
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NP = 1

Proposed New Rule 8.3 Reporting Professional Misconduct
Synopsis of Public Comments

File No.	Commenter/Signatory	Attorney? (Y/N)	Position[1] (A/D/ AM/NP)	Comment
				enough that I can leave my practice if this proposed rule becomes a rule, because I'm not going to become investigator, judge, jury and executioner. Change the operative word to "MAY" and I have a different response. This response is my 15 minutes, that I have today to respond. Were I to take more time, I'm sure I would like this rule less.
16776283	Anonymous	Y	D	This rule requires attorneys to be snitches on each other, but not on judges, and further encourages more antagonistic, adversarial relationships between attorneys.
16776297	Anonymous	Y	D	Strongly oppose - it's not the attorneys' duty to report other attorney's for misconduct and they should not be required to do so by this rule! And why doesn't it require reporting judge's criminal behavior?
16635955	Anthes, Louis	Y	AM	"Require a lawyer to file a report with the State Bar if the lawyer knows through their own observations that another lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer." I would change the proposed "New Rule 8.3" to refer only to those "criminal acts" that constitute a felony, not a misdemeanor, under California state law. And the reporting obligation imposed on any lawyer by "New Rule 8.3" should only fall upon those lawyers who are licensed to practice in the State of California or are admitted to a particular California court jurisdiction pro hac vice. I would exempt mandating the reporting of lawyer conduct which involves allegations of the reported lawyer's alleged personal use violations of the federal Controlled Substances Act, e.g. cannabis, psilocybin. This of course raises the question as to whether attorneys licensed in the State of California should police one another over alleged criminal violations of federal terrorism, espionage, immigration, voting, tax laws, etc. If only to reduce the burden on the State Bar to investigate attorneys for other attorneys' reports of attorney criminal acts, I would revise the "New Rule 8.3" to read: "Require a lawyer licensed in the State of California, or require a lawyer admitted to practice pro hac vice in any California court jurisdiction, to file a report with the State Bar if the lawyer knows through their own observations that another lawyer has committed a felony, as codified in California state law only, that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer."

ATTACHMENT D

***TOTAL* = 84** **A = 10**
D = 50
AM = 24
NP = 1

Proposed New Rule 8.3 Reporting Professional Misconduct
Synopsis of Public Comments

File No.	Commenter/Signatory	Attorney? (Y/N)	Position[1] (A/D/ AM/NP)	Comment
16756055	Association of Disciplinary Defense Counsel (Langford)	Y	D	See Attachment
16785788	Atighechi, Maryam	Y	D	We are not the police or policing authority or snitches, and we did not sign up to be one. WE ARE LAWYERS. I do not, and will not, be reporting anyone. That is NOT my job.
16692387	Balayan, Gabriel	Y	AM	The narrative above states that all other US states has adopted a similar rule but the CA did not and ABA MR also has such rule. However, it will useful to learn some stats about this rule in other states on chronological order. When the rule was adopted, what was the number of complaints, what was the number of dismissed complaints and how many had any consequence, to what were the rulings on such complaints etc. My understanding is that no need to follow the general trend if it will have relevant impact on the legal profession and can be overly burdening for others. It is worth to consider that if adopted this as violation of this rule will be also charging other attorneys for knowing and not reporting, and alike. This will make a really heavy burden on the State Bar administrative proceedings, because in the law firms there could be chain charging with accusation to the whole team at the firm.
16635556	Beard, Barbara	Y	A	I first wanted to oppose this but then realized how many criminals we have now. I believe this goes a bit far for over regulation. I just can't imagine an attorney observing criminal conduct by another attorney not reporting it without the need for this rule. It's too bad it's gotten this bad. It would help if you made us aware of occurrences of this nature so we can better assess the necessity for the rule. I would think that can be done without naming names and by General description of the types of crimes these attorneys have engaged in or you expect they will engage in.
16773140	Bird, Mary	Y	D	The proposed rule smacks of Nazi Germany or Stalinist Russia. I am opposed to spying on my neighbor. The rule is subject to abuse by lawyers who want to harm an opponent.
16745938	Bohannan, Beth	Y	A	Unfortunately, this law is absolutely necessary as attorneys' failure to follow the rules of ethics and codes of civility continue to grow. It is apparent that attorneys will not regulate themselves unless forced to do so.

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D = 50
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Proposed New Rule 8.3 Reporting Professional Misconduct
Synopsis of Public Comments

File No.	Commenter/Signatory	Attorney? (Y/N)	Position[1] (A/D/ AM/NP)	Comment
16758486	Bonilla, Luis	N	AM	THE STATE of CALIFORNIA 'Public Corporation and its public agencies' must hold itself to a higher standard of law and procedure to accommodate for any official misconduct or malpractice in performance. ABA Rule 8.3 Reporting Professional Misconduct Maintaining The Integrity of The Profession (a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority. (b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority. (c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program. Such rules need to be enforced especially if there is official misconduct committed by a judge, not only does it look poorly on THE STATE of CALIFORNIA, it assumes an unlawful image upon the The State Bar of California 'Public Corporation' as well as THE STATE of CALIFORNIA 'Public Corporation and its public agencies'. (Third parties are genuinely known as the Living Man/Woman the clients are considered sole proprietor-ships or corporate vessels with a living agent/representative with the same name... ... spelled in ALL CAPS 'ens legis' ficticious legal name or DBA since corporations have no voice and need a living agent to act or perform to enforce the bonds to bid, perform, and pay) Since attorneys, NOT their clients who are the third parties' property are aware of the proper procedure they must be held responsible to report. If they do not report it is a reflection of conflict of interest since all members who are licensed to practice law are all Bar Members themselves. Judges may not be Bar members however, they are enlisted as judges after being Bar Members of their STATE of which their business is conducted. If such business is conducted unprofessionally and allowing unconstitutional simulated legal processes. Then all those who are aware are considered coconspirators by not reporting such acts. This comment shall be in favor on the condition that it reflects the lawful ABA rules of professional conduct.

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Proposed New Rule 8.3 Reporting Professional Misconduct
Synopsis of Public Comments

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16791783	Brune, Robin	NA	D	I don't know if the State Bar has contemplated a circumstance in which the duty to report under 8.3 would put the reporting attorney in jeopardy for their own health and safety or the safety of their loved ones. But when we are talking about crime, that is a possibility. I do not think we should require that of an attorney. There is an exclusion for their client's interests, but what about their own safety or the safety of their loved ones?
16641118	Burns, Leslie	Y	D	Sadly, this is well intended but would result in a ton of threats by opposing counsels/parties or even false claims being actually asserted. I already get threats for representing artists in copyright actions now, even though I am scrupulously ethical; I can only imagine how insane it would get if this rule were adopted. Women and minorities will be targeted, surely. Please do not adopt this rule.
16669347	Butler, Naomi	Y	D	I do not believe it should be required but should be optional. First, if I'm going to report criminal acts, it's going to be to Law enforcement, because they need to handle it; second, I have seen Defense counsel's accuse attorneys of being an extortionist for simply representing their clients. If these attorneys believe that, it appears this rule requires them to file a report with the bar. I believe there should be a way limit the subjectivity of the rule, and making it mandatory seems the wrong way to go about it
16790323	California Lawyers Association (Evans)	Y	D	See Attachment
16734225	California Solo & Small-Firm Attorneys (Castle)	Y	D	If the objective is to turn the practice of law in California into a Soviet Communist paranoid snitch society, I think the proposed rule is ideally suited for that task. If the goal is to properly enforce California ethics consistent with American values, then the solution is to figure out how to enforce ethics violations even-handedly across the landscape of practicing attorneys (regardless of stature, political connections, or wealth) and in proportion to the actual transgression. This means stopping the 99% selective prosecution of solo and small-firm attorneys; it means stopping the Bar from inviting 100 ways to exploit and co-opt it politically; it means the Bar not acting like a full-employment factory for OCTC attorneys to drag attorneys through years of draining litigation over trivia (e.g., non-misappropriation related problems, "intellectual dishonesty" claims against judges, non-scope-related transgressions, which is really none

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Proposed New Rule 8.3 Reporting Professional Misconduct
Synopsis of Public Comments

File No.	Commenter/Signatory	Attorney? (Y/N)	Position[1] (A/D/ AM/NP)	Comment
				of the State Bar's business given the privacy rights in Art. I of the California Constitution, etc.); and it means figuring out what ethics really does mean from the standpoint of what CLIENTS care about in terms of ethics -- not judges, not societal scolds, and not OCTC prosecutors itching to scalp political opponents. This is because, as it stands today, ethics doesn't mean anything -- or to be perfectly accurate, it can mean anything to anyone, including to an OCTC prosecutor, and therefore its definition and its enforcement are subjective and meaningless. See Attachment
16778570	Carlson, Nancy	NA	AM	NC Carlson, Chair The Consumer Bar (Public Oversight) Proposed Rule 8.3 sets forth a requirement a lawyer report another lawyer who has committed a "criminal act". The issue of client trust account and client funds misconduct has been a significant historical factor in misconduct complaints by the public. This led to the creation of State Bar "Client Trust Account Protection Program" [CTAPP]. This has been designed as preventive program. Misappropriation of client funds etc is illegal. But not typically described as " criminal ". Discovery may be by fellow firm associate lawyers. This recommends proposed Rule 8.3. include language covering this act:"A lawyer shall inform the State Bar when the lawyer has knowledge that another lawyer has committed a criminal act or violated rules applicable to client trust accounts and client funds that reflects adversely on the lawyers honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by the Rule 8.4(b)
16667738	Carmel, Rina	Y	D	
16779566	Carr, David	Y	D	Enacting any version or analog to ABA Model Rule 8.3 is a bad idea. The Rules Revision Commission thoroughly considered the issue in 2016 and came to conclusion that such a rule. As stated in the drafting team memo dated May 16, 2016: There are also significant cons to a reporting requirement; either the Model Rule or RRC1 hybrid approach would: 1. require a lawyer to determine whether a known violation raises a substantial question as to (or implicates) the lawyer's honesty, trustworthiness or fitness as a lawyer; 2. despite the recognition that reporting could be trumped by the duty of confidentiality with respect to information learned in the course of representation of a client, pose a potential for conflict with that rule, or with the attorney-client relationship, to the extent

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Proposed New Rule 8.3 Reporting Professional Misconduct
Synopsis of Public Comments

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				lawyers might feel obligated to discuss waiver of confidentiality to further the reporting interests of the lawyer rather than the client's own interests; 3. pose a potential for conflicts with a lawyer's duty of loyalty if reporting posed a risk of adversely affecting a current or former client's interests; and 4. potentially be viewed as inconsistent with the discretionary reporting policy reflected in Canon 3D(2) of the California Code of Judicial Ethics that states: "Whenever a judge has personal knowledge, or concludes in a judicial decision, that a lawyer has committed misconduct or has violated any provision of the Rules of Professional Conduct, the judge shall take appropriate corrective action, which may include reporting the violation to the appropriate authority." (Emphasis added.) On balance, the drafting team agrees that the cons outweigh the pros, particularly given that... ... California has never had such a reporting requirement, and that the analysis required for lawyers to determine the scope of any reporting requirement seems inconsistent with this Commission's charge to retain the historical nature of the California Rules as a "clear and enforceable articulation of disciplinary standards." It is unlikely that the proposed Rule 8.3 will prosecuted to any significant extent. As the RRC drafting team noted, the Supreme Court has rejected the ABA Model Rule concept of Rules of Professional Conduct as aspirational statements. Moreover, as COPRAC noted in its discussion, evident in the draft Rule, there is an epistemological problem in proving the requisite knowledge required to violate the Rule by the required standard of clear and convincing evidence. The provenance of the proposed Rule is troubling. It is clearly a reaction to the Girardi scandal and was first mentioned as a possibility by Chair Duran shortly after the Los Angeles Times ran a story about California lacking such a rule in October 2022. The existence of Rule 8.3 would not likely made a difference in the Girardi case. The problem in Girardi was not that the State Bar lacked notice that Girardi may have committed serious misconduct but that the State Bar did nothing even after receiving such notice, hence the State Bar's admission that serious mistakes were made. The rush to enact Rule 8.3 appears to be motivated by the State Bar's desire to rehabilitate its public image, not from a reasoned consideration of the public protection value of such a Rule. The introduction of SB 42, which would establish an even more flawed version of the reporting requirement in proposed Business &... ... Profession Code section 6090.8, has further distorted the process. If we are to have a such a reporting

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				requirement, the proposed version of Rule 8.3 is preferable. Of course, the Legislature can enact section 6090.8, no matter what the State Bar and Supreme Court do with proposed Rule 8.3, where it would join other meaningless exercises in Legislative grandstanding such as Business & Professon Coe sections 6157 et seq.. Nontheless, I urge the State Bar not to recommend this Rule to the California Supreme Court. It won't do anything to improve public protection.
16636290	Craig, Timothy	Y	D	California is the most populous state in the Union. I believe we also have the largest number of licensed attorneys. The Law has long refused to require citizens to report crimes or come to the aid of those in distress. This rule would essentially seize private property (law license) if and/or when a lawyer refuses to turn government informant. Finally, the court officers are not executive officers and such a rule would conceivably violate the separation of powers doctrine. I oppose.
16792241	Daughetee, Renee	Y	D	Asking lawyers to police other lawyers, outside of our commitment to the state bar is not only redundant but a very scary prospect. Every lawyer by nature should be competitive however, many lawyers are also greedy. Unless asked by a current client to assist him or her in a complaint against another fellow bar member. I believe that this obligation creates a Mayham of injustice and wrongful obligations. I am completely against this rule.
16695397	Demircift, Mary	Y	AM	8.3 as proposed is mostly fine. However, judges should be held to the same standard Lawyers are being held to. If we want lawyers to seek help for their issues (be mental, health, substance abuses issues etc.) we shouldn't punish them or deter them from seeking such help. Therefore, the narrower exception to 8.3 Model code should be adopted, so it's broader and includes lawyer assistance programs, that don't require reporting. Should also include "rules and other laws," for when reporting is not necessary. Overall, it's not a lawyers job to police other lawyers when they are seeking help, that would be counterproductive to the overall public policy of encouraging seeking help, self-reporting and correction.
16745034	Doyle, Robert	Y	D	This rule is unnecessary and places attorneys in the position of policing one another based on limited information. The "knows through their own observations" standard is vague and likely to lead to erroneous reports.

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16745364	Easterbrook, Alexander	Y	D	I can't understand the necessity of a reporting obligation confined to attorneys. If I see a crime then I'm bound to report it as a matter of being a member of the community. I don't believe anyone needs a separate rule of professional conduct to report crime (regardless of the occupation of the criminal.).
16751145	Elliott, Jeffrey	Y	AM	The issue with have attorneys report suspected misconduct is the inherent adversarial nature of attorneys. The reporting process can be grossly misused, abused, and weaponized by attorneys seeking the advantage over opposing counsel or to vent personal, rage and contempt of opposing counsel. This rule in it's present unrefined form can literally become a weapon of choice rather than an impartial instrument of justice. The rule reminds me of various right wing or left wing political apparatus overseeing a specific group of being to maintain party loyalty and adherence to party thought and doctrine rather than an impartial and just mechanism for appropriate behavior. The problem lies in the fact the rule requires inherent adversarial parties to report on each other. Thus, this reporting mechanism as written undermines the independence of the legal advocates in society and subjects these independent advocates to a surveillance and police apparatus subject to doctrinal positions of members of the State bar. Other more appropriate methods should be utilized rather than turn the State bar into a quasi police and political apparatus. Why are judges exempt? Answer, of course to maintain the independence of the bench from a myriad of allegations by the bar Why are their exemptions in alcohol and drug treatment programs? Answer, to allow people a freedom to seek treatment without fear of reprisal. Do you want a independent minded advocacy of individual rights in the state bar membership? Or on the other hand do you want members living in fear of reprisal for exercising a certain degree of moral and ethical excellence because of a fear of being put under state bar police surveillance ? This proposed rule appears to be a blunt party apparatus than anything else
16716601	Ellison, Jerry	Y	D	Enough of the snitch culture.

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16667871	Faucher, John	Y	D	The rule is too vague and it compels speech where speech should not be compelled. If I see an attorney whose misconduct brings shame to the profession or who appears to have harmed his or her own client, then I may feel a moral obligation to report the attorney. I would question in my own mind whether I was doing so in order to wreak revenge, or to help the administration of justice. I may decide not to report the attorney. I don't want the State Bar second-guessing that very personal decision. I also don't want the State Bar second-guessing my determination that an attorney's conduct was a "criminal act." The rule seems to make us attorneys into snitches. I don't like the dynamic of setting us against each other more than we are already poised against each other. Comparisons to totalitarian regimes may be overblown, but it still feels a little totalitarian. I know I have a way to report an errant attorney. I may sometimes have a duty to do so. But I believe that I should be the one who determines this; I think this is an aspect of free speech. I am free to speak to the State Bar or not about observed misconduct; I should not be compelled here.
16679175	Feinberg, Doug	Y	D	Assuming that members of the State Bar actually follow this rule, the State Bar is going to be quite busy dealing with all these allegations. What about criminal acts that are barely even prosecuted? As a criminal defense attorney, I am aware of the broad range of conduct that is arguably criminal. If we're going to have a snitch rule, please narrow its scope greatly. Although it's great that it doesn't able to someone going through a substance abuse or mental health program, it still makes an attorney who hears from an attorney friend about an indiscretion a mandatory reporter.
16673176	Ferber, Michelle	Y	D	My training, education, experience and duty as a lawyer is to zealously represent my clients. I am not trained in, nor do I have the expertise, to determine if someone is committing an illegal act. Nor am I paid by the State to be a watch dog 24/ 7 so as to justify a requirement that I observe and report on others. We pay state bar dues. The state bar should do the job it is paid to do and not abdicate its responsibility on members of the bar.
16792463	Fox, Raquel	Y	D	We have enough to do and should not be obliged to police other attorneys.

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16786061	Galloway, Greg	N	D	I am a consulting paralegal. I oppose this rule as written. The proposed new rule is ambiguously limited to mandatory "reporting...another lawyer who has committed a criminal act.." Ignoring the myriad of Penal Code statutes on the books, I have numerous comments - the short list here. First, I personally know of attorneys who have reported other attorneys for ethical violations of this nature to the State Bar. The matter consisted of an unethical attorney threatening reporting a litigant to the District Attorney on felony charges if the litigant attempted to introduce audio and video evidence of actual child abuse. This same attorney misstated facts to the tribunal in other areas of the litigation and prejudiced the litigant. This destroyed the mental peace of the litigant. The State Bar took no action whatsoever and dismissed the complaint. Adding a "mandatory" rule (without proper analysis and funding for its enforcement) is pointless if the SB will not actually discipline unethical rules violations, much less criminal acts. The reality of the State Bar actions seemingly ONLY enforce unethical acts when an attorney financially keeps a settlement, or refuses to refund money to its client, and other in kind related gross violations of the rules. I can cite chapter and verse of hundreds of regular SB rule violations wherein attorney discipline is passed over and the operative rules are not enforced - formal complaints be damned. Next, the new proposed rule is only required if the "criminal act" affects the honesty, trustworthiness, or fitness as a lawyer. Really? Lawyers... ... who commit criminal acts are honest, trustworthy, and fit to practice? If this is the language that becomes a mandatory rule, the California State Bar may never recover from public laughter and the further damning of the practice of law. My comments are harsh and show my utter frustration, and are not without my offer. I would be more than happy to interface with the State Bar committee and offer my pro bono services wherever needed to hopefully aid and assist the practice of law in California a respected profession.
16744996	Gimbel, Peter	Y	D	I do not support a rule mandating attorneys report other attorneys. I see no need for such a rule. An ethical attorney who views criminal acts committed by a colleague would already report such conduct. New rules and regulations added on top of what is already there seems entirely unnecessary.

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16662345	Grace, Melodie	Y	A	
16635113	Griffin, Darrell	Y	A	As lawyers we interact with each other and see court room decorum, professionalism and conduct of colleagues on a daily basis. Without a reporting requirement too many attorneys take the stance that challenging behavior on one case creates worse outcomes on future cases. This results in compromise and honestly creates situations where there are just plain bad attorneys breaking rules and this creates an increased cost for all clients.
	Hill, Todd			See Attachment
16773907	Jenson, Moana	N	A	I have attached a pdf document in support of new rule 8.3. I am a horrific car crash victim, then days later victimized again by predatory attorneys of an illegal hospital solicitation while medically drugged asleep after surgery to reattach my intestine. Included also is a copy of the contract dated 6/ 23/16 and a photo of me while asleep, with a scar bandage dated 6/23. Both my former attorneys law degrees are from California Western School of Law in San Diego. What happened to me should never have happened and I hold both of my former attorneys responsible, a willfully negligent CA State bar; and Cardona and his 2015 negligent stance: https://www.latimes.com/california/story/2022-12- 07/california-proposes-bill-that-would-requirelawyers- to- report-other-attorneys-misconduct "The State Bar's chief prosecutor, George Cardona, who was appointed last year to reform the agency's discipline system, had opposed the law in 2015 while he was a federal prosecutor serving on a statewide commission to improve professional ethics. But Cardona told The Times this fall he had changed his position after seeing firsthand the damage Girardi had inflicted on the legal establishment." This is what happens when attorneys don't have to report each other. I have filed complaints against my former attorneys, no word yet from the CA Bar. I have iron-clad proof of my drugged solicitation - does the CA Bar even care? Unfortunately with Cardona as the OCTC, I have little faith that my complaints will even be investigated by someone whom I think is still interested in protecting attorneys over the public. I also have little faith that my personal experience and support of rule 8.3 will even be shared... to keep victims silenced and protect attorneys. See Attachment

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16775284	Jones, Caitlin	Y	D	I am strongly opposed to this proposed rule. This proposed rule creates more ethical problems than it solves. It creates conflicting duties; a lawyer must not threaten administrative action to gain an advantage in a lawsuit, but with this rule, a lawyer must threaten administrative action even if it results in an advantage in a lawsuit. Who has standing to assert violations of this rule? Do clients get to bring malpractice claims against their lawyer on the grounds their lawyer failed to report opposing counsel for unethical behavior? Do the unethical lawyers' clients have standing to bring malpractice claims against opposing counsel for failure to report their own lawyers? Can any injured client report any lawyer who knew of their lawyer's unethical behavior? Can a lawyer report a lawyer to the bar for failing to report another lawyer to the Bar? Must a lawyer report a lawyer who failed to report a lawyer, and so on, forever? If a lawyer fails to report a violation that lawyer knows about, is the knowledgeable lawyer charged by the Bar with facilitating or soliciting another lawyer's ethical violations? The bizarre iterations are endless. This proposed rule will create unanticipated ethical problems with serious implications.
16655173	Kaplan, Daniel	Y	D	Dear Members of COPRAC, The term "criminal act" is hopelessly vague and overbroad, and using it as the trigger for reporting violates the immutable presumption of innocence. First, as to the terms criminal act, it is too uncertain, and there is no way of knowing when or when not to make a report to the Bar based upon the observation of a criminal act. There are countless statutes in California that define what is a criminal act, covering everything from abuse of drugs to the transport and possession of zoo animals. The federal statutes provide another layer of criminal statutes that also govern nearly every aspect of life in the United States. Each state also has its own penal code and as written, and the new rule arguably includes those crimes as well. There are crimes that are malum in se, and others that are malum prohibitum and therefore not obvious. In short, as written, a failure to report an act that may be criminal but is not known by that attorney to be criminal, puts the attorney at risk of violating the Rules of Professional conduct if he or she does not report the act. If there is to be a rule, then it must make clear that the attorney does not violate the rule if he or she does not know the act to be criminal. Second, no person, including an attorney who fails to report, should be penalized based on the alleged commission of a crime. Under this rule, the reporting

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				attorney, which includes many who have not studied criminal law since law school, must weigh the known evidence, and decide that in the balance, the attorney committed a criminal act. Criminality is defined ... ...by statute, but guilt and innocence is decided at a trial by a jury or judge. Attorneys should not be asked to assume the role of detective, district attorney, jury and appellate court, in order to comply with the proposed rule. Further, if there is no immediate risk of harm to the public such as a risk of violence, or no way for an attorney to determine whether another attorney's criminal act creates such a risk, then no reporting should occur. If an attorney has violated a duty owed to a client, the bar can investigate that attorney. Putting the onus on the attorney making the report to guess whether another attorney's past actions will affect current or future handling of his or her clients matters, is beyond the capacities of any person. No attorney can with any degree of certainty know if a crime has occurred, and that it also "reflects adversely (whatever that means) a lawyers honesty, trustworthiness or fitness as a lawyer. We lawyers do not have crystal balls that provide us with answers to these questions. This proposed rule should be scrapped and not replaced. Sincerely, Daniel Kaplan
16784632	Kenny, James	Y	D	Turning lawyers into witnesses is a terrible idea. I have been a member of the bar for 45 years. I have had several situations wherein I had questions about another lawyer but I have never had sufficient information to conclude that a criminal act had taken place. Suppose we suspect that criminal behavior has taken place but our client is going to benefit from the same. Suppose that we have hearsay information that if true could be criminal conduct. Suppose that we have information that on its own would lead to the possibility of criminal behavior but not enough information that would prove criminal behavior. We have significant duties to the clients that we represent. This proposed rule would create conflicts between our duties to the bar and our clients. What benefit would this proposed rule accomplish compared to the harm that would undoubtedly result?
16746606	Kippes, Althea	Y	D	This is burdensome and oppressive, and will create an atmosphere of distrust in the legal profession. We should not be asked to turn in and report other lawyers. This kind of conduct belongs in a dictatorship, not in the legal profession.

ATTACHMENT D

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16757142	Knapp, Michael	NA	D	
16793266	Kohn Benjamin	Y	D	A duty to report other attorneys imposes an undue burden on the reporting attorneys. They would likely have to do substantial legal research and analysis to verify an understanding that questionable conduct observed is in fact a clear violation rather than merely plausible or colorable. If they do not, then subjective differences as to whether plausible is actual could lead them to risk accusation of violating this new rule even if they were not certain a violation occurred subjectively, while inducing over reporting would unfairly harm both attorneys accused of violations and the professional and personal relationships with the attorneys who report only out of fear of jeopardy, as well as the backlog of complaints for State Bar investigation, which could exacerbate backlogs and bury meritorious complaints such they receive less timely attention. Complaints voluntarily initiated by the complainant are more likely to be meritorious than CYA complaints inspired to ensure the complainant is never perceived to have violated this new rule.
16793091	LACBA Professional Responsibility and Ethics Committee (Cohen)	Y	D	See Attachment
16787365	Legal Aid Association of California (Newman)	Y	A	See Attachment
16635079	Lorens, Lynda Tracee	Y	D	I feel it is inappropriate to turn lawyers into compulsory law enforcement officers. I would caution this would be a very "slippery slope" and I can only imagine the abuse of the system that might occur. What if one, sort of ethically challenged, lawyer wanted to gain an advantage over another...
16708715	Maestas, Andrea	Y	AM	Propose to modify and model new rule like the ABA rule 8.3 and include that: new rule requires a lawyer to report any violation of the Rules of Professional Conduct by another lawyer that raises a substantial question as to the other lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.

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16756867	Marble, Donavan	Y	D	Unsure of the net results. It could be a good policy and encourage more ethical conduct. Or it could lead to a very bitter and divided Bar and further alienation between attorneys and the State Bar. I can note vote on the basis of a hoped for effect but must vote NO based on putting in motion a potentially negative situation. Also, makes no sense to exclude judges if the Rule were to be enacted.
16680887	Martiros, Atina	Y	AM	"Criminal act" and "substantial question" are ambiguous and should be defined. The proposed language would make every shady attorney, who manipulates facts and justifies it as being "creative", subject to potential reporting by opposing counsel because some attorneys really push the envelope and call into question his/her trustworthiness, honesty, and fitness to practice law. The burden on the State Bar would be high to investigate such matters and time and money would be better spent on acts amounting to criminal conduct and acts of moral turpitude resulting in possible disbarment.
16743224	McCool, Maureen	Y	AM	As a member of the Bar for over 30 years, I have been very disappointed in how attorney complaints are dealt with. You have non-attorneys making decisions regarding misconduct and signing letters, (which should violate the paralegal rule) and refuse to produce the records the attorney who is being charged produced. Every complaint should be documented, and if a decision is made that there was no misconduct then that would also appear. Clients who are sophisticated enough to check the Bar have no idea what charges have been entered, OR what the background of the attorney is other than law school. I have a BS and a MBA - clients looking for those items would never find it on the state bar website. Same with medical doctors. Anyone can put out an ad claiming to be an expert in any type of law, but what does the Bar do to confirm that? I filed a complaint against an attorney I hired. There is no doubt that this attorney violated the Rules of Professional Conduct. Your "investigator" indicated that per the records this attorney produced there was no violation, however I was refused access to those records. WHY? SO I have advised the State Bar that I am making this complaint public. The underlying case is headed for trial, and I will be issuing a subpoena to the State Bar for testimony regarding 1) the complaint process and 2) why there is a requirement that a car driver has insurance but not an attorney. ALSO why is there not a rule that the

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				attorney with no insurance has the client initial the statement of no insurance rather than hiding it in the Retainer. Does not make sense. No - I do not expect anyone to appear at trial, however do not be surprised if the LA Times hears from me.
16655653	Mirsky, Steven	Y	AM	I would recommend that 8.3 be modified to state that an attorney "may" report based upon his or her observations. By requiring attorneys to report, it becomes an ethical violation to not report. I believe this would create a very inhospitable environment for attorneys and could represent in overprotection of cases for failure to report.
16694276	Moda, Kevin	N	AM	The Bar would be abdicating its founding purpose if it enacted the proposed rule because the duty to report malfeasance must be mandatory with consequences for those who fail to do so. It was for the purpose of protecting the public that the Bar was founded, not the opposite. Diluting the Rule provides an escape hatch to those who do not wish to report harm done to a member of the public by another attorney.Diluting the Rule provides an escape hatch to those who do not wish to report harm done to a member of the public by another attorney. I personally hired an attorney to defend me and to prosecute my counterclaim. In over 24 months of representation, he failed to do anything productive after receiving nearly $500,000.00, and withdrew from the case a few weeks before trial. As a result of my curiosity, I asked a friend to investigate the "why" behind what had happened. It was revealed that the lawyer who charged me $500,000 lives across the street from my opponent. He also delegated my case to a member of his office who was 6-months new to the practice (having failed the Bar Exam twice) and made so many mistakes I couldn't keep track. A new attorney stepped in and implemented what the first attorney wasn't able to do, and the judgment has been submitted for Judge Bryant-Deason to sign for over $35,000,000.00 in my favor. A new attorney stepped in and implemented what the first attorney wasn't able to do, and the judgment has been submitted for Judge Bryant-Deason to sign for over $35,000,000.00 in my favor. If I had known that I was paying an incompatant attorney who is neighbors with my adversary, my 7 year ordeal would have been over before it started. Despite this, there is concern about false reports filed by attorneys against one another. In... ... response, I say so what. It is the Bar's duty to protect the public, not attorneys from one another.It is the Bar's duty to protect the public, not attorneys from one another. The

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				Bar should follow the wisdom of notable jurist who cared about the welfare of the public above all else. As the preeminent English jurist William Blackstone wrote,"[B]etter that ten guilty persons escape, than that one innocent suffer." This principle can also be found in religious texts and in the writings of the American Founders. Benjamin Franklin went further arguing "it is better a hundred guilty persons should escape than one innocent person should suffer." The Rule should be made mandatory with draconian consequences for a failure to report. Thank you for your time. Kevin Moda
16704073	Mohammed, Shoeb	Y	D	Punishing lawyers who fail to snitch on one another would be oppressive and impossible to enforce. Instead, you'll use it to hurt lawyers who you have nothing else to blame, or use it to wipe out groups of lawyers just because they know one another. This rule will be applied in an arbitrary way and considering how low the "bar" for lawyers has already gotten, we don't need to sink further into the depths. We're low enough.
16792944	Mohr, Kevin	Y	AM	See Attachment
16743177	Murphy, Kevin	Y	A	
16635276	Nelson, Sheila	Y	D	the process to identify bad conduct is already available this is overly broad and unnecessary
16722686	Oberto, Richard	Y	D	This terrible proposed rule would turn the State Bar into a Kangaroo Court as lawyers start reporting each other for petty offenses, infractions, incivilities that are not worthy of a police report. If a lawyer sees another lawyer commit a crime, the lawyer who is the witness should call the police. If the incident is not worth a police report, the very likely reason is that there was no real crime. This terrible proposed rule would set up the State Bar to start adjudicating petty "crime" reports that never see the light of day in a police department, DA's office, or courtroom. Likewise, this terrible proposed rule would set up attorneys to go about mining the state codes as they try to discern whether some petty infraction, incivility, or irregularity rose to the level of a "crime" they need to report. Many attorneys will go about that duty in bad faith. Others might be acting in good faith, but err too much on the side of reporting and create havoc for the attorney who gets

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				reported. What a waste of State Bar resources! What a terrible attorney culture to create! Meanwhile, attorneys like Tom Girardi go about perpetrating decades long client-trust account fraud, stealing hundreds of millions of dollars. Please spare us attorneys the terrible nonsense that this proposed rule would create.
16792179	Office of Chief Trial Counsel, State Bar of California (Cardona)	Y	AM	See Attachment
16792106	Orange County Bar Association (Gregg)	Y	AM	Summary of the Orange Count Bar Association's Comments While the OCBA does not believe that a version rule 8.3 will have the deterrent effect it facially seems aimed to achieve, if such a rule is to be adopted, the OCBA generally supports COPRAC's version over the ABA Model Rules or Senate Bill 42 versions, with some refinement to address the following concerns: The definition of "personal knowledge" is unclear as to whether the term qualifies the other lawyer's conduct (i.e., that the lawyer committed some act) or the fact that that conduct is criminal, or both. Clarification would be helpful. •Even with the "criminal act" limitation, the rule could have unintended consequences, opening the floodgates to rule 8.3 reports. We suggest limiting the type of criminal acts that need to be reported to those that not only reflect adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, but that also constitute an act harmful to that lawyer's client. •Regarding Comment [3], we suggest that further clarification would be helpful as to what might constitute material prejudice or damage to the client that would justify waiting to report a lawyer's conduct. •Comment [6] seems to suggest that the failure to report another lawyer could constitute "assisting" with that other lawyer's criminal conduct. This is of concern because it is difficult to imagine how failing to report could constitute "assisting" with a criminal or unethical act and could cause lawyers to face discipline when common sense would dictate that they did nothing of the sort. See Attachment
16792901	Overarching Reproductive Law Project (Karvunidis)	Y	AM	I.Introduction This is a public comment on the issue of whether California should adopt a new Rule of Professional Conduct addressing a lawyer's duty to report the misconduct of another lawyer. Our group, the Overarching Reproductive Law Project, holds that any such new duty to report should expressly EXCLUDE any act regarding an attorney's role

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				in obtaining or aiding one to obtain an abortion in violation of another state's laws restricting abortion. II.Does "misconduct" include violating anti-choice laws of other states? California Professional Rule 1.2.1(a) states that: A lawyer shall not counsel a client to engage, or assist a client in conduct that the lawyer knows is criminal, fraudulent, or a violation of any law, rule, or ruling of a tribunal. California Professional Rule 8.4(b) states that: It is professional misconduct for a lawyer to: (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; California Professional Rule 8.2 Comment [4] states that: A lawyer may be disciplined under Business and Professions Code section 6106 for acts involving moral turpitude, dishonesty, or corruption, whether intentional, reckless, or grossly negligent. In the aftermath of the U.S. Supreme Court's June 24, 2022 opinion, Dobbs v. Jackson Women's Health Organization, 597 U.S. ___, 142 S. Ct. 2228 (2022), and Whole Women's Health v. Jackson, 594 U.S. ___, 141... ... S. Ct. 2228 (2021) (S.B. 8 litigation), in which the U.S. Supreme Court allowed a Texas law to stand effectively banning abortion by permitting private causes of action against people assisting residents of Texas with seeking abortion care, we asked that the State Bar issue the following advisory opinion AND exclude abortion-access issues in any new rule regarding the duty to report via a letter sent Oct 3: As a result of and in response to the U.S. Supreme Court cases Dobbs v. Jackson Women's Health Organization and Whole Women's Health v. Jackson (S.B. 8 litigation), a California lawyer who engages in conduct that is legal in California, specifically that of seeking an abortion, or facilitating or aiding and abetting a person seeking abortion care or other reproductive health care access to secure that care, in a state where that care is legal, whether or not that facilitation or care is legal or authorized in another state, the

TOTAL = 84 A = 10
D = 50
AM = 24
NP = 1

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				California attorney will not face discipline (original or reciprocal) from the California Bar. Aiding a person who seeks abortion care is not considered an act of moral turpitude, nor does it affect the lawyer's fitness to practice law. The above opinion contemplates these five scenarios: 1.An attorney who is a member of the California Bar is domiciled in a restrictive state, such as Texas, working in an in-house counsel position at a national company, and helps a woman travel to another state to seek abortion care. Absent this opinion, the ... ...attorney would be subject to discipline by the California bar for breaking a Texas law (due to choice of law). 2.An attorney who is a member of the California Bar helps a non-client domiciled in a restrictive state such as Texas seek an abortion in California (or another more protective state) in violation of state law. 3.An attorney who is a member of the California Bar engages in digital communications with a client or non-client in a restrictive state, such as Texas, in furtherance of seeking abortion care. 4.An attorney who is a member of the California Bar is disciplined by the Bar of another state due to violating anti-aiding and abetting statutes in a restrictive state. 5.An attorney who is a member of the California Bar represents a corporation or entity with employees in a restrictive state such as Texas and provides legal advice regarding his/her/their client's intention to provide health care benefits to those employees that include abortion care and/or funds to facilitate travel to procure abortion care. III.Summary Any new Rule of Professional Conduct adopted by the California Bar should explicitly exclude from the definition of misconduct any attorney behavior relating to abortion care access because California attorneys who conscientiously violate "aiding and abetting" laws in other states by helping people access abortion care in California (or other non-restrictive states) are 1. Not committing acts of "moral turpitude" and 2. Should not be... ... subject to bar discipline. In the alternative, the State Bar should issue the above advisory opinion protecting California attorneys.

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				Overarching Reproductive Law Project Executive Committee Members: I'niah Clark Jenna Karvunidis Christy MacLeod Women's Lawyers Association Of Los Angeles 1185 Hastings Ranch Drive Pasadena, CA 91107 626-696-9684 OverarchingReproductive@gmail.com See Attachment
16750662	Perrott, John	Y	AM	Proposed Rule 8.3 states: (a) A lawyer shall inform the State Bar when the lawyer has personal knowledge that another lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by rule. It should instead state: (a) A lawyer shall inform the State Bar when the lawyer has personal knowledge that another lawyer has committed any act which places the attorney or any other person in physical danger. REASON FOR EDIT: Phrases such as "fitness as a lawyer" are vague and far too open to biased interpretation. Nevertheless, in the same way that attorneys are required to report their clients if the client states an intent to do another person physical harm, there is some benefit from applying the Tarasoff reasoning to counsels as well. Attorneys have always been free to report other attorneys, and that should remain unchanged. Requiring attorneys, who may be locked in an intense adversarial process with opposing counsel, to somehow draw the line for where "Honesty" or "Trustworthiness" is when opposing counsel may have done something questionable is a recipe for trouble. A rule requiring a report will result in too many reports of minor and/or heavily biased matters. Because attorneys have always had the option of reporting, the serious matters will be reported without this rule.
16750581	Roper, Sharon	Y	D	The proposed rule is a result of the public disclosures made as to the State Bar's utter failure to properly investigate the claims against Tom Girardi and his law firm over many years. The claims were filed by clients of Tom Girardi and his law firm, and the State Bar failed to do its job and thoroughly investigate those claims. Unless and until the State Bar can demonstrate that it can do its job and properly investigate claims made against attorneys by their own clients, adopting the proposed rule will achieve nothing in the protection of clients against attorneys who violate the professional rules. The proposed rule is an attempt by the State Bar to defect the negative attention that it rightly deserves for its failure to property investigate client complaints against well known and

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				influential attorneys, and shift the blame to the general population of attorneys practicing in California.
16791113	Ross, Renee	Y	D	I have been practicing (mostly family law) for almost 18 years. I have never commented on a proposed rule; however, I feel strongly enough about my concerns that I am taking the time to do so this time. I strongly endorse the idea that lawyers, as officers of the court, have an ethical obligation to report criminal conduct when we see it; however, the language of this rule makes it unethical if I do not make such a report. I practice family law, not criminal law. I do not feel that I am competent to interpret what is or what is not a criminal act. I do not feel it is appropriate to place the burden on lawyers to be subject to potential liability for potential ethical violations when the rules and language is so broad and vague.
16662676	Rudolph, Anne	Y	D	An attorney should not be put in the role of the police, prosecutor, judge and jury for the activities of other attorneys. And, moreover, an attorney should not risk being disciplined herself by the State Bar if she fails to take on that role as police, prosecutor, judge and jury for the activities of other attorneys. What is personal knowledge? What about innocent until proven guilty?
16749851	San Diego City Attorneys Office	Y	AM	See Attachment
16681166	Sanders, Cassandra	N	A	There should also be an added component which allows attorneys to report the State Bar if there is an allegation against the Bar for failing to investigate, prosecute and disbar attorneys who have 10 or more complaints. The State Bar should also be required to proactively go through closed (cold) complaints to review and report on those attorneys with multiple complaints already in their system. This will provide the necessary transparency and accountability needed to regain the public's faith and trust. This could be done by the Public Trust Liaison, which should be fully COPRACed, trained and funded. A set of updated intake standards can be set to ensure that consumers are given sufficient guidance on how to submit complaints and aren't simply left to figure things out for themselves. Annual audits of legal service providers should be mandatory, fully COPRACed and fully funded. There should also be a whistle blower component for

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				attorneys reporting on their employers and or associates and partners. Consumers would benefit from having lawfirm search function along with a list of firms published on the State Bars website with licensing status for firms, just like there is for attorneys.
16698196	Somilleda, Eric	N	AM	Proposed New Rule of Professional Conduct 8.3 Reporting Professional Misconduct Public Comment The profession of practicing Law is admirable. The profession requires that those who chose to work with gamesmanship with a strategic work ethic must be fit holistically. Young lawyers will yield more inquiries as to how is misconduct is defined? Seasoned attorneys who have earned the title has come at a cost. Society is changing as the culture in Los Angeles County is vivid and inclusive. However, the principles of family values are indeed in the arena Family Law Attorneys. All members should with comply with State Bar requirements to practice law. Licensed attorneys shall be following Business and Professions Code section 6054 in the event identity theft is an issue. If an act of misconduct is interpreted as a violation of the law, then have a review committee with a credible instrumentation of assessment to determine assist the validity to report of Rule 8.3. If the course of misconduct is one that compromises human life and is an act of terror call the office of homeland security and local law enforcement before you submit misconduct of Rule 8.3. “The way of truth is along the path of intellectual sincerity” by Henry Pritchett. See Attachment
16695881	Sterling, Nathaniel	Y	D	In my opinion the novel proposed rule 8.3 is a bad idea because it would FORCE attorneys in some ways to become some sort of kafkaesque or stalinesque informants and complainers against other attorneys which would corrode any remaining collegiality in the profession and would also substantially corrode civility in the profession (and civility and collegiality in the profession are already sorely lacking and belligerence much too prevalent and this novel rule would just make the problems worse). California has always had and should continue to have it's own thoughts on rules independent of various other states' rules or model rules. This kind of informing and complaining against other attorneys should remain voluntary within the sound discretion of attorneys.
16713016	Stone, Clark	Y	D	See Attachment

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16727276	Stuart, Anthony	Y	AM	I'm disappointed in the proposal. It's too weak. The proposal should model the language of Senate Bill 42 (Umberg) now pending. That bill would require the reporting of the violation of the Rules of Professional Responsibility as well as criminal conduct. It surprises and disappoints me that COPRAC would propose a much more narrow rule. I also disagree with the proposed exception to the rule for "statutory mediation confidentiality." Statutory mediation confidentiality is extremely broad and therefor problematic. It serves as a protective shield for wrongful conduct by attorneys and is, itself, in serious need of legislative reform. A new rule should not endorse it. Mediation confidentiality also incentivizes mediator misconduct -- highly problematic for an industry which operates without regulation or certification process. I would support the proposal if these two corrections were made: Include violation of the Rules of Professional Conduct as subject to the reporting requirement, and remove the exception for mediation confidentiality.
16785070	Talitha	Y	D	Requiring attorneys to report on other attorneys would create an even more hostile environment for the practice of law.
16778613	The Consumer Bar (Carlson)	N	AM	See Attachment
16635059	Varlack, Tiega-Noel	Y	D	This proposed rule leaves too much room for subjective interpretation of a violation of law etc. This leaves too much margin for error and can be used as a tool against unpopular attorneys. I strongly oppose.
16744864	Vasquez, Mikonos	Y	D	
16784817	Warhurst, William	Y	D	I oppose the proposed rule, because it requires that I determine what is over-the-line as a criminal act versus what is bad-or-inappropriateor- reckless-conduct just shy of criminality. I have practiced only civil law for 40 years. I last reviewed criminal law for the bar exam in 1980. I can readily keep my own conduct so far from criminality that there is no possible gray area, but the proposed law requires that I abruptly learn criminal law merely to police other lawyers. The proposal requires that I acquire the ability to “know”

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				– not even have a personal opinion or reasonable belief if – but actually "KNOW" if another lawyer has committed a specific class of crimes. Other than the most obvious situations, I lack that skill. I certainly had no intent to suddenly acquire the capabilities of a criminal lawyer after 40 years in civil practice. I think it is unreasonable of the State Bar to think I should learn criminal law now or be disciplined, myself, for failing to recognize criminality that the State Bar apparently thinks I should "know." I also oppose the proposed rule, because I have not seen any protection for the reporter. With my lack of skill in criminal law, I may have a belief that criminality occurred and dutifully report it, but the State Bar later determine the conduct I reported fell just short of what is needed to be a crime. Will the State Bar defend me when the lawyer I reported says I defamed him or cost him business? Is my mistaken good will a defense? What is the standard by which I need to "know" of a crime before reporting it? Should I have consulted with a criminal lawyer before making the report, considering my lack of expertise in criminal law? I do not see any of these issues addressed in the... ... proposed rule-making, but they need to be clearly stated for the rule to have a plausible impact.
16721922	Weigman, Dorothy	N	A	My sister and her husband run the courts as a Wertheimer; investigated by the f b i in 2015 as records were being changed in the Lamoureaux justtice center. The words "justice" is a farce as I received documents showing they are using both the Lamoureaux Justice Center and the Central Justice Center for my mothers one probate. They have obligated "Attorney's, Dr.s, Judges and world leaders" to "trade secrets", "attorney client priveledge" and work " product priveledge" as CT corporation systems.; and I have this in documents profered from a Jeff Vanderveen. The 10 year end of life pyramid scheme; a "victoria's secret" scheme that a jeff epstein took part of; Maddofff's Ponzi using the decedent to my probate case; my mother as partnering with "american securties"; which later became CT for Wells Fargo as they had too many ethics violations using their own mother as Americxan Secutrities; I even have documents showing they merged ct with jp morgan on physical property; creating the decedent as a CT Morgan; my mother as a CT Morgan to bring in properties TAX free through the probates of the many trusts accidentally handed to me for the probate of a Diana Engstron; they turned my mother; their mother into a mortgaged backed security by turning her into a property; her Arizona property utilized by Brandywine for the largest pump and dump scheme of all

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				time; just the name Diana Engstrom alone you see over 100 phony identities for their wolf of wall street, Jordan Belforte scheme where they use court documents to change her name and create trust of identities using your courts. It's the Wertz' banking Ponzi run through your courts, but its the "George Soros" Ponzi not fully realized. As it's those $50K plus loans used by Soros as investors are phony "trust of"... ... identities, in the mortgaged backed securities they use the "phony trust of identities" for; creating fraudulent people put on easements; the Soros loans are easement loans that take part and go hand in hand with the pay to play scheme of the Wertz'! it is the "Like Minded People" scheme" where Attorney Richard Lehn was able to ask for Jamie Dimon in 2009 how on earth will the Pandemic Bond's be repaid from the Wertz'; the murder Ponzi that I can prove takes place on easements; with corporate leaders purchasing properties nearby to bring in properties in this George Soros/Ed Wertz Ponzi; once the death takes place of the duped person the fraud is done by changing backgrounds; many fraudulent identities are created on these "mbs" investments taken out in a trust of a duped person. For example I have a SHELAG MURPHY trust on my easement; Andy Struve in CA,my ex-husband has 2 "murphy trusts" on his background; it is illegal in Colorado to have a QUIT Claim deed on your easement; but the scheme offered to me in 1997 when I refused the first tier was to take the position of a risk assessment advisor from within the banks; use a phony identity and help write in easements to your property descriptions that would split a deed. That is exactly what the Wertz and Andy Struve have done with their scheme, they have split my deed; but it is anyone who took out a loan with Mr.Wertz or any of his "risk assessment' advisors; trust companies, or banks who have split deeds written into their easements. It's a murderous banking Ponzi for sick people. i thought I had talked family out of the Ponzi; but they acquired Citi Bank, Capital One; Discover; Chase and American Express by using this murder Ponzi; the fraud in the courts are all part of the scheme; the first line; "attorney's, drs, judges ... ...and leaders all get into the scheme for free". first line to the first tier of the scheme that the Wertz call their stupid people, yes they call the first tier their "stupid" people! The second tier is their risk assessment advisors in the banks that take part in writing easements into the loans. Everyone gets 4 loans; everyone gets stocks and a free condo. Everyone takes part in inheritance theft; fraudulent court cases; and it's a murder Ponzi. "no one feels too guilty

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				as its 8 to 11 in each group that all take part in the murder"! I know this sounds disgusting but it's the banks and it's my family! I have proof; they had their own mother acquire Ecolab's and be the president of suffch-engstrom; "the trustor to the loans", CA trust company;Datex-Engstrom a Ventiltor manufacturer the D Engstrom trust; they used her as the trust of CA; the trust of the county of orange; and they are using me as the trust of La Paz county; as Ed would laugh with his work with the Whiley Bros. tax fraud case as Bank of America, one trust buys the other no one the wiser; Ed Wertz had me acquire my mothers trust and we have it in my sisters writing; my sister is the executrix to this Ponzi; Ed Wertz is the UDT trust of his victim; Andy Struve is the UDT trust of me without consent. The banks are doing identity theft of thier duped people and phony accounts and it's my family for their murder Ponzi offered to me in 1997! Assange sits in prison because he was handed classified documents as to what they do to their victims: they are collecting 1 billion dollars for each service member that dies! This is the same thing only the 4 loans: 1 pays ed a kick back; 1 pays for all 4 loans; 1 loan you keep and 1 loan buys life insurance on a duped person; they wanted me to put a hit out on my... ... exhusband, only they had been working the scheme with him since the 1990 the 80s. Where he turned me into a partnership without my knowledge and took out loans using the trust of me. It's fraud. Your courts are corrupt because they are privately owned and Mr. Wertheimer; is Mr. Ed D Wertz of redmond wa, but pretends to be Mr. Ed H Wertz of Yorba Linda; a female on backgrounds as he is the udt trust of the decedent for case 30-2019-01066813 in the Central Justice Center; he is the UDT trust Diana Engstrom in the Lamoureaux Justice Center and poor Judge Johnston in the Central Justice center is Judge G Johnson for the probates in the lamoureaux and Judge D Johnson in the lamoureaux for the DV cases where Mr. Wertz uses fraudulent court cases (investigated by the f b i in 2015 for changing the cases) and even changed a court case from a 2014 "Wertz v Weigman" that was primarily used for Money Laundering accounts for a Diane Engstron; for Wells Fargo "proof exists"; and uses that dismissed case to add relavancy to a case # dv 21001003 that not one attorney could represent me as it was a fraudulent case; yet he incorporates me to a suite number at 26369 hwy 160 ste A; Durango, CO 81301 and creates a bench warrant for a Dorothy Weigmana! The courts are corrupt because the bankers have acquired them for their property theft scheme. It is a murder

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				Ponzi for sick shallow superficial people! And..... no one cares; when you see corruption; do a background on the judge and the attorney; or the trust of the judge and the attorney; see all the condos for $405K, see all the loans handed to them for going along with the scheme. For Johnston to man up and tell the truth in my case: in the Lamoureux 2019- 01066813; or 30-2019-01066813; he has to be sick of the greed; as he confessed... ... in subpoena's more trusts brought through my mothers probate than he can possibly bring forward; it involves other states; THERE HAS NEVER BEEN A FILING OF THE ADMINISTRATION OF THE TRUST!!! THAT IT IS CA EVIDENCE CODE 1040; SOME GOVERNMENT THING HE IS DOING BY BRINGING IN TAX FREE PROPERTIES VIA THE DEFILED DEATH OF MY MOTHER! It's not that the loan officers went wild 10 years ago with the mortgage crisis; it was part of the Ed Wertz/George Soros Ponzi; it's not that the judges and attorney's have gone wild; it's just part of the murderous Ed Wertz/ George Soros banking Ponzi of property acquisition; life insurance distribution; phony identities on easements for their pump and dump that controls the stock market and controls the real estate market as the banks; ITS THE BANKS AGAIN and we all KNOW IT: it's the Wertz' working with Andy Struve; George Soros; they Trump Organization and any politician who will take part; it's Linda Rold and Dana Philblad her daughter, Rold as Roldiricardoo who acquired my mothers property also ran the "trustee fraud" life insuraance scheme that Jamie Dimon discusses and laughs about; it's the same people as last time taking down our country and they are taking over from within! This attached document I had to file 10 times; then report to the federal courts I was getting hacked; then they hacked me to finally ad it to my mothers probate at the lamoureaux while I was at an RV show! THE BANKS HACK AND IT:S UNFAIR!!! See Attachment
16784681	Wright, Lisa	Y	D	There are already mechanisms in place to report misconduct, without mandating that a report be made.
16752864	Young, Richard	Y	A	

ATTACHMENT D

***TOTAL* = 84** **A = 10**
D = 50
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16655787	Zohrabyan, Narek	Y	AM	First of all, why are judges getting a pass here? Why not make it a requirement to report judges for the same way lawyers are to report other lawyers as laid out by the proposed rule? Also, why is this duty now being forced down on practitioners? This is policing that the Calbar should instead be doing. Due to systemic failure by the Calbar bar to clamp down on the Girardi's shenanigans, now, we as honest and hard working attorneys have to take an active role and do Calbar's job for them.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
City	Los Angeles
State	California
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Anonymous
State	California
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	"ABA Model Rule 8.3 requires a lawyer to report any violation of the Rules of Professional Conduct by another lawyer that raises a substantial question as to the other lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." Having been the victim of another lawyer's misconduct as described above, and having reported said misconduct to the Bar, to no avail. Such a rule is meaningless unless the Bar enforces the rules of professional conduct. Why make reporting mandatory if the State Bar is going to do nothing? As a result of the Bar's inaction and opposing counsel's conduct, I got to the point where I stepped in front of moving traffic, not caring whether the van would stop or not. It stopped. I sought help. But never again would I want to file a complaint with the Bar about another lawyer's misconduct, and have turned a blind eye to subsequent incidences. I would support such a rule if it were optional.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	The rule is not clear and the requirement is strong. There would be a lot of confusion about what types of acts would be required to be reported, as well as what observations would be sufficient to determine if someone committed such acts. There is also the potential for abuse by adversaries in litigation, for example, or potential exposure and liability if one misunderstands or is incorrect in filing a report when they genuinely believe it to be the case.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Anonymous
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	By the rule's terms, an attorney is subject to discipline when he/she knows that another member has (1) committed a criminal act, which (2) reflects adversely on (3) a lawyer's honesty or (4) trustworthiness, or (5) fitness as a lawyer in other respects as prohibited by rule 8.4(b). But even if it be shown clearly that the non reporting lawyer has actual knowledge of the underlying facts, there are many reasons why the non reporting attorney would reasonably fail to report. "Criminal acts" are presumably defined as misdemeanors or felonies. (It is assumed that the rule does not cover infractions— though perhaps a stretch since misdemeanor theft is often pled down to an infraction.) Even still, criminal statues occupy not only many inches of our Penal Code, but Labor Code violations are misdemeanors in many instances, the W & I Code, H & S Code, the Gov. Code, and of course the entire Federal Statutory library are all replete with criminal statutes. Many of these provisions are not intuitive (as evidenced by the trope "ignorance of the law is not a defense".) It would be unfair, indeed immoral, to threaten discipline to a non reporting attorney lacking knowledge of all criminal laws. But this proposed rule does

precisely that.

The remaining elements “reflecting adversely on a lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by rule 8.4(b)” evidences a (forgive the vernacular) wishy washy standard that can be challenging to apply in many circumstances for a reporting attorney. Just for an example, say the reporting attorney knows that on a Saturday night, the member engaged in consumption of contraband mushrooms in the privacy of her home. Is it clear that this...

... felonious possession and use of a narcotic reflects adversely on the traits outlined? In sum, the rule is fraught with vagueness and Lawyers are not, ipse facto, trained prosecutors.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	No
Name	Prefer to not disclose
City	Prefer to not disclose
State	California
Email address	james93291@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	As a member of the public, whose faced multiple civil rights violations, and whose career and reputation were severely damaged by police misconduct, judicial misconduct, prosecutorial misconduct, and misconduct of family law attorneys, I fully support this rule, and would also support a requirement that attorneys report judicial misconduct to the Judicial Council and Council on Judicial Performance. I appreciate that the State Bar is proposing the rule mandating reporting of misconduct of other attorneys; the general public has very little trust or respect for the legal community. This rule could help clean up the profession and rebuild public trust.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	anonymous
City	los angeles
State	California
Email address	lawbook@aol.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	The proposed rule would be useless given the positions of the prosecutors that work for the State Bar of California. I addressed false statements made in an affidavit under penalty of perjury. The prosecutors response was if the judge doesn't care if the statements are false, we don't care. The person who made those false statements happen to be their friends. If the state bar isn't going to do anything about perjury, why would they care about other behavior reported to them by another lawyer. A perfect example is the 205 complaints against Thomas Girardi that had resulted in no public discipline. A rule requiring reporting a lawyer like Girardi would have not made any difference in how the state bar of California dealt with him.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
City	Burlingame
State	California
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Prefer "Encourage" to "Require"

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Anonymous
City	San Jose, CA
State	California
Email address	ashyom@yahoo.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I oppose the rule. If the rule uses shall "SHALL," the rule should apply to anyone associated with the courts, including but not limited to judges, EC730 experts, mediators, parole officers, clerks, bailiffs, etc. And then you've got the problem of the white lie used by many of the above to reach an agreement. Yes, it's technically accurate that a judge in a family law case could turn a case that is in deadlock into a dependency case because neither of the parents is, in the judge's mind, looking out for the minor's best interest. I've never seen it done. And it's technically accurate that 17-year-olds who are consensually having sex could be charged with unlawful intercourse with a minor, but I don't think I've ever seen it charged by a DA. However, I've heard it used as an argument for stipulated restraining orders (and to put the fear that criminal charges or restraining orders could issue) to bring down the

temperature in a case. These are just borderline issues; many more black-and-white facts that result in good and bad results that can't be listed here. An argument can be made that the problems listed above speak to the "lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer."

I take legal positions. At times they may be absurd legal positions. However, they may be those that the client wants to hear - and then we get to a settlement after the histrionics are over.

Sometimes, clients...

... lie to an attorney or on the witness stand. If my client goes "sideways," I'm not permitted to cross examine him so that the "truth" comes out. I have certain responsibilities as an officer of the court. Do not require me to tattle on another attorney, who's in a similar situation when I know more facts than the attorney questioning the witness.

If I wanted to be a police officer, a private investigator, or similar I would have been trained for those jobs and/or taken the POST training. Do not change my job to one where I potentially become a witness in every case that I take. The person, whom I'm a witness against, is the poor sod who's got the unsavory client on the other side of the "vs." NO!

I'm an attorney. I take legal positions within the confines of being an officer of the court. I know when to suggest my client proceeds by narrative. However I don't know about the other guy, nor

should I be required to be investigator, judge and/or jury or snitch regarding the attorney on the other side of the "vs."

Thankfully I've been practicing long enough that I can leave my practice if this proposed rule becomes a rule, because I'm not going to become investigator, judge, jury and executioner.

Change the operative word to "MAY" and I have a different response.

This response is my 15 minutes, that I have today to respond. Were I to take more time, I'm sure I would like this rule less.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Anonymous
City	San Jose
State	California
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	This rule requires attorneys to be snitches on each other, but not on judges, and further encourages more antagonistic, adversarial relationships between attorneys.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Anonymous
City	San Jose
State	California
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Strongly oppose - it's not the attorneys' duty to report other attorney's for misconduct and they should not be required to do so by this rule! And why doesn't it require reporting judge's criminal behavior?

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Louis Anthes
City	Long Beach
State	California
Email address	louis.anthes@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	"Require a lawyer to file a report with the State Bar if the lawyer knows through their own observations that another lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer." I would change the proposed "New Rule 8.3" to refer only to those "criminal acts" that constitute a felony, not a misdemeanor, under California state law. And the reporting obligation imposed on any lawyer by "New Rule 8.3" should only fall upon those lawyers who are licensed to practice in the State of California or are admitted to a particular California court jurisdiction pro hac vice. I would exempt mandating the reporting of lawyer conduct which involves allegations of the reported lawyer's alleged personal use violations of the federal Controlled Substances Act, e.g. cannabis, psilocybin. This of course raises the

question as to whether attorneys licensed in the State of California should police one another over alleged criminal violations of federal terrorism, espionage, immigration, voting, tax laws, etc.

If only to reduce the burden on the State Bar to investigate attorneys for other attorneys' reports of attorney criminal acts, I would revise the "New Rule 8.3" to read: "Require a lawyer licensed in the State of California, or require a lawyer admitted to practice pro hac vice in any California court jurisdiction, to file a report with the State Bar if the lawyer knows through their own observations that another lawyer has committed a felony, as codified in California state law only, that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer."

-- Louis Anthes (CBN 263059)

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Are you an attorney?	Yes
Professional Affiliation	Association of Disciplinary Defense Counsel
Name	Carol M. Langford
Email address	langford@usfca.edu
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	ADDC_Comment_to_Proposed_CRPC_Rule_8.3.pdf (217 KB)

Association of Discipline Defense Counsel

940 Adams Street, Suite J, Benicia, California 94510 | T: 925.765.9780 | Email: langford@usfca.edu

February 10, 2023

VIA Public Comment Submission

Board of Trustees
The State Bar of California
180 Howard Street
San Francisco, CA 94105

RE: Proposed Rule 8.3

Dear Board of Trustees:

We have reviewed your draft proposed Rule 8.3. While we do not support the approval of this Rule, we believe that your draft is almost as narrowly tailored as the Rule can be drafted, with one caveat. We note that the proposed rule departs from ABA Model Rule 8.3, which requires reporting only when the "lawyer . . . knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a *substantial question* as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects . . .." Comment [3] to the Model Rule explains that the "term 'substantial' refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware." In other words, not all violations involving a lawyer's honesty, trustworthiness or fitness fall within mandatory reporting and a "measure of professional judgment" is warranted. *Ibid.*

However, the State Bar's proposed Rule 8.3 does not seem to permit such vital discretion. Rather, the reporting mandate is triggered when a lawyer has personal knowledge that another lawyer has committed a "criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness. . .." Although "personal knowledge of a criminal act" may imply a sufficiently high degree of seriousness, it can also encompass minor infractions. In short, it invites confusion and does not provide an adequate level of guidance to lawyers faced with the dilemma over whether to report or not. Thus, we recommend that the "criminal act" language of the State Bar's proposed rule be replaced with the Model Rule's "substantial question" language, which has already been adopted and interpreted by other state bars around the country.

We also considered whether the State Bar of California has the resources to handle these complaints. We think that they might get very busy with CTAP matters in the next few months. Other questions came up like how would these matters be investigated? Would third party complaints be handled differently than complaints from opposing counsel? We ask this because we are concerned that this Rule may encourage reciprocal complaints from opposing counsels that weaponize the complaint process. We also think that privilege issues will arise that might impede your investigations.

ATTACHMENT D

Thank you for the opportunity to comment on this Rule. If you would like to discuss our comments more, feel free to contact me and we can link you to our next Board meeting.

Sincerely yours,

/s/
Carol M. Langford
2023 ADDC President

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Gabriel Balayan
City	Sherman Oaks
State	California
Email address	g.balayan@fulrbrightmail.org
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	The narrative above states that all other US states has adopted a similar rule but the CA did not and ABA MR also has such rule. However, it will useful to learn some stats about this rule in other states on chronological order. When the rule was adopted, what was the number of complaints, what was the number of dismissed complaints and how many had any consequence, to what were the rulings on such complaints etc. My understanding is that no need to follow the general trend if it will have relevant impact on the legal profession and can be overly burdening for others. It is worth to consider that if adopted this as violation of this rule will be also charging other attorneys for knowing and not reporting, and alike. This will make a really heavy burden on the State Bar administrative proceedings, because in the law firms there could be chain charging with

accusation to the whole team at the firm.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Barbara Beard
City	Needles
State	California
Email address	Listentolaw@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I first wanted to oppose this but then realized how many criminals we have now. I believe this goes a bit far for over regulation. I just can't imagine an attorney observing criminal conduct by another attorney not reporting it without the need for this rule. It's too bad it's gotten this bad. It would help if you made us aware of occurrences of this nature so we can better assess the necessity for the rule. I would think that can be done without naming names and by General description of the types of crimes these attorneys have engaged in or you expect they will engage in.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	MARY BIRD
City	SAN JOSE
State	California
Email address	mbird@mbfamlaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	The proposed rule smacks of Nazi Germany or Stalinist Russia. I am opposed to spying on my neighbor. The rule is subject to abuse by lawyers who want to harm an opponent.

Public Comment - Proposed Rule 8.3

Are you an attorney?	Yes
Name	Beth Chagonjian Bohannan
City	Redwood City
State	California
Email address	beth@bcbestatelaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Unfortunately, this law is absolutely necessary as attorneys' failure to follow the rules of ethics and codes of civility continue to grow. It is apparent that attorneys will not regulate themselves unless forced to do so.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	No
Name	Luis Bonilla
City	Modesto
State	California
Email address	360.lb.88@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	THE STATE of CALIFORNIA 'Public Corporation and its public agencies' must hold itself to a higher standard of law and procedure to accommodate for any official misconduct or malpractice in performance. ABA Rule 8.3 Reporting Professional Misconduct Maintaining The Integrity of The Profession (a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority. (b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

(c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.

Such rules need to be enforced especially if there is official misconduct committed by a judge, not only does it look poorly on
THE STATE of CALIFORNIA, it assumes an unlawful image upon the The State Bar of California 'Public Corporation' as well as THE STATE of CALIFORNIA 'Public Corporation and its public agencies'.

(Third parties are genuinely known as the Living Man/Woman the clients are considered sole proprietor-ships or corporate vessels with a living agent/representative with the same name...

... spelled in ALL CAPS 'ens legis' ficticious legal name or DBA since corporations have no voice and need a living agent to act or perform to enforce the bonds to bid, perform, and pay)

Since attorneys, NOT their clients who are the third parties' property are aware of the proper procedure they must be held responsible to report. If they do not report it is a reflection of conflict of interest since all members who are licensed to practice law are all Bar Members themselves. Judges may not be Bar members however, they are enlisted as judges after being Bar Members of their STATE of which their business is conducted. If such business is conducted unprofessionally and allowing unconstitutional simulated legal processes. Then all those who are aware are considered co-conspirators by not reporting such acts.

This comment shall be in favor on the condition that it reflects the lawful ABA rules of professional conduct.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Name	Robin Brune
City	Felton
State	California
Email address	robin@erinjoycelaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I don't know if the State Bar has contemplated a circumstance in which the duty to report under 8.3 would put the reporting attorney in jeopardy for their own health and safety or the safety of their loved ones. But when we are talking about crime, that is a possibility. I do not think we should require that of an attorney. There is an exclusion for their client's interests, but what about their own safety or the safety of their loved ones?

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Leslie Burns
City	San Diego
State	California
Email address	leslie@burnstheattorney.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Sadly, this is well intended but would result in a ton of threats by opposing counsels/parties or even false claims being actually asserted. I already get threats for representing artists in copyright actions now, even though I am scrupulously ethical; I can only imagine how insane it would get if this rule were adopted. Women and minorities will be targeted, surely. Please do not adopt this rule.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	NAOMI BUTLER
City	Newark
State	California
Email address	NaomiB@potterhandy.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I do not believe it should be required but should be optional. First, if I'm going to report criminal acts, it's going to be to Law enforcement, because they need to handle it; second, I have seen Defense counsel's accuse attorneys of being an extortionist for simply representing their clients. If these attorneys believe that, it appears this rule requires them to file a report with the bar. I believe there should be a way limit the subjectivity of the rule, and making it mandatory seems the wrong way to go about it

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Are you an attorney?	Yes
Professional Affiliation	California Lawyers Association
Name	Jeremy M. Evans
City	Los Angeles
State	California
Email address	jeremy@csllegal.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	CLA_comments_on_proposed_rule_of_professional_conduct_8.3.pdf (257 KB)

CALIFORNIA LAWYERS ASSOCIATION

February 17, 2023

Board of Trustees
The State Bar of California
180 Howard Street
San Francisco, CA 94105

Re: Proposed New Rule of Professional Conduct 8.3 (Reporting Professional Misconduct)

Dear Trustees of the State Bar of California:

The California Lawyers Association (CLA) submits these comments in response to proposed new Rule of Professional Conduct, rule 8.3.

1. **The reporting requirement set forth in proposed rule 8.3 raises significant questions and concerns**

Under existing Rule of Professional Conduct, rule 8.4, "It is professional misconduct for a lawyer to…(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects." Under proposed Rule of Professional Conduct, rule 8.3, a lawyer would be required to "inform the State Bar when the lawyer has personal knowledge that another lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by rule 8.4(b)." To the extent proposed rule 8.3 is aimed at violations of rule 8.4(b) it has a laudable goal. There are, however, significant differences between the two rules. We discuss below our concerns with proposed rule 8.3.

Rule 8.4 and proposed rule 8.3 operate in very different contexts. Finding a violation of rule 8.4(b) necessarily involves an adjudication and the entire process associated with that adjudication, including an investigation, opportunities to present a defense, State Bar Court proceedings, and potential review by the California Supreme Court. Proposed rule 8.3, in marked contrast, essentially requires an individual lawyer to conclude—on their own—that another lawyer has violated rule 8.4(b), i.e., that another lawyer "has committed a criminal act … as prohibited by rule 8.4(b)." Although the words in the two rules are the same, they carry a very different weight under proposed rule 8.3. Under that rule, lawyers would be leveling serious accusations against other lawyers *and* would be subject to discipline if they failed to report as required. Any such reporting requirement needs to provide clearly defined terminology.

400 Capitol Mall, Suite 650
Sacramento, CA 95814
916-516-1760
calawyers.org

Although it may be relatively easy to envision situations where proposed rule 8.3 would be implicated (e.g., known theft of client funds) there are a large number of situations where the applicability of the proposed rule would be unclear at best.

Our concerns begin with the term "criminal act" in the rule. Is a "criminal act" intended to be the same as or something different from a "crime"? This is not just a matter of semantics. These terms are sometimes used with materially different meanings.

Crimes generally have two key parts, an *actus reus* (the criminal act) and a *mens rea* (the required criminal intent). The uncertainty with proposed rule 8.3 can be illustrated with one example that could easily arise. Lawyers often submit declarations under penalty of perjury. Under Penal Code section 118, a person is guilty of perjury only if the person "willfully states as true any material matter which he or she knows to be false." Would rule 8.3 trigger a mandatory reporting obligation any time a lawyer receives another lawyer's declaration under penalty of perjury that contains a false statement? The lawyer receiving the declaration would know about the act (making a false statement) but would not necessarily know if the other lawyer *willfully* stated as true any material matter they *knew* was false. What would happen if the lawyer making the statement is simply inaccurate or operating under a mistaken belief in the truth of the statement made? And how would the lawyer receiving the statement know the other lawyer's state of mind? Is proposed rule 8.3 intended to require "personal knowledge" that all elements of a crime are met before triggering a mandatory duty to report a "criminal act" under the rule? Is the proposed rule intended to encompass all crimes if codified as such in any statute (whether an infraction, misdemeanor, or felony) or only a subset of crimes?[1]

Further, despite the attempt to define "personal knowledge," there is still some ambiguity in the proposed rule. One question is what should occur if a lawyer hears from another lawyer that the latter has engaged in conduct that the former recognizes

[1] Proposed rule 8.3 refers to a criminal act "as prohibited by rule 8.4(b)." Rule 8.4, Comment [3] states that a "lawyer may be disciplined for criminal acts as set forth in Business and Professions Code sections 6101 et seq., or if the criminal act constitutes 'other misconduct warranting discipline' as defined by California Supreme Court case law" citing *In re Kelley* (1990) 52 Cal.3d 487 [276 Cal.Rptr. 375].) Business and Professions Code section 6101(a) states that "[c]onviction of a felony or misdemeanor, involving moral turpitude, constitutes a cause for disbarment or suspension." Business and Professions Code section 6102(a) provides for suspension upon receipt of the certified copy of the record of conviction "if it appears therefrom that the crime of which the attorney was convicted involved, or that there is probable cause to believe that it involved, moral turpitude or is a felony under the laws of California, the United States, or any state or territory thereof, …" The statutes do not encompass "other misconduct warranting discipline" and the outer boundaries of this standard are uncertain. What is the intended interpretation of the scope of a "criminal act" under proposed rule 8.3, and how do we ensure that lawyers clearly understand the scope?

as being a "criminal act" (however defined or interpreted) and reflecting adversely on the second lawyer's honesty, trustworthiness, or fitness as a lawyer. Is that second-hand accounting "information based on firsthand observation gained through the lawyer's own senses" as provided under paragraph (b)? Or is it simply somebody else's retelling of an event that has already occurred? If it is deemed personal knowledge, where is the line? Is it based along the same lines as what might be admitted in terms of hearsay exceptions (for example, a party admission) or is there a different standard?

An additional question that arises under the proposed rule is the standard of proof that triggers mandatory reporting. Is an allegation enough or must the reporter have some proof or evidence supporting the conduct they are reporting to the State Bar? Is probable cause enough or must the evidence rise to a level of preponderance, clear and convincing, or beyond a reasonable doubt? Is the lawyer who would be reporting determining on their own that proof of the alleged "criminal act" meets whatever standard is applied, and how would we ensure that the reporter understands the level of proof required? If no standard of proof is defined, what prevents accusations based on bad or unreliable "personal knowledge"?

The lack of clarity in the proposed rule is further magnified by language in the Comments that does not match the language in the proposed rule. The rule itself covers reporting of a "criminal act." Comment [2] and Comment [5] both refer to reporting of "professional misconduct." The proposed rule is also entitled "Proposed Rule 8.3 Reporting Professional Misconduct." This is the title of ABA Model Rule 8.3, but that rule applies the reporting requirement to a "lawyer who knows that another lawyer has committed a *violation of the Rules of Professional Conduct* that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." (emphasis added). The ABA Model Rule is *much broader* in scope than proposed rule 8.3.[2] If proposed rule 8.3 moves forward, the language in the Comments should be changed to match the scope of the reporting requirement under the rule itself.

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[2] In its request for public comment, State Bar staff has requested comment on whether the State Bar should consider recommending that the Supreme Court adopt a new rule 8.3 that is based on ABA Model Rule 8.3. We do not believe the State Bar should consider making that recommendation. A rule based on ABA Model Rule 8.3 would necessarily encompass reporting of a "criminal act" (as prohibited by rule 8.4(b)), raising all the concerns expressed in this letter. But those concerns would be magnified given the breadth and scope of the California Rules of Professional Conduct along with all the facts, circumstances, and related interpretational issues involved in determining whether a lawyer would be required to report *any* violation of *any* rule. We appreciate that the proposed rule is narrower than ABA Model Rule 8.3, along the lines of the Illinois analogue to that rule, and is limited to reporting a *criminal act* that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer. Assuming any proposed Rule of Professional Conduct moves forward, we believe the narrower rule would be preferable to a rule based on ABA Model Rule 8.3.

Comment [6] in the proposed rule is also concerning. That Comment states, in part, "A failure to report may also implicate rule 8.4(a) with respect to the prohibitions against assisting, soliciting, or inducing another lawyer's ethical violation." Proposed rule 8.3 appears to require reporting of a completed "criminal act." Under what circumstances would a failure to report a completed criminal act, without more, implicate a prohibition against assisting, soliciting, or inducing a criminal act? If there are circumstances envisioned whereby a lawyer could violate both rule 8.3 by failing to report a criminal act *and* the prohibitions against assisting, soliciting, or inducing another lawyer's ethical violation, illustrative examples in the Comment would assist.

Finally, assuming a lawyer has "personal knowledge" that another lawyer has committed a "criminal act" they would then need to determine whether that criminal act "reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects." Although an adverse reflection on honesty or trustworthiness would be self-evident with certain criminal acts, determining whether a particular criminal act reflects adversely on the lawyer's "fitness as a lawyer" would involve application of a much more amorphous and subjective standard. Significantly, the proposed rule is not limited to reporting situations where the lawyer's criminal act occurs in connection with the practice of law, a limitation that would resolve this issue.

2. Proposed rule 8.3 would be counterproductive in many cases

As noted above, it may be relatively easy to envision certain situations where proposed rule 8.3 would be implicated. However, as a practical matter we anticipate a large number of borderline situations arising under the rule as proposed. In those situations, the rule could impede remedial measures that would serve to prevent harm to clients or others.

Lawyers benefit from open discussions with other lawyers. In many instances, good faith mistakes can be avoided and harm can be mitigated when lawyers turn to one another for input and guidance. If proposed rule 8.3 is approved, lawyers may be less likely to assist or engage with one another for fear of inviting liability resulting from a failure to report about another lawyer's conduct. Simply put, the less you know, the less potential liability you would face under rule 8.3. Ironically, this could disincentivize the most ethical lawyers, as they attempt to self-police the profession, while encouraging less ethical lawyers to simply look the other way.

We have a separate concern about the potential impact of proposed rule 8.3 on the relationship between opposing counsel in ongoing litigation and on a lawyer's own clients, particularly in borderline cases and those where the conduct in question is unrelated to the practice of law or has caused no harm to a client. Notwithstanding the

existing prohibition against threatening to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute, unscrupulous lawyers might do exactly that under the new mandatory reporting obligation, asserting a "good faith" belief that the conduct in question is covered under rule 8.3, potentially providing protection for what may otherwise be a retaliatory, discriminatory, or harassing complaint. In addition, the rule could inadvertently serve to escalate disputes between opposing counsel, with little or no counterbalancing benefit, and further decrease civility in the legal profession.

Finally, the reporting requirement may conflict with or distract from a lawyer's fidelity and other duties toward their own client, whether dealing with conduct of another lawyer in their firm, co-counsel, or opposing counsel. The proposed rule does not account for the context of the conduct in question, the impact any reporting may have on the reporting lawyer's clients, or the timing of the required report where, for example, no clients are at risk of harm as a result of the conduct in question.

3. Paragraph (c) should specifically refer to mediation confidentiality correction

Proposed rule 8.3(c) identifies specific situations under which the rule would not require a report to the State Bar. The summary in the request for public comment notes that, in addition to the specific situations noted, a report is not required if the information is protected by other rules and laws, such as statutory mediation confidentiality. If a rule moves forward, we recommend that paragraph (c) add a specific reference to Evidence Code section 1119 (mediation confidentiality).

We appreciate your consideration of our comments.

Sincerely,

Jeremy M. Evans
President

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Are you an attorney?	Yes
Professional Affiliation	Founder
Name	California Solo & Small-Firm Attorneys (Castle)
City	San Diego
State	California
Email address	bpavone@cox.net
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	If the objective is to turn the practice of law in California into a Soviet Communist paranoid snitch society, I think the proposed rule is ideally suited for that task. If the goal is to properly enforce California ethics consistent with American values, then the solution is to figure out how to enforce ethics violations even-handedly across the landscape of practicing attorneys (regardless of stature, political connections, or wealth) and in proportion to the actual transgression. This means stopping the 99% selective prosecution of solo and small-firm attorneys; it means stopping the Bar from inviting 100 ways to exploit and co-opt it politically; it means the Bar not acting like a full-employment factory for OCTC attorneys to drag attorneys through years of draining litigation over trivia (e.g., non-misappropriation related problems,

	"intellectual dishonesty" claims against judges, non-scope-related transgressions, which is really none of the State Bar's business given the privacy rights in Art. I of the California Constitution, etc.); and it means figuring out what ethics really does mean from the standpoint of what CLIENTS care about in terms of ethics -- not judges, not societal scolds, and not OCTC prosecutors itching to scalp political opponents. This is because, as it stands today, ethics doesn't mean anything -- or to be perfectly accurate, it can mean anything to anyone, including to an OCTC prosecutor, and therefore its definition and its enforcement are subjective and meaningless.
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	2022-08-12_-_Appellants_Opening_Brief_blp_F.pdf (2.81 MB)

Review Department of the State Bar Court for the State of California

IN RE THE MATTER OF,

ATTORNEY,

BENJAMIN L. PAVONE, ESQ.,

APPELLANT.

STATE BAR COURT
CASE NO.: SBC20O30496

ON REVIEW FROM THE STATE BAR COURT
HON. CYNTHIA VALENZUELA, JUDGE PRESIDING

APPELLANT'S OPENING BRIEF

OFFICES OF

PAVONE & FONNER, LLP

A LAW PARTNERSHIP

BENJAMIN PAVONE, ESQ.
STATE BAR NUMER 181826
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ATTORNEYS FOR APPELLANT

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INTRODUCTION

The State Bar discipline system possesses many of the badges of a legitimate legal system, but in reality, it is not one. It is a political system. Its judgments putatively separating the "ethical" attorneys from the "unethical" ones do not actually separate the two because they violate basic principles of equal protection and due process.

Rather, persons entrenched in, or with connections to, the system can commit ethics offenses with impunity. As recently revealed, ethical serial killers did not get charged, for they were politically connected to the system, meanwhile solo and small-firm attorneys get charged with every imaginable triviality, often flips of verbiage in briefs, non-theft-related trust account imperfections, and myriad other wrongs that have little or nothing to do with any traditional concept of ethics.

Since solo and small-firm attorneys do get charged, they can and do get charged with literally any wrong OCTC ethics prosecutors deign to invent in their arbitrary enforcement of vague terms like "justice," "respect" and "dishonesty," often in conformity with the corrupting influence of woke political narratives or the political preferences of their judicial masters.

The latter generates referrals to the Bar to target attorneys who dare to challenge their honesty, ethics, or accuracy of their rulings – even when these rulings are dishonest, unethical and inaccurate. OCTC prosecutors simply do not possess the skill or tenacity to tackle real ethics violations, such as the ones committed by big firms for big dollars. Consequently, they settle to pick on solo and small-firm lawyers for their misdemeanors and infractions.

Fundamentally, to say this system is corrupted is too forgiving a characterization, for a corrupt system can usually be fixed by removing the corrupt actors. This system is simply not a legal system; it is a collection of often-arbitrary ideas selectively enforced as putative "ethical" violations in a politically convenient fashion for the beneficiaries of the system, including mostly, the behemoth prosecuting entity OCTC and its overpaid staff.

Accordingly, the Bar system does not accomplish its mission to advance the public's understanding of which attorneys are ethical and which are not. It is as much a *legal* system as the "legal systems" of third world countries. In third world countries

(and occasionally in our own), the executive targets political opponents with legal cases, in a pretense of legitimate law enforcement. In reality, those in power are simply engaged in political targeting. This is how the State Bar system functions in reality.

Nevertheless, because its authority to impose punishment is real, it possesses the legal power to inflict devastating reputational and financial consequences on the attorneys it targets from its politically-driven charging practices. This is despite a partially-legitimate legal infrastructure, mostly sensible rules and a mostly coherent procedural system.

Nonetheless, because the methods by which it selects its attorneys to charge (or not charge) are fundamentally selective, or fundamentally corrupt, this system's judgments are no measure of anything, least of all an attorney's ethics.

The illegitimacy of the system is observable in myriad ways, detailed herein, but is fundamentally founded in three dynamics:

(1) OCTC practices system-wide selective prosecution, a practice no less egregious than if it charged only Black attorneys, only female attorneys or only Jewish attorneys. OCTC's vice happens to be solo and small-firm practitioners. It systematically and exclusively attacks the ethical reputations of this targeted group, even though empirically-speaking, firm size is not a probative identifier of unethical lawyers;

(2) Its grounds for ethical prosecution are limitless – and therefore meaningless. There is nothing it cannot charge as an ethics offense, and more importantly, no misdemeanor it cannot litigate as a felony. Defects in the administrative rules permit OCTC to subject its targets to protracted litigation including the burden of trial no matter the triviality of the alleged offense, and as such, this infinite amount of prosecutorial discretion predictably results in various abuses;

(3) As particularly exemplified by this case, and because there is no right to jury, the system is fundamentally not geared toward arriving at the truth, especially with the least amount of transactional burden. Beneficiaries of the system, particularly state-side judges, are too potent an interest group for the truth to govern. One of these truths is that judges are imperfect, and like all persons vested with power, periodically abuse it. But through various evasive maneuvers, procedural smoke and mirrors, and deliberate blindness to the real problem of intellectual dishonesty and occasional incompetence in the judiciary, Appellant was effectively convicted of telling the truth.

> in the judiciary, Appellant was effectively convicted of telling the truth. (This is a particularly galling reality in this case, where the government's primary witness, a state judge, displayed quite literally zero credibility, and yet because the system is so structurally dysfunctional and so tilted toward its beneficiaries, counsel was still found culpable.)

For these reasons, including an inventory of legal and constitutional defects documented herein, the subject judgment should be reversed and corrections to the system consistent with these realities should be implemented.

PROCEDURAL HISTORY OF THIS CASE

This case began as a state civil suit, a sexual harassment case, in a post-trial motion seeking attorney's fees.[1] After a four-year legal effort resulting in modest relief to the sexual harassment victim,[2] a then-Orange County Commissioner, Hon. Carmen Luege, nevertheless paid undersigned counsel nothing on a $144K fee request[3] – the first and only time she had ever treated an attorney's fee application in this way,[4] among a pool of fee applications so large she could not remember how many she had ruled on.[5]

In the resulting notice of appeal, counsel quipped in relevant part that the trial court's ruling was a 'succubistic adoption of the defense position.'[6]

Because the judgment was not served by the judge's office, counsel also complained that the trial court "apparently cynically attempted to suppress notice of the judgment in order to thwart review."[7]

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1 2 V 1137 [Exhibit 73]. Pursuant to State Bar Court Rules of Procedure ("SBCRP"), Rule 5.151.2, record citations may be to any "appropriate" reference. In conformity with this rule and ordinary appellate practice, Appellant has assembled a set of excerpts of record. SBCRP 5.151.2; *see* Federal Rules of Appellate Procedure, Rule 30(a); Ninth Circuit Local Rules 30-1.1.

2 Martinez recovered about $10,000 and shut down the offending website. (3 V 1292 [Exhibit 81]; 2 V 1268 [Exhibit 78]; 2 V 1134 [Exhibit 71].)

3 2 V 1263 [Exhibit 77].

4 TR1:92:25–TR1:93:3; TR1:95:8-11.

5 TR1:95:5–7.

6 3 V 1297 [Exhibit 82].

7 3 V 1297 [Exhibit 82].

On appeal, counsel argued that as part of the larger effort to reverse the decision, the trial court's unusually large number of mistaken legal positions telegraphed that her ruling was intellectually dishonest.[8] Similar arguments were made in the reply brief.[9]

On this basis, at the complaint of the Orange County appellate court (as opposed to Judge Luege herself),[10] OCTC charged counsel with four counts of violating B&P 6068(b), disrespecting a judge: one for the succubus comment, one for the 'thwarting review' remark, and two for the appellate arguments, one count for each brief Appellant filed.[11]

The discipline case was heavily litigated: six motions to dismiss were filed;[12] five appellate challenges were filed,[13] a Supreme Court petition was brought,[14] and there were over 30 motions.[15] Denied pretty much across the board, the case went to a two-day trial beginning in October, 2021.[16]

The State Bar Court hearing judge, Judge Cynthia Valenzuela, thereafter issued a lengthy opinion dismissing counts one and two – count one because the comment constituted constitutionally-protected rhetorical hyperbole and count two because, although the remark was inaccurate, it was opinion and its factual basis was disclosed – while finding culpability as to counts three and four.[17] A detailed post-trial motion for reconsideration was filed and denied.[18]

Appellant thereafter filed a timely request for review.[19]

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8 3 V 1305–1306 [Exhibit 83].
9 3 V 1459–1462 [Exhibit 86].
10 TR1:95:15-18; 3 V 1592 [Exhibit 89].
11 7 V 2465 [Exhibit 161].
12 7 V 2495 [Exhibit 168]; 11 V 3911 [Exhibit 263]; 11 V 4021 [Exhibit 271]; 11 V 3939 [Exhibit 265]; 11 V 3973 [Exhibit 268]; 12 V 4408 [Exhibit 295].
13 8 V 2924 [Exhibit 193]; 10 V 3348 [Exhibit 217]; 11 V 4249 [Exhibit 288]; 11 V 4278 [Exhibit 289]; 11 V 4311 [Exhibit 290]; 12 V 4354 [Exhibit 291].
14 10 V 3507 [Exhibit 227].
15 TR1:4:1–4.
16 13 V 5320 [Exhibit 320]; 13 V 5708 [Exhibit 325].
17 14 V 6052, 6054 [Exhibit 331].
18 15 V 6087 [Exhibit 332]; 16 V 6986 [Exhibit 336].
19 16 V 6990 [Exhibit 337].

STATEMENT OF APPEALABILITY

Consistent with other legal systems, it appears that upon a final judgment,[20] an appealing party may challenge any aspect of the case that merits reversal of some or all of the Hearing Department's decision.[21]

STATEMENT OF FACTS

A. Identity of Responding Attorney

At the time of trial, Appellant was a 26th-year complex litigation attorney, educated at Cornell and UCLA Law.[22] Counsel began his practice as a criminal appellate attorney, then tried 30 civil cases, and was focused at the time of trial on civil rights class action suits.[23]

Counsel possessed a reputation for being an exceptionally dedicated attorney.[24] This was in part reflected by character references by a mixture of 40 clients, former clients and colleagues.[25] A representative comment from a colleague reads:

> I am a graduate of U.C. Berkeley, the Harvard School of Public Health, and the Chicago-Kent College of Law at Illinois Institute of Technology. Before I had the privilege of becoming a lawyer admitted in California, Illinois, and Massachusetts, the corresponding Federal district courts, and the Seventh and Ninth Circuit Courts of Appeal, I had a successful career in environmental compliance and public health. I served as a department manager for a Fortune 100 corporation and as a senior management consultant for a business consultancy.
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> In all of that experience – including, as a management consultant, working with hundreds of executives, managers, and companies – I have never met anyone who displayed more diligence in

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20 14 V 6027 [Exhibit 331].
21 SBCRP, Rule 5.151.2.
22 TR2:64:1-2; 6 V 2191 [Exhibit 136, ¶ 1].
23 TR2:64:1-3; 6 V 2191–2193 [Exhibit 136, ¶¶ 2-17]; TR2:76-78.
24 5 V 2127–2143 [Exhibits 127–134]; 7 V 2400–2464 [Exhibits 138–160]; 7 V 2475–2483 [Exhibits 162–164]; 7 V 2488–2894 [Exhibits 165–166]; 11 V 3841 [Exhibit 256]; 11 V 3908 [Exhibit 262]; 6 V 2191–2193 [Exhibit 136, ¶¶ 2-17]; TR2:76-78.
25 Ibid.

carrying out his professional responsibilities than does Mr. Pavone.[26]

An illustration of this exceptional dedication is also reflected, by way of a specific case example, counsel's now 10-year effort championing several hundred plaintiffs seeking justice for wrongful contraction of valley fever.[27]

However, counsel's professional reputation was destroyed by the complaining judge's decision to publish an opinion lambasting counsel over an ill-advised adjective.[28] This prompted an internet pile-on in the legal trade media that acted as a wrecking ball through the reputation that counsel had built over 20 years.[29]

In contrast, Tom Girardi's reputation remained intact for 30 years because the State Bar was too corrupt to prosecute him – not for a mere flip of verbiage – for committing countless actual felonies.[30]

B. Facts of Martinez Case

Stephen O'Hara had been an Orange County real estate agent for many years, but in 2008, he blew out his reputation to finance his retirement by defrauding investors out of several million dollars, mostly women, and some of them elderly.[31]

At the same time, he set up a fraudulent, predatory website to lure young people into his orbit for sexual gratification,[32] which included an effort targeting a 19-year-old named Fernando Martinez.[33] Martinez capitulated to what he later realized was O'Hara's sexual agenda, ultimately costing Martinez his prior job at McDonald's, his current job with O'Hara, his last paycheck, his housing, along with humiliation, degradation and other damage.[34]

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26 11 V 3910 [Exhibit 262].
27 TR2:76–78; 6 V 2191–2193 [Exhibit 136, ¶¶ 2-17].
28 *Martinez v. O'Hara* (2019) 32 Cal.App.5th 853, 855 (3 V 1588, Exhibit 89); TR1:97:1-9.
29 3 V 1594–1653 [Exhibits 90-100]; 3 V 1656-1673 [Exhibits 102-105]; 4 V 1717-1739 [Exhibits 106-108]; TR1:95:22-24.
30 10 V 3359 [Exhibit 30]; 10 V 3760 [Exhibit 248]; 12 V 4415-4943 [Exhibit 295].
31 2 V 991, ¶ 69 [Exhibit 66]; 1 V 203-213 [Exhibit 23]; 1 V 552-599 [Exhibit 51].
32 1 V 326 [Exhibit 31].
33 1 V 257 [Exhibit 24].
34 2 V 978 [Exhibit 66]; 3 V 1292 [Exhibit 81].

In 2012, Appellant sued O'Hara on behalf of Martinez to remedy several of these wrongs: the sexual misconduct, the fraudulent website, and the theft of Martinez's labor.[35]

Against a vigorous defense, a jury awarded Martinez $8K in damages for sexual harassment; O'Hara paid the $2K outstanding in wages on the eve of trial; and he agreed by stipulation at trial to shut down the fraudulent website.[36] Counsel was unable to certify a 17200-17500 false advertising class action for a 20,000-person email blast O'Hara employed to publicize the fraudulent website.[37]

Notably, O'Hara never paid his attorneys the $290K in fees they incurred to defend him.[38] This explains why he was never willing to settle this medium-size case, one that clearly should have been settled. O'Hara later filed bankruptcy, yet again, to discharge their debt.[39] Accordingly, the transaction cost of this case was much higher than it should have been, because there was a dysfunction in the settlement incentives on the defense side.

Appellant's post-trial motion for attorney's fees, seeking $160K in fees and costs, was litigated and denied by Judge Luege, for various reasons delineated in her written ruling.[40] The trial court denied all fees and only paid half the cost bill on the theory that counsel's effort was "spectacularly unsuccessful."[41]

C. The Specific Rulings by the OC Trial Court

In her 2017 fee ruling, the OC trial judge, Hon. Carmen Luege, uniformly ruled against Appellant, on every issue. In particular:

(1) She cited *Chavez v. Los Angeles* as authority to deny all fees.[42] However, Appellant's fee request did not legitimately fall under the *Chavez* "grossly inflated" exception because the $133K request was simply not an unusual or

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35 1 V 288 [Exhibit 29]; 2 V 978 [Exhibit 66].
36 2 V 1261–1262 [Exhibit 77]; 2 V 1134 [Exhibit 71]
37 2 V 1001 [Exhibit 66]; 2 V 1261 [Exhibit 77].
38 5 V 1946, 1965 [Exhibit 117].
39 5 V 2056 [Exhibit 123]; 1 V 183 [Exhibit 23].
40 2 V 1137 [Exhibit 40]; 2 V 1264 [Exhibit 77].
41 2 V 1263 [Exhibit 77].
42 2 V 1262 [Exhibit 77]; *see Chavez v. Los Angeles* (2007) 47 Cal.4th 970, 975.

excessive number for a four-year case to run the length of the superior court system against a resistant defendant, a figure that was dramatically lower less than the *$870K* fee request that the *Chavez* "grossly inflated" construct is founded on.[43]

(2) The OC trial court claimed that the case should have been litigated in limited civil.[44] However, the case did not qualify for treatment under *Chavez's* improper-forum criticism because a filing in limited civil was impermissible given Martinez's inclusion of (and absolute legal right to include) injunctive causes of action.[45] Amazingly, no one in this litigation, including the State Bar hearing judge, will deal with this inescapable procedural limitation.[46]

(3) that a case that is successful on a limited basis (there, resulting in termination of a fraudulent enterprise, a small but full recovery on a wage claim, and a small recovery on a FEHA claim) cannot accurately be classified as litigation that is "spectacularly unsuccessful," and in addition, this is a construct that only applies to FEHA claims (as opposed to Labor Code wage claims), where fees can be denied under FEHA 12965(b)'s statutory discretion per *Chavez*.[47]

In other words, Judge Luege did not have discretion to announce that she thought the case was over-litigated, or unsuccessful, as to the wage claim and thereby deny all fees. As Martinez was necessarily the prevailing party on that claim, the question was not whether he was entitled to fees, but how much, under the applicable Labor Code fee-shifting statute.[48]

(4) that the trial court's accusations that counsel invented or exaggerated 15-hour and 25-hour billing entries,[49] and therefore must have inflated the rest of the bill, was arrestingly inaccurate, as effort for the two controverted entries was supported by detailed demurrer opposition filings and easily supported the hours claimed.[50]

(5) that the trial court's finding under *Ling* that wait-time penalties are not

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43 *Chavez v. Los Angeles* (2007) 47 Cal.4th 970, 975.

44 2 V 1263 [Exhibit 77];

45 *See* Code Civ. Proc., § 86, subds. (a)(7), (a)(8).

46 14 V 6044, fn. 15 [confusing merits of injunctive relief with counsel's right to bring such claims in the first instance and getting the merits wrong since O'Hara stipulated to injunctive relief, *see* 2 V 1133-1134 [Exhibit 71].]

47 Gov. Code, § 12965(b) and *Chavez* (2007) 47 Cal.4th 970, 975.

48 *See* Lab. Code, § 218.5; *see Santisas v. Goodin* (1998) 17 Cal.4th 599, 606.

49 2 V 1262 [Exhibit 77].

50 *See* 3 V 1478–1480 [Exhibit 86].

wages was plainly inaccurate[51] given the language of Labor Code section 203;[52]

(6) that the OC trial court's finding that Martinez was not the prevailing party on the wage claim because O'Hara paid the outstanding wage balance on the eve of trial was wrong, yet another obvious error.[53]

Appellant perceived these positions as more than just mistakes – but first of all – they were mistakes. OCTC has never seriously contended otherwise, except to cite the appellate opinion, which generally affirmed the lower court decision in a noticeable evasion of the specific merits.[54]

More importantly, the OC trial court's dismissive attitude toward this case – characterizing $10,000 in compensatory damages for sexual and related misconduct as spectacularly unworthy of litigation[55] – was consistent with the denigration of legitimate sexual harassment victims that partly explains the eruption of the #metoo movement.[56]

This is especially so since the transaction cost was only high because a fraudster was effectively handed an unlimited purse by defense lawyers naïve enough to extend such a person $245K in attorney's fees on credit.[57] Unsurprisingly, O'Hara abused that privilege, which ultimately came at Martinez's expense, because, used to fee applications being around $20K,[58] Judge Luege effectively (and inaccurately) blamed the comparatively high $160K transaction cost *on Martinez*.[59]

Regardless, the OC trial judge, like all California superior court trial judges, are experienced legal professionals.[60] They know the basics, for example, of which cases can

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51 2 V 1262 [Exhibit 77].

52 3 V 1475 [Exhibit 86]; *Ling v. P.F. Chang's* (2016) 245 Cal.App.4th 1242, 1261

53 2 V 1262 [Exhibit 77]; 3 V 1470.

54 3 V 1564, 1573–1579 [Exhibit 88] [finding billing records sufficiently unreliable to overlook all of the trial court's errors]

55 2 V 1263 [Exhibit 77].

56 *See* North, Anna, "*7 Positive Changes that Have Come from the #MeToo Movement*," https://www.vox.com (October 4, 2019).

57 5 V 1946, 1965 [Exhibit 117].

58 TR1:92:22–24.

59 *See* 2 V 1263.

60 TR1:90:10–12 [reflecting Judge Luege's 32 years of experience as of the *Martinez* ruling].

and cannot be filed in civil unlimited. They know that a defendant's decision to pay an outstanding penalty on the eve of trial does not *moot* the underlying fee request for all the litigation that necessitated it. When a trial court claims to have reviewed the entire case file,[61] and having done so, still accuses the lawyer of inventing billing entries – ones that in any actual review of the entire case file would reveal that they clearly were not invented[62] – something has gone profoundly wrong in the adjudication process. Namely, the judge has decided to make an example of one party to punish him for something besides the merits.[63] Such rulings are inherently full of mistakes, because to carry out such an ambition, legal accuracy must necessarily be sacrificed.

D. Notice of Appeal

On April 14, 2017, Martinez notice his appeal of Judge Luege's fee ruling, which included this inadvisable comment:

> The ruling's succubustic adoption of the defense position, and resulting validation of the defendant's pseudohermaphroditic misconduct, prompt one to entertain reverse peristalsis unto its four corners.[64]

Counsel also observed more seriously that "Plaintiff never actually received a copy of a signed judgment, though a stipulated judgment was prepared for the commission court's signature, as it apparently cynically attempted to suppress notice of the judgment in order to thwart review.[65]

E. Appellate Briefing

In the Opening Brief and Reply Brief on direct appeal, counsel's criticisms were more academic in their tone and verbiage,[66] but the criticism of Judge Luege was still pointed, in that the arguments in the brief accused her of advancing legal positions that were intellectually dishonest given the large number of elemental legal errors.[67]

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61 2 V 1262 [Exhibit 77].
62 *See* 3 V 1478–1480 [Exhibit 86].
63 See 2 V 1252 [Exhibit 76].
64 3 V 1297 [Exhibit 82].
65 3 V 1297 [Exhibit 82].
66 3 V 1299, 1305–1308 [Exhibit 83]; 3 V 1455, 1459–1462 [Exhibit 86].
67 *See, e.g.*, 3 V 1332 [Exhibit 83], 3 V 1474 [Exhibit 86].

A representative example reads as follows:

> The trial judge intentionally analyzed a quantitative issue – an allegedly excessive request for fees – by resorting to citation of qualitative features. … Here, the trial judge was motivated to rule against [plaintiff] in what must be the intoxicating effects of wielding the power to break the law, in order to reach a desired result … For the trial court to not even acknowledge the mathematical difference between *Chavez's* $870,000 fee request and [plaintiff's] $144,000 request reveals that she ruled without being able to responsibly wield the extraordinary power to make legal findings.[68]

F. State Bar Selective Prosecution Concerns

There is a serious flaw in the State Bar's organizational structure: 99% of the cases it brings are against solo and small-firm lawyers.[69] They make up 55% of the profession.[70] The remaining 45% of lawyers, ones practicing in bigger organizations, are exempted from ethics enforcement.[71]

This is a major problem because big firm lawyers, self-evidently, are capable of committing ethical violations the same as any other lawyer,[72] and indeed, because the State Bar system can be gamed in light of its political vulnerability, a truly shocking amount of felony ethical misconduct by big players has gone unremedied by the State Bar.[73]

This happens all the while that day-in and day-out, OCTC drags solo and small-firm practitioners through felony-caliber discipline proceedings while typically charging them with infraction and misdemeanor-level offenses.[74]

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68 3 V 1476–1477 [Exhibit 86]

69 12 V 4423 [Exhibit 295]; 13 V 4986 [Exhibit 300]; 13 V 5071 [Exhibit 311]; TR2:54:21–TR2:62:15; 5 V 1999 [Exhibit 119];

70 12 V 4423 [Exhibit 295]; 13 V 4986 [Exhibit 300]; 13 V 5071 [Exhibit 311]; TR2:54:21–TR2:62:15; 5 V 1999 [Exhibit 119];

71 12 V 4423 [Exhibit 295]; 13 V 4986 [Exhibit 300]; 13 V 5071 [Exhibit 311]; TR2:54:21–TR2:62:15; 5 V 1999 [Exhibit 119];

72 12 V 4415–4421 [Exhibit 295].

73 12 V 4415–4421 [Exhibit 295]; 13 V 5270–5277 [Exhibit 318].

74 12 V 4413 [Exhibit 295]; 12 V 4423-4425.

Consequently, the most vulnerable members of the legal profession are exclusively targeted for their typically minor ethical misconduct, while larger, major ethical misconduct goes uncorrected, in a most gruesome violation of OCTC's statutory mission to protect the public[75] and basic notions of equal protection.

I.
THE STANDARD OF REVIEW FOR ALL DECISIONS OF THE HEARING COURT, EXCEPT TESTIMONIAL CREDIBILITY DETERMINATION, IS *DE NOVO*.

This Court independently reviews the record and may adopt findings, conclusions, and a decision or recommendation different from those of the hearing judge.[76] However, deference is given to the hearing judge for testimonial credibility determinations.[77] With this exception, all other review – of all evidentiary matters and legal decisions – is *de novo*.[78] Of course, Appellant, as the appealing party, bears the burden of proving that a decision was erroneous and that such error prejudicially impacted the outcome.[79]

II.
COUNTS THREE AND FOUR MUST BE REVERSED BECAUSE THE SUBJECT STATEMENTS SIT WITHIN THE FIRST AMENDMENT, AS NO STATEMENT WAS *OBJECTIVELY* BASELESS.

A. Introduction

OCTC never established that any of Appellant's statements were, objectively speaking, false – as required by *Yagman*. Rather, OCTC established that Judge Luege testified that counsel's intellectual dishonesty allegations against her were not true, but this does not represent sufficient evidence to establish the fact, objectively. In point of

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75 See generally, 12 V 4408 [Exhibit 295].

76 Cal. Rules Ct., Rule 9.12; *In re Potack* (1991) 1 Cal. State Bar Ct. Rptr. 525, 1991 Calif. Op. Lexis 125, *20.

77 SBRP, Rule 5.155(A); *McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1032.

78 *In re Respondent AA* (1990) 1 Cal. State Bar Ct. Rptr. 255, 1990 Calif. Op. Lexis 147, *4; *Farnham v. State Bar* (1988) 47 Cal.3d 429, 433, *citing Franklin v. State Bar* (1986) 41 Cal.3d 700, 708 *and Codiga v. State Bar* (1978) 20 Cal.3d 788, 796.

79 *In re Lilley* (1991) 1 Cal. State Bar Ct. Rptr. 476, 1991 Calif. Op. Lexis 130, *22-23, *citing Brockway v. State Bar* (1991) 53 Cal.3d 51; *In re Carr* (1992) 2 Cal. State Bar Ct. Rptr. 244, Calif. Op. Lexis 84, *23, fn. 10.

fact, OCTC cannot prove that any statement in the two subject briefs can overcome the many rigors of *Yagman*.[80]

B. Standard of Review

The usual standard of review in this Court is *de novo*, modified by a rule of deference to the lower court's credibility determinations.[81] However, this deference to a witness' credibility is not absolute across all issues.

Because a lawyer will invariably lose a credibility context between himself and a judge – particularly since the party judging the judge's credibility is a fellow judge – when it comes to allegations made against judges, the Ninth Circuit requires that putative ethical misconduct be supported by evidence rendering the allegation against the judge to be *objectively baseless*.[82]

This is an unusually high evidentiary hurdle: any allegation must first of all be baseless, meaning, there is no factual information upon which it is premised. Second, even if there are no facts upon which the allegation is based, the allegation must be proven incorrect by reference to objective evidence, meaning evidence outside of testimonial perception.

Thus, in a hypothetical situation where a lawyer accuses a judge of an intellectually dishonest statement in a ruling, OCTC must prove that the statement was (a) inaccurate (b) based on no facts whatsoever and (c) the proof of a and b is from evidence that is objectively verifiable.

Thus, when it comes to intellectual dishonestly allegations, it is not enough to simply credit the judge's testimony over the lawyer's and thereby find a violation. The evidentiary burden is actually much higher than this.

For example, if the allegation against a judge is that he was drunk on the bench, but a contemporaneous breath test confirms that he was not drunk, this would be sufficient *objective* evidence to settle that the allegation was untrue, by objective

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80 15 V 6117–6127 [Exhibit 332].

81 *McKnight v. State Bar* (1991) 53 Cal.3d 1025, 1032.

82 *Standing Committee v. Yagman* (9th Cir. 1995) 55 F.3d 1430, 1441, *citing Milkovich v. Lorain* (1990) 497 U.S. 1, 21.

evidence.[83] This would still leave the attorney to argue whether there were facts within his perception that made it appear that the judge was drunk, so as to defend on the ground that the allegation was not factually baseless, even if untrue.

Given these rules, when it comes to allegations of intellectual dishonesty, which necessarily revolves around a judge's internal thought process, there is no *objective* way to settle such a debate. As such, *Yagman* effectively eliminated intellectual dishonesty allegations as actionable 6068(b) claims, because there is no objective (or scientific) way to prove what a judge, or any person, was thinking at a given moment in time.

C. There Is No Objective Evidence to Prove Whether Judge Luege's Martinez Opinion Was Intellectually Dishonest or Not.

The Hearing Department cited 67 statements in her recitation of the facts applicable to Counts 3 and 4.[84] In summarizing this body of information, she observed that Appellant argued that Judge Luege's fee ruling was intellectually dishonest:

> Respondent's statements were not abstract or imprecise but, instead, made with reference to his specific, factual accusations that Judge Luege intentionally refused to follow the law and purposefully decided the attorney fees motion incorrectly, to punish him for criticizing another judge.[85]

Rejecting Appellant's view, Judge Valenzuela concluded that these allegations were false because Judge Luege "thoughtfully and methodically" evaluated the fee motion.[86] In other words, the structure of Judge Valenzuela's finding against Appellant was that Judge Luege was not intellectually dishonest in her *Martinez* fee ruling because Judge Luege said so.

Respectfully, this method of proof is plainly insufficient. It misunderstands the limits and logic of *Yagman*. Yagman drew a distinction between two very different kinds, or categories, of dishonesty: *(i) ad hominem* attacks on a judge perceived to portray them as *personally* dishonest and *(ii)* attacks on a judge's ruling perceived to be *intellectually* dishonest.

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83 *Standing Committee v. Yagman* (9th Cir. 1995) 55 F.3d 1430, 1441.
84 14 V 6039–6043 [Exhibit 331].
85 14 V 6055 [Exhibit 331].
86 14 V 6056 [Exhibit 331].

Dishonesty of the former kind, such as a (false) allegation that a judge takes bribes or commits other criminal acts, suggests personal dishonesty of the judge and is ethically sanctionable, if objectively proven untrue.[87]

This is to be distinguished from allegations of intellectual dishonesty, which is a strictly mental process. On this category of criticism, Judge Kozinski wrote:

> Were we to find any substantive content in Yagman's use of the term "dishonest," we would, at most, construe it to mean "intellectually dishonest" – an accusation that Judge Keller's rulings were overly result-oriented. Intellectual dishonesty is a label lawyers frequently attach to decisions with which they disagree. ***An allegation that a judge is intellectually dishonest, however, cannot be proved true or false by reference to a "core of objective evidence***."[88]

Along these lines, *Yagman* added as part of this latter line of protected criticism a New York case that reversed a sanction because an attorney criticized trial judges "*for not following the law*."[89]

As recognized by Judge Valenzuela herself, Appellant's criticism of Judge Luege's *Martinez* ruling is plainly directed at her ruling's intellectual honesty – it is not an *ad hominem* or general attack on her personal integrity. *Yagman* expressly holds that because proving *intellectual* dishonesty cannot be proven by a "core of objective evidence," a method of proof where the judge testifies that she was not intellectually dishonest, the judge hearing the case believes that judge, and the ruling judge finds against the attorney is foreclosed. *This approach is plainly insufficient under Yagman*.

Because OCTC possessed no other evidence besides the testimony of Judge Luege to establish the "core of objective facts" necessary to prove that counsel's allegations of intellectual dishonesty about Judge Luege's mental processes were untrue on an objective basis, there is clearly insufficient evidence to sustain counts three and four.

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87 *Standing Committee v. Yagman* (9th Cir. 1995) 55 F.3d 1430, 1440.

88 *Standing Committee v. Yagman* (9th Cir. 1995) 55 F.3d 1430, 1441 (emphasis added).

89 *Standing Committee v. Yagman* (9th Cir. 1995) 55 F.3d 1430, 1441, *citing In re Erdmann* (N.Y. 1973) 33 N.Y.2d 559, 301 N.E.2d 426, 427, 347 N.Y.S.2d 441 (italics added).

III.
THE CHARGES IN COUNT THREE AND FOUR SHOULD BE REVERSED BECAUSE COUNSEL DID NOT HAVE REASONABLE NOTICE OF THE CHARGES.

Given that a single statement may constitute an ethics offense (and indeed dismissed Counts One and Two revolved around a single statement),[90] in OCTC's August 2020 NDC Count Three, it generally charged Appellant with making putatively unethical statements *in a 44-page appellate brief*.[91]

The NDC specifically quoted 17 separate statements.[92] These statements, OCTC charged, violated 6068(b)'s requirement "to maintain the respect due to the courts of justice and judicial officers by making **[1]** false statements of fact, and **[2]** opinions implying or based on false assertions of fact, **[a]** impugning the honesty, **[b]** motivation, **[c]** integrity, or **[d]** competence of the trial court judicial officer."[93]

In other words, a single statement quoted in the NDC, such as "[h]owever, [the OC judge's] tenor changed during oral argument on Martinez's post-trial motion requesting attorney's fees,"[94] could itself be the subject of eight separate factual contentions, any one of which could satisfy 6068(b) and thereby constitute an offense.[95]

Multiplied across the number of statements quoted in Count Three, this returns some ***136*** factual allegations OCTC expected Appellant to defend against. The agency then repeated this paradigm with greater volume in Count Four (by Appellant's count,

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90 7 V 2468–2469 [Exhibit 161].
91 7 V 2468–2469 [Exhibit 161].
92 7 V 2468–2469 [Exhibit 161].
93 7 V 2468–2469 [Exhibit 161].
94 7 V 2468 [Exhibit 161].
95 OCTC could establish that the statement was:
(1) a false statement of fact impugning the judge's honesty;
(2) a false statement of fact impugning the judge's motivation;
(3) a false statement of fact impugning the judge's integrity;
(4) a false statement of fact impugning the judge's competence;
(5) an opinion implying a false assertion of fact impugning the judge's honesty;
(6) an opinion implying a false assertion of fact impugning the judge's motivation;
(7) an opinion implying a false assertion of fact impugning the judge's integrity;
(8) an opinion implying a false assertion of fact impugning the judge's competence.

listing 56 separate statements), causing Appellant to have to defend against ***448*** separate factual accusations.[96] Taken together, the NDC in Counts Three and Four required Appellant to defend against a universe of ***584*** potential factual accusations, a logistic and practical impossibility, much less in a trial conducted over just two days.[97]

A. By Charging Respondent with 584 Factual Accusations in Two Counts, OCTC Violated Counsel's Right to Fair, Adequate and Reasonable Notice of the Charges.

A State Bar target possesses the right to "fair, adequate and reasonable" notice in relation to a discipline case, which includes proper notice of the charges.[98] In fact, charges against a target must be tendered with "precision."[99] The exact manner in which a target's conduct violates the statute is required to be disclosed, when the statute contains multiple prongs.[100]

An NDC that asserts a universe of 584 separate factual accusations represents the opposite of precision. It is anything but fair, adequate and reasonable. Rather, it is an exercise in tendering a mass vomitus of accusation, too many to individually combat.

At trial, OCTC cherry-picked a dozen or so statements, presented each to Judge Luege who then characterized each statement as false.[101] OCTC thereby avoided its B&P 6085 obligation to state exactly which statement was false (and how), exactly which statement was an opinion undergirded by false factual assumptions (and how), and/or which statement was objectionable according to some other precise assessment of how the statute was violated.

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96 7 V 2469–2472 [Exhibit 161].

97 7 V 2468–2472 [Exhibit 161].

98 Bus. & Prof. Code, § 6085; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1027, *citing Dixon v. State Bar* (1982) 32 Cal.3d 728, 737.

99 *Barton v. State Bar* (1930) 209 Cal. 677, 680.

100 *Barton v. State Bar* (1930) 209 Cal. 677, 679.

101 TR1:82:5 - TR1:87:2. Appellant did not waive this argument, given that a specific effort to narrow down the accusations through discovery was made and rejected. *See Barton v. State Bar* (1930) 209 Cal. 677, 679; see 7 V 2673-2676 [Exhibit 172].

And of course, the trial court's similar 67-statement recitation in her findings marks the prejudice inherent in this approach.[102] Functionally, the culpability findings here are meaningless, because the underlying charging document was meaningless: generally accusing and convicting an attorney of everything under the sun is the same as convicting him of nothing at all.

For this reason, the charges in Counts 3 and 4 should be reversed, as violative of B&P 6085's obligation to charge a Bar target in terms that are fair, adequate, reasonable and precise.

B. The Trial Court Violated Appellant's State and Federal Constitutional Rights to Present a Defense, When It Denying Counsel the Right to Conduct Written Discovery in the Wake of 584 Factual Accusations.

In pretrial, Appellant filed a motion to conduct written discovery so that the NDC's numerous accusations could be tested against various First Amendment defenses:

> Respondent naturally seeks to subject each statement to garden variety written discovery inquiries. For example, Count 1 is the "succubus" statement. The defenses applicable to such a statement consist of at least four … In some combination of special interrogatories and/or RFAs, Respondent would test the Bar to explain its exact logic … The proposed exercise reflects standard operating procedure for civil litigation trial preparation in terms of stress testing the integrity of the Bar's contentions and assertions as set forth in the NDC.[103]

The Hearing Department denied the motion in relevant part with this language:

> Having read and carefully considered the motion and the opposition, the court finds that the discovery sought is unreasonably cumulative and duplicative; that the discovery sought can be obtained from some other source that is less burdensome or less expensive; and that the burden or expense of taking the deposition outweighs its likely benefit. (Rules Proc. of State Bar, rule 5.66(D).)[104]

In other words, the lower court's ruling consisted of boilerplate.

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[102] 14 V 6039-6043 [Exhibit 331].
[103] 7 V 2690–2692 [Exhibit 173].
[104] 8 V 2827–2828 [Exhibit 187]

In the Hearing Department's final ruling, counsel was found culpable for a B&P 6068(b) violation based on its citation to some 67 statements.[105]

A State Bar target possesses a right to present a complete defense.[106] By denying Appellant the right to conduct written discovery, it was functionally impossible for Respondent to prepare a defense against this mass of accusation: OCTC could select any one of dozens of statements to focus on as a legal theory at trial, or generally blast them all into the record, without OCTC actually having to establish the illegality of any particular statement by overcoming the many limitations imposed by *Yagman*.

And the agency did just that. Among a universe consisting of dozens or hundreds of statements, it cherry-picked a few, OCTC then had the Judge Luege testify that the statement was false, and this essentially constituted the agency's entire case on Counts Three and Four.[107]

This is a plainly unfair way to litigate a case by a prosecutorial body. Any criminal or quasi-criminal agency can drop 584 accusations into an indictment, and then, without giving the target any way to weed the ones that lack viability out, cherry-pick some number of them, have a judge testify that they are inaccurate, and claim victory.

This does not amount to a real adversarial process; a monkey could convict a target using this paradigm. No targeted attorney can prepare a *Yagman*-caliber defense in response to 584 potential factual accusations. And indeed, the ruling did not cure the dysfunction in this approach, because Judge Valenzuela basically adopted Judge Luege's testimony over Appellant's testimony without getting into the specifics of a given statement – on what is the objectively-unprovable subject of what Judge Luege was thinking when she wrote her *Martinez* ruling.

Regardless, in terms of whether there was "good cause" to permit Appellant to conduct discovery in order to afford counsel some basic tools to mount a defense against

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105 14 V 6039-6043 [Exhibit 331]; *see* 15 V 6117–6127 [Exhibit 332].

106 *In re Berg* (1997) 3 Cal. State Bar Ct. Rptr. 725, 1997 Calif. Op. Lexis 1, *6, 20; Bus. & Prof. Code, § 6085(e); *United States v. Darryl* (9th Cir. 2010) 403 Fed.Appx. 287, 289, *citing United States v. Stever* (9th Cir. 2010) 603 F.3d 747, 755 *and Pennsylvania v. Ritchie* (1987) 480 U.S. 39, 56.

107 *See, e.g.*, TR1:82:5 - TR1:87:2.

OCTC's 584-accusation NDC, the trial court clearly committed error when it found to the contrary.[108]

As it did not give any specific reason for its decision other than to credit Judge Luege's testimony over Appellant's (much less an objectively provable one), and given that the trial was thereby functionally an exercise in which it was impossible to mount a defense against OCTC's numerous accusations, the error was prejudicial and counts three and four should be reversed, based on violation of Appellant's discovery rights.

IV.
OCTC'S ONLY WITNESS DISPLAYED ZERO CREDIBILITY. THIS FORECLOSES A FINDING THAT COUNSEL'S ALLEGATIONS OF INTELLECTUALLY DISHONESTY WERE FACTUALLY GROUNDLESS.

Judge Valenzuela made two applicable credibility determinations: one, she assessed Judge Luege's credibility to be excellent.[109] Two, she judged counsel's credibility to also be good, with some hesitation in terms of what she perceived as counsel inferring too much from certain facts, in certain situations.[110]

A. Judge Luege's Testimony, Mostly on Direct

Judge Carmen Luege was admitted to practice in 1984,[111] had worked as a prosecutor for 17 years,[112] then served as a commissioner for 11 years starting in 2009,[113] and in 2021, was promoted to the Orange County Superior Court bench.[114]

She was an attorney for 25 years before her appointment as a commissioner.[115] While sitting as such, she moved through the ranks starting in traffic, then municipal court, family law, and then she mostly handled the eviction docket.[116] These involved

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[108] 8 V 2827–2828 [Exhibit 187]
[109] 14 V 6034 [Exhibit 331].
[110] 14 V 6034 [Exhibit 331].
[111] TR1:89:9–10.
[112] TR1:63:11–18.
[113] TR1:89:11–25.
[114] TR1:36:14–22.
[115] TR1:36:14–22; TR1:89:14–19.
[116] TR1:84:18–21; TR1:90:14–25; TR1:91:9-12.

mostly small-dollar disputes.[117] At the time of her Martinez fee ruling, she had 32 years of experience as a legal professional.[118]

In this role, she regularly ruled on motions seeking attorney's fees.[119] Fee requests often varied in the in the amount sought, but were typically around $20K.[120]

She sat as the trial judge in Martinez's case because she was eventually permitted to pick up civil cases that were trailing,[121] in other words, awaiting a department for trial.[122]

The *Martinez* trial itself was litigated in a competent, uncontroversial manner.[123]

After trial, however, Martinez filed a motion seeking $144K in fees and $16K in costs, for the four-year legal effort.[124] The case had been resisted to an unusual degree,[125] since O'Hara's lawyers represented him mostly without requiring payment.[126] The plaintiff's total litigation effort had required $414K,[127] but since not all legal effort by Martinez was connected to fee shifting, Appellant had reduced the fee claim from $414K to $144K.[128]

Judge Luege explained her custom in adjudicating motions in detail: she would take in the motion paperwork,[129] read the briefs,[130] look at the exhibits,[131] study the

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117 TR1:92:9–11.
118 TR1:89:18–TR1:90:13.
119 TR1:41:23–24; TR1:53:20–21.
120 TR1:92:12–24
121 TR1:37:18; TR1:56:5–12; TR1:91:1–18.
122 TR1:56:5–12.
123 TR1:126:8–16; TR1:126:3–7.
124 TR1:39:24–TR1:40:2; 2 V 1137 [Exhibit 73].
125 2 V 1251:3–10 [Exhibit 76].
126 4 V 1901–1925 [Exhibit 115 (reflecting that $245K of a $290K bill was unpaid)]; *see* 7 V 2488 [Exhibit 165].
127 2 V 1262 [Exhibit 77]; 2 V 1160, ¶ 11 [Exhibit 73].
128 2 V 1160, ¶ 12 [Exhibit 73].
129 TR1:38:11–13.
130 TR1:41:20–21.
131 TR1:41:21–24.

method by which the attorney arrived at the fee request,[132] listen to oral argument,[133] take notes,[134] and take the matter under submission in order to give herself intellectual distance from the lawyers' oral presentations,[135] a habit she developed over time to avoid confusing skillful presentation with accurate legal reasoning.[136] She would thereafter check the parties' key case citations by reading the full case,[137] and then she would apply the facts and law to reach a written decision.[138]

In the *Martinez* case, she followed her routine.[139] She harbored no ill-will toward Martinez or his counsel.[140] She did not ignore any relevant evidence,[141] spent time and took care to review the briefs and documents,[142] was detached,[143] spent significant time reviewing the billing records,[144] kept an open mind,[145] considered the various arguments,[146] and had no particular advance predisposition to rule.[147] She would never single an attorney out for an adverse ruling outside of the merits.[148] She scrupulously avoids the appearance of advocacy for one side.[149] She provides a detailed written explanation to help the parties.[150]

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132 TR1:41:24–TR1:42:1.
133 TR1:42:2–3.
134 TR1:42:3–6.
135 TR1:40:18–20; TR1:41:18–TR1:42; TR1:71:23–TR1:72:9.
136 TR1:60:13–TR1:62:10.
137 TR1:42:7–16; TR1:65:5–11.
138 TR1:42:16–19.
139 TR1:42:23–TR1:43:1.
140 TR1:43:6–10; TR1:58:22–TR1:59:4.
141 TR1:43:11–13.
142 TR1:43:13–15; TR1:64:3–5; TR1:65:5–11; TR1:73:4–12.
143 TR1:60:9–12.
144 TR1:43:15–18; TR1:73:9–15.
145 TR1:60:9–12.
146 TR1:65:5–11.
147 TR1:44:2–TR1:45:3.
148 TR1:53:15–19.
149 TR1:60:6–8.
150 TR1:63:2–10.

Accordingly, she took care in analyzing the pleadings, the briefs, the arguments and the law,[151] reviewed the entire case file,[152] adhered to all legal principles including *Chavez*,[153] fairly and accurately analyzed the issues,[154] did not resort to advocacy,[155] was not intellectually dishonest,[156] considered and followed the facts and the law,[157] and then for the first and only time in her long career, awarded a fee applicant nothing whatsoever in fees for a four-year legal effort.[158]

The oral hearing was unusual to her in that Appellant criticized an earlier judge handling the *Martinez* case, Judge Munoz,[159] in relation to his possible incompetency.[160] She felt this was the wrong forum to raise these kinds of problems,[161] but this did not impact her decision process.[162]

In real time, she held that counsel's billing records were unreliable, mostly because two entries for 15 and 25-hours appeared to be exaggerated, invented or inaccurate.[163] She also only paid half of Martinez's requested costs, citing the fact that certain appellate fees were double billed.[164]

She testified that her decision on the fees was primarily based on the fact that she was accustomed to seeing contemporaneous billing records,[165] even though an effort to reconstruct one's time is legally permissible.[166]

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151 TR1:54:1–3.
152 2 V 1262 [Exhibit 77]; TR1:84:7–15
153 TR1:64:6–11; TR1:70:1–6; TR1:83:14–19.
154 TR1:65:14–18.
155 TR1:65:19–21.
156 TR1:72:19–TR1:73:1; TR1:76:11–22; TR1:81:19–TR1:82:9.
157 TR1:68:23; TR1:69:2; TR1:69:24–25; TR1:76:10–14; TR1:82:17–22; TR1:83:5–10.
158 TR1:53:20–23.
159 TR1:59:10–13; TR1:66:9–TR1:67:21; TR1:66:16–18.
160 TR1:77:23–25.
161 TR1:123:6–13.
162 TR1:67:22–TR1:68:15; TR1:77:20.
163 2 V 1262 [Exhibit 77].
164 TR1:41:13–15; 2 V 1263 [Exhibit 77].
165 TR1:134:1–13.
166 TR1:74:6–12; TR1:133:24–TR1:134:6; *Cates v. Chiang* (2013) 213 Cal.App.4th 791, 821; *Lin v. Jeng* (2012) 203 Cal.App.4th 1008, 1026.

B. Judge Luege's Display of Zero Credibility on Cross Forecloses a Finding that Counsel's Allegations of Intellectual Dishonesty Were Factually Groundless.

Judge Luege's testimony was not materially different from a criminal defendant who gets convincingly impeached about a claimed alibi, one that sounds good on direct and implodes on cross, as they often do.

As a strictly factual matter, and contrary to her ruling, Appellant's 15 and 25-hour billing entries were not invented, fabricated or exaggerated.[167] They were supported by extensive demurrer opposition filings that easily supported the time reported.[168] She plainly got this wrong and there is little excuse for that mistake given her claim that she reviewed "the complete record in this case."[169]

Appellant also did not double bill appellate costs.[170] Rather, Judge Luege did not detect that there were two separate appellate efforts in the *Martinez* litigation at the time, each of course requiring a separate filing fee.[171] This does not necessarily make her ruling dishonest, but in terms of using this single mistaken perception to pay only half of counsel's costs incurred over four years, it was a dispositive error.

Appellant did not expect to go over a past scrape with Judge Munoz, but defense counsel (Attorney Grant Teeple) falsely accused undersigned of not paying a sanction award issued by Judge Munoz.[172] In impeaching this accusation, Appellant tried to explain that there had never been an accurate legal basis for the sanction award in the first place,[173] Judge Munoz's logic was incomprehensible,[174] he retired not long after Appellant alerted the appellate court to his incoherent positions,[175] and in any event, Appellant certainly did not fail to pay his sanction order.[176]

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167 2 V 1262 [Exhibit 77]; 3 V 1478–1480 [Exhibit 86].
168 3 V 1478–1480 [Exhibit 86].
169 2 V 1262 [Exhibit 77]
170 2 V 1263 [Exhibit 77]
171 3 V 1318–1319 [Exhibit 83, reflecting two appellate efforts].
172 2 V 1245, 1251 [Exhibit 76].
173 2 V 1251–1252 [Exhibit 76].
174 3 V 1315–1319 [Exhibit 83]
175 3 V 1306 [Exhibit 83]; 3 V 1350 [Exhibit 84].
176 2 V 1251 [Exhibit 76].

As such, Appellant was invoking his right to comprehensively defend himself against a spontaneous false accusation made at the fee motion hearing in open court, undergirded by an indefensible sanction award. Counsel had every legal and moral right to do so, in any forum where he was being prejudiced by the misguided accusation.[177]

Judge Luege would not admit that a complex action involving a class certification effort, multiple trips to appellate court, a resistant defendant, and a 5-day trial could generate $414K fees,[178] even after counsel informed her that the defense bill was $290K,[179] a corresponding number to plaintiff's charges given the extra labor burden of being the plaintiff.

Judge Luege also provided a series of implausible responses when it came to Appellant's effort to enjoin O'Hara's fraudulent website.

Lawsuits seeking permanent injunctive relief are required to be filed in superior court.[180] In her fee ruling, she erroneously claimed that counsel should have filed the case in limited civil.[181] Asked to explain this at the discipline trial, she initially claimed that she merely said that plaintiff *could* have pursued the case this way.[182] Reminded that the complaint contained injunctive causes of action,[183] the judge then claimed that what she meant was that counsel should have changed the case's designation to limited civil, mid-case.[184] Confronted with the fact that Plaintiff sought injunctive relief through trial,[185] Judge Luege then claimed to not remember the details of the trial.[186] When shown as exhibit expressly seeking injunctive relief at trial, the judge claimed an inability to authenticate the document.[187]

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177 2 V 1245 [Exhibit 77].
178 TR1:117:2–TR1:118:1.
179 TR1:118:11–19; 4 V 1908, 1922 [Exhibit 115, $290K bill, $243K outstanding].
180 Code Civ. Proc., § 86, subds. (a)(7), (a)(8).
181 2 V 1263 [Exhibit 77]: TR1:103:1–20.
182 TR1:104:12–17.
183 TR1:103:25–TR1:104:5; 2 V 1263 [Exhibit 77].
184 TR1:104:12–TR1:105:7
185 2 V 1133–1134 [Exhibit 71].
186 TR1:106:2–14.
187 2 V 1133-1134 [Exhibit 71]; TR1:106:16–TR1:107:7.

This comprehensive impeachment of her testimony here was reminiscent of how criminal defendants would fare on cross-examination by prosecutors, in the countless trial transcripts counsel read as a young lawyer.[188]

However, the most telling indicator of Judge Luege's total lack of credibility occurred when she was asked to explain why she compared *Chavez*, founded on an $870K fee request, to Appellant's mere $144K request.[189] To this, she had no ready answer at the discipline trial; instead, she defaulted to relying on the deliberative process privilege and thereby refused to answer.[190]

However, she had unquestionably waived any such privilege given that she had provided an elaborate explanation for her every adjudicatory step to reach her fee decision in *Martinez.*[191] Obviously, no witness can credibly provide a detailed response about her internal thought process and methodology when the question suits her, and when it does not, claim that her internal thought process and methodology are exempt from scrutiny.

Indeed, when a witness proclaims that her adjudicative process is detached,[192] open minded,[193] and unbiased,[194] and that she gave extensive consideration to the ruling in question in conformity with these lofty principles,[195] she must answer questions on cross about that ruling just as openly and forthrightly – or sacrifice her credibility.

Imagine a criminal defendant, charged with a murder in Los Angeles, that trumpets an alibi defense that she was in San Diego: 'I would never commit murder. I'm always in San Diego this time of year; it is a routine I developed over many years. First, I pack,

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188 TR2:138:17–18; *see, e.g., People v. Mask* (1986) 188 Cal.App.3d 450, 455; *People v. Saucedo* (2004) 121 Cal.App.4th 937, 944.

189 TR1:112–114.

190 TR1:113:18 - 114:4.

191 TR1:38:11–13; TR1:41:20–24; TR1:41:24–TR1:42:6; TR1:42:23–TR1:43:18; TR1:60:9–12; TR1:64:6–11; TR1:70:1–6; TR1:83:14–19; TR1:64:3–5; TR1:65:5–11; TR1:73:4–15 .

192 TR1:60:9–12.

193 TR1:60:9–12.

194 TR1:44:2–TR1:45:3; TR1:65:5–11; TR1:60:6–8.

195 TR1:43:13–15; TR1:64:3–5; TR1:65:5–11; TR1:73:4–12; TR1:42:23–TR1:43:1

then I lock all the doors, then I study the route I am going to take, and after carefully planning out my time while there, I make the trip down. I followed this routine on the date the murder was committed. I was in San Diego.'

Then, when asked on cross something simple such as what hotel in San Diego she stayed at, the jury hears:

- "I am not going answer those types of questions for you because I don't think it's proper";[196]
- "I hope everyone understands that I am not here to defend [my alibi]";[197]
- "It was not my job to defend it on appeal, and it is not my job here to do that";[198]
- "I can't be defending [an alibi] that the Court of Appeal already has ruled is affirmed in its entirety";[199]
- "I'm not going to sit here and defend [my alibi] because that is not my job as a judge";[200]
- "You see, my job as a judge is to issue rulings, and once I issue them, the parties have a way to challenge them legally and procedurally under our rules of procedure. And that's what you did";[201]
- "I'm not here to defend [my alibi], Mr. Pavone, and I am not going to entertain that";[202]

Such an incredible contrast between an open willingness to answer questions, when the examiner is on her side (OCTC), as compared to her pointed defensiveness and unwillingness to answer when the questioner is not, is singularly indicative of a witness who possesses *zero credibility*.[203]

Judge Luege went on to say:

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196 TR1:107:18–19
197 TR1:107:18–19
198 TR1:107:22–24.
199 TR1:108:1–3.
200 TR1:109:1–2.
201 TR1:109:2–5.
202 TR1:109:10–11.
203 *See* CACI 107.

> I don't think the honesty of my issue is a –- or my ruling is an issue, to tell you the truth … so the ruling that I issue is a ruling that I issue. It is not intellectually dishonest. It was not intellectually dishonest when I issued it. It is not intellectually dishonest today. The Court of Appeal reviewed your appellate briefs with all the accusations that you made that we've gone over.[204]

In other words, Judge Luege's initial thought was that the honesty of her ruling was not relevant to the proceeding, only to realize mid-sentence that this was an untenable position. She then pivoted to denying the larger allegation and citing a third party's agreement with her ultimate decision, thereby evading the obligation to answer the specific question that had been asked.[205]

Counsel continued to examine Judge Luege on *Chavez*, by asking her the most basic questions, including to confirm the essential principle that it stands for, namely, that a trial court in FEHA fee claims can permissibly deny all fees for a litigation effort viewed as excessive.[206]

Judge Luege reacted to this most reasonable inquiry with, "You know, I'm not comfortable with that question, either."[207] Again, a jury would immediately reject the testimony of a criminal defendant who bolstered her alibi defense with a waterfall of lofty ideals on direct ('I read all the key case citations') but who then basically cannot, or refuses to, answer specific questions about that very alibi on cross.

Much like a balloon that has been inflated with hot air and then faces the sharp end of a needle, a criminal defendant's defensiveness and obvious inability to provide a clear, consistent and coherent defense of the most elemental aspects of her alibi would immediately lead a trier-of-fact to conclude that she has no credibility.[208]

Judge Luege went on to explain how she would be "would be violating my obligations as a judge," to answer questions about her fee ruling on cross and "so

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[204] TR1:108:9–21.
[205] TR1:108:9–21.
[206] TR1:109:21–TR1:110:3; *Chavez v. Los Angeles* (2010) 47 Cal.4th 970, 988-989.
[207] TR1:109:21–TR1:110:5.
[208] *People v. Farnam* (2002) 28 Cal.4th 107, 200.

I'm not comfortable with your question at all"[209] … "so I'm not going to answer."[210]

The "deliberative process" privilege does exist to conceivably permit Judge Luege to have refused to disclose her internal deliberations in relation to her fee ruling in the *Martinez* case, *before she testified*.[211] However, in light of her extensive, voluntary disclosure of those internal processes on direct – both generally[212] and with respect to the *Martinez* fee ruling at issue[213] – she unquestionably waived any objection along these lines.[214]

It was unfortunate that Judge Valenzuela gave even a modicum of credence to this clearly untenable privilege objection, by allowing Judge Luege to thereafter continue to invoke the privilege and refuse to answer.[215]

But in fairness, Judge Valenzuela did not entirely shut down counsel's ability to ask questions and Judge Luege went on to take a series of additionally implausible positions about her ruling.[216]

In the end, the merits of Judge Luege's deliberative-process objection effectively does not matter, in the same way it does not matter whether a criminal defendant cannot defend her story on the stand, or invokes the privilege of self-incrimination and refuses to answer. Any witness, including and especially one who announces a series of high-minded, self-serving accolades about the integrity of her position on direct and then

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209 TR1:110:17–TR1:111:3.

210 TR1:110:9–16; TR1:109:25–TR1:110:03; *see also* TR1:112:22–TR1:113:4; TR1:113:9–TR1:114:17.

211 *Citizens for Open Government v. Lodi* (2012) 205 Cal.App.4th 296, 305.

212 *See, e.g.,* TR1:38:11–13; TR1:41:20–24; TR1:41:24–TR1:42:6; TR1:60:9–12; TR1:64:6–11; TR1:70:1–6; TR1:83:14–19.

213 *See, e.g.,* TR1:43:13–18; TR1:64:3–5; TR1:65:5–11; TR1:73:4–15; TR1:42:23–TR1:43:1.

214 RT1:111:16–23; *People v. Longwith* (1981) 125 Cal.App.3d 400, 412; *Rogers v. United States* (1950) 340 U.S. 367, 370; *People v. Barker* (1965) 232 Cal.App.2d 178, 181; *see* Evid. Code, § 912; *McDermott Will & Emery v. Superior Court* (2017) 10 Cal.App.5th 1083, 1101. OCTC's attempt to bolster Judge Luege's privilege objection was utterly implausible. RT1:111:4–11.

215 RT1:111:24–112:7; RT1:114:18–RT1:115:1.

216 RT1:115:5–RT1:118:19; RT1:118–20 – RT1:119:14; RT1:119:15–RT1:120:7.

refuses to answer questions about the specifics of that position on cross, displays a pointed selectivity about her story that immediately collapses her credibility.

This is what happened here.

And yet, perhaps because Judge Luege was a fellow judge and not a criminal defendant, Judge Valenzuela impossibly deemed one of the singularly least credible witnesses this lawyer has cross-examined, albeit and unfortunately a judge, to be "highly credible."[217]

Counsel's perception in real time was that Judge Luege's testimony was so horrifyingly bad that cross-examination was terminated prematurely by the court's decision to permit Judge Luege to generally invoke the equivalent of the Fifth in order to avoid further embarrassment.[218] This is despite what should have been a ruling that Judge Luege clearly waived any privilege objection,[219] and thus she would have faced a longer series of additionally implausible positions.

For example, Judge Luege would have had to insist that wait-time penalties did not count as wages under *Ling* as she claimed in her ruling,[220] even though clearly they did[221] – or refuse to answer.

Judge Luege would have to defend her claim that an employer's decision to pay outstanding wages on the eve of trial exempts the employer from the attorney's fees incurred to that point,[222] even though obviously such a decision does not[223] – or refuse to answer.

Along with these and other intractable problems, the fact is that Judge Luege sacrificed her credibility the moment she trumpeted her lofty procedures for adjudication

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217 14 V 6034 [Exhibit 331].
218 TR1:114:18–TR1:115:2.
219 TR1:114:24–TR1:115:1.
220 2 V 1262 [Exhibit 77].
221 *Ling v. P.F. Chang's* (2016) 245 Cal.App.4th 1242, 1261.
222 2 V 1262 [Exhibit 77].
223 *Graham v. DaimlerChrysler* (2004) 34 Cal.4th 553, 570-571; *Buckhannon v. West Virginia* (2001) 532 U.S. 598, 633-634; *Graciano v. Robinson* (2006) 144 Cal.App.4th 140, 150 *citing Castro v. Superior Court* (2004) 116 Cal.App.4th 1010, 1018.

but could not remotely defend the specific decisions she made in the *Martinez* case on cross.

And then worse, she herself pounded in the nails of her credibility coffin when she resorted to the judicial equivalent of taking the Fifth. This would provide any jury, were there one in disciplinary proceedings, an immediate and compelling reason to reject her testimony in its entirety and thus find that Appellant's belief was true – that her fee ruling was not intellectually honest.

And yet, Appellant was not required to prove her ruling was intellectually dishonest. Counsel needed only to show that his factual basis for asserting that Judge Luege's ruling was intellectually dishonest was not factually groundless.[224] Judge Luege's profoundly problematic testimony was itself sufficient, standing alone, to remove the allegation from this characterization and should have resulted in the Hearing Department invalidating counts three and four.

On appeal, this Court may not simply defer to Judge Valenzuela's finding that Judge Luege was credible.[225] There is admitted deference given to the trial court on witness credibility,[226] but this Court is still obligated to independently review the record[227] – and be honest about it.[228] As every experienced trial lawyer knows, including your undersigned, typically one invocation of the Fifth – *and that's it for the witness' credibility*.[229]

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224 *Standing Committee v. Yagman* (9th Cir. 1995) 55 F.3d 1430, 1437.

225 Rule 5.155(A).

226 Rule 5.155(A).

227 Rule 5.155(A).

228 Cal. Code Jud. Conduct, Terminology and Canon 1 [defining obligation to uphold integrity of the bench to include obligation to be honest].

229 Technically, invocation of one's Fifth Amendment rights is not supposed to be used against the witness (*see* CACI 216, Evid. Code, § 913), but in reality, it is devastating to a witness' credibility. (*See, e.g.*, Simon, Stephanie, "*Fuhrman Invokes 5th Amendment, Refuses to Testify in Simpson Case*," Los Angeles Times (September 7, 1995); *People v. Siegel* (N.Y. 1995) 87 N.Y.2d 536, 551, 663 N.E.2d 872, 880 ["Heller did not invoke the Fifth Amendment in response to a collateral matter, such as crimes or other bad acts which Heller may have committed and which would reflect badly on his credibility as a witness."]; *Estate of DeChellis* (Oh. 2019) 140

If this Court is honest, it will admit that even on a cold transcript,[230] and despite Judge Valenzuela's holding, Judge Luege's fundamental approach to testifying was *(i)* profoundly inconsistent as between examiners, *(ii)* that she displayed a selective and convenient willingness to answer, *(ii)* this Court will notice that her decision to single counsel out for special denial of all fees disconcertingly stands apart from years of legal practice on fee motions by her,[231] *(iv)* it will validate counsel's inventory of elemental mistakes within her fee ruling and contrast them with Judge Luege's implausible explanation for those mistakes (or refusal to answer questions about them), and taking account of this long list of red flags, it will conclude as a result of these dynamics that undersigned counsel's allegation that her fee ruling was intellectually dishonest may indeed be true.

But it need not expressly state as much: it need only conclude that counsel's perception was not factually groundless.[232] A judge who cannot remotely defend the specifics of her own ruling, and repeatedly invokes the judicial equivalent of the privilege against self-incrimination to evade answering basic questions about it, provides this Court, on appeal, the "specific showing" necessary to seriously doubt that witness' testimony.

The allegation of intellectual dishonesty is thereby necessarily not groundless; it is at this point grounded by the fact that the witness cannot or will not defend her own position. Just because the witness is a judge, this does not change these basic principles of witness credibility.

Because the State's only witness to Counts 3 and 4 fundamentally lacked credibility, there was insufficient evidence[233] that counsel's allegations of intellectual

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N.E.3d 1193, 1207 [probate court found two individuals to lack credibility after they invoked Fifth Amendment rights].

230 *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 638.

231 TR1:92:25–TR1:93:3; TR1:95:8–11.

232 *Standing Committee v. Yagman* (9th Cir. 1995) 55 F.3d 1430, 1437.

233 *In re Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703, 1994 Calif. Op. Lexis 47, *12; *In re Fandey* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767, 1994 Calif. Op. Lexis 42, *12, *citing In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr.

dishonesty with respect to that witness' statements in a ruling were factually groundless. Both findings should be reversed.

V.
THE TRIAL COURT ERRED BY DENYING APPELLANT'S FIRST MOTION TO DISMISS COUNTS THREE AND FOUR, BECAUSE ALL FACTS SUPPORTING COUNSEL'S ALLEGATIONS WERE DISCLOSED.

According to the NDC, in Counts Three and Four counsel was charged with accusing Judge Luege of intentionally violating the law.[234]

The moving papers argued in part that these counts were required to be dismissed, because regardless of the disputed accuracy of the intellectual-dishonesty accusations at issue – a dispute that as argued herein could not be objectively settled consistent with *Yagman* – the facts Appellant relied on in generating this contention were fully disclosed in the underlying briefing.[235]

In particular, the exact facts counsel relied on to develop this contention were explicitly detailed: a long serious of legal positions were plainly inaccurate and some were inaccurate at an elemental level. This is the basis upon which counsel alleged that the ruling was intellectually dishonest. As a result, the conclusion of intellectual dishonesty was insulated by the First Amendment, because its factual basis was disclosed in the *Martinez* appellate briefing.[236]

OCTC did not address this point about disclosure. Rather, it generically argued that alleging that an attorney made a false statement about a judge qualified as a violation of B&P 6068(b).[237]

631, 638\[entitling Review Department to deviate from Hearing Department credibility decision upon "specific showing" of problems with witness' testimony].

234 7 V 2468–2472 [Exhibit 161].

235 7 V 2521 [Exhibit 168].

236 *Standing Committee v. Yagman* (9th Cir. 1995) 55 F.3d 1430, 1438-1441.

237 7 V 2703-2704 [Exhibit 174]

The trial court denied the motion by finding in relevant part that "[t]he charges are sufficiently pled."[238] Its ruling thus constituted a legal conclusion, without providing analytical reasoning or containing meaningful content.[239]

There was no evidence later admitted at trial that suggested that the facts Appellant relied on to argue that Judge Luege was intellectually dishonest were not disclosed in the briefing in which the statements were made. They were exactly set forth in that briefing, on the theory that the numerosity and magnitude of Judge Luege's errors telegraphed that she had no interest in ruling accurately.[240]

Because this case, and all the evidence, plainly falls within the disclosure paradigm of *Yagman*, the remarks in question were protected by the First Amendment.

VI.
THE JUDGMENT SHOULD BE INVALIDATED BECAUSE OCTC'S SYSTEMATIC PRACTICE OF SELECTIVE PROSECUTION VIOLATES STATE AND FEDERAL EQUAL PROTECTION.

A. Introduction

The State Bar's systemic selective targeting of solo and small-firm practitioners constitutes a massive violation of equal protection, for which the only effective remedy is dismissal – not because the targeted attorney is or is not guilty, but because such a practice represents such an egregious perversion of justice, that its continued practice removes this system from any semblance of legitimacy.

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238 8 V 2832 [Exhibit 188]

239 *See* Cal. Code Jud. Conduct, Canon 3(b), Advisory Committee Note ("Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office").

240 3 V 1326 [Exhibit 83] (["Judge Luege's intellectual dishonesty] is detectable because a number of findings and rulings are plainly indefensible: they inexplicably ignore dispositive facts, circumstances and authority tendered to the lower court prior to its issuance of the ruling, limitations that should have changed the analysis had they been seriously dealt with.")

B. De Novo Review

There are no testimonial credibility determinations (or other factual determinations) in this argument, therefore the standard of review is *de novo*.[241]

C. Appellant Was Legally Entitled to Bring a Motion to Dismiss, Supported by Evidence, Based on Applicable Ethics Standards, At Any Stage of the Lower Court Proceeding.

Selective prosecution occurs when a charging agency discriminates between defendants in its charging decisions without a good reason – or for an improper one.[242]

The State Bar system's charging rules make virtually any and every perceived wrong a putative ethical violation. Business & Professions Code sections 6068 and 6106 give it statutory authority to charge attorneys with *any* violation of any law (including a constitution) and any conduct that it subjectively deems to constitute "moral turpitude," "dishonesty," "disrespect," or "corruption." As such, solo attorneys have been charged with ethical offenses for not paying a court reporter bill;[243] for contacting immigration in a civil case involving an undocumented opponent;[244] and for trying to civilly compromise a criminal case with an unrepresented criminal defendant.[245]

Indeed, OCTC believes it can charge attorneys with any offense that subjectively offends its sense of "justice" – and it has done so.[246] Consequently, OCTC's charging paradigm effectively permits it to accuse attorneys of being unethical for any reason that bothers it. Obviously, one can hardly imagine a prosecutorial system that is more

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241 *In re Respondent AA* (1990) 1 Cal. State Bar Ct. Rptr. 255, 1990 Calif. Op. Lexis 147, *4; *Farnham v. State Bar* (1988) 47 Cal.3d 429, 433, *citing Franklin v. State Bar* (1986) 41 Cal.3d 700, 708 *and Codiga v. State Bar* (1978) 20 Cal.3d 788, 796.

242 *Oyler v. Boles* (1962) 368 U.S. 448, 456 [the decision to prosecute may not be based on an unjustifiable standard such as race, religion, *or other arbitrary classification*]; *Murgia v. Municipal Court* (1975) 15 Cal.3d 286, 290 ["If an individual can show that he would not have been prosecuted except for such invidious discrimination against him, a basic constitutional principle has been violated, and such a prosecution must collapse upon the sands of prejudice"]; *see* BLP, ¶ 38, Ex. 38.

243 10 V 3771 [Exhibit 249, Count 8].

244 5 V 2036 [Exhibit 122].

245 15 V 6456.

246 5 V 2004 [Exhibit 120].

subject to potential abuse. This kind of unfettered power makes the system's charging mechanisms essentially equivalent to the criminal systems of third world countries, which are effectively pretexts for the persons in power to target their political opponents under cover of the opponents committing "crimes."

Regardless, because of this unlimited charging universe, it is necessarily an ethics violation for a prosecutorial agency to violate the Bar target's constitutional rights in the NDC, which is actually a tort[247] and thus clearly an ethical violation.[248]

Accordingly, it must be procedurally permissible under the logic of this system for Bar targets to effectively file a common law motion to dismiss the NDC based on ethical violations by OCTC. Such motions ordinarily permit inclusion of evidence,[249] along with the normal rules that a violation of ethics permits dismissal of the offending (NDC) document.[250] Motions based on ethics violations are permissible at any stage of a proceeding.[251]

In the Hearing Department, Appellant filed five motions to dismiss on this theory, all of which were denied as procedurally improper.[252] Neither the Bar Court at the trial level nor this Court would recognize this inescapable legal reality.[253] Instead, the lower court judge cited the fact there are no summary judgment motions in Bar Court and the only statutory method to dismiss is based on Rule 5.124.[254] Obviously, both of these

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247 *Hartman v. Moore* (2006) 547 U.S. 250, 256, 262; *Nieves v. Bartlett* (2019) – U.S. –, 139 S.Ct. 1715, 2019 U.S. Lexis 3557, *9-10 (Case No. 17-1174).

248 Bus. & Prof. Code, §§ 6068(a), (b), 6106.

249 *See, e.g., McMillan v. Shadow Ridge* (2008) 165 Cal.App.4th 960, 965.

250 *In re Lapin* (1993) 1993 Calif. Op. Lex. 81, *49; *Slesinger v. Walt Disney* (2007) 155 Cal.App.4th 736, 758-759.

251 *In re Missud* (2014) 2014 Calif. Op. Lex. 28, *2; *Martinez v. O'Hara* (2019) 32 Cal.App.5th 853, 855 [announcing ethics violation during disposition of appeal in 2019, based on notice of appeal filed in 2017].

252 11 V 3911 [Exhibit 263]; 11 V 4021 [Exhibit 271]; 11 V 3939 [Exhibit 265]; 11 V 4046 [Exhibit 272]; 12 V 4408 [Exhibit 295]; 11 V 4233 [Exhibit 286].

253 11 V 4236 [Exhibit 286].

254 13 V 5005 [Exhibit 302].

observations are inapposite, as there is no known exception that suspends enforcement of the ethics rules in, of all things, an ethics court.[255]

The lower court also observed, without citing authority, "[t]hat Respondent may raise a First Amendment defense to the charges does not mean OCTC committed misconduct by alleging them."[256] However, this is exactly what it means. If a Bar target files a motion, like any other motion, that establishes under the ethics rules that an OCTC filing such as an NDC violates a rule of ethics – which here includes any violation of the U.S. Constitution such as the First Amendment – it is then unethical for OCTC to continue prosecuting the case. It must be dismissed. This is a self-evident principle of the "equal benefit" clause of federal equal protection law.[257]

Simply, the Bar Court system cannot have it both ways: it cannot use the breadth of ethics enforcement as a proverbial sword to charge attorneys with anything and everything under the sun, without the logical consequence that Bar targets can use that same breadth to expand their procedural ability to defend. Accordingly, it was error for the Hearing Department to deny Appellant's motions to dismiss on procedural grounds.

D. Selective Prosecution is a Permissible Defense in Ethics Proceedings.

Any suggestion that selective prosecution is not a permissible defense in State Bar discipline proceedings is foreclosed by the broad terms of B&P section 6085.[258] This

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255 *People v. SpeeDee Oil* (1999) 20 Cal.4th 1135, 1145, *citing* Code Civ. Proc., § 128.5, subd. (a)(5) [enforcing right to enforce ethical conflicts of interest through inherent power of court to control proceedings]; *Changsha v. Xufeng* (2020) 57 Cal.App.5th 1, 7 [enforcing right to find that anti-SLAPP motion frivolous]; *In re Lapin* (1993) 1993 Calif. Op. Lex. 81, *49 ["Judges in State Bar proceedings have similar inherent authority to exercise reasonable control over the proceedings in front of them"].

256 11 V 4236 [Exhibit 286].

257 *See* 42 U.S.C. § 1981(a); *Chapman v. Higbee* (6th Cir. 2003) 319 F.3d 825, 832 ["A litigant must demonstrate the denial of the benefit of a law or proceeding protecting his or her … cognizable property right."]

258 *In the Matter of Tady* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121, 125; *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 645.

code section grants discipline targets the right to invoke any constitutional right.[259] The defense of selective prosecution is founded in equal protection.[260]

E. The Hearing Judge Erred by Treating the Motion as an Improper Motion for Summary Judgment

In her ruling denying the motion, the hearing judge started with a procedural beef:

> As the court has explained in denying Respondent's multiple prior motions to dismiss, no pretrial summary judgment procedure is available in State Bar Court proceedings. (*In the Matter of McCarthy* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364, 376; *In the Matter of Tady* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121, 125 [appropriate time for attorney to present evidence in defense is at merits hearing].) Consequently, arguments requiring consideration of factual evidence generally are not suitable for disposition by motion to dismiss. On this basis, Respondent's selective prosecution claim arguably is improperly presented in a pretrial motion to dismiss and should be denied for that reason.[261]

As discussed above, the hearing judge's position is, respectfully, wrong. Counsel did not bring a summary judgment motion. He did not bring a Rule 5.124 motion to dismiss. Rather, the common law of California permits attorneys to bring motions to enforce the rules of ethics, in every forum.

F. OCTC Practices System-Wide Selective Prosecution.

It is clearly some large number of ethical violations (under multiple sources of legal authority) for OCTC to have systematically engaged in corruption, prosecutorial favoritism and selective prosecution of a disfavored group.[262] Therefore, victims of its corrupt practices are entitled to dismissal because it is unconstitutional and thus unethical to charge an attorney as a product of such misconduct, as argued below.

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[259] Bus. & Prof. Code, § 6085, subd. (e).

[260] *Lacey v. Maricopa County* (9th Cir. 2012) 693 F.3d 896, 940.

[261] 13 V 5005 [Exhibit 302].

[262] *Oyler v. Boles* (1962) 368 U.S. 448, 456; *Murgia v. Municipal Court* (1975) 15 Cal.3d 286, 290.

In a review of over 600 pending State Bar cases, 99% involved charges levied against solos or small firm attorneys.[263] This group only constitutes 55% of the profession.[264] Therefore, the State Bar appears to exempt 45% of the profession – attorneys connected to large organizations – even though its own statistics reveal that big firm attorneys commit at least as many chargeable offenses per capita.[265]

Indeed, in the category of attorneys with 1-4 complaints against them, which is the vast majority of attorneys, big firm attorneys were the object of 25% *more* complaints.[266]

The problem with this selective focus on solos/small is dramatically underscored by the Girardi scandal. While committing an almost incalculable number of capital offenses on an ethics metric over the course of 30 years of law practice[267] – not to mention the underlying mountain of misrepresentation accompanying all that grift[268] – the State Bar's institutional focus on, and distraction by, charging solo/small attorneys with ethical misdemeanors, contributed to OCTC immunizing the most prolific ethics felon in California legal history. Given the magnitude of corruption involved in permitting all of Girardi's misconduct, OCTC wins the prize for *second* biggest ethics offender in California legal history.

In just the *Dole* case, Girardi was engaged in a significant quantum of fraud and forgery; if a solo or small firm attorney had created a web of deceit and lies comparable to the mess Girardi Keese made during the *Dole* case, to the point of warranting sanctions in the six-figure sum that was imposed, it is almost certain that he would have been

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263 12 V 4423 [Exhibit 295]; 13 V 4986 [Exhibit 300]; 13 V 5071 [Exhibit 311]; TR2:54:21–TR2:62:15; 5 V 1999 [Exhibit 119];

264 12 V 4423 [Exhibit 295]; 13 V 4986 [Exhibit 300]; 13 V 5071 [Exhibit 311]; TR2:54:21–TR2:62:15; 5 V 1999 [Exhibit 119];

265 12 V 4423 [Exhibit 295]; 13 V 4986 [Exhibit 300]; 13 V 5071 [Exhibit 311]; TR2:54:21–TR2:62:15; 5 V 1999 [Exhibit 119];

266 12 V 4517 [Exhibit 295, Table 2].

267 12 V 4415-4421 [Exhibit 295]; 12 V 4429, ¶ 40; 13 V 4983 [Exhibit 299]; 10 V 3359 [Exhibit 218].

268 See CRPC, Rules 1.3(a), 2.1(a), 3.4(c), 7.1(a), 8.4(c); Bus. & Prof. Code, §§ 6068(n), 6106, 6128.

charged with multiple ethics offenses; it is plausible that a solo attorney would have been disbarred over the debacle.[269]

Yet, somehow Girardi was never charged with a single count, evidently because his case was conveniently referred to "special prosecutors," ones who uniformly concluded that somehow Girardi had not committed any ethical offense worth *even charging* – even though Girardi had clearly committed an encyclopedic, psychopathic tome of ethical crime – and had been doing so for years.[270]

OCTC cannot hold the public trust while it is itself systematically committing serial ethics offenses in the form of prosecutorial misconduct and selective prosecution.[271] For comparison sake, a district attorney's office that systematically refused over 30 years to charge a serial killer with any criminal offense, while prosecuting misdemeanants to the fullest extent of the law, would be immediately supplanted by federal authorities until a new organization, with concrete guardrails to prevent future corruption, were installed anew.

Given the truly massive amount of ethical misconduct that OCTC appears to have committed over the last 30 years, by exempting actual ethical felons and prosecuting solo-practitioner misdemeanants as felons (spotlighted by the Girardi scandal), this disturbing dynamic warrants the equitable relief of dismissal of this case, as Appellant is a member of the targeted group. Indeed, dismissal of this case is hardly a sufficient reprimand for the *systemic* wrong of selective prosecution, embellished with evidence of direct corruption of the office.

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269 *Franco v. Dow Chemical* (9th Cir. 2010) 611 F.3d 1027, 1030-1035.

270 *Franco v. Dow Chemical* (9th Cir. 2010) 611 F.3d 1027, 1066-1067 ["Respondents' efforts went beyond the use of 'questionable tactics' – they crossed the line to include the persistent use of known falsehoods."]; 13 V 4983 [Exhibit 299]; 10 V 3359 [Exhibit 218].

271 *In re Murray* (2016) 2016 Calif. Op. Lex. 34, *13 [prosecutorial misconduct can be charged as an ethical offense under B&P 6106]; *Yick Wo v. Hopkins* (1886) 118 U.S. 356, 373 ["A defendant may demonstrate that the administration of a criminal law is 'directed so exclusively against a particular class of persons . . . with a mind so unequal and oppressive' that the system of prosecution amounts to 'a practical denial' of equal protection of the law."]

Appellant's offenses are at this point limited to just two charges founded in debatably proper legal arguments in an appellate brief: there is no theft; no grift; no fraud; no predatory conduct toward clients. Appellant's misconduct is at worst a speck on the continuum of Girardi-caliber misconduct, and not even a speck on the canvas of OCTC's larger selective prosecution practices. Yet Appellant (and solos in general) are exclusively subjected to protracted, draining, and expensive ethical enforcement proceedings – felony treatment as a misdemeanant – while Girardi and 99% of all "connected" lawyers are conveniently exempted from these major prosecutorial impositions.

The only remedy to even begin to address the magnitude of harm committed by OCTC on a selective prosecution basis is to start with an initial recognition that there is a price for this misconduct, by dismissing the remaining counts in this case on an equal protection basis.[272]

G. The Trial Court Erred by Holding that Selective Prosecution Is Only Committed on an Individual Basis.

The lower court argued that to state a selective prosecution violation, a defendant must demonstrate that *he* has been deliberately singled out for prosecution on the basis of some invidious criterion.[273]

Her argument reads:

> Respondent has not shown that he has been singled out for investigation and prosecution because he is a small-firm practitioner. The statistical study Respondent presents, reflecting that small-firm attorneys are investigated and disciplined more often than those at big firms, does not establish intentional discrimination as required for selective prosecution. (*See In the Matter of Dixon, supra*, 4 Cal. State Bar Ct. Rptr. at p. 42.) Indeed, it suggests the opposite. The study reflects that small-firm attorneys are more likely to be investigated and disciplined because they are subject to more

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[272] *Baluyut v. Superior Court* (1996) 12 Cal.4th 826, 831-832.

[273] 13 V 5005 [Exhibit 302], *citing In the Matter of Dixon* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 23, 42 *and Murgia v. Municipal Court* (1975) 15 Cal.3d 286, 297 (emphasis in original).

> complaints, which generally originate from the public outside the State Bar. It does not indicate that OCTC independently targets small-firm practitioners due to their membership in that group.[274]

There is no scenario under which this observation can be accurate. Recall, the statistics are not within any margin of error of the pro-rata proportion of each population; ***99%*** of cases in a 676-case sample targeted solo and small-firm attorneys. They represent 54% of the profession. There is no possibility that 99% of complaints are made against solo and small firm attorneys. Indeed, the Bar's own data indicates that of a total of 25,956 complaints received between the two groups: solo/small versus large/government, 75% were against the solos and small firms; 25% were against the large firms and government lawyers.[275]

This provides some basis to say that solos and small firm attorneys attract more complaints per capita, but it does not support the trial court's position that they therefore draw ***99%*** of the complaints.

The trial court next argues that OCTC did not individually target Appellant, implying that the "deliberately singled out" language in *Dixon* means that selective prosecution cannot be enforced if it is a practice against a group, rather than a specific instance of targeting against an individual.

The Court: "Nor does any evidence demonstrate that Respondent himself was singled out on this basis. The fact that attorney Girardi – who practiced at a larger firm – was not prosecuted sooner, does not demonstrate that Respondent was targeted for prosecution due to his small-firm practice."[276]

Respectfully, observations like these cannot become the law. Imagine holding that a Black attorney cannot claim selective prosecution if it turned out that 99% of OCTC's charges were against Black attorneys, on the basis that there was no evidence of direct animus against *this* Black attorney.

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[274] 13 V 5007 [Exhibit 302].
[275] 12 V 4517 [Exhibit 295, Internal Ex. 10, Table 3].
[276] 13 V 5007 [Exhibit 302].

Imagine holding that a female attorney cannot claim selective prosecution if it turned out that 99% of OCTC's charges were against female attorneys, on the basis that there was no evidence of direct animus against *this* female attorney.

If any logic should be validated, it should be the opposite. An enforcement body's practice of targeting one group is more egregious *for the very reason that it commits the violation indiscriminately against that group*. The lower court's logic is a non-starter.

It matters not that OCTC did not personally target Appellant, because OCTC's selective prosecution practices operate to disadvantage a certain group of persons for the benefit of the favored and it has been this way for many years.[277] Accordingly, this is a wrong that must be corrected – or the discipline system must be scrapped as too corrupted to perform a meaningful function in the regulation of attorneys.

For these reasons, the Court should clarify that selective prosecution is a legitimate defense in Bar proceedings, should validate Appellant's charging data (since it has never been seriously challenged as inaccurate), and dismiss this case as the first step of a larger reform effort to respect principles of equal protection.

VII.
THE STATE BAR'S COST SHIFTING SYSTEM FABRICATES CHARGES AND IS THEREFORE ILLEGAL, UNETHICAL, AND PROBABLY REPRESENTS A CIVIL RICO VIOLATION.

A. Introduction

OCTC's system of automated, invented cost impositions violates the federal constitution's due process clause, which requires an individualized determination of legal findings, as well as qualifying as a federal Civil-RICO "racket."[278]

The cost demand included in the NDC should have been stricken, the order for costs in the lower court's final decision should similarly be stricken, and the entire current mechanism for automatic cost-shifting in State Bar Court should be invalidated as illegal.

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[277] 1 V 36 [Exhibit 4, 1998: "Langford says she believes that solo and small-firm lawyers are far more likely to face disciplinary actions than lawyers in large firms"].

[278] See 18 U.S.C. § 1961.

B. Procedural Background of Cost Order in this Case

The NDC warns the targeted attorney that in the event of discipline, costs may be imposed for investigation, hearing, and appellate review, pursuant to B&P 6068.10.[279] In July 2021, Appellant raised a detailed challenge to OCTC's cost structure, including on reply,[280] before the procedural right to file reply papers was revoked.[281]

On September 20, 2021, the Hearing Judge denied the motion, by ruling in relevant part that it had no authority to declare a statute unconstitutional, or entertain a hypothetical issue since costs had not actually been imposed.[282]

The former suggestion is clearly untenable: the State Bar Act gives discipline targets the right to enforce their constitutional rights in defense of such actions.[283] Such rights statutorily include the right to challenge rules or legislation as unconstitutional.[284] Therefore, if a Hearing Judge believes that a statute lacks constitutionality, it must so find in the discipline target's case in order to respect his right to exercise his statutory defenses under B&P 6085, even if such a finding does not formally result in the invalidation of that statute since State Bar judges are not empowered to invalidate state legislation.

The Hearing Judge's latter suggestion, regarding the issue being hypothetical, is also untenable. There was nothing "hypothetical" about OCTC's pursuit of costs. It sought them in the NDC[285] and it has now obtained an order for them in a final decision.[286]

In the lower court's decision, it imposed costs and fines:

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279 7 V 2473 [Exhibit 161].
280 11 V 3844 [Exhibit 257]; 11 V 3890 [Exhibit 261].
281 SBRP, Rule 1114; see 12 V 4946 [Exhibit 296].
282 12 V 4399 [Exhibit 293], *citing In the Matter of Langfus* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 161, 168 *and In the Matter of Respondent J* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273, 275.
283 *See generally* Bus. & Prof. Code § 6085; Bus. & Prof. Code § 6085, subd. (d).
284 Bus. & Prof. Code § 6085, subd. (d).
285 7 V 2473 [Exhibit 161].
286 14 V 6072 [Exhibit 331].

- $2,500 in sanctions, pursuant to B&P section 6086.13 and rule 5.137(E)(2);[287]
- Costs, pursuant to B&P section 6086.10 (without specifying a figure);[288]
- Other financial impositions through various "probationary" punishments.[289]

Just because the exact amount has not been specified does not mean that an issue is "hypothetical."[290]

C. Constitutional Invalidity of the B&P 6086.10

OCTC sought costs of $6,464.[291] OCTC never produced any evidence to support this figure, or to support the idea that it requires almost $10,000/day in costs to try a State Bar case.[292]

The governing statute's main provision, section 6086.10(b)(3), states that "The costs required to be imposed pursuant to this section include all of the following … [t]he charges determined *by the State Bar* to be 'reasonable costs' of investigation, hearing, and review."[293]

There are fatal constitutional problems with this statute – and the even more draconian SBRP 5.130 rule that proposes to prohibit attorneys from challenging 6086.10(b)(3)'s schedule – a jarring display of institutional hubris – as against the most rudimentary constitutional limitations, all of which are enforceable pursuant to B&P 6085.[294]

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287 14 V 6069 (Exhibit 331)

288 14 V 6072 [Exhibit 331].

289 14 V 6070–6071 [Exhibit 331].

290 *Compare Apollo v. Lantern Credit* (C.D. Cal. 2018), 2018 U.S. Dist. Lexis 6818, *5 [and cases cited therein] [a hypothetical, academic or abstract issue is one where no actual controversy exists].

291 11 V 3849; 9 V 3007 [Exhibit 202].

292 9 V 3007 [Exhibit 202].

293 Bus. & Prof. Code, § 6086.10, subd. (b)(3).

294 State Bar Rules of Practice, Rule 5.130(A) ["Under Business and Professions Code § 6086.10(b), an attorney may challenge the propriety of including items in the certificate of costs or the calculation of properly included costs. *But the attorney may*

Based on various federal principles, including separation of powers and due process, a party to a legal dispute does not get to subjectively and unilaterally decide what is reasonable. As explained in paraphrased language by *Miller v. Ghirardelli*,[295] in talking about California law:

> Under California law, duly enacted statutes are presumed constitutional.[296] Unconstitutionality must be clearly shown, and doubts will be resolved in favor of its validity.[297] If a statute can be construed in multiple ways, the court will adopt a construction that supports its constitutionality, even if another construction is equally reasonable.[298]
>
> An unconstitutional delegation of authority occurs only when a legislative body (1) leaves the resolution of fundamental policy issues to others or (2) fails to provide adequate direction for the implementation of that policy.[299] *Such a delegation occurs when the public entity has committed a "'total abdication of that [legislative] power, through failure either to render basic policy decisions or to assure that they are implemented as made*… .'"[300]

Clearly, prosecution and adjudication of attorney disciplinary matters are technically handed under one umbrella, the California Supreme Court (thus, the judiciary), thereby foreclosing a traditional separation of powers challenge as between the three branches.

Nonetheless, the California Supreme Court has recognized the different roles played by OCTC and the State Bar Court, and it expects each body to stay in its lane.[301]

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not challenge the State Bar's determination of "reasonable costs" under Business and Professions Code § 6086.10(b)(3)."]

295 *Miller v. Ghirardelli* (N.D. Cal. 2013) 2013 U.S. Dist. Lex. 49733 [Case No. C 12-04936 LB, April 5, 2013].

296 *Lockyer v. San Francisco* (2004) 33 Cal.4th 1055, 1086.

297 *Ibid*.

298 *People v. Broderick Boys* (2007) 149 Cal.App.4th 1506, 1522.

299 *Carson Mobilehome v. Carson City* (1983) 35 Cal.3d 184, 190.

300 *People ex rel. Lockyer v. Sun Pacific Farming* (2000) 77 Cal.App.4th 619, 634 [emphasis added].

301 *In the Matter of Respondent U* (1995) 1995 Calif. Op. Lex. 13, *48 ["Even then, the Supreme Court noted that no one entity within the State Bar was vested with more than one function. (*Kelly v. State Bar* [1988] 45 Cal.3d 649, 655, fn. 8). In contrast,

Awarding OCTC the power to announce what it subjectively determines is "reasonable" pursuant to an automated schedule, and based on a system that does not track actual costs, gravely contravenes these principles.

In addition, on a more traditional due process basis, every legal determination requires it to be performed by a neutral and detached arbiter; clearly OCTC is not such an entity in deciding what costs are reasonable.[302]

D. Summary Imposition of Costs is Illegal.

Although in 1993 *In re Respondent J*,[303] a State Bar case, validated OCTC's basic right to engage in its automated, schedule-based cost system, it is now a 28-year-old case and does not account for various modern realities, apart from the above federal constitutional limitations. For example, costs in modern litigation have been significantly reduced due to technological advances. Additionally, the idea that OCTC cannot keep track of its actual costs defies the very obligation that is imposed on the rest of the profession.

Furthermore, could there by anything more unAmerican – and facially invalid – than a rule that says an attorney proposed to be hit with thousands of dollars in dubious "investigator costs" cannot even challenge them?[304]

Costs in regular civil must be found by a neutral party to be reasonable and necessary.[305] By definition, they must be actually incurred.[306] They must be claimed via

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the new State Bar Court operates substantially as an independent entity, consistent with its adjudicative function over matters in which the State Bar is a party. (*Cf. Civil Service Com. v. Superior Court* (1984) 163 Cal.App.3d 70, 77-78."].)

302 *Concrete Pipe v. Construction Laborers* (1993) 508 U.S. 602, 617, citing *Ward v. Village of Monroeville* (1972) 409 U.S. 57, 61-62.

303 *In the Matter of Respondent J* (1993) 2 Cal. State Bar Ct. Rptr. 273, 1993 Calif. Op. Lex. 82 (1993).

304 State Bar Rules of Procedure, Rule 5.130(A) ["But the attorney may not challenge the State Bar's determination of "reasonable costs" under Business and Professions Code § 6086.10(b)(3)."]

305 *Nelson v. Anderson* (1999) 72 Cal.App.4th 111, 132.

306 *Code Civ. Proc.,* § 1033.5.

a verified memorandum,[307] and upon challenge, they must be supported by competent, admissible evidence by such things as bills, invoices, or statements.[308]

In contrast, costs in the State Bar forum, assessed pursuant to its dubious black box schedule, is a patently insufficient protection against abuse relative to other cost-shifting schemes, in violation of substantive and procedural due process.[309] Given the display of corruption in its charging practices and the Girardi Scandal, this is no time to trust OCTC, about anything.

Legislation and/or government practice must meet basic due process requirements. This translates to various iterations and rules specifying the idea of fairness in a given context.[310] One of these hallmark features of due process is that systems are expected to be fair to persons *in an individualized manner*.[311]

In all other known contexts, the idea of imposing generalized, invented, automated charges on the other party would be scoffed at with citation to the axiomatic and ordinary rule that costs must be both reasonable in amount and reasonably necessary to the

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307 *Jones v. Dumrichob* (1998) 63 Cal.App.4th 1258, 1267.

308 *Jones v. Dumrichob* (1998) 63 Cal.App.4th 1258, 1267, *citing Bach v. County of Butte* (1989) 215 Cal.App.3d 294, 308.

309 *See, e.g. People v. Rodriguez* (1998) 66 Cal.App.4th 157, 175.

310 *People v. Hanson* (2000) 23 Cal.4th 355, 366-367.

311 *Wolff v. McDonnell* (1974) 418 U.S. 539, 558 ["The touchstone of due process is *protection of the individual* against arbitrary action of government"]; *Demore v. Kim* (2003) 538 U.S. 510, 551 [""Due process calls for *an individual determination*" before rights are taken away]; *People v. Peoples* (2016) 62 Cal.4th 718, 741, 747, 759, 768, 774 [repeatedly memorializing basic due process contention that defendant entitled to reliable *and individual determination* of his rights]; *United States v. Grant* (C.D. Cal. 2007) 524 F.Supp.2d 1204, 1214-1215 ["The right to substantive due process protects *individual* liberty against certain government actions regardless of the fairness of the procedures used to implement them"]; *People v. Hernandez* (1984) 160 Cal.App.3d 725, 747-748; Karst, Supreme Court (1977) "*1976 Term – Foreword: Equal Citizenship Under the Fourteenth Amendment*," 91 Harv. L. Rev. 1, 5-11 [there is an "important due process interest in recognizing the dignity and worth *of the individual* by treating him as an equal, fully participating and responsible member of society"]; *In re C.P.* (2020) 47 Cal.App.5th 17, 30, fn. 8.

conduct of the litigation, which obviously presupposes that they were *actually* incurred.[312]

Some of these outcomes are clearly unacceptable. The idea that a two-day (Zoom) trial costs over $19,000 in costs is obscene;[313] the idea that $23,000 in costs to litigate an appeal also amounts to obvious illegal – racketeering-caliber – profiteering.[314]

Furthermore, the State Bar system generally requires issues against applicants to be proven by the clear-and-convincing evidentiary standard.[315] OCTC's cost-schedule system not only fails to satisfy a clear-and-convincing standard that reasonable costs have been incurred, it fails to satisfy *any* standard. Its automated chart is not evidence of its costs; it is a request for them. OCTC is illegally collecting costs it has never proven to the satisfaction of its own requisite evidentiary standards.

Rule 5.130(A)'s removal of the right to challenge the State Bar's cost schedule represents a flagrant violation of due process. "For government to dispose of a person's significant interests without offering him a chance to be heard is to risk treating him as a nonperson, an object, rather than a respected participating citizen."[316]

Given that 99% of OCTC's cases appear to involve solo and small-firm attorneys, it is draconian to say the least for cost recovery provisions to be equated as fair between the parties, when OCTC maintains a 180-man dedicated investigator labor force, while solos

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312 Code Civ. Proc., § 1033.5, subd. (c)(2), (c)(3); *Ladas v. California* (1993) 19 Cal.App.4th 761, 774; *see Ransom v. FIA Card Services* (2011) 562 U.S. 61, 70-71 [deduction for [11 U.S.C. § 1325(b)(3)] expenses by bankrupt debtor must have been actually and reasonably expended]; *Exxon v. Hunt* (1986) 475 U.S. 355, 359 [in environmental context under 42 U.S.C. § 9611(a), "the President shall not pay for any administrative costs or expenses out of the Fund unless such costs and expenses are reasonably necessary for and incidental to the implementation of this subchapter."]; *Lehnert v. Ferris Faculty* (1991) 500 U.S. 507, 560 (Diss. Opn. Marshall, J.) [members of a union would be entitled to object to charges that were not reasonably necessary to union business; by definition, any such charges must have at a minimum been actually incurred].

313 9 V 3008 [Exhibit 202].

314 See 18 U.S.C. § 1961.

315 *In re Matter of Applicant A* (1995) 3 Cal. State Bar Ct. Rptr. 318, 1995 Calif. Op. Lex. 1, *18-21.

316 *See People v. Ramirez* (1979) 25 Cal.3d 260, 267–268.

and small-firm attorneys are almost certain not to possess such an exotic kind of employee on staff.[317]

In short, there is patently no legal basis for the automatic imposition of costs.

E. Challenge to Investigator Salaries

State Bar Investigators are overpaid. There are young (merely college educated) graduates making over $100,000 while similarly-situated government attorneys saddled with years of extra education and the associated debt that comes with it, do not earn nearly this much. In 2019 alone, Chin Eronobi ($142,343), Braulio Munoz ($138,220), Ben Charny ($129,570) and Sandra Hernandez ($128,639) are examples of the inflated salaries being paid to government bureaucrats who are effectively equivalent to an administrative assistant, while salaries of less than $100,000 are not uncommon among district attorneys and other sophisticated government employees.

Indeed, there are a large number of California *judges* – with all of the burden, scrutiny, qualification, education and experience to win that appointment – that earn less than $200,000 per year. The idea that OCTC is passing these inflated investigator expenses on to targeted attorneys to benefit its employees, ones who act as little more than data processors, and who are not remotely qualified as compared to the skill, talent, years of investment necessary to act as a California judge – represents another significant defect in the system, all the more in an environment that putatively precludes the right to challenge it.

F. Premature for Hearing Judge to Adjudicate Costs

In terms of the issue being allegedly premature, the idea that costs can only be challenged after they have been exactly fixed proposes another abuse of solo and small-firm attorneys. According to OCTC's schedule, the presumptive cost figure for an appeal is $21,000.[318] This appeal supposedly costs OCTC $21,000 – even though it has already been established that the Court's clerk prepares the record and/or Appellant will privately prepare one, but either way, OCTC will not. So where does one get $21,000?

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[317] 11 V 3903.

[318] 9 V 3008 [Exhibit 202].

Worse, if this case effectively requires two appeals, one to challenge the merits and one to challenge the subsequent imposition of costs, then Appellant faces $42,000, just in "costs" on appeal.

Again, rules that set up an ability for a government agency to behave like a civil RICO racketeering enterprise cannot withstand federal constitutional scrutiny.

G. Evasion of Cost Challenges by Refusal to Impose Costs

OCTC may be proposing to avoid invalidation of its controversial cost system in this appeal by not imposing costs in this case, and otherwise relying on State Bar case law that holds that a cost challenge before formal imposition of costs is premature.

The evasion dynamic falls into the same rule that stops injunctive defendants from utilizing similar tactics: appellate courts have discretion to decide otherwise moot cases presenting important issues that are capable of repetition yet tend to evade review.[319]

In summary, B&P 6086.10(b)(3) illegally presupposes that OCTC sets the reasonable costs of a prosecution; it does not initially corroborate or verify its costs; even after a dispute, it does not produce evidence or testimony to support these costs; there is no reason to think these costs are actually incurred, and at least in this case, are clearly not actually incurred and are by definition invented or inflated; its investigator salaries are inflated and thus its costs passed along on this metric are by definition inflated; and the State Bar System has actually legislated the idea that its black box of (b)(3) costs should be immune from any right to challenge in a stunning arrogation of unconstitutional power.

Notably, all violations of law are, according to OCTC, also ethics violations. If this Court finds one or more violations of law in these cost arguments, OCTC is itself committing hundreds or thousands of ethical violations by inflicting this system on attorneys, while holding itself out as an enforcer of good ethics in a most brutal display of institutional hypocrisy.

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[319] *In re Webb* (2019) 7 Cal.5th 270, 273–274, *citing Conservatorship of Wendland* (2001) 26 Cal.4th 519, 524, fn. 1

CONCLUSION

For the myriad reasons advanced above, Appellant requests the Court to invalidate counts three and four and to institute reforms within the system consistent with these arguments.

Date: August 11, 2022

PAVONE & FONNER, LLP

Benjamin Pavone, Esq.
Attorneys for Appellant

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PAVONE & FONNER, LLP

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ATTORNEYS FOR RESPONDENT

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN RE THE MATTER OF, ATTORNEY, BENJAMIN L. PAVONE, ESQ., RESPONDENT.

Case No. SBC20O0496

PROOF OF SERVICE

I am over the age of eighteen years and a party to the within entitled action. My business address is 600 W. Broadway, Ste. 700, San Diego, California 92101.

On August 12, 2022, I served the following via electronic mail:

- Appellant's Opening Brief
- Appellant's Motion to Permit Oversize Brief
- Appellant's Appendix of Record Exhibits – Volume 1
- Appellant's Appendix of Record Exhibits – Volume 2
- Appellant's Appendix of Record Exhibits – Volume 3
- Appellant's Appendix of Record Exhibits – Volume 4
- Appellant's Appendix of Record Exhibits – Volume 5
- Appellant's Appendix of Record Exhibits – Volume 6

- Appellant's Appendix of Record Exhibits – Volume 7
- Appellant's Appendix of Record Exhibits – Volume 8
- Appellant's Appendix of Record Exhibits – Volume 9
- Appellant's Appendix of Record Exhibits – Volume 10
- Appellant's Appendix of Record Exhibits – Volume 11
- Appellant's Appendix of Record Exhibits – Volume 12
- Appellant's Appendix of Record Exhibits – Volume 13
- Appellant's Appendix of Record Exhibits – Volume 14
- Appellant's Appendix of Record Exhibits – Volume 15
- Appellant's Appendix of Record Exhibits – Volume 16
- Trial Transcript, Volume 1
- Trial Transcript, Volume 2

On the following parties:

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State Bar Court
Hearing Department
Chambers Hon. Cynthia Valenzuela
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Ms. Kimberly Anderson, Esq.
Office of Chief Trial Counsel
The State Bar of California
845 S. Figueroa St.
Los Angeles, CA 90017 Kimberly.Anderson@calbar.ca.gov>

I declare under the laws of the State of California in the County of San Diego under penalty of perjury on this 12th day of August, 2022 that the foregoing is true and correct.

Date: August 12, 2022

Public Comment - Proposed Rule 8.3

Name	Nancy Carlson
City	Laguna Woods
State	California
Email address	msncarlson@aol.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	NC Carlson, Chair The Consumer Bar (Public Oversight) Proposed Rule 8.3 sets forth a requirement a lawyer report another lawyer who has committed a "criminal act". The issue of client trust account and client funds misconduct has been a significant historical factor in misconduct complaints by the public. This led to the creation of State Bar "Client Trust Account Protection Program" [CTAPP]. This has been designed as preventive program. Misappropriation of client funds etc is illegal. But not typically described as " criminal ". Discovery may be by fellow firm associate lawyers. This recommends proposed Rule 8.3. include language covering this act:

"A lawyer shall inform the State Bar when the lawyer has knowledge that another lawyer has committed a criminal act or violated rules applicable to client trust accounts and client funds
that reflects adversely on the lawyers honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by the Rule 8.4(b)

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Rina Carmel
City	Los Angeles
State	California
Email address	rc@amclaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	David C. Carr
City	Las Cruces
State	New Mexico
Email address	dccarr@ethics-lawyer.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Enacting any version or analog to ABA Model Rule 8.3 is a bad idea. The Rules Revision Commission thoroughly considered the issue in 2016 and came to conclusion that such a rule. As stated in the drafting team memo dated May 16, 2016: There are also significant cons to a reporting requirement; either the Model Rule or RRC1 hybrid approach would: 1. require a lawyer to determine whether a known violation raises a substantial question as to (or implicates) the lawyer's honesty, trustworthiness or fitness as a lawyer; 2. despite the recognition that reporting could be trumped by the duty of confidentiality with respect to information learned in the course of representation of a client, pose a potential for conflict with that rule, or with the attorney-client relationship, to the extent lawyers might feel obligated to discuss waiver of confidentiality to further the reporting interests of the lawyer rather than the client's own interests;

3. pose a potential for conflicts with a lawyer's duty of loyalty if reporting posed a risk of adversely affecting a current or former client's interests; and
4. potentially be viewed as inconsistent with the discretionary reporting policy reflected in Canon 3D(2) of the California Code of Judicial Ethics that states: "Whenever a judge has personal knowledge, or concludes in a judicial decision, that a lawyer has committed misconduct or has violated any provision of the Rules of Professional Conduct, the judge shall take appropriate corrective action, which may include reporting the violation to the appropriate authority." (Emphasis added.)

On balance, the drafting team agrees that the cons outweigh the pros, particularly given that...

... California has never had such a reporting requirement, and that the analysis required for lawyers to determine the scope of any reporting requirement seems inconsistent with this Commission's charge to retain the historical nature of the California Rules as a "clear and enforceable articulation of disciplinary standards."

It is unlikely that the proposed Rule 8.3 will prosecuted to any significant extent. As the RRC drafting team noted, the Supreme Court has rejected the ABA Model Rule concept of Rules of Professional Conduct as aspirational statements. Moreover, as COPRAC noted in its discussion, evident in the draft Rule, there is an epistemological problem in proving the requisite knowledge required to violate the Rule by the required standard of clear and convincing evidence.

The provenance of the proposed Rule is troubling. It is clearly a reaction to the Girardi scandal and was first mentioned as a possibility by Chair Duran shortly after the Los Angeles Times ran a story about California lacking such a rule in October 2022. The existence of Rule 8.3 would not likely made a difference in the Girardi case. The problem in Girardi was not that the State Bar lacked notice that Girardi may have committed serious misconduct but that the State Bar did nothing even after receiving such notice, hence the State Bar's admission that serious mistakes were made. The rush to enact Rule 8.3 appears to be motivated by the State Bar's desire to rehabilitate its public image, not from a reasoned consideration of the public protection value of such a Rule. The introduction of SB 42, which would establish an even more flawed version of the reporting requirement in proposed Business &...

... Profession Code section 6090.8, has further distorted the process. If we are to have a such a reporting requirement, the proposed version of Rule 8.3 is preferable. Of course, the Legislature can enact section 6090.8, no matter what the State Bar and Supreme Court do with proposed Rule 8.3, where it would join other meaningless exercises in Legislative grandstanding such as Business & Professon Coe sections 6157 et seq..

Nontheless, I urge the State Bar not to recommend this Rule to the California Supreme Court. It won't do anything to improve public protection.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Timothy Craig, II
City	San Rafael
State	California
Email address	tc.celrsig.esq@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	California is the most populous state in the Union. I believe we also have the largest number of licensed attorneys. The Law has long refused to require citizens to report crimes or come to the aid of those in distress. This rule would essentially seize private property (law license) if and/or when a lawyer refuses to turn government informant. Finally, the court officers are not executive officers and such a rule would conceivably violate the separation of powers doctrine. I oppose.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Renee Daughetee
City	Huntington Beach
State	California
Email address	dlf_renee@outlook.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Asking lawyers to police other lawyers, outside of our commitment to the state bar is not only redundant but a very scary prospect. Every lawyer by nature should be competitive however, many lawyers are also greedy. Unless asked by a current client to assist him or her in a complaint against another fellow bar member. I believe that this obligation creates a Mayham of injustice and wrongful obligations. I am completely against this rule.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Mary Demircift
City	Santa Monica
State	California
Email address	mary@lfirm.law
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	8.3 as proposed is mostly fine. However, judges should be held to the same standard Lawyers are being held to. If we want lawyers to seek help for their issues (be mental, health, substance abuses issues etc.) we shouldn't punish them or deter them from seeking such help. Therefore, the narrower exception to 8.3 Model code should be adopted, so it's broader and includes lawyer assistance programs, that don't require reporting. Should also include "rules and other laws," for when reporting is not necessary. Overall, it's not a lawyers job to police other lawyers when they are seeking help, that would be counterproductive to the overall public policy of encouraging seeking help, self-reporting and correction.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Robert Doyle
City	Berkeley
State	California
Email address	robertdoylelaw@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	This rule is unnecessary and places attorneys in the position of policing one another based on limited information. The "knows through their own observations" standard is vague and likely to lead to erroneous reports.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Alexander Berkley Easterbrook
City	Redwood City
State	California
Email address	easterbrooka@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I can't understand the necessity of a reporting obligation confined to attorneys. If I see a crime then I'm bound to report it as a matter of being a member of the community. I don't believe anyone needs a separate rule of professional conduct to report crime (regardless of the occupation of the criminal.).

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Jeffrey Elliott
City	San Jose
State	California
Email address	je_law@outlook.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	The issue with have attorneys report suspected misconduct is the inherent adversarial nature of attorneys. The reporting process can be grossly misused, abused, and weaponized by attorneys seeking the advantage over opposing counsel or to vent personal, rage and contempt of opposing counsel. This rule in it's present unrefined form can literally become a weapon of choice rather than an impartial instrument of justice. The rule reminds me of various right wing or left wing political apparatus overseeing a specific group of being to maintain party loyalty and adherence to party thought and doctrine rather than an impartial and just mechanism for appropriate behavior. The problem lies in the fact the rule requires inherent adversarial parties to report on each other. Thus, this reporting mechanism as written undermines the independence of the legal advocates in society and subjects these independent advocates to a surveillance and police apparatus subject to doctrinal positions of

members of the State bar.

Other more appropriate methods should be utilized rather than turn the State bar into a quasi police and political apparatus.

Why are judges exempt? Answer, of course to maintain the independence of the bench from a myriad of allegations by the bar

Why are their exemptions in alcohol and drug treatment programs? Answer, to allow people a freedom to seek treatment without fear of reprisal.

Do you want a independent minded advocacy of individual rights in the state bar membership? Or on the other hand do you want members living in fear of reprisal for exercising a certain degree of moral and ethical excellence because of a fear of being put under state bar police surveillance ?

This proposed rule appears to be a blunt party apparatus than anything else

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Jerry Ellison
City	Globe
State	Arizona
Email address	ellison.jerry.jr@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Enough of the snitch culture.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	John D. Faucher
City	Westlake Village
State	California
Email address	jdf@johndfaucher.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	The rule is too vague and it compels speech where speech should not be compelled. If I see an attorney whose misconduct brings shame to the profession or who appears to have harmed his or her own client, then I may feel a moral obligation to report the attorney. I would question in my own mind whether I was doing so in order to wreak revenge, or to help the administration of justice. I may decide not to report the attorney. I don't want the State Bar second-guessing that very personal decision. I also don't want the State Bar second-guessing my determination that an attorney's conduct was a "criminal act." The rule seems to make us attorneys into snitches. I don't like the dynamic of setting us against each other more than we are already poised against each other. Comparisons to totalitarian regimes may be overblown, but it still feels a little totalitarian. I know I have a way to report an errant attorney. I may sometimes have a duty to do so. But I

believe that I should be the one who determines this; I think this is an aspect of free speech. I am free to speak to the State Bar or not about observed misconduct; I should not be compelled here.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Doug Feinberg
City	Fresno
State	California
Email address	dfeinberg@fresnocountyca.gov
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Assuming that members of the State Bar actually follow this rule, the State Bar is going to be quite busy dealing with all these allegations. What about criminal acts that are barely even prosecuted? As a criminal defense attorney, I am aware of the broad range of conduct that is arguably criminal. If we're going to have a snitch rule, please narrow its scope greatly. Although it's great that it doesn't able to someone going through a substance abuse or mental health program, it still makes an attorney who hears from an attorney friend about an indiscretion a mandatory reporter.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Michelle Ferber
City	San Ramon
State	California
Email address	mferber@ferberlaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	My training, education, experience and duty as a lawyer is to zealously represent my clients. I am not trained in, nor do I have the expertise, to determine if someone is committing an illegal act. Nor am I paid by the State to be a watch dog 24/7 so as to justify a requirement that I observe and report on others. We pay state bar dues. The state bar should do the job it is paid to do and not abdicate its responsibility on members of the bar.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Raquel Fox
City	San Francisco
State	California
Email address	Raquel@thclinic.org
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	We have enough to do and should not be obliged to police other attorneys.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	No
Name	Greg Galloway
City	Palo Alto
State	California
Email address	greggall@sbcglobal.net
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I am a consulting paralegal. I oppose this rule as written. The proposed new rule is ambiguously limited to mandatory "reporting...another lawyer who has committed a criminal act.." Ignoring the myriad of Penal Code statutes on the books, I have numerous comments - the short list here. First, I personally know of attorneys who have reported other attorneys for ethical violations of this nature to the State Bar. The matter consisted of an unethical attorney threatening reporting a litigant to the District Attorney on felony charges if the litigant attempted to introduce audio and video evidence of actual child abuse. This same attorney misstated facts to the tribunal in other areas of the litigation and prejudiced the litigant. This destroyed the mental peace of the litigant. The State Bar took no action whatsoever and dismissed the complaint. Adding a "mandatory" rule (without proper

analysis and funding for its enforcement) is pointless if the SB will not actually discipline unethical rules violations, much less criminal acts. The reality of the State Bar actions seemingly ONLY enforce unethical acts when an attorney financially keeps a settlement, or refuses to refund money to its client, and other in kind related gross violations of the rules. I can cite chapter and verse of hundreds of regular SB rule violations wherein attorney discipline is passed over and the operative rules are not enforced - formal complaints be damned.

Next, the new proposed rule is only required if the "criminal act" affects the honesty, trustworthiness, or fitness as a lawyer. Really? Lawyers...

... who commit criminal acts are honest, trustworthy, and fit to practice? If this is the language that becomes a mandatory rule, the California State Bar may never recover from public laughter and the further damning of the practice of law.

My comments are harsh and show my utter frustration, and are not without my offer. I would be more than happy to interface with the State Bar committee and offer my pro bono services wherever needed to hopefully aid and assist the practice of law in California a respected profession.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Peter Gimbel
City	Redwood City
State	California
Email address	peter@gimbel.law
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I do not support a rule mandating attorneys report other attorneys. I see no need for such a rule. An ethical attorney who views criminal acts committed by a colleague would already report such conduct. New rules and regulations added on top of what is already there seems entirely unnecessary.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Melodie Grace
City	Anaheim
State	California
Email address	mkgraceesq@outlook.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Darrell Griffin
City	Stockton
State	California
Email address	dglawmail@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	As lawyers we interact with each other and see court room decorum, professionalism and conduct of colleagues on a daily basis. Without a reporting requirement too many attorneys take the stance that challenging behavior on one case creates worse outcomes on future cases. This results in compromise and honestly creates situations where there are just plain bad attorneys breaking rules and this creates an increased cost for all clients.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

ATTACHMENT D

I. (a) PLAINTIFFS (Check box if you are representing yourself ☒)

TODD R. G. HILL

DEFENDANTS (Check box if you are representing yourself ☐)

THE GUILD LAW SCHOOL DBA PEOPLE ' S COLLEGE OF LAW (" PCL "); THE STATE BAR OF CALIFORNIA;

(b) County of Residence of First Listed Plaintiff LOS ANGELES
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant LOS ANGELES
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (*Firm Name, Address and Telephone Number*) If you are representing yourself, provide the same information.

IN PROPRIA PERSONA
41459 ALMOND AVENUE, QUARTZ HILL, CA 93551
(661) 899-8899

Attorneys (*Firm Name, Address and Telephone Number*) If you are representing yourself, provide the same information.

HECTOR C. PENA, AGENT FOR SERVICE OF PROCESS

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☒ 1. U.S. Government Plaintiff
- ☐ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant
- ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in this State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. ORIGIN (Place an X in one box only.)

☒ 1. Original Proceeding ☐ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multidistrict Litigation - Transfer ☐ 8. Multidistrict Litigation - Direct File

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☒ Yes ☐ No ☒ **MONEY DEMANDED IN COMPLAINT:** $

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

VII. NATURE OF SUIT (Place an X in one box only).

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/Etc.
- ☐ 460 Deportation
- ☒ 470 Racketeer Influenced & Corrupt Org.
- ☐ 480 Consumer Credit
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Info. Act
- ☐ 896 Arbitration
- ☐ 899 Admin. Procedures Act/Review of Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loan (Excl. Vet.)
- ☐ 153 Recovery of Overpayment of Vet. Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment

REAL PROPERTY CONT.
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Fed. Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury-Med Malpratice
- ☐ 365 Personal Injury-Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

TORTS PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 American with Disabilities-Employment
- ☐ 446 American with Disabilities-Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus/Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Ret. Inc. Security Act

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016 (DTSA)

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405 (g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405 (g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number:

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

QUESTION A: Was this case removed from state court? ☐ Yes ☒ No If "no, " skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	STATE CASE WAS PENDING IN THE COUNTY OF:	INITIAL DIVISION IN CACD IS:
	☐ Los Angeles, Ventura, Santa Barbara, or San Luis Obispo	Western
	☐ Orange	Southern
	☐ Riverside or San Bernardino	Eastern

QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action? ☐ Yes ☒ No If "no, " skip to Question C. If "yes," answer Question B.1, at right.		
	B.1. Do 50% or more of the defendants who reside in the district reside in Orange Co.? *check one of the boxes to the right* →	☐ YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there.
		☐ NO. Continue to Question B.2.
	B.2. Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) *check one of the boxes to the right* →	☐ YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there.
		☐ NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.

QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action? ☐ Yes ☒ No If "no, " skip to Question D. If "yes," answer Question C.1, at right.		
	C.1. Do 50% or more of the plaintiffs who reside in the district reside in Orange Co.? *check one of the boxes to the right* →	☐ YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there.
		☐ NO. Continue to Question C.2.
	C.2. Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) *check one of the boxes to the right* →	☐ YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there.
		☐ NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.

QUESTION D: Location of plaintiffs and defendants?	**A.** Orange County	**B.** Riverside or San Bernardino County	**C.** Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County
Indicate the location(s) in which 50% or more of *plaintiffs who reside in this district* reside. (Check up to two boxes, or leave blank if none of these choices apply.)	☐	☐	☒
Indicate the location(s) in which 50% or more of *defendants who reside in this district* reside. (Check up to two boxes, or leave blank if none of these choices apply.)	☐	☐	☒

D.1. Is there at least one answer in Column A? ☐ Yes ☒ No If "yes," your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question E, below, and continue from there. If "no," go to question D2 to the right. →	**D.2. Is there at least one answer in Column B?** ☐ Yes ☒ No If "yes," your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question E, below. If "no," your case will be assigned to the WESTERN DIVISION. Enter "Western" in response to Question E, below. ↓

QUESTION E: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, C, or D above: →	WESTERN

QUESTION F: Northern Counties?	
Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties?	☐ Yes ☒ No

IX(a). IDENTICAL CASES: Has this action been previously filed **in this court**? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Is this case related (as defined below) to any civil or criminal case(s) previously filed **in this court**?

☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are related when they (check all that apply):

☒ A. Arise from the same or a closely related transaction, happening, or event;

☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or

☒ C. For other reasons would entail substantial duplication of labor if heard by different judges.

Note: That cases may involve the same patent, trademark, or copyright is not, in itself, sufficient to deem cases related.

A civil forfeiture case and a criminal case are related when they (check all that apply):

☐ A. Arise from the same or a closely related transaction, happening, or event;

☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or

☐ C. Involve one or more defendants from the criminal case in common and would entail substantial duplication of labor if heard by different judges.

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT): /s/ TODD RYAN GREGORY HILL DATE: 02/18/2023

Notice to Counsel/Parties: The submission of this Civil Cover Sheet is required by Local Rule 3-1. This Form CV-71 and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. For more detailed instructions, see separate instruction sheet (CV-071A).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

Todd R. G. Hill
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Quartz Hill, Ca 93551
+1 [626] 232-7608
toddryangregoryhill@gmail.com
In Propria Persona

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

TODD R. G. HILL ("HILL" or Plaintiff), individually, and as attorney-in-fact *guardian ad litem* to ROES 1-888,

Plaintiff,

vs.

THE BOARD OF DIRECTORS, OFFICERS AND AGENTS AND INDIVIDUALS OF THE PEOPLES COLLEGE OF LAW:

THE GUILD LAW SCHOOL DBA

CASE NO. _____

"IMMEDIATE RELIEF REQUESTED"

PLAINTIFF DEMANDS TRIAL BY JURY

FOLLOWS A COUNT BY COUNT OF PLAINTIFF'S ALLEGATIONS:

[COUNT I] Violations: 18 U.S.C. § 1962:

Operation of RICO Enterprise:

Violations of 18 U.S.C. § 1962(c) Fraud and Constructive Fraud; by operating a scheme to defraud law students subject to mandatory participation in the First Year Law Students Exam

PEOPLE'S COLLEGE OF LAW ("PCL"); HECTOR CANDELARIO PEÑA RAMIREZ aka HECTOR P. RAMIREZ, aka HECTOR C. PEÑA, ("HCP"); CHRISTINA MARIN GONZALEZ, ESQ., ("CMG"); ROBERT IRA SPIRO, ESQ.,("SPIRO"); JUAN MANUEL SARIÑANA, ESQ. ("JMS"); PREM SARIN, ("PRS", "SARIN"); DAVID TYLER BOUFFARD, ("BFD", BOUFFARD); JOSHUA GILLENS, ESQ., ("GLN"); CLEMENTE FRANCO, ESQ.; HECTOR SANCHEZ, ESQ.; PASCUAL TORRES, ESQ.("PST")[; CAROL DUPREE, ESQ., GARY SILBIGER, ESQ.; JESSICA "CHUYITA" VIRAMONTES, ESQ., ("JCV"); EDITH POMPOSO, ("EPP"); ADRIANA ZUÑIGA NUÑEZ

AND,

THE STATE BAR OF CALIFORNIA AS WELL AS THESE PERSONS UNDER THE DOCTRINE OF AGENCY WHERE

(FYLSX) by unlawfully awarding credits for its legal education services as overt act to facilitate the fleecing of the Federal Governments Title IV Student Aid Programs.

1. PCL for its own benefit and contrary to law offered fewer units – credit hours - as a practice designed to "trap" the student.

2. California STATE BAR implemented underground rules and charged arbitrary and "capricious"[1] fees while consistently failing to follow mandated administrative procedure to establish "due process" compliance under the APA and CAPA or other statutes.

3. When made constructively and expressly aware of conduct or rule with attached requirement for review under the APA, STATE BAR continued in the unlawful conduct in multiple areas of its daily operations, in violation of mandate and breach of duty clearly outside the threshold

[1] Plaintiff asserts failure of due process review or principled enforcement under the Administrative Procedures Act.

APPLICABLE AND AS INDIVIDUALS:

LEAH WILSON, ESQ., ("WILSON"); SUZANNE CELIA GRANDT, ESQ., ("GRANDT");; VANESSA HOLTON, ESQ., ("HOLTON"); ELLIN DAVYTYAN, INDIVIDUALLY AND AS GENERAL COUNSEL, STATE BAR OF CALIFORNIA, ("DAVYTYAN"); LOUISA AYRAPETYAN; ALFREDO HERNANDEZ; JUAN DE LA CRUZ; NATALIE LEONARD, ESQ.("LEONARD", "NLE"), DONNA HERSHKOWITZ, ESQ. ("HERSHKOWITZ"); CARMEN NUNEZ; ELIZABETH HOM; JAY FRYKBERG; GINA CRAWFORD; LARRY KAPLAN; DAVID LAWRENCE; HON. JAMES HERMAN; PAUL A. KRAMER; CAROLINE HOLMES; IMELDA SANTIAGO; NATALIE HOPE; STEVE MAZER; YUN XIANG; JOAN RANDOLPH; JEAN KRISILNIKOFF; ENRIQUE ZUNIGA, ROBERT S. BRODY;

of "good faith and fair dealing".

4. State Bar operates to unfairly restrict law school transfers restraining public liberty and trade while sustaining increased costs and risks to the Federal Government for legal education by allowing schools in its system to not provide "full faith and credit" by use of exclusionary rule that gives the public institution permission to exclude for meritorious review state citizens and taxpayers based on origin; here, the STATE BAR administers a test to students in this category as objective assessment and measure of student fitness.

Violation of the Federal Administrative Procedure Act and State CAPA statutes; failure to perform Constitutional review of statutes, rules, or procedures; implementation and enforcement of underground rules and procedures; capricious and arbitrary use and application of determination or decision-making authority.

Violation of California Business and Professions

THE OFFICE OF CHIEF TRIAL COUNSEL, THE STATE BAR OF CALIFORNIA AS AGENTS AND INDIVIDUALS:

GEORGE S. CARDONA, CHIEF TRIAL COUNSEL; MELANIE J. LAWRENCE, INTERIM CHIEF TRIAL COUNSEL; ANTHONY J. GARCIA, ASSISTANT CHIEF TRIAL COUNSEL SHATAKA SHORES-BROOKS, SUPERVISING ATTORNEY ELI D. MORGENSTERN, SENIOR TRIAL COUNSEL

and DOES 1-888.

THE BOARD OF TRUSTEES, THE STATE BAR OF CALIFORNIA AS AGENTS AND INDIVIDUALS:

RUBEN DURAN, Assembly Appointee, Attorney Member, Chair ("DURAN"); BRANDON N. STALLINGS, Supreme Court Appointee, Attorney Member Vice-Chair; MARK BROUGHTON, Supreme Court

)
)

Code sections § 17200 and § 17500 violations: The State Bar's failure to follow established procedures may also be considered a violation of California Business and Professions Code section § 17200 and § 17500, which prohibit any unlawful, unfair, or fraudulent business act or practice. The State Bar's failure to enforce the rules and regulations related to the regulation of unaccredited fixed facility law schools, including credible report of unfair collection practices, extortion, conversion, harassment, defamation, interference with business relationships, and conspiracy to deprive Plaintiff of constitutional First Amendment privilege and Fourth Amendment protections; all aforementioned acts likely fall under the category of unlawful, unfair, or fraudulent business practice.

Violation of California Code, Business and Professions Code (BPC) § 6068 (a), (b), (c), (d), (f), (g) (a), (b),;; The State Bar and PCL licensee or member Defendants failure to follow established procedures and other misconduct breached their statutorily assigned and sworn duties to support the

Appointee, Attorney Member; HAILYN CHEN, Supreme Court Appointee, Attorney Member; JOSÉ CISNEROS, Governor Appointee, Public Member; JUAN DE LA CRUZ, Assembly Appointee, Public Member; GREGORY E. KNOLL, Senate Appointee, Attorney Member; MELANIE M. SHELBY, Governor Appointee, Public Member; ARNOLD SOWELL JR., Senate Appointee, Public Member; MARK W. TONEY, PH.D., Governor Appointee, Public Member.

THE OFFICE OF ADMISSIONS, THE STATE BAR OF CALIFORNIA AS STAFF, AGENTS AND INDIVIDUALS:

AMY NUNEZ, Director III; AUDREY CHING, Director I; NATALIE LEONARD, Principal Program Analyst, Law School Regulation; LISA CUMMINS, Principal Program Analyst, Examinations; TAMMY CAMPBELL, Program Manager II, Operations & Management; KIM WONG, Admissions; DEVAN MCFARLAND, Admissions.

Constitution and the Rule of Law; to respect the courts of justice and judicial officers; to maintain actions, proceedings, or defenses that are legal or just, candor and truth in statements of law or legal proceedings; to advance no fact prejudicial to the honor or reputation of a party for unjust cause; Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed; and cooperation with the tribunal.

Violations of 18 U.S.C. § 1962(c) RICO Acts in Furtherance of Enterprise; by engaging in a pattern of illegal conduct including failure to properly apply, use, and enforce the antitrust policy more than once. Office of General Counsel failed to recuse; Office of Chief Trial Counsel failed to intervene. Board of Trustees failed to intervene. All at varying times had constructive or express knowledge of the circumstance.

Defendants

ATTORNEY GENERAL

OF THE UNITED STATES

As Nominal Defendant per 42 U.S.C. § 1956 and asserted Equal Protection Challenge(s)

THE SOVEREIGN STATE OF CALIFORNIA

Nominal Defendant

For purposes of Tort Liability and

Judgment Guarantor

Violations of 18 U.S.C. § 1962(a) RICO Investing Proceeds of Racketeering; by investing the proceeds of their illegal activities into the enterprise.

Violations of 18 U.S.C. § 1962(b) RICO Control of Interests in Enterprise by exerting control over the enterprise through illegal means or underground rule.

Violations of 18 U.S.C. § 1962(d) RICO Conspiracy under Subsections (a)-(d); by conspiring to engage in illegal racketeering activities, including arbitrary and exclusionary policy enforcement to the detriment of a specific targeted market speech.

[COUNT II] Violations: 42 U.S.C. § 1981:

Operation of RICO Enterprise: RICO Acts in Furtherance of Enterprise

Violations of the State Bar Act § 6001.1 - Protection of the Public by unlawfully awarding 2/3^{rds} of the Federal and State Mandated unit hours—credits—for its regulated postsecondary legal education services as defined for use under Higher

Education Act Title IV requirements for postsecondary institutions.

Tortious Breaches of the Implied Covenant of Good Faith & Fair Dealing re:

Contracts [Matriculation and Regulatory]

Performance of Fiduciary Obligations

Violations of 42 U.S.C. § 1981 Equal Protection 14th Amendment (U.S.) by violating or discriminating against students based on their constitutional rights including:

i. First Amendment - Free Speech Suppression by Conduct:

a. Penal Code 132 PC - offering false evidence.

b. Penal Code 134 PC - preparing false evidence.

c. Penal Code 135 PC - destroying evidence with "intent to deprive".

d. Penal Code 136.1 PC - tampering or

intimidating witnesses;'

e. • Penal Code 148 PC - resisting arrest or obstructing a police officer

f. Penal Code 632.PC – violation of privacy by unlawful recording.

ii. Fourth Amendment – Takings Clause

By deprivation of actual constitutional rights and privileges and by unlawful discrimination without rational basis or in direct conflict of protected status.

As relevant here, Plaintiff claims pursuant to the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346, 2671 et seq. Plaintiff alleges that STATE BAR and its Directors, Officers, and Employees directly or in inchoate fashion with committed various intentional torts while acting within the scope of his employment as a federal law enforcement officer; that the STATE BAR negligently hired, trained, and supervised WILSON, LEONARD; and that Defendants under color of law and right negligently and intentionally

inflicted emotional distress on Plaintiff.

Violations of 42 U.S.C. § 1981 Equal Protection 14th Amendment (U.S.) under California law, obstruction of justice being constructive; here Plaintiff claims activities integral to several offenses, including violations of:

Cal. Code Civ. Proc. § 391 – operating as a vexatious litigant and process abuser to frustrate accountability or intentional injury.

Cal. Code Civ. Proc. § 391 – operating as a vexatious litigant counter to and in violation of **Section 6001.1 of the State Bar Act -**

- **Penal Code 132 PC -** offering false evidence,
- **Penal Code 134 PC -** preparing false evidence,
- **Penal Code 135 PC -** destroying evidence,

Penal Code 136.1 PC - tampering or intimidating witnesses,

Penal Code 148 PC - resisting arrest or obstructing a police officer

Violations of 42 U.S.C. § 1981 Equal Protection 14th Amendment (U.S.) as it applies to California law; Defendants conduct has attracted, promoted, and promulgated a thriving and unfettered market of "public predation" by those it licenses, services, or regulates as participants in legal education and attorney admissions marketplace.

Violations of 42 U.S.C. § 1981 Equal Protection 14th Amendment (U.S.) as it applies to California law, as it has actively participated to the benefit and the public detriment in the continued operation of an unfair enterprise.

[COUNT III] Violations: 42 U.S.C. § 1983:

Violations of 42 U.S.C. § 1983 Malicious Prosecution via Enterprise Control, Failure to Intervene, Malicious Defense, or Malicious Prosecution; by using their control over the enterprise to maliciously prosecute or defend against students and members of the general public with legitimate

grievance by direct or inchoate act.

Violations of 42 U.S.C. § 1983 Retaliation — Essential Factual Elements include violation of the Bane Act (Civ. Code, § 52.1) in that the Defendants "singled out" Plaintiff for specific conduct designed to discredit, defame and deprive of just remedy.

Violations of 42 U.S.C. § 1983 Judicial Deception; Obstruction of Justice by deceiving the court or obstructing justice in legal proceedings.

State Office of General Counsel to Judiciary in non-conforming determinations of Antitrust dated 1

Violations of Cal. Pen. Code, § 115 Procuring Filing of False Document or Offering False Information To State Agency; (Cal SoS) and Conspiracy by filing false documents or offering false information to the California Secretary of State and conspiring to do so.

State Office of General Counsel to Judiciary in non-conforming determinations of Antitrust dated 1

Prayers for Declarative, Injunctive, Equitable

Relief to address the violations and seek redress for the damages caused by the violations.

A. This Prayer for Relief includes a special request for Declaratory relief for these issues:

[COUNT IV] Requests under 18 U.S.C. § 1956:

A. 18 U.S.C. § 1956 Federal Receiver and Trustee Request seeking appointment of a federal receiver to take control of the enterprise.

Request for appointment as Trustee and Receiver nexus for People's College of Law as Plaintiff is the sole and only lawful officer of the Corporation.

B. Temporary Restraining Order (TRO)

Request seeking injunction to preserve the status quo and prevent the dissipation of assets now actively marketed for sale for conversion or unjust and enrichment of the Defendants.

C. Notice of pendency in *lis pendens* for real property:

PCL HQ - 660 South Bonnie Brae, Los Angeles, CA 90056

Request under 28 U.S.C. § 1964[2] seeking injunction to preserve the status quo and prevent the dissipation of assets now actively marketed for sale for conversion or unjust and enrichment of the Defendants.

[COUNT V] Requests: 42 U.S.C. § 1981:

42 U.S.C. § 1981 Provision of Federal Bar Licensure ; petitioner asks as both a component of an equitable remedy for harm and to establish normative criteria to "even the playing field" for other members of the public, enhance public protection, and provide just and necessary mitigation to Plaintiff's injuries and foreseeable damages.

[2] 28 U.S.C. § 1964 requires a federal litigant seeking to record "a notice of an action concerning real property" to comply with the requirements of the law of the state in which the real property is located. In this case, the Properties in question are located in the State of California. Furthermore, California Code of Civil Procedure ("CCP") Section 405.5, states that the recording of pending actions against real property "applies to an action pending in any United States District Court in the same manner that it applies to an action pending in the courts of [California]. See also CCP § 405.4. Hence, statutory law requires that Receiver must comply with all applicable provisions of the CCP in order to prevail in its Notice.

SECURITIES EXCHANGE COMMISSION v. IPIC INTERNATIONAL, CIVIL ACTION No. 3:03-CV-2781-P, at *2 (N.D. Tex. Aug. 24, 2004)

Appropriateness supported under 28 U.S.C. § 1654

[COUNT VI] Requests: 42 U.S.C. § 1981:

Plaintiff believes that answers to the questions below relate directly to determining both the existence and the nature of Plaintiff's standing, injuries, damages, or other relief:

The questions asked in context of the present circumstance appear novel. To wit:

Is the State Bar Act of 1927, as enacted today, unconstitutional, and thus void because it violates the separation of powers doctrine and it consistently "deprives", "materially impairs" and defeats both the stated Legislative goals of "Protection of the Public as the Highest Priority" and the perception of the integrity of the Judiciary? Because the Legislature holds the Power of the Purse related to Attorney Discipline, an inherently Judicial function, in likely violation of the Separation of Powers Doctrine under Article III, section 3, of the California Constitution, the statute communicates a privity of relationship and priority to

the public that the Judiciary need respect solely for "reasons of comity."

Is the State Bar Act of 1927 ("SBA"), as enacted, unconstitutional, and void because its Legislative mandates are ultra vires or violative of the Separation of Powers Doctrine? Legislative mandates that venture into the sphere of legal services are discretionary and do not align with Judicial priority; as a result, enforcement repeatedly and inevitably raises questions that reflect poorly on both the Judiciary and its administrators and thus poses a "grave and imminent danger" of the violation of public rights:

1) Argued that the context of the Act, existentially violates the separation of powers doctrine because it is too vague which "materially impairs" and defeats both the stated Legislative goals of "Protection of the Public as the Highest Priority" and the perception of the integrity of the Judiciary. Here, Plaintiff's basis is the Legislature holds the Power of the

Purse related to Attorney Discipline, an inherently Judicial function, in violation of the Separation of Powers Doctrine under Article III, section 3, of the California Constitution.

2) Alternatively, the SBA is unconstitutional because it allows for consistently violative conduct by the very same actors obligated and paid to conduct the statute's competent enforcement; in essence the argument is two-fold:

   a) That divestiture of the trade association renders the Act unconstitutional because it places the Legislature in both fiscal control and oversight of what rests wholly in the domain of the Judiciary; alternatively,

   b) That the SBA is void because "form no longer matches function"; now divested of its substantial functions as a professional trade association and standards body, the Act now creates an

inherent and existential "Conflict of Interest" where the Judiciary appears to be or in fact is made beholden to the Executive and the Legislature can "control" by mandate the priorities of Judiciary. alternatively,

c) That the SBA void for unconstitutionality because it communicates to the public either a gratuitous promise or an unenforceable lie, which functions as a "ticking time bomb" where a Judicial outcome does not meet a "clearly stated mandate", as the California Judiciary has already revealed in "in re Attorney Discipline" it uses the construct of the State Bar at its sole discretion.

d) That the SBA is void because it sets an inappropriate Constitutional precedent in allowing a statute to set "false expectation" of public outcomes because it is per se ultra vires because

the Legislature cannot mandate to the Judiciary and state employees know it.

e) That the SBA is void because the State cannot use as rational basis an ultra vires act; Sovereign California cannot tenably argue that the rational basis for maintaining a law is curative for its unlawful instantiation or directives; underground rule likely cannot serve "a clearly stated public mandate" that 50 years of data demonstrates has been ineffective.

Table of Contents

No table of figures entries found.

INTRODUCTION

The Court's time is a precious resource.

This document has been drafted in an effort to preserve and utilize it to maximum efficiency.

Plaintiff seeks grant of an earned Juris Doctorate. Plaintiff does not seek admission to the California State Bar or eligibility grant to sit for the California State Bar exam from this cause of action, although Plaintiff believes that may be a just and fair outcome. Plaintiff seeks admission to the Federal Bar and provides an initial attestation in specific support of that request herein.

The Sovereign has a duty to protect its citizenry. This duty extends to protection of the Sovereigns brand.

The argument that a sovereign's duty to protect its citizenry at times requires collateral infringement on the rights and privileges of its citizens is common law canon.

The ability of States to regulate areas of commerce subject to professional licensure, to establish and enforce reasonable standards that may infringe on the rights of its citizens to ensure that the practices in a state represent and reflect the requisite values and principles facilitating proper market function has long been held as a privileged role of the sovereign, consequently held to the "rational basis" standard for constitutional review.

1. Plaintiff asserts that Peoples College of Law engaged in unfair business practices related to its advertising, recruitment, administrative business practices, misrepresentation, extortion,

conversion, conspiracy, constructive fraud and other conduct likely violative in the aggregate circumstance of RICO and Antitrust statutes in operating an Enterprise for unlawful purpose.

2. Plaintiff argues the Peoples College of Law entered into a contract in bad faith, then repudiated their obligations to provide instruction or proctoring for Plaintiff's statutorily mandated 4L year.

3. Plaintiff asserts State Bar violations of RICO, Antitrust, breach of duty and conduct violations, Civil Rights and violations of the American Procedures Act.

4. Plaintiff argues that the State Bar Acts mandatory membership provision is unconscionable and unenforceable because the State Bar operates in unlawful enterprise "under the color of law and right."

5. Alternatively, Plaintiff argues that the State Bar Acts provisions for mandatory membership is unconstitutional as the reasonable person in Plaintiff's circumstance would not join an organization with the State Bar's current, longstanding, reputation, and actual misconduct. As such, the requirement violates Plaintiffs' Constitutional Rights.

6. Plaintiff argues in support of evidence that California's State Bar Act violates the Commerce Clause, and the Takings Clause in its enforcement of "physical presence rules" and "clock hour" rules to earn a law degree, modernly abstracted from the stated purpose of

the act and the student outcomes under the act. Plaintiff argues that there is no rational basis that connects this requirement to the legislatures intended purpose.

7. Plaintiff argues for remedy that "treats and excises the cancer before it causes irreparable harm to others.

OUTLINE re RICO

Plaintiff seeks declaratory relief in context of establishing nature and extent of plaintiff's injuries and available remedies.

I. Issues

The issue is whether the conduct of PCL and the State Bar, as described, satisfies the required elements of a RICO claim under 18 U.S.C. § 1962(c).

II. Rules

The elements of a RICO claim under 18 U.S.C. § 1962(c) are:

a) the defendant is a person - for purposes of the statute, a person can be an individual or one instantiated under articles of incorporation or joint venture principles. PCL and STATE BAR are "corporate" persons, with the operators of Enterprise P and S as individuals.

b) the defendant participated in the conduct of an enterprise; conduct here likely includes affirmative abrogation of duty.

c) the defendant's participation was through a pattern of racketeering activity; Defendants have been engaged in interoperating schemes since at least 2017 based on information from former graduates and current faculty.

d) the enterprise affects interstate or foreign commerce. State Bar is responsible for law schools in California, the 4th or 5th largest global economy. This includes the law student "transfer market" which is tracked under ABA 509 activity. Furthermore, distance learning after Covid 19 appears "here to stay"

III. Analysis

Here incorporating the discussion below:

A. Person

The facts indicate that both PCL and the State Bar are organizations, which can be considered "persons" for the purposes of a RICO claim. In addition both State Bar and PCL have Directors, Officers, and Agents that conduct business

B. Participation in the conduct of an enterprise

The facts suggest that PCL and the STATE BAR were in conspiracy, and that their conduct was carried out as part of an enterprise.

C. Pattern of racketeering activity

The facts describe various illegal actions committed by PCL and the STATE BAR, including extorting and converting funds without disgorging them, failing to provide classes, and failing to issue degrees, which could be considered racketeering activity.

D. Enterprise affects interstate or foreign commerce

As a law school and a STATE BAR, it is likely that the actions of PCL and the STATE BAR affect interstate or foreign commerce.

IV. Conclusion

Based on the facts described, it appears that the conduct of PCL and the STATE BAR could satisfy the elements of a RICO claim under 18 U.S.C. § 1962(c). Further investigation and evidence would be necessary to confirm this.

Does the California State Bar as monopoly regulator in legal education services owes a duty of care to protect students at the institutions it regulates?

This case asks if the California State Bar as monopoly regulator in legal education services has adopted a policy indicating non-intervention between an institution and its students.

Generally, one owes a duty of care to protect students at the institutions it regulates from harm. The State Bar, in both policy and conduct, maintains that it has no duty to interfere in conflicts of any nature between students and their respective institutions.

In the present cause of action, Plaintiff argues that because the State Bar is the monopoly regulator of postsecondary law schools with the express mandate of protection of the public, the regulator has a special relationship with law students and a duty to protect them from foreseeable harm resulting from pursuit of their curricular activities.

The State Bar occupies a special position as market maker, gatekeeper and enforcer for the attorney and legal education services marketplace.

Under the State's current regime, little possibility exists to practice law in the State of California without being approved by the State Bar because the California Supreme Court has taken on a position of public deference to the Legislature and its ability to express its "desires" as they relate to attorney admissions but declined to presume that they are truly enforceable as a matter of law under the Separation of Powers doctrine.

a. The STATE BAR holds a statutory monopoly in the specialized field of legal education services and regulates "the profession and attorney discipline" through such things as its rulemaking process and compliance obligations for continuing education or for law school programs

b. The STATE BAR holds itself out as the regulator of the attorney profession and center for Admissions to the Bar. The STATE BAR represents itself as the de facto spokesperson for standards in the conduct of the legal profession in California.

c. The STATE BAR has superior bargaining power and leverage compared to the independent public individual attorney or mid-size firm or nonmember, which it takes advantage of in many ways, including its lack of substantive active oversight.

Yari v. Producers Guild of America, Inc., 161 Cal.App.4th 172, 177-78 (Cal. Ct. App. 2008)

Plaintiff argues and asks the Court to consider the facts and the legal framework that applies to the alleged violations in respect to the Racketeer Influenced and Corrupt Organizations Act (RICO), under 18 U.S.C. § 1962 (a)-(d). The plaintiff has alleged that the defendants, including PCL and the State Bar, conspired to engage in a pattern of racketeering activity that includes mail fraud, wire fraud, and extortion, among other egregious torts.

To prove a RICO violation under § 1962 (c), the plaintiff must establish the following elements: (1) the existence of an enterprise engaged in interstate commerce; (2) that the defendants were associated with or employed by the enterprise; (3) that the defendants participated in the conduct of the enterprise's affairs; (4) that the defendants participated in a pattern of racketeering activity; and (5) that the pattern of racketeering activity was the proximate cause of the plaintiff's injury.

Here, the Plaintiff alleges that PCL and the State Bar were part of interoperating “entwined or entangled” enterprise that engaged in the unauthorized or illegal activities, and that the defendants participated in the conduct of the enterprise's affairs, including the conversion of funds and the issuance of “fraudulent” or misrepresentative transcripts or degrees. The plaintiff further alleges that this conduct constituted a pattern of racketeering activity, consisting of multiple acts of mail and wire fraud, extortion, and other unlawful conduct.

To support these allegations, the Plaintiff presents evidence of various communications, financial transactions, and other activities that suggest a coordinated effort to defraud students

and others who relied on PCL and the State Bar for legal education and proctoring services. Moreover, the plaintiff has provided evidence that PCL and the State Bar were in collusion, allowing PCL to evade substantive regulatory oversight and engage in illegal conduct without fear of punishment or reprisal.

Based on this "clear and compelling" evidence, it seems reasonable to conclude that PCL and the STATE BAR were part of a larger enterprise that engaged in a pattern of racketeering activity, and that the Defendants participated in the conduct of that enterprise's affairs as agents, principals, and operators. Furthermore, the evidence suggests in "clear and compelling" fashion that the defendants' conduct was the proximate cause of the plaintiff's injuries, including distress, financial losses, consortium, and reputational harm.

In conclusion, based on the available evidence and the legal framework that applies to RICO violations, Plaintiff asserts the plausible establishment of a prima facie case of a violation of 18 U.S.C. § 1962 (c) against PCL and the State Bar, and that the case should proceed to trial to determine the merits of the plaintiff's claims.

A NOTE ON TERMINOLOGY

The use of the term "unlawful" in this document:

The facts here are not complex but require coverage of multiple rules, statutes, policies, and acts of misconduct. Initially, much of the conduct may strike the reader as pettifoggery; Plaintiff under ordinary circumstance at the outset would have agreed, at least until it became obvious that quantity can yield a quality all its own. To wit:

For the reader, when referring to "unlawful" regulatory actions, the pro se Plaintiff implies and argues that a law, rule, or policy is being asserted and argued as not valid due to a conflict with a higher precedence law or because it was implemented without following the proper due process review procedures, or is violative of another statute or lacking approval from the designated governing body, e.g., the Executive, Legislative, or Judicial branches.

It at times also refers to “per se” unlawful conduct, i.e., expressly enumerated unlawful conduct as it is defined in a penal code where civil causes of action are allowed. Again, proximity to specific penal code or continuous conduct should generally serve to make plain the meaning.

The use of the term “unlawful” here does not imply that, in the discretion of the sovereign within the bounds of the Constitution and Common Law, the “same policy”, statute, rule, or exclusion for expressly stated purpose[3] could not be achieved lawfully.

Generally, the use of the term is not intended as a ‘conclusory determination of law’, which would “usurp” the role of the finder of fact. As pertains to the contents and facts here, unless expressly cited as argued or successfully demonstrated, generally indicated by reference to some supporting evidence or demonstrative language like ‘thus’, or ‘therefore’ or other fair indicator such as case citation information.

[3] Statutes or enforceable rules challenged on the basis of Constitutionality generally undergo a two part test: 1. Is it “appropriately “tailored” (scoped) to achieve an reasonable interest of the Sovereign and is it actually rationally related to achieving the purpose.

An important distinction lies in whether a statute is argued as substantively or procedurally "unlawful".

A policy may look and operate as if it complies with law but may be "procedurally" unlawful; for example, where one is asked to provide information that invades their right to privacy because it is improperly stored, or the policy was made by an agency that was not given rulemaking authority in the area.

Alternatively, a policy may look and operate as if it complies with law but may be "substantively" unlawful; for example, where a public entity excludes participation from a protected class or market segment to affect restraint of trade or adopts a policy facilitating the home-based printing of a replacement dollar bill are possible cases where the policy either directly conflicts with existing law or actively facilitates foreseeable misconduct. The entity may have discretion to make "carve outs" but not by using a protected delimiter, like race, or by implementing the policy to the same "exclusionary" effect with disparate impact.

That a policy may look to always produce lawful results after a long period of use in and of itself does not make it lawful; here akin to high school algebra or calculus, the right answer requires both that the correct steps were followed, and the rule is allowable as a matter of law.

Plaintiff demonstrates subsequent to the action that a showing of both procedural and substantive due process is required in the adoption and enforcement of the rule, whether or not it was put in place by statutory authority or designated rulemaking body.

JURISDICTION

Jurisdiction in this case rests with the Court pursuant to provisions of 18 U.S.C. §1961; 18 U.S.C. §1962; 18 U.S.C. § 1964, et sequentia, of the civil RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO); and Article III, Section 2, to the Constitution of the United States codified under 28 U.S.C. § 1331.

Diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) is provisionally invoked in that the pool of plaintiffs likely includes residents from different states of the Union.

Relevant to Antitrust jurisdiction, provisions are invoked under California Business and Professions Code, Title 2, Chapter 15.05 et, seq., and applicable provisions of the CLAYTON ACT pursuant to 15 U.S.C. § 15(a). 1 18 U.S.C. § 1964(c). This Court has subject matter jurisdiction over this action pursuant to 18 U.S.C. § 1964. This Court has original jurisdiction under 42 U.S.C. § 1983 and Thompson v. Clarke, 596 U.S.____ (2022) (malicious prosecution; inc. dissenting); judicial fraud under 42 U.S.C. § 1983 and § 1981 claims under "No. 16-16568" Keates v. Koile, 883 F.3d 1228, (9th Cir. 2018); and equal protection challenges under 42 U.S.C. § 1981 where Plaintiff is entitled to equal protection, and is not being granted equal protection; and requires reference for per se violations of 15 U.S.C. § 1 and N.C. State Bd. of Dental Examiners v. Fed. Trade Comm'n, 574 U.S. 494, (2015).

This Court has supplemental jurisdiction where pending state claims may become federal question under 28 U.S.C. § 1331.

Venue is proper in this judicial district pursuant to 18 U.S.C. § 1965 and 28 U.S.C.

18 U.S.C. Section § 1391 applies because defendants do business in this district and are each subject to personal jurisdiction in this judicial district and reside in this district, where process may be served in any judicial district of the United States per 18 U.S.C. § 1965(b), when required by the ends of justice. Nationwide service of process confers personal jurisdiction over a defendant in any judicial district where each defendant has minimum contacts with United States.

The conduct of attorneys, public servants, and state employees in retaining students likely to pass the bar with or without their consent, using the units and the California State Bar's Rules and Guidelines for Unaccredited Fixed facility law schools, can be seen as a form of "poison pill" activity, like traditional tortious or criminal activity.

However, unlawful conduct of this form, where the public does and should least expect it, renders the potential harm to the public an inevitable outcome, in that it undermines the integrity of the legal profession and the administration of justice.

When analyzing this conduct, it must be evaluated under the equal protection and commerce clause standards, as it is an exercise of the state's rulemaking authority. In this case, the California State Bar's Rules and Guidelines for Unaccredited Fixed facility law schools would be treated as legislation.

Are the “mandatory” student fees the STATE BAR charges students in fact, a tax

Jurisdiction attaches due to Federal questions necessary to establish scope of injury and range of available remedies as follows:

1. Is the privilege extended by the United States to the Sovereign States to establish proprietary mandatory admissions to a third-party or sovereign designated entity for professional licensure necessary to provide services or goods as an active market participant when association risks the capricious tarnish or arbitrary ruination of the reputation of the practitioner?

In a situation where a State Bar has shown flagrant disregard for established procedures and has failed to enforce the rules and regulations related to the regulation of unaccredited fixed facility law schools, including credible reports of unfair collection practices, extortion, conversion, harassment, defamation, interference with business relationships, and conspiracy to deprive individuals of their constitutional First Amendment privilege and Fourth Amendment protections, it is difficult to trust that such an organization has the best interests of the public at heart. Such blatant disregard for the law and for individuals' rights is unacceptable, and it is important that we hold organizations like the State Bar accountable for their actions.

In this cause of action, plaintiff asserts that the California Legislature instantiated a private entity, the STATE BAR, to proscribe rules, apply and enforce the law as the designated entity monopoly regulator of the Judiciary for purposes of attorney legal education, fitness, admissions program regulation, rulemaking, and discipline. The California State Bar operates as the sole monopoly regulator for legal education services and law schools.

The California State Bar is responsible for a massive legal education services marketplace, with special distinction as its public law schools are considered rivals to those of the Ivy Leagues.

Historically, the STATE BAR taken the approach that it will not intervene in student conflict in discord with it's "protection of the public mandate."

Plaintiff alleges egregious abuse, experienced first-hand examples of misconduct by its officers, directors, and staff who make publicly aware that unaddressed bias issues increase Plaintiff's risk of being unjustly reported and disbarred by an organization that has acted to prevent and deny degree grant in direct conflict of duty to protect Plaintiff, responsibilities and subsumed obligations of the regulator, and STATE BAR's publicly expressed focus on increasing "diversity, equity, and inclusion."

2. Is the privilege extended by the United States to the sovereign states to establish admissions requirements for professional licensure enforceable even when it is established constructively or expressly that in regulated sectors where the Sovereign delegates disciplinary responsibility fails to establish a disciplinary structure or maintain adequate oversight ?

    a. If generally the answer is affirmative, what in the specific case of the "privilege grant" of an attorney, in consideration of oath, fitness, and competency in the exercise of privilege to bring causes before the Court on behalf of third parties?

Plaintiff argues in part that the "privilege"[4] grant offered by the Judiciary (and not the Legislative or Executive branches) is a "liberation" from a State sovereign-imposed limitation or "easement" on the citizens First Amendment privilege and that due process requires more than "rational basis" review in this context.

VENUE

Venue is proper within this Court pursuant to 28 U.S.C. § 1391(b)(2) and § 1391(c)1, in that, plaintiff is a law student and citizen residing in the State of California. In accordance with 28 U.S.C. § 1391, venue is proper in this District because a substantial part of the conduct giving rise to Plaintiff's claims occurred in this District, including Plaintiff's purchase of the legal postsecondary education service, because Defendants transact substantial business in this District, and because Defendants have intentionally availed themselves of the laws and markets within this District.

Venue is invoked pursuant to 18 U.S.C. § 1965(a)[5] and § 1965(b)3.

In re pro se representation before Federal Court for complex matters, pro se Plaintiff requests Federal Attorney applicant consideration and Court approval under 28 U.S.C. § 1654 for this cause and any other as pro se litigant or as counsel elect for the persons or parties as long as Plaintiff HILL can demonstrate that he comports himself to the same or similar standard of the "ordinary member of the profession in good standing."

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[4]

[5] 2 18 U.S.C. 1965(a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs. (b) In any action under section 18 U.S.C. 1964 of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court

Defendants may argue that the State Bar of California, instantiated by Legislative statute and adopted as the "administrative arm" of the Supreme Court of California is the appropriate venue due to justiciability and Federal restraint precedents. They may present on copious case law citations and convincingly coherent banter.

Unfortunately for the Defendants, the plain language of RICO, 42 U.S.C and other statutes governing Plaintiff's claims establish this Court as appropriate venue.

Here, as below, Defendants may argue "forum non conveniens"[6] in preference for adjudication by the state Supreme Court.

Defendants likely cannot coherently argue, given the nature of the parties and alleged conduct, that for the sake of "substantial justice the action should be heard in another forum…." (Mass. Gen. Laws ch. 223A § 5[7])

EXCEPTIONAL CIRCUMSTANCES OF VENUE AND THE ENDS OF JUSTICE

18 U.S.C. § 1965(a) provides that "any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs."

Here, as above, Defendants may argue "forum non conveniens" in preference for adjudication by the state Supreme Court.

[6] "Forum non conveniens is a judge-made doctrine that is recognized by some courts (state and federal) as a check on inappropriate forum selection. To invoke the doctrine, an alternative forum must exist, and the reviewing court must balance the parties' private convenience and the publics' interest. The case should be dismissed in favor of the alternative forum if the balance favors litigation there." (International Lawsuits and the Federal Doctrine of Forum Non Conveniens N. Gregory Young Finance, Real Estate, and Law Section)

[7] The California Judiciary appears to not have adopted this principle, so it is understandable that Plaintiff was unable to find on point caselaw for California.

Unfortunately for the Defendants, here as immediately supra, no tenable coherent argument is likely to take form.

STANDING

Plaintiff asserts and provides evidence in support of determination of appropriate standing to bring this cause of action given pecuniary, physical, and emotional injuries sustained:

General standing for UCL claims under California Code of Civil Procedure Section 382 authorizes class action suits when " the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court.... " (Code Civ. Proc., § 382.)

d. Here, Plaintiff is a matriculated student at PCL who was recruited under fraudulent purpose, such fraud Plaintiff having reasonable belief and factual evidentiary support to maintain.

Antitrust Injury Requirement Satisfied

Discussed below are the reasons the requirement that a Plaintiff suffer an injury of the type the antitrust laws were designed to prevent because

- Failure to produce documents: Bylaw 12.2, & CA Corp. Code: § 8330 From 10/2021 to present

- Election violation failure to adhere to duties: CPC §5231 Director duty to serve in good faith and best interest of org.
- **December 2021**: HCP Files factually incorrect Statement of Information with Secretary of State changing Plaintiff's lawful status as Secretary of the Corporation in reckless disregard to statute and the Corporate Bylaws. The SOS remains uncorrected today.
    - **Violation of PC 115 (Felony)**: against the law to publish false info to Government. Here Enterprise P operators affirmed and supported the submission of a nonratifiable and unlawful Statement of Information because the basis for the submission was ultra vires and constructively known by the parties to be unlawful.
    - STATE BAR bears inchoate responsibility for the above activities because it was aware, on notice and staff or Enterprise S operators participated in Plaintiffs direct oppression to facilitate Enterprise P as an entangled an interoperating enterprise in the vertical position to PCL as its statutory regulator.
    - Members of the Board are 'slave' to bylaw under CPC §5210, §7210,§ 7213,§9210: Board members are required to adhere to the bylaws. Here Defendants have violated election provisions, fiduciary obligations, and obligations to the membership interests of the non-profit.
- Recording of Board meetings unlawful:

- Cal. Pen. Code §637.2, Consent required for electronic video recording.
- Flanagan v. Flanagan, 27 Cal.4th 766 (Cal. 2002): Holding as precedent case proving expectation of privacy.
- Friddle v. Epstein, 16 Cal.App.4th 1649 (Cal. Ct. App. 1993): Holding that unpublished but illegal recordings are a violation of the law.
-

- **Fraud, Unfair Business Practices: the Unfair Competition Law (UCL)**

The UCL expressly permits claims to be brought by any "person," which it defines to include "natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons."

Two Requirements:

a. Actions for any relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction . . . by a person a who has suffered injury in fact and has lost money or property as a result of the unfair competition.

b. UCL requires that private cases involving aggregated claims comport with California's class-action standards.

1. Amended Section 17203 provides: Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Section 17204 and complies with Code of Civil Procedure section 382, but these limitations do not apply to claims brought under this chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state.

c. Clayworth v. Pfizer, Inc., 49 Cal.4th 758 (Cal. 2010), retail pharmacies brought UCL claims against pharmaceutical companies for alleged price fixing. Defendants challenged the plaintiffs' standing, arguing that they did not suffer a loss of money or property because they passed on the overcharges to customers. According to defendants, plaintiffs had no remedy to pursue. The California Supreme Court rejected this position, making clear that the issues of standing and remedies are separate: "That a party may ultimately be unable to prove a right to damages (or, here, restitution) does not demonstrate that it lacks standing to argue for its entitlement to them."

"The doctrine of mitigation . . . is a limitation on liability for damages, not a basis for extinguishing standing." In short, looking at the language and intent of Section 17204, the Court found that plaintiffs need not prove "compensable loss at the outset" in order to have standing.

d. Kwikset Corp. v. Superior Court, 51 Cal.4th 310 (Cal. 2011),

e. Hodsdon v. Mars, Inc., 162 F. Supp. 3d 1016, 1022 (N.D. Cal. 2016), aff'd, No. 16-15444 (9th Cir. June 4, 2018) ("California law permits litigants to pursue claims under the UCL, CLRA, and FAL if they show that the deceptive practice caused pecuniary loss.");

Proposition 64 also amended Cal. Bus. & Prof. Code §17535 (governing the relief available in FAL lawsuits) to impose the same standing and class-action standards as those contained in the revised §17204, as follows: Actions for injunction under this section may be prosecuted by any person.

Prop 64 statutory language expressly states, 'It is the intent of the California voters in enacting this act to prohibit private attorneys from filing lawsuits for unfair competition where they have no client who has been injured in fact under the standing requirements of the United States Constitution.'" The Court explained that, "**[u]nder federal law, injury in fact is 'an invasion of a legally protected interest**

which is (a) concrete and particularized; and (b) actual or imminent, not "conjectural" or "hypothetical.""" "'Particularized' in this context means simply that 'the injury must affect the plaintiff in a personal and individual way.'"

The Defendants continue in their unfair and abrogative conduct, with neither motion nor communication of intent to operate in good faith accord to the statute governing both STATE BAR's instantiation and PCL's ostensive operation under guidelines.

Plaintiff's familiar relationships with his parents and spouse, children and neighbors have been negatively impacted, the time and the reasonable loss of faith in the fundamental.

Plaintiff, as primary financial provider in the home with a mortgage has not recovered from the unplanned extortion and conversion of funds
The money paid under PCL unreasonable and extortion-like demands deprived Plaintiff resources during period that the parties were on notice HILL's youngest daughter had been born under dire circumstance and required extra critical neonatal care.

Plaintiff was injured and the unfair business practice was the cause.

For a successful claim, Plaintiff must show that Defendants conduct, more probably than not deprived him of property or interest sufficient to claim injury and that the injury was caused by the unfair practice:

(1) To establish a loss or deprivation of money or property sufficient to qualify as injury in fact, i.e., economic injury, Plaintiff asserts tolling and continuing tortious injury from the conduct of the defendants including, but not limited to:

1. STATE BAR and operators of Enterprise S, including NUNEZ, LEONARD, WILSON, DURAN and CHING, facilitated and assisted PCL to recruit students, charge fees, and grant fewer units than law or industry custom allowed. Here, PCL awarded 2 units where other institutions provided 3 units for completed study.

   This conduct was arbitrary and capricious **because** STATE BAR and operators of Enterprise S failed to operate both as the vertical monopoly regulator in establishing compliance or noticing the public in the case of PCL's non-compliance, a clear lapse of its public protection function, as it is not reasonable to believe that a student will opt to attend a law school that gives the students less than they are entitled to and openly disregards the law.

   Defendants STATE BAR will likely attempt defense by questioning whether or if they were under a "duty to exercise due care" to protect the Plaintiff from injury even in the case of negligence due to lack of privity of contract at the time of Plaintiff's matriculation.

> To establish a cause of action for negligence, the plaintiff must show that the "defendant had a duty to use due care, that he breached that duty, and that the breach was the proximate or legal cause of the resulting injury." (Nally v. Grace Community Church (1988) 47 Cal.3d 278, 292, 253 Cal.Rptr. 97, 763 P.2d 948.)

In addition:

> Recovery for negligence depends as a threshold matter on the existence of a legal duty of care. (Gas Leak Cases , supra , 7 Cal.5th at p. 397, 247 Cal.Rptr.3d 632, 441 P.3d 881.) Brown v. U.S. Taekwondo, 11 Cal.5th 204, 213 (Cal. 2021)

Duty or Privity?

Plaintiff asserts that Legislative mandate of the State Bar Act imposed a duty on the Defendants STATE BAR and through its express delegation of regulatory enforcement to the STATE BAR the monopoly regulator in the field of legal education.
Alternatively, the payment of fees to the STATE BAR

> Ultimately, per Sheen v. Wells Fargo Bank, 12 Cal.5th 905 (Cal. 2022):

> "The determination whether in a specific case the defendant will be held liable to a third person not in privity is a matter of policy and involves the balancing of various factors, among which are the extent to which the

transaction was intended to affect the plaintiff, the foreseeability of harm to him, the degree of certainty that the plaintiff suffered injury, the closeness of the connection between the defendant's conduct and the injury suffered, the moral blame attached to the defendant's conduct, and the policy of preventing future harm."

2. PCL and operators of Enterprise P, including SPIRO, PENA, GONZALEZ, BOUFFARD, recruited students with the intent to defraud them by accepting unqualified students as a matter of law or recruiting qualified students for purposes of entrapping them at the school to the detriment of the student. Students unable to effect transfer were forced to submit to abusive treatment or risk the loss of additional time and money.

This conduct is believed to be per se “bad faith” as PCL Directors, Officers, and Agents entered into contracts that contained “trojan horse’ or “poison pill” attributes misrepresented or intentionally not disclosed, preventing an actual “agreement” or meeting of the minds as Defendants sought to unfairly deprive students from the outset.

3. Students and officers of PCL were subjected to extortion, harassment, intimidation, and threat of expulsion. Here, Plaintiff suffered irreparable harm to his school and peer relationships, family consortium, academic record due to the agreement of SPIRO, PENA, GONZALEZ, BOUFFARD, and SARIN. Plaintiff also has suffered egregious and long term financial

harm from funds fraudulently claimed owed, extorted, converted and used for the benefit of the Defendants as proceeds of their venture.

(2) show that that economic injury was the result of, i.e., caused by, the unfair business practice or false advertising that is the gravamen of the claim."

- Cal. Bus. & Prof. Code §17200–17209 ("UCL"); and the
- Consumers Legal Remedies Act, Cal. Civ. Code §1750–1784 ("CLRA").

People ex rel. Lockyer v. Brar, 134 Cal. App. 4th 659, 666-67 (2005) (seeking to enjoin attorney from bringing "shakedown" UCL claims against small businesses). The court explained:

Cal. Bus. & Prof. Code §17200 delineates part 2 of division 7 of the UCL, and deals with unfair competition, while section 17500 begins part 3 of the same code and deals with representations to the public. The Legislature evidently thought that false advertising was sufficiently distinct from unfair competition so as not to be lumped even in the same part of a division. The complaint thus did not give fair warning that [defendant] was subject to being enjoined from filing false advertising suits under section 17500 as well as unfair competition suits under section 17200.

1. Densmore v. Manzarek, Nos. B186036, B186037, B188708, 2008 WL 2209993, at *27 (Cal. Ct. App. May 29, 2008) (unpublished) (finding that dismissal of UCL

claim does not require dismissal of section 17500 claim, which coEmery v. Visa Int'l Serv. Ass'n, 95 Cal. App. 4th 952, 960 (2002)

1. ("'The concept of vicarious liability has no application to actions brought under [the UCL].' . . . A defendant's liability must be based on his personal 'participation in the unlawful practices' and 'unbridled control' over the practices that are found to violate section 17200 or 17500.") (quoting People v. Toomey, 157 Cal. App. 3d 1, 15 (1984)); accord consists of distinct elements).

Aiding abetting principle - Rogers v. Cal. State Mortg. Co. Inc -

1. Emery v. Visa Int'l Serv. Ass'n, 95 Cal. App. 4th 952, 960 (2002) ("'The concept of vicarious liability has no application to actions brought under [the UCL].' . . . A defendant's liability must be based on his personal 'participation in the unlawful practices' and 'unbridled control' over the practices that are found to violate section 17200 or 17500.")
2. People v. Toomey, 157 Cal. App. 3d 1, 15 (1984)); accord
3. Rogers v. Cal. State Mortg. Co. Inc
4. People ex rel. Harris v. Sarpas, 225 Cal. App. 4th 1539, 1562 (2014) (holding that corporate owners could be liable under the UCL where owners and corporation operated as a single enterprise).

Lawyers facilitating improper conveyances - Courts in other jurisdictions have similarly concluded that lawyers can run afoul of disciplinary rules by facilitating

fraudulent conveyances or fraudulently conveying property themselves. See, e.g., In re Morris, No. 11–O–13518, 2013 WL 6598701, at *1 (Cal.Bar Ct. Dec. 4, 2013) (unpublished opinion) (finding lawyer violated rule prohibiting moral turpitude, dishonesty, and corruption by assisting a client in creating promissory notes and recording deeds of trust to delay a creditor's collection of its judgment); Fla. Bar v. Rood, 620 So.2d 1252, 1255 (Fla.1993) (finding rule violation when lawyer fraudulently transferred property to his father); Att'y Grievance Comm'n v. Culver, 381 Md. 241, 849 A.2d 423, 444 (2004) (sanctioning lawyer for, among other things, advising client "how she could avoid repaying" creditors); Dayton Bar Ass'n v. Marzocco, 79 Ohio St.3d 186, 680 N.E.2d 970, 971 (1997) (disbarring lawyer based in part on lawyer's "apparent attempt to transfer property to evade the effect of a judgment"); In re Conduct of Hockett, 303 Or. 150, 734 P.2d 877, 883–84 (1987) (suspending lawyer for violating rules prohibiting misrepresentation and illegal conduct when lawyer helped client unlawfully convey property to avoid the claims of creditors). In contrast, we have concluded the Board failed to prove Ouderkirk's conduct violated any disciplinary rule. We have never found an attorney's conduct to be prejudicial to the administration of justice without an underlying violation of some other disciplinary rule. Cf. Iowa Supreme Ct. Att'y Disciplinary Bd. v. Rasmussen, 823 N.W.2d 404, 410 (Iowa 2012) (finding lawyer who exercised self-help remedy of repossession did not violate rules 32:8.4(c), 32:4.1(a), 32:4.2(a), 32:8.4(b), or 32:8.4(d) because such action was legally permissible—though unadvisable). Fundamentally, it was PCL's misrepresentations and STATE BAR's aiding and abetting entangled and entwined conduct and later

> subsummation of PCL's duties and obligations Governmental entities do not fall within this definition and cannot be sued under the UCL.

Unfair Business Practices

In People v. Casa Blanca Convalescent Homes, Inc. (1984) 159 Cal.App.3d 509, the court, acknowledging that the parameters of the term `unfair business practice' had not been defined in a California case, applied guidelines adopted by the Federal Trade Commission and sanctioned by the United States Supreme Court in FTC v. Sperry Hutchinson Co. (1972) 405 U.S. 233, 244 [31 L.Ed.2d 170, 179, 92 S.Ct. 898]. The court concluded that an `unfair' business practice occurs when that practice `offends an established public policy or when the practice is immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumers.

Use of unfair rules justifies disgorgement as remedy.

State Bar Guidelines for Unaccredited Law School Rule (GULS) 4.2.46, which reads in relevant part:

> (F) providing law study credit for a fixed-facility law school program or class offered more than ten miles from the site of the law school, outside California, or in multiple locations.

Here, PCL failed to file "Major Change" application prior to soliciting and accepting out of state students who matriculated in Fall Quarter 2020, including students residing in Arizona and Mexico while operating under the COVID-19 exemption allowing all schools to offer remote classes during the pandemic. Because PCL engaged in conduct that it expressly and constructively knew required prior notice, PCL clearly violated the rule.

This violation is sufficient as conduct a compliant institution; here PCL constructively and expressly knew they were not in compliance as did the STATE BAR, as law students have a 90-day notice and registration fee payment and Plaintiff has no reason to infer that the students themselves were not in comport with their obligations.

To be clear, PCL's plan to engage in long term interstate contractual commitments in writing without informing the regulator or an alternative plan with the same result was not the goal.

Here, STATE BAR may have "granted" PCL additional ultra vires[8] "privilege" since the STATE BAR collects fees and requires timely registration and would be expressly aware of student circumstance.

Alternatively, PCL's grant of rules exemption by the STATE BAR was sufficiently broad that PCL and operators of Enterprise S and P were not concerned with the outcome.

Violation of this rule has as apportioned remedy disgorgement of funds.

Allegations to All Causes of Action

1. Plaintiff, TODD HILL, is now and at all relevant times mentioned here was an individual, residing and working in the County of Los Angeles, State of California, and is the legally authorized and unlawfully ousted corporate

[8] Plaintiff distinguishes that even if it the case that STATE BAR has discretionary authority to interpret and enforce, or waive enforcement, of its rulemaking work product, lawful use of the discretionary authority requires due process review for demonstrative. As "innocence" is not per se defense and must be argued, due process requires evidence of conformance.

Secretary of record officers, Board Members, or Community Members of the People's College of Law.

a. Plaintiff is a 4L student.";

b. :Plaintiff has completed all regularly offered coursework.

2. Plaintiff is informed and on belief alleges that defendant PEOPLE'S COLLEGE OF LAW ("PCL") is now and, at all relevant times mentioned here, was a California nonprofit corporation doing business at 660 S. BONNIE BRAE, LOS ANGELES in the County of LOS ANGELES. Thus, this Court is the proper Court for the trial of this action.

3. Plaintiff is informed and believes, and on it alleges, that defendant GUILD LAW SCHOOL dba PEOPLE'S COLLEGE OF LAW, ("PEOPLE'S COLLEGE OF LAW") is now, and at all relevant times mentioned here was, a company doing business at 660 S Bonnie Brae, Los Angeles, 90057. Thus, this Court is the proper Court for the trial of this action. The claims as currently presented are grounded in California law and doctrine.

4. Plaintiff contends that defendant PEOPLE'S COLLEGE OF LAW, all named Defendants, and DOES 1-100 are now, and at all relevant times mentioned here were individuals, and one of the principal directors and operators of Defendant PEOPLE'S COLLEGE OF LAW.

PEOPLE'S COLLEGE OF LAW's HQ and sole office is located at 660 S Bonnie Brae, Los Angeles, 90057. Thus this Court is the proper Court for the trial of this action. Defendants were authorized by, and were acting on behalf of, Defendants PEOPLE'S COLLEGE OF LAW or PENA, when the representations to Plaintiff alleged in this complaint were made.

5. Plaintiff is unaware of the true names or capacities, whether they are individuals or business entities, of Defendant DOES 1 through 100, inclusive, and sues them by such fictitious names. Plaintiff will seek leave of this Court to insert their true names and capacities once they have been learned.

6. Plaintiff is informed and believe and upon such information and belief alleges, that the named defendant(s) and DOES 1 through 100 inclusive, were, at all times here mentioned, authorized by each other to act, and did so act, as agents of each other, and all of these things alleged to have been done by them were done in the capacity of such agency. Upon information and belief, all Defendants are responsible in some manner for these events and are liable to Plaintiff for the damages it has incurred.

7. Plaintiff requests include Statement of Decision, Prayers for Declaratory and Injunctive Relief

Statement Of Decision Request

Rule 3, Section 1590 details rules and requirements for plaintiffs to request a statement of decision. Plaintiff makes the request for a Statement of Decision.

Hill seeks declaratory, injunctive, and monetary relief from Defendants for False Advertising in violation of both the Lanham Act, 15 U.S.C. § 1125(a) and California Business and Professions Code §§ 17500 et seq., and for Unfair Competition in violation of California Business and Professions Code §§ 17200 et seq.

Hill's claims against Defendant stem from alleged misrepresentations of material significance, including that Defendant awarded students non-compliant units as defined under the California Private Postsecondary Education Act. Professors were unaware of this issue as well, and submitted class syllabi to the school for approval presuming that three units, and not two, was the design of the particular course.

SUMMARY OF FACTS:

Two schools, two systems…

Two sets of rules govern the operations of law schools in the State of California. The primary differentiator between the legal education services market participants is whether the program leading up to the student's taking of the Bar Exam was ABA-accredited or "merely" state registered or accredited.

PCL focuses its enterprise on recruiting students, most of whom will defer or abandon their studies after failing to pass the FYLSX.

PCL operates in an area that undoubtedly suffers from lack of access[9] to legal services, including legal education services capable of generating the number of local, community-centric, attorneys to operate in the marketplace.

PCL operates from an area disadvantaged with limited access to legal services.

PCL operates in a zone commonly referred as the 'MacArthur Park District".

For purpose of census PCL specifically operates in BG 1, Tract 2089.02, Los Angeles, CA.

Table 1- Race & Ethnicity Demographics[10]

Column	Block Group 1				Los Angeles			
White	2.1%†	±2%	39	±38	28.1%	±0.2%	1,095,259	±8,044
Black	4.9%†	±3.2%	90	±61	8.3%	±0.2%	324,152	±5,685

[9] There are quite a few attorneys and law firms located within five (5) miles, as the areas is close to Stanley Mosk and the Family Court facilities. Access to legal services is likely governed by cost and the nature of the matter and not due to lack of attorneys in the immediate area so close to Downtown Los Angeles.

[10] Census data taken from Census Reporter at https://censusreporter.org/profiles/15000US060372089021-bg-1-tract-208902-los-angeles-ca/

Column	Block Group 1				Los Angeles			
Native	0%	±0%	0	±13	0.2%†	±0%	6,093	±791
Asian	3.6%†	±3.2%	65	±59	11.6%	±0.2%	450,761	±6,642
Islander	0%	±0%	0	±13	0.1%†	±0%	4,870	±764
Other	0%	±0%	0	±13	0.5%†	±0.1%	18,358	±1,988
Two+	0%	±0%	0	±13	2.9%	±0.1%	112,610	±3,563
Hispanic	89.4%†	±10.6%	1,636	±3				

The data[11] indicates that the area is 89.4% Hispanic, 4.9% Black, 3.6% Asian and 2.1% White.

70% of the community lives well under the poverty line with **$12,072 (** ±$2,215Per capita income)

- **about one-third** of the amount in Los Angeles: $39,378 ±$248
- **about one-third** of the amount in Los Angeles County: $37,924 ±$193

Median household income is reported as $31,393 ±$2,774

- **about half the amount in Los Angeles: $69,778 ±$576**
- **about two-fifths of the amount in Los Angeles County: $76,367 ±$411**

Area educational attainment statistics demonstrate bias and presumption of poor educational quality.

PCL focuses its recruitment efforts in and around this community. Limited availability of space, lack of its own proprietary parking, and an afternoon to evening class schedule normally render many with longer commutes, i.e., those needing to travel in rush hour conditions from more a

27.3% High school grad or higher

[11] Census data taken from Census Reporter, Ibid.

- **about one-third** of the rate in Los Angeles: 78.4% 2,137,507 (±0.4% / ±10,778.1)

- **about one-third** of the rate in Los Angeles County: 80% 5,540,614 (±0.3% / ±18,359.9)

6.6% ±3.8% (71 ±42.8)Bachelor's degree or higher

- **about one-fifth** of the rate in Los Angeles: 36.2% 986,767 (±0.3% / ±7,269.3)

- **about one-fifth** of the rate in Los Angeles County: 34% 2,356,572 (±0.2% / ±11,867.5)

No degree: 73%†[12]

- **more than double** the rate in Los Angeles: 22%

- **more than double** the rate in Los Angeles County: 20%

† Margin of error at least 10 percent of total value

Population by highest level of education

73%†**No degree;** 10%†**High school;** 11%†**Some college;** 7%†**Bachelor's**0%**Post-grad**

[12] '†' signals data provider stated margin of error is at least 10% of the total value. Although caution is necessary, Plaintiff asserts that the margin of error, even if doubled or tripled, does not substantively impact the arguments or foreseeable outcomes of the Defendants conduct.

Plaintiff asserts that PCL and State Bar bad-faith conduct includes :

1. Violation of the Fourteenth Amendment's Equal Protection Claims

    a. Plaintiff believes based on personal experience and corroborating evidence attached to this complaint that PCL, STATE BAR, and operators of Enterprise P and S:

        i. Conspired to maintain and improve as plausible cover the perception of the STATE BAR's commitment to its rhetoric responding to a Legislative mandate on Diversity, Equity, and Inclusion recruitment into the practice efforts by allowing PCL to operate a scheme so that it recruited academically underqualified or otherwise ill-prepared students, largely from minority and underrepresented backgrounds, including but not limited active DACA participants.

        ii. All had express and constructive knowledge that this mandate was shibboleth and consequently all had constructive knowledge

        iii. PCL, STATE BAR, and operators of Enterprise P and S had put in place or were constructively aware of a longstanding STATE BAR rule—STATE BAR does not intervene in conflicts between students and their law schools even when the organization is under its probationary control! Plaintiff argues that PCL, STATE BAR and Enterprise P and S could rely on the sole monopoly regulator ignoring student complaints of school administration misconduct.

PCL and State Bar had express knowledge of PCL's longstanding nonconformance to the law. (See EXHIBIT PL-01 PCL Probation Letter)

iv. HILL received acceptance notice via email August 31, 2019. (See EXHIBIT PCL-1 thill acceptance 08132019.pdf)

1. Attached to the email was a document entitled "Student Tuition, Enrollment, & Registration Agreement" with a May 2019 revision date. (See EXHIBIT PCL-2 2019 PCL Enrollment Agreement REVISED 2019-5-24 per bd decn 2019-5-19.PDF)

2. The document includes the following table implying that the school has a 13% pass rate for students taking the FYLSX.

3. The document failed to disclose unit award deviations from national academic standards.

4. In parallel, the State of California's Public University Postsecondary Legal Education system, its flagships being the University of California law schools has failed to demonstrate any pricing efficiencies as a result of the State Bar's market strategies.

5. HILL attempts transfer Summer 2022 to present 2023 and learns he is persona non grata in the transfer market to an ABA school even though he had passed the First Year Law Student Exam in Summer

2020.

a. Plaintiff's father attended UCLA Law School from 1969 to 1972; he was admitted to the State Bar in 1973. At that time tuition was under $100 a unit. Plaintiff's uncle graduated Loyola Law School in 1973 and was admitted the same year. Tuition at that time ranged from $65.00 to $69.00 a unit.

b. It is reasonable to infer that more than inflation is responsible for the current cost of a legal education.[13]

Table 2- UCLA T&E 2017 and 2020 cohort comparison.[14]

UCLA Tuition and Expenses	**2020**	**2017**
Tuition (In-State):	**$45,600**	**N/A**
Tuition (Out-of-State):	**$52,094**	**N/A**
Room and Board:	**$18,612**	**$17,719**
Proportion of full-time students receiving grants:	**80.6%**	**81.0%**
Median grant amount among full-time students:	**$20,000**	**$21,000**
Average indebtedness of those who incurred debt:	**$123,594**	**$118,874**
Proportion of graduates who incurred debt:	**67.6%**	**72.5%**

[13] As discussed throughout this pleading, Plaintiff sough to transfer to UC Berkeley School of Law and UCLA Law School but both exclude application for transfer from other California registered or accredited (non-ABA) law schools. Plaintiff believes this policy is ultra vires as it is outside the scope of authority or grant of rulemaking power given to the State Bar, as the monopoly regulator of law schools in California, or the Board of Regents, who may make reasonable rules for admission but has no grant of privilege of economic or needs based exclusion. State Bar has not provided any evidence in opposition to the assertion that a public university cannot preemptively exclude and deny the chance to apply for entry to qualified state citizens solely based on what school they prior attended. Alternatively, the policy likely fails under administrative review.

[14] Tables 1 & 2 generated from data 02/16/23 from the Internet research Legal Group (ILRG) (https://www.ilrg.com/rankings/law/view/121)

UCLA's Preemptive Exclusionary Policy

Plaintiff's attempts at transfer were either frustrated or made impossible by State Bar's policies or lack of policy enforcement. These issues were not the result of mere negligence, as the policy for UCLA reads:

> UCLA School of Law Transfer Credit Acceptance Policy
>
> Transfer applicants must have successfully completed an entire first-year curriculum at another American Bar Association (ABA)-approved law school. UCLA will award a maximum of 39 credits earned at another institution. Transfer students must spend four (4) full-time semesters at UCLA School of Law upon transferring. Students from law schools that are only[15] state-approved are not eligible for admission. For more information about the transfer admission process and procedures, please contact our Admissions Office at (310) 825-2080 or admissions@law.ucla.edu

6. Plaintiff will demonstrate that this system is functioning by design and is actively facilitated by the Defendants and operators of Enterprise P and S are willing to engage in conduct anathema to the rule of law.

[15] "Only" is a potentially telling mitigator, as it implies "insufficient" quality without provision of bases for the statement and as justification for avoiding re-evaluation of the market.

Table 3- UCLA Demographics 2017 and 2020 cohorts.

UCLA Students & Faculty	2020	2017
Total Students:	955	974
Men:	49.8%	49.5%
Women:	50.2%	50.5%
Student Racial Demographics:		
White:	56.2%	N/A
Black:	3.7%	N/A
Hispanic:	10.4%	N/A
Asian:	14.2%	N/A
Student-to-Faculty Ratio:	5.9 : 1	N/A
Total Faculty:	236	N/A
Male:	54.7%	N/A
Female:	45.3%	N/A
Minority:	19.5%	N/A

Full-Time Starting Salaries	2020	2017
Private Sector (Median):	$180,000	$160,000
Public Sector (Median):	$55,053	$46,000

ovember 5, 2021 a final demand for production of documents noticed to PCL and STATE BAR under CBPC Section § 8330:

1. PCL, subsequently noticed on multiple occasions as described above and below FAILED TO RESPOND.

2. Under the section, failure to respond allows demanding party to seek

order of contempt and mandamus order from the Court; here Plaintiff makes express request for issuance of finding and order as immediate injunctive remedy;

3. There appears to not be a tolling or SOL attached to compliance and PCL has failed in its duties to resolve the current issues clouding its actual organization, as all current officers of the Corporation are likely there by "ultra vires" conduct, thus it is argued that any acts void ab initio as a matter of law;

4. Plaintiff asserts he is still lawful Secretary of the Corporation and seeks to take control and appoint a Trustee to hold valid elections and reconstruct the administration.

vi. Plaintiff argues and requests factual determination and statement of decision determining if the STATE BAR abrogated its duties in direct contradiction to statute, including CBPC Section § 6001.1 in the interpretation and enforcement deviation from policy, statute, quasi legislative Judicial Order or approved rule.

vii. In addition, Plaintiff argues, and requests factual determination and statement related to whether the California Judiciary abrogated its duties in direct contradiction to statute, given that:

1. Argued and evidence provided in support above and below yield a clear and compelling demonstration that the STATE BAR and

operators of Enterprise S daily ignore, misrepresent, or fail to maintain reasonable adherence to Section § 6001.1, Federal and State administrative law, e.g., the APA and CAPA, or Judicial Administrative Order. to the lay person such as Plaintiff what appear to be unlawful deviations from both Legislative statute and quasi legislative Judicial Order or approved rule.

a. Plaintiff demonstrates using electronic communications, third-party reports, video, and witness affidavits. [See EXHIBITS PCL-1, PMT -1, R1, etc.]

The common law right to fair procedure was established to protect the public from "arbitrary decisions by private organizations."

> The purpose of the common law right to fair procedure is to protect, in certain situations, against arbitrary decisions by private organizations. As this court has held, this means that, when the right to fair procedure applies, the decision making "must be both substantively rational and procedurally fair." (Pinsker II, supra, 12 Cal.3d at p. 550.)

Potvin v. Metropolitan Life Ins. Co., 22 Cal.4th 1060, 1066 (Cal. 2000)

2. Section 6001.1 is not the stated primary purpose or intent of the State Judiciary; consequently, does this section violate Separation of Powers Doctrine or imply unlawful waiver of Constitutional rights or implicit Conflict of Interest issues?

Plaintiff asserts that no reason to believe that this violates any rights, as the establishment of a professional duty standard of care or consideration.

a. Here, Plaintiff asserts on reasonable belief and no evidence to the contrary, that the State Bar has never openly communicated the expectation that "Protection of the Public is the Highest Priority No Matter the Conflict of Interest."

b. If Membership in the STATE BAR is mandatory, why is the State Bar able to vary its speech related to its mission and hold licensees and unauthorized "practicing" individuals to procedural discipline where it has not been established that their discipline process is Constitutional or itself has followed the proper procedures.

    i. Where the State Bar has clearly failed to operate in accord with its own rules, as incorporated reports from the State Auditor are incorporated by reference here.

c. STATE BAR will likely argue here that the "arm of the Judiciary" must uphold the law; unfortunately for the Defendants, there conduct demonstrates the frivolity of such contention as militate and terminal to their cause.

viii. The State of California's interest here may be conflicted, as clearly a great deal of Federal Student Aid is applied to California public law schools; making space for intrastate transfers versus out-of-state transfers is facially more lucrative.

2. An affirmative duty to ensure that PCL was in fact in compliance as both the school and its monopoly regulator the STATE BAR.

3. Failed to comport conduct to the standard of the "reasonable person in similar circumstance "with an affirmative duty to screen their student prospects for fitness, under STATE BAR Guidelines.

   a. As discussed below, the STATE BAR is the former attorney's professional trade association, since on or about 2018 its role as such was terminated by statute.

4. Failed to comport their conduct to the duty when informed of its deviation from the conduct that would reflect the circumstances. Examples include, but are not limited to:

   a. Violation of Guidelines for Unaccredited Law Schools Rule 4.208 in that PCL had a undertaken the duty to submit a good-faith application for a waiver notifying the State Bar of my participation as a "full time" student and eligibility for degree award. Instead of this, operators of Enterprise P and S, including SPIRO and LEONARD conspired and collaborated to deny Plaintiff lawful relief by:

      i. LEONARD's continued representation of Admissions and as primary point-

of-contact in the coordinated joint venture to neutralize and suppress Plaintiff after denying him any viable mechanism for completing his degree to the express knowledge of Enterprise S directors DURAN, WILSON, DAVYTYAN, CARDONA, HOLTON, AND NUNEZ and operators CHING, HOPE,

ii.

b. Plaintiff reiterates, although he might "pray" for eligibility to take the State Bar and believes he has met the lawful and appropriately enforceable mandates of the statute, Plaintiff's argument here treats separate the degree grant from its "approval" by the Court or the State Bar as qualifying or readiness to sit for the Bar. Consequently, Plaintiff's request that the Court issue order for delivery of degree request as separate from an order indicating that the finder of fact has indeed found in Plaintiff ready and qualified to sit for the Bar.

c. Plaintiff here requests that the Court provide a statement of determination indicating, as for degree grant, what requirements remain, and which entities or individuals bear responsibility or liability for its delay and delivery.

d. Plaintiff requests determination related to the procedural and substantive "unconscionability" of the contract.

e. Plaintiff requests determination related to the procedural or substantive unconscionability related to enforcement of contentious provisions of the State bar Act, including the mandatory membership requirement.

f. Plaintiff challenges mandatory membership requirement based on rights of freedom of association and under 28 U.S.C. 1265.

Plaintiff Attestation of Fitness and Preparedness

Plaintiff asserts that he is an American male above the age of forty-five without criminal record.

Plaintiff asserts that he has demonstrated in exemplary the model of the diligent fiduciary, at tremendous risk realized in the financial, familiar consortium and emotional costs this experience has tolled.

Plaintiff matriculated into PCL law school in Fall 2019.

Plaintiff was recruited as a victim and unwitting participant in a scheme by the PCL administration to defraud their students, volunteer faculty, and alumni membership to the detriment of all but the Defendants and their continuing unlawful.

The Plaintiff has reliable evidence and witness testimony corroborating the issue existed and was constructively noticed, via individual transcripts and other records in 2015, to the California State Bar, the "administrative arm" of the California Supreme Court, responsible for the "protection of the public as the highest priority"; the "first mandate" of BPC 6001.1 includes an imperative admonishment that on lay first impression, and after it, communicates that this priority comes first, "no matter the conflict of interest".

Here, the school and its vertical market participant and statutory monopoly regulator, the California State Bar knew, conspired, and engaged in a scheme (racket) where the school was granted the "power" of ignoring state and federal law without fear of admonishment or substantive castigation.

Defendants will argue that plaintiff seeks to invoke tort or penal culpability

After taking the Baby Bar, Plaintiff receives transcripts that identified the classes taken and an incorrect corresponding unit award where the hours were shown.

The form of the transcript, as well as additional information received by the State Bar from PCL, suggests error identification and correction possible with little expenditure of State Bar regulatory resources.

Instead the Defendants chose to demur, deny, and delay, hosting a series of meetings that lasted hours, involved as many as a dozen community members and ended with no internal remedial or good faith action from the Enterprise.

PCL and Enterprise P were obstinate and unwilling to cure the issues.

Instead, PCL and the State Bar engaged in conduct, egregious and anathema to the rule of law, designed to "quash" the matter and "silence" those who complained.

Defendant solicited aid from the State Bar, the "administrative arm" of the California Supreme Court and PCL was further affirmatively assisted by STATE BAR executive and administrative leadership.

Defendants Conduct Demonstrative of Moral Turpitude

Plaintiff's exhibits show that many Defendants will claim to have been respected members of the Bar for many years and each will likely be able to present significant "mitigating" evidence.

Here, as with the now infamous disbarred attorney Thomas Girardi, the Defendants conduct cannot

be excused on that basis, given the level of culpability, conspiratorial or symbiotic enterprise interoperation, and the substantial injury, and tremendous potential for public injury, their conduct has driven the Plaintiff to appear with in compelling cause before the Court.

PCL & Enterprise P employed "ghost" Deans.

SPIRO was Dean of the People's College of Law until his resignation in 2021. Although SPIRO remains active in all aspects of the operation of Enterprise P. SPIRO was not a ghost, as he was active and easy to reach even after his "retirement" as Dean. SPIRO operated as school contracts "enforcer" along with PENA, BOUFFARD, SARIN, and GONZALEZ.

POMPOSO took over as PCL's Dean September 27, 2022. As of February 18, 2023 POMPOSO has not responded to the notices sent to her as notice or request to deal. POMPOSO appears to have intentionally blocked messages to her from the Plaintiff to another publicly available email address.

STATE BAR condoned PCL's "ghost" Dean practice.

STATE BAR, LEONARD and operators of Enterprise S were noticed on each change. Plaintiff is uncertain if these notices were made timely.

Plaintiff reasonably believes that the "appointments" of TORRES and POMPOSO were unlawful, given Plaintiffs allegations related to the ultra vires status of PCL's Community Board.

Ghost Deans conduct violated rules of professional responsibility and state law.

Ghost Deans had contractual and fiduciary obligations and a higher conduct standard.

Did the Defendants engage in an unfair and "continuing course of conduct"?

For reasons discussed above and further below, Defendants appear to have engaged in and are now presently operating "continuing course of conduct" that is unfair, egregious, and unlawful.

Unfortunately for the Defendants, the nature and easily foreseeable negative impacts of the conduct, including failures to intervene or recuse when statute or duty demanded, unfair debt collection, extortion, retaliation[16]

Two Letter Strategy; Musical Chairs; used by rackets.

State Bar uses the strategically timed release akin to the cephalopods use of ink in the ocean to avoid accountability.

For example, on or about January 9, 2023, the State Bar announced the appointment of Enrique Zuniga 'Public Trust Liaison' (PTL), ostensibly as a proactive, confidential[17], independent, and impartial nexus for the public.

Yet the position is new and seems to be focused on lulling te public through hiring an "omsbudsman" that is a great listener but effectively, by design of the position, a living "File 13" where a duty of confidentiality and special relationship between the PTL position

Defendants will argue that correlation is not causation and that the "strategic release of public records" or hiring personnel for damage control is both common practice, i.e., not a crime and a good response to the publics issues.

Unfortunately for the defendants the arguments fail disjunctively given:

[16] Here, after HILL paid a demand amount of $7934.00, on

[17] The State Bar claims and role elated to the PTL it can "appoint" employees to novel positions on its website

e. What is the actual capacity of one liaison when the STATE BAR cannot substantively handle cases in backlog received through "normal" non-pipeline channels? Is this capacity so great that it even merits advertising? What was the approach for procedural consideration of the scope and roles of the position?

The mere raise of the questions creates doubt; STATE BAR's responses not likely to coherently answer these questions again raise the issues of procedural rulemaking adherence under the APA.

f. that correlation sufficient to establish plaintiffs position as well as the nature of many of the alleged violations are designed by statute to allow broad and plausible evidence as sufficient to establish culpability; and

g. There is no lack of direct evidence in support of claims; and,

h. No material facts are in dispute.

Enforcement Attorney Discipline Announcements Display "Two-Letter" Conduct

Are PCL and STATE BAR estopped from claims of negligence?

1. There is no defense of negligence in the context of contempt. Here, Plaintiff from experience as well as direct reporting from the sovereign California have recorded decades long issues that the State Bar continues to fail to address.

    a. "Girardi (disbarred, ID , Eastman, and even Mr. Dunn": Here State Bar will claim the appropriate results—disbarment or proceedings underway; for Mr. Dunn, the only

name of the last that served as a former Executive Director of the State Bar.

i. Plaintiff asserts that it is not relevant whether these men are convicted of crimes as they have already been disbarred establishing the conduct violated the professional rules;

ii. State Bar admits to previous mistakes when publicized and issues comments to the press and potential changes to the professional rules systems in demonstration of its "earnest efforts of reform" for every crisis;

iii. Foe every crisis as longstanding operational pattern and practice

b. Plaintiff argues here the racket essentially operates and maintains viability year after year as an "intractable problem that requires additional funding to resolve." or laches issues in prosecution preventing substantive remedial action:

i. The rhetoric of the State Bar in its communications to the public and its member licensees where accurate is reasonably promulgated by good faith market participants; but this perspective is a "double-edged" sword, for it lends "artificial credibility" to spurious argument, insipid, and deceptive rules and practices outside the bounds of State Bar authority as well as that of its Judicial body.

ii. The State Bar violates law and due process to avoid and abrogate its legislatively mandated and Judiciary unopposed administrative and enforcement obligations. Here Plaintiff argues that here,

2. PCL and Enterprise P coordinated an Interstate Fundraising Auction; Plaintiff believes and has requested documentation to help determine, the following conduct:

a. and failed to report the sums to the appropriate agencies nor remand the proceeds to the school for legitimate purpose.

b. Plaintiff issued a "Final demand for the immediate delivery of documents prior requested for inspection. Notice of Breach of Duty; Notice of Potential and Ongoing Violation of Law (BPC § 8330 et al.) " on November 5, 2021, [see exhibit EXHIBIT FD-1 fDemand11052021thtoPCL.pdf].

3. PCL continues presently (02/04/2023) to continue to operate in furtherance of its scheme, evidenced by the following:

    i. Engaging in ultra vires fashion to the bylaws of the corporation and, as discussed earlier with full knowledge of STATE BAR and operators of Enterprise S liquidate the fixed assets of the school in unlawful and unjust profiteering and in violation of their duties as operators of a law school, focused on attracting and matriculating the "underrepresented.

ATTN: ATTORNEY GENERAL OF THE UNITED STATES

EXTERNAL RACKETEERING INVESTIGATOR DEMAND UNDER 42 U.S.C. § 1956;

EQUAL PROTECTION DEMAND UNDER 14th AMENDMENT AND U.S.C. § 1981.

a) Plaintiff asserts and believes on reasonable evidence that Defendants the State Bar of California and the Peoples College of Law, et alia, are culpable for conspiring, engaging, abetting, obstructing lawful investigation, numerous violations of and various violations of California's Unfair Competition Law arising from the following factual conduct not disputed by any of the parties:

i) That PCL and Co-Defendant, Directors, Officers, and Agents, of a culpable "person" willfully conducted the affairs of a distinct "enterprise" ("Enterprise P") through a "pattern" of "racketeering" in a way that proximately causes restraint of trade and injury to students whether the student has any actual intent to transfer from the institution. Plaintiff injury arises from conduct that breached California's Unfair Competition Law:

a. California's Unfair Competition Law ("UCL") prohibits insipid conduct counterproductive to the confidence and reliability of a regulated marketplace.

b. Here, the student is never told that they will receive fewer units than are in essence standardized nationally for law school participants and others engaged in the pursuit of a postsecondary education.

c. A substantial factor facilitating the fraudulent scheme is STATE BAR's operation of the Registered and Unaccredited Law School marketplace using a model that resembles a lottery with student outcomes for those in poor economic condition suggestive of a "hunger games" lottery.

i. For every 100 students that successfully take the FYLSX 5 will pass the State Bar Exam and be allowed before the State Bar.[18]

ii. Most passers, including Plaintiff who attended the University of California at Los Angeles, that the units received and "validated" were not transferable to state run (ABA) law school operated within the secondary and postsecondary public trust system.

iii. To be clear, the UC system rule is an exclusionary rule with inevitable disparate impact consequences because PCL as a "fixed facility" school located in a community suffering tremendous lack of access to legal and quality education services in MacArthur Park district[19] and is located it prevents

[18]
[19]

Here, PCL entered tie contracts that, unbeknownst to the Plaintiff, were designed to heavily discourage and prevent his transfer to another law school, a per se naked restraint of trade in the interstate law school transfer marketplace and a violation of Plaintiff's rights.

PCL's lack of regard for student readiness and preparedness can be seen from its FYSLX passage rates over a period of years renders axiomatic the premise that PCL's recruitment practices present for the students were unconscionable and intended to conceal their unlawful scheme; whereby those who successfully passed the First Year Law Student's Exam (FYSLX) and desired, or were thought to desire, to exercise their rights in attempting transfer to other institution to complete their education were disincentivized or prevented from transfer.

1. Awards assignment violated Federal Law: 2011 Federal Government set the standard for use in order to make Title IV Federal Financial Aid applications and awards more efficient.

2. The Higher Education Act created the federal Financial Aid System, reauthorized by Congress every five (5) years.

3. The 2008 reauthorization included a new definition of credit hour that went into effect July 1, 2011.

4. In a response to initial cries of "infringement of institutional autonomy, The Department of Education's response, recorded in the Federal Register, was that, "…the proposed definition of a credit hour is necessary to establish a basis for measuring eligibility for Federal funding…This standard measure will provide increased assurance that a credit hour has the necessary educational content to support the amounts of Federal funds that are awarded to participants in the Federal funding programs and that students at different

institutions are treated equitably in the awarding of those funds."

2. Specific categories of conduct recognized under the statute are "'unlawful, unfair or fraudulent business act or practice.'" In re Pomona Valley Med. Group, Inc., 476 F.3d 665, 674 (9th Cir. 2007) (citing Cal. Bus. & Prof. Code §§ 17200, et seq.).

PCL's conduct did not comport with Federal or Local Law.

Most law schools, and all those located in the State to the Plaintiff's knowledge except for PCL, uses the traditional, federally and state mandated unit credit hours assignments.

Had student been able to transfer and had elected an ABA school with Federal Unit Award Requirements, the student would be forced, after taking a haircut, to borrow more money than they should have needed if the school had comported its conduct to the law, presumably at greater expense to the student, Federal Government and ostensibly the unrelated taxpayer.

PCL's conduct unfairly delayed Plaintiff's graduation in a circumstance where the school was in breach and unwilling to provide the requisite classes they were obligated to provide under regulatory rule and the common law of contracts.

PCL will argue that because they do not participate in Title IV Federal Financial Aid Programs, the law related to credits is not applicable.

Plaintiff responds that nothing in the Act implies that the unit assignments are only binding to Title IV schools, just that it is the standard "measure" for credit hours.

Plaintiff has reason to believe and credible evidence to support the reasonable assertion, in holdings related to the Courts previous evaluation approach as stated in holdings of the plain language of a statute, enumeration is used to limit the scope of a statute; in the case of exclusion, generally the same approach is taken.

Plaintiff argues that the 10th Amendments Supremacy Clause preempts the argument of whether or not "participation in the market" set the contingency on compliance; here, neither PCL nor State Bar will be able to adequately support an argument for non-applicability based on non-market participation; that would be both fallacious and frivolously presented if they were so inclined to debate as argued throughout this pleading.

Analysis

The Commerce Clause and Supremacy Doctrine provide the foundation for the argument that credit hours still apply to non-participating but active postsecondary education participants in the marketplace.

Under the Commerce Clause of the United States Constitution (Article I, Section 8, Clause 3), Congress has the power to regulate commerce with foreign nations, among the states, and with Indian tribes. This broad authority provides the basis for Congress to regulate the flow of goods, services, and information across state lines and between the federal government and private parties.

The Supremacy Doctrine, established in Article VI of the U.S. Constitution, holds that federal law is supreme over state law, and that federal law must be followed by all state and local officials and citizens. This doctrine gives the federal government broad authority to preempt conflicting state and local laws, and to ensure that federal regulations are uniformly applied across the country.

Together, the Commerce Clause and Supremacy Doctrine provide a strong argument for why credit hours still apply to non-participating but active postsecondary education participants in the marketplace. This is because these clauses give the federal government the power to regulate commerce and enforce federal regulations, and to preempt any conflicting state or local laws.

As such, credit hours, which are a standard measure of educational progress and are used to determine eligibility for federal financial aid and other educational benefits, must be consistently applied to all postsecondary education participants, regardless of whether they are participating in a federal aid program or not. This ensures that the flow of educational services, information, and financial aid is not disrupted by state or local regulations, and that all postsecondary education participants are treated fairly and consistently.

Thus, PCL more likely than not was in violation of both Federal and State Law in the assignment of non-standard unit awards because the HEA and other federal statutes apply to its operation.

A pogrom of deceptive pattern and practice.

Here, PCL has entered into deceptive arrangements under the "color" of its grant to award degrees in non-compliance with the Private Post-Secondary Education Act, the Higher Education Act of 1965, as well as the State Bar Act of 1937 and those lawful rules and mandatory guidelines the State Bar has constructed to define institutional compliance.

3. Bylaws of the People's College of Law clearly define election procedures and the approach for contested elections, as discussed above and below.
    1. Plaintiff offers as EXHIBIT D titled "BYLAWS OF THE PEOPLE'S COLLEGE OF LAW" a true and accurate copy of the last known and uncontested text and holographic signatures of the Board after a sudden transition

in PCL's administration effected May 22, 2017.

2. Bylaws are the last known ratified set, consisting of 26 pages the majority typed but with various areas of inked signatures.

4. Section 5.3 of the Bylaws was amended and adopted by the then instant Community Board March 19, 2018 and ratified by the General Membership April 7, 2019. Plaintiff has no basis to challenge the accuracy of the record or the validity of the bylaws here, although issues and arguments may arise during discovery that are currently reasonably suspected but for the sake of fairness to all of the parties are not raised now.

5. Lack of government oversight and enforcement means that, even when

successful, the regulator is more likely to unjustly punish the "rare minority or protected class member that survives the California sovereigns unaccredited "hunger games".

6. The practice fundamentally defames the student, by implying that it takes more time to accomplish less work, that the students and/or the classes are of poorer caliber without objective check.

    1. Students that successfully use California's "alternative pathway" mechanism still face an unequal burden, since they are subject to a 5-year practice delay for Federal Bar.

    2. The State Bar perpetuates a "class" attorney system, where the "lower classes" of its membership are subjected to heightened scrutiny and

recidivistic discipline as accepted pattern and practice.

7. The practice is unfair, because academic institutions regulated by the State Bar must follow the law to be in good standing. Constructive knowledge of the administrators of the institution is all that is required to render the conduct culpable as a matter of tort, but it is clear the practice is unfair to all parties of the class of those attending a California registered or accredited law school who may desire or find themselves in circumstances, economic or otherwise, necessitating transfer.

8. The practice interferes with students' prospective rights to transfer by denying them the right to apply because of their use of a competitor or competing service.

9. The practice represents an unfair and likely unlawful "taking".

1. State Bar's approach to the operation of the marketplace resembles a lottery.

"The 'unlawful' practices prohibited by . . . section 17200 are any practices forbidden by law, be it civil or criminal, federal, state, or municipal, statutory, regulatory, or court-made." S. Bay Chevrolet v. General Motors Acceptance Corp., 72 Cal. App. 4th 861, 881 (1999) (citations omitted). Under the unlawful prong, therefore, the UCL "borrows" violations of other laws and makes them independently actionable under the UCL.

Unfair Practices Need Not Be Unlawful

In addition, a practice that is not "unlawful" under the UCL may still be considered "unfair." See Cel-Tech Commc'ns, Inc. v. L.A. Cellular Tel. Co., 20 Cal. 4th 163, 180-81 (1999).

To be unfair, the plaintiff must show that his claim is "tethered" to an underlying law. Cel-Tech, 20 Cal. 4th at 186-87. Finally, the fraudulent prong of § 17200 requires a showing "that 'members of the public are likely to be deceived.' Allegations of actual deception [and] reasonable reliance . . . are unnecessary." Comm. on Children's Television, Inc. v. Gen. Foods Corp., 35 Cal. 3d 197 (1983). California Business and

Professions Code § 17200, et seq. is also known as the Unfair Business Practices Act or Unfair Competition Law.

Did Defendants commit unfair, deceptive, and abusive acts and practices in taking and demanding payment from Plaintiff, students, and consumers that those consumers did not owe, because tuition collection, and the loans PCL and operators of Enterprise P solicited had been rendered void or otherwise not payable under state law?

4. Here, PCL operated a scheme where it recruited students from underrepresented backgrounds that have generally been shown to lack "equal access to legal resources," per its publicly stated mission.

5. Recruited students were unwittingly solicited to sign and matriculated into by PCL tying agreements, per se restraints of trade.

6. Students were deprived of privileges and subjected to the following harms:

    1. Failure to notice, misrepresentation and breach in the duty of care required for "good faith" in depriving Plaintiff of the opportunity to give informed consent related to the unlawful unit awards;

    2. Here, informed consent would include notice that the award was unlawful, likely sufficient "reason" for the reasonable person to steer clear if prior warned.

    3. Here, prevention of public harm is presumed superior to risk of or actual public injury.

4. Unlawful debt assignment and collection practices;

5. Fraud;

6. Misrepresentation;

7. Timely provision of State Bar mandated disclosures;

8. Numerous tolling failures under rule 3.3 § 6068 Duties of Attorney of the

7. Contempt of Court, imputations of bad-faith and other inchoate acts to obstruct timely investigation and impede Plaintiff's ability to file timely through conduct coldly calculated to obscure the facts, delay and undermine the plaintiff, and "trump up" cause to attack and defame plaintiff likely to continue their unlawful, anticompetitive conduct and avoid additional liability and public oversight.

8. Solicitation and recruitment of enterprise and racket operators to participate in the unlawful conduct described above and below.

The Unclean Hands Doctrine Reasonably Applies

Plaintiff asserts pre-emptively unclean hands doctrine to Defendant served with evidentiary production documents

Plaintiff has reasonable, clear, and convincing evidence of the culpability of the Defendants:

i. Defendants have shown a protracted, inchoate, and concerted unlawful effort to avoid and deny the acknowledgment and duties of preservation of evidence in their possession known to be likely material and inculpatory.

(i) Formal and final demand for the provision of documents made to PCL Defendants

ii. Defendants individual defendant activities include, but are not limited to:

(i) Failures to follow both Federal and State statutes as well as State Supreme Court Administrative Order, as referenced throughout this document including violations of the Administrative procedures Act and the California Administrative Procedures Act by conspiring to adopt, adopting, implementing, and avoiding Constitutional review in consistent pattern and practice. Plaintiff reasonably believes that

iii. continuing and presently tolling failure to heed multiple preservation of evidence requests, fully qualified and in sufficient form, with detailed and accompanying bases for the requests.

iv. Defendant licensees failure to exercise "the knowledge and skill of an ordinary professional in good standing" in Bad-Faith and counter to the interests of public protection.

a. The duty of care standard here is constructive, i.e., "knew or should have known" because Defendants

II. The State Bar of California is a monopoly regulator and market participant tasked by the California State Legislature with the express unique mandate of **"protection of the public regardless of the State's or agents Conflict of Interest."**

i) "As in In re Shattuck, supra, 208 Cal. 6, and Brydonjack v. State Bar, supra, 208 Cal. 439, there is no reason to interpret the existing statutes in a manner that would raise serious constitutional questions." (see in re Attorney Discipline)

ii) In 2017, the Supreme Court of California issued Administrative Order 2017-09-20 (see Exhibit AO-1) clarifying the State Bar's authority as the 'administrative arm" of the California Supreme Court stems from the Legislatures remand of the State Bar to the judicial branch for purposes of "attorney admissions, regulation, and discipline." ibid p. 3

(1) Argued here is that the State Bar's failure to follow process in its regulatory functions realized is more direct threat to the public than "the possibility of inconsistent judgments which may undermine the integrity of the judicial system." (People v. Sims, supra, 32 Cal.3d 468 at p. 488, 186 Cal.Rptr. 77, 651 P.2d

321.)" *Lucido v. Superior Court (People)*, 259 Cal. Rptr. 339, 342 (Cal. Ct. App. 1989)

(2) Because the State Bar is the outward "facing" administrator, disciplinary regulator and point of contact for the public, it is lik

iii) The State Bar is a public licensing and regulatory entity that acts under the authority lawfully delegated to it by the sovereign arms of the State of California: the Supreme Court and the Legislature.

iv) The Supreme Court's authority over the State Bar includes the authority to review State Bar actions for antitrust issues and impacts on competition. The Supreme Court, in the exercise of its inherent authority, may conduct a de novo review and may modify or reject any policy or action of the State Bar relating to the regulation of the practice of law, including any that may implicate antitrust and competition issues. [Exhibit AO-1 p.3]

III. The State Bar Act, encapsulated in Business and Professions Code Div. 3 - Professions and Vocations Generally, Ch. 4 - Attorneys (Bus. & Prof. Code §§ 6000 et seq.), is the source of both the State Bar's authority and imperative mandate.

IV. The People's College of Law, PCL, is a vertical and regulatory competitor and active market participant (regulator v. regulated), as a registered fixed facility law school.

V. PCL was engaged in per se interstate commerce, as it accepted students who were reasonably believed by the Plaintiff to be, at all times of their attendance, fully qualified residents-in-fact of other states, including but not necessarily limited to Arizona.

VI. PCL was allowed to operate by the State Bar from 2015 to 2022, while PCL knowingly operated in violation of a variety of Federal and State statutes not limited to unfair debt collection, fraud, and conversion. State Bar has published in a letter of non-compliance to the school issued in July 2022 that it knew of the issues in 2020, but elected not to issue the requisite notice of non-compliance letter.

VII. There is no evidence that the State Bar's non-issuance of notice changed or avoided any of the duties of PCL, its Directors, officers, or agents.

" There can be no vested right to do wrong," citing Satterlee v. Matthewson , 16 S. & R. 191: " In the nature of things there can be no vested right to violate a moral duty or to resist the performance of a moral obligation." We consider the same rule applies to political duties and obligations--that is, duties and obligations due to the Government. Cohen v. Wright, 22 Cal. 293, 327 (Cal. 1863)

i)

VIII. Violations of the State Bar Act sufficient to form probable basis for RICO;

(1) Section 1962 requires the existence of two distinct entities: "a 'person' and an 'enterprise' that is not simply the same 'person' referred to by a different name."

(2) For facts related to Enterprise P, Defendants PCL and the enumerated individual defendants, under a "student recruitment for purposes of exploiting and restraining FYLSX passers" racket.

i. Here, Plaintiff asserts student "exploitation" refers to the following conduct:

(i) Conspiracy to commit fraud under color of law;

a. Conspiracy is the agreement between two or more to commit an unlawful act. Generally, a conspiracy requires the involvement of one additional person than would be necessary to commit the crime, and modernly many states require an "overt act in furtherance of the conspiracy", for example the filing of false documents with a governmental agency, as a prove out requirement.

(ii) soliciting money, under color of right and law, with the intent to defraud.

1. Fraud is the conversion of property obtained by the intentional misrepresentation of material facts. The tortfeasor need not have intent,

but to misrepresent the facts , only that the consequence of the misrepresentation is to the enrichment or benefit of the tortfeasor.

Here, Defendants PCL as individuals and operators of Enterprise P

(iii)Offering "discounts" for volunteer labor fraudulently solicited by the Defendants operating Enterprise P and supported by

(3) For facts related to Enterprise S, Defendants The California State Bar and the enumerated individual defendants thereunder, in the operation of "The Office of Admissions" racket. the grant of a monopoly powers to the detriment of the public, specifically law students and restraint of trade in the specific marketplace.

i. Office of Admissions is budgeted differently and generally has greater discretionary access to funds. (See Finance Committee Meeting, YouTube,)

(4) they are legislatively mandated to regulate.

IX. PCL engaged in concert with NL, a State Bar employee and active participant in Enterprise S, acting under "color of law" in her designated role the Bar as well and concert with the State Bar unlawful conduct, including

X. PCL knowingly engaged in fraudulently entering into tying contracts, as no student or public consumer could transfer without extreme disincentive unlawfully granted under "color of authority".

State Action Doctrine Given Plaintiff's Claims

The Fourteenth Amendment incorporates the Bill of Rights and Constitutional protections enjoyed by Citizens of the United States to enforce those same rights against government actors.

In addition, Persons, as individuals, cannot claim that another person, fictitious or natural has violated the rights above without "State actor involvement".

a. The State Bar is a statutory entity created initially by Legislative mandate to function as a professional licensure and members only professional association.

i. The Legislature has

Request for Declaratory Relief & Finding of Fact – Were the activities of People's College of Law and the State Bar in the conduct of their separate and symbiotic Enterprises when State Bar actors were on constructive or express notice, had a duty to act and constructively knew they had the duty, yet willfully failed to act?

Is there a duty "mitigator" for those determined to be State Actors or operator Licensees who voluntarily, without employment, but perhaps by appointment to a Governmental Agency?

Defendants will likely argue that these were the "honest mistakes and negligent oversight" of unpaid volunteers and appointees.

Here, Plaintiff has been unable to find factual evidence, argument or legal basis for an assertion that a volunteer public servant serving as a Director or Officer is immunized for their per se

conduct in bad faith or gross negligence. Since time immemorial, ignorance of the law has not been held as viable defense; Plaintiff believes that remains the case here; given the nature of the education of the parties and the circumstances.

In further support, Plaintiff incorporates various State of California agency work products, including a State Auditor prepared risk assessment and audits conducted over a fifty (50) year auditing period reporting issues related to the conduct or the dysfunction of the discipline system, issuance of orders, many of those references referred to and detailed throughout this pleader, generally incorporated by reference as exhibits including:

A. , Office of the State Auditor, Report 2015**, State Bar of California: It Has Not Consistently Protected the Public Through Its Attorney Discipline Process and Lacks Accountability [see Exhibit PP1A FULL REPORT CAO 2015-030]**

If criteria are met, could Eleventh Amendment privilege reasonably extend to the non-governmental but complicit and entwined operators of <u>Enterprise P</u> ?

Here, Defendants will likely argue that they were "just following orders" and acting in accord with the statutes and rules.

Plaintiff responds that the Defendants with statutory obligations to act as the monopoly regulator cannot, in abrogation of their duty, tenably argue that a rule that deprives a party of all remedy for the enforcement of his rights, impairing the obligation of contracts and assisting their vertical market regulatory charge in continuing unlawful conduct.

In support of their argument STATE BAR and Enterprise S Operators will cite that as Plaintiff was a student at the school, their disregard for Plaintiff's wellbeing as the monopoly regulator was simply appropriate compliance with the law.

Plaintiff answers that there is no question that the State Bar was aware that HILL was in fact the lawful Secretary of the Corporation and remains so today. STATE BAR and Enterprise S operators were made aware on multiple occasions that a false statement of information document had been filed.

A D&O insurance policy held by carrier AVN denied Plaintiff coverage primarily for reasons that the policy waiver did not cover conflicts between Directors and Officers. Todd believes that the fixing of the election and any acts of the "Board" are illegal and void from the outset, and that as a result, he is still Secretary of the Corporation.

Plaintiff believes that the State Bar has interfered with his statutory duties because of their substantial factor in supporting PCL and its efforts to frustrate Plaintiff's performance.

The following is a list of probable violations that HILL believes have occurred under CCC 52.1 or the TOM BANE CIVIL RIGHTS ACT:

If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars ($25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty

shall be awarded to each individual whose rights under this section are determined to have been violated.

Defendants conduct to demur, delay, lull, dissemble, and deny fair fulfilment of contractual obligations.

STATE BAR and Enterprise S operators appears to have adopted a series of questionable practices, designed to allow it to abrogate its duties related to auto determined categories of "customers, i.e., members of the public with valid complaints, using conduct designed to promote the "rhetoric" of good faith and substantive compliance, while in fact forcing the aggrieved to "waste" their time and effort on activities and outreach designed to lull and give a plaintiff false "hope", generate communication exchanges sufficient to show "good faith" effort to resolve the "impossible or intractable", stall and then ignore or frame any given plaintiff as "unreasonable" or other ad hominem descriptor as defamatory tactic, intended for establishing a "false light" basis for promulgation of an argument of either unreasonable claim or unfortunate lack of redressability. This conduct is exemplified when STATE BAR has a duty to communicate in transparent and plain language and has previously received multiple requests and notices for determinations and fair enforcement of its policies and guidelines.

Egregious misconduct demonstrated by Enterprise S work product.

Instead of procedural compliance and fair and equitable enforcement of its Antitrust policy, e.g., where the Office of General Counsel is implicated and the process also requires evaluation by the Office of the Chief Trial Counsel (which see, EXHIBIT AO-1 State Bar Anttrust Policy.pdf).

Denial and misrepresentation as initial tactic and production of false evidence.

Plaintiff issued a request for Antitrust Determination to the Defendants and enterprise operators on Upon multiple submissions for determinations, the masthead was always that of the General Counsel "self-serving" excerpts from contracts where the nature of the loss and LM's reticence in providing digital copies of the policies on its platform and that is the ONLY source of immediate information. In the case that a dwelling place is rendered uninhabitable it is easily foreseeable that access to a physical copy of the policy is not achievable.

Interference with Statutory Duties: HILL believes that the State Bar has interfered with his statutory duties as Secretary of the Corporation. This interference may have violated various provisions of the penal code, business and professions code, and/or other relevant laws as mentioned above and below.

Ultra Vires Acts of the "Board": HILL believes that the fixing of the election and any acts of the "Board" are ultra vires and void ab initio as a matter of law. This may violate the Corporation Code and/or other relevant laws regarding the formation and conduct of corporations.

Violation of Duty of Care: HILL believes that the State Bar and other members of the PCL administration may have violated their duty of care as members of the Corporation. This duty requires members to act in a responsible and prudent manner in carrying out their responsibilities and obligations as members.

Violation of Duty of Loyalty: HILL believes that the State Bar and other members of the PCL administration may have violated their duty of loyalty to their respective Corporations and its

members. This duty requires members to act in the best interests of the Corporation and to avoid conflicts of interest or self-dealing.

Violation of Duty of Inquiry: HILL believes that the State Bar and other members of the PCL administration may have violated their duty of inquiry, which requires members to make reasonable efforts to inform themselves of the Corporation's activities and to ask questions as needed to fulfill their responsibilities. The facts present multiple instances of failure to timely produce documents, including proof of debt, meeting videos, etc.

Violation of Duty to Follow Investment Standards: HILL believes that the State Bar and other members of the PCL administration may have violated their duty to follow investment standards, which requires members to make investments that are consistent with the Corporation's investment policies and objectives. Here HILL believes on reasonable evidence that the failure of the STATE BAR to follow the standards for decision making established by the APA and expressled in the CAPA, the STATE BAR has failed to properly review their accounts and expenditures.

Todd cites the relevant sections of the penal code, business and professions code, and/or other relevant laws as the basis for his belief that these violations have occurred. The exact citations of code sections and relevant parts will depend on the specific circumstances and laws that apply in this case.

Because the STATE BAR is the monopoly regulator in the field it cannot appear to be biased and because the Admissions operations of Enterprise S suffer cyclical workloads with “fixed” human

resources avoidance of involvement with students is critical to getting the more important work done.

In addition, STATE BAR may argue in a manner that did not display capricious or arbitrary grants of assistance that might infer favoritism or targeting as the STATE BAR has a high standard for measurement of its internal conduct and discipline regimes and a "reasonable person in similar circumstance complying with a high and rigid compliance to their sworn statutory duty as members and staff of the STATE BAR

Rule 4.206 Student Complaints

The Committee does not intervene in disputes between a student and a law school. It retains complaints about a law school submitted by students and considers those complaints in assessing the law school's compliance with these rules.

Rule 4.206 adopted effective January 1, 2008.

PCL and the State Bar engaged in the "entwined" and "entangled" operation of distinct enterprises.

In Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n, 531 U.S. 288 (2001)

Plaintiff can Show Proximate Injury from Enterprise Operators

RICO statute requires a culpable "person" who conducts the affairs of a distinct "enterprise" through a "pattern" of "racketeering" in a way that proximately causes injury.

Generally, RICO liability depends on showing that the person "conducted or participated in the conduct of the enterprise's affairs. "For purposes of RICO, a corporate employee (a natural person) is distinct from the corporation itself, a legally different entity with different rights and responsibilities due to its different legal status, even where the employee is the corporation's sole owner. Likewise, the existence of an enterprise is separate from the pattern of racketeering activity in which the enterprise engages. The enterprise is "proved by evidence of an ongoing organization . . . and by evidence that various associates function as a continuing unit," while the pattern of racketeering activity is proved by evidence of at least two racketeering acts committed by participants in the enterprise.

Unlawful credit hours awards is not in factual dispute.

Here, all parties agree that PCL was, in fact, awarding the incorrect number of units for years.

In an attachment to an email sent to the PCL Board of Directors dated September 6, 2021, "Regarding Peoples College of Law Awarding of Course Units and Students Transferring Out", Robert D. Skeels, Esq., a volunteer Contracts instructor and 2017 PCL graduate indicates the following:

> "Peoples College of Law ("PCL") has been awarding the wrong number of units for courses for a number of years, and this practice harms students that want to transfer to other law schools."

[see, EXHIBIT UI -1 units issue memo to PCL Board RDS.pdf, p. 1]

However, evidence establishing the pattern of racketeering activity and evidence establishing an enterprise "may in particular cases coalesce."

Defendants and instructors have admitted to the unlawful credit hours award and Plaintiff cedes here that the same unit awards were used for all students.

Defendant licensees and culpable operators of Enterprise S knew or should have known that the grant was unlawful; furthermore, any claim of negligence, given that from the time of initial discovery of an "honest mistake" to acceptance by the Plaintiff of the Defendants willful conduct performed in bad faith was nearly a year.

TAKINGS AND CONSPIRACY CAUSES

Did the Defendants conduct violate the Takings Clause?

In order to state a claim under the Takings Clause, a plaintiff must first establish that he possesses a constitutionally protected property interest.

For efficiency, because "the absence of any actionable constitutional violation negates by definition the existence of a conspiracy to violate constitutional rights[20]," Plaintiff reiterates standing his arguments for standing above and below.

The Fifth Amendment to the United States Constitution provides, in relevant part:"[Nor shall private property be taken for public use, without just compensation." U.S.CONsT. amend. V. The Supreme Court has applied the Fifth Amendment's just compensation requirement to the states through the due process and equal protection language of the Fourteenth Amendment. See Missouri Pac. Ry. v. Nebraska, 164 U.S. 403, 417 (1896) (holding that the taking of private property is forbidden absent compensation by the due process language of the Fourteenth Amendment); Reagan v. Farmers' Loan & Trust Co., 154 U.S. 362, 381 (1894) (holding that the taking of private

[20] (Woodrum v. Woodward County, 866 F.2d 1121, 1126 (9th Cir. 1989)).” San Diego Police v. San Diego Retirement, 568 F.3d 725, 740 (9th Cir. 2009)

property is forbidden by the equal protection language of the Fourteenth Amendment in the absence of compensation).

PCL and State Bar knowledge of foreseeable injury is not in factual dispute.

Does Section 6000.4 violate the Plaintiff's First Amendment Rights?

Plaintiff arguments are two-pronged : That the reputation of the State Bar and the reality of its operation increases the likelihood of Plaintiff to loss or injury without application of due process because the STATE BAR's admissions and disciplinary systems are admittedly biased and over enforce against minority members of HILL's complexion. [See EXHIBIT

That the STATE BARS negligent Governmental oversight defies and frustrates the reasonable persons statutory obligation to join?

Were PCL documents to the STATE BAR an attempt to legitimize a racketeering enterprise?

Did the conduct meet the standard for per se violation of the Sherman Act?

Here, Plaintiff asserts upon reasonable evidence, including progress reports and personal transcripts issued to him by the school and in the possession of the Defendants operating both Enterprise's P and S the following:

From the Fall of 2015 until the State Bar's issuance of a letter of non-compliance to PCL in the Summer of 2022, PCL issued 2/3rds of the lawfully required units for every class taught and successfully completed by students. Issuance was both accomplished by mail and wire:

Plaintiff asserts both postal service and wire were also used to effect a cover for the misrepresentation and likely fraudulent conduct of PCL and its Enterprise P operators as a "mere" tortious "breach of contract."

ii. On July 8, 2022, PCL and operators of Enterprise P sent to Plaintiff giving notice of intentional breach of contract and duty.

iii. On July 9, 2022, agents and operators of Enterprise P, placed into the bailment of USPS for purposes of delivery to Plaintiff via certified mail (id 7022 0410 0002 9113 6086) the same. Plaintiff upon reasonable belief and evidence believe operators here were SPIRO, PENA, BOUFFARD, FRANCO, DUPREE, SILBERGER, ZUNIGA, TORRES, SARINANA, LEONARD, CHING, AND NUNEZ.

Here, Defendants will argue that Plaintiff was aware that the school's class offerings were limited and that there were also limitations on the institutions ability to find teaching staff ostensibly for no other consideration than the ability to apply the experience as MCLE (continuing education) requirements. Additionally, as has been illustrated throughout, Defendants likely to uses a variety of "ad hominem" attacks ("Why would student take extra classes? He was planning to graduate early and that's just wrong!") designed to "cloud" the fact that none of their "defenses" speak to why Plaintiff's lawful good-faith conduct justifies their bad-faith, insipid and unlawful conduct.

XI. Plaintiff asks for determination of whether ANY allocative efficiency or maximization of consumer welfare is realized in violations of the State Bars Administrative rules, State and Federal statute, including, but not limited to The Sherman Act, by issuing two units instead of three for qualifying classes in conflict and under "color of law" for unlawful purpose .

XII. Plaintiff alleges violations of the APA, in that the Defendants have a duty of both assessment and recordkeeping; failure to use the correct metrics or provide appropriate records assessment is likely both breach of law and rule of professional responsibility, as argued above and below.

XIII. Here, because the STATE BAR is the monopoly regulator, modernly the STATE BAR can be found to have violated Plaintiff's common law right of due process from the OUTSET.

i) Here, Plaintiff argues that STATE BAR issued in essence a "retroactive" notice of non-compliance two (2) years too late. STATE BAR had a duty to issue the notice when it was constrictively aware of the non-compliance. Here, STAT BAR did not issue any notice to the public for years, and did not operate in any semblance of good faith to resolve the issues when likely doing so would have resulted in no claim or viable cause.

2) Breach of Contract, Breach of Good Faith

I. Plaintiff further makes claims of Violations of Civil Tort Law with the facts satisfying all required elements, undisputed and not limited to the following:

PCL entered into contract with PLAINTIFF in bad faith and demonstrable intent to defraud.

i) Violation of Federal Civil Rights pursuant to 42 U.S.C. § 1983in that:

(1) Defendants the People's College of Law violated Plaintiff's civil rights. To establish this claim, HILL must demonstrate all of the following is likely—more probable than not – the case:

1. That LEONARD was a State Actor, employed in the Admissions area of the STATE BAR and her conduct in relationship to the alleged scheme was reasonably related to her duties as the "Principal Program Analyst" for The State Bar's Office of Admissions.

2. That LEONARD engaged in tolling and continuous conduct designed to lull, frustrate, deter, oppress and assist PCL in unfair and unlawful conduct.

3. That LEONARD with express scienter and intent, when the standard required to comport her conduct in strict accord was "knew or should have known", accepted and processed many non-conforming transcripts, as a result assisting PCL in its Enterprise P.;

ii. LEONARD intentionally and with scienter "ran interference" for the interoperating racketeering Enterprises P and S, obstructing both the lawful handling and publication of student complaints and "public commentary";

(i) Plaintiff refers to EXHIBITS

1. EXHIBIT R - Communication between Dean Spiro, Christina, and Natalie 102221.pdf;

2. EXHIBIT R1 - 102721 Natalie confirms she is working on complianceresolution_.pdf

3. EXHIBIT R2 - 111221 Request for update_.pdf

4. EXHIBIT R5 - Communication from Audrey indicating assistance 01042022 .pdf

5. EXHIBIT R3 -091522 Next Steps as to Denial of Exception Under 5.6.pdf

iii. 2. That LEONARD was acting or purporting to act in the performance of her official duties, under color of law as a state actor in her role as Director of Admissions at the California State Bar. 3.

iv. Plaintiff argues that the conduct violated Equal Protection as claim under a fundamental right theory of liability and right of equal, non-capricious or arbitrary rules enforcement; the STATE BAR has failed to provide the education

Defendants claim that HILL requires for degree grant although he was clearly the victim of unfair business practice and unlawful conduct. That STATE BAR's failure to intervene, prior to and after students' matriculation into a KNOWN non-compliant but undisclosed and misrepresented to the student was a substantial factor in causing Plaintiff HILL's harm.

v. Plaintiff argues that the conduct violated Equal Protection as claim under a fundamental right theory of liability and right of equal, non-capricious or arbitrary rules enforcement, including unlawful seizure of property rights and interests; the State Bar has failed to fairly enforce its statutory and regulatory obligations; instead, in an apparent grant of "monopoly power" Defendants claim that HILL requires for degree grant although he was clearly the victim of unfair business practice and unlawful conduct. That STATE BAR's failure to intervene, prior to and subsequent to students' matriculation into a KNOWN non-compliant but undisclosed and misrepresented to the student was a substantial factor in causing Plaintiff HILL's harm.

ii) Plaintiff asserts and offers for demonstration that Defendants, acting as Dean's, Directors, or Officers of the Corporation, dba PCL submitted or willfully caused to be submitted, documents designed to restrain trade, in that it restrained the student from transfer, a common commercial practice of market selection in academia.

iii) Plaintiff asserts that Defendants entered into every student agreement in Bad-Faith, since the intent was to "reward student success" with fewer units than lawfully allowed.

Here, Defendants will argue, amongst a facially limited number of "defenses", that even if they did, no liability will lie pursuant to Sections § 5047.5 and § 24001.5 of the California Corporations Code ("CCC") limiting, i.e., nullification via grant of immunity, personal liability for officers and directors of nonprofit corporations and associations.

a. Unfortunately for defendants STATE BAR and Enterprise S, their conduct and constructive and express[21] prior knowledge that exemptions and immunities for the particular acts, the nature of the acts, or the purpose of the acts do not lie for bad faith or unlawful solo or joint venture.

Here, Plaintiff argues the relevant section of the Corporations Code reads: {**emphasis added**} "

> Except as provided in this section, **no cause of action for monetary damages** shall arise **against any person serving without compensation as a director or officer of a nonprofit** corporation subject to Part 2 (commencing with Section 5110), Part 3 (commencing with Section 7110), or Part 4 (commencing with Section 9110) of this division **on account of any negligent act or omission occurring** (1) **within the scope of that person's duties** as a director acting as a

[21] Sections 5047.5 and 24001.5 of the [California] "Corporations Code do not provide volunteer directors, officers, members or trustees with predictability and security regarding the limitations of their liability exposure. Instead, they create unpredictability as to whether a plaintiff in a matter totally unrelated to membership, services or benefits could use potential inapplicability of statutory liability protections by adding allegations of wrongful discrimination by the organization as a weapon." (Legislative Proposal (BLS-2008-07), p.3. July 26, 2007).

board member, or within the scope of that person's duties as an officer acting **in an official capacity**; (2) **in good faith**; (3) in a manner that the person believes to be in the **best interest of the corporation**; and (4) is **in the exercise of his or her policymaking judgment**.

Plaintiff argues and asks the finder of fact to determine if the conduct of the Defendants fails to meet at least one of the criteria for immunity under the relevant section:

iv) PCL operators of the racket supported CMG (GONZALEZ) in multiple CPC 632 violations, where she expressly activated electronic recording without prior permission of the attendees and with constructive knowledge and the duty to avoid the conduct as a licensee and member of the California State Bar.

(1) Plaintiff sends a final demand for documents email to CMG, PCL, and operators of Enterprise P and S, true and accurate copy of this request, as well as subsequent communications between Riskin and Respondent regarding this request, are attached to this petition as Exhibit B.

v) PCL Enterprise P operators in Conspiracy and through inchoate aid from the monopoly regulator under color of law, sought to frustrate Plaintiff's rightful pursuit of redress on his personal behalf and on the behalf of the Corporation, which the Plaintiff as Secretary of the Corporation had a duty of loyalty to defend and protect.

vi) Plaintiff asserts that he persists in the good faith attempt to fulfill his duty and appropriately "restore" the corporation from its ultra vires status via imposition of a trustee.

vii) Plaintiff seeks declaratory relief and appropriate referral for criminal activity, as generally sovereign does not grant citizen members of the public the right to charge and prosecute acts that carry criminal culpability.

(1) A standard argument that Defendants rely upon to confuse both officer of the law and lay person alike is to claim that a popup disclaimer indicating acceptance of a private company's terms of service is waiver of the right to claim tort or criminal injury.

(2) Unfortunately for the Defendants, since "time immemorial" a right a person does not have cannot be alienated or waived by civil contract as it is exercised solely under the discretion of the Sovereign through authorized agents. A distinction of note is that the manner of consent for a corporation, a person as an entity, is through vote.

(3) Here, because in this circumstance, neither consent nor waiver was granted, the conduct is tortious and likely criminal in nature, and plaintiff requests a statement of

determination related to this finding as well as referral as is the mandatory obligation of the judiciary in circumstances such as these.

Even were it the case that a third-party "adhesion contract" could in fact somehow avoid or constrain criminal liability by notice for a natural person, in the case of an entity no such claim can be made absent the presence of prior vote.

Plaintiff and all participating members would reasonably expect the meeting notes and comments to be "confidential"; per the bylaws the meeting participants and its work product confined to a specific "membership", identified as the "Community". A private conversation between members of the same community, business, or other entity may ostensibly include any number of individuals. It is the privity of relationship that functions here to establish the expectation of privacy. Public policy would be averse to having things otherwise, as the goal is to avoid "the chilling effect" it may have on honest discourse.

Plaintiff HILL initially included State Bar staff in the correspondence chain seeking assistance, both as a student and Officer of the Corporation; this was prior to his knowledge of the extent of support and interoperation and entwinement shared by Enterprise P and Enterprise S .

Finally, during his attempt to accelerate the response of LEONARD in what had now been in EXCESS OF ONE HUNDRED DAYS (100+) waiting for a response that should have been instantaneous and express for what should have been a simple determination for the institutions (the incorrect award of 2 units for core topic courses instead of the guideline mandated 3), but I now believe is a much graver circumstance in character.

The form, function, and operation of PCL's racketeering Enterprise ("Enterprise P"):

1. PCL Administration some time prior to 2015 had constructive knowledge, i.e., knew or should have known that the College was in material and substantial nonconformity to the Guidelines and Rules for Registered Institutions.

a. In 2020, Plaintiff made PCL expressly aware of the violation. PCL's conduct was designed to perpetuate violation of law.

b. PCL enlisted Natalie Leonard, when its own efforts to unlawfully "dissuade" the plaintiff were ineffective to further deny, demur, and delay. Here, communications between SPIRO, LEONARD, GONZALEZ, AND PENA provide clear basis for reasonable belief of interaction and interoperation, as discussed above and below.

c. Administrative Procedure Act (APA) violation: The State Bar's failure to follow proper procedures and consider the consequences of their actions, as described in the case of All. for the Wild Rockies v. Cottrell, would be considered arbitrary and capricious, and would be considered a violation of the APA. The State Bar is a governmental agency and as such, it is bound by the APA's requirements of notice and comment rulemaking and judicial review.

RICO violation: The State Bar's failure to follow the State Bar's own antitrust policy on multiple occasions would be considered a violation of RICO. RICO, or the Racketeer Influenced and

Corrupt Organizations Act, is a federal law that targets organized criminal activity. The State Bar's failure to enforce the antitrust policy on multiple occasions shows a pattern of illegal conduct that could be considered racketeering activity.

California Business and Professions Code sections 17200 and 17500 violations: The State Bar's failure to follow established procedures may also be considered a violation of California Business and Professions Code section 17200 and 17500, which prohibit any unlawful, unfair, or fraudulent business act or practice. The State Bar's failure to enforce the rules and regulations related to the regulation of unaccredited fixed facility law schools, including unfair collection practices, extortion, conversion, harassment, defamation, and interference with business relationships, and conspiracy to deprive students of their constitutional first amendment privilege, would fall under the category of an unlawful, unfair, or fraudulent business practice.

Sherman Act and Clayton Antitrust Act violation: The State Bar's failure to follow its own antitrust policy on multiple occasions is evidence in support of the claim of antitrust violation under the Sherman Act and Clayton Antitrust Act. As a regulator, the State Bar has a duty to prevent anti-competitive conduct such as price fixing and inefficient monopolies. By allowing PCL and Enterprise P to engage in these practices, the State Bar is violating these specific federal antitrust laws.

In addition, the STATE BAR grants a monopoly power to the public universities of California to the detriment of its own citizens: the ability to summarily deny without accepting an application and transfer from any California registered or accredited, but non ABA, school.

State action doctrine: The state action doctrine is a legal principle that holds that certain actions of a state or state actors are immune from antitrust liability. However, in this case, the plaintiff argues that the State Bar's conduct does not qualify for state action immunity because it has not been actively supervising PCL Law School and has not demonstrated a clear articulation of its policy that would justify the conduct.

2. Members of the Administration either failed to inquire and/or inform both peer Board Members as well as the student body, while actively recruiting both students and members of the Board, and in fact sought to hide the fact of this nonconformity.

3. Members of the Administration entered into enrollment contracts with payment components that the students were to sign. No student to Plaintiff's knowledge was properly informed of, what I now believe is "more likely than not" the long term history of PCL's nonconformance.

4. When a student fell behind in payments, of which I am one, then the student was forced to sign a payment plan that included specific language that, even if the student later discovered the probable

facts in this matter, the contract would likely harm not only the student's ability to seek recovery but shield the original contract from being addressed in a related cause of action. .

5. Nonstandard and "illegal" proprietary unit assignments made it impossible for students to transfer, since after transfer the student would require more time to meet the specific unit requirements for a degree. An example: Where the average student might acquire 36 quarter units, for the same hourly "workload" Plaintiff and students would only be awarded two units.

5a. It is here students who have passed the Baby Bar but have not yet discovered the nonconformance are trapped; since student sophistication generally increases over time, the system serves to essentially "trap" the student at the school with no way to readily avail themselves of recourse.

5b. Argued in addition is the State Bar's negligence and unlawful conduct likely was both an unlawful grant of monopoly power and abrogative conduct resulting in the STATE BAR and Enterprise S operator's breach of duty and contract.

5c. Both PCL and State Bar failed in their duty of "accurate and fair" assessment, as recordkeeping is a principal component of PCL legal education services.

5d. That both the Federal APA and State CAPA requires diligence and review of potential consequence by STATE BAR and its Agents, Officers, and Directors.

6. PCL's Administration is currently in violation of a lawfully executed demand for the production of documents.

This is an issue of noncompliance and a violation of law. This is a tolling issue, and since the State Bar as regulator has put PCL on "probation", Plaintiff argues here, above and below, that liability lies with the State Bar for each day that passes as well.

It can be difficult not to conflate the civil right of action granted to persons by the Sovereign versus the rights of punitive action, including the right to charge and, if convicted, receive admonishment under the supervision of the Sovereign.

To wit:

Strict compliance is important, but I can understand why facially this may seem like a minor issue; however, it was the unprecedented use of tactics to delay, deflect, deny, and in Plaintiff's opinion defame me that prompted a closer review and Plaintiff's duties to the organization that have moved me to act.

The core of Plaintiff's allegations, focusing just on the conduct and not any potential motives, are as follows:

1. PCL Administration knew or should have known that it had unlawfully deviated from CALBAR's statutorily authorized and enforceable guidelines when it introduced a proprietary quarterly unit which was in use since 2015?

The relevant portion of Section 5.9 makes it unequivocally clear that, "One quarter unit is defined as ten (10) hours of classroom instruction."

Here, I reiterate that PCL awards approximately 66% of the required quantity of units. For every 3 units a student in a compliant school would receive , PCL students receive 2.

2. PCL and all named Defendants for PCL became aware of, knew or should have known this was the case as the standard to be applied here is constructive.

Here, both duty and law, as rulemaking is a quasi-legislative practicum and thus enforceable as law by a regulator, demanded that in the case of deviations, the school should have and could have without negative repercussion nor lawful detriment.

Section 5.9 is academically “non-controversial”. It is a ”minimum requirement” and should not require enforcement action.

Here, not only is the conduct sufficient to violate the California Professional Rules of Conduct (“CPRC”), it violates the duties owed to the Bar and the aggrieved students

Plaintiff argues for the “reasonable person in same or similar circumstances”; here for an institutions director, officer or agent licensee

But for PCL’s bad faith activities conducted with malice the Plaintiff would not have been injured.

Unfortunately for the State Bar, its agents, Directors, and Officers were negligent and complicit, failed in the performance of both statutory mandate and regulatory functions, and therefore a substantial factor in the Plaintiff’s injury and damages.

Electronic transmission methods were used including telephone and wire to discuss the estimated 150 "fraudulent" and non-compliant transcripts.

The issue at hand for the Bar is what appears to be an obvious DEVIATION FROM THE GUIDELINES THAT IS BARRED BY STATUTE AND CALBAR POLICY.

Why did it take the State Bar 115 days to respond?

Plaintiff sent repeated inquiries requesting an answer; no answer was forthcoming.?

Plaintiff argues that is likely because the operators of Enterprise S could not derive a non-culpable, traceable and therefore accountable answer.

Because academic and trade custom in addition to statutes like the federal HEA and California's own governing act for postsecondary education, the PPEA.

Plaintiff asserts that the Legislative record of the State Bar Act, specifically the record of statutory exemptions related to the operations of law schools, speaks to the Legislatures understanding the limits of its authority as it relates to not just attorney discipline, but its authority in relationship to the oversight of the profession.

For the Legislature to "deem" a school type as not requiring its students to participate in a particular requirement facially appears a clear violation

Rational Basis must be Reasonable Basis – Due Process Required in Application

Plaintiff notes a tension perhaps susceptible to exploitation to the detriment of the public in the application of scrutiny, specifically the "Rational Basis" standard established for professional

organizations, of which the STATE BAR is arguably one. (There is an argument that divested of its Trade Organizational duties it is in fact a pureplay regulator and enforcement agency and consequently the organization is both ultra vires and unconstitutional, as it fosters the idea that the legislature has protective and enforcement capabilities that it does not AND the actual Enterprise operators are completely aware of the dysfunction.

Here, STATE BAR argues that the statute mandating that fixed facility registered schools offer four-year programs with 270 hours per year "ties their hands. Setting aside for the sake of argument HILL's clear and compelling reasoning above and below contrary to this view,

, as it must imply that a lawful process has been used in its development and promulgation.

If this is not the case, then "rational" is actually simply "any reasonable rationale," and although the state does have a clear interest in the facility of the defenses of acts implemented as enforceable law, the sovereign has sole authority to charge and prosecute on behalf of the people.

GENERALLY, the Sovereign, in its sole authority assigns or declines to issue criminal charges related to issues defined in the penal code and/or other codes and statutes where criminal culpability has been expressly defined.

As one recalls, a core principle of American jurisprudence is the notion that standing to bring criminal action on behalf of the public is exclusively reserved to the Sovereign.

"The Sovereign Never Grants the Rights of a Person to Make nor Enforce a Cause of Action for Criminal Culpability Without Express Grant."

Consequently, a person or individual cannot waive what is only the sovereigns right to make charge, prosecute, or punish the culpable.[22]

There are likely many reasons for the PC 632 code to allow for the making of civil claims; I cede that in many cases the corequisite circumstances may not rise to the level the Sovereign wishes to expel effort to prosecute even though the law has been violated.

1. Some judges have expressed the opinion that Congress's authority is limited by provisions of the Constitution such as the Due Process Clause, so that a limitation on jurisdiction that denied a litigant access to any remedy might be unconstitutional. *Cf.* Eisentrager v. Forrestal, 174 F.2d 961, 965–966 (D.C. Cir. 1949), *rev'd on other grounds sub nom*, Johnson v. Eisentrager, 339 U.S. 763 (1950); Battaglia v. General Motors Corp., 169 F.2d 254, 257 (2d Cir. 1948), cert. denied, 335 U.S. 887 (1948); Petersen v. Clark, 285 F. Supp. 700, 703 n.5 (N.D. Calif. 1968); Murray v. Vaughn, 300 F. Supp. 688, 694–695 (D.R.I. 1969).

2. Plaintiff has been unable to locate case precedent wherein the United States Supreme Court has had occasion to consider the question.

42 U.S.C. § 1981

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal

[22] In California Penal Code 837 PC allows for a person to make a "citizens arrest" for a public offense committed or attempted in her presence, (2.) when the person arrested has committed a felony, although not in her presence, or (3.) when a felony has been in fact committed, and she has reasonable cause for believing the person arrested to have committed it.

benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

42 U.S.C. § 1981

Civil claim at the Court's discretion re the Eleventh Amendment

Harrison-Hill Doctrine proposed for the clear establishment of express evidence of state waiver or acknowl3edgement.of sufficient for

The Harrison-Hill Doctrine

Here Plaintiff suggests the following doctrine:

The Court should nullify "triumvirate comity", that is in its own considerations or decisions that yield foreseeable justiciable when its grant threatens to undermine the perceived or actual integrity of its decisional or rulemaking process.

Integrity in matters of evaluating poorly constructed law, especially law easily foreseeable as subject to challenge.

Here, the lay publican Plaintiff requests the Court's indulgence and consideration of a novel argument for State or Federal Eleventh Amendment Waiver, as well as a way to signal this application as adequate for adjudication in a Federal venue:

It seems appropriate that any law in place needs to be founded on firm constitutional footing. Here, in a sphere where not just the ACTUAL integrity of the participants but the publics confidence that the system operates with integrity

1. proposed for the clear establishment of express evidence of legislative waiver, or

2. proposed for the clear establishment of circumstance framework where it is clear that the governing sovereign cannot or will not be able to maintain the appearance of or actual integrity of the investigation, judicial proceeding, if left to manage by the conflicted person or agency party, or

'In the Alternative Request 1: Voluntary Motion to Strike and basis for grant.

In the case that the Honorable Magistrate determines Eleventh Amendment Immunity likely will preclude or preempt claims for money damages and equitable relief requiring use of taxpayer resources against particular DOES, Plaintiff asks that eligible Defendants be removed without prejudice for all appropriate claims.

In addition, Plaintiff asks that all Defendants deemed eligible by the Magistrate be retained for claims where jurisdiction has been determined by the fact finder to be appropriate so that parallel litigation can be pursued by the Plaintiff insofar as he may reasonably seek remedies in good faith

and without detriment, including but not limited to guaranty of monetary claims and determination of anti-trust activities. Plaintiff asserts the following legal basis and support:

i) Pending relevant SCOTUS case decision

ii)

Is the "first mandate" of the State Bar Act enforceable as a matter of law?

The California Supreme Court declared in Waller, "Courts will not strain to create an ambiguity where none exists."

The State Bar appears to disagree with this approach to its operations as the "administrative arm of the Supreme Court."

The State Bar uses ambiguous interpretation and underground rule to abrogate duty and avoid accountability. Everyone knows this; lack of trust

Section 6001.1 establishes the state purpose of the Bar as "protection of the public as the highest priority." Until recently, even though this statutory section is never repeated by the State Bar in its printed or online media, the additional "guidance" strongly suggests that the Legislative purpose of the statute is just that, as it terminates with the imperative "no matter the Conflict of Interest."

The words set both public expectation and express duty while the State Bar's conduct and rhetoric intentionally meet neither.

If it is enforceable, what is the scope of duty imposed to those who fall under its mandate, including the duties of culpable Defendants who are better served by noncompliance due to conflicting interest?

Specifically:

Is the State Bar responsible for foreseeable injuries to students based on its regulatory negligence?

Is the State Bar responsible for foreseeable injuries to student based on its regulatory malice when "merged" with the institution causing student injury?

for purposes

1. To whom, and in what circumstance is it fairly applied?

    a. This request is for a separate statement of determination related to the Constitutional question expressed here.

    b. In addition to, or in the alternative, Plaintiff requests an answer here specific to the parties and the facts, which will likely assist in the efficient and good faith identification of the culpable parties

2. Can the State Bar Act itself supply the test for compliance?

3. Are the tests prior accepted as applicable for the determination of qualified, "sovereign", or statutory grants of immunity?

a. Here, Plaintiff refers to the later discussion presented by AO

4.

5. Does it apply equally in both civil and criminal?

Here, Plaintiff asserts that, in fact, the State Bar Act as written imposes

Is Section 6001.1 Constitutional, in that

§ 6001.1 State Bar–Protection of the Public as the Highest Priority Protection of the public shall be the highest priority for the State Bar of California and the board of trustees in

Does the State bar Acts requirement that students at registered schools study for "4" years violate Equal Protection, in that there is a modern divide between this requirement and the federal credit hour as defined for Title IV programs.

Was The Conduct Anticompetitive?

Antitrust is about the rule of law.

The purpose is not to ban a monopoly if a monopoly promotes the most pro-consumer efficient marketplace.

As earlier discussed, a U.S. Supreme Court ruling makes clear that licensing bodies can be subject to antitrust complaints if a majority of their board members come from the profession being licensed.

Here, Plaintiff reasonably believes that the comportment of the State Bar Board Members were licensees and active market participants and not lay members of the public AND that they were functioning or purporting to function in the public interest for the sake of perpetuating a fraudulent scheme.

Applicability of Section 7 of the Clayton Act

Conduct that violates Section 7 of the Clayton Act must be "substantially likely to lessen competition if widely applied. Here, pricing is confirmed, and transfer application to the public school system for this subset of schools is summarily denied due to the Board of Regents grant to deny entry ro California residents attending state recognized institutions. "

Here the conduct appears to meet per se requirements.

Mob tactics, rigging, racketeering, extortion, wire fraud, all are per se violations in relationship to competition as unlawful conduct is not thought conducive to the orderly operation of the market because the fundamental interest of the State is that its citizens follow the law.

Clayton Act Prohibits Anticompetitive Joint Ventures

Section 7 of the Clayton Antitrust Act prohibiting mergers, acquisitions, and certain joint ventures where the effect may be to substantially lessen competition.

Market advantage obtained through unlawful conduct is prohibited.

Here PCL and Defendants involved in Enterprise P to raise "tuition" which it failed to distribute or transparently provide account for in accord with their duties.

a. PCL engaged "ghost" Deans including JMS and PST including Juan Manuel Sarinana and Pascual Torres;

b. PCL has apparently engaged a new, complicit Dean in

The reasonable person does not voluntarily engage and persist in unlawful conduct.

The reasonable person standard requires one to comport their conduct to the standard of "a reasonable person in similar situation and circumstance."

Here Defendants are either licensees or professional market participants with statutory obligations and legal education.

Are PCL and State Bar currently in Vertical Merger?

Plaintiff has reasonable belief and evidence to demonstrate that today PCL and STATE BAR, in tolling misconduct, have established a pattern that satisfies the vertical merger requirements for purposes of unification of interests and action because it demonstrates a merging of interests and actions between the State Bar, as the regulator of law schools, and PCL, a law school under its jurisdiction.

A vertical merger is defined as a merger between companies that operate at different levels of the supply chain, such as a merger between a supplier and a distributor. In this case, the State Bar operates as the regulator and, with PCL as a legal education services provider, operates as an active market participant.

Here, on or around December 2022, the school was placed on "probation", an enhanced level of oversight and a determination requiring consistent and egregious noncompliance.

The State Bar's duty to ensure that all law schools are operating in compliance with the regulations set forth by the State Bar Act of 1937 and the Rules for Unaccredited Fixed Facility Law Schools creates a clear interest in PCL's compliance with these regulations. This is further reinforced by the State Bar's authority to investigate and discipline any law school that is found to be in violation of these regulations, and the fact that PCL is currently on probationary status.

Additionally, the State Bar's tolling misconduct, such as failing to follow its own Antitrust policy on multiple occasions, can be considered de facto state action, which further demonstrates a merging of interests and actions between the State Bar and PCL.

Furthermore, when a professional regulatory board such as the state bar acts in its regulatory capacity, such as investigating and disciplining licensees, the state action doctrine applies as per cases like FTC v. Indiana Federation of Dentists, 476 U.S. 447 (1984).

Do PCL and State Bar Share Unification of Interests and Action?

Plaintiff has successfully argued on the merits that PCL and STATE BAR are merged immediately above because of the schools placement on probation.

PCL and State Bar operate on a probation agreement with specific terms related to the start and end of the probationary period, conditions for heightened reporting and notice to students and prospective students.

This agreement represents an enforceable contract, as it is ostensibly derived

Thus in December 2, 2022 PCL was put on "probation", ostensibly placing it under the control of its vertical monopoly regulator and market participant, the STATE BAR.

On February 19, 2023 Defendants remain in breach.

No outreach from the regulator to PCL Volunteer Faculty.

Plaintiff does not know how PCL and STATE BAR in fact operate under their probationary agreement; the terms include heightened reporting.

But the reasonable person in this circumstance, as PCL operators of but from anecdotal evidence and "hearsay" from PCL's faculty, all believed licensed members of the Bar in good standing, there is a complete lack of operational visibility. Plaintiff candidly reports that none of those he has spoken to have indicated any outreach to them on this topic.

this combination of interests and actions more likely than not creates a clear vertical merger between the State Bar and PCL for the purposes of antitrust law, and satisfies the requirements for unification of interests and action.

The California State Bar, as the monopoly regulator of legal education in California, has a significant level of power and influence in the market for legal education. This is especially true in the case of the People's College of Law (PCL), which is currently on probation with the State Bar and subject to regular inspections and progress reports.

Under current antitrust law, including the Sherman and Clayton Acts, this relationship between the State Bar and PCL could be considered a vertical merger, as the State Bar is a regulator and PCL is a regulated entity. Additionally, the State Bar's position as both a regulator and an active market participant in the legal education market could also be considered a horizontal merger, as it has the power to control and influence competition in the market.

It is important to note that the State Bar's actions, such as placing PCL on probation and subjecting it to regular inspections, may not necessarily be considered illegal under antitrust law. However, it is important to examine the State Bar's actions and motives to ensure that they are not being used to unfairly limit competition in the legal education market and harm consumers, such as students and graduates of PCL.

Furthermore, the State Bar should ensure that the probationary terms and conditions imposed on PCL are fair, transparent, and consistent with its regulatory role and not to stifle competition. The State Bar should be held accountable for any action that appears to be anticompetitive, discriminatory, or violative of the antitrust laws.

It is also crucial that PCL be transparent and clearly communicate its status as a probationary law school to the public, prospective students, and current students.

PCL engaged in the fraudulent entry into tying contracts.

Plaintiff first inquired into PCL in 2017 and attended his first "recruitment event" the Summer of 2018. He matriculated the Fall of 2019. During this entire period, PCL offered unlawful unit awards. Plaintiff's matriculation required, by statute, a written agreement and notices. Defendants had a duty to aver unlawful conduct and provide notice of all material differences in the quality, nature, or fungibility of the products or limitations of their legal education services; built-in disincentives for transfer operating as "poison pill" or "trojan horse" mechanism is not only undeniably unfair as a business practice it violates any notion of "good faith or fair dealing" attributable to the Defendants.

Thus, this breach of duty with foundation in misrepresentation likely meets or exceeds the standard of "moral turpitude" as applied in law.

Sovereign grants Plaintiff the Right To Make Civil Claim

The sovereign grants, revokes, or negates the rights of a person to make a civil claim at its option within the confines of the Constitution and the triumvirate operation of its Executive Legislative and Judicial Branches .

Core to the principled performance of American jurisprudence is the notion that standing to bring penal claims, i.e., claims with penalties requiring formal charge and the "beyond reasonable doubt" standard for prove out, is reserved to the Sovereign.

Here, Plaintiff alleges multiple privacy violations, specifically in reference to the unauthorized recording of Board Meetings, in violation of PC 632.

For reasons reiterated above and below, no third-party, real or entity, can absolve an individual of their Sovereign-assigned penal (criminal) liability.

Was Defendants conduct foreseeably anti-competitive?

"Effective regulation requires (1) an understanding of the marketplace, and (2) the ability to clearly articulate how duly enacted rules, policies and procedures are serving the public interest."

Here, State Bar rules, policies, and procedures reasonably appear to work to abrogate and avoid their statutory obligations.

Evidence supporting per se illegality of specific conduct.

In FTC v. Indiana Federation of Dentists (1984) 476 U.S. 447, the Supreme Court held that naked restraints of trade are per se illegal under antitrust laws.

Breach of Contract without recourse to judicial remedy is per se antitrust because it is

Request for Judicial Notice the following facts and correspondent circumstances:

Express and referential incorporation of the facts from the April 15, 2022 report from the California State Auditor.

The report supports Plaintiff's claims of pattern and practice of unlawful conduct by the Defendants, as the report from the California State Auditor further details non-compliant process and failure to comport conduct to the standard required under law.

The State of California is the only state in the union that has not adopted the entirety of the ABA model rules.

Defendants effort in the market focused on limiting accountability and abrogate duty.

PCL has historically argued that its predominantly volunteer model was what kept the costs down for the school and provided "affordable" and one of the few alternative opportunities to enter the practice of law.

Defendants PCL and the State Bar publicly claim to share aligned goals.

PCL's publicized and compelling "mission" is the creation of a diverse set of "People's Lawyer's", activists for those deemed less likely to "get a fair shake or have access to competent legal resources."

The State Bar's mission statements vary…..from "Protection of the Public" to a posting of the current mission statement located at the State Bar's "About Us" page (http://calbar.ca.gov/About-Us).

> The State Bar's mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; the

advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system.

Affirmative Control

Control of Interests in Enterprise by exerting control over the enterprise through illegal means.

Here, PCL, STATE BAR, and operators of Enterprise P and Enterprise S share various common unlawful approaches to maintain and direct the activities of the RICO Enterprise including, but not limited to:

9. Disregard for the rule of law in operation as evidenced by the following:

    1. Persistent and pervasive misrepresentation and misapplication of law, STATE BAR derived underground rule. Unlawful policies and rules are communicated via web site, email, and physical masthead. This allows for the "enforcement" of the policies to look legitimate and as if they were performed under the color of law. Plaintiff refers to EXHIBITS duplicated to the public

Cases Briefing in Support of Plaintiff's Arguments

The following brief survey of cases
All. for the Wild Rockies v. Cottrell (9th Cir. 2011) 632 F.3d 1127, 1131: In this case, the 9th Circuit Court of Appeals held that a defendant can be held liable for conspiracy to commit a violation of federal law, even if the defendant did not personally commit the violation. The court found that a timber company and its employees conspired to violate the National Environmental Policy Act by logging on federal land without obtaining the necessary permits.

Leiva-Perez v. Holder (9th Cir. 2011) 640 F.3d 962, 966: In this case, the 9th Circuit Court of Appeals held that a conviction for extortion under color of official right under 18 U.S.C. § 1951 is a deportable offense as a crime involving moral turpitude. The court found that an individual's involvement in extorting money from a business owner using his position as a public official was a deportable offense.

United States v. Doe, 655 F.2d 920, 922n. (9th Cir. 1981): In this case, the 9th Circuit Court of Appeals held that a conviction for extortion under 18 U.S.C. § 875(d) is a deportable offense as a crime involving moral turpitude. The court found that an individual's involvement in extorting money from a business owner using threats of harm was a deportable offense.

Hill v National Collegiate Athletic Assn. (1994) 7 Cal4th 1, 35-37: In this case, the California Supreme Court held that the National Collegiate Athletic Association (NCAA) is a state actor

subject to the state and federal constitutional rights of its student athletes. The court found that the NCAA's rules and regulations regarding the eligibility of student-athletes to compete in NCAA-sponsored sports are subject to state and federal constitutional standards.

In re Facebook Internet Tracking Litig. (N.D. Cal. 2017) 263 F. Supp. 3d 836, 843: In this case, the court held that Facebook's use of "cookies" to track the internet activity of its users without their consent is a violation of federal wiretap laws. The court found that Facebook's conduct was a violation of the Electronic Communications Privacy Act and the California Invasion of Privacy Act.

Am. Airlines v. Sheppard (2002) 96 Cal.App.4th 1017, 1033-34: In this case, the court held that an airline company's practice of subjecting its employees to background checks without their consent is a violation of the California Invasion of Privacy Act. The court found that the airline's conduct was a violation of the privacy rights of its employees.

Regents of the Univ. of California v. American Broad. Companies, Inc., 747 F.2d 511 (9th Cir. 1984): In this case, the 9th Circuit Court of Appeals held that the First Amendment does not protect the unauthorized recording of copyrighted material. The court found that the recording of copyrighted material without the consent of the copyright owner is a violation of federal copyright laws.

McDonald v. Aps (N.D. Cal. 2019) 385 F. Supp. 3d 1022, 1037: In this case, the court held that the California Invasion of Privacy Act prohibits the surreptitious recording of confidential communications. The court found that the recording of confidential communications without the consent of all parties is a violation of the California Invasion of Privacy Act.

Brentwood Academy v. Tennessee Secondary School Athletic Association (2001) 531 U.S. 288: In this case, the United States Supreme Court held that the First Amendment does not prohibit a state-created athletic association from enforcing its rules and regulations. The court found that the association's rules, which governed the eligibility of student-athletes to compete in interscholastic sports, were reasonably related to the association's goal of promoting fair competition.

U.S. v. Hill, 563 F.3d 572 (7th Cir. 2009): In this case, the 7th Circuit Court of Appeals held that a defendant's conviction for wire fraud under 18 U.S.C. § 1343 is a deportable offense as a crime involving moral turpitude. The court found that the defendant's involvement in a scheme to defraud investors of millions of dollars was a deportable offense.

Legal Aid Soc'y v. Legal Servs. Corp., 961 F. Supp. 1402, 1421: In this case, the court held that a defendant's conviction for mail fraud under 18 U.S.C. § 1341 is a deportable offense as a crime involving moral turpitude. The court found that the defendant's involvement in a scheme to defraud a legal aid society of millions of dollars was a deportable offense.

In this case, all the cases cited above are applicable to the fact pattern as they demonstrate how various unlawful practices such as extortion, fraud, perjury and violation of privacy laws are considered as "moral turpitude" and are subject to sanctions and disbarment. Furthermore, the cases also show how state-created associations and entities are subject to state and federal constitutional standards and are prohibited from enforcing rules that are in violation of these standards.

United States v. University of Phoenix (9th Cir. 2016) 817 F.3d 1153, 1160: In this case, the 9th Circuit Court of Appeals held that a for-profit university's conduct of recruiting and enrolling students with false or misleading statements about the university's accreditation, graduation rates, and job placement rates is a violation of federal law. The court found that the university's conduct was a violation of the Higher Education Act and the Federal Trade Commission Act.

People v. ITT Educational Services, Inc. (Cal. Super. Ct. 2016) No. CGC-15-551381: In this case, the California Superior Court held that a for-profit university's conduct of recruiting and enrolling students with false or misleading statements about the university's accreditation, graduation rates, and job placement rates is a violation of state law. The court found that the university's conduct was a violation of the California Business and Professions Code and the Consumer Legal Remedies Act.

United States v. Kaplan Higher Education Corp. (D.D.C. 2018) No. 1:14-cv-01137-CKK: In this case, the United States District Court for the District of Columbia held that a for-profit university's conduct of recruiting and enrolling students with false or misleading statements about the university's accreditation, graduation rates, and job placement rates is a violation of federal law.

The court found that the university's conduct was a violation of the Higher Education Act and the Federal Trade Commission Act.

Consumer Financial Protection Bureau v. ITT Educational Services, Inc. (S.D. Ind. 2017) No. 1:14-cv-01764-TWP-DKL: In this case, the United States District Court for the Southern District of Indiana held that a for-profit university's conduct of offering and providing students with predatory private student loans is a violation of federal law. The court found that the university's conduct was a violation of the Consumer Financial Protection Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act.

the above cases demonstrate how institutions like PCL's conduct of offering false or misleading information to students, violation of unit requirements, and offering predatory loans are considered as violation of state and federal laws and are subject to penalties and sanctions. The cases also indicate that such conduct can be considered as fraud and deception and can be taken action on by the courts and regulatory bodies.

Predatory pricing

Traditionally, predatory pricing has been viewed from the perspective of market competition between horizontally situated peers that damages consumers in the long term by allowing competitors to “lay siege” and “wage war” through pricing that offers short term benefit to the consumer at the expense of long-term benefits of an active market still desiring to be efficient.

Here, Plaintiff argues that the predatory pricing in Enterprise P functioned as a protective shield. To raise price would be to invite controversy when there was an active pool of students to recruit in the marketplace.

The price was used as both incentives to attract the student as well as marketed as why the school was "highly selective" in its student choices.

PCL as an organization owns a 2-story building built in 1937 located in downtown Los Angeles. A long term tenant of at least a decade, ASOSAL, occupies the first floor in lease, and with no known mortgage the property is believed owned in fee simple absolute by the Guild Law School dba PCL.

Enterprise P operators engage in active fundraising to pay major expenses like roof repair (see EXHIBIT 3/3/21 indicating completion of $46,000 roof repair with $45,000 donated by the estate of law school co-founder the Esteemed Hank Di Suvero, Esq.) and between 8-25 new 1L (first year) students entering its programs each year, with 2-6 continuing through each of the years after that.

The school has one employee, on average paid less than $45000 per year.

Enterprise P refuses to present records of transactions to its Board Members, but clearly this pricing is designed to attract victims and not challenge competition; PCL and Enterprise P operators place in the market is not to actually spend resources to give value; it is to price to attract the public and victimize those it deems prey.

Enterprise P remains at time of filing in abject failure to respond to a timely issued and noticed final demand to produce documents fully qualified under BPC §8330 as authority granted to Directors and Officers of non-profit corporations. As discussed throughout the pleading, Plaintiff seeks contempt order and issuance of writ of mandamus to Defendants for the requested media, articles, instruments, et cetera.

According to the U.S. Justice Department, "predatory pricing is defined in economic terms as a price reduction that is profitable only because of the added market power the predator gains from eliminating, disciplining or otherwise inhibiting the competitive conduct of a rival or potential rival".

Plaintiff believes here Enterprise P and Enterprise S interoperate to form an "airgap" in the market that allows for its public postsecondary institutions to, in some cases, charge more than Stanford or Harvard, but the racket here is primarily one of predation using the economically vulnerable while proclaiming to the world the worthiness of the cause and obtaining money and resources for free. Enterprise P has minimal, if any operating costs, save State Bar fees for market participation, report generation and operational "management costs" in the requirement to have a compensated Registrar.

Given the STATE BAR policy that the registrar must possess a Juris Doctorate but need not be a member of the Bar and the excessive turnover in the position (at last count 5 Registrars in 3 years), PCL's continuing "struggles" to permanently fill the position may serve as an ongoing sham made

colorable by STATE BAR and Enterprise S operators clearly cooperative approach to market division.

Here, STATE BAR and PCL and their respective enterprise operators will highlight the above as demonstrative defense against antitrust and RICO application, given that Plaintiff "admits" that PCL's tuition of $5600 was very low.

Unfortunately for the Defendants, not only does Plaintiff have good and valid cause based upon direct experience and knowledge to believe that school resources have been wasted and converted, but the Plaintiff is not required to demonstrate the actual value received from those architects of the racket and Enterprise P operators whose interests may vary as a matter of happenstance.

Alternatively, Plaintiff argues that both PCL and STATE BAR, effective December 2,2022 when the STATE BAR placed its vertical regulated market participant under "probation", in essence revoking PCL's authority as a registered designated entity, have entered into an effective merger and the educational obligations must be fulfilled or remedied by the regulator when the regulator is the sole source of performance.

Here, where PCL has been taken under the control and custody of the regulator, PCL can make viable claim to the impossibility of the grant of HILL's degree.

The monopoly regulator is tasked with the mandate of protection of the public no matter the conflict of interest.

Plaintiff need not demonstrate the chain of custody of the "peppercorns"; the sole endeavor is to demonstrate who knew the pepper was ill-gotten, when they likely knew and, from those distill any who had a duty to affirmatively act and failed to do so.

In Brooke Group Ltd. v. Brown & Williamson Tobacco Corp., 509 U.S. 209 (1993)

Showing of recoupment required for Brooke Decision application.

Here, Plaintiff has demonstrated that the market structure facilitates predation on both the minority and socio-economically disadvantaged but also to the Federal Tax Payers and citizens.

In prior precedent, the Court emphasized that the recoupment requirement could be satisfied only if the market structure facilitated predation, which would require proof of market concentration, entry barriers and capacity to absorb the prey's market share. When these threshold conditions are lacking, summary disposition is appropriate

Certain refusals to Deal

The Plaintiff being forced to seek recourse in the courts for degree grant and disgorgement of funds can support a "refusal to deal" antitrust predicate because it demonstrates that the Defendant, in this case the law school and State Bar, is exerting its market power to prevent the Plaintiff from obtaining the degree and funds to which he is clearly entitled.

In this context of breach, the Defendants form of "refusal to deal" because the Defendant is refusing to provide the Plaintiff with the goods or services to which they are entitled.

Additionally, this action can be seen as a culpable act because it demonstrates that the Defendant is aware of its obligations to the Plaintiff and is actively choosing to not fulfill them. This can be seen as a form of negligence or intent to deceive, which are both considered culpable acts under antitrust law.

Furthermore, this case can also be seen as a violation of the Sherman Act, which prohibits any contract, combination, or conspiracy that restrains trade. By refusing to grant the degree and disgorge the funds, the law school and State Bar are restraining the Plaintiff's ability to participate in the legal market, which constitutes a violation of the Sherman Act.

Moreover, the court's decision to award the degree and disgorge the funds to the Plaintiff can also be seen as a way to protect the public interest. By allowing the Plaintiff to participate in the legal market, the court is ensuring that the legal market remains competitive, which in turn protects the public from monopolistic practices.

On the other hand, the Defendant may argue that the Plaintiff's injury is not significant and that the Plaintiff has other options to get the degree, such as attending another law school. Moreover, the Defendant may argue that there is no evidence of any intent to deceive or negligent conduct and that the court should not award the degree and disgorge the funds. They may also argue that the law school and State Bar have a right to regulate themselves and the court should not interfere with their internal affairs.

Plaintiff argues Defendant's "Refusal to Deal"

Plain and simple obstinacy is just one of a malicious set of tactics employed by the racket operators.

The Plaintiff's argues that being forced to seek recourse in the courts for degree grant and disgorgement of funds supports the attribution of bad-faith rising to malice, since the application of the "refusal to deal" used as a delaying tactic by parties who are likely themselves licensed members of the Bar antitrust predicate or culpable acts is a strong one. The Defendant's counterargument that the Plaintiff's injury is not significant and that the law school and State Bar have a right to regulate themselves has already been determined and no evidence presented here and decide based on the law and the facts of the case.

The Plaintiff in this case argues that they have been injured by the actions of the Defendant, Peoples College of Law (PCL), and is entitled to an award of a degree and disgorgement of funds. This argument is rooted in the idea that the Plaintiff has been harmed by PCL's failure to comply with the unaccredited law school rules, as outlined in the Notice of Probation issued by the Committee of Bar Examiners. The Plaintiff argues that they have been misled by PCL's marketing and advertising, and that they were not fully informed of the school's status on probation.

On the pro side, this argument is supported by the fact that the Plaintiff has been financially harmed by his decision to attend PCL. The Plaintiff has invested time and money into the school, and if PCL was found and known to be non-compliant with the unaccredited law school rules, it is reasonable to assume that the education received is not of the same quality as that of an accredited law school. In this case, the Plaintiff would be entitled to compensation for their losses.

Here, PCL is very concerned to generate a few FYLSX passers but not too many because this allows for the perception of rigor at the 1L level with zero support from the administration after the student has been “trapped”.

Additionally, the Plaintiff's argument is supported by the fact that the public has a legitimate interest in ensuring that unaccredited law schools are held accountable for their actions. The State Bar, as the regulator of the legal profession in California, has a duty to protect the public from fraudulent or substandard educational institutions. By awarding a degree and disgorgement of funds to the Plaintiff, the court would be sending a clear message to other unaccredited law schools that they must comply with the rules or face similar consequences.

Defendants will argue that the Plaintiff's injuries are not as severe as they claim. PCL has been placed on probation, but it has not been shut down or had its license revoked. Additionally, in typical “blame the victim” fashion, the Plaintiff should have done their due diligence and researched the school before enrolling. Of course, these arguments are fallacious.

Defendants will argue that they offered to let him “repeat classes” by auditing them, and that, even though this was a violation of the Unaccredited Law School Rules, as discussed above and below, Plaintiff had a duty to mitigate damages.

Another counter argument is that the Plaintiff is not entitled to a degree because the standard of education in the institution was not up to the standard of an accredited institution. Furthermore, Defendants will argue disgorgement of funds as excessive punishment for the Defendant, the Defendant has taken steps to rectify the suation.

Furthermore, it's worth noting that awarding the Plaintiff with a degree and disgorgement of funds may not be enough to ensure that the Defendant does not repeat the same actions in the future.

There is a risk that if the Defendant is not held accountable, they may repeat the same actions in the future, which could result in further harm to the public. Therefore, it's important to consider the long-term impact of the decision and the potential for recidivism by the Defendant.

In summary, considering the Plaintiff's injuries, the risk to the public, and the likelihood of recidivism by the Defendant. Additionally, it is important for the court to consider the broader implications of the decision, and how it may impact other unaccredited law schools in California.

Defendants Likely Defenses: the Rule of Reason and Impossibility

Defendants PCL will argue that , given their current probationary status, the authority of degree grant cannot grant what I ask due to their current “probationary status”, which requires the express approval of the STATE BAR under rule.

Unfortunately for the Defendants, their current “registration status” does not absolve them of culpability nor liability for the clearly foreseeable consequences of their conduct; liability initiated by one tortfeasor and transferred to another is shared, joint and severally.

Here, where likely both higher conduct standards and special relationships were in place both constructively and as a matter of law, the tone and tenor of this argument goes against the “rule of reason” and the conduct expected of others in same or similar circumstance.

Robinson Pattinson Act – Price Discrimination

Here, Plaintiff alleges he was forced to pay more under unfair practice than other students .

As discussed and demonstrated earlier, Defendants forced Plaintiff to pay them money thet Plaintiff did not owe an did so relying upon some attribute of HILL that made them believe that they could do so without regard to statutes around lawful debt collection, nor as it applies to licensees, professional responsibility or ethics.

PCL demanded funds in a manner exclusively related to Plaintiff in capricious and wanton fashion in clear violation of law, under "color of right" and colorable because the STATE BAR failed to regulate and protect Plaintiff in accord with its statutory obligations.

Robinson Pattinson Act – Price Discrimination, in that price was employed as tactics by operators of both Enterprise P and S to recruit and enter into written contracts for unlawful purpose as a tool to effect that purpose.

Product price was also set intentionally low to avoid "unlimited case" litigation, in that the price for the victim's "education" was $22,400, just below the $25,001 statutory requirement for "Unlimited" case establishment in state court.

The conduct is sufficient to impugn licensees.

Furthermore, the tactic makes plain that this was a conspired conversion, designed and operated to sustain taking "Under traditional equal protection principles, a State retains broad discretion to classify as long as its classification has a reasonable basis. [Citations.] . . . But the Court's decisions

have established that classifications based on alienage, like those based on nationality or race, are inherently suspect and subject to close judicial scrutiny. Aliens as a class are a prime example of a `discrete and insular' minority (see United States v. Carolene Products Co., 304 U.S. 144, 152-153, n. 4 (1938)) for whom such heightened judicial solicitude is appropriate. Accordingly, it was said in Takahashi, 334 U.S., at 420, that `the power of a state to apply its laws exclusively to its alien inhabitants as a class is confined within narrow limits.'" (Fns. omitted.)

We recognized these same principles in Purdy Fitzpatrick v. State of California (1969) 71 Cal.2d 566, 578-579 [79 Cal.Rptr. 77, 456 P.2d 645, 38 A.L.R.3d 1194], concluding that discrimination on the basis of alienage "invokes a strict standard of review." We observed that because of the ever-present risk of prejudice "a special mandate compels us to guard the interests of aliens"; that "particular alien groups and aliens in general have suffered from such prejudice. Even without such prejudice, aliens in California, denied the right to vote, lack the most basic means of defending themselves in the political processes. Under such circumstances, courts should approach discriminatory legislation with special solicitude." (Fns. omitted; id. at p. 580.) (Accord, Sei Fujii v. State of California (1952) 38 Cal.2d 718, 730-731 [242 P.2d 617].)

It is not only the basis of the discrimination — alienage — which prompts the concern of the courts: no less significant is the method by which that discrimination is often practiced, i.e., by totally excluding aliens from engaging in certain occupations. Thus, in Purdy Fitzpatrick we admonished that "the state may not arbitrarily foreclose to any person the right to pursue an otherwise lawful occupation. Any limitation on the opportunity for employment impedes the

achievement of economic security, which is essential for the pursuit of life, liberty and happiness; courts sustain such limitations only after careful scrutiny." (Fn. omitted.) (71 Cal.2d at p. 579; see also id. at p. 580, fn. 30; accord, Sei Fujii v. State of California (1952) supra, 38 Cal.2d 718, 736 [242 P.2d 617].)

Over the years the United States Supreme Court has invoked these principles to strike down, as violations of equal protection of the law, state statutes excluding aliens from a variety of occupations. (See, e.g., Yick Wo v. Hopkins (1886) supra, 118 U.S. 356 [30 L.Ed. 220, 6 S.Ct. 1064] (operating a public laundry); Truax v. Raich (1915) supra, 239 U.S. 33 [60 L.Ed. 131, 36 S.Ct. 7] (requirement that four out of five employees be citizens); Takahashi v. Fish Game Comm'n (1948) supra, 334 U.S. 410 [92 L.Ed. 1134, 68 S.Ct. 731] (commercial fishing in California offshore waters).)

What are the limits to rational basis applications to exclusionary rules?

Here, as part of the operation of its racket, the operators of Enterprise S, with the express participation of Enterprise P as well public administrators of the horizontal competitors of Enterprise P including enties under the control of the Board of Regents as operators of the publict trust UC postsecondary educational system, including UC Berkely and UCLA.

Modernly, the U.S. Supreme Court has extended constitutional protection both to occupations and to the receipt of governmental social benefits.

In Purdy Fitzpatrick [Purdy Fitzpatrick v. State of California, 71 Cal.2d 566 (Cal. 1969)], the Supreme declared unconstitutional an exclusion of aliens from employment on public works. In

Graham v. Richardson (1971) supra, 403 U.S. 365 [29 L.Ed.2d 534, 91 S.Ct. 1848], the United States Supreme Court invalidated statutes of two states denying welfare benefits to persons who are not citizens or, if aliens, have not resided in this country for 15 years. In Chapman v. Gerard (3d Cir. 1972) 456 F.2d 577, the circuit court held unconstitutional an exclusion of alien students from a public scholarship fund. In Dougall v. Sugarman (S.D.N.Y. 1971) 330 F. Supp. 265 (subsequent opn. by three-judge court (S.D.N.Y. 1971) 339 F. Supp. 906, prob. juris. noted 407 U.S. 908 [32 L.Ed.2d 682, 92 S.Ct. 2434]) the district court held that a state statute preventing aliens from applying for competitive civil service positions offended the equal protection clause. And in Hosier v. Evans (D. Virgin Islands 1970) 314 F. Supp. 316, that clause was invoked to strike down a refusal to enroll the children of alien temporary workers in the local public school system..

Defendant Rhetoric does NOT match the Foreseeable Consequences of the Conduct

"When a person shows you who they are, believe them!" (Maya Angelou, American Poet)

Here, the State Bar has openly and consistently demonstrated its shortcomings; It's systemic and repetitive misconduct over the last decade is well documented consistently employing those who seem readily available to take on the role, for great sums writing the proverbial "two letters", and seeing how long things last until use of the second letter is required and often with surprisingly little experience given the lofty nature of the role of Executive Director, General Counsel, Chief Trial Counsel, etc.

Here, Defendants will likely argue that "it is difficult to find talent at this level given competition with Big Law firms, lobbies, PACS, and those with JD's or are degreed and "ordinary members of the profession in good standing" to "heed the call" of public or political service.

Plaintiff asserts that there are likely plenty of competent attorneys that would be satisfied to make between $150,000 and $345,000 a year, and that the majority of Directors or Trustees do not have more than their JD and Bar passage, which likely renders "any member of the profession in good standing" with the minimum time required to pass the practice area experience requirements ostensibly qualified with a "fair shot at the title."

Violations Under Color of Law.

It's worth asking why this entity appears to be more interested in protecting its own interests than those it serves."

Plaintiff suffered multiple and tolling rights violations.

Plaintiff's concerns about PCL's compliance with regulations and duties as a fiduciary asked Robert D. Skeels, Esq., a volunteer Professor and alumnus to investigate the issue.

Plaintiff trough reasonable belief and experience asked Mr. Skeels because he was clearly a well-respected Contracts professor and known "institutional loyalist".

Mr. Skeels authored a brief and concise overview of the issues, which he submitted directly to the Board without input or oversight from the Plaintiff. [See EXHIBIT UI -1 units issue memo to PCL Board RDS.pdf]

Despite earnest efforts to raise the issue and solve the problem internally, the school administration downplayed the risks and ignored Plaintiff's demands for information and video recordings. [See EXHIBIT J POPP_PCL Grievance 2021_6_16.pdf]

Privacy

Plaintiff HILL suffered multiple violations of his right to privacy, as he was compelled to disclose information without consent as the Defendants misrepresented the facts and intended to defraud HILL and any other student long before his 2019 matriculation.

Plaintiff provided Defendants personal information, including name, social security numbers, banking information, transcripts, and financial guarantees. Plaintiff provides as evidence of this as Additionally, HCP, the president of the PCL Board and operators of Enterprise P filed incorrect information with the California Secretary of State, despite winning the election in October 2021.

HCP "fixed" the election with operators of Enterprise P's GONZALEZ, TORRES, BOUFFARD, ANTONIO, SPIRO, FRANCO, DUPREE, SILBERGER and removed Plaintiff's election statement from the website.

When Plaintiff became aware of the false information and illegal filing, he sent a notice and informed the State Bar, but was met with a response that their policy precluded involvement. (See EXHIBITS The State Bar eventually issued a notice of Non-Compliance to PCL in June 2022.

Despite Todd reiterating his request and informing the PCL defendants of the issues related to the Directors & Officers, no action was taken.

Did Enterprise S conspire to violate conflict of interest laws? (Gov. Code, § 1090 et seq.)

Four issues here:

1. Plaintiff asserts PCL was in breach of contract at the time the STATE BAR placed the school on probation, subsuming PCL's contractual obligations.

STATE BAR and Plaintiff were expressly informed in email and by certified letter stamped July 9, 2022.

a. Section 5.19 of the Guidelines for Unaccredited Law School Rules governs Academic Standing, Disqualification, Advancement, and Graduation Policy:

> A law school must have a written policy clearly defining academic standing, academic disqualification, advancement in good standing, and the requirements for graduation. The policy may also provide for advancement on probation. Once adopted, the policy must be followed, with exceptions being rare and then only on a clear showing of special October 14, 2022 19 circumstance and good cause. The power to grant exceptions should be vested in a faculty committee and not left to the discretion of one individual. All actions and the reason(s) for each decision must be recorded in the permanent minutes of the faculty or faculty committee meetings. When an exception is granted, the law school must place in the student's file a memorandum of the reasons for the decision.
>
> Lexin v. Superior Court (People), 47 Cal.4th 1050, 1060 (Cal. 2010)

Furthermore, Steve Mazer proposed the creation of a new "confidential" employee, believed by Plaintiff ultra vires delegation of powers.

Each of the acts by operators of Enterprise S and its administration violated Todd's rights as a student and as a member of the PCL community. Oric misrepresents the law:

State Bar and PCL persist in breach and misconduct in February 2023

To be clear related to the timeliness and tolling nature of the issues here, as recently as January 27, 2023, in a public meeting recorded for posterity, licensees misrepresented the facts to the public.

The misleading statements are both duplicated in speech and confirmed in writing.

Misrepresentations include:

1. At a meeting of the Committee of Bar Examiners, HOROWITZ tells the Committee that the "statutes contain errors on CBE versus staff responsibility".

A. Evidence in support of State Bar's "High Risk Conduct"

In general complaints about attorney misconduct do not require investigators to be aware of the specific scienter , intent nor knowledge of the specific code section, violated by her acts including her passive avoidance of duty.

B. The Doctrine of Special Relationships

Did PCL have a duty to Plaintiff:

Plaintiff refers to PCL's Enrollment Agreement (see EXHIBIT PCL-1 thill acceptance 08132019.pdf) authored and offered to Plaintiff by PCL operators indicating:

1. BINDING CONTRACT: This agreement is a legally binding contract when signed by the student and by Peoples College of Law. (*Ibid*., p1)

Clearly PCL intended HILL to believe he was bound to the contact; given that a contract is an agreement where both parties must consent and offer consideration.

2. Generally, a special relationship exists, where one is imposed by circumstance of relationship, a parent and their child, passenger for example, mother on and daughter, or father and son, parents and children.

Duty can arise from special relationship.

Duty may also arise from statutory imposition, e.g., filing taxes or requiring driver to have car insurance.

In the case of the State Bar and PCL, authority flowed from the vertical monopoly regulator's mandated implementation of a rule set that at the time of Plaintiff's recruitment and matriculation, evidence clearly supports PCL's non-compliance from at least 2016, or 3 years before Plaintiffs first law class.

Legislative grant and the judicial delegation of quasi-legislative rulemaking power is a mechanism used for legislative efficiency, as it is impossible and a labor of diminishing returns for any statute of modest complexity will invariably be challenged by "capricious circumstances" requiring rule creation or clarification. This activity is deemed "quasi-legislative" as the Rules once adopted are generally enforceable as law.

Defendants Operate Enterprises that Rely on Ultra Vires Conduct

Any act made outside the bounds of the statutory authority granted or delegated a sovereign, state, agency or regulator , or by the supremacy doctrine of federal law, the entity and specific actors, any representative with an agency relationship to the organization whether paid or volunteer in nature,

are not exempted from remaining intra vires, that is, within the bounds of their statutory and rule-making authority, as well as other laws directly or indirectly but applicable to the circumstance..

Plaintiff Claims Interest Injuries in failure to Grant Degree

In addition to Plaintiff's argument for degree grant under due process, HILL argues for recognition of other rights related to the grant of degree as well as Bar Admission.

How are Plaintiff's interest injuries best identified?

This question is broad, but allows for quickly narrowing the focus from the broad to the "tailored" interests by using a framework.

Here, Hill invokes Hohfeld's system of legal analysis[23] to facilitate a basic framework for understanding the complex relationships between legal rights, duties, powers, liabilities and how these can be applied to the tortious conduct alleged here. The system is based on the idea that all legal relations can be broken down into four basic components: rights, duties, powers, and liabilities.

Rights refer to a person's entitlement to have, or privilege to claim, something done for them or to prevent something from being done to them. Duties refer to a person's obligation to do or refrain from doing something. Powers refer to a person's ability to affect legal relations, such as by creating or transferring rights and duties. Liabilities refer to a person's exposure to legal remedies, such as damages or specific performance.

[23] Plaintiff acknowledges the limited use of the merely "academic" and that other frameworks exist; however, Hohfeld's system can be helpful in identifying the specific legal rights and duties at issue in a case, and in understanding how those rights and duties are related to one another.

In the case of the Plaintiff seeking recourse in the courts for degree grant and disgorgement of funds, Hohfeld's system can help to clarify the legal interests at stake.

For example, the Plaintiff likely has a right to receive a degree from the Defendant school, which is a legal entitlement to have something done for them. Plaintiff argues that he has satisfactorily completed the credit hours requirements and course offerings from the school, but the right he invokes is not simply the receipt of "credits" for a class turned in trade transaction back to the institution as if they were vouchers or fair prize tickets.

Neither the STATE BAR nor PCL can disagree; Plaintiff's transcripts are in their possession.

The Defendant school likely has a duty to grant the degree, which is an obligation to do something. Additionally, the Plaintiff may have a right to recover funds they have paid to the Defendant school, which is an entitlement to prevent something from being done to them.

Here, PCL can viably, and has, argue impossibility because they are now on "probation" until 2024 with degree grant authority only exercisable by the Defendant, STATE BAR, in its role as monopoly regulator.

In regard to the above, STATE BAR subsumed the obligation December 2,2022 and has not offered any assistance to the Plaintiff during the last 2 quarters of the 2023 academic school year.

To be clear, at the time of this righting, the STATE BAR has had seventy-nine (79) days to act, with the complete awareness of STATE BARS executive and administrative leadership.

Right: The Plaintiff has a right to complete his degree and receive his diploma from the law school in question. This right is protected by the institution's accreditation and legal standing as a degree-granting institution.

Claim: The Plaintiff has a claim to the degree and diploma, meaning that he has a legal entitlement to it. This claim is based on his compliance with the institution's academic and administrative requirements for graduation.

Liberty: The Plaintiff has a liberty interest in completing his degree and receiving his diploma without interference from the institution. This liberty is protected by the Due Process Clause of the 14th Amendment.

Power: The institution has the power to grant or deny the Plaintiff's degree and diploma, and to take actions that may affect his ability to complete his degree and receive his diploma.

Immunity: The institution may be immune from legal action if it is acting within its proper scope of authority and discretion in relation to the Plaintiff's degree and diploma. Here, Plaintiff has argued above and below that immunity does not avail itself given the kind and character of the misconduct.

Duty: Both PCL and the STATE BAR are dutybound to provide the Plaintiff with an opportunity to complete his degree and receive his diploma, and to act in good faith and with due care in relation to his degree and diploma. In this Defendants remain in egregious non-compliance.

Liability: If the institution breaches its duty to the Plaintiff, it may be liable for any harm caused by its breach.

PCL and State Bar‘s specific conduct in violation of equal protection.

Did State Bar owe a duty to Plaintiff:

State bar implemented policy was that students were not members of the public, and that it refused to interfere in matters of conflict between students and their academic institution.

To under color of law this policy was used by PCL’s to take unfair advantage of the students and recruited into its fraudulent scheme.

Three State bar policy was established outside of any grant, and in fact in axiomatic conflict, with its first mandate, repeated here protection of the public no matter the conflict of interest. Four by ignoring student request for eight the bar failed in its statutory duty and first priority it did so, although for purposes of the conduct knowledge or center is unnecessary in the civil arena they did so knowingly over and over more than a year after plaintiffs information to the State bar of the unlawful practice the state park continued to certified records students to allow them to take the first year lost exam whose majority failed to pass.

5. In instituting a policy using language reasonably inferred to imply various legal authorities lack of jurisdiction to make inquiry or investigate.

The State Bar Act unequivocally establishes the market participant and monopoly regulator in this context.

5a. Plaintiff found it extraordinarily difficult to report; the policy raises a facially arguable and uniquely plausible question, which puts other civil and penal law enforcement organizations in positions that seem to hamper their ability to investigate matters that, given statutory candor requirements of "absolute" candor to the tribunal should be resolved in less time and in similarly direct fashion of a 1960's episode of Dragnet.

4a. Plaintiff provides evidence in support of this in his communications to detective Fletcher in the Los Angeles County Sheriff's department. Mr. Fletcher was stymied in his investigative ability apparently due to the nature of the parties; Detective Fletcher's issue of a search warrant to Zoom was unsuccessful in obtaining the meeting video.

Here, because a search warrant requires the assessment of an independent magistrate to authorize its issuance under a "probable cause" standard, and because the probable cause standard exceeds Plaintiff's burden standard of clear and compelling evidence or more likely than not, Plaintiff has demonstrated violation of the Equal Protection mandate.

4b. The policy allows for the propagation of doubt. Here Defendant parties knowingly misrepresented the facts in writing, for purposes likely antithetical to the mandate to undermine and obstruct any investigation, reporting, or public accountability.

ii. Those licensee members of the State Bar are required to maintain an "absolute candor to the tribunal" standard.

iii. Privity or near privity exists between the alleged tortfeasors and plaintiff.

(i) Privity relationships exist

(ii) In this regard, the third party the Plaintiff in this circumstance must demonstrate that the parties were aware that their report, agreement or transaction documentation would be used by the third party for a particular purpose, the parties intended the third party to rely on such documents, and the parties took action linking them to the third party thereby evincing their understanding of the third party's reliance on their documents. In Artemus USA LLC v. Paul Kasmin Gallery, Inc., 2019 N.Y. Slip Op. 09391 (1st Dept. Dec. 26, 2019) (here), the Appellate Division, First Department addressed this issue.

(iii)zHere, it was clear that transcripts were necessary as they were required under Staet Bar guidelines.

(4) Here Plaintiff also reiterates that privity exists vis a vis the Ultramares Doctrine. To wit:

The Privity or Near Privity Doctrine

Plaintiff asserts independent contractual privity with the by the regulator in its mandated activities.

Defendants, with duties owed to the public (including students) in the performance of

(i)

(ii) In dealing with liability for the tortious acts of persons not in privity with the alleged tortfeasor (typically a professional, such as an accountant, lawyer, and architect), New York courts apply a special analysis that was first established by Chief Judge Cardozo in Ultramares Corp. v. Touche, 255 N.Y. 170, 174 (1931).

(iii)

(iv) In Ultramares, the New York Court of Appeals was asked to consider whether an accounting firm could be held liable for negligently preparing a balance sheet that its client subsequently furnished to the plaintiff. Although the accountants knew that their client would show the balance sheet to various persons as a basis for financial dealings (e.g., "banks, creditors, stockholders, purchasers or sellers, according to the needs of the occasion"),

no mention was made of the plaintiff or of any other specific party to whom the sheet would be furnished, or of any particular transaction in which it would be used. In that regard, the Court emphasized the following:

(v)

(vi) Nothing was said as to the persons to whom these [copies] would be shown or the extent or number of the transactions in which they would be used. In particular there was no mention of the plaintiff, a corporation doing business chiefly as a factor, which till then had never made advances to the [accountants' client], though it had sold merchandise in small amounts. The range of the transactions in which a certificate of audit might be expected to play a part was as indefinite and wide as the possibilities of the business that was mirrored in the summary.

(vii) Id. at 174.

(viii) After reviewing legal developments permitting recovery by non-privity plaintiffs for harm resulting from the release of "a physical force" (255 N.Y. at 181), the Court raised the question of whether liability should attach for injury caused by "the circulation of a thought or a release of the explosive power resident in words." Id. Noting that there existed no practical way to predict or limit the number or character of persons who might learn

about and rely upon any written or oral statement, the Court concluded that creating an unlimited duty would impermissibly lead to "liability in an indeterminate amount for an indeterminate time to an indeterminate class." Id. at 179.

(ix) The Ultramares court distinguished its approach from Glanzer v. Shepard, 233 N.Y. 236 (1922), a case decided in an opinion also written by Cardozo nine years earlier. In Glanzer, a public weigher had been held liable in negligence to a purchaser who had not been in privity with it, where the seller had requested the weigher to certify the official weight sheets and furnish a copy to the buyer. In such circumstances, the Ultramares court explained, "[t]he bond [between buyer and weigher] was so close as to approach that of privity," and did not expose the defendant to indeterminate liability because "the transmission of the certificate to another was not merely one possibility among many, but the 'end and aim of the transaction.'" Id. 255 N.Y. at 182. The Court went on to observe that in Glanzer, the services rendered by the weigher had been "primarily for the information of a third person … and only incidentally for that of the formal promisee." Id.

(x) In reaching its decision, and the imposition of a non-contractual duty of care to the third party, the Glanzer explained:

(xi) We think the law imposes a duty toward buyer as well as seller in the situation here disclosed. The [buyer's] use of the certificates was not an indirect or collateral consequence of the action of the weighers. It was a consequence which, to the weighers' knowledge, was the end and aim of the transaction. [The seller] ordered, but [the buyer was] to use. The defendants held themselves out to the public as skilled and careful in their calling. They knew that the beans had been sold, and that on the faith of their certificate payment would be made. They sent a copy to the [buyer] for the very purpose of inducing action. All this they admit. In such circumstances, assumption of the task of weighing was the assumption of a duty to weigh carefully for the benefit of all whose conduct was to be governed. We do not need to state the duty in terms of contract or of privity. Growing out of a contract, it has none the less an origin not exclusively contractual. Given the contract and the relation, the duty is imposed by law."

(xii)

(xiii) Id. at 238-239.

(xiv)

(xv) The Court of Appeal's restatement of Glanzer in Ultramares established the principle that liability for misstatements or omissions to a third party not in contractual privity may attach where the representation is

> made for the principal purpose of having it relied upon by such person, and where its benefit to the party authorizing the representation stems precisely from such reliance by the third party. Vereins-Und Westbank, AG v. Carter, 691 F. Supp. 704, 709 (S.D.N.Y.1988). This principle came to be known as the "Ultramares doctrine."

4c. policy is used by Racket participants to their benefit, and the general detriment of the public. I'll be at the specifically to members of the public to fall within the class of law students during any period for this activity here the policy delays, or makes impossible, the enlistment of timely aid from both law enforcement and other regulatory agencies with interest in conduct in this context.

Ultramares Doctrine Applicable to Entwined Enterprise of the State Bar

The conduct more likely than not obstructs prima facie in *a priori* fashion any investigation and intentional delay can never be imputed to the non-culpable plaintiff.

Role of the regulator is to regulate. Here, the State Bar Act mandates protection of the public as the "highest priority" no matter the conflict of interest.

The latter is true even if capricious circumstance or contingent happenstance grants a "derived benefit" greater than the intended harm of the plaintiff, if for only reasons that the State has no interest in promoting narratives of the Robinhood effect, since no matter the intent such conduct is guaranteed to produce antitrust outcomes, e.g., mistrust, Bad-Faith, disparate economic impacts from everything from attorney and institutional insurability to the procurement of policies by culpable parties in sham fashion, as appears to be the case with the Plaintiff here.

For example, it would not be fair to state that any given plaintiff was warranted to suffer additional financial impact, based on an "accidental or contingent" benefit that some negligent conduct happens to result in if the Plaintiff never intended nor bargained for the result. Accidentally positive results from bad-faith conduct still generally deserves admonishment and adjustment as a matter of public policy.

Any accidental serendipitous outcomes are not a defense and should generally not be used as mitigators for determination of lawfulness or egregiousness. Serendipitous outcomes can be raised as a mitigator to damages claimed in the action .

That the police are able to "trace the call" and locate the wanton extortion enterprise does not make its closure and apprehension by law enforcement "long after the money is gone" a satisfactory remedy for the victim plaintiff.

Here, the Defendants will likely argue that they are a regulatory body and enforcement agency tasked with protection of the public and not with providing remedy to the injured "student" after their failure to protect or to comport their own conduct in such a way as to avoid anything at all.

State Bar and Eleventh Amendment Immunities

Here the STATE BAR may or may not, mention the Eleventh Amendment and theoretical immunity from Federal Court rulings related to State Matters.

STATE BAR will also likely raise defense that it only has the power to make recommendations to the Judicial Branch.

Unfortunately for the Defendants an approach similar or equal to the above would not comport to the actual scale and scope of STATE BAR'S statutory and public duties.

Here, this known and "strictly enforced" policy of "non-interference" puts both the Defendant ant its in better position even if it were known

4d. State Bar "policy" of non-interference is more likely than not exercised as tool of duty avoidance.

4e. Policy used to delay claims to preserve their scheme and obstruct the lawful and public airing and adjudication of claims in the neutral venue of the court.

The Courts of law must follow the law.

The Legislature establishes that claims are alive only as long as the applicable Statute of Limitations period allows.

4f. The conduct more likely than not, clouds the perception of neutrality and fairness of the California legal justice system, as State Bar rhetoric of protection of the public through enforcement of the law cannot be tenably reconciled with the consequent issue selection and focus of its rule making and enforcement activities.

II. Plaintiff asserts Defendants conduct and overt acts in support of fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

i) Conduct likely violates CBPC 6002.1 and 6068a-o

(g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest.

Here, Plaintiff contends that on April 8, 2022, Dean Emeritus and Co-Defendant SPIRO appeared in Court with a plan to promote a judicial "error" by submitting false and misleading information to the Court and, when timely noticed, failed to correct the information.

III. Likely violations of the Penal Code Grant Standing for Civil Cause of Action

i) The school defrauds its students without expectation or concern.

ii) The defendants protect both the tortfeasor and criminal with equal vim and vigor; in violation of Oath, core principles of Professional Responsibility, including model rule 1.7;

iii) Directors, Officers, and Agents of the school solicited or engaged in the conduct.

IV. Consistent and clearly "negligent" student selection criteria intentionally ignores duty to use care in student selections. Related to preparation. Here, over the span of years, generally greater than 80% of first year FYLSX test takers failed to pass the Baby Bar.

i. There are cases in which, as for Ms. Maria Gonzales, students were recruited and attended the first year when they did not meet the 60 unit minimum required by the State of California for transfer into a law degree program. She had to repeat her 1L year. She later left PCL.

ii. All students were recruited under fraudulent circumstances, where material facts were intentionally withheld, as no one was ever told in advance that PCL planned to offer fewer units to the student than the law allows. Students were unfairly treated as a business practice, forced to attend PCL which clearly ignored its duties and failed to provide adequate monetary investment in programs that benefitted the students or allowed for the recruitment or retention of many of the best teachers, including making decisions in untimely fashion.

a. Here, Plaintiff reiterates that not only was he initially a paying student, he was briefly employed by PCL, was a for a duly-elected member of the Board of Directors, and ultimately Secretary of the Corporation.

iii. Students that succeeded at passing the First Year Law Students Exam were met with obtrusive but passive resistance, long delays in receiving transcripts was accepted practice by the school administration and it was generally "too late" to transfer without the plaintiff taking a substantial "haircut".

V. Consistently, PCL would generate, on average, 1 or 2 students every 2-3 years "eligible" to take the California State Bar Exam, with often, very low first-time passage rates.

3) Market restraint is two-fold effected under Color of Law:

I. A student cannot transfer because Bar policy does not allow institutions to grant more units than were offered by the school, so a student takes an immediate "haircut", as they have already been deprived of the benefit of the bargain of the "lawful" unit grant; and,

II. A student cannot re-take what is essentially the same class again, or a partial, and so cannot complete the requirements. This prevents a pathway for graduation and certification of the Bar without submitting to the unlawful conduct of PCL.

III. A student cannot obtain resolutions from other public agencies, since the California State Bar is the monopoly regulator and the Bar, rather than act in its regulatory capacity, allows the school to continue not only its unlawful practice to harass the student into silence.

i) An unfortunate consequence here is that victims due to the perceived futility of legal recourse are more likely than not to "join the scheme", where the standard of conduct is by and large "knew or should have known", and the duty to uphold the Constitution of the State of California and the United States Constitution applies.

ii) An important consideration here is the damage caused to the morale of a newly entering attorneys who quite reasonably believe it more likely than not that the "system is rigged" or riggable, can easily prove it, but cannot find willing aid from fellow sworn members for fear of retaliation.

iii) The scheme forever continues as parties are continually rotated in and out under the auspices of being governmental appointee under term limits; in general, staff employees likely last longer than the average appointee in the environment. As a result, staff members that may be conflicted, compromised, or otherwise unreliable in their performance of their duties in good faith, may be allowed to exist and wreak further damage, that festers and metasticizes like cancer, corrupting both the simplest process (here Plaintiff asserts that both PCL and the State Bar have at times "weaponized" their administrative website(s).

(1) PCL used its site to publicate false, misleading, and defamatory statements about its conduct to PCL's membership and Plaintiff's Student and Faculty community';(see emails attached.)

(2) Plaintiff asserts that verbal defamatory conduct in this context meets the criteria for slander and public commentary

(3) STATE BAR in similar fashion posts announcements as rhetoric where the underlying conduct, or the cause of conduct, is often diametrically opposed to their statutory mandate. As discussed above and below, DURAN, WILSON, KRAMER, LEONARD, DAVYTYAN, CARDONA, and the operators of Enterprise S, ignore due process and court order in the ordinary and extraordinary course of daily operations, as exemplified here from the STATE BAR's ratification of non-conforming transcripts, long term and capricious defense of the unlawful conduct of persons under its regulatory authority, and its own failures to assure compliance with statutorily mandated due process review or court ordered recusal and administration requirements for antitrust determinations.

4) Under the color of Law has facilitated, supported, and expressly empowered via grant of monopoly powers to market participants and policy implementations.

I. State Bar in ultra vires fashion has instituted policies designed to limit, by use of guideline and the copious use of non-plain language interpretations of the law, including, but not limited to:

i) designating students as "non-members" of the public to avoid their duties as the sole and monopoly regulator and market participant that by rule mandates the payment of fees.

II. Failure to honor the special relationships, duties, and obligations of the mandates of Professional State Bar Act, the judicially reviewed ruleset that functions as de facto quasi-legislative law, and the guidelines enforced as a trigger for further regulatory inquiry and enforcement.

i) As discussed, the State Bar has both instituted and through its conduct willfully facilitated "PCL's unlawful racketeering Enterprise" (now Enterprise P.)

ii) In Re Rutter (1932) 214 Cal. 724, the court held that the State Bar has the authority to disbar or suspend an attorney for violation of the UCL.

iii) In FTC v. Indiana Federation of Dentists (1984) 476 U.S. 447, the Supreme Court held that naked restraints of trade are per se illegal under antitrust laws.

III. For at least the past six (6) years, using artifice and misrepresentations of state law, and a designed monopoly over the judiciary in California[24], from California to Florida, trial courts to Courts of Appeal, this case arises from deliberate schemes to defraud judicial officers, litigants, insurance carriers, banks, issuers of securities, and ongoing payments derived from unlawful activity that damaged Plaintiff TODD R. G. HILL's business, property, and civil rights under the United States Constitution.

IV. "The right to pursue one's chosen profession free from arbitrary state interference also is protected by the due process clauses of both the state and federal Constitutions. (Cal. Const., art. I, § 7; U.S. Const., 14th Amend.; Endler v. Schutzbank (1968) 68 Cal.2d

[24] Plaintiff reiterates that the "question" of unlawful monopoly arises only if the monopoly produces inefficient outcomes for the public consumer market participant. Unfortunately for the Defendants to make such determination requires adequate review of the statutes, regulatory environment, and economic outcomes which in circular, akin to "Catch-22" fashion implicates the need for "due process' review.

162, 169 [65 Cal.Rptr. 297, 436 P.2d 297]; Sail'er Inn, Inc. v. Kirby, supra, 5 Cal.3d at p. 17.) Although the state may discipline and regulate the qualifications of individuals employed in certain professions, it must do so within the limits of procedural due process. (Endler, supra, 68 Cal.2d at p. 170.) "The right to practice one's profession is sufficiently precious to surround it with a panoply of legal protections." (Yakov v. Board of Medical Examiners (1968) 68 Cal.2d 67, 75 [64 Cal.Rptr. 785, 435 P.2d 553].) There is simply no place for the conduct at issue in the United States, and the lack of precedent results from a threat of fear and monopolistic powers of a corrupt organization: The State Bar of California.

V. Reflected by final rulings, defendants used the judiciary and government functions ultra vires, with per se antitrust/competitive violations, to further or conceal fraudulent schemes.

VI. Defendants each had corrupt motives or interests, and they acted with actual malice or at least disregard of Plaintiff, his known harm, and his federally protected rights.

VII. Lacking probable case for claims against Plaintiff, defendants repeatedly used postal mail, wire communications including email, cellular calls, and FAX, as well as overt acts or active concealment by overt acts of coercion, extortion, threats, or bribery to achieve their goals to harm Plaintiff, make money, or conceal to help individual goals.

VIII. Each defendant is part of, acting under license, or prior or ongoing threat of, acting through or under the protection of, defendant culpable persons THE STATE BAR OF CALIFORNIA including **Enterprise S** (“Racket”).

Here, STATE BAR has constructed, facilitated, and perpetuated fraudulent schemes willfully designed to abrogate legitimate responsibilities, including the requirement for diligence in the review of policies for status as "underground rules".

Underground rules are derived, adopted, and enforced in ultra vires fashion.

The Racket is deliberately malicious, the lines among it obscure. For example, as stated above and below, STATE BAR and Enterprise S operators preferred to deprive student of ability to transfer, degree, or any assisted option.

The STATE BAR **reneged** on an alternative school administered third-party delivered course meeting the 270-hour requirement, which Plaintiff coordinated and paid for; when Plaintiff asked WILSON and LEONARD why the schools teaching obligations were not subsumed by the State Bar, no answer was offered. Plaintiff has reason to believe that this "solution" was in fact negotiated as a stalling tactic in bad faith, as on or about December 2, 2022, STATE BAR subsumed the obligations of PCL b placing it on formal probation.

Willful failure of a regulatory agency with express and imperative mandate, if enforceable as a matter of law, is intentional unlawful conduct and therefore malice per se.

IX. Beyond Plaintiff, acutely threatening, Racket schemes to defraud exist for "proceeds likely in excess of $5,000,000" among a "putative class of certainly equal to or greater than the 5 members required" students for the clear evidence of the long-term and willful operation of the scheme.

(1) Students recruited to PCL were not told the school would, in exchange for their tuition, not only offer insufficient financial support to their programs to improve outcomes but also that the school would award FEWER units for completed classes than allowed under State and Federal law.

(2) Plaintiff was not informed that PCL's units would not be eligible to transfer

(3) The State Bar received copies of records that indicated the deviation from the law, and not only failed to clarify or correct the issue as was appropriate for the monopoly regulator and vertical market participant, it also openly allowed PCL to continue the practice and assisted the college in its attempts to deny, defer, demur, and delay, and render moot complaints from both students and officers of PCL.

X. Plaintiff shows ongoing schemes to defraud, advanced through the wire and mail used as a "funnel" or "pipeline" to student recruitment as a lead and revenue generator for Enterprise S, as a student that fails to pass the FYLSX the first time is more likely than not to take it a second time, especially given the culture at PCL. The lifecycle and total short term value of a PCL student that FAILS the FYLSX multiple times to the State Bar is $2,375 assuming the maximum three (3) takings of the FYLSX and a single taking of the Bar, versus those who attend ABA or "deemed-compliant" organizations with out-of-state accreditation who pay just the $677 for the Bar. No matter how one looks at it, those who go to less expensive schools, who are likely economically disadvantaged, even if that disadvantage is access to capital, students from different backgrounds are forced to face

unfair burdens or capriciously justified burden assignments that have likely failed to appropriately parse the first mandate.

XI. Plaintiff shows interference with business prospects and relationships in multiple ways:

(i) Defendants PCL publicated false and likely per se detrimental information, defamed, character assassinated, libeled, or otherwise impugned the character or adroitness of Plaintiff's reasonable and coherent presentations of black letter law in good faith.

(ii) Plaintiff asserts and has continuously asserted and affirms here that all claims of tort, negligence, waste, and malfeasance are made in good faith;

(iii) To date, Plaintiff is not aware of any Defendant or ancillary party to the cause of action who has denied any material, substantive, or objective fact. To be clear, no party has disputed any of the facts in this matter as presented by Plaintiff.

(iv) Defendants PCL conspired to deprive Plaintiff of his legal rights to seek remedy, due process, obstruction of justice, and conversion through abuse of the legal process and multiple violations of California's Rules of Professional Responsibility.

(v) Plaintiff understands that Defendants also attempted to commit harm to HILL's reputation and credibility.

XII. Enterprise S under "color of law and right" of state actors engaged in non-sovereign unlawful conduct in conspiracy likely for the purposes of raising discretionary funds for use by or maintenance of its Racket.

XIII. Plaintiff was damaged in his business, property, and person in fact, and seeks treble damages for violations of 18 U.S.C. § 1962(a)-(d).

XIV. Aside from treble damages, Plaintiff seeks federal receivership under § 1956.

XV. Plaintiff seeks a racketeering investigator who is not a licensee of The State Bar of California, who would otherwise be subject to the racketeering activity or coercion shown.

XVI. Plaintiff sues STATE OF CALIFORNIA for its agents here after claim presentation October 14, 2021; receipt by THE STATE BAR OF CALIFORNIA; formal claim denial by "Claims Officer" Sarah L. Cohen acting officially; and Plaintiff's prompt filing of suit with conforming pleadings in *TODD R. G. HILL v. The State Bar of California et al.* (OCSC Case No. 30-2021-01237499) ("State Action 2").

XVII. Plaintiff sues STATE OF CALIFORNIA because it has a nondelegable duty to uphold the United States Constitution, and because it has delegated duty and authority to nonsovereign actors that destroyed Plaintiff's business and property under artificial authority cited by them to justify it as being a matter of "discretion" under authority of State.

XVIII. Plaintiff sues STATE OF CALIFORNIA for all violations of its nonsovereign actors acting officially under 42 U.S.C. § 1981 and 42 U.S.C. § 1983, which Plaintiff alleges to be ongoing, with deliberate disregard for the truth or sworn oath of attorneys to uphold the laws of sovereign State of California and United States Constitution under Cal. Bus. & Prof. § 6068(a).

XIX. Plaintiff sues STATE OF CALIFORNIA under Cal. Gov. Cod. § 815.2, Cal.Gov. Cod. § 815.3(b) (where DURAN and STATE BAR are named in this action), and Cal. Gov. Cod § 815.6 under the 5th and 14th Amendments to the United States Constitution and specifically equal protection clause and eminent domain.

XX. Plaintiff sues STATE OF CALIFORNIA because its assigned non-sovereign actors operating through, with, or under STATE BAR colorable authority as "regulators" lack immunity where they are controlled by active market participants, as is the case with the STATE BAR.

XXI. Plaintiff sues STATE OF CALIFORNIA here and other culpable defendants because its lax oversight and administrative management were substantial factor in the malicious, frivolous, or negligent regulatory , unfair business practices under state and federal law or ratification of the same with malice; slander/conversion to Plaintiffs business/property at issue all of which may become federal question if improper influence of judicial officers succeeds through GRANDT, DURAN,WILSON, KRAMER, SPIRO, GONZALEZ, SARIN, BOUFFARD, FRANCO and LEONARD.

XXII. Plaintiff directs to each defendant, Plaintiff, Todd Hill, who files this contends:

FACTUAL BACKGROUND

Synopsis of the facts

The Guild Law School dba People's College of Law (known as "PCL") recruited and matriculated students in bad faith for unlawful purpose.

Plaintiff reasonably believes on experience and evidence that prior to HILL's 2018 attendance at a recruitment "open house" held at the SEIU Labor Union offices a short walk from the school, PCL and Enterprise P operators conspired to award fewer units to discourage transfer because State Bar rules do not allow a unit accepting a transfer student to adjust the units to those offered by the school.

Subsequently when Plaintiff sought clarification and ultimately enforcement support, STATE BAR and operators of Enterprise S further conspired and succeeded in depriving HILL of his degree and opportunity to sit for the June 2023 Bar Exam, as would be his privilege to claim after program completion.

The conduct STATE BAR directed at Plaintiff was arbitrary and capricious because the STATE BAR failed to provide timely notice of the compliance status of PCL; the STATE BAR failed to follow its own precedents and procedures, thereby treating the PCL differently than other regulated entities and substantively facilitating HILL's current circumstance and injuries; and the decision to impose an additional 270 hours of "academic study" without actual study requirements; failure to properly consider the rule under APA or CAPA requirements and then enforcing it expressly upon

Plaintiff; failure to consider STATE BAR's own culpability and in egregious violation of the California Constitution.

The complaint also challenged as arbitrary and capricious the The STATE BAR's failure to relieve the City of each of the other clauses the City considered excessive, as well as the clause excluding the City from renegotiations. Further, the complaint alleged that the decision was arbitrary and capricious because the DOL "misused the Guidelines to avoid the application of existing law." Id. at 30. The City requested a declaratory judgment and injunctive relief.

small , and that year then Dean Spiro, now Emeritus, and other members of the recruitment committee

Plaintiff believes onhe People Colleges

Fraud, Misrepresentation & Failure To Disclose Material Facts

Plaintiff began attending People's College of Law in the Fall of 2019. Before entry and initial payment, Plaintiff was notified that the school had recently (as early as 2016 moved to the "quarter" system for classes. Sometime between receiving notification of passing the required "First Year Law School Examination", required by the California State Bar for future admission and the "recognized" grant of credit, Plaintiff saw what he first believed was simply an "accounting" error; he was issued two ("2") units instead of the statutorily mandated three ("3") units. In essence, in this aspect of the school's performance, students

received only 2/3rds of the statutorily required "benefit of the bargain" for classes under the quarter system.

Not only were Plaintiff(s), as enrolled student(s), awarded fewer units than allowed by law but attempts by student(s) to timely transfer were obstructed in "plain view" of the State Bar in real time.

By the State Bar's own communications and agent admissions, the Bar knew and undeniably held in its possession direct knowledge of the Racket and facilitated PCL by certifying students for the Baby Bar, almost all of which the State Bar knew had been selected with wanton disregard to responsible academic selection standards.

By its own communications and agent admissions, including results from its own on-site audits, the State Bar undeniably acted and benefited from the Racket, as it abetted PCL's unlawful conduct by processing in excess of one hundred (100) non-conforming transcripts, in that they falsely represented an unlawful determination of units awarded.

Here, because PCL managed to grant its students 2 units awarded for every 3 hours of class attendance, traditionally via lecture, in violation of the 1 credited unit per 1 hour of lecture over the academic quarter or semester instead of the for use in authorizing students to take the First Year Law Student's Exam (FYSLX), a State Bar requirement for students attending an unaccredited fixed-facility school without prior passage of the exam or special exemption.

For each student certified, the bar had a very good chance of receiving money, since the desire of the majority

Plaintiff asserts that the above is bright line example of a monopoly power

It is undeniable that the ability to operate an unlawful scheme with the understanding that Defendant PCL could be certain of support from its vertical monopoly regulator, the California State Bar, which would allow PCL, its agents, directors and officers to succeed in the following tortious and potentially criminal activities including:

a. act in an ultra vires manner in per se Bad-Faith,

    i. Here the Plaintiff was unlawfully ousted as PCL's Secretary of the Corporation, whose agents and officers then submitted a fraudulent Statement of Information to the Secretary of State's office, in violation of

b. harass,

c. defame,

d. threaten,

e. extort,

f. convert,

g. inflict emotional distress,

h. conspire,

i. perjure,

j. abuse judicial forum,

k. actively and materially misrepresent the facts when candor was required. Here, Plaintiff asserts he was defrauded and damaged in the following scheme:

i. PCL, its administrators, agents, directors, officers, employees and volunteer leadership, in per se Bad-Faith and unfair business practice, entered into unconscionable and fraudulent contracts with the intent to offer services inevitable and certain to yield a results—transcripts, trade restraints, coercive demands, harassment, and more—that did not follow the law.

ii. PCL and operators of Enterpise S would then review the nonconforming transcripts and authorize "where appropriate" certify under the authority granted to its registrar under the authority of its monopoly PCL staff chose for their sincere loyalty and dedication to the school. and then submitted these transcripts to the State Bar for t the detriment of the Plaintiff(s) and others in sufficiently similar circumstances.

a. Defendants may argue here that Plaintiff's assertions are "overly broad" and that the claims make even the "casual handler" or even third-party intermediaries culpable for participation in unlawful schemes or liable for damages.

b. Plaintiff responds that the list of Defendants is intended to include only those with reasonable or constructive knowledge that the activities were unlawful and that the purpose of the cause of action is for the purposes of determination by the "finder of fact".

iii. PCL, with the State Bar's full knowledge, entered into contracts with students, both qualified and unqualified, but none entering law school as a 1L would likely meet a parity standard with the attorneys and law school graduates who composed contracts with the irrefutable Pintent to deprive their students and voluntary invitee charges

Plaintiff reasonably believes that a special relationship existed between all of the parties and failure to action when duty, knowledge, and capacity allow is imputed as culpable act.

PCL and members of the State Bar, its agents, paid or volunteer, had express duties to avoid any violative conduct, in many cases when conduct that gives rise to even the question of participating in conduct that was.

But here, the express grant of freedom from interference, no matter the duty breached or law broken; most importantly here, PCL pursued and was supported in its efforts to continue its unlawful practices.

Regulate rule by the vertical monopoly regulator and a per se market participant power from a This unlawful and *ultra vires* grant of power to PCL monopoly regulator academic institutions

duty for a period more than one thousand two and hundred (1,200) days; just shy of forty months, it is 3.28 years of relative inaction.

Plaintiff asserts that both the conduct and the result were a clear preplanned restraint on consumer choice and commerce.

In the Summer of 2018, Plaintiff attended an "open house" student recruitment event hosted by PCL. He attended that open house with two other students who matriculated the same year, while Plaintiff took another year to enter due to family concerns.

In their recruitment zeal, PCL recruited and matriculated at least one student unable to lawfully enter the program, as she had not at that time obtained the 60 semester units required from a community college or other recognized institution.

Plaintiff, restrained from transferring, burdened with explaining this unlawful approach to other institutions the student hopes to transfer to or otherwise substantively interact. The only explanation detailing failure to comply with the law by a **law** school?

Plaintiff's Privity Relationship to the State Bar

The State Bar charges a fee to review how much credit will be offered from programs to determine eligibility to sit for the Bar. Plaintiff's

Standing

Plaintiff asserts standing related to this cause of action; the requirements are met due to the following:

Plaintiff has privity as a duly elected Board Member, Secretary of the Corporation (past; ousted by ultra vires act and false Statement of Information filing to the State of California, in that the Board, its agents, and assignees did not use the bylaws, the courts, nor due process to achieve the change; no lawful means was used to change the comport of the organization.

College bylaws require "due process" in the management of election issues as well as student issues as they arise between Due process consists at least of notice and the opportunity to be heard.

Plaintiff is also a paying student going to law school with the expectation of an experience that, at the very least, complies with the law and the spirit of the "benefit of the bargain".

Mr. Hill endured interference with his ability to take classes, harassment, slander, libel per se, and unlawful ousting without due process banned from fulfilling his obligations as a Board Member.

Issue preclusion and preemption for State Bar Defendants is discretionary.

Plaintiff asserts the following novel facts, circumstances, relationships, conduct, and likely negative impacts:

Disparate Impact a Substantial Factor and Mitigator

Plaintiff stipulates that the use of data and statistics to demonstrate disparities in the legal profession is complex and should be accompanied by a thorough analysis and interpretation of the

data, as well as context and an understanding of the systemic issues that may be contributing to the disparities.

That said, here it is non-controversial and constructively known by the parties that State Bar outcomes for African Americans retain systemic bias.

Is there an Enhanced Duty of Care Reasonably Required for Circumstances of Bias?

Here, Plaintiff argues that a constructive enhanced duty of care applies for public risks related disparate impacts from known biases.

When an attorney has knowledge that a policy, for example, State Bar Policy which as rule "is" per se law, propagates systemic bias and results in greater levels of risk and injury to protected segments of the population, this knowledge reasonably increases the attorney's duty of care related to her conduct.

This is especially true when considering the internal attorney supervisory structure within the State Bar, which functions similarly to a law firm and thus is reasonably subject to at least "an ordinary member of the profession in good standing's"[25] approach to conduct conformance with duty.

[25] Since "time immemorial" it has been held under common law doctrine that "one who holds themselves out as a professional must both possess and exercise the knowledge and skill of an ordinary member of the profession in good standing.

Under California Rules of Professional Conduct (CRPC), it is well established that an attorney has a duty to report unlawful or misconduct of other attorneys they supervise or otherwise have a relationship in practice when that conduct meets the appearance of "moral turpitude".

California Rule of Professional Conduct 3-700(A) states that "A member shall not assist a client in conduct that the member knows is illegal or fraudulent". Furthermore, California Rule of Professional Conduct 3-700(D) states that "A member shall report to the State Bar any misconduct of which the member has knowledge". Therefore, if an attorney within the State Bar has knowledge that State Bar Policy is propagating systemic bias and causing harm to protected segments of the population, they have a legal and ethical duty to report this misconduct to the State Bar's internal supervisory structure, like reporting misconduct within a law firm.

Additionally, California's Unfair Competition Law ("UCL") prohibits any unlawful, unfair, or fraudulent business act or practice. It also prohibits unfair, deceptive, false or misleading advertising. If an attorney within the State Bar has knowledge that State Bar Policy is in violation of these laws, they have a legal and ethical duty to report this misconduct to the State Bar's internal supervisory structure.

Furthermore, State Bar employees and member licensees share a professional and ethical duty to avoid conflicts of interest. As such, an attorney should avoid representing clients or interests that are in direct conflict with the protection of the protected segments of the population. An attorney

should also consider withdrawing from representation when it becomes apparent that the representation will result in violation of this duty.

In summary, when considering the State Bar's internal attorney supervisory structure, which functions similarly to a law firm, an attorney has a legal and ethical duty to report misconduct within the State Bar when they have knowledge that a policy, such as State Bar Policy, propagates systemic bias and results in greater levels of risk and injury to protected segments of the population. This increases the attorney's duty of care, and the attorney must take steps to report the misconduct to the State Bar's internal supervisory structure and to avoid representation that would violate their duty of care. It is important to note that any attorney who becomes aware of misconduct within the State Bar and fails to report it can also be subject to discipline and sanctions for violating their professional responsibilities.

Plaintiff respectfully asserts that to effectively address the systemic bias and discrimination present within the State Bar's policies, it is crucial that the State Bar implements measures to ensure that any reported misconduct is thoroughly investigated and appropriate action is taken. This may include creating an independent body or task force to investigate and address reported misconduct, as well as implementing regular audits and reviews of the State Bar's policies and practices to identify and address any areas of discrimination or bias.

Overall, the State Bar has a legal and ethical duty to ensure that its policies and practices do not propagate systemic bias and discrimination, and that reported misconduct is thoroughly

investigated and addressed. Attorneys within the State Bar have a corresponding duty to report any knowledge of misconduct and to avoid representation that would violate their duty of care. It is essential that the State Bar and its members work together to address and eliminate any discrimination or bias within the organization, to ensure that the legal profession is fair and just for all.

Plaintiff's Prayers For Relief

Writ Request 1: Order for Writs of Mandamus or Alternatives

Plaintiff petitions the Court seeking relief and remedy in filing petition for a writ of mandate and complaint for common law, declaratory and injunctive relief against the Guild Law School, dba People's College of Law ("PCL"), past and present Dean's and Presidents of the college as well as it's current "Community Board" which was instantiated via ultra vires action.

Plaintiff asserts multiple attempts by the Defendants to interfere with movants business relationships, including willful attempts to obstruct plaintiff's performance of his statutorily mandated duties as the lawfully elected student Board Member and Secretary of the Corporation in the midst of his efforts to bring the college into compliance with the law and the publicized regulatory requirements for operation.

State Bar constructively complicit and a substantial factor in injury.

Constructive complicity is the "way" a party aids another after the completion of an unlawful and commonly criminal act.

Here Plaintiff argues that the STATE BAR, LEONARD, CHING, NUNEZ, and WILSON, were complicit in the numerous, non-consensual, privacy violations executed by CMG and all named Defendants of Enterprise P.

PCL, in operation of Enterprise P and as individual Defendants harassed Plaintiff in addition to its violations of the unfair debt collection statutes.

Enterprise P solicited and conspired to deprive Plaintiff of Right and Privilege

Enterprise P suborned and conspired to benefit from perjury both in inchoate and complicit fashion, going so far as to make a court appearance to mislead and induce the Court, where all PCL or Enterprise P Defendants, the majority of whom are licensees, are represented by their likely complicit, assured knowledge of material facts

1. Same counsel of record for PCL, SPIRO was for that action, as for this cause of action, a Defendant and material witness or at least one of the latter. It is violative

Enterprise P has engaged in the unlawful submission of Corporate Statement of Information Documents.

Enterprise P has recruited Plaintiff as a member of the Board to give the Enterprise a veneer of reputability without informing Plaintiff prior or subsequent to onboarding. Defendants engaged in obtaining insurance policies, that they knew or should have known would not be enforceable for claims against defrauded peers.

This conduct by the Defendants seems just another ploy in their well-planned illicit activities.

PCL breached good faith, duty, and law to Plaintiff's detriment.

Defendants successful restraint of plaintiff's ability to transfer was executed by the PCL administration under color of law due to both ultra vires and unlawful State Bar policy and the enforcement and failure to enforce both lawful policy and the statutory requirements of the law.

The successful attempts at business interference, in this case, delaying the receipt of a response from the California State Bar, the statutory monopoly regular tasked with judicial policy and regulate law schools with programs suitable to allow for testing after completion of the work.

Plaintiff further prays for the appointment of a Trustee or Guardian Ad Litem to oversee new and timely elections as well as oversee a full and audited accounting, in accord with both California statute and PEOPLE'S COLLEGE OF LAW's Bylaws.

Grant of Doctoral Degree – Juris Doctoral Degree by the Guild Law School dba People's College of Law

Here Plaintiff asks that the Court compel Defendants via writ of mandamus for Grant of Degree.

Summary of Bases for the Grant of Degree

Plaintiff, who has completed all coursework, should be granted their Juris Doctoral degree because they attended the People's College of Law (PCL) as a full-time student. The fact that PCL is only authorized to offer a four-year program as a part-time educational facility does not negate the fact that Plaintiff has fulfilled all academic requirements for the degree. Furthermore, the fact that PCL unlawfully granted units and allowed the Plaintiff to take a heavier course load than allowed by law is not a valid reason to deny the Plaintiff their degree.

It is important to note that the conduct of the school, in this case, was unlawful. The school violated federal financial aid laws and the California Private Postsecondary Education Act by awarding 2/3rds of the required units. Additionally, the school's actions are in violation of the California State Bar Act of 1937 and the State Bar's policy which authorize the court to take proceedings to disbar or suspend an attorney for matters within its knowledge or upon the information of another.

The State Bar's role as the vertical and sole monopoly regulator of law schools, holds it to a higher standard of conduct and professionalism, it is imperative that the State Bar follow its own rules, policies and the law. In this instance, the State Bar failed to follow its own rules and policies, and acted in permissive and affirmative support of the school's unlawful issue of 2 units for postsecondary law school classes instead of the required 3.

Given the above, it would be unjust and a violation of the Plaintiff's right to an education to deny them their Juris Doctoral degree. The Plaintiff has fulfilled all academic requirements, and the conduct of the school in this matter should not be held against the Plaintiff. Therefore, it is respectfully submitted that the court should grant Plaintiff's Juris Doctoral degree.

Plaintiff's guarantee of right to the privilege and proceeds of a legal education in Due Process.

The right to claim the privilege of a legal education is a fundamental right that is protected under contract law, as well as State and Federal common law doctrine. Under contract law, when an individual enters into an agreement to pursue a legal education with an institution, such as the People's College of Law (PCL), the institution has a legal duty to provide the education that is outlined in the agreement. This includes ensuring that the institution is in compliance with all applicable laws and regulations, such as those set forth by the California State Bar and the U.S. Department of Education.

Furthermore, the right to claim the privilege of a legal education is also protected under the State and Federal common law doctrine of promissory estoppel. This doctrine holds that when one party makes a promise to another party and that promise is relied upon by the other party, the promisor is

estopped from denying that promise. In the context of a legal education, if a student relies upon an institution's promise to provide a legal education that is in compliance with all applicable laws and regulations, the institution is estopped from denying that promise.

Additionally, the right to claim the privilege of a legal education is also protected under the State and Federal common law doctrine of unjust enrichment. This doctrine holds that when one party receives a benefit from another party, it would be unjust for the benefiting party to retain that benefit without providing compensation. In the context of a legal education, if a student receives a benefit from an institution in the form of a legal education, it would be unjust for the institution to retain that benefit without providing the education that was promised and in compliance with all applicable laws and regulations.

The U.S. Supreme Court holding that the right to a legal education is protected under the Due Process Clause of the Fourteenth Amendment of the United States Constitution functions as a pre-determinative here. In the landmark case of Regents of the University of California v. Bakke (1978) 438 U.S. 265, the court held that an individual has a constitutional right to equal protection under the law, and that includes a right to an education.

In this case, the People's College of Law and, as monopoly regulator and market participant, the State Bar, violated the Business and Professions Code Section 17200, also known as California's Unfair Competition Law ("UCL") by matriculating students with intent to defraud, committing

successful acts of fraud, violating antitrust laws, and failing to follow its own antitrust policy on multiple occasions as “entwined and entangled” but distinct enterprises.

For reasons detailed above and below, these actions constitute per se naked restraint of trade, and are clear violations of state and federal laws.

Activities considering the Doctrine of Contracts

Furthermore, these actions also constitute a violation of the Plaintiff's right to a legal education under contract law, as well as State and Federal common law doctrine. The Plaintiff entered into an agreement with PCL to pursue a legal education, and the institution failed to fulfill its legal duty to provide the education that was outlined in the agreement. Additionally, the Plaintiff relied upon PCL's promise to provide a legal education that was in compliance with all applicable laws and regulations, and the institution is estopped from denying that promise.

In light of these violations, it is clear that the Plaintiff has a right to claim the privilege of a legal education. HILL has fulfilled all academic requirements and should not be denied his Juris Doctoral degree as a result of the institution's unlawful conduct or STATE BAR’s questionable market making practices.

It is imperative that the STATE BAR, as the vertical and sole monopoly regulator of law schools, holds itself to a higher standard of conduct and professionalism and follows its own rules, policies,

and the law. It would be unjust for the Plaintiff to be denied their degree as a result of the institution's violations of state and federal laws.

In conclusion, HILL has a fundamental right to claim the privilege of a legal education and receive the benefits , protected under contract law, as well as State and Federal common law doctrine, and constitutional rights. The People's College of Law and State Bar's violation of state and federal laws and failure to fulfill their legal duty to provide the education that was outlined in the agreement, should not be held against the Plaintiff, who has fulfilled all academic requirements. The court should grant Plaintiff's Juris Doctoral degree.

Abject Deference to Court for Determination of Suitability for Purposes of Admission to Bar

Plaintiff defers to Court related to suitability of the degree's satisfaction of requirements to sit for the California Bar.

Plaintiff is in fact reticent to sit for the bar exam not due to its known difficulty but because the ultimate "benefit of the bargain", i.e., association with the State Bar is of questionable value and raises colorable claims of unreasonableness.

Analysis:

The fact that the school's grant of units was unlawful should militate as factor in favor of the Plaintiff, as it strongly suggests that the school's conduct was not in compliance with the regulations set forth by the State Bar and the State Bar Act of 1937.

Here, after correction was applied, student clearly met the requirements of a part-time program in three (3) years. Instead of STATE BAR using its guidelines which allow up to 10% of an institutions student body to receive degrees where a waiver was required.

What scrutiny standard applies to § does the State Bar Acts requirement of four (4) consecutive years of part-time study for law students enrolled in fixed facility California-registered institutions?

However, Plaintiff understands this alone may not be sufficient to grant the plaintiff's degree.

The stronger case if they can prove that the school's conduct was fraudulent and that the defendants engaged in illegal conduct, such as violating antitrust laws and committing fraud. This would indicate that the defendants' actions were not in compliance with professional standards and regulations, which could support the plaintiff's argument that they should receive their degree.

The plaintiff may also have a stronger case if they can demonstrate that they have completed all coursework and attended as a full-time student, despite the school's unlawful grant of units. This would indicate that the plaintiff has fulfilled all of the requirements necessary to receive their degree, despite the school's noncompliance with regulations.

It's also important to note that the chances of success for the plaintiff may depend on the court in which the case is heard and the specific facts and evidence presented in the case.

Therefore, the chances of the plaintiff's success in receiving the degree are uncertain, given the facts provided. It would be best for the plaintiff to consult with a lawyer and present their evidence to the court to get a clearer understanding of the chances of success.

Plaintiff's first cause of action rests on section 17200 of the Business and Professions Code, the core provision of the UCL. The remedies available under this law, which are generally limited to injunctive relief and restitution, are "cumulative . . . to the remedies or penalties available under all other laws of this state." (§ 17205) "

In contrast to its limited remedies, the unfair competition law's scope is broad. Unlike the Unfair Practices Act [Bus. Prof. Code, §§ 17000 et seq.] it does not proscribe specific practices. Rather, as relevant here, it defines 'unfair competition' to include 'any unlawful, unfair or fraudulent business act or practice.' (§ 17200) Its coverage is 'sweeping, embracing '"anything that can properly be called a business practice and that at the same time is forbidden by law."' (Rubin v. Green (1993) 4 Cal.4th 1187, 1200 . . . quoting Barquis v. Merchants Collection Assn. (1972) 7 Cal.3d 94, 113. . . .)

It governs 'anti-competitive business practices' as well as injuries to consumers, and has as a major purpose 'the preservation of fair business competition.' (Barquis v. Merchants Collection Assn., supra, 7 Cal.3d at p. 110; see also People v. McKale (1979) 25 Cal.3d

626, 631-632 . . .; People ex rel. Mosk v. National Research Co. of Cal. (1962) 201 Cal.App.2d 765, 771. . . .) By proscribing 'any unlawful' business practice, 'section 17200 "borrows" violations of other laws and treats them as unlawful practices' that the unfair competition law makes independently actionable. (State Farm Fire Cas. Co. v. Superior Court (1996) 45 Cal.App.4th 1093, 1103 . . ., citing Farmers Ins. Exchange v. Superior Court 2 Cal.4th 377 at p., 383.)

"However, the law does more than just borrow. The statutory language referring to 'any unlawful, unfair or fraudulent' practice (italics added) makes clear that a practice may be deemed unfair even if not specifically proscribed by some other law. 'Because Business and Professions Code section 17200 is written in the disjunctive, it establishes three varieties of unfair competition — acts or practices which are unlawful, or unfair, or fraudulent. "In other words, a practice is prohibited as 'unfair' or 'deceptive' even if not unlawful and vice versa."' (Podolsky v. First Healthcare Corp. (1996) 50 Cal.App.4th 632, 647, quoting State Farm Fire Casualty Co. v. Superior Court, supra, 45 Cal.App.4th at p. 1102.)" (Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co. (Cel-Tech) (1999) 20 Cal.4th 163, 180, fn. omitted.)

The recent opinion in Cel-Tech explains why the UCL has such a broad scope: "'[T]he Legislature . . . intended by this sweeping language to permit tribunals to enjoin on-going wrongful business conduct in whatever context such activity might occur. Indeed, . . . the section was intentionally framed in its broad, sweeping language, precisely to enable

judicial tribunals to deal with the innumerable "'new schemes which the fertility of man's invention would contrive.'" (American Philatelic Soc. v. Claibourne (1935) 3 Cal.2d 689, 698 . . .) As the Claibourne court observed: "When a scheme is evolved which on its face violates the fundamental rules of honesty and fair dealing, a court of equity is not impotent to frustrate its consummation because the scheme is an original one. . . ." (3 Cal.2d at pp. 698-699 . . .; accord, FTC v. The Sperry Hutchinson Co. (1972) 405 U.S. 233, 240. . . .) With respect to "unlawful" or "unfair" business practices, [former] section 3369 [today section 17200] specifically grants our courts that power. [¶] In permitting the restraining of all "unfair" business practices, [former] section 3369 [today section 17200] undeniably establishes only a wide standard to guide courts of equity; as noted above, given the creative nature of the scheming mind, the Legislature evidently concluded that a less inclusive standard would not be adequate.' (Barquis v. Merchants Collection Assn., supra, 7 Cal.3d at p; 111-112, fn. omitted.) '[I]t would be impossible to draft in advance detailed plans and specifications of all acts and conduct to be prohibited [citations], since unfair or fraudulent business practices may run the gamut of human ingenuity and chicanery.' (People ex rel. Mosk v. National Research Co. of Cal., supra, 201 Cal.App.2d 765 at p. 772.)" (Cel-Tech, supra, 20 Cal.4th at p. 181.)

Despite the sweeping language of the UCL, Cel-Tech then explains, the scope of a court's power under that law "is not unlimited." (Cel-Tech, supra, 20 Cal.4th at p. 182.) "Courts may not simply impose their own notions of the day as to what is fair or unfair. Specific legislation may limit the judiciary's power to declare conduct unfair. If the Legislature has permitted certain conduct or considered a situation and concluded no action should lie, courts may not override that determination. When specific legislation provides a 'safe

harbor,' plaintiffs may not use the general unfair competition law to assault that harbor." (Ibid.)

The trial court found that Civil Code section 1936, subdivision (m)(2), provides such a "safe harbor," because it specifically authorizes the challenged business practices.

Recovery Of Personal Property Via Disgorgement Or Appropriate Mechanism

Disgorgement is the State Bar Rule for these circumstances.

Quantum Meruit For Services Performed Under Deceptive Practice;

Here, Defendants reneged on wage payments and other volunteer service,

Restoration Of Funds Due To Improper Conveyance; Punitive Damages

Under circumstances described below, Plaintiff asserts that Plaintiff reasonably and in good faith paid moneys not owed, in the sum of $7934 said sum included the total amount of $5000 ($5600 minus 40-hour volunteer commitments that yiHOLTONs a theoretical $600 discount).

Plaintiff Has Paid Sums Not Legitimately Owed Or Demonstrated Owed In Good Faith And Mitigation

Plaintiff claims personal injury for which Enterprise S, the horizontal monopoly regulator and market participant to its downward regulated market participant, operated as a racketeering Enterprise P.

Plaintiff asserts that he owed no such sums because Cal Bar Guidelines renders it unlawful to charge when Defendants "know or should have known" they were in "non-compliant" status and had a duty to know.

Plaintiff asserts that Defendants had a duty to know and in fact knew or should have known

Plaintiff paid such sum in good faith on the promise of receiving a later accounting and appropriate credit (again before adjudication of the facts or Cal Bar response) to both mitigate his damages, and in the case that Plaintiff was wrong, pay what plaintiff fairly owed.

Plaintiff devoted over 300 hours to PEOPLE'S COLLEGE OF LAW from 2019 until today: hosting study sessions every Saturday for 38 weeks, board meeting attendance, installation, student, and teacher training and support for the Microsoft Teams platform, which included working with Microsoft and various providers.

All of the above for a $600 "discount" reneged upon by the Defendants to apply further "extortionary" pressure in a monumental showing of Bad-Faith; plaintiff has written correspondence acknowledging completion of the hours. So much time was spent on this project that the Board at that time authorized a $600 additional "payment" as a student work-study project. Payment was never issued and the "applied" discounts have been reneged upon by the Defendants.

When has a "Rational Basis" been demonstrated as irrational?

In the United States, the standard of review for most economic and social regulations is "rational basis review," which means that a law will be upheld if it is rationally related to a

legitimate government interest. Under this standard, a law does not need to be the most effective or the best means of achieving the government's goal, it only needs to be reasonably related to it.

How does the reasonable person argue the rationality of a procedure or policy that has not been substantively effective for decades.

Is ther a “rational” non-abrgative

Can a “Rational Basis’ for the State Bar be an abrogative one that as policy is in direct opposition to given sections of the State Bar Act?

For 30 years the seminal the case of Romer v. Evans (1996), in which the Supreme Court of the United States found that a Colorado constitutional amendment that prevented municipalities from enacting anti-discrimination laws to protect gay and lesbian individuals was irrational. The Court found that the amendment was not rationally related to a legitimate government interest and served only to harm a particular group of people.

Another example is the case of United States v. Virginia (1996), in which the Supreme Court of the United States found that the Virginia Military Institute's policy of admitting only men was irrational. The Court found that the policy was not rationally related to any

legitimate government interest and that there were alternative means of achieving the same goal that did not discriminate against women.

Additionally, in the case of Korematsu v. United States (1944) the Supreme Court upheld the internment of Japanese-Americans during World War II, but in recent years the court has recognized that the decision was a mistake and in 2020 the court issued an order vacating the conviction of Fred Korematsu, the man who challenged the internment order, acknowledging that it was not rationally related to a legitimate government interest and that it was discriminatory.

Enterprise P Engaged In Interstate Commerce Supported By Enterprise S

A. "Enterprise P", utilizing a combination of lawful and unlawful activity, is here defined consisting of the combination of lawful and unlawful conduct and the culpable actors as agents, directors, and officers of PCL, "which more likely than not" or "likely[26]" was operating a scheme to defraud its students and the California State Bar, its monopoly regulator.

B. **Enterprise S** consists of the unlawful conduct and culpable actors as agents, directors, and officers of the California State Bar, which more likely than not was operating a Racket.

[26] Plaintiff wishes the Court to note that occurrences of the word "likely" are meant to invoke the same meaning as "more probably than not" or the standard of sufficient plausibility. It is used for the purposes of assertion, and not intended to be treated as conclusory; it is a descriptor of the "reasonable foreseeability of a likely consequent or negative impact" where the weight of evidence or other objective circumstance may not adequately meet the standard.

Defendants used the “remote access renaissance” during the 2020 pandemic to recruit students residing both in-state and out-of-state students, including students residing in Arizona who attended their classes from their out-of-state location.

Enterprise P Engaged in Interstate Commerce Supported by Enterprise S.

Here, Plaintiff asserts factual allegations that "articulate a violation" and contain factual allegations that, "if proven, would result in discipline of the attorney."

The specific facts detailed here proven would “more probably than not” warrant formal attorney discipline.

Plaintiff understands that in order to warrant further investigation a complaint must contain factual allegations that "articulate a violation", or factual allegations that, "if proven, would result in discipline of the attorney." Your complaint must contain an articulation of facts specific enough to allow the finder of fact to conclude that if the facts are proven, discipline is warranted.

1. The State Bar, from 2015 to present, has willfully allowed the People’s College of Law (PCL), to recruit and matriculate students without regard to PCL’s duties of student qualification, statute related to student consumer protection, nor State Bar published Rules and mandatory guidelines.

a. PCL during this timeframe suffered FYSLX failure rates as high as 100%; similarly, it at times during this period went years without producing a graduate capable of passing the Bar Exam.

b. Students in some cases did not meet technical matriculation requirements, like the 60-unit collegiate minimum for lawful entry into a legal program in the State of California.

c. PCL submitted numerous transcripts in 2015 to present., likely in the low hundreds, for students it recruited to take the FYLSX for a fee paid to the State Bar for administration of the test.

d. Defendants State Bar and PCL knew or should have known and had sufficient evidence in their position to surmise that student recruitment and retention were not in comportment with the duty owed; and,

e. that a school with similar failure rates would likely fail as a matter of course in the active market.

2. The State Bar, from 2015 to present, allowed PCL to award 2/3rd of the statutory amount required to be given to students for 30 hours of lecture over a 10-week quarter period, i.e., 2 units were awarded for every 3 earned by the student.

3. State Bar policy as enacted exceeds the statutory authority of the Bar.

a. Plaintiff alleges that it is a per se violation of the Sherman Act, in that it violates Federal Statute and the consequence to the student consumer is that transfer to another institution will at the very least delay their graduation from a different institution that complies with the law and academic standards.

b. State Bar policy prevents an accepting institution to change the grades or units awarded in any fashion greater than correcting for differences in semester and quarter hours conversions.

i. Here, PCL in its operation of Enterprise P, awarded less units than Federal Statute allows for uniformity.

ii. Addressing Historic Defenses Under Federal Law

1. PCL and the State Bar will likely argue that because they did not accept Federal Aid or operate a program that was eligible for

Federal Aid during Plaintiff's attendance the law was not applicable to them.

2. State Bar will likely claim immunity pursuant to the State Action doctrine and the 80-year old ruling of the U.S. Supreme Court that California Supreme Court's Rules Regulating the Practice of Law are Entitled to Antitrust Immunity.

Unfortunately for the Defendants, the above arguments are not on point because the Legislature has defined the State Bar as a corporation, capable of raising or defending against cause. The State Bar

The U.S. Supreme Court has explained that the State Action doctrine immunizes from antitrust liability enactments of a state supreme court acting in its legislative capacity to regulate the practice of law. In Parker v. Brown (1943) 317 U.S. 341, the U.S. Supreme Court held that state authorities are immune from federal antitrust liability for actions taken pursuant to a clearly expressed state policy. Id. at 351 ["We find nothing in the language of the Sherman Act or in its history which suggests that its purpose was to restrain a state or its officers or agents from activities directed by its legislature."]. Although Parker v. Brown analyzed a legislative action, the U.S. Supreme Court later held that State Action immunity applies to policies enacted by a state supreme court acting in its legislative capacity to regulate the practice of law.

Likely a question to be answered by the trier-of-fact is whether the conduct of the Defendants comported not only to clearly expressed state policy.

3. The Interstate Commerce Act of 1887 clearly provides the right of Congress to regulate private corporations engaged in interstate commerce.

    a. PCL is a California not-for-profit corporation organized under California Law;

    b. The State Bar is a legislated constructive corporation, a not for profit entity, that can "sue or be sued";

As both PCL and the State Bar are corporations for the purposes of Federal and State Law, both are obliged to follow applicable statute.

There is nothing "exempting" or actionable as defense for either organization's mandatory compliance failures.

STATE BAR PROXIMATE AND ACTUAL CAUSE OF SUSTAINED INJURY

STATE BAR and operators of Enterprise S is the actual, proximate, substantial factor and prime mover of Plaintiff's constitutional injuries.

Because PCL was not only a market participant, but a KNOWN non-compliant market participant (see

But for the failure of the regulator in the sphere, the California State Bar through negligence, inchoate participation, and demonstrable active facilitation in cohort and furtherance of unlawful and unfair enterprise, the Plaintiff would not have suffered injury.

Here PCL will claim that its lack of participation in the Federal Financial Aid markets "expressly" preempts its need to comport its conduct to the aforementioned law.

Plaintiff responds that a question present in this circumstance that was not addressed in Parker v. Brown, that is:

4. Plaintiff counters that the fact that the program did not currently seek to participate in the aid programs does not allow it to shirk established Federal Law created, in part, to prevent the known issue

c. State Bar policy also prevents the repeat of courses for credit.

d. This combination of business practices allowed the school to recruit students to attend remotely from at least Arizona; these students would find similar issues to those in California, as legal academia has essentially standardized the unit granting approach.

e. The conduct above satisfies the definition of per se interstate commerce.

Therefore it is clear that PCL, and through inchoate and other culpable acts of its agents under "color of law" in their capacity as the sole monopoly regulators for law schools operating in the State of California.

4. With the foreseeable consequence that the State Bar and PCL knew and clearly intended the reduction, a negative incentive for consumers (law students) in the marketplace, and scheme of Enterprise P to continue.

   a. Here , the State Bar may claim negligence, or failure to adequately review or follow procedure. These "negligent" failures would still be violative of the APA and a variety of other laws and the State Bar would not be able to state any coherent policy related to how these wanton violations meet an express state policy objective.

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5. The Law School Student Transfer Marketplace is active interstate commerce, specially monitored through ABA 509 reporting.

6. Plaintiff has reason to believe that the State Bar, in another apparent grant of special monopoly exemption to PCL, has allowed PCL to engage in interstate commerce with

the full knowledge of both the institutions long standing issues as well as the State Bar Rule that Unaccredited Fixed Facility Schools intending to enter into interstate commerce must apply for and give notification of a major change,

Plaintiff asserts that this conduct results in per se illegal consequences because:

a. It functions as the grant, or attempted grant, of a monopoly power, for any enterprise that is allowed by its "vertical" monopoly regulator and market participant to shirk laws that are directly related to the lawful operations of the entity would more probably than not have a tendency to favor the market participant who is not held accountable.

b. This further appears as a likely per se violation and naked restraint of trade, as the California Legislature enacted the State Bar Act of 1927 with the express intent of protection of the public, no matter the COI.

i. There is no rational argument that supports per se unlawful conduct or wanton lawbreaking by the regulated entity as pro-competitive conduct, since the conduct since the conduct allows the regulated to anticipate non-interference and thereby ignore the regulator and its express rules.

ii. There is **no tenable or reasonable argument supporting a regulator**, here the vertical monopoly marketplace participant and regulatory rules maker and enforcement agency in the sphere to ignore the conduct **because** any such argument relies on the counterfactual that it is somehow in the interest of the Sovereign State of California or its citizens to:

a. Allow its Legislated institutions to decide their own purpose, no matter the original intent of the body responsible for its creation or the plain language reading of the instantiating statute; and,

b. Allow the entities the Legislature sought to protect the public from to remain uncontrolled and unaccountable, able to bend or break the law at will without fear of reprisal, protected by the "long shadow" of the State Bar.

Here, in the case of the Plaintiff, the State Bar has not only failed in its duties, it allows PCL to continue in its unlawful conduct, now under formal probation, without any evidence they ever intend to actually stop or rectify the circumstance, as the law and duty requires.

Here, not only can the Plaintiff not transfer without facing unfair and undue consequence because he has no reasonable path to obtain the degree he and his family have sacrificed and suffered egregious conduct to earn.

Is interference, disincentivizing or prevention of law student transfer "per se illegal" as a naked restraint of trade under the Sherman Act?

Preventing students for transfer is likely per se illegal and a naked restraint of trade under The Sherman Act.

In addition, Plaintiff has completed all mandatory substantive coursework and has sufficient unit/credit hours to meet all of the requirements; he simply has earned them earlier than the State Bar Act allows.

In addition, student has already completed the required course of study without violation of State Bar rule. Although PCL was fixed facility and required to offer the courses in four (4) years, the State Bar was award the school was not in compliance and, with knowledge, allowed the school to use the emergence COVID-19 distance learning approach under exemption.

iii. Evidence of a consistent pattern and practice exists, with no fewer than 50 and likely 100's of transcripts, issued by PCL and ratified (deemed compliant and accurate for the purposes of taking the First Year Law Student Exam, already in the hands of the State Bar Officers, Directors, and Agents.

iv. Plaintiff learned after he passed the FYLSX that he had been awarded two (2) units instead of the required three (3), contrary to both California statute and State Bar guidelines that require and render synonymous a quarter unit, defined as one unit for every 10 hours of lecture over the course of a quarter, which is the current time used by PCL.

v. The Bar charges each student a "registration fee" where they MUST register with the regulator as students. PCL recruited students that were not qualified to enter law school and had them pay fees under color of law or quasi-legislative rule.

vi. When grading issues were brought to the attention to the office of Admissions, State personnel failed to respond timely or communicate

with PCL in material form, also under the auspices of "color of law", with further conduct that failed to address the issues.

1. Conflicted Defendants in the employ or service of the State Bar failed to appropriately recuse themselves, opting to conduct in concerted fashion conduct in egregious "frustrate, intimidate, or demur" the plaintiff.

2. State Bar failed to act or comport its conduct or issue guidance to the institution in writing.

3. State Bar has also allowed the University of California, organized as a Constitutional Department responsible for the Trust, to set and enforce exclusionary policy in its regulatory sphere to the detriment of the States Citizens under the color of law.[27]

    a. Exclusionary rules facially conflict with common interpretation of law and public right of access (See Williams v. Wheeler: "Any resident of California, of the age of 14 years or upwards, of approved moral character, shall have the right to enter himself in the university as a

[27] In By the constitution of 1879 the University of California was raised to the dignity of a constitutional department or function of the state government, by the provisions of section 9 of article IX thereof, which read as follows:

"Sec. 9. The University of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the Organic Act creating the same passed March twenty-third 1868 (and the several acts amendatory thereof), subject only to such legislative control as may be necessary to insure compliance with the terms of its endowments and the proper investment and security of its funds."

student at large . . . on such terms as the board of regents may prescribe." Williams v. Wheeler, 23 Cal.App. 619, 622 (Cal. Ct. App. 1913)

b. Placement under limited regulatory authority and oversight because it is not required to seek funds from the Legislature.

vii. PCL began harassing the plaintiff, engaged in interfering and obstructive conduct designed to "render moot" the issues by depriving client the opportunity to graduate.

a. Plaintiff asserts and presents evidence to support that these acts were retributive and intended to "deprive plaintiff the minimum "benefit of the bargain";

7. The State Bar and PCL's conduct likely lacks pro-competitive benefit sufficient for justification.

State Bar will likely argue that its "patient and benevolent" forbearance with PCL and other Defendants was based on its struggling mission to increase "diversity in and access to the profession" from the underrepresented and underserved.

a. Here Plaintiff argues the State Bar and PCL have engaged in per se illegal conduct with no legitimate pro-competitive justifications, because the benefit of the proper bargain to the student consumer, i.e., the lawful and timely award of units and good faith performance of the contract was breach by the school, ultimately supported by the monopoly regulator and market participant the State Bar;

b. Plaintiff further argues that the expectation of support by PCL and Enterprise P operators as well as the STATE BAR's and Enterprise S operators admitted abrogation of their regulatory responsibilities a substantial factor in this students injury.

Defense 2: Joint venture to save money is a net public benefit.

Under the law, joint enterprise designed to and achieving maximum public benefit and enjoyment of the free marketplace is not conduct to be sanctioned, derided, or criminalized.

A "perfect monopoly", one that makes and distributes the widget for the lowest price a viable and sustainable market can bear IF there were other viable and truly independent producers would likely be completely legal, given no other special government or public interest to influence enforcement.

The State Bar and PCL may argue that they were, in fact, engaged in a "joint venture" and had not violated "Antitrust Laws. They will argue, amongst other equally untenable propositions that:

c. The joint venture did not involve any beneficial integration of operations that would save money or benefit the public. The joint venture mainly operated to collect funds from students, for unknown expenditures of the racketeering in the form of tuition for Enterprise P and various testing and vetting services for Enterprise S..

d. Here Plaintiff asserts upon reasonable belief and evidentiary support that the State Bar and its staff engaged in an effort to assist the private non-profit PCL retain those students it recruited that were capable of passing the First Year Law Student's Exam, and in fact did pass, from transferring, since it was also "more likely than not" that these students would be able to pass the State Bar exam for admission and professional licensure.

e. Here Plaintiff asserts on reasonable belief and evidence that disincentivizing and preventing transfer allowed for three unjust benefits to the State of California and a multitude of far reaching

f. In addition, when Bar offered alternative approach, where Barbri proctored attendance could be under school administration counted for the 270 hour "time in seat" requirement in September of 2022, Plaintiff reached out to Deborah Wasserman at Barbri and with their assistance coordinated a full schedule and

study plan which Plaintiff also paid at discounted rate due to his representation of Barbri at the school at the commencement of his 1L year.[28]

Defense 3: Policy implementation and enforcement selections are designed to maximize public benefit by deferring the high costs of public postsecondary education to those specific California citizens seeking education in the area and maintaining student access to Federal and State financial Aid programs.

1. **State Bar will likely be unable to demonstrate timely, thorough, and appropriate administrative review or other requirement necessary for due process and lawful application or enforcement. Consequently, evidence of the conduct and justification is the same as admission of misconduct and will not serve as a viable defense.**

The California Administrative Procedure Act ("CAPA")

"CAPA" Title 2, Division 3, Part 1, Chapters 3.5, 4, 4.5 and 5 of the Government Code of California ("GCC")

The California Administrative Procedure Act ("CAPA") is the law governing procedures for state administrative agencies to propose and issue regulations and provides for judicial review of agency adjudications and other final decisions in California.

g. Plaintiff asserts that student transfer in the academic marketplace is one of the main approaches used by student consumers to locate the best available

[28] As recently as February 10, 2023 Plaintiff has asked for administrative support in an effort to mitigate damages. No response has been provided for the reason to renege.

resources for their circumstances. To interfere with the timing of a student's right to "transfer" to any institution that would be a restraint of trade in the "micro" and is easily foreseeable as having a tendency to restrain trade in the aggregate (macro) as well.

8. The State Bar has acted with malice to oppress and deny Plaintiff remedy and support without substantive the individual Defendants negligence and malfeasance.

The State Bar Act establishes as the California State Bar as a corporation that serves as the sole designated monopoly regulator in the sphere of attorney discipline and law school regulation.

The California State Bar inchoate violations include:

1. Failure of the Office of General Counsel to recuse itself, as required by Judiciary Rule for Antitrust determinations where reasonable.

2. Failure from all members, directors, officers, agents of both the State Bar and PCL to respect legally binding "Demands of Preservation of Evidence" documents, although the legal basis was provided and the duty attached to take the appropriate steps necessary upon receipt and likely prior.

3. Incorporated by reference, EXHIBITS. :

The State Bar of California Request for Antitrust Determination THILL092622

EXHIBIT A-1 Summary Timeline.pdf

Moral Turpitude Of Defendants In Fraudulent Conveyance

Courts in other jurisdictions have similarly concluded that lawyers can violate disciplinary rules by facilitating fraudulent conveyances or fraudulently conveying property themselves. See, e.g., *In re* Morris, No. 11–O–13518, 2013 WL 6598701, at *1 (Cal.Bar Ct. Dec. 4, 2013) (unpublished opinion) (finding lawyer violated rule prohibiting moral turpitude, dishonesty, and corruption by assisting a client in creating promissory notes and recording deeds of trust to delay a creditor's collection of its judgment);

Here, in concerted effort

A. 03/14/22 – Enterprise P operators BOUFFARD and HCP issue an email to the Plaintiff demanding immediate payment of tuition or student will be blocked from further participation in classes. Defendants owed money to the Plaintiff at time the demand was made and they had constructive and express knowledge of that fact.

    a. constructive because they knew they had breached contract, duty, and law by failing to disclose and misrepresenting their pre-planned and actual unlawful unit award.

B. time which Defendants have failed to disgorge pursuant to State Bar Rules (discussed in greater detail in the section of this pleading requesting remedies).

    a. Extortion

    b. Conversion

Use or Investment of Proceeds from racketeering enterprise.

Here, Defendants and operators of both Enterprise S & Enterprise P will need to detail the expenses and the use of funds for student fees.

As discussed earlier, PCL has ignored each and every valid demand for documents or evidence preservation

Use of proceeds as evidence of conduct mitigators.

Here, it is PCL's Directors, Officers, and Administrators as well as the Enterprise P operators lack of use of proceeds to improve student outcomes which Plaintiff has personal experience and evidence to support as he was and remains the lawful Secretary of the Corporation.

Argument for assignment of criminal culpability public official misconduct.

Those entrusted to act on behalf of the public by sovereign agencies as employees or appointees undertake the highest conduct and duty standards:

The duties of public office demand the absolute loyalty and undivided, uncompromised allegiance of the individual that holds the office. (Thomson v. Call, supra,38 Cal.3d at p. 648; Stigall v. City of Taft (1962) 58 Cal.2d 565, 569 [25 Cal.Rptr. 441, 375 P.2d 289].) Yet it is recognized "'that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the Government.'" (Stigall v. City of Taft, supra,58 Cal.2d at p. 570, quoting United States v. Mississippi Valley Generating Co. (1961) 364 U.S. 520, 549-550 [5 L.Ed.2d 268, 288, 81 S.Ct. 294].) People v. Honig, 48 Cal.App.4th 289, 314 (Cal. Ct. App. 1996)

"In enacting the conflict-of-interest provisions the Legislature was not concerned with the technical terms and rules applicable to the making of contracts, but instead sought to establish rules governing the conduct of governmental officials. (Stigall v. City of Taft, supra, 58 Cal.2d at p. 569.) Accordingly, those provisions cannot be given a narrow and technical interpretation that would limit their scope and defeat the legislative purpose.") People v. Honig, 48 Cal.App.4th 289, 314 (Cal. Ct. App. 1996)

Requests for Declaratory Relief or Finding of Fact

Are Defendants and operators of Enterprise P and/or PCL culpable for operating a RICO-qualifying Enterprise?

Given the factual circumstances described earlier and the corresponding evidence, Plaintiff asserts that it is more probable than not the Defendants are engaged in multiple RICO-qualifying enterprises.

Are there Individual Defendants of PCL culpable for the conduct of Enterprise S?

Plaintiff earlier and throughout this document has discussed conspiracy and inchoate operation of horizontal and vertical market participants in unfair and unlawful conduct that has foreseeable injurious consequence to the public and was in fact responsible for Plaintiff's previous and ongoing injuries.

Thus Plaintiff ascribes culpability to all parties through permissive affirmative or omissive acts, where each and every party at varying times had constructive knowledge of the issues and failed to act in a manner consistent with halting the violative conduct or stopping the continuance of the presently tolling injury to the Plaintiff.

This requires showing of a "duty owed" to the Plaintiff.

Did Defendants owe a duty of "protection" or "intervention" to Plaintiff?

Here, since time immemorial, failure to act, when there is a known duty to act and the dutybound has the capacity to act, but fails to do so, is a culpable act.

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Are there any Individual Defendants of State Bar culpable for the conduct of Enterprise P?

Does Estoppel Lie for the State Bars Anticompetitive or other violative conduct

Generally, "[e]stoppel will not ordinarily lie against a governmental agency if the result will be the frustration of a strong public policy. (See City of Long Beach v. Mansell (1970) 3 Cal.3d 462, 493 [91 Cal.Rptr. 23, 476 P.2d 423]; County of San Diego v. Cal. Water etc. Co. (1947) 30 Cal.2d 817, 829-830 [186 P.2d 124, 175 A.L.R. 747]; Pettitt v. City of Fresno (1973) 34 Cal.App.3d 813, 819 [110 Cal.Rptr. 262].)

Plaintiff Petitions for Award of Juris Doctorate Degree

Plaintiff likely unfairly prejudiced in his pro se representation efforts by not having taken the Bar.

Given the inability to obtain or afford separate counsel or sit for the Bar Exam (offered only twice this year, February 24th 2023 and places Plaintiff at further disadvantage as the number and nature of defendants and the resources of the Sovereign, this "David v. Goliath" bout makes the original look fair.

Based on the facts presented, the circumstances related to the Plaintiff's ability to secure legal counsel due to both the nature of the issues and the parties, as well as the axiomatic and irrefutable record of the gross negligence, reckless disregard, and contempt for the law is systemic at the head of the organization, as it is here there is consistent and flagrant failure to construct policies mandated by the legislature or ordered by the Judiciary.

Plaintiff has performed.

Here, Plaintiff has clearly completed the requisite work and the totality of the institutions required and offered coursework. PCL has facially breached its statutory and contractual obligations in failing to provide HILL's Juris Doctorate

Here, Plaintiff asserts that he has, in fact, completed a requisite course of study as a full time student at PCL while suffering the insipid and reprehensible harms inflicted by the Defendants STATE BAR and its Enterprise Operators.

Plaintiff asserts Strong and Express Public Policies are Frustrated and Subverted by this conduct and asks for determination of facts:

2. The first Mandate, i.e., The State Bar Acts mandate of "Protection of the Public, no matter the COI". Here, State Bar's conduct appears to the lay person contrary to its statutory mandate and Plaintiff reiterates request for declaratory determination from this Court.

3. The Supreme Court and the State Bar do not share the same structure or legislative imperative, Plaintiff argues and requests declaratory determination if STATE BAR's current construct is inappropriate for "shared"

operations or interests; the State interest in a non-conflicted judiciary is likely a paramount interest of any entity with an interest in the rule of law; was the divestiture of it's former "trade and membership association" duties sufficient to allow for it to now, in fact, "police itself" and restore faith in its function?

4. In none of the cases relied on by petitioner for the proposition that estoppel will lie against a public agency was the frustration of a strong public policy placed in issue. (See CanfiHOLTON v. Prod (1977) 67 Cal.App.3d 722 [137 Cal.Rptr. 27]; Hartway v. State Board of Control (1976) 69 Cal.App.3d 502 [137 Cal.Rptr. 199]; Advance Medical Diagnostic Laboratories v. County of Los Angeles (1976) 58 Cal.App.3d 263 [129 Cal.Rptr. 723].) **Here, given what appears to be a novel circumstance, Plaintiff asks for special consideration and a specific statement of determination as to the facts.**

Plaintiff desires to fulfill voluntary service and restore PCL to lawful and compliant operation.

Plaintiff Hill asserts in good faith and candor that he is the only officer of the Corporation who has not failed in comporting conduct to duty and law, subject to the determination of the finder of fact.

Are Defendants and operators of Enterprise S and/or the State Bar culpable for operating a RICO-qualifying Enterprise?

Here, Plaintiff asks for a declaratory determination as a matter of fact and law.

Are Enterprise S and P culpable for retaliatory acts under labor law?

Here, Plaintiff asks for a declaratory determination as a matter of fact and law.

Are Enterprise S and P culpable for predicate and overt unlawful conduct?

Here, Plaintiff asks for a declaratory determination as a matter of fact and law.

Are Enterprise S and P culpable for interoperating separate and symbiotic RICO schemes?

Here, Plaintiff asks for a declaratory determination as a matter of fact and law.

Are Enterprise S and P culpable for interoperating separate and symbiotic RICO schemes.

Here, Plaintiff asks for a declaratory determination as a matter of fact and law.

Request for Declaratory Relief & Finding of Fact

Are Defendants here demonstrated to be "willfully blind" or otherwise culpable due to special relationship doctrine?

Here, Plaintiff asks for a declaratory determination as a matter of fact and law.

Did People's College of Law or the State Bar have a duty to act?

Here, Plaintiff asks for a declaratory determination as a matter of fact and law.

Did Defendants PCL and State Bar have affirmative duty to protect?

The Defendants will likely argue that PCL as a private entity is not capable of violating ones federal or state constitutional rights, as the California

Failure to enforce a state law, standing alone, is not a federal constitutional violation. "The Constitution generally does not require the state to 'protect the life, liberty, and property of its citizens against invasion by private actors.' [Citation.] Consequently, the state's failure to protect an individual from 'harms inflicted by persons not acting under color of law' will not ordinarily give rise to § 1983 liability. [Citation.]" (Shanks v. Dressel (9th Cir. 2008) 540 F.3d 1082, 1087, fn. omitted; see generally Castle Rock v. Gonzales (2005) 545 U.S. 748 [police failure to enforce protective order did not violate due process]; DeShaney v. Winnebago County Dept. of Social Services (1989) 489 U.S. 189 [failure to protect child from parent after abuse reports did not violate due process].)

Prado v. County of Riverside, No. E058796, at *10 (Cal. Ct. App. Nov. 17, 2014)

Plaintiff pleads IIED but is unclear on the conduct standard to be applied as threshold for egregiousness for purposes of liability assignment and damages mitigator.

In California, a plaintiff prevailing on a claim of intentional infliction of emotional distress must establish: "(1) extreme and outrageous conduct by the defendant with the intention of causing, or

reckless disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; and (3) actual and proximate causation of the emotional distress by the defendant's outrageous conduct." Hughes v. Pair, 46 Cal.4th 1035, 1050 (2009) (quotations omitted).

Austen v. Cnty. of L.A., No. 15-07372 DDP (FFMx), at *30 (C.D. Cal. Jan. 19, 2018)

Was the conduct willfully and sufficiently outrageous?

Did the conduct satisfy the requirements for a constitutional violation?

Plaintiff HILL answers in the affirmative that the Defendants conduct in violation of the Bane Act also rose to the level of a constitutional rights deprivation in arbitrary retaliation.

Are Enterprise S and P culpable for conspiracy?

Conspiracy is defined as an agreement between a group to perform an unlawful act, where the group is at least one person more than would be required to commit the wrongful act.

Here, through clear and compelling evidence including various exhibits, tables, correspondence including email communications and video, HILL believes he has shown more likely than not the parties were in cahoots in pursuit of unlawful ventures.

Are Enterprise S and P culpable for conversion?

Plaintiff alleges PCL and operators of Enterprise P of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692, et seq.

Plaintiff asserts that this conduct was facilitated under color of law and right by the STATE BAR and operators of Enterprise S in open conspiracy and inchoate fashion.

As Plaintiff has prior demonstrated the likelihood of conspiracy, through pleading, exhibits, and electronic communications both affirmative and inchoate actors in a scheme bear joint and several liability under tort for the reasonably foreseeable consequences of their actions.

Unfortunately for the Defendants, "bad luck" encounters with an "eggshell", i.e., special needs or circumstance victims that result in extraordinary damage to those individuals, are not excluded from recovery.

Principals, Directors, Officers & Members committed culpable acts against the public interest that shock the conscience.

Instead of simply correcting an error that could have possibly arisen from mere negligence, the STATE BAR sought to defend itself by frustrating and rendering futile the Plaintiff's efforts to seek relief, "doubling-down on the wrong" in the defense of their respective interoperation of an Enterprise venture or as capricious and arbitrary bullying, harassment, and oppression of their student charge and organizational director.

Disinformation and defamation are tactics used by both enterprises.

Defamation is the publication of information constructively or expressly known to be false and likely detrimental to the reputation or social standing of the subject. Verbal expression

is generally slander; if the false statements relate to a person's professional reputation it is slander per se. Written expressions are libel.

Media type can also be the source of distinction; non-recorded media, it generally is defined as defamation slander defamation by slander the use of verbal language in the recorded and Republican format.

The facts here lay out a clear pattern and practice where both operating Enterprises S & P both engaged in unlawful activity and sought to assist each other in a strategic and organized attempt to "quash" and silence Plaintiff, robbing him of remedy.

Harassment increased in intensity.

Plaintiff sent inquiry related to process requirements for change of units including noticing status as Secretary of the Corporation and the inquiry was formal.

PLAINTIFF RECEIVES A RESPONSE FROM THE STATE BAR AUTHORED BY LEONARD, including in cc: SPIRO and CMG, indicating that his request for information would not be processed after a telephone conversation and a follow-up email exchange with GONZALEZ.

LEONARD's conflict of interest required her recusal

The State Bar first adopted an internal Conflict of Interest policy in 2019.

SPIRO's conflict of interest required his recusal

Recently, the bar has developed and adopted a strategy for matters where it cannot appropriately offer reasonable defenses to allow the case to proceed through the courts receiving final judgment and adjudication, and then having the case dismissed on Eleventh Amendment grounds. No such maneuver should be allowed here.

After the case has been decided, and the plaintiff has been awarded damages, generally speaking in money, damage is remedying the bar, then uses the appeals process to attack the entire action. As specifically they need to pay money judgment based on 11th amendment sovereignty doctrine.

Here, plaintiff asserts the case is fundamentally different That unlike most other organizations, the California State Bar has its first mandate expressed as a "plain language" imperative; that is, Protection of the public highest priority. No matter the conflict of interest pursuant to section 6001.1 of the State bar act of 1927

001. Legislature has already waived, or is simply not applicable as a matter of law, Eleventh Amendment privilege in these matters congruent with the State Bar Act if the conduct meets the It's additional imperatives and mandates, as well as the rules and regulations in a bit adopted in quasi-legislative fashion by the sole monopoly regulator in a sphere of law school administration in the state of California next line

002. State bar has over the course of more than a decade attempted to obfuscate and abrogate its duties in ultra vires fashion hear the state bar committees, delegates directors officers, and Asians, systematically implemented policy sets that upon any reasonable or rational basis, likely fail to serve any positive or market pro-competitive issue.

Plaintiff Requests That the Court Grant Compensatory Damages.

Damages are the adjudicated measure of the plaintiff's injury generally awarded as currency.

a. Compensatory damages

"A plaintiff who establishes liability for deprivations of constitutional rights actionable under 42 U.S.C. § 1983 is entitled to recover compensatory damages for all injuries suffered as a consequence of those deprivations." Borunda v. Richmond, 885 F.2d 1384, 1389 (9th Cir. 1988); see also Smith v. Wade, 461 U.S. 30, 52 (1983) ("Compensatory damages … are mandatory."). The Supreme Court has held that "no compensatory damages [may] be awarded for violation of [a constitutional] right absent proof of actual injury." Memphis Cmty. Sch. Dist. v. Stachura, 477 U.S. 299, 308 (1986).

The Supreme Court has held that entitlement to compensatory damages in a civil rights action is not a matter of discretion:

Plaintiff Asks The Inclusion Of $750,000 To Be Put In Trust For The Same Purpose As The Original Purpose Of The Guild School Of Law.

Plaintiff asks that a constructive trust be put in place as an equitable remedy to preserve the integrity of the organization and to allow it to recover from the unlawful conduct of enterprise operators.

Defendants Acts Egregious and Calculated And Causing Emotional Distress

Words are not sufficient to show cause for a claim of intentional infliction of emotional distress

Plaintiff asks for punitive damages.

UNDER ITS FINDINGS IN THE AMOUNT OF $2.95 MILLION DOLLARS TO BE PUT IN TRUST FOR THE SAME PURPOSE AS THE ORIGINAL PURPOSE OF THE GUILD SCHOOL OF LAW.

The acts committed by the Defendants are alarming and meet the criteria for reprehensibility.

Defendants have admitted plans to “sell the building”, the school’s largest asset, for $3.2 Million Dollars (per PCL representatives during recorded State Bar Examiners Meeting that occurred December 2, 2022. This provides those who have operated in bad faith to benefit financially from their conduct, even if it is in an effort to obtain counsel for further unlawful and frivolous obstruction. (See EXHIBIT

Defendants should not profit nor hold positions of responsibility in the PCL institution and legal education service provision efforts.

The conduct, performed for profit by Enterprise P under the guise of nonprofit PCL corporation has been ongoing for years; the innumerable breaches of fiduciary and civil duties co-requisite with the tortious acts enumerated here cannot be adequately expressed in the few pages offered by this pleader.

The conduct was performed with the scienter of the parties, as is shown in the many email communications between Plaintiff and Defendants which show actual knowledge and preemptive lack of excuse.

In some cases, you will see that PCL's last known counsel and Dean Emeritus was so certain of the Support of the State Bar, he seemingly WAIVED privilege in the matter in writing.

But it is well established as a matter of professional responsibility and the law; attorney-client privilege does not attach for unlawful schemes performed in concert with counsel for that counsel's benefit, whatever that benefit may be.

Conduct is malicious if it coincides with ill will, or spite, or if it is for injuring the plaintiff. Conduct is in reckless disregard of the plaintiff's rights if, under the circumstances, it reflects complete indifference to the plaintiff's safety or rights, or if the defendant acts in the face of a perceived risk that its actions will violate the plaintiff's rights under federal law.

An act or omission is oppressive if the defendant injures or damages or otherwise violates the rights of the plaintiff with unnecessary harshness or severity, such as by misusing or

abusing authority or power or by exploiting some weakness or disability or misfortune of the plaintiff.

Plaintiff contends the likely criminal activities of the bad actors [a Los Angeles County Sheriff's Detective, Mr. Fletcher, under California Penal Code 932 found probable cause and issued a search warrant; here, where the standard is constructive and the conduct performed by sophisticated actors willfully and continuously with malice….attorneys, those with Juris Doctorates, and students in a legal program designed to confer a Juris Doctorate, licensees are Members of the Bar and not members of the public per of the State Bar Act].

California Penal Code 1528 — Issuance; magistrate satisfied as to grounds; formalities; command; duplicate original warrant. ("(a) If the magistrate is thereupon satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, he or she must issue a search warrant, signed by him or her with his or her name of office, to a peace officer in his or her county, commanding him or her forthwith to search the person or place named for the property or things or person or persons specified, and to retain the property or things in his or her custody subject to order of the court as provided by [California Penal Code] Section 1536."

Generally, where one would ordinarily expect to pay for the performance of a job but then the beneficiary of the bargain reneges, or at least "assumed it was out of the kindness of one's heart and cites recent financial woes." In this case, the work performed was garnered under "false pretenses, misrepresentation, and fraud.

The solution proposed here is not only within the mandate and authority of the court, it is all the more appealing because a "de novo" trust and trustee(s) as a "check and balance" for

Corporate compliance and responsibility without placing "undue burden" on the Court nor the need for long term oversight.

A critical path to this approach is to prevent manifest injustice, cloaked in "the false flag" of social advocacy, from ever recurring at the school while maximizing the support of the wonderful teachers, universally volunteer or solely receiving continuing education credits, and students.

PLAINTIFF ASKS FOR CONSEQUENTIAL DAMAGES

SUMMARY OF CLAIMS

The issues before the Bar include, but may not be limited to and thus plaintiff prays for patience to amend if found lacking:

WRIT OF MANDAMUS FOR THE ENFORCEMENT OF THE FINAL AND FULLY QUALIFIED DEMAND FOR PRODUCTION OF DOCUMENTS; PEOPLES COLLEGE OF LAW NEEDS TO PROVIDE MR. TODD HILL WITH THE MINUTES OF THEIR BOARD MEETINGS, THE ZOOM RECORDINGS INITIATED BY FORMER PRESIDENT CHRISTINA GONZALEZ IN HER FORMAL CAPACITY, AND THE ACCOUNTING BOOKS FOR THE ORGANIZATION.

Under

Here Plaintiff has under color of state law, member the college's Community Board and Secretary of the Corporation, issued a Demand for the Production of Documents on October 18, 2021 with all later notices required proffered timely . Generally, ten days is considered

a reasonable time, unless some attempt is made to make alternative arrangements or assert privilege.

Here, neither a suggestion for alternative arrangements nor a claim of privilege nor excuse has been made in response to Plaintiff's request. To date I have received nothing resembling an appropriate response to this demand. No response has been tendered.

REQUEST FOR RELIEF TO PREVENT FURTHER RETALIATION

California Code of Civil Procedure ("CCP") §527 governs temporary restraining orders in California. Plaintiff is unaware of what members of Enterprise P or Enterprise S are communicating during PCL's probationary period. Plaintiff has presented evidence suggesting that SPIRO and LEONARD function as the primary nexus between the institutions, although emails from GONZALES to LEONARD and GONZALES to HILL on

> Additionally, the rules for ex parte applications, including ex parte TROs, are set out in California Rule of Court ("CRC") 3.1150 and 3.1200–3.1207.

Plaintiff has shown good cause and met the appropriate burden for the issuance of an injunction to prevent the application of PCL Bylaws 16-16.6, PCL Student Handbook rules 1.1.13. & 1.1.14 or any internal processes that PCL may create, adopt, or engage in to subsequently eject, expel, or otherwise remove PLAINTIFF HILL from the institution as a student or PCL Board member.

Plaintiff asserts and presents clear evidence of unlawful ousting at the hands of Enterprise P. [EXHIBITS

PEOPLE'S COLLEGE OF LAW has set up a series of rules designed to punish or prevent Plaintiff from transfer or obtaining his degree.

Lack of timely regulatory intervention has left Plaintiff DEVOID of an educational institution or strategy to graduate.

'Todd Hill from the educational institution. On November 23, 2021, Student Handbook Rule 1.1.13 & 1.1.14 was created ultra vires by the PEOPLE'S COLLEGE OF LAW Board to retaliate against Todd & prevent him from giving notice to the STATE BAR, the monopoly regulator in the field, about PCL's lack of compliance.

Plaintiff reasonably believes based on personal experience that additional community members, including POPP and GONZALEZ of the PEOPLE'S COLLEGE OF LAW community have attempted to use the internal grievance system, and all have failed to issue a proper response.

Many of these rules plaintiff asserts PEOPLE'S COLLEGE OF LAW, its administrators, agents, officers, and directors have broken in a relentless attempt to harass, discredit and malign him into acquiescence. The rules reference "proper PEOPLE'S COLLEGE OF LAW channels", sham language meant to imply to outsiders that the school is run in accord with California law, the Colleges own student policies and bylaws, or to what would normally be considered by statute "the minimal standards of a postsecondary school."

PLAINTIFF SEEKS CRIMINAL REFERRAL AND DIRECT REFERRAL TO STATE BAR FOR DISCIPLINARY ACTION WHERE COURT FINDS SUFFICIENT CAUSE TO DO SO

Plaintiff's, as well as THE PEOPLE'S COLLEGE OF LAW as an entity, rights were criminally violated when, during a contentious Board meeting conducted via Zoom, after multiple prior warnings and a duty to refrain from conduct that raises the specter of liability, without notice or vote, decided to record the meeting.

Plaintiff makes no definitive assertion of motive, although plaintiff believes it was in an attempt to "trigger" the plaintiff to capture him in a false light to discredit Todd and continue the tortious scheme.

Defendants HCP, CMG, SPIRO with the aid and assistance of other Defendants, attempted justified their unlawful conduct with an attempt to "confuse" other Community members by claiming that:

(ii) Plaintiff "consented by staying on the call" because a "pop-up" announcement lets participants know that a participant has started a recording; that by staying on the call you agree to Zoom's "Terms of Service."

(iii) Defendants erroneously claim here that a "pop-up" that references consent to the "Terms of Service", even a cursory review of which

reveals a clear clearly prohibition of the Defendants conduct, as viable affirmative defense.

a. CMG, SPIRO, HCP, civil contract can absolve one of sovereign-imposed criminal culpability.

(iv) The use of defamatory statements and offensive rhetoric calculated to ”inform” the Membership that Plaintiff was acting in bad-faith, greed, or that I had a plan to graduate early and thereby I entered the school in Bad-Faith.

(v) and indicating that Plaintiff’s behavior justified the act.

(vi) Conspired to interfere with Plaintiff’s business relationships, notably his election to the Board, his reputation and relationships amongst his peers, defamation and lies made to the State Bar and the State Superior Court.

For this conduct Defendants cannot offer non frivolous defense because criminal conduct in response to legal conduct is never justified.

Criminal culpability is non-delegable under the law governing civil contract.

The gist of the misinformation by SPIRO and CMG, experienced attorneys, and HCP, an individual with a J.D. relates to the separation between civil and criminal doctrine, or that civil contracts with third-parties cannot be used to delegate sovereign-assigned criminal culpability.

In an effort to defend the indefensible, not only did they misrepresent the facts to the Community but to the newly entering 1L cohort. Law school officers have a duty to obey the law and adequately communicate the law; to intentionally misrepresent the facts creates the real possibility that one of our students repeats similar behavior to others.

People's College of Law might argue that it is every individual's responsibility to know the law as circumstance may bring about the need for application and it is reasonably foreseeable that the law may have changed or that the information you received was incorrect.

People's College of Law acted irresponsibly, as did Christina, Ira, and Hector.

ARGUMENT FOR APPROPRIATENESS OF SUMMARY ADJUDICATION

Plaintiff's required showings for Declaratory Relief.

The grounds for a cause of action for declaratory relief are codified in Code of Civil Procedure § 1060, which provides in part as follows: Any person interested under a written instrument, . . . or under a contract, or who desires a declaration of his or her rights or duties of 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 . . . 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 and duties, whether further relief is or could be claimed 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. Code of Civil Procedure § 1060 (emphasis added). Code of Civil Procedure § 1062 specifically provides that declaratory relief is a cumulative remedy, which does not restrict any other remedy to which the party may be entitled, nor preclude any additional relief based on the same facts. Code of Civil Procedure § 1062; see also Venice Town Council, Inc. v. City of Los Angeles, supra, 47 Cal.App.4th at 1565-66 (although cause of action for declaratory relief was potentially cumulative to other relief, allegations were sufficient to entitle plaintiffs to relief); Californians for Native Salmon and Steelhead Association v. Department of Forestry, supra, 221 Cal.App.3d at 1429 (declaratory relief is a cumulative remedy). There is essentially only one element to a declaratory relief cause of action – "the existence of an actual, present controversy over a proper subject." Californians for Native Salmon and Steelhead Association, supra, 221 Cal.App.3d at 1426, citing 5 Witkin, Cal. Procedure (3d ed. 1985), Pleading, §811.

The standard courts apply in determining whether declaratory relief is appropriate was summarized in Redwood Coast Watersheds Alliance v. State Board of Forestry & Fire Prot., 70 Cal.App.4th 962 (1999): The standard for the granting of declaratory relief is well established. '[T]he controversy must be of a character which admits of specific and conclusive relief by judgment within the field of judicial determination, as distinguished from an advisory opinion upon a particular or hypothetical state of facts. The judgment must decree, and not suggest, what the parties may or may not do.' Id. at 968, quoting Zetterberg v. State Dept. of Pub. Health, 43 Cal.App.3d 657, 661-662 (1974).

"Declaratory relief must be granted when the facts justifying that course are sufficiently alleged. Any doubt should be resolved in favor of granting declaratory relief." Venice Town Council, Inc., supra, 47 Cal.App.4th at 1565; Californians for Native Salmon, supra, 221 Cal.App.3d at 1427 (declaratory relief must be granted when the facts justifying relief are sufficiently alleged; "any doubt should be resolved in favor of granting declaratory relief").

Declaratory relief is an equitable remedy and is "'unusual in that it may be brought to determine and declare rights before any actual invasion of those rights has occurred.'" Californians for Native Salmon, 221 Cal.App.3d at 1426 (citations omitted).

It is well-established that "[a] controversy over an interpretation of a statute, and the duties that statute imposes, is a proper basis for a declaratory relief claim." Redwood Coast Watersheds Alliance, supra, 70 Cal.App.4th at 969. See also Venice Town Council, 47 Cal.App.4th at 1566 ("The proper interpretation of a statute is a particularly appropriate subject for judicial resolution."); Californians for Native Salmon, 221 Cal.App.3d at 1426 ("Declaratory relief is appropriate to obtain judicial clarification of the parties' rights and obligations under applicable law."). The interpretation of rights and duties under a contract is also a proper subject for declaratory relief. Code Civ. Proc. § 1060; S. California Edison Co. v. Superior Court, 37 Cal.App.4th 839, 846-47 (1995). **A declaratory relief cause of action may be properly resolved on a motion for summary adjudication.** S. California Edison Co. v. Superior Court, supra, 37 Cal.App.4th at 846. That the cause of action raises the same issues that are involved in other causes of action does not bar summary adjudication. Id., at 846-47. (***Emphasis added***.)

Plaintiff submits proof of contract and full performance in good faith.

Plaintiff submits proof $16,800 was paid and credited, sufficient for the entire first 3 years of PLAINTIFF's attendance. [See EXHIBIT PMT 2 - PCL Presented Record All Transactions 031722.pdf]

The above amount does not reflect an additional $1800 for three (3) years of fraudulently obtained service hours, reneged payment in 2022 by PCL for a 2019 labor contract for $600 for brief employment, and nearly 200 hours spent in "volunteer service" for systems installations, including MS Teams Integration and training for all students and faculty apparently reversed in "bad faith" and an attempt to create justification and false defense for reprehensible conduct.

Plaintiff is entitled to his degree under the *common law right of fair procedure*.[29]

[29] This right has its origin in James v. Marinship Corp., supra, 25 Cal.2d 721, and was developed in what has come to be called the Marinship-Pinsker or Marinship-Pinsker-Ezekial-Potvin line of cases. The cases concern exclusion or expulsion from membership in a gatekeeper organization, such as a labor union, and hold that "the right to practice a lawful trade or profession is sufficiently `fundamental' to require substantial protection against arbitrary administrative interference, either by government [citations] or by a private entity [citation]." ( Ezekial v. Winkley (1977) 20 Cal.3d 267, 272 [ 142 Cal.Rptr. 418, 572 P.2d 32].) When the right applies, "the decisionmaking `must be both substantively rational and procedurally fair.'" (Potvin v. Metropolitan Life Ins. Co. (2000) 22 Cal.4th 1060, 1066 [95 Cal.Rptr.2d 496, 997 P.2d 1153] (Potvin).)

The Supreme Court has explained: "In Marinship, we held that a labor union, because of its ability to exclude all nonmembers from employment in a particular trade, assumed legal responsibilities beyond those which were applicable to other private organizations such as social clubs [and] concluded that the union's possession of this power entitled applicants for membership, under the common law, to judicial protection against arbitrary exclusion on the basis of race. [Citation.] Since Marinship, California courts, in a variety of circumstances, have recognized the effect which exclusion from member ship in a private organization exerts upon a person's right to pursue a particular profession or calling. Thus, subsequent California decisions have not only expanded judicial review of labor union membership policies [citations], but also have applied the Marinship principle to the admission practices of professional societies, membership in which is practical prerequisite to pursuit of a medical or dental specialty [citations], and to access by practicing physicians to staff privileges in private hospitals [citations]." (Ezekial v. Winkley, supra, 20 Cal.3d at pp. 271-272.)

Yari v. Producers Guild of America, Inc., 161 Cal.App.4th 172, 176-77 (Cal. Ct. App. 2008)

This "right applies only to private decisions which can effectively deprive an individual of the ability to practice a trade or profession. (Ezekial v. Winkley, supra, 20 Cal.3d at p. 273.)" Yari v. Producers Guild of America, Inc., 161 Cal.App.4th 172 (Cal. Ct. App. 2008)

Plaintiff has completed the requisite four (4) years of coursework in (3) years and PCL repudiated and breached the contract; furthermore in December 2022, STATE BAR placed PCL on probation, ostensibly subsuming PCL's duties and obligations under the direct mandate of the monopoly regulator in the field.

State Bar maintains that, under statute, Plaintiff must complete an additional 270 hours pursuant to the State Bar Acts Legislative mandate; no particular or additional coursework is required.

34 CFR § 668.8 under Title IV of the Higher Education Act defines the eligibility requirements for educational programs to participate in federal student aid programs. In order for a program to be considered eligible, it must be at least an equivalent of a one-year program of study and provide training for gainful employment in a recognized occupation.

However, the regulation in 34 CFR § 600.2 specifies the definition of credit hours and how they must be determined in order to meet the eligibility criteria set forth in 34 CFR § 668.8. The regulation requires that credit hours be determined based on the amount of time a student is expected to spend on coursework, including time spent in class and on course-related activities outside of class.

If the student fees in question do not comply with the credit hour requirements outlined in 34 CFR § 600.2, they may be considered ultra vires, or outside the scope of authority, as they are not following the federal regulations governing the administration of student aid. This could result in the fees being deemed ineligible for federal student aid and potentially subjecting the educational institution to fines or other penalties.

Plaintiff asserts that both Defendants STATE BAR and operators of Enterprise S have constructive and express knowledge that this position is bankrupt BECAUSE:

1. Plaintiff has previously asserted that the STATE BAR has not been able to demonstrate that it has complied with due process review requirements per the APA, CAPA, and the common law for any of its decisions in this matter.
    a. Plaintiff asserts that CBPC §6001.1 heightens the applicable standard of care and HILL ask for consideration as mitigator militate in favor of grant of this and other equitable requests for remedy and relief.
    b. Because STATE BAR's mandate is protection of the public as the Highest Priority regardless of the conflict of interest, it cannot tenably reconcile that mandate with deprivation of my degree based on a "lower priority" mandate of the same statute.
    c. STATE BAR acts in continuous and tolling bad faith, has adopted a capricious "refusal to deal" posture supporting the arbitrary and complete abrogation of the duties owed to Plaintiff HILL specifically as an INDIVIDUAL, and has done so as an entity en masse at the

Executive and Board of Trustee levels in excess of two hundred 200 days;

d. In the alternative, the STATE BAR has yet to demonstrate treatment of another student in same or similar circumstance, i.e., unfair unit award, unfair interference with transfer or attempts to mitigate damages, no assistance even after placement of PCL on probation, et cetera., when the matter mandate related to the school's required length of offering, suppression of complaints, and misrepresentations.

e. Plaintiff has demonstrated using exhibits including STATE BAR issued documents and email showing prima facie of lack of compliance, e.g., shows the failure of due process as EXHIBIT AD - 3 Antitrust Determination_1.20.23 THILLSPEC.pdf - a true and exact copy of the digital file received from the Office of General Counsel's ("OGC")- **because** it demonstrates that the office of the OGC failed to follow its own conflict of interest protocols, which require the OGC to recuse itself in matters where it is expressly named.

f. In addition, the response fails the "signature" test for accountability; issued initially by RANDOLPH as the Secretary for the Office, the actual document purportedly sent to the Supreme Court is unsigned.

g. HERE ALSO ARISES VIOLATION OF CAL. GOV. CODE § 1090; not only did the OGC not voluntarily adopt a position of recusal,

neither did WILSON, DURAN, KRAMER, CARDONA, HOLTON, DAVYTYAN, CHEN, or any Enterprise S operator with privity to the facts. Licensees have a duty to avoid the perception of impropriety by not engaging in conduct that reeks of it.[30]

2. No substantive review means the STATE BAR failed to provide due process.

   a. As discussed earlier, the STATE BAR has been able to avoid intrusive oversight from the non-Judiciary.

   b. Plaintiff asserts on reasonable belief and STATE BAR's own third-party report, pending clarification during discovery that STATE BAR staff

   Because it has not performed such review considering the circumstances, a complete lack of wrongdoing by the HILL's

[30] The duties of public office demand the absolute loyalty and undivided, uncompromised allegiance of the individual that holds the office. (*Thomson* v. *Call, supra,* 38 Cal.3d at p. 648; *Stigall* v. *City of Taft* (1962) 58 Cal.2d 565, 569 [25 Cal.Rptr. 441, 375 P.2d 289].) Yet it is recognized "'that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the Government.'" (*Stigall* v. *City of Taft, supra,* 58 Cal.2d at p. 570, quoting *United States* v. *Mississippi Valley Generating Co.* (1961) 364 U.S. 520, 549-550 [5 L.Ed.2d 268, 288, 81 S.Ct. 294].) Consequently, our conflict-of-interest statutes are concerned with what might have happened rather than merely what actually happened. (*Ibid.*) They are aimed at eliminating temptation, avoiding the appearance of impropriety, and assuring the government of the officer's undivided and uncompromised allegiance. (*Thomson* v. *Call, supra,* 38 Cal.3d at p. 648.) Their objective "is to remove or limit the *possibility* of any personal influence, either directly or indirectly which might bear on an official's decision. . . ." (*Stigall* v. *City of Taft, supra,* 58 Cal.2d at p. 569, italics in original; see also *People* v. *Vallerga* (1977) 67 Cal.App.3d 847, 865 [136 Cal.Rptr. 429]; *People* v. *Watson* (1971) 15 Cal.App.3d 28, 39 [92 Cal.Rptr. 860].)

People v. Honig, 48 Cal.App.4th 289, 314 (Cal. Ct. App. 1996)

innocence and good faith in the matter, the integrity required to pursue the cause, the misconduct of the parties, the COVID 19 operations exemptions that allowed fixed-facility to teach online.

3. conflates a Legislative rational basis application with mandate to the Judicial Branch that cannot coherently adopt it because it violates the Federal HEA, which specifically sets the standard for the credit hour.

Justification for credit hour use as violative of the Takings Clause

rule under statutory mandate that schools not Accredited by the State Bar or

The Defendants for reasons unknown seek to deprive the Plaintiff of his earned degree.

Defendants are in breach of contract and numerous duties.

PCL's probationary status leaves the State Bar the sole authority to empower PCL's ability to grant degrees.

Plaintiff requests issuance of a writ of mandamus compelling the award of the degree correlating to the date of student's last class taken at PCL in the Summer 2022.

Did HCP, SPIRO, CMG, and the other members of the Board have a duty?

Plaintiff asserts the defendants, whether employee or volunteer, were assigned similar duties of the fiduciary.

All members had a duty to inquire pursuant to statute.

Some members had a duty to inform.

Plaintiff has explained that consent was never granted, but if there remains a question it is for the "trier of fact" to resolve.

Plaintiff argues that under current California statute, Plaintiff 's complaint satisfies all of the requirements for both criminal privacy violation and the Court's requirement to grant movant the civil remedy(ies) made available to civil plaintiffs, in that, during a meeting of distinct and private membership to join the Board, without asking, Christina Gonzalez elected to record the Boards conversation, without authority or any express request for consent; when Plaintiff objected, he was bullied and unlawfully ejected from the call, a blatant interference with his duties and obligations, as well as exposing him to UNKNOWN liabilities.

Clear and compelling evidence shows a strong pattern of bad-faith activities.

Specific actors in this context include, but at this time it is unknown by the plaintiff if they are limited to:

1. HCP, speaking in meetings and conversations to defame the plaintiff, silence the plaintiff, extort and convert the plaintiff's time, directing others to engage in the same or supportive acts and secure labor and technical expertise via bad-faith and predatory business practices.

2. HCP participated in the unlawful ousting of Todd Hill from his duly elected and authorized position on the Board of Directors and Secretary of the Corporation, by libel and trick.

3. Plaintiff has reasonable cause and evidentiary support to believe that PRS has used the control functions he has access to for Zoom to interrupt and interfere with his class attendance within a week of this pleading. During the Winter and Spring of 2021 and 2022, PRS actively engaged in bullying and harassing behavior.

4. SPIRO has worked in concert with CMG, HCP, CDP, GSBS to marginalize, suppress and silence those students with complaints or questions related to real issues and has apparently worked tacitly and overtly with NL in mutual support of the continued interoperation of Enterprise P and Enterprise S.

   a. NL has in her position as Principal Program Analyst for Admissions has acted as a gatekeeper to both continuance for those required to take the FYLSX as well as those who go on to take the Bar Exam as a prerequisite for licensure.

   b. NL in numerous predicate acts, has buried, altered, destroyed, or otherwise failed to publicate Plaintiff's public commentary and pleas for assistance in excess of twenty (24) months or more the SEVEN HUNDRED AND THIRTY (730) DAYS at time of this writing. (see EXHIBIT R4)

   c. Plaintiff asserts NL has been permitted, allowed, abetted, and solicited in the above with the assistance of her immediate Supervisor, AUC and higher level executive staff and Board Members.

d. Plaintiff asserts there is evidence in the State Bar's possession demonstrative that Admissions Staff at the State Bar have engaged in conduct designed to frustrate and mute the publication of student grievances, in this case conduct maintaining the "status quo" for the predatory mill PEOPLE'S COLLEGE OF LAW has now become.

   i. Here, PCL's former Dean Juan Sarinana ("JMS", SARINANA) has answered no student inquiry, nor has he apparently performed any of his duties related to this matter from Plaintiff's perspective.

   ii. Here, PCL's Dean selection TORRES "replacing" SARINANA, with a person who was implicated by students Nancy Popp and Scott Bell as improperly attempting to unlawfully influence PCL's election of the Board.

   iii. The current Dean POMPOSA has not returned a call nor email, although she Plaintiff reasonably believes. POMPOSA is also aware of the "ultra vires" and unlawful comport of the current PCL Board of Directors.

Under the STATE BAR guidelines applicable to PEOPLE'S COLLEGE OF LAW, a competent Dean with sufficient time to deal with issues, including student grievances, is a requirement for compliance. Failure to act when one has a duty to do so remains culpable conduct.

The "new" Dean, Ms. POMPOSO, has apparently engaged in a campaign of "willful blindness"; blocked emails and failure to return Plaintiff's reasonable calls, despite a duty

to do so given her position, job function at the school and the timing and requirement for immediate cure.

STATE BAR has openly allowed PCL to breach it's duties to ALL of its former students, yet PCL is still allowed to operate today without even the slightest attempt to cure the breach.

Plaintiff states the above specific claims and acts against Defendants to establish particularity; it is not intended as "complete" list of culpable acts, and Plaintiff reserves the right to amend as additional facts become available.

In addition, and as iterated elsewhere, all Defendants stand in violation of a lawfully issued Demand for the production of documents; if not in their individual possession, Defendants still had a duty to make best effort to provide the documents. There is no evidence before the Plaintiff that conveys any actual, good faith, effort to produce documents, even in the case in which Defendants have a duty to do so.

Sham Language Used to Conceal Deceit

Sham language, e.g., "proper channels" or a referral to an ineffectual "committee" with as few as 1 ineffectual member is consistently used to imply that the administration has disciplinary and other protective measures, when as a pattern and practice it has in reality deceptively solicited "work" from students or "underpaid and overworked" registrars (who must by Cal Bar policy have Juris Doctorates) who are inevitably harassed until they are silenced or "run out of town" when they realize that the administration is, in fact, corrupt.

Pattern And Practice of Harassment Obscures Non-Existent Student Protections

On 3/15/2022, Defendants BOUFFARD, HCP, and PRS worked in unison for unknown motive to impede Plaintiff's efforts to help bring the institution into compliance.

Defendants, counter to law, school policy, and any sense of decency, withheld transcripts requested by the Bar to assess how much "credit" they would give Plaintiff for Plaintiff's education, including for non-payment of tuition and a retroactive change where they would withhold the transcripts waiting for payment, which is also unlawful in this context. so long that the Bar was unable to make a timely decision in "making its determination"

Defendants will likely argue the difficulty of "operating a volunteer organization with only one employee" to deflect from taking a deeper dive into the circumstances of management and operation of the organization itself.

Whatever the excuse, it is inadequate; the conduct here breaches faith, duty, law, and decency.

A College Without A Student Grievance is Likely Without Students.

Rule 4.200 authorizes by law The Committee of Bar Examiners ("the Committee") is authorized by law to register, oversee, and regulate unaccredited law schools in California.

adopted effective January 1, 2008.

Rule 4.201 What these rules are

(A) A law school conducting business in California must register with the Committee

and comply with these rules and other applicable law unless otherwise exempt.

(B) These rules have been approved by the Committee and adopted by the Board of Trustees as part of the Rules of the State Bar of California and may be amended in accordance with State Bar rules.

(C) These rules do not apply to law schools accredited by the Committee, law schools approved by the American Bar Association, paralegal programs, undergraduate legal degree programs, or other legal studies programs that do not lead to a professional degree in law. The appropriate legal entity must approve such programs, even if they are offered by an accredited, approved, or registered law school or an institution of which it is a part.

Rule 4.201 adopted effective January 1, 2008; amended effective January 1, 2012.

EVIDENCE PLAUISIBLY SUPPORTS A PATTERN AND PRACTICE OF HARASSMENT?

For the reasons discussed below, Plaintiff asserts that Defendants, in the interest of continuing their respective and interoperating Enterprises, engaged in a standard approach designed to remove and ostracize problem persons.

PEOPLE'S COLLEGE OF LAW has a long history of student grievance, arising to the level of legal filing; most recently a claim related to election "shenanigans" ended in a dismissal and settlement. Many defendants of that case in which they supported fair

elections conducted in accord with the Bylaws of the Corporation are defendants here culpable for conduct they would likely once claim to abhor.

On May 5, 2021, Kevin Clinton informed Christina Gonzalez upon her request, the President from January 17- November 14, 2021, the root of his conflict with the Dean of PEOPLE'S COLLEGE OF LAW at the time, Ira Spiro. Christina offered mediation, which Kevin knew was an explicit student handbook 2.1 remedy and presumed that she had taken the information and accepted it as a formal grievance. Kevin rejected the remedy and chose student handbook remedy 2.8 (Formal Censure) or 2.11 (Monetary penalty). Upon this request, Christina ceased speaking to Kevin on the matter and told him to file a grievance. Kevin interpreted this action as burying the grievance and that as President she gave an offer to establish a grievance process and upon not getting the answer, she wanted refused to carry it forward to the PEOPLE'S COLLEGE OF LAW Board. This grievance was about ongoing harassment Kevin received after Kevin prevented Ira from fixing and meddling in the PEOPLE'S COLLEGE OF LAW Board election of 2020.

On July 17, 2021, Kevin Clinton filed a grievance against Hector Pena (HCP), the current PEOPLE'S COLLEGE OF LAW president, and to this day has yet to receive response, notice, other affirmative action or follow up. This grievance was related to retaliation faced from Hector Pena after Kevin prevented HCP from fixing the PEOPLE'S COLLEGE OF LAW Board election of 2020, HCP's violation of student privacy where HCP asked about a student's romantic status because her partner transferred out of PEOPLE'S COLLEGE OF LAW, and ongoing harassment by HCP of Kevin Clinton within the PEOPLE'S COLLEGE OF LAW community. Most recently, Kevin was notified by the non-elected PEOPLE'S COLLEGE OF LAW Board member Prem Sarin, that the

PEOPLE'S COLLEGE OF LAW board was having conversations about him with student board members in violation of student privacy policy, Student Handbook XVI.

The above performed in execution or support of the following misconduct by the Defendants:

CONSPIRACY; FRAUD; MISREPRESENTATION; UNFAIR BUSINESS PRACTICES AND ACTS IN VIOLATION OF THE UNFAIR COMPETITION LAW (UCL) AND FRAUD; BREACH OF CONTRACT; NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS; INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; CONVERSION; EXTORTION; BAD-FAITH.

The standard applicable to the Enterprise P Defendants here is constructive, in that they:

1. Knew or should have known that school was out of compliance.

In fact, plaintiff exhibits demonstrate definitive proof of this knowledge and awareness of the Defendants and are further evidenced by the collusion to hide this fact by current and former members of the Administration, including CMG, SPIRO, HCP and JMS.

2. Knew or should have known the school cannot charge fees in non-compliant status.

Defendants also had a duty to report issues re noncompliance to Board Members, students and those entities for which statute imposes a notice or other reporting requirement, including, but not limited to Director's and Officer's Insurance, Mandatory notices to Students and Cal Bar.

Defendants failed to comport their conduct with their Fiduciary and other Statutory obligations, by failing in their duty to inform for deceit, and later to hold captive the students they had a duty to educate and protect; intentionally interfering with Plaintiff's statutory and fiduciary obligations to make inquiry and investigate issues that arise and appear worthy of further investigation; libel and defamation in public communications implying that Plaintiff "does not have the same values as PEOPLE'S COLLEGE OF LAW" or that Plaintiff's behavior in meetings was "out of control" or other "gaslighting" statements , often false, or outright lies.

In addition, Defendants were aware of their duty and chose another path, most likely unlawful, but de minimus deceptive.

3. Created contracts and collected fees anyway. Most recently an additional, factually insupportable, demand for $1866.00. When asked for verification and proof of debt, the organization responded with and executed the threat of blockage from classes.

Here, law students are required to attend 80% of classes, for PCL, which maintains a 10-week quarter system, students by rule must attend 8 of 10 classes to receive credit for the class. Even were one to "ace the final", if they miss three classes in a course they must "retake the course."

PCL's stated mission is to focus on legal access to "underrepresented" communities; members of these communities tend to be at greater risk from even the unsophisticated; here, when a person fell behind on their payments they were offered a "payment contract" under terms defined to give the contract the legal appearance of a "four-corners" de novo contract.

It would be difficult, at best, to fight parol evidence doctrine for any aggrieved plaintiff. Plaintiff asserts this practice was unconscionable. Given the likely higher standard applied to the actors here, as attorneys, juris doctors

But use of the contracts as leverage was key here; a contract was another tool to keep students "locked in", ensuring Board approval required you to be in the good graces of the Defendants.

a. PEOPLE'S COLLEGE OF LAW barred from **Production of "Account":**

Under California Code of Civil Procedure section 454, "[i]t is not necessary for a party to set forth in a pleading the items of an account alleged, but he must deliver to the adverse party, within ten days after a demand in writing, a copy of the account, or be precluded from giving evidence.

The court or judge may order a new account when the one delivered is too general, or is defective in any particular."

PCL, its Officers, Directors and Defendants made unlawful demand for payment, as a pattern and practice in the course of operating its Enterprise P racket, under extortive circumstances and explicit protest. Plaintiff paid to Defendants the sum of $7,934.00 out of fear and the need to "mitigate" damages by trying to graduate.

5. Installed a "poison pill" to illegally retain students that successfully passed the FYLSX, issuing two units for classes that EVERY OTHER institution in the State awards 3 units for; 1/3 the units results in the net loss of credits they should have earned; in addition, other institutions set a "minimum number of units" for degree qualification; obviously,

a PEOPLE'S COLLEGE OF LAW student receiving 2/3rd the units for the "equivalent coursework" is unfair, unconscionable, and illegal.

a. Here, LEONARD, SPIRO, HCP and CMP worked in concert to prevent change in the awards practice;

b.

5. Recruited students, board members, and officers of the Corporation without disclosing the material differences in the units awarded.

5. Defendants lied, misrepresented, obstructed and otherwise attempted to confuse and confuse those whom they have likely victimized.

6. Defendants targeted, bullied, harassed, threatened, gaslighted, and defamed and other when convenient to the pursuit of unlawful, and likely criminal, purpose.

7. In abject defiance to Defendant's fiduciary responsibilities and duty of loyalty, Defendant's have filed a fraudulent Statement of Information to the Secretary of State, failed to hold fair elections consistent with the mandates of the Bylaws and the, allowing corporate officers to expel duly elected board members without due process.

8. Then, when students fell behind they had to sign a contract, avoiding some of their rights but, of likely greater import to the Defendants, adding another layer of obfuscation to their unconscionable conduct.

9. The "Administration" of PEOPLE'S COLLEGE OF LAW persists in direct violation of duty and law, knowing they are caught, compounding the lawlessness, lack of remorse and

willingness to attack their own students who bring lawful complaints in good faith to flee in avoidance of further and future damages resulting from consequences of their misconduct.

10. Extorted moneys known to be in dispute, then further attempted to extort moneys they knew or should have known was not due.

College President, Hector Pena, Treasurer David Bouffard and Secretary Prem Sarin, Ira Spiro, Christina Gonzalez, Josh Gillens, and other Community Members and Members of the Community Board had constructive notice of the facts, and worked in determined and concerted fashion,

Because a civil quorum voting to engage in unlawful conduct cannot exculpate the individual from any corporate or personal liability for the foreseeable consequences of such acts conducted in Bad-Faith, Plaintiff re-asserts earlier supposition that all parties named in the complaint bear some culpability for their action or, where duty demanded otherwise, inaction.

A. Cali. Civ. Code 19 states, “Every person who has actual notice of circumstances sufficient to put a prudent person upon inquiry as to a particular fact has constructive notice of the fact itself in all cases in which, by prosecuting such inquiry, he or she might have learned that fact.”

Ca. Civ. Code § 19

PEOPLE’S COLLEGE OF LAW, its agents, directors, and officers were all aware that plaintiffs demand for an accounting went unanswered; no effort was made to give an

accounting beyond detailing the "bank balances", which for auditory purpose is useless and fails to meet the statutorily required records production plain language interpretation.

All Defendant's had duties of good faith, business judgement, and the fiduciary

All Named Parties Had A Duty To Inquire

All parties had a duty to inquire together with any other statutorily assigned obligations attached to their roles. Under the California Corporations Code ("CCC"), the board of directors "exercises, or directs the exercise of, all corporate powers, subject to member approval where required." (Code §§5120, 7210, 9210)

Generally, the authority of the board is tempered by the fact that all decisions are made collectively by all members of the board. In addition, all decisions of the members of the board are made considering four primary fiduciary duties owed by all directors to the organizations they serve. Those duties are as follows: (1) the duty of care; (2) the duty of inquiry; (3) the duty of loyalty; and (4) the duty to follow investment standards.

I. The Duty of Care.

The standard of conduct for directors of nonprofit public benefit corporations is set forth in Code §5231(a), which provides as follows: "A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best

interests of the corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances."

II. Duty of Inquiry Avoids Willful Blindness

California Business & Professions Code §5231states that a "director must

The director's obligation to make reasonable inquiry comes from California Business & Professions Code §5231. This duty provides that directors cannot "close their eyes "to the activities of the organization and, if they are put on notice by the presence of suspicious circumstances, they may be required to make such reasonable inquiry as an ordinarily prudent person would make under similar circumstances. In fulfilling their duty of inquiry, directors may obtain the services of and rely upon opinions, reports or other information prepared or presented by any of the following:

One or more officers or employees of the corporation whom the directors believe to be reliable and competent in the matters presented;

Counsel, independent accountants, or other persons on matters which the director believes to be within such person's professional or expert competence; and

A committee of the board upon which the director does not serve, as to matters within the committee's designated authority, which committee the director believes to merit confidence. If a director has a reason to doubt information that he/she is being supplied, the director owes a fiduciary duty to inquire further into those matters. Such duty may be

exercised by the board through the retention of experts to assist the directors in verifying the information supplied, obtaining additional information, and analyzing the matters to which the information pertains.

III. Duty of Loyalty.

Directors must act in a manner that they believe to be in the best interest of the corporation. (Code §§5231, 7231, 9241) Where the organization does not have a membership that is served by the organization, the directors must strive to advance the organization's charitable purposes. The duty of loyalty includes a duty to avoid conflicts of interest between the directors individually and the corporation.

IV. Duty to Follow Investment Standards.

This fiduciary duty applies to investment assets held by public benefit corporations, the assets of which are held in charitable trust. Code §5240 sets forth the following applicable standards:

Avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the probable safety of the corporation's capital;

Comply with additional standards, if any, imposed by the corporation's articles, bylaws, or the express terms of an instrument or agreement pursuant to which the assets were contributed to the corporation;

V. Duty of Due Care and Reasonable Inquiry

In carrying out their investment duties, a director must comply with the duties of due care and reasonable inquiry, may rely upon others, and may delegate its investment powers as permitted by Code §5210.

Compliance requires:

4. The avoidance of speculation

In addition to the duties mentioned above, directors of applicable organizations are obligated to use funds and assets, including but not limited to endowment funds, in accordance with the provisions of the Uniform Prudent Management of Institutional Funds Act ("UPMIFA"). (California Probate Code §§18501-18510)

For example, cases have arisen (Enron) where the majority of the Board was accused of fraud; the duty is so defined that concerted activity by a Board does not relieve any individual Board Member of the individual duties defined below.

As discussed earlier, capricious acts in this circumstance are likely predicate acts in relationship to RICO and antitrust statutes.

Both Enterprise P and S, and the institutions operating them, utilize misrepresentations of fact, capriciously asserted definitions that fail to capture the facts, and simple obtuse obstinacy to a void compliance of their duty and the law.

It was likely here that all parties could have corrected these issues if negligence was the issue; here all Defendants have overtly endeavored to continue the status quo and toll the unlawful conduct.

Overt Predicate Acts And Actors

I. All overt acts meeting the definition of racketeering activity shown from 2015-2022 were overtly in favor of Enterprise P, taking from Plaintiff or others in his suspect class, using Enterprise S combined with deliberate misstatements of material facts about the operational practices of defendants as being bound by oaths of attorneys or as being public protectors and their superior knowledge of the (criminal or civil) statutes, or their lack of applicability due to a statutory immunity grant for non-profit officers, a "grant of powers" only available through an antitrust violative monopoly regulator.

II. Specifically, some among Enterprise P and Enterprise S, have knowingly permitted and failed to stop ongoing egregious and unlawful conduct for a protracted period, specifically:

i) Enterprise P, including PCL actors SPIRO, GONZALES, PENA, BOUFFARD, ANTONIO use reprehensible conduct to misrepresent the law, disrupt, file, compromise, extort, defame, obstruct, and frustrate any attempt to correct or seek remedy for their conduct predicate and in furtherance of a Racket, Enterprise S and State Bar Actors including the office of the CTC, GC, ED, as well as individual staffers LEONARD, WILSON, HOPE, CHING, DAVTYAN, CARDOZO,

KRASILNIKOFF, RANDOLPH, NUNEZ and appointees or non-employee directors and officers including DURAN, WILSON, DAVYTYAN, HAILYN CHEN, Supreme Court Appointee, Attorney Member; JOSÉ CISNEROS, Governor Appointee, Public Member; JUAN DE LA CRUZ, Assembly Appointee, Public Member; GREGORY E. KNOLL, Senate Appointee, Attorney Member; MELANIE M. SHELBY, Governor Appointee, Public Member; ARNOLD SOWELL JR., Senate Appointee, Public Member; MARK W. TONEY, PH.D., Governor Appointee, Public Member.

ii) Enterprise P conduct includes use of email and electronic funds demands to extort funds from Plaintiff and likely others for conversion and use in their enterprise.

(1) Here,

iii) Enterprise P has recruited "fee paying" students for Enterprise S, and then relied on Enterprise S to assist it by persisting in unlawful conduct designed to "frustrate" the Plaintiff and leave him aggrieved without substantive recourse or access to his statutory and constitutional rights to seek fair remedy in accord with due process.

Communications Invoked Under the Duty Of Inquiry Are Official Communications.

One should not have to argue the statutorily axiomatic: if a Board Member suspects that the information, they are receiving is not correct, they have a duty to inquire.

This would have been easily resolved had Nathalie chosen to confirm your memorialization. Since she has not chosen to do so on more than one occassion, it begs the question, does it not?

Public Comment Policy Infringes Plaintiff's 1st Amendment Rights

Public Comment Policy Infringes on Plaintiff's "Fourth Estate" Opportunity

An unfettered media plural or "free press" is commonly considered to serve the following public interests:

5. It serves as a check on the "balance of powers"; as a public protective to publicly call out "ultra vires" or malfeasant activities as well as publicize information in the "public interest."

6.

Public Comment Policy more likely than not to render "Protection of the Public" less efficient

Defendant Preys On A Class Individuals

Here, defendants recruit students to be members of the corporation by fraud and misrepresentation including failure to disclose material facts including, but not limited to, non-standard and unlawful unit awards; claims to operate as a "social justice school" when in reality this sham is used by the administration to obtain free services from students that pay, grants, donations, commercial services and labor.

Cal. Civ. Code 1711: One who practices a deceit with intent to defraud the public, or a particular class of persons, is deemed to have intended to defraud every individual in that class, who is misled by the deceit.

PCL and state bar successfully conspired to restrain trade and did restrain trade.

Here, the Defendant's actively facilitated the recruitment and matriculation of students with the express intent to take unlawful advantage of lack of substantive oversight to give students the vast majority of whom (estimated at > 92%) defendants know will never move beyond their first year due to the challenges of the First Year Law School Exam.

Defendants withheld material information from the students, including the unlawful and unconscionable unit award criteria that fundamentally deprives the student of the statutorily mandated "benefit of the bargain", i.e., express requirements for unit awards,

Ca. Civ. Code § 1712

PCL and State Bar are aware that prevention of transfer decreases likelihood of student Bar Transfer, as they have access to, express or constructive knowledge of this information as

metrics tracked by the American Bar Associations mandated use of AB509 as well as the Bar's licensing and proprietary information related to Bar Passage.

In

Defendant Modus Operandi Violates Core Public Policy

Conduct discussed above and below by the Defendants as they failed to disclose material facts, including an unlawful unit awards standards that violates California law and the Cal Bar guidelines regulating the school, lack of compliance with documentation and reporting requirements, and sham processes laden throughout the student handbook that provide great detail but no actual resources are available for their application.

Cal. Civ. Code § 1770

"From the enactment of the State Bar Act in 1927, this court has made use of the assistance afforded by the State Bar to enable it more effectively to process disciplinary matters-and to handle its additional workload as well. In In re Walker (1948) 32 Cal.2d 488 [196 P.2d 882], we acknowledged that "this court obviously has the same powers which it previously possessed independently to entertain disciplinary proceedings despite possible duplication between such proceedings and others instituted before [t]he State Bar." (Id. at p. 490.) Nevertheless, relying on the existence of the bar's disciplinary system, we explained that "we are of the view that as a matter of policy this court should not exercise those powers unless and until the accuser has followed the normal procedure by first invoking the disciplinary power of [t]he State Bar." (In re Attorney Discipline)

Plaintiff believes the "flaw" here lies in the presumption that the "normal procedure" will be appropriately followed without the appropriate level of oversight, which the ruling maintains is an issue due to resources. Plaintiff here refers to his prior requests for determination of antitrust, where policy required recusal by the Office of General Counsel, headed at the time of these incidents by DAVTYAN. Both responses were issued unsigned on the General Counsels masthead.

There appears no evidence that the GC recused nor that the CTC's office, or any Enterprise S operator, made any attempt to aid the Plaintiff or intervene when during this period all Defendants were on notice.

It is clear that "normal procedure" for issues in the sphere are either never adopted or adequately applied. The State Bar has been unable to provide any evidence of Constitutional review being performed on any of its core Statutory Policies or mandates; both Enterprise P and operators still communicate, operate, and enforce unlawful underground rule.

It also fails to fairly consider the corrupt enterprise or what is necessary to maintain integrity not yet earned by the State Bar.

Request(S) For Equitable Relief

Plaintiff seeks the following for the circumstances and causes of action discussed throughout, above and below:

Specific Performance 1: Grant of Juris Doctoral Degree

Because STATE BAR's and PCL's conduct was not in compliance with professional standards and regulations prior to his matriculation, Plaintiff argues appropriateness of Juris Doctorate degree grant based on quantum meruit.

the plaintiff has completed all coursework and attended as a full-time student, despite the fact that the institution can only offer a four-year program as a part-time educational facility?

The key issue in this case is whether the plaintiff has completed all coursework and attended as a full-time student, despite the fact that the institution can only offer a four-year program as a part-time educational facility.

The fact that the school's grant of units was unlawful is likely a mitigating factor in favor of the plaintiff, as it suggests that the school's conduct was not in compliance with the regulations set forth by the State Bar and the State Bar Act of 1937. However, this alone may not be sufficient to grant the plaintiff's degree.

The plaintiff provides plausible, reliable, and verifiable evidence demonstrating that the school's conduct was fraudulent and that the defendants engaged in illegal conduct, such as violating the California Business and Professions Code, antitrust laws and committing fraud. This would indicate that the defendants' actions were not in compliance with professional standards and regulations, which could support the plaintiff's argument that he should receive his degree.

The State Bar's disregard for its own rules and procedures has resulted in the erosion of the public's trust in the legal profession and its ability to regulate itself

The plaintiff can demonstrate that the completion of all required coursework and attended as a full-time student, despite the school's unlawful grant of units. Thus the plaintiff has fulfilled all of the requirements necessary to receive the degree, despite the school's noncompliance with regulations.

Another mitigator is the harm done to the Plaintiff in the unnecessary and inequitable delay of the grant, which may also infringe on Plaintiff's rights to due process under the principle of latches, given the axiomatic difficulty of finding counsel willing or able to take on cases of this type and the Plaintiff's likely difficulty in finding an attorney of "equal skill or experience" in this area given the nature of the entities involved.

Injunction 1: Preliminary Relief To Preserve The Status Quo

Plaintiff requests the following:

Each defendant be restrained from instituting any action against the plaintiff for the purposes of retaliation, imputation of stain, or as merely "strategic" litigation common to other individual plaintiff, multiple defendants, the majority in possession of advanced legal knowledge or attorney licensure.

The defendants be compelled to disgorge moneys paid to PCL.

Specific performance as the mere disgorgement of moneys would be a true injustice to likely any Plaintiff in similar circumstance, given the time, loss of consortium, the profound nature of the Defendants breaches of conduct, law, ethos, and for many, solemn oath.

The defendants settle among themselves their rights to the property and that the plaintiff be discharged from all liability.

Injunction 2:

The court grant any further relief as may be just and proper under the circumstances of this case.

California Code of Civil Procedure ("CCP") §527 governs temporary restraining orders in California.

The rules for ex parte applications, including ex parte TROs, are set out in California Rule of Court ("CRC") 3.1150 and 3.1200–3.1207. The California Code and California Rules of

Court are available at the Law Library in several annotated (includes summaries of cases interpreting the laws) print versions and on the Internet at the California State Legislature's website in unannotated form.

An injunction restraining Defendants, its members, agents and any and all confederates from continuing any strike or personal attack against plaintiff, from interfering in any manner, directly or indirectly, with plaintiffs studies or engaging in the business of plaintiff, from causing or permitting its members, officers, or others acting in concert or part with them, including any and all persons, unions, associations, groups or bodies, teachers and/or students from interfering in any manner, directly or indirectly, with the business, goodwill, name or reputation of plaintiff, from attempting to take any action which may negatively influence and/or impede any efforts to transfer or otherwise resolve academic issues of the plaintiff resulting from the conduct stated in the cause, from attempting to coerce, threaten or intimidate any colleagues or peer students of plaintiff (1) employer or member of plaintiff organizations (2) the California State Bar, association, or to attempt to persuade said employees or members or any of them, to join defendant or any other in non-meritorious cause of action.

Plaintiff requests that Defendants are prohibited from intitiating or continuing unlawful conduct to the Plaintiff's detriment but even those which, either by statute or otherwise, have come to be recognized as "lawful" activities now suspect due to the consequents of the Defendants conduct.

As indicated above, PEOPLE'S COLLEGE OF LAW "Board Members" and administrators have acted in hoc modo ultra vires.

The legislative history for section 527.6 states that, under prior law, " ‘a victim of harassment [could] bring a tort action based either on invasion of privacy or on intentional infliction of emotional distress. Where great or irreparable injury [was] threatened, such victim [could] obtain an injunction under procedures detailed in [section] 527(a).’ " (Smith v. Silvey (1983) 149 Cal.App.3d 400, 405, 197 Cal.Rptr. 15.) In comparison, section 527.6 " ‘would establish an expedited procedure for enjoining acts of "harassment," as defined, including the use of temporary restraining orders . [Section 527.6] would make it a misdemeanor to violate the injunction and ... provide[s] for the transmittal of information on the TRO or injunction to law enforcement agencies. [¶] The purpose of the [statute] is to provide quick relief to harassed persons.’ " (Smith, supra , at p. 405, 197 Cal.Rptr. 15.)

Plaintiff petitions here for injunction until final disposition of this matter.

Prohibition Against Encumbering Or Disposition Of Assets

Under

Plaintiff petitions here for injunction until final disposition of this matter the transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the plaintiff, a court-appointed trustee or an order of the court, except in the usual course of business or for the basic necessities of daily operation.

Plaintiff is the legally authorized Secretary of the Corporation. Even if Plaintiff lawfully ousted, plaintiff claims interests to protect.

Injunctive Relief Requests Strictly Limited To Future Harms.

The quick, injunctive relief provided by section 527.6 "lies only to prevent threatened injury"—that is, future wrongs. (Scripps Health v. Marin (1999) 72 Cal.App.4th 324, 332, 85 Cal.Rptr.2d 86 (Scripps Health).) The injunctive relief is not intended to punish the restrained party for past acts of harassment. (Ibid. ; see Russell v. Douvan (2003) 112 Cal.App.4th 399, 403, 5 Cal.Rptr.3d 137.)

Here, Plaintiff will suffer from not being provided the services that not only have been paid for but were paid for under false pretenses. Plaintiff should not suffer any delays in his studies due to the Defendant's misdeeds; the loss of time and family companionship that repetition entails could not otherwise be remedied by monetary damages.

Plaintiff will also suffer loss of time, money, emotional distress, the advantages to memory that proximity of learning material to the date of examination provides. Given the circumstances here the plea for order and "preservation of the status quo" is both reasonable and justified.

To provide quick relief, "[a] request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court." (§ 527.6, subd. (e).) If a request is submitted too late in the day for effective review, the temporary restraining order must be granted or denied the next business day. (Ibid.) Subject to the provisions governing continuances, a hearing on the petition shall be held "[w]ithin 21 days, or, if good cause appears to the court, 25 days from

the date that a petition for a temporary order is granted or denied." (§ 527.6, subd. (g) ; see § 527.6, subds. (o), (p) [continuances].)

Here

It is important that the following special circumstances be illuminated for the court; criminal complaint made by petitioner as to the following conduct, attributable specifically to the parties indicated:

Plaintiff's Burden Of Proof Standard Is "Clear And Convincing Evidence."

Plaintiff presents overwhelming evidence to meet the required standard of proof.

A " '[b]urden of proof' means the obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact or the court." (Evid. Code, § 115.) "The burden of proof may require a party to ... establish the existence or nonexistence of a fact by a preponderance of the evidence, by clear and convincing proof, or by proof beyond a reasonable doubt." (Ibid .) The standard of proof that applies to a particular determination serves "to instruct the fact finder concerning the degree of confidence our society deems necessary in the correctness of factual conclusions for a particular type of adjudication, to allocate the risk of error between the litigants, and to indicate the relative importance attached to the ultimate decision."

(Conservatorship of Wendland (2001) 26 Cal.4th 519, 546, 110 Cal.Rptr.2d 412, 28 P.3d 151 (Wendland); see also In re Winship (1970) 397 U.S. 358, 369-373, 90 S.Ct. 1068, 25 L.Ed.2d 368 (conc. opn. of Harlan, J.).)

" Measured by the certainty each demands, the standard of proof known as clear and convincing evidence — which requires proof making the existence of a fact highly probable — falls between the "more likely than not" standard commonly referred to as a preponderance of the evidence and the more rigorous standard of proof beyond a reasonable doubt."

Plaintiff further asks that any acts that are clearly designed to shield assets of the corporation for the purposes of evasion be declared *void ab initio* as well.

T.B. v. O.B. (In re O.B.), 9 Cal.5th 989 (Cal. 2020)

T.B. v. O.B. (In re O.B.), 9 Cal.5th 989, 998-99 (Cal. 2020) ("The standard of proof known as clear and convincing evidence demands a degree of certainty greater than that involved with the preponderance standard, but less than what is required by the standard of proof beyond a reasonable doubt. This intermediate standard "requires a finding of high probability." (In re Angelia P. , supra , 28 Cal.3d at p. 919, 171 Cal.Rptr. 637, 623 P.2d 198 ; see also CACI No. 201 ["Certain facts must be proved by clear and convincing evidence .... This means the party must persuade you that it is highly probable that the fact is true"].) One commentator has explicated, "The precise meaning of 'clear and convincing proof' does not lend itself readily to definition. It is, in reality, a question of how strongly the minds of the trier or triers of fact must be convinced that the facts are as contended by the proponent. ... Where clear and convincing proof is required, the proponent must

convince the jury or judge, as the case may be, that it is highly probable that the facts which he asserts are true. He must do more than show that the facts are probably true." (Comment, Evidence: Clear and Convincing Proof: Appellate Review (1944) 32 Cal . L.Rev. 74, 75.) ")

Treatment of action as filing of lis pendens.

Plaintiff's assertions and cause ofaction involve damage claims requesting specific performance, money damages, and restitution.

Defendants have noticed intent of land and property sale, specifically the sale of the building at 660 Bonnie Brae, Los Angeles, CA.

Here, Plaintiff asserts that this sale would simply allow the Defendants to profit from their unlawful contract and "performance" practices.

Plaintiffs also record lis pendens in connection with claims for money, when the money is ostensibly tied up in real estate. These claims ask the court to avoid fraudulent transfers or impose a constructive trust on real property to effect restitution.

When the complaint alone provided constructive notice to third parties, lis pendens disputes were between a successful plaintiff and a third-party purchaser. See, e.g., Hoyt v. Am. Traders, Inc., 301 Or 599 (1986); Land Assocs., Inc. v. Becker, 294 Or 308 (1982). Now that plaintiffs must record a separate notice, the paradigm has shifted. Title searches reveal lis pendens and potential buyers walk away. A lis pendens "effectively renders title unmarketable" until the litigation is resolved. Pierce v. Francis, 194 P3d 505 (Colo App 2008). Plaintiffs therefore may use lis pendens to pressure defendants to settle simply to remove the cloud of title on their property.

Defendants should not be allowed execute any changes in ownership until the case has been adjudicated on the merits.

Preliminary Relief To Preserve The Status Quo Not Deterministic Of Prevailing Party

Per Smith v. Thomas, 687 F.2d 113 (5th Cir. 1982), granting of preliminary relief for the purposes of maintaining the status quo rejects "any notion that prevailing party status is indexed by the label of the order . Instead, the answer to the question of who has prevailed is best obtained by focus upon the achievements of the suit's prosecution juxtaposed to its central purpose, at whatever stage of the suit the inquiry is made. A three-judge court of this circuit, convened in a voting rights case, has plowed similar terrain. We are persuaded by its reasoning:

It is necessary to distinguish between two forms of interim or preliminary relief. On the one hand, interim relief can serve as, or be predicated upon, an adjudication on the merits. Thus, in Williams v. Alioto, [625 F.2d 845, 847-8 (9th Cir. 1980), cert denied, [450] U.S. [1012], 101 S.Ct. 1723 [68 L.Ed.2d 213] (1981)], the district court entered a preliminary injunction enjoining certain police investigative procedures. Although defendants never had the opportunity to appeal the injunction because the case was mooted by the investigation's completion, see [450] U.S. [1012], 101 S.Ct. 1723, 68 L.Ed.2d 213 (1981) (dissent by Justices Rehnquist and White to denial of certiorari), the Court of Appeals, in awarding attorney's fees, noted that the district court had found the investigative procedures to be unconstitutional; plaintiffs had obtained a determination on the merits. 625 F.2d at 847-48. On the other hand, interim relief may be no more than a means for a court to mitigate or forestall injury until it can rule on the merits. This distinction was made plain in Bly v. McLeod, [605 F.2d 134 (4th Cir. 1979), cert. denied, 445 U.S. 928, 100 S.Ct. 1315, 63 L.Ed.2d 761 (1980)], in which the district court entered a temporary restraining order allowing plaintiffs to vote in a primary election. The case was soon thereafter mooted by legislative amendment. In denying plaintiffs their attorney's fees, the Court of Appeals observed that the TRO "was in no way a determination on the merits," but merely prevented irreparable harm. 605 F.2d at 137.

In Hanrahan v. Hampton, 446 U.S. 754, 759, 100 S.Ct. 1987, 1990, 64 L.Ed.2d 670 (1979), the Supreme Court in referring to ". . . determinations [that] may affect the disposition on the merits, but were themselves not matters on which a party could `prevail' for purposes of shifting his counsel fees to the opposing party under § 1988 . . ." cited Bly v. McLeod, 605 F.2d 134, 137 (4th Cir. 1979).

Davis v. City of Ennis, 520 F. Supp. 262, 265-66 (N.D.Tex. 1981).

Perpetual Relief To Prevent Future Harm From Prior Bad-Faith Activities

Here, Plaintiff asserts that the court can offer judgments that bestow perpetual relief for this, and any other party, who finds themselves in similar position and circumstance.

To wit, under this category Plaintiff requests the court to:

Void Ab Initio Ultra Vires Acts Of The Board Taken After Plaintiff's Unlawful Treatment And Ousting

- Election violation failure to adhere duties: CPC §5231 Director duty to serve in good faith and best interest of org.
- Hector Pena files or causes to be filed factually incorrect information on or about 12/3/2021.
- **Violation of PC 115 (Felony)**: against the law to publish false info to the Sovereign.
- Board members are duty bound to faithful execution of the Bylaws per CPC §5210, §7210,§ 7213,§9210.
- Unlawful acts by Enterprise P includes (unfair business practice) failure to adhere to the Corporate Bylaws; failure to
- Filing of false "Statement of Information" to the California Secretary of States office, supported by the "Board of Directors", executed by HCP, PMS, and BOUFFARD.

Void Ab Initio The Statement Of Information Filed On Or About 12/3/21

Here, on or about 12/3/21, Hector Pena, Prem Sarin, and David Bouffard, along with DOES 1-100, filed a fraudulent Statement of Information with the Secretary of State indicating that Hector was CEO, Prem was Secretary, and David was Treasurer; as iterated supra, no such action was authorized by statue nor Bylaws.

INTENTIONAL WRONGDOING

Generally, intentional wrongdoing is defined as means an act or omission taken or omitted by a Party with knowledge or intent that injury or damage could reasonably be expected to result.

Here, Defendants knew the damage was inevitable and executed policies and performed acts in furtherance of their unlawful conduct.

How easy would it have been to simply correct the course unit awards? Why allow that to lead to this cause of action?

It matters not the motive n this case; the conduct outlined throughout this pleader is sufficient to show intentionality.

Plaintiff Has Made Best Effort To Resolve This Matter Amicably

California State Bar (including direct communications with Leah Wilson, the Bar's current Executive Director) , Bureau of Post-Secondary Education, the Los Angeles County Sherriff's Department ("LASD")(which issued a search warrant under a matter described infra) and the Department of Justice (informally via AG Matt Rodriguez).

Except for the warrant issued by LASD, all have declined to act based on statutory or interest conflict of interest ("COI") grounds.

Discussion Of Statutory Grant Of Immunity For Non-Profit Directors

Generally, pursuant to the California Corporations Code Article 3, "Standards of Conduct" 5239, directors and officers of non-profit corporations enjoy the privilege of complete and total immunity for their "good faith" activities.

In its response to petitioner jurisdiction, PEOPLE'S COLLEGE OF LAW will likely contend that (1) it enjoys statutory immunity from plaintiff's causes of action; this is not the case.

Unfortunately for the Defendants, common-law and the California Tort Claims Act (CTCA) does not waive immunity for acts conducted in Bad-Faith.; as a matter of statute and common law precede, tortious breach, i.e., breach of conract

Plaintiff's ultra vires claim against PEOPLE'S COLLEGE OF LAW and its Directors and Officers is viable because Plaintiff claims acts, including statutory or other liability criminal violations, which fall outside the exercise of the official discretion of <u>any</u> private corporation or joint venture.

Did PCL or <u>Enterprise P</u> engage in unlawful recording as defined in CPC § 632.7?

HILL argues that Defendants conduct likely violated law and Plaintiff's rights.

As earlier discussed and referenced in EXHIBIT A-1 Summary Timeline, CMG on or about 6/202 began to engage in unlawful conduct.

Because CMG is a licensee and member of the Bar, under CRPC Rule 1.7, CMG is required to obey the law and is barred and estopped from claiming ignorance as defense or mitigation.

Plaintiff asserts that CMG engaged in this conduct on multiple occasions after being formally noticed and informally advised.

Summary of the timeline of events:

- 7/2021. Todd gives verbal notice at board meetings about the rules around recordings of boards.
- 09/06/21 – Robert Skeels, Esq., volunteer Contracts instructor and school alum issues via email [EXHIBIT UI -1 units issue memo to PCL Board RDS .pdf]
- 10/19/2021: Todd emails Christina about the violation of recording of PCL Board meeting [See Exhibit C]
- 10/24/2021: Todd's email PCL board his 2nd request for video recordings
- 11/5/2021: Todd emails PCL Board his request for video recordings,
- 11/15/2021: Todd emails PCL Board his final demand for video recordings, financial records, & PCL Board minutes [See Exhibit D]
- 12/31/21: PCL Administration and Operators of Enterprise P still award 2 units.; the State Bar and Operators of Enterprise S continue refusal to substantively respond or intervene

April 21, 2021 decision in California's Supreme Court ruled unanimously that the state's prohibition on recording calls without consent applies to parties on the call and not just third-party eavesdroppers. Writing for the Court, Chief Justice Tani G. Cantil-Sakauye wrote that California's penal code "prohibits parties as well as nonparties from intentionally recording a communication transmitted between a cellular or cordless phone and another device without the consent of all parties to the communication."

For reference, the relevant language of the statute:

Penal Code § 632.7 (2017)

(b) This section shall not apply to any of the following:

(1) Any public utility engaged in the business of providing communications services and facilities, or to the officers, employees, or agents thereof, where the acts otherwise prohibited are for the purpose of construction, maintenance, conduct, or operation of the services and facilities of the public utility.

(2) The use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of the public utility.

(3) Any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(c) As used in this section, each of the following terms have the following meaning:

(1) "Cellular radio telephone" means a wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular radio telephones.

(2) "Cordless telephone" means a two-way, low power communication system consisting of two parts, a "base" unit which connects to the public switched telephone network and a handset or "remote" unit, that are connected by a radio link and authorized by the Federal Communications Commission to operate in the frequency bandwidths reserved for cordless telephones.

(3) "Communication" includes, but is not limited to, communications transmitted by voice, data, or image, including facsimile.

(Amended by Stats. 1993, Ch. 536, Sec. 1. Effective September 27, 1993.)

A Person Cannot Waive (Via Consent) a Right They Do Not Possess in rem

There are three ways consent WAS NOT GRANTED in this case:

1. California is an all-party consent state. A nonprofit corporation must get board approval -- and sometimes member approval as well -- before taking important actions or making key decisions. No vote or express written unanimous consent in this context means no consent.

Thus, I maintain that the issues here are criminal and not civil; corporations are not afforded criminal protection and the conduct here is egregious. Not once. Not twice. Three times, at least two of which she explicitly knew or was told it was culpable conduct.

Please understand; I did not report it the first or second time, although we discussed the issue to no avail. I am reporting for the third time. I believe that is far more than statute requires for patience and indulgence.

It is common knowledge if not sense; members of the public cannot waive nor impede the performance of the statutorily imposed duties or obligations of sovereign agents.

A crime committed against the unwitting is still a crime!

Privacy violation does not require the knowledge of the injured party

Every victim need not be aware. PC 632 does not require physical or economic "injury" for civil liability or criminal culpability.

NO PRIOR CONSENT REQUESTED OR GAINED FROM ANY PARTY ON THE VIDEO CALL

The meeting was in session for a long period of time, and no one asked or thought to record until there was contention.

GONZALEZ did not ask or inquire PRIOR to hitting the record button. She also did not, in disregard of her roles as President and fiduciary, call for a vote to gain consent of the corporation, a person and third party with interests the Board was there to inherently protect.

Elements of PC § 632 appear satisfied

The additional elements, including the use of an electronic device (computer), intent to record (specific act) reasonable expectation of confidentiality (Board Meeting with specific members; not public, not government).

Prohibited Uses Per Zoom's "Terms of Service" supports "Impossibility of Consent":

Plaintiff here demonstrates that Zoom's express prohibition of the alleged conduct rendered any implication that the conduct could be consented to impossible to non-frivolously argue; thus no consent can be implied as coverage by the appearance of a consent box.[31]

At the time of the alleged misconduct, the online terms of service for Zoom used broad language in sections (iii) and (iv) of the clauses enumerating "Prohibited Use" and how clearly the intent is to cover both criminal and civil conduct that may give rise to criminal culpability or civil liability.

Prohibited Use. You agree that You will not use, and will not permit any End User to use, the Services to: (i) modify, disassemble, decompile, prepare derivative works of, reverse engineer or otherwise attempt to gain access to the source code of the Services; (ii) knowingly or negligently use the Services in a way that abuses, interferes with, or disrupts Zoom's networks, Your accounts, or the Services; (iii) engage in activity that is illegal, fraudulent, false, or misleading, (iv) transmit through the Services any material that may infringe the intellectual property or other rights of third parties; (v) build or benchmark a competitive product or service, or copy any features, functions or graphics of the Services; or (vi) use the Services to communicate any message or material that is harassing, libelous, threatening, obscene, indecent, would violate the intellectual property rights of any party or is otherwise unlawful, that would give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation; (vii) upload or transmit any software, Content or code that does or is intended to harm, disable, destroy or adversely affect performance of the Services in any way or which does or is intended to harm or extract information or data from other hardware, software or networks of Zoom or other users of Services; (viii) engage in any activity or use the Services in any manner that could damage, disable, overburden, impair or otherwise interfere with or disrupt the Services, or any servers or networks connected to the Services or Zoom's security systems. (ix) use the Services in violation of any Zoom policy or in a manner that violates applicable law, including but not limited to anti-spam, export control, privacy, and anti-terrorism laws and regulations and laws requiring the consent of subjects of audio and video recordings, and You agree that You are solely responsible for compliance with all such laws and regulations.

[31] Plaintiff here notes that the axiomatic is not in and of itself a defense for a matter at bar and has included the above given Defendants claims to the contrary and likely re-use in frivolous attempt to cloud and obscure the absence of viable defense.

Consent cannot be given for what is EXPLICIT AND EXPRESSLY prohibited by the contract.

A contract may define what it does not control.

Zoom can identify categories of conduct that are prohibited but it has no control over what elements are required to be satisfied to prove culpability.

Zoom also CANNOT MAKE CHARGE NOR BRING ACTION for any criminal matter without the Sovereigns approval directly or through its agents. The same applies to Plaintiff's cause.

1. Nonprofit Board Members have complete civil liability immunity for acts done in conformance to duty and in good faith. I believe I have that protection because I AM MAKING THESE CLAIMS IN COMPLETE AND TOTAL GOOD FAITH; I AM TELLING THE TRUTH AND I HAVE COMPELLING DOCUMENTED SUPPORT COMMUNICATED OPENLY WITH A REGULATORY AUTHORITY!!!!!

Eleventh Amendment Applications at Courts Discretion but facially disfavor Plaintiff's position.

Plaintiff asserts novel Federal Questions Require Declaratory Address

Plaintiff asserts that the Eleventh Amendment should not be applicable here as a Bar to recovery from the State of California as appropriate guarantor for the allowance of the continuation of the same "Client Services Fund" (CSF or other damage remedy) unjust enrichment scheme, whereby application to the fund limits recovery to "actual damages" when the State Bar should understand the public interest in attorney discipline is not solely to force the attorney to change her livelihood; the remedy of the Courts is usually monetary

damages, oftentimes dictated by statute for civil and criminal wrongs involving "moral turpitude".

What public interest is rationally served in treating the violation of "public trust, privilege, and privacy" as appropriate and acceptable conduct in the legal services marketplace?

Here, Defendants will likely be forced into silence, the reasons axiomatic: It is impossible to coherently argue that the violation of "public trust, privilege, and privacy" serves any rational public interest in the attorney practice or legal education services marketplace.

The legal profession is built on a cornerstone and foundation of trust. Attorneys, as sworn and licensed statutory members of the profession, are expected to uphold the highest ethical standards in their conduct and interactions with clients.

The violation of these principles undermines the integrity of the legal profession and erodes public trust in the legal system in the micro, as is evidenced by the STATE BAR's pursuit of individual attorney's accused or reported to be in likely violation.

Protection of the right of privacy and the integrity of attorney-client privilege is essential to ensure that clients feel secure in their rights and ability to seek counsel when sharing sensitive and potentially inculpating information with their attorney.

Many, including the Plaintiff, believe that the attorney-client relationship cannot function effectively without these protections because:

1. Clients may be less willing to seek legal representation, which could negatively impact access to justice for all individuals.

2. In addition, the violation of public trust, privilege, and privacy does not serve any rational public interest and should not be tolerated in the legal services marketplace.

Here, Plaintiff likely argues what is modernly axiomatic.

Plaintiff seeks relief under nuisance doctrine under California Civil Code § 3491

But here, the plain language as interpreted by a reasonable lay person of the "first mandate", i.e., protection of the public is the highest priority no matter the conflict of interest

Pennhurst State School Hosp. v. Halderman, 465 U.S. 89, 158-59 (1984) ("The sovereign could not and would not authorize its officers to violate its own law; hence an action against a state officer seeking redress for conduct not permitted by state law is a suit against the officer, not the sovereign. Ex parte Young concluded in as explicit a fashion as possible that unconstitutional action by state officials is not action by the State even if it purports to be authorized by state law, because the Federal Constitution strikes down the state-law shield. In the tort cases, if the plaintiff proves his case, there is by definition no state-law defense to shield the defendant. Similarly, when the state officer violates a state statute, the sovereign has by definition erected no shield against liability. These precedents make clear that there is no foundation for the contention that the majority embraces — that Ex parte Young

authorizes injunctive relief against state officials only on the basis of federal law. To the contrary, Young is as clear as a bell: the Eleventh Amendment does not apply where there is no state-law shield. That simple principle should control this case.")

The State Bar Act offers express grant for Plaintiff to bring claims directly against the State Bar.

Generally, entities and institutions created and instantiated by sovereign constitutional authority and/or expressed through legislative intent are immune from suit and liability unless express consent is given by the sovereign.

> Basic tenets of sovereign immunity teach that courts may not ordinarily hear a suit brought by any person against a nonconsenting State. ... States still remain subject to suit in certain circumstances. States may, of course, consent to suit. ... Congress may also enact laws abrogating their immunity under the Fourteenth Amendment.... [and] States may be sued if they agreed their sovereignty would yield as part of the "plan of the Convention."[3]

Here, express consent "to sue or be sued by" Defendant State Bar due to an express grant of the right "to sue or be sued" by aggrieved members of the public.

Statutory immunity grant for bad-faith conduct.

Were the activities of the board ultra vires?

Ultra Vires Activity is a "question of law."

Holding that "the definition of an ultra vires act" is a "question of law".

Acts in Light of the Business Judgement Rule (Wind River)

The Business Judgement Rule is a fundamental principle of corporate law, which generally protects the decisions made by corporate directors and officers from judicial review as long as they are made in good faith and in the best interests of the corporation. This rule is based on the principle that the individuals running a corporation are in the best position to make informed decisions about the corporation's business operations.

Court may reverse or aver arbitrary and capricious decision-making.

Here, given the allegations of unlawful conduct and gross negligence meeting the standard of malice, Plaintiff asks if these acts meet the standard of "arbitrary and capricious" under the Administrative Procedures Act.

This court may reverse under the arbitrary and capricious standard only if the agency has relied on factors that Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise. See Greater Yellowstone Coalition v. Lewis, 628 F.3d 1143, 1148 (9th Cir. 2010) (as amended) (relying on The Lands Council v. McNair, 537 F.3d 981, 987 (9th Cir. 2008) (en banc), overruled on other grounds by Winter v. Natural Res. Def. Council, 555 U.S. 7 (2008)); Envtl. Def. Ctr., 344 F.3d at 858 n.36; Brower, 257 F.3d at 1065. Finally, an agency's decision can be upheld only on the basis of the reasoning in that decision. See California Energy Comm'n v. Dep't of Energy, 585 F.3d 1143, 1150 (9th Cir. 2009); Snoqualmie Indian Tribe v. F.E.R.C., 545

F.3d 1207, 1212 (9th Cir. 2008); Anaheim Mem'l Hosp. v. Shalala, 130 F.3d 845, 849 (9th Cir. 1997).

. Wind River is challenging the determination made by BLM, claiming that it is inconsistent with the BLM Manual. While this argument may not necessarily demonstrate a lack of statutory authority vested in BLM, it raises questions about the decision-making process and whether or not BLM's exercise of authority was arbitrary or capricious. In such a case, the court may be more inclined to review the decision and potentially overrule it if it is found to be inconsistent with the BLM Manual or not in the best interest of the corporation.

On the other hand, when it comes to the conduct of PCL and the State Bar, the Business Judgement Rule may be even less applicable. The conduct of these entities in relation to the matriculation scheme and the award of units is not only inconsistent with the regulations and laws, but also involves fraud and misconduct, which are clearly violative of ethical and professional responsibilities. The State Bar, as the vertical and sole monopoly regulator of law schools, has a legal and ethical duty to ensure that its policies and practices do not propagate systemic bias and discrimination, and that any reported misconduct is thoroughly investigated and addressed.

In this case, it is clear that the conduct of PCL and the State Bar does not meet the standard of good faith and best interest of the corporation or the students. The actions of these entities in relation to the matriculation scheme and the award of units are substantively violative of ethical and professional responsibilities, as well as various laws and regulations. This conduct, therefore, does

not fall under the protection of the Business Judgement Rule and may be subject to disciplinary action or sanctions.

Moreover, the fact that the conduct of PCL and the State Bar disproportionately affects certain groups of students, such as African American students and attorneys, further undermines their actions as falling under the protection of the Business Judgement Rule. As previously discussed, the State Bar has a legal and ethical duty to ensure that its policies and practices do not propagate systemic bias and discrimination. The data and evidence showing that African American students are disproportionately affected by the conduct of PCL and the State Bar, highlights the need for a more thorough investigation and addressing of this misconduct.

Here, both students and graduates of PCL are likely impacted; just as having it be ten times (10x) more likely that an African American attorney is reported upon, a school that has an express mission to serve underrepresented communities can reasonably foresee inequitable and disparate impact from institutions allowed to act as scofflaws and in violation of law and duty.

Furthermore, the fact that the conduct of PCL and the State Bar may have resulted in the denial of educational opportunities and financial aid for the affected students, further supports the argument that the Business Judgement Rule does not apply. Such conduct does not align with the principle of acting in the best interest of the corporation or its stakeholders, as it has resulted in significant harm to the students.

Thus, although the Business Judgement Rule is a principle that generally protects the decisions made by corporate directors and officers when they are made in good faith and in the best interests of the corporation, this principle likely does not apply given the circumstances here; in cases where the conduct of the entity is violative of ethical and professional responsibilities, laws, and regulations, and results in significant harm to the stakeholders, the conduct of PCL and the State Bar in relation to the matriculation scheme and the award of units simply does not meet the standard, and is therefore subject to disciplinary action or sanctions.

Acts in Light of the Business Judgement Rule

Wind River contests this determination, claiming that it is inconsistent with the BLM Manual. Even if this claim is accepted at face value, it does not demonstrate an absence of statutory authority vested in BLM. Instead, it merely shows that BLM's exercise of its authority was ill-considered or, at worst, arbitrary and capricious. The authority to determine which areas are roadless clearly belongs to BLM, and Wind River merely challenges how that authority has been exercised. See Students of the California School for the Blind v. Honig, 736 F.2d 538, 546 (9th Cir. 1984) (agency charged with defining statutory language does not exceed statutory authority unless definition is not even reasonably related to statute), vacated as moot 471 U.S. 148, 105 S.Ct. 1820, 85 L.Ed.2d 114 (198

Regulatory Landscape and Prior Determinations

State Bar has a long history of intentional neglect of its duties.

The Office of California State Auditor has published reports since 2014 that demonstrate the long history, indicative of a "pattern and practice" that remains unchanged after nearly a decade.

In this situation, where the STATE BAR has shown flagrant disregard for established procedures and has failed to enforce the rules and regulations related to the regulation of unaccredited fixed facility law schools, including credible reports of unfair collection practices, extortion, conversion, harassment, defamation, interference with business relationships, and conspiracy to deprive individuals of their constitutional First Amendment privilege and Fourth Amendment protections, it is difficult to trust that such an organization has the best interests of the public at heart. Such blatant disregard for the law and for individuals' rights is unacceptable, and it is important that we hold organizations like the State Bar accountable for their actions.

Duty imposed by State Bar Guidelines for Registered, Fixed Facility Law Schools

PCL, its Directors, Officers, and Agents, as a law school, must follow the rule of law; the same is required of the State Bar.

Here, although the use of the word "Guidelines" implies it's use as a term of art in our legal framework, here the term should, and in fact likely is, intended to be read in the context of the regulator providing "bright line" guidance on the requirements. In essence, these "Guidelines" can be wiHOLTONed by the Bar in its enforcement operations, and therefore have the strength of rule.

It is a blatant misrepresentation that the use of the term here is strictly limited to an "unenforceable" guideline; the guidelines are in fact, examples of bright line violations.

- **Rule 4.200**
  - authorizes and makes express under the statute the State Bar's sole authority to register, oversee, and regulate "unaccredited" law schools in California**.**
- **Rule 4.201**
  - makes explicit that, unless regulated by another professional licensing organization or otherwise exempt, law schools operating in California must register with the Committee and comply with its rules. [Rule 4.201 adopted effective January 1, 2008; amended effective January 1, 2012.]

State Bar Guidelines synonymous with Rule

A law school conducting business in California must register with the Committee and comply with these rules and other applicable law unless otherwise exempt.

These rules have been approved by the Committee and adopted by the Board of Trustees as part of the Rules of the State Bar of California and may be amended in accordance with State Bar rules.

These rules do not apply to law schools accredited by the Committee, law schools approved by the American Bar Association, paralegal programs, undergraduate legal degree programs, or other legal studies programs that do not lead to a professional degree in law. The appropriate legal entity must approve such programs, even if they are offered by an accredited, approved, or registered law school or an institution of which it is a part.

There is an open question as to whether the "deemed accredited" ABA schools violates the provision of the State Bar Act that implies an "active" accreditation schema of State origin be utilized. Although there may be a rational basis in deeming an accredited ABA school as equivalent to one accredited by the adopted State process has likely had two negative market impacts:

3. Although the ABA is a respected organization, it has no formal regulatory or enforcement role; consequently how is this action by the State Bar not a case of inappropriate "entwinement" if both accredited and non-accredited institutions can produce students ready and capable to sit for the Bar?

California is the only state that has not adopted the ABA model rules.

Paradoxically, Southwest School of Law is allowed to operate a 2 year program, which is essentially in direct conflict to the established terms in the State Bar Act.

State Bar Act Mandates Regulatory Oversight of Law Schools

As was earlier stated, the State Bar is the MONOPOLY designated entity for purposes of law school education leading to licensure.

Section § 6060.7 Approval, Regulation and Oversight of Degree-Granting Law Schools by Examining Committee in relevant part explicitly states:

> (b) On and after January 1, 2008, law schools and law study degree programs shall be subject to the following:
>
> > (1)The examining committee shall be responsible for the approval, regulation, and oversight of degree-granting law schools that (A) exclusively offer bachelor's, master's, or doctorate degrees in law, such as juris doctor, and (B) do not meet the criteria set forth in Section 94750 of the Education Code.

Duty breaches: fiduciary, loyalty, inquiry and candor!

In the alternative, even if it was determined by the trier of fact that the unit award was lawful, Plaintiff asserts negligence, breaches of contractual and fiduciary duties related to PCL's failure to protect its students and treat them fairly; PCL had a duty to:

1. Be prepared to explain how the credit is translated from their systems to the credit system used on other campuses.

This should have been an express statement developed for specific programs or by program type (direct enrollment, faculty-led, third-party provider, etc.).

2. Have a standard process for deciding how credit is defined and who is authorized to do so.

3. Be able to demonstrate that credit hours are determined in an equitable way from program to program.

4. Compare or obtain guidance on policies at other institutions in the marketplace, particularly ones considered likely peers.

The Federal Office of Postsecondary Education

Private Postsecondary Education Act (California)

The Private Postsecondary Education Act establishes the minimum standards for the operation of entities with graduate (post "undergraduate" or bachelors) degree granting authority.

Pertinent here are California Education Code Sections 94874, 94875, and 94878 as they apply to postsecondary fixed facility law schools, such as PCL, as they outline the requirements and standards for the operation of such institutions.

Section 94874 specifies that unaccredited fixed facility law schools must be registered with the Committee of Bar Examiners (CBE) and meet certain standards in order to operate.

There is no dispute that PCL has been registered during the period of violative activities.

Section 94875 requires that the CBE periodically inspect and evaluate the law school to ensure compliance with these standards.

CBE has been negligent in its duties here, by its own admission in its issuance of a "Notice of Noncompliance to PCL in the Summer of 2022 that was retroactive two (2) years. Please see attached notice of "Non-Compliance".

Section 94878

The Private Postsecondary Education Act (in accord with the State Bar Act of 1937) allows the CBE to take disciplinary action against the law school for failure to comply with these standards. As the CBE is the monopoly regulator for unaccredited fixed facility law schools in California, it is responsible for enforcing these Education Code sections and ensuring that PCL adheres to the established standards.

The act also created an eponymous regulatory authority, the Bureau of Private Postsecondary Education.

Similarly to other "professional services" or "professional licensure" organizations that are regulated and have a standards body, there is at least one professional association for operators of fixed facility, online or hybrid programs. Commonly referred to by the acronym "CAPPS", a truncation of the California Association of Private Postsecondary Schools.

CAPPS self-reports "over 200" accredited or member organizations.

According to the California Association of Private Postsecondary organization's website (click here to open the CAPPS website):

PPSS schools are created and designed to be student/customer focused.

Generally, a Private Postsecondary School ("PPSS") is designed to provide an alternative to a long-term degree program at a traditional university and offer more focused educational training at a faster pace, often without the optional general education courses that may not be occupationally related to the career goal of the student.

PPSS Schools are characterized by curriculum-driven educational programs that are created to respond to the demands of the business sector. While tenured professors are the stars of the public university systems and are given the freedom to create their courses, instructors in the PPSS system must teach according to the competencies that are contained in the curriculum. Students in a PPSS school must master the curriculum or they will fail to advance. There can be no "courtesy graduations." Employers will not hire graduates who cannot perform on the job and students will not attend a school that does not have a successful placement with employers.

Prior to 2008 PCL was regulated in hybrid fashion in California, which ceased effective 2008, when the State Bar Act rendered the California State Bar the monopoly supervisory regulator for compliant organizations.

There is an open question as to whether or not, given that the organization has been deemed "non-compliant" and therefore not meeting the de minimus standards,it is currently subject to oversight in the hybrid format, until the State Bar once again deems the school "compliant".

Legislature has defined the scope of authority and priorities of State Bar activities.

The State Bar Act of 1927 defines the scope of authority, manner of performance, and priorities for the execution of its mandated duties. Although nearly a century old, the State Bar did not adopt a Conflict-of-Interest policy separate from the ABA Model Rules until January 1, 2019.

Statute of limitations 6 years for ultra vires policy applications to Plaintiff.

> We hold that a substantive challenge to an agency decision alleging lack of agency authority may be brought within six years of the agency's application of that decision to the specific challenger. In Wind River's case, its September 1989 filing of a complaint for review was easily within the six-year period. The right to bring a civil suit challenging an agency action accrues "upon the completion of the administrative proceedings."
>
> Here, plaintiff began the recruitment process Summer 2018. It is December 2022, approximately 18 months away from the 6-year requirement.
>
> Therefore, it appears the Plaintiffs claims satisfy the required elements to as live and viable controversy, an open question viable for purposes of adjudication.

Statute of limitations and ripeness for federal rights violation(s).

Ultra Vires Conduct is not Granted Governmental Immunity

"Because governmental immunity extends 'as far as the state's [immunity] but no further,' no immunity exists for acts performed in a proprietary, non-governmental capacity." Rosenberg Dev., 571 S.W.3d at 746–47 (quoting Wasson, 489 S.W.3d at 433–34).

"Like ultra vires acts, acts performed as part of a city's proprietary function do not implicate the state's immunity for the simple reason that they are not performed under the authority, or for the benefit, of the sovereign." Wasson, 489 S.W.3d at 434.

By implementing policies that allow those Directors and Officers under its authority to operate unlawfully, in essence allowing predation to occur in broad daylight while they look on from a distance, sets STATE BAR policy in direct conflict to its mandate for no rational, justifiable or necessary purpose or benefit to the sovereign, i.e., the State of California.

Ultra Vires Acts Cannot be Approved by the Board

To the sovereign, no rationale justifies unlawful purpose.

There is no, zero, none, null nor any rational and lawfully justifiable purpose in violating statute and duty that sets units awards to unit hours or requires that an accounting be presented upon the request of corporate officers.

Sovereign Does Not Grant Privilege To Disobey The Law,

Sovereign does not grant to persons, corporate or otherwise, the privilege to wantonly violate the law.

Therefore, the circumstances here clearly support a determination of ultra vires action.

Sovereign Holds Its Licensees to Higher Standards

Licensees and employees under the Rules and Guideleins used by the Bar to manage

Bad-faith Activity Voids Immunity

Plaintiff asserts that the nature of the activities here are inherently considered Bad-Faith and demonstrative of "moral turpitude" as discussed above and below.

Attorney Violations of Law Presumptively Bad-Faith

The California Legislature codifies in BPC § 6068 the specific Duties of an Attorney. Specifically it is the duty of an attorney to do "all of the following", including:

(b) To support the Constitution and laws of the United States and of this state.

- Here, Licensees were involved in concerted and unlawful efforts, including violations of federal Law in an ongoing

(b) To maintain the respect due to the courts of justice and judicial officers.

(c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense.

(d) To employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.

Defendants "Unclean Hands"

Here, Defendants have willfully failed to answer a duly issued "Demand for Documents", as well as earlier inquiries related to the presentation of books and effects.

Plausible Denial Doctrine Defense Avoidable in this Circumstance

The doctor in on Plaza denial is essential to the continued operation of the scheme.

All the plaintive asserts that NL was the bridge intermediary in many cases directly interfacing with the operators of Enterprise P in conspiracy related to managing the complaints code and "managing the complaints" of students for whom Enterprise S as a component of the conduction of its own scheme had in Morrow ultra vires and without statutory authority, but under the color of law and generally enforced, universally as quasi-legislative rules are in the regulatory context.

The combination and interoperation of Enterprise P, and Enterprise S created multiple levels of apparent bureaucracy, engaged in what it claimed with lawful conduct, but which

was not lawful conduct. In fact, it was conduct that per se is anti-competitive; a kin to the cheating banker in the family monopoly game although the breach of trust is far less consequential, no one is truly helped by the conduct

Here enterprise P reports and advertises to the general public the availability of a low cost competitive legal education.

In fact, Enterprise P enters into fraudulent adhesion contracts with the goal of legitimizing the unlawful practice of awarding fewer credits than lotta man's. It's a circumstance.

The goal was clearly to maintain the appearance of a track record of success, sufficient success, at least to accomplish two goals:

a. One continuous racket, a "1L" mill, where clearly underqualified students were recruited for the purpose of tuition generation, where the funds were not spent on the provision of educational or support services for the students.

    i. Here, Board Members were "recruited" via volunteer election, the majority of whom appeared to have had very little experience serving on a Board and were not informed of their statutory duties and obligations by their licensee peers, solely that they were "immune from suit" as members operating in "good faith" at a not-for-profit.

ii. his assertion, made often in writing by SPIRO, was a misrepresentation of fact, for co-conspirators and actors in the commission of an unlawful act are precluded from a defense of "good faith" when they knew or should have known.

iii.

iv. Plaintiff asserts that "good faith" requires more than "closing ones eyes while muttering a prayer and

v. Plaintiff asserts that, in fact,

vi. until it became viable to cash out that is still the assets and put them in a new form where the complexities of managing the institution bylaws would not preclude them from for the graft: and,

b. two insure that no one raise clouds sufficient to threaten their skin, using mechanisms like extortion harassment and other intentional conflict intentional conduct architected to cause and successfully causing emotional distress.

Harassing activities, included items X through the Inc. here

Plaintiff brings viable ultra vires claim against entity and its administration.

"The term ultra vires is most commonly used to refer to acts that are beyond the scope of a corporation's purposes, as set forth in their articles of incorporation or bylaws. However,

the term also has a broader meaning, implicating all actions that are 'performed without any authority to act on the subject.'"

See Parramore v. Tru-Pak Moving Sys., 286 F. Supp. 2d 643, 650 (M.D.N.C2003) (quoting Black's Law Dictionary 1522 (6th ed. 1990))

The Plaintiff asserts facts demonstrating acts taken by the officer outside his legal authority and discretion; these alleged acts that fall far outside the principles of "good faith and fair dealing" and thusly are statutorily anathema to immunity in this context.

Test to determine whether a government policy lies outside the agency's legal authority.

To determine if a plaintiff has plead a viable ultra vires action, the court must construe relevant statutory provisions that define the scope of the governmental body's legal authority, apply those statutes to the facts as pleaded by the plaintiff, and ascertain whether those facts constitute acts beyond the agency's legal authority. City of New Braunfels v. Tovar, 463 S.W.3d 913, 919 (Tex. App.—Austin 2015, no pet.).

> When, as here, the plea to the jurisdiction challenges the sufficiency of the pleadings rather than the existence of any of the jurisdictional facts alleged by the plaintiff, the court should make the jurisdictional determination as a matter of law based solely on the facts alleged by the plaintiff, which are taken as true and construed liberally in favor of jurisdiction. **Prewett v. Canyon Lake Island Prop. Owners Ass'n, No. 03-18-00665-CV, 2019**

WL 6974993, at *1 (Tex. App.—Austin Dec. 20, 2019, no pet.) (mem. op.) (citing Miranda, 133 S.W.3d at 225, 227).

California Office of Administrative Law

The California Office of Administrative Law is the organization that is responsible for verifying that a policy meets the legal requirements.

5. Underground Rules – An underground rule is one that has been implemented without following the required approach under California's Administrative Law Act.

6. Plaintiff asserts on reasonable information that either the State Bar has failed to submit its policies to the Office of Administrative Law for proper evaluation under that agency's review schema or it has failed to properly acknowledge and incorporate the agencies feedback.

7. Underground rules are essentially unenforceable because they do not meet the requirements of the Act.

8. Several issues exist within the Act itself as well as with the policies of the Bar, e.g., in "deeming" ABA accredited law schools as state accredited, even though California is the ONLY state in the nation not to adopt the entirety of the ABA model rules.

    1. State Bar will likely argue that this is an efficient approach to regulating and maintaining a running the marketplace.

9. Unfortunately for the State, breaking the law is never deemed

an appropriate solution for market optimization.

10. Allowing an institution to operate without fear of legal reprisal is beyond negligence and a culpable act under the constructive standard of "knew or should have known."

Here, State Bar regulatory policies are by law subject to review by the California State Office of Administrative Law. In addition, the State Bar Act authorizes and mandates the Bar to devise and maintain "the detailed regulatory ruleset" that must be implemented but is beyond the scope of the Legislator's to determine.

Defendants offer no denials nor acts in mitigation.

For more than two hundred (200) days, no defendant has substantively publicated a denial or rebuttal to the facts asserted by plaintiff in numerous email or telephonic communications.

The Board is "subject" to the Bylaws and must follow them faithfully.

California Business and Professions Code is clear that, unless exigent circumstances exist necessitating the performance of duty by an individual officer, the Board is "subject" to the Bylaws, and must follow them faithfully or amend them in accord with statute and the Bylaws themselves.

Exigent Circumstance "Exemption" under Enron

The statute empowering Boards and their members is also clear California Business and Professions Code is clear that, exigent circumstances exist necessitating the performance of duty by an individual officer, the Board is "subject" to the Bylaws, and must follow them faithfully or amend them in accord with statute and the Bylaws themselves.

Here, the Directors and Officers of the Corporation have "invalidated" a valid election result, unlawfully since the required process was not even attempted, then, without asking for nor obtaining written resignations as required by the Bylaws in the case that the election was fairly and faithfully held. Plaintiff submits correspondence in demonstration.

Fraud and misrepresentation.

Fraud encompasses a broad range of human behavior, including " ' * * * anything calculated to deceive, * * * whether it be by direct falsehood or by innuendo, by speech or by silence, by word of mouth or by look or gesture.' " (Regenold v. Baby Fold, Inc.(1977), 68 Ill.2d 419, 435, 12 Ill.Dec. 151, 369 N.E.2d 858, citing People ex rel.Chicago Bar Association v. Gilmore (1931), 345 Ill. 28, 46, 177 N.E. 710; In re Alschuler (1944), 388 Ill. 492, 503-04; Black's Law Dictionary 594 (5th ed. 1979).)

Fraud includes suppression of the truth.

Courts have previously disciplined lawyers even though their fraudulent misconduct did not harm [99 Ill.2d 252] any particular individual. In re Lamberis (1982), 93 Ill.2d222, 229, 66

Ill.Dec. 623, 443 N.E.2d 549.""The Court has broadly defined fraud as any conduct calculated to deceive, whether it be by direct falsehood or by innuendo, by speech or silence, by word of mouth, by look, or by gesture. Fraud includes the suppression of the truth, as well as the presentation of false information.

In re Frederick Edward Strufe, Disciplinary case no. 93 SH 100 where the Court stated that "Fraud has been broadly defined as anything calculated to deceive, "It is clear and well-established Illinois law that any attempt by any officer of the court, whether attorney or judge, to deceive is considered fraud, and when the attempt to deceive occurs in a judicial proceeding, it is "fraud upon the court".

Here, Defendants sought to prevent Plaintiff from understanding that what initially appeared “innocent error” was in fact a concerted effort to preserve the “unfair and unlawful” practices prevalent.

Defendants Ultra Vires Acts Are Presumptively Bad-Faith

The term ‘Bad-Faith’ implies that the actor ‘intentionally committed acts which [s]he knew or should have known were beyond h[er] lawful power.’ (Citation.) As so used, ‘Bad-Faith’ entails actual malice as the motivation for […] acting ultra vires. The requisite intent must exceed mere volition; negligence alone, if not so gross as to call its genuineness into question, falls short of ‘Bad-Faith.’ ‘Bad-Faith’ also encompasses acts within the lawful power of a judge which nevertheless are committed for a corrupt purpose, i.e., for any purpose other than the faithful discharge of judicial duties. In sum, ‘Bad-Faith’ is quintessentially a concept of specific intent, requiring consciousness of purpose as an antecedent to a judge’s acting maliciously or corruptly.’

(Spruance v. Commission on Judicial Qualifications, supra , 13 Cal.3d 778,795--796, 119 Cal.Rptr. 841, 853, 532 P.2d 1209, 1221.)

Here, PCL's conduction of Enterprise P compels the conclusion in the instant case that Defendant's primary concerns were first to stop Plaintiff's inquiries and inflict "punishment" before Plaintiff could be afforded a due process determination that no moneys were owed and that the school is and was in a state of non-compliance, a material fact potentially impacting transfers as well as admissions to other schools to pursue alternate programs. such that it is questionable under what circumstances punishment was warranted and, second, to accomplish her objectives in a manner to ensure that such conduct would be insulated from judicial review and collateral attack.

State Bar is aware in real time of the occurrences, as is the California DOJ and the LA County Sherriff's Department as evidenced by the copious email record.

Request for declaratory relief related to the following questions:

What would be a reasonable response to such circumstance if "Protection of the Public" regardless of the conflict of interest is the imperative to the regulator?

"The duties of public office demand the absolute loyalty and undivided, uncompromised allegiance of the individual that holds the office. (Thomson v. Call, supra, 38 Cal.3d at p.

> 648; Stigall v. City of Taft (1962) 58 Cal.2d 565, 569 [25 Cal.Rptr. 441, 375 P.2d 289].) Yet it is recognized "'that an impairment of impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the Government.'" (Stigall v. City of Taft, supra, 58 Cal.2d at p. 570, quoting United States v. Mississippi Valley Generating Co. (1961) 364 U.S. 520, 549-550 [5 L.Ed.2d 268, 288, 81 S.Ct. 294].) Consequently, our conflict-of-interest statutes are concerned with what might have happened rather than merely what actually happened. (Ibid.) They are aimed at eliminating temptation, avoiding the appearance of impropriety, and assuring the government of the officer's undivided and uncompromised allegiance. (Thomson v. Call, supra, 38 Cal.3d at p. 648.) Their objective "is to remove or limit the possibility of any personal influence, either directly or indirectly which might bear on an official's decision. . . ." (Stigall v. City of Taft, supra, 58 Cal.2d at p. 569, italics in original; see also People v. Vallerga (1977) 67 Cal.App.3d 847, 865 [136 Cal.Rptr. 429]; People v. Watson (1971) 15 Cal.App.3d 28, 39 [92 Cal.Rptr. 860].)"
>
> [People v. Honig, 48 Cal.App.4th 289 (Cal. Ct. App. 1996)]

What would be the duty of the reasonable employee who was not also a Member of the Bar?

What would be the duty of the reasonable employee who was also a Member of the Bar?

What would be the duty of the employee who was also a Member of the Bar who had COI where they can legitimately invoke their rights under the 5th or 6th Amendment?

What would be a reasonable response time in such circumstance when all of the parties have acknowledged "time is of the essence"?

Why should the regulator allow the school to persist in the willful dereliction of its duties when it knows that many of the issues, including loss of time and the correspondent issues that are not easily remedied in traditional damages?

What duty does it have to those it has negligently, but actively, "put in peril" through lax oversight and complicit conduct?

Is it reasonable to expect change when lack of actual will, if not the ability, of the State Bar to comport its conduct to its mandate?

To Plaintiff's knowledge, State Bar did not send inquiry or admonishment until May of 2022.

Here, State Bar's Enterprise S, operated by the sole monopoly designated regulator and enforcement agency in the sphere, was noticed and knew of the conduct of Enterprise P in real time, and in fact stayed silent until Plaintiff's filing for a restraining order, determination of facts and suit.

Circumstances predetermine cause to issue remedy and rule against defendant.

Making false statements of law, by falsely attributing statements by an author is engaging in Bad-Faith, willful misconduct due to intentional disregard of the law, and as demonstrated in this pleading weighs heavy against the defendant.

Board members aid and abet the continuance of criminal harassment.

Civil harassment and retaliation are standard tactics used to suppress those requesting lawful and substantive change.

Did the conduct of Enterprise P and Enterprise S meet the threshold for criminal referral? As individual Enterprises; As individual persons?

Here, retaliation is the act of using official resources to unduly influence, "punish", or otherwise coerce students into comportment with the school administration's desired behavior.

"As noted, some cases suggest that a plaintiff also must plead specific intent to facilitate the underlying tort. We need not decide whether specific intent is a required element because, read liberally, the fifth amended complaint alleges that[defendant] intended to assist the

Association in breaching its fiduciary duties. In particular, plaintiffs allege that, with knowledge of the Association's breaches,[defendant] 'gave substantial encouragement and assistance to [the Association]to breach its fiduciary duties.' Fairly read, that allegation indicates intent to participate in tortious activity." (Nasrawi, supra, 231 Cal.App.4th at p. 345,original italics, internal citations omitted.)

Conspiracy

Unlawful conduct agreed upon by more than the number of individuals required to carry out the tort or crime is Conspiracy.

Here, Plaintiff has clearly alleged concerted action amongst the Defendants. Plaintiff asserts that communications between the parties, as well as the coordinated conduct makes plain conspiracy in this case.

"[W]e consider whether the complaint states a claim based upon 'concert of action' among defendants. The elements of this doctrine are prescribed in section876 of the Restatement Second of Torts. The section provides, 'For harm resulting to a third person from the tortious conduct of another, one is subject to liability if he (a) does a tortious act in concert with the other or pursuant to a common design with him, or (b) knows that the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the other soto conduct himself, or (c) gives substantial assistance to the other in accomplishing a tortious result and his own conduct, separately considered, constitutes a breach of duty to the third person.' With respect to this doctrine, Prosser states that 'those who, in pursuance of a common plan or design to commit a tortious act, actively take part in it, or further it by HOLTONation or request, or who lend aid or encouragement to the

wrongdoer, or ratify and adopt this acts done for their benefit, are equally liable with him. [para.] Express agreement is not necessary, and all that is required is that there be a tacit understanding . . . .' " (Sindell v. Abbott Laboratories (1980) 26 Cal.3d 588, 604[163 Cal.Rptr. 132, 607 P.2d 924], internal citations omitted.

Board members had duty to prevent tortious act.

The State Bar's actions betray a fundamental lapse in ethical and moral integrity, and a wholesale disregard for the values and principles that undergird the legal profession

While plaintiff accepts that it is well established that 'Mere knowledge that a tort is being committed and the failure to prevent it does not constitute aiding and abetting. "As a general rule, one owes no duty to control the conduct of another . . . ." (Austin B. v. Escondido Union School Dist. (2007) 149 Cal.App.4th 860, 879 [57 Cal.Rptr.3d 454],internal citations omitted.)

Here, corporate "officers" including Hector Pena, David Bouffard, and Prem Sarin have filed (or caused to be filed) false statements to the state of California (see SOI's filed), made intentional misstatements and representations of law (specifically licensed attorney's and former Dean Ira Spiro and former College President Christina Gonzalez).

RICO Civil Tort Remedy Provisions Apply to All Defendants either by engaging in conduct that satisfies the overt and predicate acts RICO requirements. and willful unlawful conduct, e.g., offering fewer units to students under color of law and the authority of the regulator to performance, tortious conduct in support of unlawful scheme.

The civil remedy provision requires a plaintiff to prove: (1) a violation of a § 1962 prohibited act; (2) injury to business or property; and (3) that the defendant's violation caused the injury

R.I.C.O. Defendants

With its charge of "racketeering" and its threat of treble damages and attorney's fees, RICO may seem like the blunt instrument of civil litigation. RICO's requirements of a culpable "person" who conducts the affairs of a distinct "enterprise" through a "pattern" of "racketeering" in a way that proximately causes injury can make RICO seem abnormally difficult to codify. Adding to the complexity inconsistent holdings among courts on how to interpret several key provisions of the broadly drafted RICO statute depending on the circumstances. S

Here, because the core facts are irrefutable and easily understood, a great deal of complexity can be avoided.

XXIII. Plaintiff's moving papers, and the responses from the Racket in email and court filings, which are not subject to any form of privilege, show how the fraudulent schemes involve more than one overt act of extortion, and the ongoing threat of harm that exists from the Racket (officially and unofficially) to collect fees, or avoid damages, to the detriment and deprivation of right of the Plaintiff under "color of law and right."

XXIV. PCL nor Enterprise P should be rewarded for using Enterprise S protection.

XXV. The State Bar nor Enterprise S should not be rewarded or unjustly enriched for the provision of protection and assistance to an unlawful scheme.

XXVI. Plaintiff should not be deprived of "benefit of the bargain" especially given the inequities of these facts.

XXVII. There exists an acute threat of continuing schemes to defraud non-active market participants like Plaintiff; even DURAN, HOLTON, RANDOLPH, HOLTON, LTW, NL, AUC, and SPIRO, HCP, GONZALEZ, BOUFFARD, ANTONIO, GILLENS, DUPREE, FRANCO, SARINANA as well as other members of Enterprise P and Enterprise S, as actors seeking to harm Plaintiff or conceal culpable conduct, and thus continue in Enterprise P and Enterprise S, now likely under state action under vertical merger, for corrupt motives and undisclosed interests.

i) The Racket serves to restrain and control trade among the markets affecting interstate commerce:

XXVIII. **The Restraint on Upward Mobility is a per se restraint of trade.**

Plaintiff cannot locate a strictly legal definition for "upward mobility" as a term of art.

Generally, the concept of upward mobility refers to the ability of an individual to improve their social and economic status through education and career opportunities. This may include gaining access to higher paying jobs, better working conditions, and greater opportunities for advancement.

The rights or privileges to "upward mobility" are often protected through laws and policies that promote equal access to education and employment opportunities, and that protect individuals from discrimination based on race, gender, age, and other protected characteristics. Other rights, including explicit state constitutional grants of privacy[32] and public access to government records

XXIX. The Racket's monopoly uses artificial state law or rule "interpretations" as an enforcement and deterrence mechanism. At times PCL invoked the name or solicited direct participation from Bar Staff and likely other Directors and Officers of the State Bar.

i) Plaintiff asserts the Racket's rely on the protection of Enterprise S, in deliberate complacency and disregard for public members or their clearly foreseeable and inevitable injuries. Given the failure of the State Bar to comport its conduct to its mandates.

XXX. There exists an acute and continuing threat of schemes to defraud or conceal from the Federal and State Legislature, students, law enforcement agencies, or other stakeholders, including parents, ordinary citizens and corporations, including insurance companies like ANV, as no substantive enforcement action has been adopted by the monopoly regulator in respect to the operation or interoperation of Enterprise P or associated Enterprise S.

XXXI. STATE BAR, using its "discretion" and "lack of resources" treats unknown sums as being "de minimis" and "not worth" STATE BAR time or resource. DURAN,

[32] Privacy is of paramount importance to the citizens of the state as it is I's Constitutions first grant; the California Constitution, Article 1, section 1: "The state Constitution gives each citizen an "inalienable right" to pursue and obtain "privacy"".

WILSON, and various operators of both Enterprise P and S partake in conduct designed to conceal the nature of these acts.

XXXII. Other parallel schemes available to the defendant Enterprise P and Enterprise S operators to support fraud and other venture exist through "Attorney Misconduct Complaint in 200+ Languages," constructive knowledge through affidavit and record likely distributed in the files and archives of the "Complaint Review Unit," "In RE: Walker,"-tactics, the anecdotally impervious "Client Security Fund" and arguably capricious and ill-considered, if not wasteful and reckless funds distributions to "Legal Aid" entities of limited impact from IOLTA "income" to active market participants.

XXXIII. Plaintiff asserts that the notion of diversity, equity, and inclusion is fundamentally based in the notion of equity and "fair" distribution among groups mot based on a protected class. Upward mobility is implicit, frankly because it is pointless to say that there is "equal numerical representation by percentage of population" if populations share unfair and targeted distribution of burden.

(1) Here, Plaintiff argues that State Bar conduct, including targeting African American / Black attorneys capriciously and repeatedly may illustrate that increasing the "diversity base" with the same practice simply increases the likelihood of further abuse of the class.

(2) Here, State Bar and Enterprise Defendants may argue that the state interest in a diverse field of attorneys is greater than both the rights of attorneys, who by statutory definition, Members of the Bar (which see, State Bar Act of 1937) and **not** " members of the public" in any case.

(3) Here, Plaintiff argues that most students enter the field for two reasons: a desire to help others and a desire to, at least in part, create or partake in the opportunity of the United States, to enjoy the pursuits of the "middle" class or whatever "class" of lawful interests one desires to engage in. Few enter the field with the desire to "commingle IOLTA funds." That does not mean that the commingling is difficult to accomplish or acceptable, but if the application of the rule and castigation are unjust, that is simply the case and should be averred.

(4) Perhaps most glaringly, since December 2, 2022, PCL has been on "probationary" status, with enhanced reporting and compliance requirements to the STATE BAR.

i. Why is its tolling and breach of contract under including breaches of duties and acts likely indicative of moral turpitude, considered compliant and fair business conduct? On what basis can the operators of Enterprise S defend their conduct? Plaintiff asserts it is more likely than not the conduct is both reprehensible and indefensible.

It is for the finder of fact to determine.

XXXIV. Plaintiff demonstrates the Courts and the State Bars constructive knowledge of the predicate and parallel patterns of racketeering activity have similar beneficiaries (Enterprise P and Enterprise S), similar methods of non-judicial fraud and fabrication of evidence followed by or supporting judicial fraud; cases or defenses that seek, prioritize, or pay only legal fees that are filed frivolously without standing or probable cause.

i) This strategy is similar to SLAPP, but functions also in part by the request and imposition of Statutory Attorney's Fees, for which the vast majority of pro se plaintiffs are not eligible to receive or equipped to adequately defend against when they in fact may have very good cause.

(1) This specific approach was used by SPIRO in his defense of his co-defendants, the Enterprise P, the method is fraudulent cases or defenses used to extort the public and with contempt abuse the authority of the Court(s) via protection of the Racket.

XXXV. For Plaintiff and public the risk of irreparable acute harms from misconduct and attorney malfeasance more likely lies in a State Bar unchecked free to determine its own prerogatives and rule structure regardless of legislative intent or statutory mandate.

XXXVI. As stated earlier, the imbalance of power between the plaintiff victim and the Enterprise operators and collaborators, e.g., PCL and the STATE BAR, is profound.

XXXVII. Plaintiff shows all schemes are advanced by electronic Court transmission of fraudulent documents sometimes across state lines supported by email or cellular communication; where Racket members are required in most instances to file electronically, although Enterprise S and Enterprise P may upon design use both or neither, to induce fear or conceal evidence, to meet dependent goals and circumstance).

Jurisdiction and Venue.

The Parties:

Culpable Defendants in this action under RICO.

I. Defendant THE STATE BAR OF CALIFORNIA is a culpable person and bad actor who can't operate distinctly of DURAN, WILSON, AREPYTYAN, DAVYTAN, nor WILSON here, who each use and direct Enterprise S as conduit to acquire, directly or indirectly, Enterprise P and Enterprise S interests or monies and affecting interstate commerce through a pattern of racketeering activity with at least legal malice, fraudulent concealment, ratification, and judicial fraud. Enterprise S also acts as its own purported supervisor for IOLTAs, governance by its majority active market participants among Board of Trustees from the active market and Enterprise S.

II. Plaintiff's business and property were directly and proximately injured by reason of defendant THE STATE BAR OF CALIFORNIA's violation of § 1962(a)-(b), and by its official actors bad acts under § 1962(c)-(d) and Cal. Gov. § 815.6. Defendant THE STATE BAR OF CALIFORNIA had a negative duty under Cal. Gov. Cod. § 815.6 not to engage in conduct listed under 18 U.S.C. § 1961. STATE BAR and DURAN are both named defendants. Cal. Gov. Cod. § 815.3(b). This entity is used for protection, is not sovereign, and must be liable. Official acts of DURAN are subject to 42. U.S.C. § 1983 claims, here, too, for which STATE OF CALIFORNIA is liable under Cal. Gov. Cod. § 815.3(b).

III. Defendant THE STATE BAR OF CALIFORNIA is a culpable party and bad actor who can't operate distinctly of DURAN, HOLTON, DAVYTAN, nor WILSON

here, who each use and direct Enterprise S as conduit to acquire, directly or indirectly, Enterprise P and Enterprise S interests or monies and affecting interstate commerce through a pattern of racketeering activity with at least legal malice, fraudulent concealment, false ratification, and judicial fraud. Enterprise S also acts as its own purported supervisor for public IOLTA protection, governance by its majority active market participants among Board of Trustees from Enterprise P and Enterprise S.

(1)

PLAINTIFF

I. Plaintiff TODD R. G. HILL ("HILL" or "Hill" or "Plaintiff") is a United States citizen, member of the public, individual entrepreneur, and person, with his principal place of business in Quartz Hill, California. Plaintiff is in the business of specialty chemical services. Plaintiff is a member of the public not previously admitted to any Bar.

DEFENDANTS

I. Defendant PEOPLE'S COLLEGE OF LAW ("PCL") is a California law corporation and culpable person with its principal place of business in Los Angeles, CA. PCL is subject to fee-based registration and annual licensing by THE STATE BAR OF CALIFORNIA to provide legal education services through its associated persons including SPIRO, POMPOSA, SARINANA, GONZALEZ, PENA, BOUFFARD, ANTONIO, GILLENS, FRANCO and others to be determined; who then act as duly authorized court officials, e.g., as registrar and other compliance functions like attendance, (bound to Cal. Bus. and

Prof. Code §§ 6068, 6077) on behalf of other persons controlled by THE STATE BAR OF CALIFORNIA (in operational practice, and at law). PCL fraudulently schemes through the judiciary's "administrative arm", presenting U.S. citizens and judicial officers a danger of imminent lawless action through its associated actors.

II. Defendant THE STATE BAR OF CALIFORNIA ("STATE BAR" and/or Enterprise S operating here through DURAN, WILSON, MAZER, and DAVTYAN) is a public corporation that can be sued, and is non-sovereign or sovereign culpable person, whose principal places of business are San Francisco and Los Angeles, California respectively. According to its state agency website, "The State Bar [of California] licenses more than 250,000 attorneys, investigates approximately 16,000 complaints of attorney misconduct annually, and distributes over $78 million in grants to legal aid organizations. We serve the people of California through careful oversight of the legal profession." https://www.calbar.ca.gov/About-Us/Our-Mission

III. Defendant STATE OF CALIFORNIA ("STATE" or "State") is a sovereign public entity among the United States of America ("U.S. or "United States") and subject to Plaintiff's denied claim, and culpable person, whose agents or assigns may claim immunity or indemnification as codified explicitly to meet causes of action, or acts, when clearly articulated policy backs statutorily codified immunities, only upon showing operational or ministerial decisions of state actors accord with the same, and that active supervision of State exists after 2015.

IV. HECTOR CANDELARIO PEÑA RAMIREZ aka HECTOR P. RAMIREZ, aka HECTOR C. PEÑA, ("HCP") is an individual and culpable person residing in Los Angeles County,

California. HCP is in the business of defrauding others and presenting it as legal education services as a "court official" under fee-based license and the authority of the STATE BAR. HCP is also in the business of immigration legal assistance and uses his credentials and control of Enterprise P to fraudulently scheme through the People's College of Law ("PCL"). HCP poses a clear and present danger to U.S. citizens and volunteer faculty officers by presenting them with the danger of imminent lawless action.

V. CHRISTINA MARIN GONZALEZ, ESQ. ("CMG") is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). CMG is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

VI. ROBERT IRA SPIRO, ESQ. ("SPIRO") is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). SPIRO is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

VII. JUAN MANUEL SARIÑANA, ESQ. ("JMS") is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). JMS is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

VIII. PREM SARIN ("PRS", "SARIN") is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). SARIN is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

IX. DAVID TYLER BOUFFARD ("BFD", BOUFFARD) is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). BOUFFARD is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

X. JOSHUA GILLENS, ESQ. ("GLN") is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). GLN is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

XI.

XII. CLEMENTE FRANCO, ESQ. is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). FRANCO is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services. College of Law ("PCL"). SANCHEZ is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

XIII. PASCUAL TORRES, ESQ. ("PST") is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). PST is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

XIV. CAROL DUPREE, ESQ. is an individual who has not been explicitly mentioned in the previous paragraphs. However, it is possible that CAROL DUPREE is associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"), and may be involved in fraudulent activities related to PCL.

XV. GARY SILBIGER, ESQ. is an individual who has not been explicitly mentioned in the previous paragraphs. However, it is possible that GARY SILBIGER is associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"), and may be involved in fraudulent activities related to PCL.

XVI. JESSICA "CHUYITA" VIRAMONTES, ESQ. ("JCV") is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). JCV is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

XVII. EDITH POMPOSO ("EPP") is an individual who has not been explicitly mentioned in the previous paragraphs. However, it is possible that EDITH POMPOSO is associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"), and may be involved in fraudulent activities related to PCL.

XVIII. ADRIANA ZUÑIGA NUÑEZ is an individual who has not been explicitly mentioned in the previous paragraphs. However, it is possible that ADRIANA ZUÑIGA NUÑEZ is associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"), and may be involved in fraudulent activities related to PCL.

XIX. Defendant ALFREDO HERNANDEZ (“ALH”) is an individual, and culpable person believed residing in Orange County, California or Los Angeles County, California in the business of providing legal services as a court official under fee-based license and authority of STATE BAR is listed as the primary point of contact on the press release for one fraudulent derivative action filed by PCL, which shows an acute threat of continuing based on a parallel series of fraudulent, overt acts using the color of official right from Enterprise S. He appears on Racket communications.

XX. Defendant JOAN RANDOLPH. (“RANDOLPH”) is an individual, and culpable person, in the business of providing legal services as a court official secretary in the Office of the GC, as an employee, agent, and authority of STATE BAR, providing protection for PCL, HCP, LEONARD, NUNEZ, CARDONA, WILSON, PST and RUBEN DURAN, ESQ. through “Office of General Counsel,” and for “Complaint Review Unit,” and for STATE BAR’s public insurance Client Security Fund (“CSF”) scheme to recover damages paid by CSF to victims on behalf of a disbarred STATE BAR attorney in federal

bankruptcy proceedings, concurrently defending individual, non-sovereign state actors Enterprise S, STATE BAR, DAVYTYAN, DURAN against claims of misrepresentation, fraud, breah of duty, contempt of Administrative Orders, corruption where DURAN is defended by DAVYTYAN, WILSON, HOLTON, CARDONA, KRISILNIKOFF, RANDOLPH and various others in his capacity as Board of Trustees Chairman for law firm STATE BAR with consubstantial protection of DURAN's partnership in law firm Best Best & Krieger ("BBK"), and individual defendant, DURAN, and as Enterprise S.

XXI. Defendant RUBEN DURAN, ESQ. ("DURAN") an inculpated individual, appears to be in the business of concealing the function and existence of Enterprise S.

i) College of Law ("PCL"). SANCHEZ is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

ii)

iii) PASCUAL TORRES, ESQ. ("PST") is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). PST is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

iv)

v) CAROL DUPREE, ESQ. is an individual who has not been explicitly mentioned in the previous paragraphs. However, it is possible that CAROL DUPREE is associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"), and may be involved in fraudulent activities related to PCL.

vi)

vii) GARY SILBIGER, ESQ. is an individual who has not been explicitly mentioned in the previous paragraphs. However, it is possible that GARY SILBIGER is associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"), and may be involved in fraudulent activities related to PCL.

viii)

ix) JESSICA "CHUYITA" VIRAMONTES, ESQ. ("JCV") is an individual who has been associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"). JCV is believed to be involved in fraudulent activities related to PCL, as well as being involved in HCP's schemes to defraud others and present it as legal education services.

x)

xi) EDITH POMPOSO ("EPP") is an individual who has not been explicitly mentioned in the previous paragraphs. However, it is possible that EDITH POMPOSO is associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"), and may be involved in fraudulent activities related to PCL.

xii)

xiii) ADRIANA ZUÑIGA NUÑEZ is an individual who has not been explicitly mentioned in the previous paragraphs. However, it is possible that ADRIANA ZUÑIGA NUÑEZ is associated with HECTOR CANDELARIO PENA ("HCP") and the People's College of Law ("PCL"), and may be involved in fraudulent activities related to PCL.

Duran is an active licensee and market participant.

Defendant DURAN provides legal services as a court official under fee-based licensure and grant of authority of the STATE BAR, such license optionally renewed annually. DURAN, also provides legal services as a corporate officer and Chairman of the Board of the STATE BAR, providing legal services as Chairman to its Board of Trustees, and providing legal services concurrently controlling the conduct of STATE BAR, PCL, HCP, NMC, CLF, DURAN, GRANDT, CSF, BW, while STATE BAR and STATE each prosecute and defend or fail to prosecute and defend the same (administratively, criminally, or civilly) while being paid indirectly or directly or through IOLTAs, by the conduct at issue, also represented by GRANDT directly and derivatively for Board of Trustees in a unity of interests to conceal or commit overt acts together or as part of Complaint Review Unit separately regulating the conduct at issue, and for OCTC, OGC, CARDONA, DAVYTYAN, WILSON, NUNEZ, and DURAN currently control Enterprise S through the operations of the STATE BAR. DURAN fraudulently benefits from or controls the Racket and judiciary, an as such is responsible for numerous tolling violations of law to the detriment of U.S. citizens and judicial officers, in clear violation of both duty and law, for reasons detailed above and below.

LEAH WILSON, ESQ. ("WILSON") is an individual who, along with DURAN, AYRAPETYAN, DAVYTYAN, and others, uses and directs Enterprise S as a conduit to acquire interests or monies related to Enterprise P and Enterprise S. They are accused of engaging in a pattern of racketeering activity with legal malice, fraudulent concealment, ratification, and judicial fraud, which affects interstate commerce. Enterprise S also acts as its own supervisor for IOLTAs and is governed by its majority active market participants on the Board of Trustees from the active market.

SUZANNE CELIA GRANDT, ESQ. ("GRANDT") is an individual who, like WILSON and other accused parties, allegedly uses and directs Enterprise S to acquire interests or monies related to Enterprise P and Enterprise S. They are accused of engaging in a pattern of racketeering activity with legal malice, fraudulent concealment, ratification, and judicial fraud, which affects interstate commerce. Enterprise S also acts as its own supervisor for IOLTAs and is governed by its majority active market participants on the Board of Trustees from the active market.

VANESSA HOLTON, ESQ. ("HOLTON") is an individual who, along with DURAN, AYRAPETYAN, DAVYTYAN, and others, uses and directs Enterprise S as a conduit to acquire interests or monies related to Enterprise P and Enterprise S. They are accused of engaging in a pattern of racketeering activity with legal malice, fraudulent concealment, ratification, and judicial fraud, which affects interstate commerce. Enterprise S also acts as its own supervisor for IOLTAs and is governed by its majority active market participants on the Board of Trustees from the active market.

ELLIN DAVYTYAN ("DAVYTYAN") is an individual and General Counsel of the State Bar of California who, along with other accused parties, allegedly uses and directs Enterprise S to acquire interests or monies related to Enterprise P and Enterprise S. They are accused of engaging in a pattern of racketeering activity with legal malice, fraudulent concealment,

ratification, and judicial fraud, which affects interstate commerce. Enterprise S also acts as its own supervisor for IOLTAs and is governed by its majority active market participants on the Board of Trustees from the active market.

LOUISA AYRAPETYAN, , JUAN DE LA CRUZ, , DONNA HERSHKOWITZ, ESQ. ("HERSHKOWITZ"), CARMEN NUNEZ, ELIZABETH HOM, JAY FRYKBERG, GINA CRAWFORD, LARRY KAPLAN, DAVID LAWRENCE, HON. JAMES HERMAN, PAUL A. KRAMER, CAROLINE HOLMES, IMELDA SANTIAGO, NATALIE HOPE, STEVE MAZER, YUN XIANG, JOAN RANDOLPH, JEAN KRISILNIKOFF, and ENRIQUE ZUNIGA, ROBERT S. BRODY are individuals who may also be associated with the accused parties mentioned above and allegedly involved in the same pattern of racketeering activity with legal malice, fraudulent concealment, ratification, and judicial fraud that affects interstate commerce. They may also use and direct Enterprise S to acquire interests or monies related to Enterprise P and Enterprise S, and are governed by its majority active market participants on the Board of Trustees from the active market.

XXII. Defendant VANNESSA HOLTON ("HOLTON" OR "VAH") resides in, California. HOLTON is in the business of founding or starting companies, mergers, acquisitions, and venture capital. HOLTON is the daughter of Bay Area venture capitalist CLIFF KRISNIKOFF, investing in interstate securities. HOLTON is among the pawns extorted by HCP for the Racket with DURAN and GRANDT, also protected by the Racket, in pursuit of corrupt motives and interests unrelated to HOLTON claims or defenses.

XXIII. Defendant PASCUAL TORRES, ESQ. ("PST") is an individual, and culpable person, with a principal business address in Los Angeles, California. PST is in the business of providing legal services as a court official under license and authority of STATE BAR annually in exchange of a fee under SBN# . PST was also the Dean of the College for a brief period, overlapping the events here, in 2022. PST is in the parallel business of providing services to the STATE BAR and PCL through likely participation in their fraudulent scheme, including PST's inchoate attempts with SPIRO, GONZALES, and PENA to "rig" the election which Plaintiff lawfully and rightfully won. Plaintiff has reasonable belief and evidence to support PST's deliberate disregarding or concealing Plaintiff's severe injuries, emotional harm, and damages to his business and property. PST knowingly allows and freely permits fraudulent use of the State Bar's Rules for Unaccredited Fixed Facility Schools against Plaintiff so he can profit from the scheme. PST had a duty to inquire as to the circumstances surrounding Plaintiff's issues, but failed to respond to each and every inquiry or reasonable request for help.PST will likely claim he worked without remuneration, and civil rights violations known and adjudicated, with PST thereby presenting U.S. citizens and judicial officers danger of imminent lawless

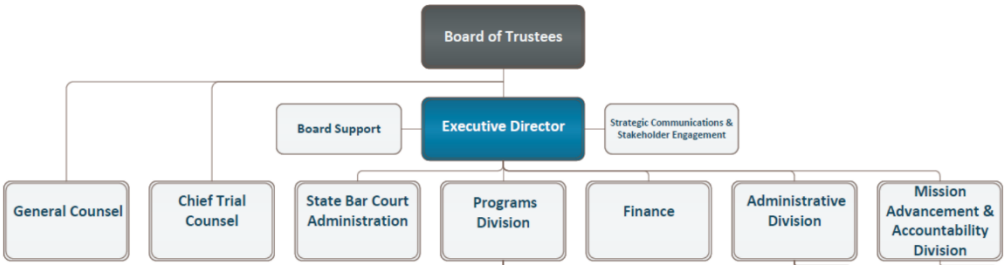
action, and thereby posing a clear and present danger in the U.S… Unfortunately for the Defendant, the nature of the violations and his constructive knowledge will likely estop the attempted use of a defense on that basis.

XXIV. Defendant IRA SPIRO.("SPIRO") is an individual, and culpable person, with a principal place of business address in Los Angeles County, California. SPIRO is in the business of providing legal and services as a court official and attorney under fee-based license and authority of STATE BAR annually under. SPIRO specializes in assuming the role of "counsel" within the fraudulent schemes commenced by HCP, GONZALES, and other participants in the Racket, often after HCP or another Enterprise P or Enterprise S operator has been disqualified or exhausted of frivolous argument. SPIRO uses pugnacious and reprehensible tactics to attempt to dissuade aggrieved parties from seeking money damages and prevent the aggrieved party from achieving justice. Here SPIRO has demonstrated proclivity for procedural extortion, misrepresentation, perjury, slander, libel, and fraud. SPIRO does this through his purported sole practice role, but he is a proxy for HCP and the other culpable Defendants in fact and law.

XXV. Defendant PREM ANTONIO SARIN ("PRS") is an individual, and culpable person, with a principal place of business address in the United States. PRS has engaged in fraud, and acted for improper purposes to harm Plaintiff, and in conspiracy through overt acts in furtherance of the schemes, he has also knowingly threatened to "kick [plaintiff] off" of calls or Zoom video meetings in further interference to Plaintiff's relationships, stressors, and class performance.

Here, Plaintiff reiterates his reasonable belief supported by the corroborating evidence of his transcript, which "tells the tale"as Plaintiff's average grades ranged from A+ to B-; as a consequence and additional proof of harm, Plaintiff's average course grades went from excellence to disaster in the ; a 'D'.

XXVI. Defendant LEAH TAMU WILSON, ESQ. ("WILSON") is an individual, and person, with principal place of business address at 1147 Keith Ave, Berkeley, CA 94708 in Alameda County California, and is currently employed under contract as Executive Director of STATE BAR.



Plaintiff believes based on brief inquiry that WILSON prior to her current position was a Supervising Analyst and Manager of the Administrative Office of the Courts, where, according to she administered a statewide juvenile court improvement program and oversaw the allocation of nearly $300 million in state, federal and private funding to the courts, and managed state, federal, Stimulus, and private funding streams.

XXVII.

Factual allegations common to all counts.

XXVIII. Plaintiff incorporates his exhibit list as being set forth here fully, including the operative complaint in State Action 1, the operative complaint in State Action 2, and the associated moving papers supporting his motion for summary judgment [ROA #733] or in the alternative summary adjudication of 14 issues or both [ROA #729] in State Action 1 scheduled for hearing on January 6, 2023, and his moving papers supporting his motion for summary judgment [ROA #107] or in the alternative for summary adjudication [ROA #103] of 22 issues in State Action 2 scheduled for hearing on March 14, 2023.

XXIX. The following are incorporated as if set forth fully, and thereby binding under California Rules of Court 8.1115(b)(1)-(2) for 18 U.S.C. § 1964(a)-(d) claims in this case via direct, indirect roles of Defendants and each of them:

i. https://www.tvmix.com/the-state-bar-of-california-desperately-wants-ronald-gottschalk-to-shut-up-go-away/123

Enterprise Descriptions

III. Enterprise S. The first association-in-fact enterprise consists of "more than 250,000 [STATE BAR licensed] attorneys…[including subject active market participants detailed within] 16,000 complaints of attorney misconduct annually…[and the same active market participants who receive, or who] distribute[] over $78 million in [annual] grants to legal aid organizations [operated by active market participants in the same vertical or horizontal

trade or profession, all of whom are regulated by the same active market participant and monopoly regulatory entity, the State Bar of California.

IV. Enterprise S. The enterprise operates via DURAN through non-sovereign public entity corporation THE STATE BAR OF CALIFORNIA with active market participants furthering their own interests; commencing on or before June 20, 2020 State Bar Admissions Office under NUNEZ for Enterprise S, in special relationship to Plaintiff victim, ratified fraudulent transcripts and other schemes, some that continue to the present day.

V. Enterprise S, Directly controlled by active market participants falsely purporting to regulate, THE STATE BAR OF CALIFORNIA operates several shown, deliberate schemes to defraud members of the public in favor of active market participants that damaged Plaintiff. Enterprise S generally asserts likely inapplicable immunities, state codified privileges, or otherwise to influence judicial officers – in each case backed by their monopoly and ability to threaten, coerce, or take from anyone at any time for any reason under "sovereign privilege" or political clout.

VI. Enterprise S. Parallel or subsidiary enterprises consist of non-sovereign associations-in-fact or association-in-acts, control, or unity of interest law firms and legal services firms (public and private), entities they create or control together to move assets and monetary instruments such as property owners' associations, LLCs, other "trusts," and the bank accounts associated therewith including but not limited to IOLTAs (all without supervision of State, or US).

i) Here plaintiff asserts that regulated law schools offer legal education, compliance and proctoring services, and therefore meet the definition of "law firm" under the business and professions code and the State Bar Act of 1937.

VII. Enterprise S ostensibly regulates PCL, and other fixed facility law schools. Interests in Enterprise S were owned, operated, licensed, regulated, disciplined, and controlled for all matters including corporate governance, administrative, management, criminal prosecution and defense of the same conduct, administrative prosecution and defense of the same conduct, civil prosecution or defense of the same conduct, and even judicial officers among Enterprise S's "more than 250,000 attorneys…[including the subject active market participants detailed within] 16,000 complaints of attorney misconduct annually…[and those active market participants who receive, or who] distribute[] over $78 million in [annual] grants to legal aid organizations [operated by active market participants in the same horizontal trade or profession, all of whom are regulated by the same active market participants without supervision of STATE]."

VIII. Enterprise S is factually operated to the ongoing mutual benefit of Enterprise P and Enterprise S via STATE BAR and its present and historical operators over the last decade. Plaintiff incorporates 2012 to 2022 State Auditor reports here, including "money laundering" (2+ acts).

i) Here Plaintiff asserts that given the length, number and gravity of the violations, an entity not under the express protection of the regulator would more likely than not have been closed by the reasonable regulator.

IX. Active market participants also operate Enterprise S postal mail and wire schemes overtly to dismiss, diminish, label students and non-active public market participant losses as "de minimis," delay, conceal, estop, limit, disclaim responsibility for, oppress and obscure severe injuries, loss of money, and damages inflicted upon non-active market participants like Plaintiff using artifice of State law. At the same time, each defendant shown deliberately, and unjustly enriches Enterprise P and Enterprise S in exercising daily licensing, regulatory, and discipline functions of Enterprise S without any form of applicable sovereignty, while citing irrelevant immunities and non-existent discretion to take from Plaintiff what is unlawful in the United States and the Great State of California.

X. Enterprise S is funded by active market participant, including student, fees paid at various times in various amounts for activities such as records review and test taking, which are paid back to their own horizontal profession,.

i) Additional funds are at times made available by Legislature or even the federal government for "legal aid" for "homelessness" which funds Plaintiff did not see to aid him in preventing his own threatened homelessness.

XI. Funds are distributed unequally, as they are generally used by or sent back to its horizontal profession. Converse with public statements of its operations falsely claiming compliance or "good faith" attempt to comply with the STATE BAR mandate to protect the public, Enterprise S makes or ensures parallel payments to Enterprise P and Enterprise S which are added to the Admissions Budget in a scheme executed by wire and postal mail.

XII. Enterprise P includes some combination directly or indirectly among, among them persons HCP, PCL, STATE BAR, CLF, NMC , ANTONIO, BOUFFARD, GONZALES,SPIRO, and DURAN. WILSON, DAVYTYAN, and HOLTON using STATE BAR authority to engage in racketeering activity shown directly or indirectly by control, or to use the proceeds, and to re-invest them back among Enterprise P and Enterprise S as needed.

XIII. The nature of the schemes, the timing of specific circumstances, and the lack of the State Bar's substantive intervention all support the regulatory and conduct entwinement of both PCL and the STATE BAR , the entanglement and interoperation of Enterprise P and Enterprise S, where Enterprise S gave the semblance of legitimacy to an otherwise unlawful practice, which is likely per se anticompetitive .

(1) Here the conduct is flagrant and sufficiently egregious, as easy to discern as verify; but here, the STAT BAR willfully disregarded and through flagrant participation violated under color of state law as recently as January 20, 2023, judicially noticed and mandatory procedure for dealing with procedure, evidence, and maintenance of due process and the perception of integrity in the State Bar's antitrust determination policy.

(2) THE STATE BAR OF CALIFORNIA is operated much like a protection racket for Enterprise P, Enterprise S and "more powerful or influential" attorneys like the infamous Tom Girardi or Dunn, and the other named Defendants qualifying as "Persons" (for example, the Board of Trustees acting with Office of General Counsel in prosecution, regulation, defense, discipline, and failure to make any

good faith attempt at student redress) are involved with and in sufficient privity to parties culpable for the conduct at issue as a matter of law.

XIV. STATE BAR and PCL's joint and separate operational decisions and overt acts communicated by wire to in support of PCL's unlawful extortion and conversion violative of State Bar enforceable policy.

XV. The following fraudulent schemes were used to advance the interests of active market participants at every stage by mail, wire, violative of RICO 1961 hundreds of times each year through Enterprise S by Enterprise S and Enterprise P, and in perpetuity, continuing, and severely causing injury to public persons under artifice of state authority, discretion, and sovereignty:

A) Attorney Discipline Complaint in 200+ Languages (Notice of Public Injury)

B) Office of Chief Trial Counsel ("Intake," "Abatement" [Selective Concealment])

C) Complaint Review Unit (Office of General Counsel, Defending Tort Claims)

D) "*In RE: Walker*" ([Active Concealment] + [Artificial Authority and § 1962(d)])

E) "Client Security Fund" (Fraudulent* Public Insurance Scheme) CRPC 1.01[4].

F) Government Claims Act Form (After Which Enterprise S Conceals, Oppresses)

G) Office of General Counsel as Defense Law Firm (also Complaint Review Unit)

H) Schemes "Recommend" Retention of More (Fearful) Active Market Participants

Enterprise P and Enterprise S actors are shown to take or convert money, business interests, property, capital stocks, insurance policies, funds HOLTON on behalf of clients for which STATE BAR via Enterprise S which is engaged in the conduct at issue, as evidenced by the simple fact that even deliberately fraudulent cases and claims maintained under self-purported California Supreme Court-granted sovereignty are ratified in favor of active market participants. Here, there exists "clear and compelling evidence, reasonable suspicion, and demonstration of predicate, parallel, and ongoing acts of serial compulsory racketeering.(Which see: CACI 430. CRPC 8.4).

The gravamen of the holding is ultra vires abrogation of duty.

Plaintiff asserts that the argument used appears reasonable for one in ordinary circumstance is capricious in application here because it rationalizes the continued and persistent abrogation of duty.

"Actual injury is not the principle the law proceeds on. Fidelity in the agent is what is aimed at, and as a means of securing it the law will not permit him to place himself in a position in which he may be tempted by his own private interests to disregard those of his principal. This doctrine is generally applicable to private agents and trustees, but to public officers it applies with greater force, and sound policy requires that there be no relaxation of its stringency in any case that comes within its reason [citation].

"There is neither a more wholesome nor a sounder rule of law than that which requires public officers to keep themselves in such a position as that nothing shall tempt them to swerve from the straight line of official duty. Officers ought not to be allowed to place themselves in a

position in which personal interest may come into conflict with the duty which they owe to the public. The rule which has so long prevailed is eminently just [citation]."

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XVI. As a matter of public policy and precedent, judicial fraud, racketeering through the judiciary, money laundering, and anti-competitive behavior has no place in democracy, per *Thompson v. Clark*, 596 U.S. (2022).

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

XVII. Based on this Court's holding in In re Kramer, 193 Fed.3d 1131, 1132-1333, Mr. Doe is entitled an examination of the record in the State Bar proceeding, which denied him federal constitutional – due process.

XVIII. In *Selling v. Radford*, 243 U.S. 46, 50-51, 37 S.Ct. 377, 61 L.Ed. 585 (1917), the Court held that a federal court could impose reciprocal discipline on a member of its bar based on a state's disciplinary adjudication, if an independent review of the record reveals: (1) no deprivation of due process; (2) sufficient proof of misconduct; and (3) no grave injustice would result from the imposition of such discipline. Thus, while federal courts generally lack subject matter jurisdiction to review the state court decisions, see D.C. Court of Appeals v. Feldman, 460 U.S. 462, 486, 103 S.Ct. 1303, 75 L.Ed.2d 206 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 415-16, 44 S.Ct. 149, 68 L.Ed. 362 (1923), a federal court may "examine a state court disciplinary proceeding if the state court's order is offered as the basis for suspending or disbarring an attorney from practice before a federal court." *MacKay v. Nesbett*, 412 F.2d 846, 847 (9th Cir.1969) (citing *Theard v. United States*, 354 U.S. at 281-82, 77 S.Ct. 1274). (Id.)

XIX. State Bar Court Hearing Department (Hearing Department**)** conducts evidentiary hearings on the merits in disciplinary matters. (Rules Proc. of State Bar (hereafter, Rules of Procedure), Rules 2.60, 3.16.) An attorney charged with misconduct is entitled to receive reasonable notice, to conduct discovery, to have a reasonable opportunity to defend against the charge by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. (§ 6085.) The Hearing Department renders a written decision recommending whether the attorney should be disciplined. (Rules Proc., rule 220.) Any disciplinary decision of the Hearing Department is reviewable by the State Bar Court Review Department (Review Department) at the request of the attorney or the State Bar. (Id., Rule 301(a).) In such a review proceeding, the matter is fully briefed, and the parties are given an opportunity for oral argument. (Id., Rules 302-304.) The Review

Department independently reviews the record, files a written opinion, and may adopt findings, conclusions, and a decision or recommendation at variance with those of the Hearing Department. (Id., Rule 305.) A recommendation of suspension or disbarment, and the accompanying record, is transmitted to this court after the State Bar Court's decision becomes final. (§ 6081; Rules Proc., rule 250.)

XX. The CSC is not a trial court and cannot determine facts regarding federal constitutional claims. The State Bar cannot determine these facts under Cal. Const. Art. III, sec. 3.5. (See Hirsh v. Justices of Supreme Court of California, 67 Fed.3d 708, 712-713 (1995).

California State Auditor provides evidentiary support for predicate, parallel and ongoing violation.

Here Plaintiff asserts judicial notice and public record of the California State Auditor's published reports, which copiously detail numerous predicate acts of racketeering activity, protectionist behavior, and breach of duty. The State Auditor produces an annual list of "High Risk Agencies".

XXI. Specifically, AB 3249 section (2)The act [amending BPC 6001.1, BPC 6094, and other statutes} **requires protection of the public to be the highest priority for the State Bar and the board of trustees in exercising their licensing, regulatory, and disciplinary functions.** Assembly Bill 3249, Ch. 659, p.2.

Is the State Bar the "MOVING FORCE" for constitutional violations?

Plaintiff argues that for reasons detailed above and below, the State Bar has engaged in conduct the requirements for being the "moving force" and substantial factor in the violations and injuries resulting from the violations of Plaintiff's rights.

Richard v. Stanley, 477 U.S. 131 (1986) applies to the STATE BAR actors in this scenario in the sense that it deals with the liability of state actors under 42 U.S.C. § 1983 for violating an individual's constitutional rights.

In Richard v. Stanley, the Supreme Court held that a state actor can be held liable under 42 U.S.C § 1983 for violating an individual's constitutional rights only if the state actor's conduct was the "moving force" behind the violation.

In Richards v. Stanley, 43 Cal.2d 60, 62, 271 P.2d 23, 25 (Cal. 1954), the plaintiff was injured after a collision with an automobile owned by the defendants but which had been stolen and was being driven by the thief.

Here the State Bar actors, as the monopoly regulator and market participant, have a duty to ensure that the People's College of Law (PCL) is in compliance with federal and state laws and regulations, including the California State Bar Act of 1937, the California Private Postsecondary Education Act, and the Business and Professions Code Section 17200 (Unfair Competition Law). If the State Bar actors have knowledge or information that PCL is engaging in fraudulent or unlawful conduct, and they fail to take appropriate action to address or prevent the conduct, they could be held liable under § 1983 for violating the constitutional rights of the Plaintiff and other students.

The fact that the State Bar has failed to follow its own antitrust policy on multiple occasions, acting in permissive and affirmative support of the school's unlawful issue of 2 units for postsecondary law school classes instead of the required 3, as quarter units are federally defined for financial aid purposes, and consequently preventing students from transferring, a per se naked restraint of trade, would be considered as a violation of the students constitutional rights, as **the State Bar actors are both the proximate and actual "moving force" behind the violation and the failure to provide the lawful quantity of units is not only breach of contract, but breach of law under "color of law".**

XXII. Aliens to the state in the conduct of interstate commerce and California citizens in pursuit of a legal education have been put at risk or injured by Defendants conduct that is capricious, arbitrary, and per se unlawful, for reasons discussed above and below.

XXIII. There are several parallel and subsidiary enterprises within the horizontal profession of providing legal services in California which uniquely affect interstate commerce in the United States, controlling an estimated $3.4 trillion gross state product annually.

XXIV. The enterprises are either associated-in-fact or associated-in-acts or associated-in-interests or associated-in-control. Together, they hold $5 billion or more at any given point in client funds held in interest only lawyer trust accounts (IOLTA). They distribute and receive $250M+ yearly from themselves or from the government to themselves in their

horizontal profession, among them 700 lawyers who received 4+ "private letters" according to Report 2022-030.

XXV. In restraint of trade, non-licensees of STATE BAR seeking to provide legal services within California (e.g., to sue The State Bar of California or its official agents) from inside or outside of California must obtain Enterprise S (and Court) authorization under Rule 9.40. When viewed with the misuse of STATE BAR by its private actors, 15 U.S.C. § 1 violations are *per se*.

XXVI. In restraint of trade, STATE BAR is controlled at every level of its operations by majority of active market participants purporting to regulate themselves without state supervision, where the Racket exists, and similar rackets exist using Enterprise S to further interests of Enterprise S under the presumption of competence associated with Enterprise P, and the schemes to delay, oppress, and render victim persons like Plaintiff mute. For Enterprise P, if you fail to play by the rules, Enterprise S will get you, or Enterprise S will help you, depending on what skin in the game exists undisclosed to the public or Legislature without clearly articulated state policy to the general detriment of the Plaintiff and members of the public in similar circumstance or conflict.

XXVII. The nature and reputation of the STATE BAR as the statutory investigator, administrator, prosecutor and overseer of the State of California's attorney discipline system has likely impeded Plaintiffs ability to secure counsel.

i) Here, Plaintiff sought assistance from law firms, e.g., Rex Parris and his law firm in Lancaster, CA and a variety of others who all declined the case given the nature of the parties.

ii) The Plaintiff found it impossible to negotiate representation or limited support for case management and review.

(1) Plaintiff was likely impacted here as he was personally unable to secure assistance to seek remedy from multiple attorneys in Arizona. California, or New Mexico primarily due to the nature of the parties.

(2) Plaintiff communicated with dozens of firms repeatedly and at various stages of the development of the cause of action.

XXVIII. Specifically, all functions of STATE BAR from Board of Trustees, Executive Director, Office of General Counsel (Complaint Review Unit), Office of Chief Trial Counsel, Complaint Review Unit (Office of General Counsel), State Bar Court, Client Security Fund, intake, investigation, prosecution, defense, licensing, regulatory, disciplinary functions, and antitrust determinations in California are used to advance private interests of bad actors in both Enterprise P and Enterprise S , including benefits in career (where State Bar Employees receive union benefits under the SEIU), money, business, and property, while taking away from or failing to appropriately proactively protect legitimate public interests.

XXIX. In this case, it took from Plaintiff's business, property, and freedom by enabling deliberate schemes to defraud those it had a duty to serve, its students, of which Plaintiff was one.

XXX. State Bar Defendants with PCL will likely argue that they are allowed to do it to Plaintiff because they are Enterprise P operating under the "color of law" as designated

entities and market participants in their conduct as court officials, now "privileged" or "protected activity" due to Plaintiff's prior "consent" or negligence". The Defendants know or should know this position is fraudulent and false.

XXXI. As to Enterprise S operatives including, but not limited to, DURAN, WILSON, NUNEZ, CHING, LEONARD, KRISNIKOFF, RANDOLPH, DAVYTYAN, MAZER, HOPE, CARDONA and Enterprise P operatives SPIRO, GONZALES, PENA, BOUFFARD, SARIN, TORRES, SANCHEZ, DUPREE, SILBERGER, GILLENS, and others the evidence here: Enterprise S will not do anything because STATE BAR didn't do anything before and The State suggests that the State Bar of California, as a matter of de facto policy disregard Court of Appeal rulings from California or the United States Circuits.

XXXII. DAVYTYAN, as General Counsel bears buckhead he objective interpretation of any (state or federal) law comes from the Office of General Counsel; these "interpretations" have been used in Plaintiff's case and thereby becomes rule or the essence of the legal strategy used to address public complaints,

i) Defendants will argue that their antitrust determinations follow a process that meets the requirements of law; unfortunately, because the State's Highest Court issued an Administrative Order and Enterprise S operators failed to follow ALL of the requirements of the order, "partial compliance" remains "noncompliance";

ii) Failing to follow the law is noncompliance;

iii) the issue here is that the preclusion on conflicts of interests undermining the public interest renders "defensive" conduct on behalf of the Enterprise S operators ultra vires and in direct opposition to the actors statutory charge.

iv) Here, incomplete, frivolously assembled,

XXXIII. In restraint of trade and federally protected rights, STATE BAR continues the active suppression of the rights of State and United States citizens, not limited to but including Plaintiff, under artifice of colorable right through the threat of Enterprise S and in accounted and unaccounted interests of Enterprise P and Enterprise S, even using Cal. Cod. Civ. Proc. § 425.16 which Legislature codified citing 1st Amendment of the United States Constitution rights to protect free speech and the right of petition.

XXXIV. Cal. Cod. Civ. Proc. § 425.16 was converted to legal fees by Enterprise S in favor of Enterprise P, while ***restricting*** the right of free speech and petition for United States citizens and other active and non-active market participants, among them Plaintiff and ROES 1-150,000, by delaying unnecessarily their rights to life, liberty, and equal protection under state law under color of sovereign action.

i) Here, State Bar requires payment of a student registration fee for

XXXV. The conduct at issue for Defendants PCL and Enterprise P is stealing from Plaintiff under color of right, when they and their vertical regulator had constructive notice, followed by multiple notices otherwise, using fictitious names (a dba), flagrant non-compliance with Federal and State statutes as well as State Bar rules and regulations (discussed throughout this document, above and below)web sites, and Plaintiff's school

account or alternatively "guardian" positions where Plaintiff must race to document the fraud he identifies. "clients" will thus never ask for an accounting of an IOLTA account, especially where Enterprise S decides what goes to "abatement," or how "Complaint Review Unit" decisions might influence the imposition of "discipline" or "regulation."

XXXVI. As to the Enterprise S and its likely CSF scheme… "The Fund does not reimburse interest, expenses or incidental or consequential losses caused by the attorney, such as fees paid to another attorney or damages caused by the attorney's malpractice, negligence or incompetence. You must show that the attorney received the money or property."

i) Here, the public interest is to be made "whole" as a baseline and to punish the conduct if it is violative of law or privilege. The State Bar will likely argue limited reserves, but the reality is that it utilizes this money in ways that are likely ultra vires or in conflict with its statutory mandate.

XXXVII. "The Client Security Fund Commission administers the Client Security Fund and is supported by legal counsel who issue decisions on behalf of the Commission. The Commission is made up of five volunteers – three lawyers and two nonlawyer public members – appointed by the State Bar's Board of Trustees. The Fund determines if an application qualifies for reimbursement and whether all or part of the application will be paid."

i) What process is used to determine where and how much liability lies?

ii) Why doesn't the fund cover punitive damages and seek recompense from the violative party?

XXXVIII. "If you have not already done so, you need to file a discipline complaint against the lawyer. The online complaint form is available on the State Bar website in English, Spanish, Vietnamese, Korean, Russian, and Chinese. You may also write or call toll-free: The State Bar of California, Intake Unit, 845 South Figueroa Street, Los Angeles, CA 90017-2515

800-843-9053." [noting how STATE BAR links discipline to damages here, and the gaps shown].

XXXIX. "This fund was designed to [conceal, selectively pay] attorney theft or an act equivalent to theft. In order for your request to be considered, you must establish that the money or property you are seeking to have reimbursed actually was received by the attorney and was wrongfully retained by the attorney. You may not request and will not be paid interest on any money you state that you have lost. You also may not request and will not be paid any incidental or consequential losses or expenses caused by the attorney. Examples of incidental or consequential losses would include fees you paid another

4. a. What did you hire the attorney to do?
☐ Criminal Matter ☐ Probate ☐ Other: _____
☐ Marriage Dissolution ☐ Workers' Compensation
☐ Personal Injury ☐ Loan Mod/Foreclosure

b. **VERY IMPORTANT** Describe in chronological order, **on a separate piece of paper**, the attorney's conduct that led to the loss. Please be as detailed as possible and specify amounts and dates. You **MUST provide copies of documents** which support your loss–such as **retainer agreements, the front and back of cancelled checks, receipts and other documents** that show the attorney received money or property.

5. a. **AMOUNT YOU ARE REQUESTING FROM THIS FUND (Reminder: You may only request an amount that was received by the attorney. Other types of losses are not covered. See front of application for explanation.):** $ _____

b. How would you describe your loss?
☐ Advanced fees and costs ☐ Loan
☐ Entrusted funds ☐ Settlement funds
☐ Investment ☐ Other: _____

6. a. Date loss occurred _____
month day year

b. Date loss was discovered _____
month day year

7. a. Did any family or other personal relationship exist between you and the attorney at any time?
☐ Yes ☐ No

b. If yes, explain the relationship _____

ASSIGNMENT OF APPLICANT'S RIGHTS AND SUBROGATION:

Upon payment of all or any portion of the sums requested, you, the undersigned, to the extent of such payment, hereby assign to The State Bar of California your claims, lawsuits and judgments against any and all persons who are primarily and or secondarily liable arising out of the above described dishonest acts, including lawsuits against banks, insurance companies, etc. You authorize The State Bar of California to prosecute all claims, lawsuits and judgments either in your name, that of the State Bar of California or its Client Security Fund, or in the names of both as the State Bar of California alone shall decide.

In the event that the amount paid to you by the Client Security Fund is not payment in full for all losses which you have suffered, then any amounts recovered by the State Bar in excess of the amount paid to you plus its costs of collection, shall be paid to you.

You agree that following any payment to you by the State Bar, you will cooperate with it in prosecuting any claim, lawsuit or judgment. You also agree that all civil actions to be taken or continued will be taken or continued under the full control of the State Bar upon payment to you in any amount by the Client Security Fund. You also agree that the State Bar may, as it alone decides, prosecute or fail to prosecute, or abandon the claim, lawsuit or judgment without obtaining your consent.

You agree to cooperate in the investigation of this reimbursement request and any related disciplinary proceedings against the lawyer in question. You agree to provide any additional information and sign and deliver to the State Bar of California such documents as may be required related to any matter pertaining to the application.

You waive any rights that you may have against the Client Security Fund, State Bar of California, any of their officers, employees, members of the Board of Trustees, and all other committees regarding the payment or denial of this reimbursement request; or for failure of any of them to pursue or achieve any particular outcome regarding any claim, lawsuit, or judgment. Applicant shall inform the State Bar of California of the status of any proceeding against any person or party who is liable for the losses which are the basis of this application. In the event applicant receives any recovery while this application is pending, applicant shall inform the Client Security Fund and the State Bar of California.

Your rights and remedies are subject to the Client Security Fund rules, which may be amended from time to time.

NOTICE TO APPLICANT

THE STATE BAR OF CALIFORNIA HAS NO LEGAL RESPONSIBILITY FOR THE ACTS OF ATTORNEYS. PAYMENTS FROM THE CLIENT SECURITY FUND ARE SOLELY WITHIN THE DISCRETION OF THE STATE BAR. BY APPLYING TO THE CLIENT SECURITY FUND, THE APPLICANT ACKNOWLEDGES THAT HE OR SHE MAY BE GIVING UP THE RIGHT TO PURSUE A CIVIL ACTION FOR THE SAME RECOVERY AGAINST A THIRD PARTY.

attorney or damages caused by malpractice, negligence or incompetence."

XL. https://www.calbar.ca.gov/Portals/0/documents/forms/csf/CSF_Reimbursement_Application.pdf

XLI. This is a public insurance scheme, misrepresented to the public and but a de minimis line item for Racket, although it is also designed to bring everything back to Enterprise S.

XLII. Where less than 5% of cases saw "discipline" for the last decade or so according to the California Staet Auditor, CSF Rule 3.432 Required status of attorney [to request

reimbursement from the Client Security Fund scheme] (A) To qualify for reimbursement, an application must establish that the attorney whose dishonest conduct is alleged has (1) been disbarred, disciplined, or voluntarily resigned from the State Bar; (2) died or been adjudicated mentally incompetent; or (3) because of the dishonest conduct become a judgment debtor of the applicant in a contested proceeding or been convicted of a crime. (B) The Commission or Fund Counsel may waive provision (A) of this rule Pursuant to guidelines set by the Commission. Rule 3.432 adopted effective January 1, 2010; amended effective May 17, 2019.

XLIII. Thus, for the reasons discussed above, current CFS mamangement likely operates to the benefit of the bold abuser, whose intent is to convert and not necesarrily embezzle; although the conduct yields the same result, the conduct differs in substantive ways that will likely mitigate in favor of the aggrieved Plaintiff for, in some cases, treble damages or more, but the client security fund is designed to "pacify the Plaintiff", and not truly "protect them" in proactive fashion.

Enterprise Descriptions

XLIV. Enterprise S. The first association-in-fact enterprise consists of "more than 250,000 [STATE BAR licensed] attorneys…[including subject active market participants detailed within] 16,000 complaints of attorney misconduct annually…[and the same active market participants who receive, or who] distribute[] over $78 million in [annual] grants to

legal aid organizations [operated by active market participants in the same horizontal trade or profession, all of whom are regulated by the same active market participants without supervision of STATE, now necessarily U.S.]."

XLV. Enterprise S. operators include DURAN, WILSON, LEONARD, DAVYTYAN, AREPTYAN, and others, conducted through a statutory constructive corporation delegated as the public entity corporation THE STATE BAR OF CALIFORNIA with legal monopoly regulatory oversight of active market participants furthering their own interests in the legal services profession, before June 20, 2020. Board of Trustees for Enterprise S, in special relationship to Plaintiff victim, with tolling and injurious conduct continuing through the present day.

XLVI. Enterprise S, Directly controlled by active market participants falsely purporting to regulate in the context where the majority of enforcement duties have been abrogated, THE STATE BAR OF CALIFORNIA operates several demonstrated and deliberate schemes to defraud members of the public in favor of active market participants, including the scheme that damaged Plaintiff.

XLVII. Enterprise S is likely relies on inappropriate and unlawful assertion of immunities, state codified privileges, or otherwise to influence judicial officers – in each case backed by their monopoly and "color of right" and prestige - in implicit and express support of their ability to intimidate, coerce, or take without recourse from anyone at any time for any reason under "sovereign" or Eleventh Amendment principles, misrepresented.

i) Misrepresentations of fact for this purpose likely qualify as abuses of discretion and violative of the statutory duties of Candor to the Tribunal.

XLVIII. Enterprise S. Parallel or subsidiary enterprises consist of non-sovereign associations-in-fact or association-in-acts, control, or unity of interest law firms* (public and private), entities they create or control together to move assets and monetary instruments such as property owners' associations, LLCs, other "trusts," and the bank accounts associated therewith including but not limited to IOLTAs (all without supervision of State, or US).

XLIX. Interests in Enterprise P were owned, operated, licensed, regulated, disciplined, and controlled for all matters including corporate governance, administrative, management, criminal prosecution and defense of the same conduct, administrative prosecution and defense of the same conduct, civil prosecution or defense of the same conduct, and even judicial officers, as well as the licensee operators among Enterprise P as members of a group of "more than 250,000 attorneys…[including the subject active market participants detailed within]. State Bar has indicated that it fields approximately 16,000 complaints of attorney misconduct annually and distributes over $78 million annually in grants to legal aid organizations [operated by active market participants in the same horizontal trade or profession, all of whom are regulated by the same active market participants apparently without substantive supervision from the STATE BAR."

L.

LI. Behind Enterprise P is PCL, including operators SPIRO, GONZALEZ, PENA, BOUFFARD, SARIN, GILLENS, DUPREE, SILBERGER, FRANCO, SARINANA, POMPOSO, TORRES and others.

LII. Enterprise S is factually operated to the ongoing benefit of Enterprise P and Enterprise S via STATE BAR's assumption of direct supervision of PCL for probationary purposes December 2022. Plaintiff incorporates 2012 to 2022 State Auditor reports here.

LIII. Active market participants also operate Enterprise S postal mail and wire schemes overtly to dismiss, diminish, label non-active market participant losses as "de minimis," delay, conceal, estop, limit, disclaim responsibility for, oppress and obscure severe injuries, loss of money, and damages inflicted upon non-active market participants like Plaintiff using artifice of State law. At the same time, each defendant shown deliberately, and unjustly enriches Enterprise P and/or Enterprise S in exercising daily licensing, regulatory, and discipline functions of Enterprise S without any form of applicable qualified immunity, while citing irrelevant immunities and non-existent discretion to take from Plaintiff that is unlawful in the United States.

LIV. Enterprise S is funded by active market participant fees paid annually, which are paid back to their own horizontal profession, sometimes funded by Legislature or even the federal government for "legal aid" for "homelessness" which funds Plaintiff did not see to aid him in preventing his own threatened homelessness.

LV. Unequally, the funds are instead sent back to its horizontal profession. Converse with public statements of its operations falsely claiming STATE BAR protects the public (or tries to), Enterprise S makes parallel payments to Enterprise P and Enterprise S which exceed annual payouts from the "Client Security Fund" public insurance scheme executed by wire and postal mail by a magnitude of approximately **25X or greater**. Client Security Fund was converted by Enterprise S and the attorney needs to be disciplined for an

application to conclude. In other words, the actual liabilities are probably 1,000X greater than what is disclosed from this scheme, where not even the facts underlying the instant action were disclosed to the auditors in 2022 before publications in April and May.

LVI. Enterprise P includes some combination directly or indirectly among, among them OF persons HCP, PCL, GONZALEZ, DUPREE, SILBERGER, and others. STATE BAR, LEONARD, with, under, entrusted, in trust, or managed among them by DURAN, HCP, HOLTON, WILSON, and others associated with the operation utilized STATE BAR authority to engage in racketeering activity shown directly or indirectly by control, or to use the proceeds, and to support and protect Enterprise P and Enterprise S as needed.

LVII. The nature of the schemes, the timing of specific circumstances, and the lack of the State Bar's substantive intervention all support the regulatory entwinement of both PCL and the STATE BAR , the entanglement and interoperation of Enterprise P and Enterprise S, where Enterprise S gave the semblance of legitimacy to an otherwise unlawful practice, which is likely per se anticompetitive .

(1) Here the conduct is flagrant and sufficiently egregious, Plaintiff believes and prays the Court concurs shown but is not at all difficult to discern; but willfully disregarded, and flagrantly violated under color of state law as recently as October 4, 2022. Judicially noticed evidence in State Action 1 and State Action 2 show beyond reasonable doubt for the twenty-year period 2002-2022: THE STATE BAR OF CALIFORNIA is operated much like a protection racket for Enterprise P, Enterprise S and "more powerful or influential" attorneys like WILSON, MAZER, DURAN, LEONARD, HOLTON, and the other named Defendants qualifying as

"Persons" (for example, the Board of Trustees acting with Office of General Counsel in prosecution, regulation, defense, discipline, and failure to make any good faith attempt at student redress) are involved with and in sufficient privity to parties culpable for the conduct at issue as a matter of law.

LVIII. The following fraudulent schemes are used to advance the interests of active market participants at every stage by mail, wire, violative of RICO 1961 thousands of times each year through Enterprise S by Enterprise S and Enterprise P, and clearly other active market participants, as demonstrated and reported annually by the State Bar and various State Audit or compliance agencies, none with any right of enforcement action against the State Bar to assist with oversight and compliance.

(1) The current regulatory framework clearly invites misconduct in perpetuity, an inevitable cycle of underreported and STATE BAR derived public injury, any lay victim egregiously injured as a member of the public seeking regulatory relief more often than not subjected to additional injury under artifice of state authority, discretion, and sovereignty:

(2) Areas of likely relevant discovery here include, but are not limited to:

A) Attorney Discipline Complaint in 200+ Languages (Notice of Public Injury)

B) Office of Chief Trial Counsel ("Intake," "Abatement" [Selective Concealment])

C) Complaint Review Unit (Office of General Counsel, Defending Tort Claims)

D) "*In RE: Walker*" ([Active Concealment] + [Artificial Authority and § 1962(d)])

E) "Client Security Fund" (Fraudulent* Public Insurance Scheme) CRPC 1.01[4].

F) Government Claims Act Form (After Which Enterprise S Conceals, Oppresses)

G) Office of General Counsel as Defense Law Firm (also Complaint Review Unit)

H) LEONARD, CHING, NUNEZ, WILSON, AND DURAN willfully conspired to oppress Plaintiff via CCP § 425.16, *Pro Se* Legal Fees and other unlawful or abusive scheme.

I) Schemes "Recommend" Retention of More (Fearful) Active Market Participants, as they are considered likely more readily suppressed and controlled.

LIX. Enterprise P and Enterprise S operators have been demonstrated, in their own express statements and emails, to take and convert money, intentionally business interests, property or future interest in property, engage insurance policies for preservation of the fraudulent scheme, ignore requirements to issue order to disgorge or comport conduct to the requirements of the rule of law. Funds should be returned to Plaintiff.

LX. Defendants PCL and the State Bar are culpable persons, who conduct or have merged and acquired one or more aspects of Enterprise S among Enterprise P constituents affecting interstate commerce through a pattern of racketeering activity through overt acts of judicial fraud, legal malice, actual malice, wire fraud, mail fraud, extortion, coercion, securities fraud, larceny, insurance fraud, with ongoing intent to defraud litigants, judicial officers, insurance companies, regulators, and issuers using similar methods with similar victims as being non-active market participants. Plaintiff's business and property were

directly and proximately injured by reason of defendant PCL's violation of RICO § 1962(a)-(b).

LXI. **Defendants THE STATE BAR OF CALIFORNIA, LEONARD, DURAN, and WILSON are each a substantial factor in the conduct** and the damages reasonably foreseeable and in fact caused by the conduct of fraud and racketeering activity. Actors among Enterprise P, as Plaintiff has clear and compellingly demonstrated a reasonable person would agree that each contributed to the damages to Plaintiff's business/property, where control is a substantial factor and substantial factor is the test. CACI 430. CRPC 8.4.

LXII. Defendant MAZER, a licensee and culpable person who conducts or directs one or more aspects of Enterprise S entwined or entangled in coordinated and negotiated venture with PCL, Enterprise P, or other active market participants in horizontal or vertical privity.

LXIII. Enterprise S, among Enterprise P affecting interstate commerce through a pattern of racketeering activity through overt acts of non-judicial fraud, judicial fraud predicated upon nonjudicial fraud, legal malice, actual malice, wire fraud, mail fraud, extortion, coercion, securities fraud, larceny, insurance fraud, with ongoing intent to defraud litigants, judicial officers, insurance companies, regulators, and issuers. Plaintiff's business and property were directly and proximately injured by defendants violation of RICO § 1962(a)-(d).

LXIV. Defendant ELLIN DAVYTYAN, ESQ. is a culpable person who conducts, operates and directs one or more aspects of Enterprise S providing interference and

protection for same as well as for "entwined, entangled, or otherwise interoperating market participants including PCL and operators of Enterprise P affecting interstate commerce through a pattern of racketeering activity through overt acts of contempt of judicial orders related to antitrust determinations[33], appellate fraud, legal malice, actual malice, via wire fraud, mail fraud, extortion, coercion, securities fraud, larceny, insurance fraud, ultra vires representations with ongoing intent to defraud litigants, judicial officers, appellate justices, insurance companies, regulators, and issuers. DAVYTYAN's specialty among Enterprise P is pettifoggery and misleading responses, but usually advancing or maintaining fraudulent schemes through California Court of Appeal. Plaintiff's business and property were directly and proximately injured by reason of defendant LEONARD's and others violations of RICO § 1962(a)-(d).

LXV. Plaintiff asks for grant maximum allowable under the law. If not to him, then to ROES 1-150,000 – administered by neutrals.

LXVI. Public damages require federal intervention for knowing violations of U.S.C. §§ 1956-1957, and federal receivership over THE STATE BAR OF CALIFORNIA and PEOPLE'S COLLEGE OF LAW for the reasons shown and to ensure payment of Plaintiff's damages as well as restitution for other victims. Plaintiff seeks federal receivership to impose damages upon other defendants protected by the Racket, or to impose or cause to imposed liabilities upon State where subordinate, nonsovereign actors fail to pay despite the ongoing timeliness of their horizontal distributions or probability of their continued prioritization overall.

[33] Please see "EXHIBIT AO-1 State Bar Antitrust Policy.pdf",

STATUTE OF LIMITATIONS

LXVII. Plaintiff has suffered from a series of distinct damages to his business and property from the conduct constituting the violations of § 1962, commencing September 14, 2018, but unknown as to their likely criminal, single-scheme nature until January 28, 2019, upon receipt of a threatening letter, sent without standing or authority by email to Plaintiff by HCP.

LXVIII. Plaintiff did not identify, nor could he have possibly identify previously as shown by his reasonable diligence, binding federal law for regulators from United States Supreme Court until September 2022. As soon as he understood the laws, he filed, and has already filed State Action 1 and State Action 2. Plaintiff could not have acted faster, under the circumstances.

LXIX. Plaintiff could not have and did not know of the pattern of racketeering activity, nor the multi-scheme nature with similar actors, participants, and methods of judicial fraud and active concealment by nonsovereign actors, and where he has further been denied discovery by nonsovereign actors on a claim of sovereignty for the conduct at issue despite his timely filing of all claims pending now in State and Federal Court as appropriate.

LXX. Plaintiff mistakenly assumed that STATE BAR licensees in good standing would not be allowed to commit serial fraud and racketeering that injured him, so he could not have possibly filed this action on September 14, 2022 (as being within 4-years under even the most rigorous standards that would not apply here, the date when the Racket caused to

be filed the first fraudulent case and derivative action which was not entirely understood at that time by Plaintiff).

LXXI. Upon learning of the various schemes used by the Racket overall, Plaintiff promptly filed this action. Defendants fraudulently concealed information needed to bring a RICO claim before now, and the Plaintiff could not have discovered all of the foregoing facts or overt acts despite his exercise of reasonable diligence before 2021 after he commenced prosecution of State Action 2 and uncovered the patterns of predicate and parallel conduct involving the Racket and ties to State Action 1.

LXXII. Plaintiff claims to have proven that The State Bar of California is engaged in intentional acts of fraud, oppression, corruption, legal malice without regard for injury, and/or corruption subject to GOV § 815.3 and GOV § 815.6 that causes serious injury to members of the public.

LXXIII. Plaintiff claims, as a matter of law, that The State Bar of California has a duty to protect him and the public codified by enactments and according to the express intent of Legislature and if not then the United States Supreme Court in 2015.

LXXIV. Plaintiff claims to have evidence that The State Bar of California, through its licensees including public employees or elected officials and persons acting in a managerial capacity for them, have engaged in and/or enabled conduct that meets the definition of "racketeering activity" and have used the proceeds of such activity to make investments that further the interests or control of persons unknown to the public as to the use of those funds except that they are going to other lawyers, while members of the

public are oppressed and disregarded as "de minimis" by the Chairman himself as to Plaintiff specifically on July 20, 2022 with GRANDT.

LXXV. Plaintiff claims to have evidenced that there are predicate and parallel acts meeting the definition of racketeering activity, thereby constituting a pattern.

LXXVI. Plaintiff claims that the licensing, regulatory, and disciplinary functions of State Bar are injurious (not "protective") of the public, courts, and legal profession because the pattern of results, victims, and methods to cause injury continue and are an acute threat to continue to any person acting reasonably.

LXXVII. Plaintiff claims that persons generally injured by State Bar or its public employees will not or cannot reasonably obtain counsel because the lawyers licensed by the State Bar are subject to acts of fraud, oppression, legal malice without regard for injury, and corruption, too. Put simply, Plaintiff claims that few, if any licensee will sue State Bar, even though it is expressly subject to the liability sections of Government Claims Act and lacks any form of statutory immunity for the conduct at issue.

LXXVIII. Plaintiff shows The State Bar of California's deliberate, selective use of its licensing, regulatory, and disciplinary functions evidence an acute risk that does indeed exist to any attorney that takes cases such as this, previously oppressed under color of state law.

LXXIX. HILL seeks licensure from the Court and the ability to present in federal district court cases for ROES 1-150,000.

LXXX. Plaintiff seeks to restrain Enterprise S federally.

LXXXI. HILL claims the Court can and should reasonably grant him licensure to practice law under its inherent powers because of the clear and compelling evidence his fitness and preparedness.

i) Pragmatism indicates that few will take cases like these against the STAT BAR in the interest of justice; consequently Plaintiff believe it appropriate because he can demonstrate both immediate availability and preparedness to undertake the matter ;HILL will represent ROES 1-150,000 against The State Bar of California or State of California because of the conduct shown, and the threats and implications it implies, are of a nature best served by the pursuit of redress.

LXXXII. Plaintiff reserves all rights to pursue rights claims.

LXXXIII. Ratification of the conduct did not occur, or was not occurring with complete actual knowledge, until it was communicated on July 20, 2022, by HOLTON, DURAN, STATE BAR, and its Board of Trustees – also showing the improper purposes and concealment existing here.

LXXXIV. This lawsuit is being filed to assert the plaintiff's right to all claims and damages, and to seek federal intervention due to the threat of continued misconduct and the need to establish the veracity of evidence without the benefit of discovery. The lawsuit is also being filed on behalf of ROES 1-150,000, who are unable to protect themselves, and is within the statute of limitations established by the Racketeer Influenced and Corrupt Organizations (RICO) Act.

[COUNT I]

RICO § 1962(c)

LXXXV. The allegations of ¶ 1 through ¶ 476 are incorporated here by reference.

LXXXVI. Plaintiff did suffer injuries under § 1962(c) arising from the predicate acts detailed.This Count is against Defendants PEOPLE'S COLLEGE OF LAW ("PCL"); HECTOR CANDELARIO PEÑA RAMIREZ aka HECTOR P. RAMIREZ, aka HECTOR C. PEÑA, ("HCP"); CHRISTINA MARIN GONZALEZ, ESQ., ("CMG"); ROBERT IRA SPIRO, ESQ.,("SPIRO"); JUAN MANUEL SARIÑANA, ESQ. ("JMS"); PREM SARIN, ("PRS", "SARIN"); DAVID TYLER BOUFFARD, ("BFD", BOUFFARD); JOSHUA GILLENS, ESQ., ("GLN"); CLEMENTE FRANCO, ESQ.; HECTOR SANCHEZ, ESQ.; PASCUAL TORRES, ESQ.("PST")[; CAROL DUPREE, ESQ., GARY SILBIGER, ESQ.; JESSICA "CHUYITA" VIRAMONTES, ESQ., ("JCV"); EDITH POMPOSO, ("EPP"); ADRIANA ZUÑIGA NUÑEZ.; ALFREDO HERNANDEZ; AUDREY CHING ESQ., DIRECTOR I, ADMISSIONS, ("AUC"); CARMEN NUNEZ; CELIA GRANDT, ESQ. SUZANNE; DAVYTYAN, ELLIN, INDIVIDUALLY AND AS GENERAL COUNSEL, STATE BAR OF CALIFORNIA; DE LA CRUZ, JUAN; DONNA.HERSHKOWITZ, ESQ.; ELIZABETH HOM; GEORGE CARDONA; GINA CRAWFORD; HERMAN, HON. JAMES; HOLMES, CAROLINE; HOLTON, VANESSA, ESQ.; HOPE, NATALIE; JEAN KRISILNIKOFF; JAY FRYKBERG; KAPLAN, LARRY; KRAMER, PAUL A.; LEONARD, NATALIE, ESQ. ("LEONARD", "NLE"); MAZER, STEVE; MARK TONEY; NATALIE XIANG, YUN; NUNEZ, ANA, DIRECTOR III, ADMISSIONS,

STATE BAR OF CALIFORNIA; RANDOLPH, JOAN; ROBERT S. BRODY; SANTIAGO, IMELDA. and DOES 1-2 (the "Count I Defendant(s)").

LXXXVII. THE STATE BAR OF CALIFORNIA is an association-in-fact enterprise engaged in and whose activities affect interstate commerce. The Count I Defendant(s) are employed by or associated with the enterprise.

LXXXVIII. With similar methods and victims, the pendant and in process prosecution of Mr. Thomas Girardi is another constructive and intentional failure, as the attorney discipline system is designed to "predate" on the "weakest members" of the organization and public market participants, akin to a pack of wolves isolating the old or infirm for purposes of harvesting, while protecting the "Pack".

The scheme is designed to allow for plausible denial of the *ad momentum* Enterprise operators by "shielding them" in plain sight but making it very difficult for the public to know or reliably verify that any issues have been communicated much less resolved.

i) An example of the tactic at work is the operation of the State Bar Court, which may bring up charges but has no ability to enforce decisions without court approval. Consequently, the Enterprise can "announce" results in a fashion like Lincoln's "Emancipation Proclamation", which did not free a single slave, and in fact preserved slavery in certain Confederate States who ceded to the Union early.

ii) STATE BAR initiates AD HOC committees to address new issues that meet and meet but rarely yield significant or substantive results.

LXXXIX. From September 14, 2018-January 28, 2022, as to Plaintiff, the predicate pattern of racketeering activity with similar methods culminated in a series of acts by HCP, SPIRO, GONZALES, and SARINANA.,

XC. The scheme in January 2019 was powered by the predicate acts of the STATE BAR and PCL Defendant(s) and they did damage Plaintiff.

XCI. The Count I Defendant(s) agreed to and did conduct and participate in the conduct of one or more of the affairs through a pattern of racketeering activity and for the unlawful purpose of intentionally defrauding Plaintiff.

XCII. For those among Count I Defendant(s) that didn't understand what SPIRO, GONZALES, and HCP were doing, they had their own improper purposes concurrent with

XCIII. the new unit hours policy that was implemented.

XCIV. None of the foregoing activity by defendants was an expression of any right of petition or free speech.

XCV. None of the foregoing activity was subject to litigation privilege in the United States where it gave context to the deliberate schemes to defraud.

XCVI. DURAN, STATE BAR, LEONARD, WILSON, and HOLTON each acted with malice to conceal in furtherance of their own motives, likely including the distribution of funds and the location of records derived from the unlawful activity and other predicate schemes.

XCVII. Pursuant to and in furtherance of their fraudulent scheme, Defendant(s) committed multiple related acts violative of § 1962(c) that were enabled or furthered by their predicated activity shown, specifically [**OVERT ACTSs #1-7].**

XCVIII. Through **OVERT ACTs #1-7**, HCP, SPIRO, GONZALEZ and LEONARD designed, conspired, executed and enforced schemes, repeatedly that were *ultra vires* in nature and with malice as the activities are unlawful, in conflict with the Rules of Professional Responsibility, and anathemas to the statutory purpose of the State Bar. Defendants volitionally or inchoately and all did knowingly file or publicated false direct and misleading claims or statements of law, frivolously in bad faith and without standing. Each did so know they could rely on SPIRO, STATE BAR, DURAN, the "Office of Chief Trial Counsel" under LEONARD, DAVYTYAN for protection or the "Complaint Review Unit" (Office of General Counsel) under HOLTON, DAVYTYAN, WILSON and DURAN for protection in the alternative.

Requirements of 18 U.S.C. § 1961(5) Appear Satisfied.

Thus given the above, the preceding acts, and the Overt Acts 1-7 set forth above constitute a pattern of racketeering activity pursuant to 18 U.S.C. § 1961(5).

XCIX. The Count I Defendant(s) have directly and indirectly conducted and participated in the conduct of the enterprise's affairs through the pattern of racketeering and activity described above, in violation of 18 U.S.C. § 1962(c).

C. As a direct and proximate result of the Count I Defendants' racketeering activities and violations of 18 U.S.C. § 1962(c), Plaintiff has been injured in his business and property:

$8,888,888 Total Past & Future Lost Earnings to Business and Property given;

$150,000 Racketeering Damages; and

$888,888 in good will and punitive damages.

CI. THUS, Plaintiff requests that this Court enter judgment against the Count I Defendant(s) as follows:

i) JUDGMENT IN FAVOR OF TODD R. G. HILL AGAINST Count I Defendant(s) Violation of 18 U.S.C. 1962(c)

ii) JUDGMENT IN FAVOR OF TODD R. G. HILL AGAINST Count I Defendant(s) $15,000,000 monetary judgment jointly and severally for damages

iii) JUDGMENT IN FAVOR OF TODD R. G. HILL AGAINST Count I Defendant(s)

State to Guarantee All Judgments Awarded Plaintiff in State/Federal Actions

iv) JUDGMENT IN FAVOR OF TODD R. G. HILL AGAINST Count II Defendant(s)

$10,888,888 monetary judgment jointly and severally for treble damages

v) JUDGMENT IN FAVOR OF TODD R. G. HILL AGAINST Count II Defendant(s)

Attorney's fees and costs to be submitted and approved by Court

vi) ASSIGNMENT OF RACKETEERING INVESTIGATOR, OTHER RELIEF

42 U.S.C. § 1956 Requires Federal Receivership, Restitution, Investigations

Federal Receivership Over STATE BAR with Audits of IOLTA Income

Federal Receivership of the GUILD LAW SCHOOL dba PEOPLES COLLEGE OF LAW

HILL's appointment as Trustee as the sole legitimate officer of the Corporation (Guild Law School)

Federal Disbarment Proceedings for STATE BAR, PCL Actors

Federal or State criminal referral

Payment by STATE to Federally Determined Victims of STATE BAR

Permanent Federal Injunction as Court Deems Reasonable and Just

COUNT II

RICO § 1962(a)

CII. All previous allegations incorporated herein.

CIII. This Count is against Defendant(s) THE STATE BAR OF CALIFORNIA;; RUBEN DURAN, ESQ.;.; LEAH WILSON, ESQ.; NATALIE LEONARD, JOAN RANDOLPH, WOODWARD, ESQ.; and THE PEOPLE'C COLLEGE OF LAW (the "Count II Defendant(s)").

CIV. THE STATE BAR OF CALIFORNIA is an enterprise engaged in and whose activities affect interstate commerce. The Count II Defendant(s) are employed by or associated with the Enterprise S.

CV. PEOPLES COLLEGE OF LAW is an enterprise engaged in and whose activities affect interstate commerce. The Count II Defendant(s) are employed by or associated with the Enterprise P.

CVI. Enterprise P and Enterprise S have operated in entangled and entwined fashion in unlawful conduct injurious to the Plaintiff.

CVII. The Count II Defendant(s) used and invested income that was derived from a pattern of racketeering activity in an interstate enterprise.

CVIII. PCL invested income that was derived from a pattern of racketeering activity in an interstate enterprise through prohibited "legal fees" charged to resident and non-resident students in Arizona and to pay fees to Enterprise S.

CIX. PCL used THE STATE BAR OF CALIFORNIA'S ongoing authority to engage in the patterns of racketeering activity and invest the income derived therefrom to conceal the nature of its origins, and for the Enterprise and its operators to avoid the payment of taxes.

CX. THE STATE BAR OF CALIFORNIA distributed approximately $78 million horizontally in 2020-2021 to other active market participants through WILSON and DURAN.

CXI. THE STATE BAR OF CALIFORNIA will distribute an estimated $155.5 million horizontally to other active market participants through WILSON and DURAN in 2022-2023.

CXII. While PCL and STATE BAR make these investments, members of the public like Plaintiff are suffering due to the unequal use of the protection Racket in favor of active market participants, severely injuring members of the public knowingly.

CXIII. The racketeering activity detailed in the preceding paragraphs is demonstrative of what per se constitutes a pattern of racketeering activity pursuant to 18 U.S.C. § 1961(5).

CXIV. As direct and proximate result of the Count II Defendant(s)' racketeering activities and violations of 18 U.S.C. § 1962(a), Plaintiff has been injured in his business and property in that the money to protect the public all goes to lawyers who are selectively protecting Count II Defendant(s) in furtherance of their own interests and protection, so no money is left to help others.

CXV. As direct and proximate result of the Count II Defendant(s)' racketeering activities and violations of 18 U.S.C. § 1962(a), Plaintiff has been injured in his business and property because STATE BAR refuses to impose costs or regulate their involved horizontal or vertical market participant "peers", instead demanding that the public subsidize racketeering activity through loss and lack of recourse.

CXVI. As direct and proximate result of the Count II Defendant(s)' racketeering activities and violations of 18 U.S.C. § 1962(a), Plaintiff has been injured in their business and property interests, including but not limited to:

Credit Score, Benefits, Etc. and Special Value of IRA, Other Assets

Lost Earnings Capacity to Business and Property

Expectation Damages of Income as Legal Professional and Likely Practicing Attorney

Loss of Consortium

CXVII. THUS, Plaintiff requests that this Court enter judgment against the Count II Defendant(s) as follows:

i) JUDGMENT IN FAVOR OF TODD R. G. HILL AGAINST Count II Defendant(s)

Violation of 18 U.S.C. § 1962(a)

ii) JUDGMENT IN FAVOR OF TODD R. G. HILL AGAINST Count II Defendant(s) $10,875,000 monetary judgment jointly and severally for damages

iii) JUDGMENT IN FAVOR OF TODD R. G. HILL AGAINST Count II Defendants

State to Guarantee All Judgments Awarded Plaintiff in State/Federal Actions

iv) JUDGMENT IN FAVOR OF TODD R. G. HILL AGAINST Count II Defendants

$888,888 monetary judgment jointly and severally for treble damages

v) JUDGMENT IN FAVOR OF TODD R. G. HILL AGAINST Count II Defendants

Attorney's fees and costs as submitted by cost memo and approved by Court

vi) ASSIGNMENT OF RACKETEERING INVESTIGATOR, OTHER RELIEF

42 U.S.C. § 1956 Requires Federal Receivership, Restitution, Investigations

Federal Receivership Over STATE BAR with Audits of IOLTA Income

Federal Receivership of PEOPLES COLLEGE OF Law for Restitution and Reclamation

Lien establishment pursuant to 18 U.S.C. 3664(m)(1)(B).

in guarantee and support of Plaintiff's lawful claims of right and privilege for defendants properties held until full settlement of what is joint and severally ordered as due.

Federal Disbarment Proceedings for STATE BAR, PCL Actors

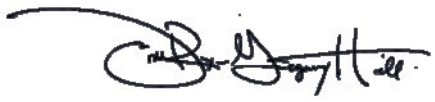
Payment by STATE to Federally Determined Victims of STATE BAR

Permanent Federal Injunction as Court Deems Reasonable and Just

Referral for Criminal Charge

CXVIII. For these reasons, Plaintiff request that the Court order judgment in his favor.

CXIX. CERTIFICATION AND CLOSING. Under Fed. Rule of Civ. Proc. 11, by signing below, I certify to the best of Plaintiff's knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11, Thursday, December 8, 2022 and certifies this complaint.



TODD R. G. HILL,

Plaintiff, *In Propria Persona*

APPENDIX A – Additional Extended Rule or Case Summaries

Rule 8.4 Misconduct (Rule Approved by the Supreme Court, Effective November 1, 2018) It is professional misconduct for a lawyer to: (a) violate these rules or the State Bar Act, knowingly* assist, solicit, or induce another to do so, or do so through the acts of another; (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; (c) engage in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation; (d) engage in conduct that is prejudicial to the administration of justice; (e) state or imply an ability to influence improperly a government agency or official, or to achieve results by means that violate these rules, the State Bar Act, or other law; or (f) knowingly* assist, solicit, or induce a judge or judicial officer in conduct that is a violation of an applicable code of judicial ethics or code of judicial conduct, or other law. For purposes of this rule, "judge" and "judicial officer" have the same meaning as in rule 3.5(c). Comment [1] A violation of this rule can occur when a lawyer is acting in propria persona or when a lawyer is not practicing law or acting in a professional capacity. [2] Paragraph (a) does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take. [3] A lawyer may be disciplined for criminal acts as stated in Business and Professions Code sections 6101 et seq., or if the criminal act constitutes "other misconduct warranting discipline" as defined by California Supreme Court case law. (See In re Kelley (1990) 52 Cal.3d 487 [276 Cal.Rptr. 375].) [4] A lawyer may be disciplined under Business and Professions Code section 6106 for acts involving moral turpitude, dishonesty, or corruption, whether intentional, reckless, or grossly negligent. [5] Paragraph (c) does not apply where a lawyer advises clients or others about, or supervises, lawful covert activity in the investigation of violations of civil or criminal law or constitutional rights, provided the lawyer's conduct is otherwise in

compliance with these rules and the State Bar Act.

In re Rousso (1988) 45 Cal.3d 929, 933: In this case, the California Supreme Court held that the State Bar has the authority to discipline attorneys for misconduct that is not related to the practice of law, but that is indicative of moral turpitude. The court found that an attorney's involvement in a fraudulent investment scheme, which resulted in the attorney's disbarment, was conduct that reflected adversely on the attorney's honesty, trustworthiness, and fitness as a member of the legal profession.

Barquis v. Merchants Collection Assn. (1972) 7 Cal.3d 94, 107: In this case, the California Supreme Court held that the UCL prohibits any unlawful, unfair or fraudulent business act or practice, as well as unfair, deceptive, untrue or misleading advertising. The court found that a collection agency's practice of falsely threatening to file suit against consumers in order to collect debts was an unlawful, unfair and fraudulent business practice.

People v. Superior Court (Myers) (1997) 59 Cal.App.4th 1514, 1525: In this case, the court held that the crime of illegal recording of a confidential communication under Penal Code section 632 is a serious crime that is indicative of moral turpitude. The court found that an attorney's involvement in illegally recording a confidential communication was conduct that reflected adversely on the attorney's honesty, trustworthiness, and fitness as a member of the legal profession.

People v. Superior Court (Cedars-Sinai Medical Center) (1998) 18 Cal.4th 1, 11: In this case, the

court held that the crime of extortion under Penal Code section 518 is a serious crime that is indicative of moral turpitude. The court found that an attorney's involvement in extorting money from a hospital was conduct that reflected adversely on the attorney's honesty, trustworthiness, and fitness as a member of the legal profession.

California State Bar v. Superior Court (Ginsburg) (1990) 50 Cal.3d 515: In this case, the California Supreme Court held that the State Bar has the authority to discipline attorneys for violating the rules of professional conduct, which include provisions related to dishonesty, fraud, deceit or misrepresentation. The court found that an attorney's involvement in a fraudulent scheme to defraud clients was conduct that reflected adversely on the attorney's honesty, trustworthiness, and fitness as a member of the legal profession.

FTC v. Indiana Federation of Dentists (1984) 476 U.S. 447: In this case, the United States Supreme Court held that a professional association's agreement to fix prices charged by its members is a per se violation of the Sherman Act, 15 U.S.C. § 1, which prohibits any contract, combination, or conspiracy in restraint of trade or commerce. The court found that the Indiana Federation of Dentists' agreement to fix prices for dental services was a violation of antitrust laws. This case is applicable to the fact pattern as it shows how restraint of trade is illegal under antitrust laws and how it can be applied to a professional association's agreement.

Cases

Statutes

Other Authorities

Rules

Regulations

Constitutional Provisions

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT

for the

Central District of California

TODD R. G. HILL (" HILL " or Plaintiff)
Plaintiff
v.
STATE BAR OF CALIFORNIA
Defendant

Civil Action No.

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: LEAH WILSON
(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days *(give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States)* from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 02/20/2023

/s/ TODD HILL
Signature of the attorney or unrepresented party

TODD HILL
Printed name
41459 ALMOND AVENUE
QUARTZ HILL, CA 93551
Address
toddryangregoryhill@gmail.com
E-mail address
(626) 232-7608
Telephone number

ATTACHMENT D

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT

for the

Central District of California

TODD R. G. HILL (" HILL " or Plaintiff)
Plaintiff
v.
PEOPLE ' S COLLEGE OF LAW (" PCL ")
Defendant

Civil Action No.

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: HECTOR CANDELARIO PEÑA RAMIREZ

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days *(give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States)* from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

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If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 02/20/2023

/s/ TODD HILL
Signature of the attorney or unrepresented party

TODD HILL
Printed name
41459 ALMOND AVENUE
QUARTZ HILL, CA 93551
Address
toddryangregoryhill@gmail.com
E-mail address
(626) 232-7608
Telephone number

AO 398 (Rev. 01/09) Notice of a Lawsuit and Request to Waive Service of a Summons

UNITED STATES DISTRICT COURT

for the

Central District of California

TODD R. G. HILL (" HILL " or Plaintiff)
Plaintiff

v.

PEOPLE ' S COLLEGE OF LAW (" PCL ")
Defendant

Civil Action No.

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: IRA SPIRO

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days *(give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States)* from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 02/20/2023

/s/ TODD HILL
Signature of the attorney or unrepresented party

TODD HILL
Printed name

41459 ALMOND AVENUE
QUARTZ HILL, CA 93551
Address

toddryangregoryhill@gmail.com
E-mail address

(626) 232-7608
Telephone number

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	No
Name	Moana Jenson
City	Pukalani
State	Hawaii
Email address	mhina4@yahoo.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I have attached a pdf document in support of new rule 8.3. I am a horrific car crash victim, then days later victimized again by predatory attorneys of an illegal hospital solicitation while medically drugged asleep after surgery to reattach my intestine. Included also is a copy of the contract dated 6/23/16 and a photo of me while asleep, with a scar bandage dated 6/23. Both my former attorneys law degrees are from California Western School of Law in San Diego. What happened to me should never have happened and I hold both of my former attorneys responsible, a willfully negligent CA State bar; and Cardona and his 2015 negligent stance: https://www.latimes.com/california/story/2022-12-07/california-proposes-bill-that-would-require-lawyers-to- report-other-attorneys-misconduct “The State Bar’s chief prosecutor, George Cardona, who was appointed last year to reform the agency’s discipline system, had opposed the

	law in 2015 while he was a federal prosecutor serving on a statewide commission to improve professional ethics. But Cardona told The Times this fall he had changed his position after seeing firsthand the damage Girardi had inflicted on the legal establishment." This is what happens when attorneys don't have to report each other. I have filed complaints against my former attorneys, no word yet from the CA Bar. I have iron-clad proof of my drugged solicitation - does the CA Bar even care? Unfortunately with Cardona as the OCTC, I have little faith that my complaints will even be investigated by someone whom I think is still interested in protecting attorneys over the public. I also have little faith that my personal experience and support of rule 8.3 will even be shared... to keep victims silenced and protect attorneys.
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	Support_of_CA_Bar_new_rule_8.3_.pdf (844 KB)

I 100% support the VERY long overdue Proposed New Rule of Professional Conduct 8.3 Reporting Professional Misconduct - those who oppose it, in my opinion is to protect corrupt attorneys.
The CA Bar's duty is to protect the public. I am the victim of predatory attorney's, had something like this existed years ago, what happened to me likely could have gone very different.

On June 19, 2016 while I was on vacation in California from Maui, Hawai'i, I was the victim of a horrific fiery head-on collision, when another driver illegally crossed over the double yellow lines in an attempt to pass four cars, colliding with the vehicle I was a backseat passenger in. I was hospitalized for two weeks having suffered near-fatal injuries of a ruptured intestine and multiple strokes. While I was drugged asleep a few days after my small bowel resection surgery; an attorney, Paul Batta, of the San Diego Law Firm Batta | Fulkerson, illegally solicited inside the hospital to my estranged father (my father years later told me Batta offered my father "financial incentive" to return a signed contract back to Batta.) I did not speak to Batta and he forced me to be his client. I had a brain injury with life-threatening physical injuries and was in/out of the hospital in the first two years of my recovery. When I wanted to be released from the contract Batta made repeated threats that he could sue me, take my settlement money from me, and even if I wanted to dispute the contract he could end up being owed even more than the 1/3 cut from our contract. I was emotionally and mentally manipulated and coerced by threats into signing a confidentiality agreement and not filing a CA bar complaint which Batta's partner Dan Fulkerson facilitated. I'd be sued or sign myself into forced silence when I was the victim that had been preyed upon while drugged asleep in the hospital. My recovery was long and brutal - but over the years I continued to recover including brain recovery as I have permanent cognitive disabilities due to my brain injury. It took me years to even be able to process what happened to me and I am taking my voice back and I have already "broken" (I challenge the legality of the confidentiality agreement) by sharing my story with a California reporter. I do not trust the CA State bar at all - due to the audits, Girardi, decades of corruption and especially Cardona's 2015 stance on protecting attorney's over the public on this very issue. Why would the Bar bring in someone to be the OCTC, to protect the public, when publicly and vocally not supporting a very important part of that - that attorney's have to report other attorneys for misconduct, etc.?

Nearly every other state (according to my research) already has a requirement like this - CA Bar - as supposedly the most corrupt bar in the country doesn't - no surprise. In my opinion, if Cardona had had a public protecting (instead of attorney protecting) stance back in 2015) and if this requirement was already in place back then, then maybe what happened to me could have been avoided altogether, or at least stopped much sooner; instead me, guts torn open and brain damaged, ganged up on by attorneys, an ocean away; what chance did I ever have against them?

According to public legal documents, on April 16, 2016, Batta and Fulkerson were both fired (Fulkerson says quit) from their previous law firm for negligence in missing the statute of limitations for their client (also a female like me). That was two months prior to what happened to me. They started their own firm after that, but if a rule like 8.3 was already in effect in 2016 (maybe if Cardona hadn't opposed it in 2015…) then wouldn't their former employer be required to report their negligence, costing the client her case - would they have been under investigation from the CA Bar and would Batta not have done what he did while I was drugged asleep in the hospital? My contract date has 6/23/16 on it. Even so, Batta's partner, Fulkerson, upon learning about my illegal hospital solicitation (I was told only Batta was there) would have been required to report him? Or my second attorney from a different law firm, whom I told what happened would have been required to report both Batta and Fulkerson? Instead no one reported anything, and me now years later am still fighting for my voice back, permanent economic harm was done to my case as well as emotional and mental harm of being preyed upon, manipulated and gaslit by two attorneys while I was in such a precarious and vulnerable position, and if Batta and Fulkerson choose to, they might try to sue me for breaking their coerced confidentially agreement.

I have filed two complaints, one on Batta and one on Fulkerson and besides the standard we received your complaint email - I haven't heard anything else - with the iron-clad proof I have, does the CA Bar even care that a car crash victim while drugged asleep in a hospital was preyed upon by attorneys?
Will my comment even be shared to support the proposed new 8.3 rule - or because I have filed complaints, will the CA Bar SILENCE my voice and not share my complaint under some "protecting attorneys privacy" while under investigation? If a rule like this had already existed, what happened to me may have had a different outcome.

Names on the hearing CA Bar page: Erika Doherty, Sarah Banola
Committee Members: Kenneth Bacon, Elizabeth Bradley , Raquel Brown, Cassidy Chivers, Brandon Krueger, Joel Mark, Eleanor Mercado, William Munoz, Daniel O'Rielly, Vikita Poindexter, Hunter Starr, Justin Fields.

"Questions regarding any agenda item should be directed to the Committee Coordinator(s), Erika Doherty at 180 Howard Street, San Francisco, CA 94105 or Chair, Sarah Banola at 180 Howard Street, San Francisco, CA 94105."

Why is there no email address to ask questions? It's 2023 - I am supposed to write letters back and forth? When I found out about this hearing, a letter wouldn't even reach California in time - which I think is PURPOSEFUL - that the CA Bar wants to make it even more difficult for the public to ask questions.

https://www.latimes.com/california/story/2022-12-07/california-proposes-bill-that-would-require-lawyers-to-report-other-attorneys-misconduct

"The State Bar's chief prosecutor, George Cardona, who was appointed last year to reform the agency's discipline system, had **opposed the law in 2015*** while he was a federal prosecutor serving on a statewide commission to improve professional ethics. But Cardona told The Times this fall he had changed his position after seeing firsthand the damage Girardi had inflicted on the legal establishment."
(*Mr. Cardona, it took "seeing firsthand"and Girardi to "changed position"?)

https://www.law.com/therecorder/2022/07/25/we-have-work-to-do-how-california-state-bar-officials-plan-to-address-attorney-discipline-deficiencies-after-tom-girardi/

"The bar aims to focus its limited resources on the most serious cases posing the greatest risk of harm."
- George Cardona
(Is an attorney preying on a drugged woman in a hospital and law partner helping cover it up serious?)

"The agency's Chief Trial Counsel George Cardona said he seeks to eliminate the suggestion that his office is more inclined to pursue cases against solo practitioners, rather than members of large firms, because the investigations are easier to handle."

"Duran said the bar intends to release "what we can legally" about the investigation's finding, but "we've got some pretty high bars when it comes to **protecting attorney** disciplinary matters and records."
- Ruben Duran - the CA Bar Board of Trustees chair
(The focus is protecting "attorney disciplinary matters"; why no "high bars" to protect the public?)

https://www.latimes.com/california/story/2022-12-16/as-tom-girardi-skated-the-state-bar-went-after-black-attorneys

"People familiar with the bar's disciplinary proceedings said the first thing a prosecutor generally asks when assigned to a new case is whether the accused has a lawyer and if so, who it is.
A small cadre of veteran defense attorneys* regularly work in the bar's court, and when they are retained, experts said, cases are often dismissed or settled privately before charges are even filed. A prosecutor who decides to take an attorney with defense counsel to trial can expect lengthy proceedings that contribute to the backlog, more work and reduced chances of success."
"Between 1990 and 2018, Black male lawyers were nearly four times as likely to be disbarred or resign with charges pending, according to a study released by the bar three years ago."
*If Batta/Fulkerson retain any of these "veteran defense attorneys" and given neither of my former attorneys are black (seems the Bar is racist) what happens to my complaint?

In my opinion, the CA Bar has been engaging in willful negligence of its duties of protecting the public in favor or protecting corrupt attorneys. Implementing the new proposed rule 8.3 reporting professional misconduct, is the bare minimum the CA Bar can do to even attempt to regain public trust. I have been scouring the Internet on anything CA Bar related - social media, online forums, news articles etc., the online "informal consensus" both attorneys and the public - that the CA Bar is corrupt, is a regulatory joke, and ethical attorneys/sole practices etc., are the ones whom seem to suffer and be "easy" targets.

Share my comment or don't share my comment - I am a victim of predatory attorneys and I am not going away either way. So prove that the Bar is corrupt and does want to silence victims of predatory attorneys or prove that the Bar does want to do better going forward, to actually do its duty of protecting the public. Either choice the committee members (names listed above) choose, will help with my mission. Whether 8.3 is implemented or not will speak volumes of the CA Bar "true" intentions and duties: protect attorneys or protect the public.

Sincerely,
An enraged victim of predatory attorneys and a willfully negligent CA State Bar.

ATTACHMENT D

ATTACHMENT D

BATTA | FULKERSON

Determined and Dedicated Injury Attorneys

December 21, 2017

Moana Jenson
PO Box 880964
Pukalani, HI 96788

Dear Moana,

Per your request, attached please find the signed documents we have on file for your case. If you have any questions, please do not hesitate to contact me direct at (619)623-4321.

Best Regards,

BATTA FULKERSON

Paul Batta
Attorney at Law

401 B Street, Suite 1400, San Diego, CA 92101 (619)333-5555 Fax: (619)878-6635

BATTA | FULKERSON

Determined and Dedicated Injury Attorneys

ATTORNEY-CLIENT CONTINGENT FEE AGREEMENT

This document "Agreement" is the written fee agreement that California law requires attorneys to have with their Clients. I, Moana Sanson, ("Client"), individually and with the necessary capacity, hereby enter into this Agreement with Batta | Fulkerson Attorneys at Law, ("Attorney"), to represent Client on the terms and conditions set forth below:

SCOPE OF SERVICES: Client is hiring Attorney to represent Client for any claims that Client may have against the party or parties responsible for injuries and/or wrongful death damages sustained by Client on or about 6/19/16. This Agreement is only for services related to the incident listed in this Agreement.

CLIENT'S OBLIGATIONS: Client agrees to always be truthful with Attorney, to cooperate with Attorney, to keep Attorney informed of all new developments, to abide by this Agreement, and to immediately notify Attorney any time Client changes his/her addresses, telephone numbers, whereabouts, and other information that is relevant to representation. Client's failure to meet any of these obligations shall be deemed good cause permitting Attorney to withdraw. In addition, the Client is obligated to cover any and all litigation costs and expenses if the attorney procures an offer and the Client wishes to refuse the offer and move forward with litigation.

ATTORNEY'S FEES: Client agrees to pay Attorney a Contingent fee as follows: THIRTY-THREE AND ONE THIRD PERCENT (33 1/3 %) of the gross amount recovered or saved before payment or deduction of costs advanced, medical and other bills, and/or liens if the matter is resolved before suit is filed; OR FORTY PERCENT (40%) of the gross amount recovered or saved before payment or deduction of costs advanced, medical and other bills, and /or liens if any of the following occurs: 1. the matter is resolved through mediation before filing a lawsuit, 2. request for Formal Arbitration is made, 3. after suit is filed in court, whether or not trial commences or is concluded. Client understands that the contingent fee is not set by law, and is negotiable.

Client consents to payment of referral or association fees to other attorneys and Client understands that such payment will not increase Attorney's contingent fee in anyway. Such fees will be paid by Attorney out of Attorney's share. This fee does not include appeal and only applies if there is no statement to the contrary.

CLIENT ACKNOWLEDGES THAT NO REPRESENTATION HAS BEEN MADE AS TO WHAT CLIENT MAY BE ENTITLED TO RECOVER IN THIS CASE.

Client Signature

ATTACHMENT D

BATTA | FULKERSON

Determined and Dedicated Injury Attorneys

ATTORNEY LIEN: The following fees are applicable if the contingency fee above is not applicable. Client is not obligated to pay any attorney fees if there is no recovery on the case. In addition, if Client discharges Attorney for any reason, Attorney may assert a lien against any future recovery at an hourly rate of $375.00 for work performed by any attorney at Batta | Fulkerson. The hourly rate represents the fair value of Attorney's services based on their experience and other factors.

HOW FEES ARE CALCULATED: Attorney's contingent fee shall be deducted first from the gross amount recovered or saved, then the costs, expenses, and/or expert fees and costs advanced by Attorney, remaining unpaid, or otherwise incurred in this matter shall be deducted from whatever amounts remain after deduction of Attorney's contingent fee. The amounts remaining after deductions set forth above, including any outstanding liens, shall be paid to Client as his/her portion of recovery. If there is no recovery, Attorney shall receive no contingent fee; and Client will not be obligated to compensate Attorney for any such costs, expenses, and/or expert fees that might have been advanced at the discretion of Attorney.

AUTHORIZATION TO ENDORSE AND DEPOSIT CHECKS: Client and/or Guardian hereby fully authorize Attorney Paul Batta and Attorney Daniel Fulkerson of Batta | Fulkerson, to sign my name or signature (on my behalf) or otherwise endorse my name on any check issued in my name. I further authorize any endorsed check to be placed in Batta | Fulkerson Trust Account at an FDIC insured bank of Attorney's choosing.

Client may seek the advice of an independent lawyer of Client's own choice before agreeing to this Agreement. By executing this Agreement, Client represents and agrees that Client has had a reasonable opportunity to consult an independent lawyer, and Client agrees to be bound be the terms in this agreement. This Agreement shall take effect when executed by Client and Attorney and shall be retroactive to the date Attorney first performed services for Client.

Date 6/23/16

Moana Season
CLIENT NAME

x Moana Season
CLIENT SIGNATURE

Date 6/23/16

Paul Batta
BATTA | FULKERSON

525 B Street, Suite 1500, San Diego, CA 92101 | Phone: (858) 252-2222 | Fax: (619) 878-6635

ATTACHMENT D

BATTA | FULKERSON

Determined and Dedicated Injury Attorneys

CONFLICT OF INTEREST WAIVER

You have asked us to represent you, with other parties jointly, in connection with your personal injury matter. We would be pleased to do so subject to the following understandings.

Although your interests as a party in this matter are generally consistent, it is recognized and understood that differences may exist or become evident during the course of our representation. Notwithstanding these possibilities, you have determined that it is in your individual and mutual interests to have a single law firm represent you jointly in connection with your personal injury claim.

Accordingly, this confirms agreement between the parties that we may represent them jointly and in connection with the above-described matter. This will also confirm that you have each agreed to waive any conflict of interest arising out of this matter, and that you will not object to our representation of the other party in the matter described herein.

It is further understood and agreed that we may freely convey necessary information provided to us by one client to the other, and that there will be no secrets between a party unless all parties expressly agree to the contrary.

If you need to edit the terms of this letter, or wish to discuss any related issues, please contact us at your earliest convenience. However, if you agree that the foregoing accurately reflects our understanding, please sign and return the enclosed copy of this letter.

Client Signature

Date

Client Name

525 B Street, Suite 1500, San Diego, CA 92101 | Phone: (858) 252-2222 | Fax: (619) 878-6635

ATTACHMENT D

BATTA | FULKERSON

Determined and Dedicated Injury Attorneys

NOTICE OF ATTORNEY DESIGNATION

Pursuant to the provisions of the California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5, Section 2695.2 (c), the undersigned Claimant(s) hereby designate(s) Batta | Fulkerson, as Claimant's(s') attorney and said attorney is hereby authorized to handle the above-referenced matter.

X Moana H. Jenson

Signature

Moana H. Jenson

Printed Name

6-23-16

Date

ATTACHMENT D

BATTA | FULKERSON

Determined and Dedicated Injury Attorneys

HIPAA AUTHORIZATION FOR RELEASE OF INFORMATION

NAME: Moana H. Jenson DATE OF BIRTH: 11-18-1986

SOCIAL SECURITY NUMBER: 575-37-9330

I hereby authorize all providers listed in the next page of this authorization to disclose all medical records and all medical billing information including, but not limited to: itemized medical billing information, chart notes, soap notes, shadow records, physical therapy reports, lab reports, discharge summary, psychiatric information, treatment records, employment records, and accident reports, to the above Batta | Fulkerson, my legal representatives, or their agents. This information is required for evaluation of an insurance claim.

I further authorize Batta | Fulkerson or their agents to obtain a copy of such records. I have read the above and also have been advised of my right to receive a true copy of this Authorization. Further, I understand the contents of this written Authorization in its entirety and have asked questions about anything that was not clear to me and am satisfied with the answers I have received.

I further acknowledge that I understand my right to revoke this Authorization by presenting written notice to Batta | Fulkerson. I further understand that if Batta | Fulkerson or their agents have already served this Authorization to the person listed above, they have the right to dishonor my request to revoke this Authorization.

I further understand that the information disclosed pursuant to this Authorization may be subject to re-disclosure by the recipient and no longer protected by state or federal privacy laws.

A PHOTOCOPY OR FACSIMILE OF THIS AUTHORIZATION SHALL BE AS EFFECTIVE AND VALID AS THE ORIGINAL.

If you are not the individual authorizing the above disclosure but a personal representative of the individual, please print your name and attach proof of your authority.

This Authorization shall remain valid for two years from the date below.

6-19-16 x Moana H. Jenson Moana H. Jenson

Date Authorized Signature Printed Name

525 B Street, Suite 1500, San Diego, CA 92101 | Phone: (858) 252-2222 | Fax: (619) 878-6635

BATTA | FULKERSON

Determined and Dedicated Injury Attorneys

HIPAA AUTHORIZATION FOR RELEASE OF INFORMATION
(pg 2)

Names and Addresses of Authorized Providers

NAME: Sierra vista regional center ADDRESS: Any/all

NAME: Stroke & neurovascular center ADDRESS: Any/all

NAME: _____ ADDRESS: _____

NAME: _____ ADDRESS: _____

NAME: _____ ADDRESS: _____

NAME: _____ ADDRESS: _____

NAME: _____ ADDRESS: _____

NAME: _____ ADDRESS: _____

NAME: _____ ADDRESS: _____

NAME: _____ ADDRESS: _____

NAME: _____ ADDRESS: _____

NAME: _____ ADDRESS: _____

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Caitlin Jones
City	San Diego
State	California
Email address	cjones@pettitkohn.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I am strongly opposed to this proposed rule. This proposed rule creates more ethical problems than it solves. It creates conflicting duties; a lawyer must not threaten administrative action to gain an advantage in a lawsuit, but with this rule, a lawyer must threaten administrative action even if it results in an advantage in a lawsuit. Who has standing to assert violations of this rule? Do clients get to bring malpractice claims against their lawyer on the grounds their lawyer failed to report opposing counsel for unethical behavior? Do the unethical lawyers' clients have standing to bring malpractice claims against opposing counsel for failure to report their own lawyers? Can any injured client report any lawyer who knew of their lawyer's unethical behavior? Can a lawyer report a lawyer to the bar for failing to report another lawyer to the Bar? Must a lawyer report a lawyer who failed to report a lawyer, and so on, forever? If a lawyer fails to report a violation that lawyer knows about, is the knowledgeable lawyer charged by the Bar with

facilitating or soliciting another lawyer's ethical violations? The bizarre iterations are endless.

This proposed rule will create unanticipated ethical problems with serious implications.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Daniel Adam Kaplan
City	SAN DIEGO
State	California
Email address	dkaplan@danielkaplanlaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Dear Members of COPRAC, The term "criminal act" is hopelessly vague and overbroad, and using it as the trigger for reporting violates the immutable presumption of innocence. First, as to the terms criminal act, it is too uncertain, and there is no way of knowing when or when not to make a report to the Bar based upon the observation of a criminal act. There are countless statutes in California that define what is a criminal act, covering everything from abuse of drugs to the transport and possession of zoo animals. The federal statutes provide another layer of criminal statutes that also govern nearly every aspect of life in the United States. Each state also has its own penal code and as written, and the new rule arguably includes those crimes as well. There are crimes that are malum in se, and others that are malum prohibitum and therefore not obvious. In short, as written, a failure to report an act that may be criminal but is not known by that attorney to be criminal, puts

the attorney at risk of violating the Rules of Professional conduct if he or she does not report the act. If there is to be a rule, then it must make clear that the attorney does not violate the rule if he or she does not know the act to be criminal.

Second, no person, including an attorney who fails to report, should be penalized based on the alleged commission of a crime. Under this rule, the reporting attorney, which includes many who have not studied criminal law since law school, must weigh the known evidence, and decide that in the balance, the attorney committed a criminal act. Criminality is defined ...

...by statute, but guilt and innocence is decided at a trial by a jury or judge. Attorneys should not be asked to assume the role of detective, district attorney, jury and appellate court, in order to comply with the proposed rule.

Further, if there is no immediate risk of harm to the public such as a risk of violence, or no way for an attorney to determine whether another attorney's criminal act creates such a risk, then no reporting should occur. If an attorney has violated a duty owed to a client, the bar can investigate that attorney. Putting the onus on the attorney making the report to guess whether another attorney's past actions will affect current or future handling of his or her clients matters, is beyond the capacities of any person. No attorney can with any degree of certainty know if a crime has occurred, and that it also "reflects adversely (whatever that means) a lawyers honesty, trustworthiness or fitness as a lawyer. We lawyers do not have crystal balls that provide us with answers to these questions.

This proposed rule should be scrapped and not replaced.

Sincerely,
Daniel Kaplan

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	James Kenny
City	Rancho Cucamonga
State	California
Email address	jim@jkfamilylaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Turning lawyers into witnesses is a terrible idea. I have been a member of the bar for 45 years. I have had several situations wherein I had questions about another lawyer but I have never had sufficient information to conclude that a criminal act had taken place. Suppose we suspect that criminal behavior has taken place but our client is going to benefit from the same. Suppose that we have hearsay information that if true could be criminal conduct. Suppose that we have information that on its own would lead to the possibility of criminal behavior but not enough information that would prove criminal behavior. We have significant duties to the clients that we represent. This proposed rule would create conflicts between our duties to the bar and our clients. What benefit would this proposed rule accomplish compared to the harm that would undoubtedly result?

Thanks for considering my opinion. Good luck .

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Althea T. Kippes
City	San Francisco
State	California
Email address	althea@atkippes.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	This is burdensome and oppressive, and will create an atmosphere of distrust in the legal profession. We should not be asked to turn in and report other lawyers. This kind of conduct belongs in a dictatorship, not in the legal profession.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Name	Michael Knapp
City	Roseville
State	California
Email address	michael.lawson.knapp@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	No.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Benjamin Kohn
City	Mountain View
State	California
Email address	bkohn@kohnlawoffices.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	A duty to report other attorneys imposes an undue burden on the reporting attorneys. They would likely have to do substantial legal research and analysis to verify an understanding that questionable conduct observed is in fact a clear violation rather than merely plausible or colorable. If they do not, then subjective differences as to whether plausible is actual could lead them to risk accusation of violating this new rule even if they were not certain a violation occurred subjectively, while inducing over reporting would unfairly harm both attorneys accused of violations and the professional and personal relationships with the attorneys who report only out of fear of jeopardy, as well as the backlog of complaints for State Bar investigation, which could exacerbate backlogs and bury meritorious complaints such they receive less timely attention. Complaints voluntarily initiated by the complainant are more likely to be meritorious than CYA complaints inspired to ensure the complainant is never perceived to have violated this new rule.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Are you an attorney?	Yes
Professional Affiliation	LACBA Professional Responsibility and Ethics Committee
Name	Rachelle Cohen
City	Los Angeles
State	California
Email address	rcohen@kscclegal.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	PREC_Comment_Letter_Proposed_New_Rule_of_Professional_Conduct_8.3__2-17-23.pdf (245 KB)

LOS ANGELES COUNTY BAR ASSOCIATION
444 South Flower Street, Suite 2500 | Los Angeles, CA 90071
Telephone: 213.627.2727 | www.lacba.org

February 17, 2023

Board of Trustees
State Bar of California
180 Howard Street
San Francisco, CA 94105

Re: Proposed New Rule of Professional Conduct 8.3

Dear Trustees:

We appreciate the opportunity to comment on the proposed new rule 8.3 but regret the abbreviated time permitted for this. We have not had the opportunity to fully analyze the proposal, which we fear will lead to unintended consequences. Nor have we been able to consult with other Bar groups about their fields of practice. We hope that any revisions to the current draft will be circulated for careful consideration.

Addressing the current draft:

1) The first Rules Revision Commission proposed a rule 8.3 (rejected by the Board of Governors) that began with this language: "(a) A lawyer who knows that another lawyer has committed a felonious criminal act that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer shall inform the appropriate disciplinary authority." The current proposal substitutes the language of rule 8.4, *i.e.*, it substitutes the phrase "reflects adversely on" for the language in both the first Commission's and the Model Rules' rule 8.3: "raises a substantial question as to." We believe there are two fundamental problems with this aspect of the current proposal. *First*, there is a material difference between OCTC's role in disciplining lawyers under rule 8.4 and the risk that a lawyer will fail to report another lawyer under the rule 8.4 standards. An OCTC decision to prosecute under rule 8.4 would be based on its full investigation, including the subject lawyer's opportunity to explain his or her conduct in response to the Bar investigator's standard letter of inquiry. A lawyer under proposed rule 8.3 might have little information about the second lawyer's conduct but be subject to second guessing by OCTC, including OCTC's use of information not available to the first lawyer. OCTC might have substantial evidence that puts in a

different light what, for the lawyer being prosecuted under rule 8.3, was partial information or conduct that might not have been understood to be a criminal act by that lawyer. *Second*, less egregious lawyer conduct, such as a single drunk driving incident, should not warrant the imposition of a duty to report. This would make a lawyer's rule 8.3 obligation broader than the second lawyer's self-reporting obligation under Bus. & Prof. Code section 6068(o). While any expansion of 6068(o) is problematic, it would, among other things, create a risk of self- incrimination if it required the lawyer to report another lawyer's conduct in which the reporting lawyer was involved. The first Rules Revision Commission included this proposed Comment: "In addition, a lawyer is not obligated to report a criminal act under paragraph (a) committed by another lawyer if doing so would infringe on the reporting lawyer's privilege against self-incrimination." We believe that rule 8.3 should be limited to serious matters to avoid harmful consequences such as an aggressive lawyer using rule 8.3 for purposes of gamesmanship, and that the adverse consequences of the proposed rule to clients and to the profession need to be considered in the drafting.

2) We urge careful reconsideration of the personal knowledge standard. On the one hand, it appears to us that the "firsthand observation" standard would limit the scope of rule 8.3 information to criminal conduct the reporting lawyer personally observed and would exclude conduct the reporting lawyer learns second hand even if the reporting lawyer considers that information reliable. Consider, for example, a lawyer, who is told by a client or a non-client: "Lawyer X attempted to rape me" or "attempted to rape another person." A firsthand knowledge standard would make clear that a lawyer would not have a reporting obligation based on hearsay or an information source that may not be reliable but that could be considered "knowledge" under the rules. This clarification would be supported by some members on our Committee. These members, although not supportive of adopting rule 8.3 in any form, would recommend revising proposed paragraph (a) to state "A lawyer shall inform the State Bar when the lawyer knows* firsthand that another lawyer has committed an act the lawyer knows is a felony and reflects adversely on the lawyer's honesty or trustworthiness" and proposed paragraph (b) to state: "For purposes of this rule, a lawyer knows firsthand that another lawyer has committed an act that is the subject of this rule when the lawyer personally observed the commission of the act."

Others on our Committee are concerned that uncertainty and confusion would be caused by any attempt to create a knowledge standard separate from the definitions used in all other places in the rules. Our Committee questions whether the proposed personal knowledge standard might have been intended to avoid the suggestion that lawyers would have a duty to inquire in order to satisfy rule 8.3 obligations. We all agree that rule 8.3 should not impose a duty to investigate, but we believe this issue is covered by the rule 1.0.1(f) definition of "knows" as compared to the rule 1.0.1(j) definition of "reasonably should know." The latter imposes a duty to inquire further ("a lawyer of reasonable prudence and competence would ascertain the matter in question"). The former does not, as 1.0.1(f) is intended only to prevent a lawyer from deliberately ignoring the facts by what has been called "willful blindness" ("A person's* knowledge

may be inferred from circumstances."). We urge careful consideration and new public comment, and we recommend that you use for comparison the rule 3.8(f) knowledge standard used in imposing reporting obligations on prosecutors.

3) We agree with the delay mechanism in proposed Comment [3] as far as it goes, but it overlooks the possibility that the client will direct the lawyer not to report. A lawyer's recognition of a possible obligation to report under rule 8.3 will in many situations also require the lawyer to communicate this information to the client under rule 1.4 and Bus. & Prof. Code section 6068(m). This creates the possibility of a conflict with the lawyer's obligation to abide by the client's lawful directions (*see* rule 1.2 and the lawyer's duty of undivided loyalty to the client as expressed, *e.g.*, in *Anderson v. Eaton*, 211 Cal. 113, 116 (1930). Please again consider the attempted rape example raised above. We consider it unacceptable for a lawyer to have any risk of discipline when the client has directed the lawyer to remain silent. The first Commission's proposal included this as the first sentence of its proposed paragraph (d): "This Rule does not authorize a lawyer to report misconduct if the lawyer is prohibited from doing so by the lawyer's duties to a client, a former client or by law." We consider it essential that rule 8.3 not be drafted in a way that poses avoidable challenges to lawyers' professional relationship with and duties to their clients. We urge that this be incorporated into the rule itself so that it defines for disciplinary purposes the scope of a lawyer's obligation; it should not be left to a Comment.

4) The first Commission's proposal recognized that the reporting obligation involved a balancing of competing consideration and included this as its paragraph (b): "Except as required by paragraph (a), a lawyer may, but is not required to, report to the State Bar a violation of these Rules or the State Bar Act." We urge consideration of this guidance in order to avoid any suggestions that a lawyer who reports misconduct acted wrongly under an argument that the report was not mandated by the rule.

There is a strong feeling on our Committee that the proposed rule is a hurried product that will lead to conflicts between lawyers and their clients that will prove harmful to the profession and the clients we serve. The ABA Model Rules often are written from an aspirational viewpoint so that the exact contours of many of its rules – such as the rule 8.4 on which the proposed rule 8.3 would rely – are not well defined. We believe that California needs to be more careful because of our professional, fulltime disciplinary system. We hope to have the opportunity for an unhurried opportunity to review a revised draft.

Sincerely,

Rachelle Cohen
Chair
Professional Responsibility and Ethics Committee

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Are you an attorney?	Yes
Professional Affiliation	Legal Aid Association of California
Name	Zach Newman
City	Oakland
State	California
Email address	znewman@laaconline.org
From the choices below, we ask that you indicate your position. (This is a required field.)	Support
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	Proposed_New_Rule_of_Professional_Conduct_8.3_Reporting_Professional_Misconduct_LAAC_Comment_Submitted_2.16.23.pdf (158 KB)

Legal Aid Fights for Justice. We Fight for Them.

LAAC
Legal Aid Association of California

February 16, 2023

Committee on Professional Responsibility and Conduct
The State Bar of California, San Francisco Office
180 Howard Street
San Francisco, CA 94105

Re: Proposed New Rule of Professional Conduct 8.3 (Reporting Professional Misconduct)

To the Committee on Professional Responsibility and Conduct,

We are writing on behalf of the Legal Aid Association of California (LAAC) regarding the Proposed New Rule of Professional Conduct 8.3 (Reporting Professional Misconduct). While there are issues with the New Rule 8.3, we are in support of it over other options, especially instead of the ABA Model Rule 8.3.

LAAC is the statewide membership association of over 100 public interest law nonprofits that provide free civil legal services to low-income people and communities throughout California. LAAC member organizations provide legal assistance on a broad array of substantive issues, ranging from general poverty law to civil rights to immigration, and also serve a wide range of low-income and vulnerable populations. LAAC serves as California's unified voice for legal services and is a zealous advocate advancing the needs of the clients of legal services on a statewide level regarding funding and access to justice.

We support the adoption of the New Rule 8.3. While it is imperfect, it is better than the alternative of ABA Model Rule 8.3. First, the New Rule 8.3 would only "[r]equire a lawyer to file a report with the State Bar if the lawyer knows through their own observations that another lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by rule 8.4(b)." One main concern is how this rule could be abused. The ABA rule appears too broad in this sense (pertaining to conduct that simply "raises a substantial question as to the other lawyer's honesty, trustworthiness or fitness as a lawyer in other respects"). This seems way too easy to manipulate or over-rely on by attorneys just to get other attorneys in trouble. For this reason, we are opposed to the ABA rule, and are more in favor of New Rule 8.3, if we had to choose between the two.

We do have a set of concerns with New Rule 8.3. Our issues revolve around enforcement, and, again, abuse of the rule. First, the investigation into the legitimacy of a claim that another lawyer is or has committed a criminal act seems like it might take a

good amount of resources, and so preventing abuse of the rule is critical. There will probably be a significant number of borderline cases where lawyers are doing something that is on the edge of illegality. Other lawyers, such as opposing counsel, could use this to their advantage to get the Bar to investigate the lawyer. The Bar should, by clearly defining the narrowness of the rule, try to stop this from happening. This kind of abuse, through unmeritorious claims, negates the rule's purpose.

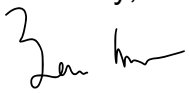
The Bar should, in turn, collect data on the legitimacy of claims filed, to be able to quantify and determine whether and how this rule is being used by attorneys. If most claims are ultimately illegitimate, the Bar should, in the future, consider revising or getting rid of the rule. Put differently, at this time, the only way to know whether and how the rule is being utilized by lawyers will be to track claims data. This system should be developed along with the rule. Moreover, the data needs to also track demographic information, to understand if this rule is disparately impacting lawyers of color or those from marginalized communities to determine if it is being used as a tool of bias. The need to track intersects with the idea that this should not take significant resources from the Bar, above the current resource allocations for enforcement.

Still, rules enforcement and removing bad actors are part and parcel of the Bar's mission, especially in the eyes of legislators, which means that, while there are resource concerns (especially regarding unmeritorious claims under this rule), it seems on balance to weigh in favor of rooting out bad behavior and disciplining or disbarring those committing criminal acts. It is clear, in this sense, that most of the motivation appears to be getting lawyers to watch each other for acts that harm the profession and clients, to prevent the kind of situation that the Bar is navigating with bad press due to insufficiently monitoring and regulating bad actors. Again, even acknowledging this, it does seem important to have a way to follow-up on unmeritorious claims to dissuade lawyers from clogging this system or face a penalty.

In this way, while we are not in complete support of the rule, it seems necessary to enact, especially as opposed to the ABA rule. Altogether, so long as it is not abused (and the Bar monitors this), it seems that this rule could be a positive development for finding and preventing harm to lawyers, the profession, and clients.

Thank you for giving us the opportunity to provide comment. Please contact us with any questions.

Sincerely,



Zach Newman, *Directing Attorney*, **Legal Aid Association of California**

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	lynda tracee lorens
City	El Cajon
State	California
Email address	tracee@lorenslaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I feel it is inappropriate to turn lawyers into compulsory law enforcement officers. I would caution this would be a very "slippery slope" and I can only imagine the abuse of the system that might occur. What if one, sort of ethically challenged, lawyer wanted to gain an advantage over another...

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Andrea Maestas
Email address	andrea.m.maestas@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Propose to modify and model new rule like the ABA rule 8.3 and include that: new rule requires a lawyer to report any violation of the Rules of Professional Conduct by another lawyer that raises a substantial question as to the other lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Donavon Marble
City	Redwood City
State	California
Email address	don.marble@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Unsure of the net results. It could be a good policy and encourage more ethical conduct. Or it could lead to a very bitter and divided Bar and further alienation between attorneys and the State Bar. I can note vote on the basis of a hoped for effect but must vote NO based on putting in motion a potentially negative situation. Also, makes no sense to exclude judges if the Rule were to be enacted.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Atina Martiros
City	Santa Clarita
State	California
Email address	atina7@sbcglobal.net
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	“Criminal act” and “substantial question” are ambiguous and should be defined. The proposed language would make every shady attorney, who manipulates facts and justifies it as being “creative”, subject to potential reporting by opposing counsel because some attorneys really push the envelope and call into question his/her trustworthiness, honesty, and fitness to practice law. The burden on the State Bar would be high to investigate such matters and time and money would be better spent on acts amounting to criminal conduct and acts of moral turpitude resulting in possible disbarment.

Public Comment - Proposed Rule 8.3

Are you an attorney?	Yes
Name	maryam atighechi
City	beverly hills
State	California
Email address	atighechi@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	We are not the police or policing authority or snitches, and we did not sign up to be one. WE ARE LAWYERS. I do not, and will not, be reporting anyone. That is NOT my job.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Maureen McCool
City	Carson
State	California
Email address	mmmjd90@aol.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	As a member of the Bar for over 30 years, I have been very disappointed in how attorney complaints are dealt with. You have non-attorneys making decisions regarding misconduct and signing letters, (which should violate the paralegal rule) and refuse to produce the records the attorney who is being charged produced. Every complaint should be documented, and if a decision is made that there was no misconduct then that would also appear. Clients who are sophisticated enough to check the Bar have no idea what charges have been entered, OR what the background of the attorney is other than law school. I have a BS and a MBA - clients looking for those items would never find it on the state bar website. Same with medical doctors. Anyone can put out an ad claiming to be an expert in any type of law, but what does the Bar do to confirm that? I filed a complaint against an attorney I hired.

There is no doubt that this attorney violated the Rules of Professional Conduct. Your "investigator" indicated that per the records this attorney produced there was no violation, however I was refused access to those records. WHY? SO I have advised the State Bar that I am making this complaint public. The underlying case is headed for trial, and I will be issuing a subpoena to the State Bar for testimony regarding 1) the complaint process and 2) why there is a requirement that a car driver has insurance but not an attorney. ALSO why is there not a rule that the attorney with no insurance has the client initial the statement of no insurance rather than hiding it in the Retainer. Does not make sense.

No - I do not expect anyone to appear at trial, however do not be surprised if the LA Times hears from me.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Steven Mirsky
City	Newport Beach
State	California
Email address	smirsky@mirskycorporateadvisors.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I would recommend that 8.3 be modified to state that an attorney “may” report based upon his or her observations. By requiring attorneys to report, it becomes an ethical violation to not report. I believe this would create a very inhospitable environment for attorneys and could represent in overprotection of cases for failure to report.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Are you an attorney?	No
Name	Kevin Moda
City	Tarzana
State	California
Email address	moda@msn.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	The Bar would be abdicating its founding purpose if it enacted the proposed rule because the duty to report malfeasance must be mandatory with consequences for those who fail to do so. It was for the purpose of protecting the public that the Bar was founded, not the opposite. Diluting the Rule provides an escape hatch to those who do not wish to report harm done to a member of the public by another attorney.Diluting the Rule provides an escape hatch to those who do not wish to report harm done to a member of the public by another attorney. I personally hired an attorney to defend me and to prosecute my counterclaim. In over 24 months of representation, he failed to do anything productive after receiving nearly $500,000.00, and withdrew from the case a few weeks before trial. As a result of my curiosity, I asked a friend to investigate the "why" behind what had happened. It was revealed that the lawyer who charged me $500,000 lives across the street from my opponent. He also delegated my case to a member of his office who was 6-

months new to the practice (having failed the Bar Exam twice) and made so many mistakes I couldn't keep track. A new attorney stepped in and implemented what the first attorney wasn't able to do, and the judgment has been submitted for Judge Bryant-Deason to sign for over $35,000,000.00 in my favor. A new attorney stepped in and implemented what the first attorney wasn't able to do, and the judgment has been submitted for Judge Bryant-Deason to sign for over $35,000,000.00 in my favor. If I had known that I was paying an incompatant attorney who is neighbors with my adversary, my 7 year ordeal would have been over before it started. Despite this, there is concern about false reports filed by attorneys against one another. In...

... response, I say so what. It is the Bar's duty to protect the public, not attorneys from one another.It is the Bar's duty to protect the public, not attorneys from one another. The Bar should follow the wisdom of notable jurist who cared about the welfare of the public above all else. As the preeminent English jurist William Blackstone wrote,"[B]etter that ten guilty persons escape, than that one innocent suffer." This principle can also be found in religious texts and in the writings of the American Founders. Benjamin Franklin went further arguing "it is better a hundred guilty persons should escape than one innocent person should suffer." The Rule should be made mandatory with draconian consequences for a failure to report. Thank you for your time. Kevin Moda

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Shoeb Mohammed
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Punishing lawyers who fail to snitch on one another would be oppressive and impossible to enforce. Instead, you'll use it to hurt lawyers who you have nothing else to blame, or use it to wipe out groups of lawyers just because they know one another. This rule will be applied in an arbitrary way and considering how low the "bar" for lawyers has already gotten, we don't need to sink further into the depths. We're low enough.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Kevin Mohr
City	Long Beach
State	California
Email address	kejmohr@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Please see attached letter in PDF. Attached: PR - [8.3] - Mohr Comment re COPRAC Proposed Rule 8.3 - FIN (02-17-23).pdf
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	PR_-_8.3_-_Mohr_Comment_re_COPRAC_Proposed_Rule_8.3_-_FIN_02-17-23.pdf (159 KB)

Professor Kevin E. Mohr
kejmohr@gmail.com

February 17, 2023

Sarah Banola, Chair
Committee on Professional Responsibility and Conduct
State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Ms. Banola,

I am writing to express my views on proposed Rule of Professional Conduct 8.3 ("proposed rule 8.3" or "proposed rule"), which the Committee on Professional Responsibility and Conduct has issued for public comment, with a submission deadline of February 17, 2023.

I am a lawyer and law school professor at Western State College of Law. I have taught Professional Responsibility for 31 years. I am a former Chair of COPRAC and served as the Consultant to both the first Rules Revision Commission (RRC1) and the second Rules Revision Commission (RRC2) and, after the work of RRC2 was submitted to the Supreme Court of California in March 2017, I served as a member of the "extended" RRC2, charged with responding to inquiries from the Supreme Court. I am currently a member of the California Lawyers Association Ethics Committee (CLAEC) and the Professional Responsibility and Ethics Committee (PREC) of the Los Angeles County Bar Association. The following comments are my own, however, and do not represent the views of Western State, CLAEC or PREC.

As I began to write this comment I asked myself two questions. First, do *I want* a California counterpart to Model Rule 8.3? Similar to many if not most other lawyers, my preference would be not to have a rule that requires a lawyer to report the misconduct of another lawyer. Such a rule would create more than the inconvenience of yet one more issue a lawyer would need to take into consideration in the lawyer's practice. It would require a lawyer to ask whether another lawyer's conduct had fallen to such a level that the other lawyer's license to practice might be jeopardized. Law practice is sufficiently difficult without being required to be police officer for the profession, and not just an officer of the court.

My second question, however, was whether California *should have* a rule counterpart to Model Rule 8.3? My answer to that question is yes. The legal profession is self-regulated. True, as lawyers we are well-equipped to make persuasive arguments about how a mandatory reporting rule could open a can of worms and adversely affect the trust inherent in our profession, with a concomitant negative impact on our ability to represent our clients competently or interact with our colleagues collegially. However, we remain a self-regulated profession that portrays itself as necessary for the protection of the public's interests. Together with the fact that all other United States jurisdictions have had such a rule for decades without hurling the

profession into a quagmire, I believe it is time for California to incorporate a mandatory reporting rule, albeit of limited scope, into its regulatory fabric. As RRC1 noted in the introduction to its 2009 proposed rule 8.3, "a limited mandatory reporting standard for certain, egregious criminal acts is consistent with the concept of self-regulation." I also believe that a rule of professional conduct, rather than a black letter statute such as SB42, is preferred. A statute would provide little if any guidance; a narrowly drafted rule with carefully crafted comments can provide that guidance.

My comments and suggestions center primarily on proposed rule 8.3's novel scienter standard of "personal knowledge," which I believe can be perceived as a grudging acceptance of the inevitability of a reporting rule at best and a cynically toothless standard at worst, and more likely than not could accelerate the passage of SB42. I suggest a different standard that is already found in the California Rules. I hope COPRAC will seriously consider the following four suggested revisions to the proposed rule.

First, I agree with COPRAC limiting mandatory reporting to instances where a criminal act is involved. RRC1 proposed a similarly-limited rule in 2009. However, RRC1's rule differs in two respects from proposed rule 8.3. Paragraph (a) of RRC1's rule provided:

> (a) A lawyer who knows that another lawyer has committed a felonious criminal act that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer shall inform the appropriate disciplinary authority.

Under RRC1's rule, mandatory reporting was limited to a "felonious" criminal act, which alerted lawyers that only serious criminal acts should be reported. Further, the rule also added the limitation that the "criminal act" raise a "substantial question" as opposed to merely "reflecting adversely" on the lawyer's fitness as in COPRAC's proposed rule 8.3. This is an important difference from COPRAC's rule, which imports rule 8.4(b)'s "reflects adversely" standard into rule 8.3. The "substantial question" standard would require the reporting lawyer to decide whether the conduct involved is sufficiently serious to warrant reporting. RRC1's rule thus emphasized that only serious misconduct COPRAC's proposed rule includes neither of these limiting factors. Instead, the proposed rule inserts a novel scienter standard, in an apparent attempt to limit the scope of the reporting duty. That is the subject of my next comment.

Second, the "personal knowledge" scienter standard set forth in paragraph (a) and defined in paragraph (b) of the proposed rule appears to absolve lawyers of any duty to report in the overwhelming number of instances where a lawyer might become aware of another lawyer's misconduct. The paragraph (b) definition is ambiguous and seems to raise more questions than it answers. "Personal knowledge" is limited to "information" based on "firsthand observation," which is "gained through the [reporting] lawyer's own senses." "[F]irsthand observation" suggests information of misconduct is limited to what the reporting lawyer might see with the lawyer's own eyes. Unlike television and film, however, where the audience might see the bad acts of the characters, most of a lawyer's knowledge comes from through the observations of a third party, which could be, for example, a client or a witness. We listen and we hear about what might have happened, and then we assess the credibility of the person reporting the

event. We then use that assessment to inform the course of action we take (e.g., accept the client) or recommend to our client the course of conduct the client should take. The reference to "the lawyer's own senses" at the end of paragraph (b) suggests that senses other than sight might be permitted. Putting aside taste, smell and touch (except perhaps in their figurative sense, they would not appear applicable to a lawyer's perception of misconduct), that would leave hearing. But we come back to "firsthand observation," which generally means perception or reception with the visual sense.

Setting aside the foregoing concerns over the apparent ambiguity of the language used, the limitation to "firsthand observation" or "personal knowledge" or "the lawyer's own senses" strikes me as an attempt either to rule out hearsay, or to relieve lawyers from further investigating a matter. As to the latter, the definition of "knowingly," "known," or "knows" in rule 1.0.1(f), which provides in part that "[a] person's knowledge may be inferred from circumstances," does not require further investigation. The phrase "inferred from the circumstances" is simply intended to alert lawyers that they cannot deliberately ignore or look away from the obvious. The definition of "[r]easonably should know" in rule 1.0.1(j), on the other hand, would require such inquiry, as that term, "when used in reference to a lawyer means that a lawyer of reasonable prudence and competence *would ascertain the matter in question*." (Emphasis added.) As near as I can tell from my research, no jurisdiction's Model Rule 8.3 counterpart uses the latter scienter standard, and I would not recommend the adoption of such a standard.

Nor do I necessarily recommend the adoption of the "knowledge" standard of rule 1.0.1(f) alone, at least not unless the rule were to contain the limitations similar to those that RRC1 included in its proposed rule, i.e., (i) a "felonious criminal act" (ii) that raises a "substantial question as to the lawyer's fitness." Rather, I suggest that COPRAC look to rule 3.8(f), which incorporates a somewhat different scienter standard from 1.0.1(f) and (k) to give rise to a prosecutor's duty when the prosecutor comes to know of a wrongful conviction. Importing a similar standard into COPRAC's proposed rule 8.3(a), it would provide something along the following lines:

> (a) A lawyer shall inform the State Bar when the lawyer ~~has personal knowledge~~ knows* of credible evidence creating a reasonable* likelihood that another lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by rule 8.4(b).

I have not included the other suggestions I made above; I am only addressing the scienter issue in the foregoing edit. My suggested revision uses the "knowledge" standard in rule 1.0.1(f) but adds two further limitations to that standard. The reporting lawyer must know of (i) "credible evidence" that (ii) creates a "reasonable likelihood" that the other lawyer has engaged in a criminal act. These further limitations should address the aforementioned concerns with hearsay raised by the proposed "personal knowledge" standard. Whether interviewing prospective clients or witnesses, or reviewing documents or other evidence, lawyers on an almost daily basis make credibility determinations as to evidence, not just as to the credibility of the relator but also as to whether it is credible that the events described might have actually

occurred. I request only that COPRAC consider this existing standard as a substitute for the flawed "personal knowledge" standard.[1]

Third, similar to RRC1's proposed rule, I recommend that the rule include a provision that would alert lawyers to the fact that they "may" report non-criminal misconduct. Paragraph (b) of RRC1's proposed rule provided:

> (b) Except as required by paragraph (a), a lawyer may, but is not required to, report to the State Bar a violation of these Rules or the State Bar Act.

That provision was modeled on former rule 3-100(B) [current rule 1.6(b)], which tracked the language of Bus. & Prof. Code § 6068(e)(2). Consequently, it included the phrase "but is not required to." It is not necessary to include that phrase as the word "may" effectively communicates the permissive nature of the provision. COPRAC might also want to clarify that the violations reported must raise a substantial question as to the other lawyer's fitness.

Fourth, RRC1's proposed rule 8.3 specifically identified many instances where confidentiality prohibited a lawyer from reporting misconduct. Paragraph (d) of that rule provided:

> (d) This Rule does not authorize a lawyer to report misconduct if the lawyer is prohibited from doing so by the lawyer's duties to a client, a former client or by law. Such prohibitions include, but are not limited to, the lawyer's duty not to disclose (i) information otherwise protected by Rule 1.6, Rule 1.9, or Business and Professions Code section 6068(e); (ii) information gained by a lawyer or judge while participating in an approved lawyers assistance program; (iii) information gained during a mediation; (iv) information subject to a confidential protective order; or (v) information otherwise protected under laws governing fiduciaries.

I recommend that COPRAC consider identifying more circumstances under which the reporting lawyer's confidentiality duty would preclude reporting, either by expanding its proposed paragraph (c), or by drafting a comment that clarifies with more specificity the kinds of information that is protected by section 6068(e) and rules 1.6 and 1.8.2.

Thank you for the opportunity to comment on proposed rule 8.3. I hope you will give serious consideration to my comments.

Yours very truly,

Kevin E. Mohr

[1] You will note that I have not included the "materiality" standard of rule 3.8(f). The concept of material is best utilized in viewing a decision after the fact; RRC2 recognized that when it favored CRPC 3.8(d) over the materiality standard in *Brady v. Maryland*. Unlike rule 8.3, rule 3.8(f) would be applied retroactively to assess whether withheld evidence might have been "material," and so "materiality" would be an issue for that provision.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Kevin Murphy
City	San Diego
State	California
Email address	kcm@murphyjoneslaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	sheila gropper nelson
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State	California
Email address	shedoeslaw@aol.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	the process to identify bad conduct is already available this is overly broad and unnecessary

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Richard Oberto
City	Fresno
State	California
Email address	rmoberto@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	This terrible proposed rule would turn the State Bar into a Kangaroo Court as lawyers start reporting each other for petty offenses, infractions, incivilities that are not worthy of a police report. If a lawyer sees another lawyer commit a crime, the lawyer who is the witness should call the police. If the incident is not worth a police report, the very likely reason is that there was no real crime. This terrible proposed rule would set up the State Bar to start adjudicating petty “crime” reports that never see the light of day in a police department, DA's office, or courtroom. Likewise, this terrible proposed rule would set up attorneys to go about mining the state codes as they try to discern whether some petty infraction, incivility, or irregularity rose to the level of a “crime” they need to report. Many attorneys will go about that duty in bad faith. Others might be acting in good faith, but err too much on the side of reporting and create havoc for the attorney who gets reported. What a waste of State Bar resources! What a terrible attorney culture to create! Meanwhile, attorneys

like Tom Girardi go about perpetrating decades long client-trust account fraud, stealing hundreds of millions of dollars. Please spare us attorneys the terrible nonsense that this proposed rule would create.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Are you an attorney?	Yes
Professional Affiliation	Office of Chief Trial Counsel, State Bar of California
Name	George S. Cardona
City	Los Angeles
State	California
Email address	george.cardona@calbar.ca.gov
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	See attached letter.
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	20230217.PublicComment-Rule8.3.pdf (379 KB)

The State Bar
of California

OFFICE OF CHIEF TRIAL COUNSEL

845 S. Figueroa Street, Los Angeles, CA 90017 213-765-1015 george.cardona@calbar.ca.gov

February 17, 2023

Committee on Professional Responsibility and Conduct
State Bar of California
845 S. Figueroa Street
Los Angeles, CA 90017

Re: Public Comment -- Proposed New Rule of Professional Conduct 8.3

Dear COPRAC:

I write to provide public comment on behalf of the Office of Chief Trial Counsel (OCTC) on proposed new rule of professional conduct 8.3. OCTC favors adoption of a rule requiring, under certain circumstances, that lawyers report the misconduct of another lawyer. As explained in more detail below, however, OCTC believes that COPRAC's proposed rule imposes too narrow a reporting obligation. OCTC favors adoption of a rule closer to that proposed by State Bar staff at COPRAC's December 2, 2022, meeting, which imposes reporting obligations closer to those imposed by ABA Model Rule 8.3, with necessary adjustments to reflect California's existing statutes and rules and ensure that reporting is not adverse to client interests. Attached is what OCTC proposes as a rule, together with redlines of OCTC's proposal to COPRAC's proposal, the staff proposal, and ABA Model Rule 8.3.

In particular, OCTC believes that COPRAC's proposed rule imposes too narrow a reporting obligation for two primary reasons.

First, COPRAC's proposal limits reporting solely to a "criminal act" that "reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects." This is far narrower than the ABA Model Rule, which requires reporting of any "violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." The difference is significant. Assume a lawyer who lies to their client to conceal the receipt of settlement funds in their client trust account and then steals those funds. Assume another lawyer working for the opposing party in the litigation that resulted in the settlement who is aware of the receipt of the settlement funds and learns of the false statement to the client that such funds have not been received but

has no access to the other lawyer' client trust account records and so does not know that the other lawyer has actually stolen those funds. The theft of the funds would be a criminal act subject to COPRAC's proposed reporting rule, but the opposing lawyer is not aware of that theft and so would have no duty to report. The opposing lawyer is aware of the lie, which would be a violation of rule 8.4(c) and so reportable under the ABA Model Rule, but the lie is not itself a criminal act and so would not trigger a reporting requirement under COPRAC's proposed rule. Under COPRAC's proposed rule, therefore, the opposing lawyer would not be required to report a lie that clearly violates rule 8.4(c) (as well as Business and Professions Code section 6106), clearly reflects adversely on the lawyer's honesty, and the reporting of which might lead to quicker detection of the actual theft and a greater likelihood of being able to substantially mitigate or prevent harm to this and future clients of the lawyer.

Most states have adopted the broader ABA Model Rule language defining the acts that must be reported. OCTC understands the competing concerns that might support a narrowing of the ABA Model Rule language, including potential conflicts with the lawyer's duty of loyalty to the client and the lawyer's duty of confidentiality with respect to information learned in the course of representation of a client. But OCTC believes staff's proposed rule reflects a better balancing of the competing interests: it limits disclosure to violations of rules 8.4(b) and (c) that will clearly reflect adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer; it includes a provision (8.3(b)) permitting the deferral of reporting that would be contrary to the client's interests; and it includes a provision exempting reporting of information subject to California's broad protection of information learned in the course of representation of a client.

Second, COPRAC's proposed rule requires "personal knowledge," which it defines as being "limited to information based on firsthand observation gained through the lawyer's own senses."[1] The ABA Model Rule on the other hand requires only that the lawyer "knows" of the reportable action, with "knows" subject to the standard definition for all the rules that is, that it "denotes actual knowledge of the fact in question. A person's knowledge may be inferred from the circumstances." California Rule 1.0.1 (f) similarly defines "knows" to mean "actual knowledge of the fact in question. A person's* knowledge may be inferred from the circumstances." OCTC believes that this definition of knows is appropriate for delimiting the reporting obligations. Reporting will be required only where an individual has actual knowledge of the facts triggering the reporting obligation. This still substantially limits the reporting

[1] The staff proposal similarly required "personal knowledge" but did not include the limiting definition of personal knowledge contained in the COPRAC proposal.

obligation and does not require reporting based on overhearing rumors or gossip. And OCTC will be required to prove by clear and convincing evidence that any lawyer accused of violating the rule had actual knowledge of the facts triggering the reporting obligation, precluding the imposition of discipline based on a failure to report based on overhearing rumors or gossip. Imposing the higher standard of "personal knowledge" as defined in COPRAC's proposed rule is unnecessary and will unduly limit the reporting obligation.

OCTC's attached proposal reflects the discussion above and hues closer to staff's proposed rule while incorporating some additional language from COPRAC's proposed rule and adding reckless and intentional misappropriations of funds or property (which violate Business and Professions Code section 6106) to the reporting obligation.

OCTC thanks COPRAC for the hard work it has done in a very short time on this new proposed rule and appreciates the opportunity to provide this comment.

Sincerely,

George S Cardona

George S. Cardona
Chief Trial Counsel

Encl.: (1) OCTC Proposed Rule 8.3 (clean)
(2) OCTC Proposed Rule 8.3 (redline to COPRAC proposal)
(3) OCTC Proposed Rule 8.3 (redline to State Bar staff proposal)
(4) OCTC Proposed Rule 8.3 (redline to ABA Model Rule)

Proposed Rule 8.3: Reporting Professional Misconduct

(a) A lawyer shall promptly inform the State Bar when the lawyer knows* that another lawyer has:

(1) committed a criminal act that reflects adversely on that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; or
(2) engaged in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation or misappropriation of funds or property.

(b) If a lawyer reasonably believes* that it would be contrary to the interests of a client of the lawyer or the lawyer's firm promptly to report under paragraph (a), the lawyer shall report as soon as the lawyer reasonably believes* the reporting will not cause material prejudice or damage to the client.

(c) This rule does not require or authorize disclosure of information:

(1) gained by a lawyer while participating in a substance use or mental health program; or

(2) protected from disclosure by Business and Professions Code section 6068, subdivision (e) and rules 1.6 and 1.8.2;the lawyer-client privilege; Business and Professions Code section 6234; or other rules or laws.

Comment

[1] This rule does not abrogate a lawyer's obligations to report the lawyer's own conduct as required under the State Bar Act. (See, e.g., rule 8.4.1(d) and (e); Bus. & Prof. Code, § 6068, subd. (o).)

[2] The conduct that must be reported under paragraphs (a)(1) and (2) is professional misconduct under rule 8.4(b), rule 8.4(c), or Business and Professions Code section 6106.

[3] A report about misconduct is not required where it would involve disclosure of information as set forth in paragraph (b). However, a lawyer may encourage a client to consent to disclosure provided the disclosure would not prejudice the client's interests.

[4] The duty to report under paragraph (a) is not intended to discourage lawyers from seeking counsel. As a result, this duty does not apply to a lawyer retained to represent a lawyer whose professional conduct is in question, to a lawyer who consults with a lawyer who is a potential client and whose professional conduct is in question, or to a lawyer consulted in a professional capacity by another lawyer on whether the inquiring lawyer has a duty to report a third-party

lawyer's professional misconduct. Such situations are governed by the rules applicable to the client-lawyer relationship.

[5] Information about a lawyer's misconduct or fitness may be received by a lawyer while participating in a substance use or mental health program, including but not limited to the Attorney Diversion and Assistance Program. (See Bus. & Prof. Code, § 6234.) In these circumstances, providing for an exception to the reporting requirement of paragraph (a) of this rule encourages lawyers to seek treatment through such programs. Conversely, without such an exception, lawyers may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public.

[6] In addition to reporting professional misconduct as required by paragraph (a), a report may also be made to another appropriate agency. A lawyer must not threaten to file criminal, administrative or disciplinary charges to obtain an advantage in a civil dispute in violation of rule 3.10.

[7] A failure to report may also implicate rule 8.4(a) with respect to the prohibitions against assisting, soliciting, or inducing another lawyer's ethical violation; see also rule 5.6(b) and Business and Professions Code section 6090.5 with respect to the prohibition on agreements that preclude the reporting of a violation of the rules.

[8] Communications to the State Bar relating to lawyer misconduct are "privileged and no lawsuit predicated thereon may be instituted against any person." See Business and Professions Code section 6094; but see Business and Professions Code section 6043.5 with respect to criminal penalties for false and malicious reports or complaints.

Proposed Rule 8.3: Reporting Professional Misconduct

~~(a)~~ A lawyer shall promptly inform the State Bar when the lawyer knows* ~~has personal knowledge~~ that another lawyer has:

~~(~~1) committed a criminal act that reflects adversely on ~~the~~that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects ~~as prohibited by rule 8.4(b).~~; or

(2) engaged in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation or misappropriation of funds or property.

(b) If a lawyer reasonably believes* that it would be contrary to the interests of a client of the lawyer or the lawyer's firm promptly to report under paragraph (a), the lawyer shall report as soon as the lawyer reasonably believes* the reporting will not cause material prejudice or damage to the client. ~~For purposes of this rule, "personal knowledge" is distinct from the definition of "[k]knowingly," "known," or "knows" under rule 1.0.1(f) and is limited to information based on firsthand observation gained through the lawyer's own senses.~~

(c) This rule does not require or authorize disclosure of information:

(1) gained by a lawyer while participating in a substance use or mental health program; ~~,~~ or

(2) ~~require disclosure of information~~ protected from disclosure by Business and Professions Code section 6068, subdivision (e) and rules 1.6 and 1.8.2; the lawyer-client privilege; or by other rules or laws, including information that is confidential under Business and Professions Code section 6234.

Comment

[1] This rule does not abrogate a lawyer's obligations to report the lawyer's own conduct as required by these rules or the State Bar Act. (See, e.g., rule 8.4.1(d) and (e); Bus. & Prof. Code, § 6068, subd. (o).)

[2] The conduct that must be reported under paragraphs (a)(1) and (2) is professional misconduct under rule 8.4(b), rule 8.4(c), or Business and Professions Code section 6106.

[3] A report about misconduct is not required where it would involve disclosure of information as set forth in paragraph (b). However, a lawyer may encourage a client to consent to disclosure provided the disclosure would not prejudice the client's interests.

[4~~2~~] The duty to report under paragraph (a) is not intended to discourage lawyers from seeking counsel. As a result, this duty~~This rule~~ does not apply to a lawyer ~~who is consulted about or~~ retained to represent a lawyer whose professional conduct is in question, to a lawyer who consults with a lawyer who is a potential client and whose professional conduct is in question, or to a lawyer consulted in a professional capacity by another lawyer on whether the inquiring lawyer has a duty to report a third-party lawyer's professional misconduct. Such situations are governed by the rules applicable to the client-lawyer relationship.

~~[3] If a lawyer reasonably believes* that it would be contrary to the interests of a client of the lawyer or a client of the lawyer's firm promptly to report under paragraph (a), the lawyer should report as soon as the lawyer reasonably believes* the reporting will no longer cause material prejudice or damage to the~~

~~client. The lawyer should also consider the applicability of other rules such as rules 1.4 (the duty to communicate) and 1.7(b) (material limitation conflict).~~

[5~~4~~] Information about a lawyer's misconduct or fitness may be received by a lawyer while participating in a substance use or mental health program, including but not limited to the Attorney Diversion and Assistance Program. (See Bus. & Prof. Code, § 6234.) In these circumstances, providing for an exception to the reporting requirement of paragraph (a) of this rule encourages lawyers to seek treatment through such programs. Conversely, without such an exception, lawyers may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public.

[6~~5~~] In addition to reporting professional misconduct as required by paragraph (a), a report may also be made to another appropriate agency. A lawyer must not threaten to present criminal, administrative or disciplinary charges to obtain an advantage in a civil dispute in violation of rule 3.10.

[7~~6~~] A failure to report may also implicate rule 8.4(a) with respect to the prohibitions against assisting, soliciting, or inducing another lawyer's ethical violation; see also rule 5.6(b) and Business and Professions Code section 6090.5 with respect to the prohibition on agreements that preclude the reporting of a violation of the rules.

[8~~7~~] Communications to the State Bar relating to lawyer misconduct are "privileged and no lawsuit predicated thereon may be instituted against any person." See Business and Professions Code section 6094; but see Business and Professions Code section 6043.5 with respect to criminal penalties for false and malicious reports or complaints.

Proposed Rule 8.3: Reporting Professional Misconduct

(a) A lawyer shall promptly inform the State Bar when the lawyer knows* ~~has personal knowledge~~ that another lawyer has:

(1) committed a criminal act that reflects adversely on that~~the~~ lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects ~~under rule 8.4(b)~~; or

(2) engaged in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation or misappropriation of funds or property~~under rule 8.4(c)~~.

(b) If a lawyer reasonably believes* that it would be contrary to the interests of a client of the lawyer or the lawyer's firm promptly to report under paragraph (a), the lawyer shall report as soon as the lawyer reasonably believes* the reporting will not cause material ~~shall balance the potential~~ prejudice or damage to the client ~~against the lawyer's duty to report, and shall report the violation as soon as practical~~.

(c) This rule does not require or authorize disclosure of information:

(1) gained by a lawyer while participating in a substance use or mental health program~~;~~ or

(2) ~~require disclosure of information~~ protected from disclosure by Business and Professions Code section 6068, subdivision (e) and rules ~~rule~~ 1.6 and 1.8.2;~~ the duty of confidentiality,~~ the lawyer~~attorney~~-client privilege~~;~~ Business and Professions Code section 6234~~;~~ or ~~by~~ other rules or laws~~, including information that is confidential under Business and Professions Code section 6234~~.

Comment

[1] This rule does not abrogate a lawyer's obligations to report the lawyer's own conduct as required under the State Bar Act. (See, e.g., rule 8.4.1(d) and (e); Bus. & Prof. Code, § 6068, subd. (o).)

[2] The conduct that must be reported under paragraphs (a)(1) and (2) is professional misconduct under rule 8.4(b), rule 8.4(c), or Business and Professions Code section 6106.

[3~~2~~] A report about misconduct is not required where it would involve disclosure of information as set forth in paragraph (b). However, a lawyer may encourage a client to consent to disclosure provided the disclosure would not prejudice the client's interests.

[4~~3~~] The duty to report under paragraph (a) is not intended to discourage lawyers from seeking counsel. As a result, this duty does not apply to a lawyer retained to represent a lawyer whose

professional conduct is in question, to a lawyer who consults with a lawyer who is a potential client and whose professional conduct is in question, or to a lawyer consulted in a professional capacity by another lawyer on whether the inquiring lawyer has a duty to report a third-party lawyer's professional misconduct. Such situations are governed by the rules applicable to the client-lawyer relationship.

[54] Information about a lawyer's misconduct or fitness may be received by a lawyer while participating in a substance use or mental health program, including but not limited to the Attorney Diversion and Assistance Program. (See Bus. & Prof. Code, § 6234.) In these circumstances, providing for an exception to the reporting requirement of paragraph (a) of this rule encourages lawyers to seek treatment through such programs. Conversely, without such an exception, lawyers may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public.

[65] In addition to reporting professional misconduct as required by paragraph (a), a report may also be made to another appropriate agency. A lawyer must not threaten to file criminal, administrative or disciplinary charges to obtain an advantage in a civil dispute in violation of rule 3.10.

[76] A failure to report may also implicate ~~See~~ rule 8.4(a) with respect to the prohibitions against assisting, soliciting, or inducing another lawyer's ethical violation; see also ~~and~~ rule 5.6(b) and Business and Professions Code section 6090.5 with respect to the prohibition on agreements that preclude the reporting of a violation of the rules.

[8] Communications to the State Bar relating to lawyer misconduct are "privileged and no lawsuit predicated thereon may be instituted against any person." See Business and Professions Code section 6094; but see~~See~~ Business and Professions Code section 6043.5 with respect to criminal penalties for ~~prohibitions on~~ false and malicious reports or complaints~~ and section 6094 with respect to the privileges and immunities regarding communications relating to lawyer misconduct~~.

Redline to ABA Model Rule 8.3

Proposed Rule 8.3: Reporting Professional Misconduct

(a) ~~(a)~~ A lawyer shall promptly inform the State Bar when the lawyer ~~who~~ knows* that another lawyer has:

~~(1)~~ committed a criminal act that reflects adversely on ~~violation of the Rules of Professional Conduct that raises a substantial question as to~~ that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; or

(2) engaged in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation or misappropriation of funds or property~~, shall inform the appropriate professional authority~~.

(b) ~~A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.~~If a lawyer reasonably believes* that it would be contrary to the interests of a client of the lawyer or the lawyer's firm promptly to report under paragraph (a), the lawyer shall report as soon as the lawyer reasonably believes* the reporting will not cause material prejudice or damage to the client.

(c) This rule~~Rule~~ does not require or authorize disclosure of information:

(1) ~~otherwise protected by Rule 1.6 or information~~ gained by a lawyer ~~or judge~~ while participating in a substance use or mental health ~~n approved lawyers assistance~~ program; or

(2) protected from disclosure by Business and Professions Code section 6068, subdivision (e) and rules 1.6 and 1.8.2; the lawyer-client privilege; Business and Professions Code 6234; or other rules or laws.

Comment

[1] This rule does not abrogate a lawyer's obligations to report the lawyer's own conduct as required under the State Bar Act. (See, e.g., rule 8.4.1(d) and (e); Bus. & Prof. Code, § 6068, subd. (o).) ~~Self-regulation of the legal profession requires that members of the profession initiate disciplinary investigation when they know of a violation of the Rules of Professional Conduct. Lawyers have a similar obligation with respect to judicial misconduct. An apparently isolated violation may indicate a pattern of misconduct that only a disciplinary investigation can uncover. Reporting a violation is especially important where the victim is unlikely to discover the offense.~~

[2] The conduct that must be reported under paragraphs (a)(1) and (2) is professional misconduct under rule 8.4(b), rule 8.4(c), or Business and Professions Code section 6106.

[3~~2~~] A report about misconduct is not required where it would involve disclosure of information as set forth in paragraph (b)~~violation of Rule 1.6~~. However, a lawyer may~~should~~ encourage a client to consent to disclosure provided the disclosure ~~where prosecution~~ would not ~~substantially~~ prejudice the client's interests.

~~[3] If a lawyer were obliged to report every violation of the Rules, the failure to report any violation would itself be a professional offense. Such a requirement existed in many jurisdictions but proved to be unenforceable. This Rule limits the reporting obligation to those offenses that a self-regulating profession must vigorously endeavor to prevent. A measure of judgment is, therefore, required in~~

~~complying with the provisions of this Rule. The term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware. A report should be made to the bar disciplinary agency unless some other agency, such as a peer review agency, is more appropriate in the circumstances. Similar considerations apply to the reporting of judicial misconduct.~~

[4] The duty to report ~~professional misconduct~~under paragraph (a) is not intended to discourage lawyers from seeking counsel. As a result, this duty does not apply to a lawyer retained to represent a lawyer whose professional conduct is in question, to a lawyer who consults with a lawyer who is a potential client and whose professional conduct is in question, or to a lawyer consulted in a professional capacity by another lawyer on whether the inquiring lawyer has a duty to report a third-party lawyer's professional misconduct. Such ~~a~~ situations are ~~is~~ governed by the rules~~Rules~~ applicable to the client-lawyer relationship.

[5] Information about a lawyer's ~~or judge's~~ misconduct or fitness may be received by a lawyer while participating in a substance use or mental health program, including but not limited to the Attorney Diversion and Assistance Program. (See Bus. & Prof. Code, § 6234.) ~~in the course of that lawyer's participation in an approved lawyers or judges assistance program.~~ In these circumstances~~that circumstance~~, providing for an exception to the reporting requirement~~s~~ of paragraph~~s~~ (a) ~~and (b)~~ of this rule~~Rule~~ encourages lawyers ~~and judges~~ to seek treatment through such a program. Conversely, without such an exception, lawyers ~~and judges~~ may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of clients and the public. ~~These Rules do not otherwise address the confidentiality of information received by a lawyer or judge participating in an approved lawyers assistance program; such an obligation, however, may be imposed by the rules of the program or other law.~~

[6] In addition to reporting professional misconduct as required by paragraph (a), a report may also be made to another appropriate agency. A lawyer must not threaten to file criminal, administrative or disciplinary charges to obtain an advantage in a civil dispute in violation of rule 3.10.

[7] A failure to report may also implicate rule 8.4(a) with respect to the prohibitions against assisting, soliciting, or inducing another lawyer's ethical violation; see also rule 5.6(b) and Business and Professions Code section 6090.5 with respect to the prohibition on agreements that preclude the reporting of a violation of the rules.

[8] Communications to the State Bar relating to lawyer misconduct are "privileged and no lawsuit predicated thereon may be instituted against any person." See Business and Professions Code section 6094; but see Business and Professions Code section 6043.5 with respect to criminal penalties for false and malicious reports or complaints.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Are you an attorney?	Yes
Professional Affiliation	Orange County Bar Association
Name	Michael Gregg
City	Newport Beach
State	California
Email address	tlevindofske@ocbar.org
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Summary of the Orange Count Bar Association's Comments While the OCBA does not believe that a version rule 8.3 will have the deterrent effect it facially seems aimed to achieve, if such a rule is to be adopted, the OCBA generally supports COPRAC's version over the ABA Model Rules or Senate Bill 42 versions, with some refinement to address the following concerns: The definition of "personal knowledge" is unclear as to whether the term qualifies the other lawyer's conduct (i.e., that the lawyer committed some act) or the fact that that conduct is criminal, or both. Clarification would be helpful. •Even with the "criminal act" limitation, the rule could have unintended consequences, opening the floodgates to rule 8.3 reports. We suggest limiting the type of criminal acts that need to be reported to those that not only reflect adversely

	on the lawyer's honesty, trustworthiness, or fitness as a lawyer, but that also constitute an act harmful to that lawyer's client. •Regarding Comment [3], we suggest that further clarification would be helpful as to what might constitute material prejudice or damage to the client that would justify waiting to report a lawyer's conduct. •Comment [6] seems to suggest that the failure to report another lawyer could constitute "assisting" with that other lawyer's criminal conduct. This is of concern because it is difficult to imagine how failing to report could constitute "assisting" with a criminal or unethical act and could cause lawyers to face discipline when common sense would dictate that they did nothing of the sort.
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	OC_Bar_Letter_Re_Proposed_Rule_8.3_Feb_17_2023.pdf (668 KB)

P.O. BOX 6130
NEWPORT BEACH, CA 92658
TELEPHONE 949/440-6700
FACSIMILE 949/440-6710
WWW.OCBAR.ORG

February 17, 2023

State Bar of California
180 Howard Street
San Francisco, California 94105-1639

Re: Proposed Rule 8.3

Dear Sir/Madam:

The Orange County Bar Association (OCBA) respectfully submits the following comments concerning Proposed Rule 8.3.

Founded over 100 years ago, the OCBA has over 7,000 members, making it one of the largest voluntary bar associations in California. The OCBA Board of Directors, made up of practitioners from large and small firms, with varied civil and criminal practices, of different ethnic backgrounds and political learnings, has approved these comments prepared by the OCBA Professionalism and Ethics Committee.

The OCBA has reservations about the State Bar issuing any rule that requires lawyers to report the alleged misconduct of other lawyers. Among other reasons, the State Bar already has been unable to keep up with its backlog of complaints, and the proposed rule would only add to that backlog. That said, to the extent the State Bar is committed to issuing some rule in this regard, we generally support the relatively narrow approach taken by COPRAC in its proposed Rule 8.3, which would require reporting in reasonably limited circumstances. We do have the following comments and questions regarding the proposed rule as currently drafted.

Summary of the OCBA's Comments

While the OCBA does not believe that a version rule 8.3 will have the deterrent effect it facially seems aimed to achieve, if such a rule is to be adopted, the OCBA generally supports COPRAC's version over the ABA Model Rules or Senate Bill 42 versions, with some refinement to address the following concerns:

- The definition of "personal knowledge" is unclear as to whether the term qualifies the other lawyer's conduct (*i.e.*, that the lawyer committed some act) or the fact that that conduct is criminal, or both. Clarification would be helpful.

- Even with the "criminal act" limitation, the rule could have unintended consequences, opening the floodgates to rule 8.3 reports. We suggest limiting the type of criminal acts that need to be reported to those that not only reflect adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, but that also constitute an act harmful to that lawyer's client.

- Regarding Comment [3], we suggest that further clarification would be helpful as to what might constitute material prejudice or damage to the client that would justify waiting to report a lawyer's conduct.
- Comment [6] seems to suggest that the failure to report another lawyer could constitute "assisting" with that other lawyer's criminal conduct. This is of concern because it is difficult to imagine how failing to report could constitute "assisting" with a criminal or unethical act and could cause lawyers to face discipline when common sense would dictate that they did nothing of the sort.

Discussion

First, we agree with the proposed rule's limitation to conduct that constitutes a criminal act, rather than the broader approach taken in the ABA Model Rules or in Senate Bill 42. We also applaud the use of "personal knowledge" as opposed to "knowingly," "known," or "knows." Even with respect to "personal knowledge," however, it is unclear to us whether that term qualifies the other lawyer's conduct (*i.e.*, that the lawyer committed some act) or the fact that that conduct is criminal, or both. For example, a lawyer may have personal knowledge that another lawyer took some action, but the lawyer may not have personal knowledge of whether that action is criminal or merely wrongful in some other respect. We suggest that COPRAC clarify this and what constitutes "personal knowledge" (e.g., if one lawyer discloses to another that the lawyer engaged in reportable conduct, does the other lawyer now have "personal knowledge" of that conduct?) either in the rule or in a comment.

Second, even with respect to the "criminal act" limitation, we believe the rule could have unintended consequences. For example, lawyers far too often accuse other lawyers of lying in declarations, particularly in connection with discovery disputes. But lying in a declaration constitutes perjury, which is a criminal act. Would lawyers be obligated to report to the State Bar every time they believe opposing counsel mischaracterized in a declaration their meet and confer call regarding a discovery dispute?

Third, and relatedly, what if a lawyer sees another lawyer run a stop sign? We understand that running a stop sign technically may be a criminal act, although there appears to be disagreement among non-criminal lawyers about whether that is even the case (which itself proves the point). As another example, must a lawyer report observations of another lawyer driving home after consuming several alcoholic beverages at a social or even a Bar event? And while we recognize that the criminal act should be limited to one that "reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer," it is not difficult to imagine some lawyers who believe the failure to abide by traffic rules indicates these attributes. Although this may be an extreme example, it nonetheless demonstrates how difficult it will be for lawyers to determine what conduct, within the spectrum of criminal acts, they are or are not obligated to report about another lawyer. That uncertainty is unfair to lawyers who potentially face discipline for making the wrong judgment call.

Fourth, we suggest that COPRAC consider limiting the type of criminal acts that need to be reported to those that not only reflect adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, but that also constitute an act harmful to that lawyer's client. One of the State Bar's primary mandates is to protect clients. And, as we understand it, the political pressure to institute a version of Rule 8.3 comes in large part from high profile incidents of lawyers stealing money from a client's (or clients') trust accounts – an act that obviously is harmful to that client. Limiting the disclosure requirement in this way would be consistent with the State Bar's mandate, while also avoiding the requirement that lawyers disclose (or at least question whether they have to disclose) certain acts that have nothing to do with harm to clients.

Fifth, regarding Comment [3], we suggest that further clarification would be helpful. For example, if the lawyer is involved in pending litigation when he or she observes another lawyer's criminal conduct, can the lawyer wait until the litigation is over before making the report to the State Bar? As we understand it, the State Bar is unlikely to undertake an investigation until the underlying litigation is completed in any event. What else might constitute material prejudice or damage to the client that would justify waiting?

Finally, we have concerns about Comment [6], which seems to suggest that, at least in some cases, the failure to report another lawyer could constitute "assisting" with that other lawyer's criminal conduct. In all but the rarest cases, it is difficult to imagine how failing to report could constitute assisting, unless, of course, the State Bar through promulgation of this rule intends to make the failure to report a violation of Rule 8.4(a). Unless that is the case – which we would not support – we believe Comment [6] as currently drafted is problematic and could cause lawyers to face discipline for "assisting" with a criminal or unethical act when common sense would dictate that they did nothing of the sort.

We appreciate COPRAC's consideration of our comments and suggestions.

Sincerely,

Michael A. Gregg
2023 President
Orange County Bar Association

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Professional Affiliation	Overarching Reproductive Law Project
Name	Jenna Karvunidis
City	Pasadena
State	California
Email address	overarchingreproductive@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	February 17, 2023 I.Introduction This is a public comment on the issue of whether California should adopt a new Rule of Professional Conduct addressing a lawyer's duty to report the misconduct of another lawyer. Our group, the Overarching Reproductive Law Project, holds that any such new duty to report should expressly EXCLUDE any act regarding an attorney's role in obtaining or aiding one to obtain an abortion in violation of another state's laws restricting abortion. II.Does "misconduct" include violating anti-choice laws of other states? California Professional Rule 1.2.1(a) states that: A lawyer shall not counsel a client to engage, or assist a client in conduct that the lawyer knows is criminal, fraudulent, or a violation of any law, rule, or ruling of a tribunal.

California Professional Rule 8.4(b) states that:

It is professional misconduct for a lawyer to: (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

California Professional Rule 8.2 Comment [4] states that:

A lawyer may be disciplined under Business and Professions Code section 6106 for acts involving moral turpitude, dishonesty, or corruption, whether intentional, reckless, or grossly negligent.

In the aftermath of the U.S. Supreme Court's June 24, 2022 opinion, Dobbs v. Jackson Women's Health Organization, 597 U.S. ___, 142 S. Ct. 2228 (2022), and Whole Women's Health v. Jackson, 594 U.S. ___, 141...

... S. Ct. 2228 (2021) (S.B. 8 litigation), in which the U.S. Supreme Court allowed a Texas law to stand effectively banning abortion by permitting private causes of action against people assisting residents of Texas with seeking abortion care, we asked that the State Bar issue the following advisory opinion AND exclude abortion-access issues in any new rule regarding the duty to report via a letter sent Oct 3:

As a result of and in response to the U.S. Supreme Court cases Dobbs v. Jackson Women's Health Organization and Whole Women's Health v. Jackson (S.B. 8 litigation), a California lawyer who engages in conduct that is legal in California, specifically that of seeking an abortion, or facilitating or aiding and abetting a

person seeking abortion care or other reproductive health care access to secure that care, in a state where that care is legal, whether or not that facilitation or care is legal or authorized in another state, the California attorney will not face discipline (original or reciprocal) from the California Bar. Aiding a person who seeks abortion care is not considered an act of moral turpitude, nor does it affect the lawyer's fitness to practice law.

The above opinion contemplates these five scenarios:

1.An attorney who is a member of the California Bar is domiciled in a restrictive state, such as Texas, working in an in-house counsel position at a national company, and helps a woman travel to another state to seek abortion care. Absent this opinion, the ...

...attorney would be subject to discipline by the California bar for breaking a Texas law (due to choice of law).

2.An attorney who is a member of the California Bar helps a non-client domiciled in a restrictive state such as Texas seek an abortion in California (or another more protective state) in violation of state law.

3.An attorney who is a member of the California Bar engages in digital communications with a client or non-client in a restrictive state, such as Texas, in furtherance of seeking abortion care.

4.An attorney who is a member of the California Bar is disciplined by the Bar of another state due to violating anti-aiding and abetting statutes in a restrictive state.

5.An attorney who is a member of the California Bar represents a corporation or entity with employees in a restrictive state such as Texas

and provides legal advice regarding his/her/their client's intention to provide health care benefits to those employees that include abortion care and/or funds to facilitate travel to procure abortion care.

III.Summary
Any new Rule of Professional Conduct adopted by the California Bar should explicitly exclude from the definition of misconduct any attorney behavior relating to abortion care access because California attorneys who conscientiously violate "aiding and abetting" laws in other states by helping people access abortion care in California (or other non-restrictive states) are 1. Not committing acts of "moral turpitude" and 2. Should not be...

... subject to bar discipline. In the alternative, the State Bar should issue the above advisory opinion protecting California attorneys.

—

Overarching Reproductive Law Project
Executive Committee Members:
I'niah Clark
Jenna Karvunidis
Christy MacLeod
Women's Lawyers Association Of Los Angeles
1185 Hastings Ranch Drive
Pasadena, CA 91107
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OverarchingReproductive@gmail.com

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Rule_Comment_-_ORLP.pdf (133 KB)

accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.

A project of the Women Lawyers Association of
Los Angeles (WLALA) and Southwestern Law School's
Women Law Association

February 17, 2023

I. Introduction

This is a public comment on the issue of whether California should adopt a new Rule of Professional Conduct addressing a lawyer's duty to report the misconduct of another lawyer. Our group, the Overarching Reproductive Law Project, holds that any such new duty to report should expressly EXCLUDE any act regarding an attorney's role in obtaining or aiding one to obtain an abortion in violation of another state's laws restricting abortion.

II. Does "misconduct" include violating anti-choice laws of other states?

California Professional Rule 1.2.1(a) states that:

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The above opinion contemplates these five scenarios:

1. An attorney who is a member of the California Bar is domiciled in a restrictive state, such as Texas, working in an in-house counsel position at a national company, and helps a woman travel to another state to seek abortion care. Absent this opinion, the attorney would be subject to discipline by the California bar for breaking a Texas law (due to choice of law).
2. An attorney who is a member of the California Bar helps a non-client domiciled in a restrictive state such as Texas seek an abortion in California (or another more protective state) in violation of state law.
3. An attorney who is a member of the California Bar engages in digital communications with a client or non-client in a restrictive state, such as Texas, in furtherance of seeking abortion care.
4. An attorney who is a member of the California Bar is disciplined by the Bar of another state due to violating anti-aiding and abetting statutes in a restrictive state.
5. An attorney who is a member of the California Bar represents a corporation or entity with

employees in a restrictive state such as Texas and provides legal advice regarding his/her/their client's intention to provide health care benefits to those employees that include abortion care and/or funds to facilitate travel to procure abortion care.

III. Summary

Any new Rule of Professional Conduct adopted by the California Bar should explicitly exclude from the definition of misconduct any attorney behavior relating to abortion care access because California attorneys who conscientiously violate "aiding and abetting" laws in other states by helping people access abortion care in California (or other non-restrictive states) are 1. Not committing acts of "moral turpitude" and 2. Should not be subject to bar discipline. In the alternative, the State Bar should issue the above advisory opinion protecting California attorneys.

—

Overarching Reproductive Law Project
Executive Committee Members:
I'niah Clark
Jenna Karvunidis
Christy MacLeod
Women's Lawyers Association Of Los Angeles
1185 Hastings Ranch Drive
Pasadena, CA 91107
626-696-9684
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Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	John H. Perrott
City	San Jose
State	California
Email address	Jperrott@sjfamilyattorney.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Proposed Rule 8.3 states: (a) A lawyer shall inform the State Bar when the lawyer has personal knowledge that another lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by rule. It should instead state: (a) A lawyer shall inform the State Bar when the lawyer has personal knowledge that another lawyer has committed any act which places the attorney or any other person in physical danger. REASON FOR EDIT: Phrases such as "fitness as a lawyer" are vague and far too open to biased interpretation. Nevertheless, in the same way that attorneys are required to report their clients if the client states an intent to do another person physical harm, there is some benefit from applying the Tarasoff reasoning to counsels as well. Attorneys have always been free to report other attorneys, and that should remain unchanged.

Requiring attorneys, who may be locked in an intense adversarial process with opposing counsel, to somehow draw the line for where "Honesty" or "Trustworthiness" is when opposing counsel may have done something questionable is a recipe for trouble. A rule requiring a report will result in too many reports of minor and/or heavily biased matters. Because attorneys have always had the option of reporting, the serious matters will be reported without this rule.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Sharon Roper
City	San Jose
State	California
Email address	sharon.louise.roper@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	The proposed rule is a result of the public disclosures made as to the State Bar's utter failure to properly investigate the claims against Tom Girardi and his law firm over many years. The claims were filed by clients of Tom Girardi and his law firm, and the State Bar failed to do its job and thoroughly investigate those claims. Unless and until the State Bar can demonstrate that it can do its job and properly investigate claims made against attorneys by their own clients, adopting the proposed rule will achieve nothing in the protection of clients against attorneys who violate the professional rules. The proposed rule is an attempt by the State Bar to defect the negative attention that it rightly deserves for its failure to property investigate client complaints against well known and influential attorneys, and shift the blame to the general population of attorneys practicing in California.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Renee Ross
City	Pleasanton
State	California
Email address	rross@rossfamilylaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I have been practicing (mostly family law) for almost 18 years. I have never commented on a proposed rule; however, I feel strongly enough about my concerns that I am taking the time to do so this time. I strongly endorse the idea that lawyers, as officers of the court, have an ethical obligation to report criminal conduct when we see it; however, the language of this rule makes it unethical if I do not make such a report. I practice family law, not criminal law. I do not feel that I am competent to interpret what is or what is not a criminal act. I do not feel it is appropriate to place the burden on lawyers to be subject to potential liability for potential ethical violations when the rules and language is so broad and vague.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Anne Rudolph
City	San Diego
State	California
Email address	arudolph@hplawsd.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	An attorney should not be put in the role of the police, prosecutor, judge and jury for the activities of other attorneys. And, moreover, an attorney should not risk being disciplined herself by the State Bar if she fails to take on that role as police, prosecutor, judge and jury for the activities of other attorneys. What is personal knowledge? What about innocent until proven guilty?

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Are you an attorney?	Yes
Professional Affiliation	San Diego City Attorney's Office
Name	Valerie Silverman Massey
City	San Diego
State	California
Email address	VSilvermanMa@sandiego.gov
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	State_Bar_Public_Comment_8.3_letter.pdf (134 KB)

VALERIE SILVERMAN MASSEY
CHIEF ETHICS & COMPLIANCE OFFICER
CHIEF DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

MARA W. ELLIOTT
CITY ATTORNEY

CIVIL ADVISORY DIVISION
1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

February 9, 2023

The State Bar
C/O Standing Committee on Professional Responsibility and Conduct
180 Howard Street
San Francisco, CA 94105

Sent via portal

Re: Public Comment – Proposed New Rule of Professional Conduct 8.3
Reporting Professional Misconduct

To whom it may concern:

The Office of the San Diego City Attorney employs more than 180 lawyers, making it the largest legal employer in the City of San Diego. The City Attorney supports the November 17, 2022, directive from the State Bar Board of Trustees for a "new Rule of Professional Conduct addressing a lawyer's duty to report the misconduct of another lawyer." California is the only jurisdiction that has not yet adopted a Rule in this regard. This letter addresses a few areas where the directive may be too broad or does not address an important concern.

The current proposed Rule 8.3 has narrowed the Board's directive from reporting "misconduct" to reporting only "criminal acts," a narrowing that is ambiguous. Likewise, there is no direction or comment provided that would protect the reporter from retaliation. The City Attorney's Office urges consideration of the following issues before passage of Rule 8.3:

1. Rule 8.3 (and the pending proposed legislation SB 42) does not contain any language to protect the "reporter" from retaliatory conduct, similar to whistleblower protection statutes, or retaliatory reporting. Many California attorneys serve in public offices, enforcement/prosecutorial positions, and other public positions that, by nature, can be adversarial. Mandatory reporting rules (and statues) should include protections for the reporter.

2. Whether the State Bar (or the Legislature) adopts a rule to report "misconduct" or "criminal activity," definitions of such terms should be provided. Does "misconduct" include common-place discovery disputes that are resolved through judicial intervention (motions to compel)? Or is the intention to only address more egregious conduct? Does the term "criminal acts" distinguish between infractions, misdemeanors, and felonies? Or

are all contemplated? Moreover, is the reporting of "criminal acts" intended to be made after adjudication? Or is the determination of a "criminal act" left to the discretion of the reporting attorney?

3. Creating a mandatory reporting obligation will, foreseeably, increase the number of complaints received by the State Bar. Does the State Bar have the resources to handle the increased investigations and enforcement? Will the revenue necessary to support increased resources result in an increase in State Bar dues, making further access to the legal profession more difficult?

This Office appreciates The State Bar Standing Committee on Professional Responsibility and Conduct's efforts to quell professional misconduct and to better protect the public. We thank you for your work and look forward to further engagement.

Sincerely,

MARA W. ELLIOTT, City Attorney

By
Valerie Silverman Massey
Chief Ethics & Compliance Officer
Chief Deputy City Attorney

VSM:se
Doc. No.: 3216515

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	No
Name	Cassandra Sanders
City	Evergreen Park
State	Illinois
Email address	sanders.cassandra@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	There should also be an added component which allows attorneys to report the State Bar if there is an allegation against the Bar for failing to investigate, prosecute and disbar attorneys who have 10 or more complaints. The State Bar should also be required to proactively go through closed (cold) complaints to review and report on those attorneys with multiple complaints already in their system. This will provide the necessary transparency and accountability needed to regain the public's faith and trust. This could be done by the Public Trust Liaison, which should be fully staffed, trained and funded. A set of updated intake standards can be set to ensure that consumers are given sufficient guidance on how to submit complaints and aren't simply left to figure things out for themselves. Annual audits of legal service providers should be mandatory, fully staffed and fully funded.

There should also be a whistle blower component for attorneys reporting on their employers and or associates and partners.

Consumers would benefit from having lawfirm search function along with a list of firms published on the State Bars website with licensing status for firms, just like there is for attorneys.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	No
Name	Eric Somilleda
City	Los Angeles
State	California
Email address	eric.healthy4life@hotmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Proposed New Rule of Professional Conduct 8.3 Reporting Professional Misconduct Public Comment The profession of practicing Law is admirable. The profession requires that those who chose to work with gamesmanship with a strategic work ethic must be fit holistically. Young lawyers will yield more inquiries as to how is misconduct is defined? Seasoned attorneys who have earned the title has come at a cost. Society is changing as the culture in Los Angeles County is vivid and inclusive. However, the principles of family values are indeed in the arena Family Law Attorneys. All members should with comply with State Bar requirements to practice law. Licensed attorneys shall be following Business and Professions Code section 6054 in the event identity theft is an issue. If an act of misconduct is interpreted as a violation of the law, then have a review

	committee with a credible instrumentation of assessment to determine assist the validity to report of Rule 8.3. If the course of misconduct is one that compromises human life and is an act of terror call the office of homeland security and local law enforcement before you submit misconduct of Rule 8.3. “The way of truth is along the path of intellectual sincerity” by Henry Pritchett .
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	Public_Comment_Rule_8.3.pdf (63 KB)

JEDI Book Club

Proposed New Rule of Professional Conduct 8.3

Reporting Professional Misconduct

Public Comment

The profession of practicing Law is admirable. The profession requires that those who chose to work with gamesmanship with a strategic work ethic must be fit holistically. Young lawyers will yield more inquiries as to how is misconduct is defined? Seasoned attorneys who have earned the title has come at a cost. Society is changing as the culture in Los Angeles County is vivid and inclusive. However, the principles of family values are indeed in the arena Family Law Attorneys. All members should with comply with State Bar requirements to practice law. Licensed attorneys shall be following Business and Professions Code section 6054 in the event identity theft is an issue.

If an act of misconduct is interpreted as a violation of the law, then have a review committee with a credible instrumentation of assessment to determine assist the validity to report of Rule 8.3.

If the course of misconduct is one that compromises human life and is an act of terror call the office of homeland security and local law enforcement before you submit misconduct of Rule 8.3.

“The way of truth is along the path of intellectual sincerity” by Henry Pritchett

Public Comment - Proposed Rule 8.3

Are you an attorney?	Yes
Name	Nathaniel Sterling
City	Fair Oaks
State	California
Email address	sterlinglawfirm1@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	In my opinion the novel proposed rule 8.3 is a bad idea because it would FORCE attorneys in some ways to become some sort of kafkaesque or stalinesque informants and complainers against other attorneys which would corrode any remaining collegiality in the profession and would also substantially corrode civility in the profession (and civility and collegiality in the profession are already sorely lacking and belligerence much too prevalent and this novel rule would just make the problems worse). California has always had and should continue to have it's own thoughts on rules independent of various other states' rules or model rules. This kind of informing and complaining against other attorneys should remain voluntary within the sound discretion of attorneys.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Clark S. Stone
City	San Jose
State	California
Email address	clark@clarkstonelaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Comments provided in attachment
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	Rule_8.3_Comment.doc (32 KB)

February 2, 2023

My comments are directed to the impact of proposed New Rule 8.3 on volunteer attorney arbitrators hearing and deciding attorney-client fee disputes under California's Mandatory Fee Arbitration (MFA) program.

I have been an attorney-client fee arbitrator for California's MFA program for more than 20 years. I have served as a fee arbitrator for the Santa Clara County Bar Association (SCCBA) fee arbitration program since 2001, and for the State Bar program since 2005. With the SCCBA fee arbitration program, I have served in various roles including SCCBA presiding arbitrator and member and chair of the Fee Arbitration Executive Committee. For the State Bar program, I was a member of the Committee on Mandatory Fee Arbitration (CMFA) from 2015 to 2019, and served as one of the State Bar's assistant presiding arbitrators from 2017 until my elevation to presiding arbitrator in 2022, a position that I continue to hold for 2023.

In the course of arbitrating attorney-client fee disputes, fee arbitrators often become aware of attorney misconduct. This misconduct includes overcharging for client services, fraudulent billing practices, and performing unnecessary work. Currently, State Bar Rules, as well as similar fee arbitration rules for local bar fee arbitration programs, provide for permissive (not mandatory) reporting of attorney misconduct disclosed in an arbitration proceeding:

> **Rule 3.546 Referral to Office of Chief Trial Counsel**
>
> The State Bar or a sole arbitrator or panel appointed by the State Bar may refer an attorney to the State Bar Office of Chief Trial Counsel for possible disciplinary investigation because of conduct disclosed in an arbitration proceeding. Such a disclosure does not violate the confidentiality that otherwise applies to the proceeding.

Proposed New Rule 8.3 would make reporting in such instances mandatory should a fee arbitrator obtain "personal knowledge that another lawyer has committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer as prohibited by Rule 8.4(b)."

In the context of fee arbitrations, proposed New Rule 8.3, as currently written, will create uncertainty for fee arbitrators and may result in arbitrators reporting attorney conduct that is not required to be reported under the New Rule. In most instances, attorney misconduct revealed to a fee arbitrator takes the form of the conduct identified in current Rule 8.4(c)- dishonesty, fraud, deceit, or reckless or intentional misrepresentation. This conduct is not the "criminal act" set forth in current Rule 8.4(b) and incorporated in proposed New Rule 8.3. However, because proposed New Rule 8.3 includes a provision that makes non-reporting of another attorney's conduct a possible violation of current Rule 8.4(a), fee arbitrators will be faced with having to determine whether an attorney's misconduct rises to the level of a "criminal act" as set forth in current Rule 8.4(b) or is instead a lesser act under current Rule 8.4(c) not requiring reporting.

In its current form, proposed New Rule 8.3 creates uncertainty for fee arbitrators, as well as for other attorneys, due to the use of the vague and undefined term "criminal act" when taken in context with the behaviors set forth in current Rule 8.4(c). Based on this lack of clarity and the absence of guidance for attorneys and fee arbitrators with respect to their obligation to report (or not report) attorney misconduct, I am opposed to proposed New Rule 8.3 in its current form.

Respectfully submitted,

/s/

Clark S. Stone
San Jose, CA
clark@clarkstonelaw.com

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Antony Stuart
City	Los Angeles
State	California
Email address	ts@stuartlaw.us
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I'm disappointed in the proposal. It's too weak. The proposal should model the language of Senate Bill 42 (Umberg) now pending. That bill would require the reporting of the violation of the Rules of Professional Responsibility as well as criminal conduct. It surprises and disappoints me that COPRAC would propose a much more narrow rule. I also disagree with the proposed exception to the rule for "statutory mediation confidentiality." Statutory mediation confidentiality is extremely broad and therefor problematic. It serves as a protective shield for wrongful conduct by attorneys and is, itself, in serious need of legislative reform. A new rule should not endorse it. Mediation confidentiality also incentivizes mediator misconduct -- highly problematic for an industry which operates without regulation or certification process. I would support the proposal if these two

corrections were made: Include violation of the Rules of Professional Conduct as subject to the reporting requirement, and remove the exception for mediation confidentiality.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Talitha@davieswegner.com
City	Los Angeles
State	California
Email address	talitha@davieswegner.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	Requiring attorneys to report on other attorneys would create an even more hostile environment for the practice of law.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	Yes
Are you an attorney?	No
Professional Affiliation	The Consumer Bar [Public Oversight]
Name	NC Carlson
City	Laguna Woods
State	California
Email address	TheConsumerBar@gmail.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	See Public Comment and Recommendation Attached. 1 Attachment [PDF]
ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.	State_Bar_Rule_8.3_Proposed_Rule_Reporting_Prof_Misconduct.pdf (53 KB)

NC Carlson, Chair
The Consumer Bar
(Public Oversight)

Email; TheConsumerBar @ gmail.com

Proposed Rule 8.3 sets forth a requirement a lawyer report another lawyer who has committed a "criminal act".

The issue of client trust account and client funds misconduct has been a significant historical factor in misconduct complaints by the public. This led to the creation of State Bar "Client Trust Account Protection Program" [CTAPP]. This has been designed as preventive program.

Misappropriation of client funds etc is illegal. But not typically described as " criminal ". Discovery may be by fellow firm associate lawyers.

This recommends proposed Rule 8.3. include language covering this act:

"A lawyer shall inform the State Bar when the lawyer has knowledge that another lawyer has committed a criminal act or **violated rules applicable to client trust accounts and client funds** that reflects adversely on the lawyers honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by the Rule 8.4(b)

NC Carlson
949 689-5199 [PST]
Email: MsNCarlson@aol.com

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Tiega-Noel Varlack
City	Hayward, CA
State	California
Email address	tiega@varlacklegal.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	This proposed rule leaves too much room for subjective interpretation of a violation of law etc. This leaves too much margin for error and can be used as a tool against unpopular attorneys. I strongly oppose.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Mikonos Vasquez
City	Redwood City
State	California
Email address	mikonos@vasquez.legal
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	William R. Warhurst
City	Redwood City
State	California
Email address	info@warhurstlawoffice.us
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	I oppose the proposed rule, because it requires that I determine what is over-the-line as a criminal act versus what is bad-or-inappropriate-or-reckless-conduct just shy of criminality. I have practiced only civil law for 40 years. I last reviewed criminal law for the bar exam in 1980. I can readily keep my own conduct so far from criminality that there is no possible gray area, but the proposed law requires that I abruptly learn criminal law merely to police other lawyers. The proposal requires that I acquire the ability to "know" – not even have a personal opinion or reasonable belief if – but actually "KNOW" if another lawyer has committed a specific class of crimes. Other than the most obvious situations, I lack that skill. I certainly had no intent to suddenly acquire the capabilities of a criminal lawyer after 40 years in civil practice. I think it is unreasonable of the State Bar to think I should learn criminal law now or be disciplined, myself, for failing to recognize criminality that the State Bar apparently thinks I should "know."

I also oppose the proposed rule, because I have not seen any protection for the reporter. With my lack of skill in criminal law, I may have a belief that criminality occurred and dutifully report it, but the State Bar later determine the conduct I reported fell just short of what is needed to be a crime. Will the State Bar defend me when the lawyer I reported says I defamed him or cost him business? Is my mistaken good will a defense? What is the standard by which I need to “know” of a crime before reporting it? Should I have consulted with a criminal lawyer before making the report, considering my lack of expertise in criminal law? I do not see any of these issues addressed in the...

... proposed rule-making, but they need to be clearly stated for the rule to have a plausible impact.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	No
Name	Dorothy Weigman
City	Durango
State	Colorado
Email address	coverlady@aol.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	My sister and her husband run the courts as a Wertheimer; investigated by the f b i in 2015 as records were being changed in the Lamoureaux justtice center. The words "justice" is a farce as I received documents showing they are using both the Lamoureaux Justice Center and the Central Justice Center for my mothers one probate. They have obligated "Attorney's, Dr.s, Judges and world leaders" to "trade secrets", "attorney client priveledge" and work " product priveledge" as CT corporation systems.; and I have this in documents profered from a Jeff Vanderveen. The 10 year end of life pyramid scheme; a "victoria's secret" scheme that a jeff epstein took part of; Maddofff's Ponzi using the decedent to my probate case; my mother as partnering with "american securties"; which later became CT for Wells Fargo as they had too many ethics violations using their own mother as Americxan Secutrities; I even have documents showing they merged ct with jp morgan on physical property; creating the decedent as a CT Morgan; my mother as a CT Morgan to bring in properties

TAX free through the probates of the many trusts accidentally handed to me for the probate of a Diana Engstron; they turned my mother; their mother into a mortgaged backed security by turning her into a property; her Arizona property utilized by Brandywine for the largest pump and dump scheme of all time; just the name Diana Engstrom alone you see over 100 phony identities for their wolf of wall street, Jordan Belforte scheme where they use court documents to change her name and create trust of identities using your courts. It's the Wertz' banking Ponzi run through your courts, but its the "George Soros" Ponzi not fully realized. As it's those $50K plus loans used by Soros as investors are phony "trust of"...

... identities, in the mortgaged backed securities they use the "phony trust of identities" for; creating fraudulent people put on easements; the Soros loans are easement loans that take part and go hand in hand with the pay to play scheme of the Wertz'! it is the "Like Minded People" scheme" where Attorney Richard Lehn was able to ask for Jamie Dimon in 2009 how on earth will the Pandemic Bond's be repaid from the Wertz'; the murder Ponzi that I can prove takes place on easements; with corporate leaders purchasing properties nearby to bring in properties in this George Soros/Ed Wertz Ponzi; once the death takes place of the duped person the fraud is done by changing backgrounds; many fraudulent identities are created on these "mbs" investments taken out in a trust of a duped person. For example I have a SHELAG MURPHY trust on my easement; Andy Struve in CA,my ex-husband has 2 "murphy trusts" on his background; it is illegal in Colorado to have a QUIT Claim deed on your easement; but the

scheme offered to me in 1997 when I refused the first tier was to take the position of a risk assessment advisor from within the banks; use a phony identity and help write in easements to your property descriptions that would split a deed. That is exactly what the Wertz and Andy Struve have done with their scheme, they have split my deed; but it is anyone who took out a loan with Mr.Wertz or any of his "risk assessment' advisors; trust companies, or banks who have split deeds written into their easements. It's a murderous banking Ponzi for sick people. i thought I had talked family out of the Ponzi; but they acquired Citi Bank, Capital One; Discover; Chase and American Express by using this murder Ponzi; the fraud in the courts are all part of the scheme; the first line; "attorney's, drs, judges ...

...and leaders all get into the scheme for free". first line to the first tier of the scheme that the Wertz call their stupid people, yes they call the first tier their "stupid" people! The second tier is their risk assessment advisors in the banks that take part in writing easements into the loans. Everyone gets 4 loans; everyone gets stocks and a free condo. Everyone takes part in inheritance theft; fraudulent court cases; and it's a murder Ponzi. "no one feels too guilty as its 8 to 11 in each group that all take part in the murder"! I know this sounds disgusting but it's the banks and it's my family! I have proof; they had their own mother acquire Ecolab's and be the president of suffch-engstrom; "the trustor to the loans", CA trust company;Datex-Engstrom a Ventiltor manufacturer the D Engstrom trust; they used her as the trust of CA; the trust of the county of orange; and they are using me as the trust of La Paz county; as Ed would laugh with

his work with the Whiley Bros. tax fraud case as Bank of America, one trust buys the other no one the wiser; Ed Wertz had me acquire my mothers trust and we have it in my sisters writing; my sister is the executrix to this Ponzi; Ed Wertz is the UDT trust of his victim; Andy Struve is the UDT trust of me without consent. The banks are doing identity theft of thier duped people and phony accounts and it's my family for their murder Ponzi offered to me in 1997! Assange sits in prison because he was handed classified documents as to what they do to their victims: they are collecting 1 billion dollars for each service member that dies! This is the same thing only the 4 loans: 1 pays ed a kick back; 1 pays for all 4 loans; 1 loan you keep and 1 loan buys life insurance on a duped person; they wanted me to put a hit out on my...

... exhusband, only they had been working the scheme with him since the 1990 the 80s. Where he turned me into a partnership without my knowledge and took out loans using the trust of me. It's fraud. Your courts are corrupt because they are privately owned and Mr. Wertheimer; is Mr. Ed D Wertz of redmond wa, but pretends to be Mr. Ed H Wertz of Yorba Linda; a female on backgrounds as he is the udt trust of the decedent for case 30-2019-01066813 in the Central Justice Center; he is the UDT trust Diana Engstrom in the Lamoureaux Justice Center and poor Judge Johnston in the Central Justice center is Judge G Johnson for the probates in the lamoureaux and Judge D Johnson in the lamoureaux for the DV cases where Mr. Wertz uses fraudulent court cases (investigated by the f b i in 2015 for changing the cases) and even changed a court case from a 2014 "Wertz v Weigman" that was primarily used for Money

Laundering accounts for a Diane Engstron; for Wells Fargo "proof exists"; and uses that dismissed case to add relavancy to a case # dv 21001003 that not one attorney could represent me as it was a fraudulent case; yet he incorporates me to a suite number at 26369 hwy 160 ste A; Durango, CO 81301 and creates a bench warrant for a Dorothy Weigmana! The courts are corrupt because the bankers have acquired them for their property theft scheme. It is a murder Ponzi for sick shallow superficial people! And..... no one cares; when you see corruption; do a background on the judge and the attorney; or the trust of the judge and the attorney; see all the condos for $405K, see all the loans handed to them for going along with the scheme. For Johnston to man up and tell the truth in my case: in the Lamoureux 2019-01066813; or 30-2019-01066813; he has to be sick of the greed; as he confessed...

... in subpoena's more trusts brought through my mothers probate than he can possibly bring forward; it involves other states; THERE HAS NEVER BEEN A FILING OF THE ADMINISTRATION OF THE TRUST!!! THAT IT IS CA EVIDENCE CODE 1040; SOME GOVERNMENT THING HE IS DOING BY BRINGING IN TAX FREE PROPERTIES VIA THE DEFILED DEATH OF MY MOTHER! It's not that the loan officers went wild 10 years ago with the mortgage crisis; it was part of the Ed Wertz/George Soros Ponzi; it's not that the judges and attorney's have gone wild; it's just part of the murderous Ed Wertz/ George Soros banking Ponzi of property acquisition; life insurance distribution; phony identities on easements for their pump and dump that controls the stock market and controls the real estate

market as the banks; ITS THE BANKS AGAIN and we all KNOW IT: it's the Wertz' working with Andy Struve; George Soros; they Trump Organization and any politician who will take part; it's Linda Rold and Dana Philblad her daughter, Rold as Roldiricardoo who acquired my mothers property also ran the "trustee fraud" life insuraance scheme that Jamie Dimon discusses and laughs about; it's the same people as last time taking down our country and they are taking over from within! This attached document I had to file 10 times; then report to the federal courts I was getting hacked; then they hacked me to finally ad it to my mothers probate at the lamoureaux while I was at an RV show! THE BANKS HACK AND IT:S UNFAIR!!!

ATTACHMENTSYou may upload your comment as an attachment. Only one attachment will be accepted per comment submission. We accept the following file types: text (.txt), Microsoft Word (.doc), WordPerfect (.wpd), Rich Text Format (.rtf) and Adobe Acrobat PDF (.pdf). We do not accept any other file types. Please DO NOT submit scanned documents. Files must be less than 4 megabytes in size.

DOC011.pdf (180 KB)

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	LISA ANN WIBLE WRIGHT
City	SACRAMENTO
State	California
Email address	lisa@lwrightlaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Oppose
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	There are already mechanisms in place to report misconduct, without mandating that a report be made.

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Richard Charles Young
City	San Mateo
State	California
Email address	richard@rcylaw.com
From the choices below, we ask that you indicate your position. (This is a required field.)	Support

Public Comment - Proposed Rule 8.3

Are you commenting on behalf of an organization?	No
Are you an attorney?	Yes
Name	Narek Zohrabyan
City	Pasadena
State	California
Email address	nzoh@philip.law
From the choices below, we ask that you indicate your position. (This is a required field.)	Support if Modified
ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.	First of all, why are judges getting a pass here? Why not make it a requirement to report judges for the same way lawyers are to report other lawyers as laid out by the proposed rule? Also, why is this duty now being forced down on practitioners? This is policing that the Calbar should instead be doing. Due to systemic failure by the Calbar bar to clamp down on the Girardi's shenanigans, now, we as honest and hard working attorneys have to take an active role and do Calbar's job for them.

THIS IS THE UNEDITTED TRANSCRIPT AUTOGENERATED BY ZOOM

Panelists: Cassidy Chivers, Erika Doherty (State Bar Staff) Brandon, Krueger, Mimi Lee (State Bar Staff) Joel Mark, Angela Marlaud (State Bar Staff) William Munoz, Hunter Starr

Speakers: Reverend Frank, Nancy Carlson, Richard Oberto, Diana Christian, Amber Gallaway

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WEBVTT

1

00:00:02.990 --> 00:00:04.220

Brandon Krueger: Good morning.

2

00:00:04.710 --> 00:00:11.980

It's about 10 am. On Wednesday, February 1520 23, and we will begin a public hearing

3

00:00:12.050 --> 00:00:18.940

Brandon Krueger: of the state bar of California to receive public comment on proposed new rule. Professional conduct. 8.3.

4

00:00:19.240 --> 00:00:30.890

Brandon Krueger: My name is Brandon Krieger. I serve as the Vice chair of the State Bars Committee on Professional Responsibility and Conduct, known as Co. The rules of Professional conduct.

5

00:00:31.060 --> 00:00:36.520

Brandon Krueger: our professional responsibility standards, the violation of which will subject an attorney to discipline.

6

00:00:36.960 --> 00:00:47.830

Brandon Krueger: pursuant to business and professionals Code 6 0 7 7. The State bar is charged with developing and adopting amendments to the rules of professional responsibility professional conduct

7

00:00:47.880 --> 00:00:57.820

Brandon Krueger: for approval by the California Supreme Court. In furtherance of this responsibility, the chair of the State Bar Board of Trustees assigned

8

00:00:58.010 --> 00:01:05.850

Brandon Krueger: to prepare a proposal for a new rule of professional conduct. Addressing a lawyer's duty to report the misconduct of another lawyer.

9

00:01:06.530 --> 00:01:08.580

Brandon Krueger: Col. Pr. Was asked to consider

10

00:01:08.640 --> 00:01:12.160

American Bar Association model Rule 8.3,

11

00:01:12.280 --> 00:01:24.000

Brandon Krueger: and variations of that rule adopted in other jurisdictions, as well as past considerations of model rule. 8.3 by the State Bar rules, Revision Commission and drafting its proposed rule.

12

00:01:25.160 --> 00:01:32.660

Brandon Krueger: The State Bar staff has caused notice of this hearing to be issued by several methods, including including a posting of the State Bar website

13

00:01:32.760 --> 00:01:43.070

Brandon Krueger: email notifications to interested persons and social media posts. This public hearing is being recorded and has been authorized by the Board of Trustees which oversees the work of the committee.

14

00:01:43.390 --> 00:01:47.650

Brandon Krueger: The recording of this public hearing will be made available to the members of the Board.

15

00:01:48.110 --> 00:02:05.720

Brandon Krueger: We will begin with those who will pre registered to speak, using the online sign up form, and then we will move on to those who have virtually raised their hands in zoom for those of for

those who are participating by zoom video, you may virtually raise your hand by clicking on the hand icon that appears

16

00:02:05.780 --> 00:02:15.690

Brandon Krueger: at the bottom center of your screen for those who are participating by phone, you may virtually raise your hand by pressing Star 9. That is the star key. Then the Number 9

17

00:02:16.810 --> 00:02:26.090

Brandon Krueger: again doing so will alert staff that you would like to make a comment and state our staff will call on you in order to unmute your microphones, so you can address the committee.

18

00:02:27.450 --> 00:02:28.870

Brandon Krueger: Please speak clearly.

19

00:02:29.060 --> 00:02:38.690

Brandon Krueger: Begin by stating, and then spelling your name. This is important for 2 reasons. It helps to assure that your comment is properly attributed to you, and also as a sound check

20

00:02:39.080 --> 00:02:47.680

Brandon Krueger: due to time restrictions. We cannot allow more than 2 min for each speaker. Please note that staff will be timing all attendees during the duration of your public comment.

21

00:02:47.840 --> 00:02:52.190

Brandon Krueger: The timer's 2 min countdown will begin as soon as you start your comment

22

00:02:52.310 --> 00:02:55.550

Brandon Krueger: and you will be verbally alerted once you have 30 s remaining.

23

00:02:55.970 --> 00:03:07.690

Brandon Krueger: If you have written materials that you have not previously submitted, please email them to Miss marlowe@angela.marlowe at Calg. We will provide her email address in the chat as well.

24

00:03:07.950 --> 00:03:11.600

Brandon Krueger: Supporting written materials will become part of the public record of this proceeding.

25

00:03:12.080 --> 00:03:20.410

Brandon Krueger: In addition to this public hearing a 30 day period to receive public comment on the proposed rules, has been authorized by the board and the deadline.

26

00:03:20.540 --> 00:03:25.640

Brandon Krueger: or a submission of written public comment, is February the seventeenth, 2,023.

27

00:03:25.990 --> 00:03:30.970

Brandon Krueger: We'll begin by introducing the committee member panelists, Cassidy Chivers.

28

00:03:31.280 --> 00:03:33.700

Brandon Krueger: You can so it all right.

29

00:03:33.710 --> 00:03:35.270

Joel, Mark

30

00:03:36.300 --> 00:03:38.290

Brandon Krueger: and Hunter Star.

31

00:03:38.730 --> 00:03:42.240

We have one more who may or may not be joining us. William Munoz

32

00:03:42.310 --> 00:03:45.430

Brandon Krueger: Angela, you can call the first speaker, please.

33

00:03:45.800 --> 00:03:55.730

Angela Marlaud (State Bar Staff): First speaker on the list is identified as Speaker 8 8 7 6. If you can raise your hand or press Star 9 to identify yourself.

34

00:03:56.370 --> 00:03:57.890

Angela Marlaud (State Bar Staff): That would be appreciated.

35

00:04:06.760 --> 00:04:15.370

Angela Marlaud (State Bar Staff): Okay, they are not there, so I will move down the list. Richard Oberto. Please raise your hand or use the Star 9 function.

36

00:04:25.920 --> 00:04:34.330

Angela Marlaud (State Bar Staff): Richard is not here. Next, we have Todd Hill. Tod. Please use the race hand function to identify yourself.

37

00:04:43.990 --> 00:04:51.490

Angela Marlaud (State Bar Staff): Okay, Todd is not here, and lastly, on the sign. And she, we have Kevin, Mota Kevin. Please use the race hand function.

38

00:05:00.360 --> 00:05:04.660

Angela Marlaud (State Bar Staff): Okay, I don't have Kevin. So I will proceed by

39

00:05:05.860 --> 00:05:07.280

Angela Marlaud (State Bar Staff): going down

40

00:05:07.550 --> 00:05:12.890

Angela Marlaud (State Bar Staff): people who are here. The first speaker is, Reverend Frank.

41

00:05:13.980 --> 00:05:21.060

Angela Marlaud (State Bar Staff): reverend. Your Mike has been unmuted. Please state and spell your name for the record, and then you'll have 2 min to provide your public comment.

42

00:05:21.100 --> 00:05:26.820

Reverend Frank: All right. It's, reverend, that R. E, e, r, e, n D. Frank, or a. N. K.

43

00:05:27.470 --> 00:05:28.210

Question. I

44

00:05:29.990 --> 00:05:32.400

Reverend Frank: point 3 under a

45

00:05:32.630 --> 00:05:39.760

Reverend Frank: it, says a lawyer that knows, and that his lawyers committed a violation of the

46

00:05:40.020 --> 00:05:44.480

Reverend Frank: Have you guys

47

00:05:44.570 --> 00:05:45.520

16?

48

00:05:46.220 --> 00:06:01.110

Reverend Frank: Because that leaves a lot of regular room. Anybody to say. Well, I didn't think it really raised that much of the the thing that we see with lawyers and laughs lately is, they leave themselves open to interpretation to where

49

00:06:01.580 --> 00:06:05.410

Reverend Frank: you say we want to deal with them today, but tomorrow

50

00:06:05.430 --> 00:06:12.500

Reverend Frank: we're going to ignore it, because it doesn't raise substantial. Have you guys defined what is substantial?

51

00:06:13.320 --> 00:06:33.440

Reverend Frank: One of my problem with the State bar is, I have reported that Vanessa Holton committed a felony as the General Council of the State of California. It has been ignored by Leo Wilson. If you go to the vessel, hilton.com. I have laid out everything. I have a State park and Link filed on the 20 s.

52

00:06:33.450 --> 00:06:44.290

Reverend Frank: I have the police report that they say Vanessa filed on the 20 third. I have 4 0f these calls I the 26 and 26 recording from officer

53

00:06:44.380 --> 00:06:55.330

Reverend Frank: to take down my first and then right to a free speech website. and then Larry just blurred out what is his name? Larry? The guy that is prosecuting John right now

54

00:06:55.570 --> 00:06:58.390

Reverend Frank: he has to be brought in to the

55

00:06:59.300 --> 00:07:00.800

Angela Marlaud (State Bar Staff): 30 s.

56

00:07:01.710 --> 00:07:08.230

Reverend Frank: If I report this to you guys here now, are you guys going to be required to do something about it.

57

00:07:08.670 --> 00:07:23.320

Reverend Frank: especially against the state part employee. What are your plans for prosecuting state for employees? Again. Ring complaints like this. or just gonna be ignored like you guys are doing a lot of other things that we've been sending over the past couple of years

58

00:07:23.980 --> 00:07:28.850

Reverend Frank: with the Michael Ivan. Not either Joe or the Okay.

59

00:07:29.100 --> 00:07:29.780

Okay.

60

00:07:30.180 --> 00:07:32.630

Angela Marlaud (State Bar Staff): thank you. When that is time.

61

00:07:34.820 --> 00:07:43.510

Angela Marlaud (State Bar Staff): The next speaker is Nc. Carlson. and see, your mic has been a muted, please state, and still your name for the record, and you'll have 2 min.

62

00:07:43.700 --> 00:07:51.620

NC Carlson: Nancy Carlson. the N. A. And C. Y. C. A. R. L. S. O. N.

63

00:07:51.810 --> 00:07:55.970

Erica. I did submit something by email. Did you get it?

64

00:07:56.160 --> 00:07:57.150

NC Carlson: The written

65

00:07:57.590 --> 00:07:59.830

NC Carlson: by chance I did receive it.

66

00:07:59.830 --> 00:08:20.700

NC Carlson: Okay, Would you prefer you just submit that in the the written form? So I don't have to take a time for for other attendees.

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00:08:21.940 --> 00:08:23.060

NC Carlson: Does that make sense?

68

00:08:24.350 --> 00:08:25.010

Erika Doherty (State Bar Staff): Yes.

69

00:08:25.040 --> 00:08:27.870

Angela Marlaud (State Bar Staff): okay, Great thanks.

70

00:08:30.110 --> 00:08:34.049

Angela Marlaud (State Bar Staff): Our next public speaker is Richard Oberto.

71

00:08:34.960 --> 00:08:39.770

Angela Marlaud (State Bar Staff): Richard, and your mic has been unmuted. Please state and school your name for the record, and then you'll have 2 min.

72

00:08:40.590 --> 00:08:52.490

Thank you. Richard Alberto R. I. C. A. Our. D. OP. Erto. I want to let you know. I tried to tune in by a phone, and I was raising my hand, using the star 9 function and it was not working. I noticed that

73

00:08:52.520 --> 00:08:58.810

Richard Oberto: nobody who was scheduled to speak by phone was able to to speak, and

74

00:08:58.920 --> 00:09:00.540

in my case

75

00:09:00.550 --> 00:09:12.140

Richard Oberto: that was because of the technology is not functioning properly and wasn't transmitting to you. I submitted a written statement posing this proposed rule.

76

00:09:12.200 --> 00:09:15.270

Richard Oberto: I mean it would turn the State bar into

77

00:09:15.410 --> 00:09:26.350

Richard Oberto: like a court for for a bunch of reports that are not worthy of a police report. If there's a real crime happening when it's happened, a person will report it to the police.

78

00:09:26.450 --> 00:09:31.180

Richard Oberto: This would require lawyers. There's some kind of innuend0 0r rumor

79

00:09:31.370 --> 00:09:42.050

Richard Oberto: this falls well short of something that a person would report to the police that a person would still have to report that to the bar. This is going to create a great big mess.

80

00:09:42.240 --> 00:09:53.570

Richard Oberto: and is going to make the State bar a clearing house for, like petty claims involving room or innuendo. And it's going to make a tremendous hassle. Well, it's going to make a

81

00:09:53.660 --> 00:09:56.360

Richard Oberto: create tremendous problems, for people.

82

00:09:56.510 --> 00:10:03.180

Richard Oberto: and I think that the State bars should rely on the criminal justice system to adjudicate

83

00:10:03.300 --> 00:10:09.900

Richard Oberto: crimes, and the State bar should not be some kind of lesser Criminal Court for something that's not worthy

84

00:10:09.990 --> 00:10:13.780

Richard Oberto: of presentation, and Da's office Police department

85

00:10:13.820 --> 00:10:15.210

Richard Oberto: or a courtroom.

86

00:10:15.430 --> 00:10:22.800

Richard Oberto: Well, that that was it. I hope I hope you guys figure out as well what's happening with the phone lines? Because

87

00:10:22.980 --> 00:10:26.580

Richard Oberto: that was a problem for me and some other people were not able to tune in that way.

88

00:10:26.650 --> 00:10:28.670

Richard Oberto: so i'll submit on that in my written statement.

89

00:10:30.940 --> 00:10:32.190

Angela Marlaud (State Bar Staff): Thank you, Richard.

90

00:10:32.320 --> 00:10:36.950

Angela Marlaud (State Bar Staff): Is there anybody else who would like to give public comments? Please use the raise hand function.

91

00:10:49.610 --> 00:10:52.820

Angela Marlaud (State Bar Staff): Brandon. I don't have any more raise hands at this time.

92

00:10:55.830 --> 00:10:58.790

Brandon Krueger: So if that's all the public comment, do we conclude the hearing them?

93

00:10:59.730 --> 00:11:03.230

Erika Doherty (State Bar Staff): We would likely take a recess to see if anyone else would like to attend.

94

00:11:03.430 --> 00:11:04.220

Brandon Krueger: Okay.

95

00:11:05.670 --> 00:11:13.430

Brandon Krueger: It is now 11 min after 10. All persons who are present to provide public comment have been given an opportunity to speak.

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00:11:13.630 --> 00:11:21.420

Brandon Krueger: and we will be taking a 10 min break to see if anyone else wishes to, so to speak. We will resume at 1022,

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00:11:33.930 --> 00:11:34.680

Angela Marlaud (State Bar Staff): Yes.

98

00:11:36.200 --> 00:11:37.080

Brandon Krueger: hello!

99

00:11:37.130 --> 00:11:42.390

Brandon Krueger: We are back for the public hearing on the proposed rule of professional conduct. 8.3.

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00:11:42.530 --> 00:11:52.480

Brandon Krueger: We've been waiting approximately 10 min to see if anybody else is interested in making any public comments. Angela and Erica. Do we have any other public commenters?

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00:11:53.050 --> 00:11:57.940

Angela Marlaud (State Bar Staff): If there's anyone who'd like to give a public comment. Please use the raise hand function at this time.

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00:11:59.950 --> 00:12:03.610

Angela Marlaud (State Bar Staff): Okay, we do have one Diane

103

00:12:04.090 --> 00:12:10.100

Angela Marlaud (State Bar Staff): Christian Diana. Your mic has been muted. Please state. Install your name for the record, and then you'll have 2 min.

104

00:12:11.010 --> 00:12:19.310

Diana Christian: Hello! My name is Diana Christian. That's D. I, a. N. A. C. H. R. I. S. T. I. A. N.

105

00:12:19.670 --> 00:12:22.570

I'm. An attorney in California.

106

00:12:22.620 --> 00:12:31.670

Diana Christian: and I saw the notes regarding this proposed rule. I think

107

00:12:32.160 --> 00:12:38.730

Diana Christian: you know I had some hesitation, because the the last comment was a good, a very good point about.

108

00:12:38.810 --> 00:12:40.810

you know. Maybe

109

00:12:41.340 --> 00:12:43.700

Diana Christian: concern about wild goose chases

110

00:12:43.780 --> 00:12:46.970

for potential criminal conduct.

111

00:12:47.070 --> 00:12:48.710

Diana Christian: But

112

00:12:48.800 --> 00:12:58.690

Diana Christian: I think that the rule provides kind of a protection there, because it states that you have to have personal knowledge

113

00:12:58.790 --> 00:13:06.570

Diana Christian: of the put the alleged criminal act so. If it's something that you heard.

114

00:13:06.620 --> 00:13:08.540

Diana Christian: you know that that

115

00:13:08.890 --> 00:13:12.390

Diana Christian: would be someone that I wouldn't have personal knowledge.

116

00:13:12.500 --> 00:13:20.910

Diana Christian: I think there's a lot of instances where attorneys are, if not required to

117

00:13:21.170 --> 00:13:31.540

Diana Christian: report criminal conduct. there may be reluctancy, especially if it, you know, wouldn't violate another role of professional responsibility.

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00:13:31.580 --> 00:13:41.610

Diana Christian: This would be an avenue that you know. What if it's concerning your business partners, a situation that

119

00:13:41.800 --> 00:13:44.950

Diana Christian: you wouldn't necessarily want to

120

00:13:45.200 --> 00:13:54.510

Diana Christian: be, you know kind of a whistleblower. But if this way you'd be forced to, because

121

00:13:56.100 --> 00:14:05.660

Diana Christian: and that's something, I think, that should be considered, because along with the wild goose chases, there are also some very legitimate

122

00:14:06.250 --> 00:14:12.840

Diana Christian: concerns and criminal conduct that may not otherwise be reported. That should be.

123

00:14:15.550 --> 00:14:16.800

Angela Marlaud (State Bar Staff): Thank you, Diana.

124

00:14:17.840 --> 00:14:25.610

Angela Marlaud (State Bar Staff): The next speaker we have is Ag Ag. Your mic has been unmuted. Please state and smell your name for the record, and you'll have 2 min.

125

00:14:33.510 --> 00:14:40.570

AG: Hi, hi! My name is Amber Galloway, a. M. B. E, R. G. A. L. L. A. W. A. Y.

126

00:14:40.690 --> 00:14:44.940

I'm. One of the 4 majority Keys clients. I was

127

00:14:45.140 --> 00:14:55.940

AG: one of the my family was one of the last before it was shut down. And I appreciate you guys doing this. I've I've presented.

128

00:14:56.130 --> 00:15:01.510

AG: This is a change that I was hoping to get made a year ago, and I know

129

00:15:01.580 --> 00:15:07.030

AG: how slow it it is to actually see things through. But I really appreciate you guys doing this.

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00:15:07.040 --> 00:15:10.990

AG: It came to my attention through the whole Gerardi keys

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00:15:11.160 --> 00:15:21.360

AG: unfolding. That California was one of the only States that does not have this rule, and that was shocking, and that's been one of the things that we've been up against.

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00:15:21.500 --> 00:15:24.360

we still don't have counsel.

133

00:15:25.000 --> 00:15:26.250

AG: even though

134

00:15:26.380 --> 00:15:38.660

AG: it's been publicized widely about how agreed to. The misconduct was at that firm. A lot of people will hear us out, but it won't help us. And then

135

00:15:38.990 --> 00:15:45.800

AG: at the end of the conversation we'll end it by telling us how they're friends with so and so.

136

00:15:46.720 --> 00:15:47.710

AG: and

137

00:15:48.690 --> 00:16:04.220

AG: it's just it's it's shocking to to see the conduct carry on still today, where everybody is just protecting each other, and on that note it also came to my attention how this committee has

138

00:16:04.220 --> 00:16:10.130

AG: a member that is part of a firm that's representing one of the majority Keys attorneys

139

00:16:10.150 --> 00:16:17.250

AG: that is under investigation right now. 30 s.

140

00:16:17.730 --> 00:16:33.720

AG: Make note that i'm the comment for the proposed rule under number 2. It says this rule does not apply to a lawyer who is consulted about, or routine to represent a lawyer whose conduct is in question that seems like a huge loophole to me, and I can see

141

00:16:33.780 --> 00:16:42.570

AG: that being in place and everybody just like talking to each other, so that rule applies to them in this Gerardi network.

142

00:16:44.900 --> 00:16:45.690

Angela Marlaud (State Bar Staff): Thank you.

143

00:16:48.810 --> 00:16:52.970

Angela Marlaud (State Bar Staff): Is there anybody else who would like to give public comments? Please use the race hand function?

144

00:17:02.380 --> 00:17:03.840

Brandon Krueger: N0 0ne else, Angela.

145

00:17:04.140 --> 00:17:05.500

Angela Marlaud (State Bar Staff): no nobody else.

146

00:17:05.770 --> 00:17:11.560

Brandon Krueger: unless anyone else would like to speak. I'm going to adjourn our public hearing.

147

00:17:13.560 --> 00:17:18.540

Brandon Krueger: We will adjourn the public hearing as a reminder there is still time to submit written public comment

148

00:17:18.609 --> 00:17:29.890

Brandon Krueger: on the proposed rules. The deadline for submission of written comment is February seventeenth. 2023. I'd like to thank all of the speakers and other attendees.

149

00:17:30.140 --> 00:17:36.720

Brandon Krueger: It is now 1028 am. This public hearing is adjourned, and I wish everyone a good day.