Appendix A

Chancery Court Memorandum and

Order Dismissing Amended Petition

For Writ of Mandamus

IN THE CHANCERY COURT FOR THE
STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT,
DAVIDSON COUNTY

JOHN ANTHONY GENTRY Petitioner, vs.	)	
	)	Case No. 19-0644-1
FORMER SPEAKER OF THE HOUSE, GLEN CASADA; SPEAKER OF THE SENATE, LT. GOV. RANDY McNALLY; CHIEF CLERK OF THE HOUSE, TAMMY LETZLER; CHIEF CLERK OF THE SENATE, RUSSEL A. HUMPHREY, AND SPEAKER OF THE HOUSE ELECT, CAMERON SEXTON Respondents,	)	

MEMORANDUM AND ORDER DISMISSING AMENDED PETITION FOR WRIT OF MANDAMUS

This matter is before the Court on Petitioner John Anthony Gentry's Amended Petition for Writ of Mandamus (the "Amended Petition"). For the reasons set forth below, the Court finds the requested writ should be denied and this action dismissed.

I. PROCEDURAL BACKGROUND

A. Original Petition for Writ of Mandamus

Petitioner filed his original petition for a writ of mandamus, under oath, on May 21, 2019. He is representing himself. Named as Respondents were former Speaker of the House Glen Casada, Speaker of the Senate Randy McNally, Chief Clerk of the House Tammy Letzler, and Chief Clerk of the Senate Russell A. Humphrey, all of whom are represented by the Attorney General's Office.

Petitioner alleges that the Tennessee Constitution Art. I, § 23, protects the right of citizens "to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address of (sic) remonstrance."[1] Petitioner alleges that on January 14, 2019, he filed with the Chief Clerk of the Tennessee Senate a "Petition of Remonstrance." Petition, Ex. B (cover page only). On January 18, 2019, District Two Representative Bud Husley filed the same Petition of Remonstrance with the Chief Clerk of the Tennessee House of Representatives on Petitioner's behalf.[2] Petition, Ex. C (cover page only). Also on January 18, 2019, the Petitions of Remonstrance were announced on the floors of the House and the Senate.

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[1] The official version of the Tennessee Constitution, Art. I, § 23 provides for "redress of grievances, or other proper purposes, by address ***or*** remonstrance."

[2] Petitioner alleges that he attempted to file his Petition of Remonstrance with the Chief Clerk of the House, Tammy Letzler, on January 14, 2019, but was told that "House 'policy' required Petitioner's Remonstrance to be filed by a member."

During the first week of February 2019, Petitioner alleges he visited the office of the Chief Clerk of the Senate to complain that his Petition of Remonstrance was not "properly announced" and was not "read at the table in violation of Senate Rule of Order, Rule 22." Between February 18, 2019 and March 6, 2019, Petitioner alleges that he "personally met with approximately fifty (50) members of the General Assembly to discuss his Petition of Remonstrance, Rules of Order, and Legislative Rules of Procedure," which he claims require his petition "to be heard" by the General Assembly. Petitioner alleges he also met with the Director of Legislation on March 5 and Director of the Office of Legal Services for the House and Rep. Hulsey on March 6, 2019 to discuss "hearing" his Petition of Remonstrance. Petitioner alleges that between December 2018 and April 2019, he "emailed the entire General Assembly" demanding proper hearing of his Petition of Remonstrance.[3]

Petitioner requested the Court to issue a writ of mandamus and order the following relief:

(i) mandate the Clerk's Office of the Senate to "properly announce" his Petition of Remonstrance and "read" the Petition "at the table or provide Petitioner opportunity to present," (ii) mandate the Senate to "hear and decide" the Petition of Remonstrance, (iii) mandate the Clerk's Office of the House to "properly announce" his Petition of Remonstrance and "read" the Petition "at the table or provide Petitioner opportunity to

[3] Petitioner attached as an exhibit to his petition for writ of mandamus a "[s]ample of one email sent to the General Assembly."

present," and (iv) mandate the House to "hear and decide" the Petition of Remonstrance.

B. Summary of Motions Filed

On the same date as filing the Petition for Writ of Mandamus, Petitioner filed a motion to refund the filing fee he paid to the Clerk & Master. He complains that he previously attempted to file a "petition of remonstrance" with the Clerk & Master's Office on April 30, 2019, and was informed the Clerk's Office must charge a filing fee. He returned to the Clerk & Master's Office on May 21, 2019, and filed the Petition for Writ of Mandamus and a separate motion to refund the filing fee. Petitioner claims that the filing fee requirement is unlawful and suppressed his constitutional rights. Petitioner did not initially notice his motion for refund for hearing on the Court's motion docket.

On June 7, 2019, Respondents filed a Motion to Dismiss the original mandamus petition under Rule 12.02 of the Tennessee Rules of Civil Procedure for lack of subject matter jurisdiction and failure to state a claim for relief, with a memorandum in support. Respondents noticed their motion for hearing on the Court's regular motion docket on June 21, 2019. Approximately 20 minutes later, Petitioner filed a Motion to Issue Show Cause Order. Petitioner did not notice his motion to show cause for hearing, although he

separately lodged a notice containing blanks for a hearing date to be inserted.[4]

On June 12, 2019, Petitioner filed a Motion to Strike Respondents' motion to dismiss and supporting memorandum, claiming that Respondents (i) falsely stated in their memorandum that they had provided "a copy of the full Petition of Remonstrance" and improperly modified the cover of the document,[5] and (ii) "knowingly and intentionally failed to comply" with Rule 26.04(b) of the Davidson County Local Rules, requiring counsel citing to an unreported Tennessee decision or a decision from another state or federal jurisdiction to attach a copy of the decision to the supporting memoranda and provide copies to opposing counsel. Petitioner filed a separate Notice of Hearing purporting to notice his Motion to Strike for the Court's June 21, 2019 motion docket (the same date as Respondents' motion to dismiss),[6] but upon nine days' notice instead of the fourteen days' required under Local Rule 26.03(a).

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[4] The Clerk & Master's Office accepted this Notice and stamped it "Received." The Court found that Respondents' motion to dismiss obviated the need for issuing a show cause order.

[5] Respondents attached to the memorandum in support of their motion to dismiss a document entitled Petition of Remonstrance that included a "cover page" that differs from the copies of the cover pages attached to Petitioner's Petition for Writ of Mandamus. Petitioner attached to his motion to strike a "full" copy of his 72-page Petition of Remonstrance, but without "approximately 700 pages" of appendices that were attached to the versions filed with the General Assembly.

[6] Petitioner also purported to notice his Motion to Issue Show Cause Order and his Response to Respondent's Motion to Dismiss for hearing on June 21, 2019.

Also on June 12, 2019, Petitioner filed his response in opposition to Respondent's motion to dismiss.

At the June 21, 2019 hearing on Respondents' motion to dismiss, the Court initially noted that Petitioner had not given fourteen days' notice of hearing on his motion to strike, and the Court would proceed to hear Respondents' motion to dismiss because it challenged the Court's subject matter jurisdiction as a threshold issue. After argument on the motion to dismiss, the Court noted several of Petitioner's objections to Respondents' motion to dismiss were the same objections raised in his separate motion to strike. The Court found that Respondents had timely and properly filed their motion to dismiss and complied with the notice requirements for motions under the Local Rules. The Court advised that it would take the merits of the motion to dismiss under advisement.

Though Petitioner's motion to strike was not timely noticed, the Court allowed Petitioner to address his motion to strike, without objection from Respondents, because those same grounds had been discussed during argument on the motion to dismiss. In response to Petitioner's objection to the Respondent's failure to provide copies of unreported and out-of-state decisions cited in their memorandum, Respondents' counsel stated that Respondents relied on reported Tennessee cases in support of the motion to dismiss, but also cited to unreported and out-of-state decisions as additional authority. In response to Petitioner's argument that Respondents had falsely represented that they had filed a full copy of the Petition of Remonstrance or had filed an altered copy, counsel replied that the copy of the Petition of Remonstrance attached to the

memorandum was the copy provided to her by Respondents.

The Court respectfully denied Petitioner's motion to strike. In the interest of allowing Petitioner a full opportunity to respond to the unreported and out-of-state decisions cited by Respondents, the Court requested Respondents' counsel provide Petitioner with copies of those decisions. Respondents' counsel offered to email copies to Petitioner by the close of business that afternoon. The Court allowed Petitioner one week, or until June 28, 2019, to file any supplemental response to the motion to dismiss, limiting his discussion to the additional decisions provided. The Court advised that it would not rule on the motion to dismiss until after Petitioner filed any supplemental response and would then decide the motion to dismiss without additional oral argument. The Court entered an order denying the motion to strike on June 28, 2019.

On June 26, 2019, Petitioner filed a 35-page supplemental response to the motion to dismiss, largely re-arguing his position and his motion to strike and raising new objections. He also made unsupported accusations of spoliation of evidence and conspiracy on the part of Respondents and their counsel relating to the motion to dismiss.

On July 8, 2019, the Court entered an order reflecting its request that Respondents provide Petitioner with copies of the unreported and out-of-state decisions and that Petitioner was allowed additional time to file a supplemental response. The order further notified the parties that Petitioner had since filed his supplemental response, and the Court had taken the motion to dismiss under advisement.

Also on July 8, 2019 and after the Court entered its order, Petitioner filed a motion to alter the Court's order denying his motion to strike. Petitioner stated in this motion that he "waived oral argument" on the motion to alter based on his belief that the Court "orally determined that no further hearings in this matter would be necessary or heard."[7] The Court entered an order on July 10, 2019, to correct Petitioner's misunderstanding and clarify that the Court had only limited further oral argument with respect to the motion to dismiss.

On July 15, 2019, Petitioner filed a corrected and supplemental response to the motion to dismiss, stating it was filed to comply with the Court's directive that his supplemental response be limited to a discussion of the additional cases received from Respondents' counsel. Also on July 15, 2019, Petitioner filed a corrected and amended motion to alter the Court's order denying his motion to strike and noticed it for hearing on August 16, 2019.

On July 22, 2019, Petitioner filed an application for interlocutory appeal of the Court's order denying his motion to strike, although his motion to alter that order had not yet been heard. Petitioner noticed his corrected and amended motion to alter, motion to refund filing fee, and application

[7] Petitioner also complained that he was not allowed to record proceedings at the June 21, 2019 hearing for note taking purposes. At the June 21, 2019 hearing, Petitioner asked to record the hearing because of a hearing impairment. To accommodate Petitioner, the Court offered him the use of the courtroom' s electronic hearing device, which Petitioner accepted and informed the Court that the device improved his ability to hear. He did not renew his request to record for other purposes.

for interlocutory appeal for hearing on August 16, 2019.

Respondents opposed the motion to alter the Court's order denying his motion to strike and opposed his application for interlocutory appeal. Respondents did not respond to the motion for refund of filing fee, as it was not directed to them. Petitioner filed a reply on his motion to alter, but did not file a reply on the application for interlocutory appeal. Instead, he filed a motion to continue hearing on his application for interlocutory appeal, claiming he did not have sufficient time to reply. He requested an extension until August 19, 2019 and asked the Court to decide the application on the written papers. Respondents had no objection to this request and the Court granted the motion to continue. On August 19, 2019, however, Petitioner filed a notice striking his application for interlocutory appeal.

On August 21, 2019, Petitioner filed a motion to reconsider the order on the June 21, 2019 hearing (denying the motion to strike) and the order clarifying the prior order on the June 21, 2019 hearing (regarding oral argument on motions).

He also filed a motion to sanction Respondents and, the next day, filed a supplemental motion to sanction, again based on Petitioner's claims that Respondents had falsified, materially altered, and spoliated the copy of. the Petition for Remonstrance attached to Respondents' memorandum in support of their motion to dismiss.

Petitioner noticed these motions for hearing on September 6, 2019. At the September 6 hearing, Petitioner withdrew his motion to reconsider acknowledging that his motion was moot based on his having filed an Amended

Petition. The Court denied the motion to sanction and supplemental motion to sanction Respondents, and a separate order disposing of those motions is being entered.

C. Amended Petition for Writ of Mandamus

Petitioner filed a motion for leave to amend his original petition on July 29, 2019, and attached a proposed amended petition to the motion. Petitioner sought leave to (i) add Speaker Elect of the House Cameron Sexton as a respondent, (ii) reflect that Petitioner had learned since filing the original petition that Tenn. Const. Art. I, § 23 provides for application for redress of grievances "by address *Q!* remonstrance" rather than "by address Q[remonstrance," (iii) request an order that the Tennessee House and Senate "uphold and honor Petitioner's constitutional right to petition by address (orally)," and (iv) request an order that Respondents "correct the PDF type-written version of the Tennessee Constitution held out to the public on the general assembly's website."

Respondents did not oppose Petitioner's motion for leave to amend, and the Court granted the motion. Petitioner filed his Amended Petition for Writ of Mandamus on August 19, 2019, although it differs from the proposed amended petition that was attached to his motion for leave to amend. In addition, at the time of filing his revised amended petition, Petitioner separately filed a "Jury Demand & Written Stipulation."

II. LEGAL PRINCIPLES

A. Writ of Mandamus

Chancery courts are authorized to issue writs of mandamus upon petition and supported by affidavit under Tenn. Code Ann. §§ 29-25-101, *et seq.* Mandamus is an "extraordinary" remedy "to be applied only when a right has been clearly established." *Paduch v. City of Johnson City,* 896 S.W.2d 767, 769 (Tenn. 1995) (internal citations omitted). A writ of mandamus is defined as a court's written order "to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly." *Black's Law Dictionary,* 7th ed. 1999, p. 973. A ministerial act or duty is defined as one "that involves obedience to instructions or laws instead of discretion, judgment, or skill." *Id at* 1011.

Under Tennessee law, "[i]t is the universally recognized rule that mandamus will only lie to enforce a ministerial act or duty and will not lie to control a legislative or discretionary duty." *State ex rel. Weaver v. Ayers,* 756 S.W.2d 217,221 (Tenn. 1988) (citing *Lamb v. State ex rel. Kisabeth,* 338 S.W.2d 584, 586 (Tenn. 1960)). "[W]here the law prescribes and defines the duties to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment, the act is ministerial, but where the act to be done involves the exercise of discretion and judgment it is not deemed merely ministerial." *Id* (citing *State ex rel. Millers National Ins. Co. v. Fumbanks,* 151 S.W.2d 148, 150-51 (Tenn. 1941). Tennessee courts further recognize that

> [t]he office of mandamus is to execute, not adjudicate. It does not ascertain or adjust mutual claims or rights between the parties. If the right be doubtful, it must be first established in some other form of action; mandamus will not lie to establish as well as enforce a claim of uncertain merit. It follows therefore that mandamus will not be granted where the right is doubtful.

Peerless Construction Co. v. Bass, 14 S.W.2d 732 (Tenn. 1929) (quoting Ferris *on Extraordinary Legal Remedies §* 194)).

"The writ is either alternative or peremptory." Tenn. Code Ann. § 29-25-I02(a). An alternative writ "commands the defendant to do the act required to be performed or show cause ...why the defendant has not done so..." *Id.* at § 29-25-102(b). A peremptory writ "commands the defendant to do the act..." *Id.* Even in those cases where a "clear legal right" is established, the issuance of a writ of mandamus is within the trial court's discretion. *Harris v. State,* 34 S.W. 1017, 1022 (Tenn. 1896); Willis *v. Johnson,* No. E2017-02225-COA-R3-CV, 2018 WL 4672928, at *4 (Tenn. Ct. App., Sept. 27, 2018).

B. Petition of Remonstrance

Article I, § 23 of the Tennessee Constitution provides citizens with the "right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by

address or remonstrance." Tenn. Const., Art. I, § 23. The constitutional right established is the *right to apply* for redress of grievances by address or remonstrance. The Constitution does not prescribe the method, process, or proceedings as to how an application is to be heard and decided.

The word "remonstrance" does not appear elsewhere in the Tennessee Constitution. Nor do any Tennessee statutes provide the process by which a citizen may exercise this right before the General Assembly.[8] "Remonstrance" generally refers to a person's right to object or protest governmental action. *Black's Law Dictionary* defines "remonstrance" as:

1. A presentation of reasons for opposition or grievance;
2. A formal document stating reasons for opposition or grievance;
3. A formal protest against governmental policy, actions, or officials.

Black's Law Dictionary, p. 1298 (7th ed. 1999).

III. AMENDED PETITION FOR WRIT OF MANDAMUS

[8] Only two Tennessee statutes use the word "remonstrance." Tenn. Code Ann. § 69-5-924 addresses the right of citizens to file remonstrances, or objections, to the issuance of refunding bonds by water drainage and levee districts. Tenn. Code Ann. § 7-32-104 addresses the right of citizens to lodge "objections or remonstrances" to ordinances passed by consolidated governments for improvements to be funded by special assessments.

The Amended Petition for Writ of Mandamus includes all of the language from the original petition,[9] and adds a new section entitled "Statement of Facts: Abuse of Process, Conspiracy to Deprive Constitutionally Protected Rights," newly-alleged "Causes of Action," and additional requests for relief. In the new statement of facts section, Petitioner alleges, without factual support, that Respondents "conspired to abuse of process" by filing their motion to dismiss in violation of the Court's Local Rules and the Tennessee Rules of Civil Procedure, and that Respondents' motion to dismiss "was backdated, in a further effort to deny due process of law." He further alleges that Respondents filed a "fraudulent and materially altered, counterfeit version" of Petitioner's Petition of Remonstrance attached to their memorandum in support of their motion to dismiss.

Petitioner purports to allege three "causes of action" in the Amended Petition. The first is brought under Art. I, § 23 and Art. X, § 1 of the Tennessee Constitution, alleging that the last phrase of Art. I, § 23 of the Constitution has been "materially altered usurping the constitutionally protected right of citizens to petition the government for redress of grievances . . . by address," and that Respondents have a duty to

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[9] Other amendments include the addition of then Speaker of the House Elect Cameron Sexton as a respondent, the correction of the allegation regarding the text of Article I,§ 23 to read "by address ***or*** remonstrance," instead of "by address *of* remonstrance," and the renumbering of some paragraphs.

properly present the type written form of the Constitution on the General Assembly's website. The second cause of action is brought under Art. I, § 23 and Art. XI, § 16 of the Tennessee Constitution, alleging that Respondents have a duty "to receive and read Petitions at the table," and have conspired to deprive Petitioner of the free exercise of his right guaranteed by Art. I, § 23. The third cause of action is brought under Art. I, § 17 and Art. XI, § 16 of the Tennessee Constitution, alleging that Respondents have "conspired to deny due course of law through abuse of process and violation of local court and state rules of procedure," have "tendered" a fraudulent and materially altered, counterfeit version of Petitioner's Petition of Remonstrance, and have a duty to uphold the Constitution of the state and not violate any rights listed in Article I.

Summarizing the relief requested in the Amended Petition, Petitioner asks the Court to (i) empanel a jury and try the facts of this case, (ii) mandate the Clerk's Office of the Senate and the Clerk's Office of the House "to properly announce" Petitioner's Petition of Remonstrance pursuant to Senate Rule 22 and House Rule 15, respectively, and uphold his right "to petition by address (orally)," (iii) mandate the Senate and the House "to hear and decide" Petitioner's Petition of Remonstrance, (iv) mandate the Clerk of the Senate "to correct" the last phrase of Art. I, § 23 of the Tennessee Constitution in the PDF version on the General Assembly's website, (iv) mandate Respondents to perform their duty sworn under oath to support the Constitution of this state and not violate protected rights; (v) award Petitioner

his costs of litigation, and (vi) award such general and further relief to which Petitioner is entitled.

Petitioner alleges that multiple provisions of the Tennessee Constitution create the rights and duties he seeks to enforce. He relies most heavily on Article I, § 23, which states:

> **Article** I, § 23. That the citizens have a right in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance.

Two other constitutional provisions to which Petitioner specifically refers in his alleged causes of action are:

> **Article X, § 1.** Every person who shall be chosen or appointed to any office of trust or profit under this Constitution, or any law made in pursuance thereof, shall, before entering on the duties thereof, take an oath to support the Constitution of this state, and of the United States, and an oath of office.

> **Article XI, § 16.** The declaration of rights hereto prefixed is declared to be a part of the Constitution of the state, and shall never be violated on any pretense whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained, excepted out of the general powers of the

government, and shall forever remain inviolate.

Petitioner also relies on Senate Rule 22 and House Rule 15 as establishing the duties of the Clerks of the Senate and House to "properly announce" and "read at the table" his Petition for Remonstrance:

> **[Senate] Rule 22. Petitions and Memorials.** Before any petition or memorial addressed to the Senate shall be received and read at the table, a brief statement of the contents of the petition or memorial shall be verbally made by the introducer. *Temporary Rules of the Senate for the 111th General Assembly, State of Tennessee.*

> **[House] Rule 15. Petitions and Memorials - Brief Statement.** Before any petition or memorial addressed to the House shall be received and read at the table, a brief statement of the contents of the petition or memorial shall be filed with the Chief Clerk. *Tennessee House of Representatives, 111th General Assembly, Permanent Rules of Order.*

In addition, Petitioner alleges that Senate Rule 71 and House Rule 79 reference *Mason's Manual of Legislative Procedure* as governing procedural questions that their own rules do not address. *Mason's Manual* is, however, general in nature and not specific to Tennessee's legislature. The sections of *Mason's Manual* cited by Petitioner, §§ 143, 148, and 518, provide general guidance on the

way questions may come before legislative bodies, the general right of petition, and the alternative ways that petitions may be presented.[10] None of these sections confers any rights on Petitioner or creates any duties on the part of the Tennessee legislature.

IV. ANALYSIS

As an initial matter, the Court notes that Petitioner is representing himself. As a self-represented litigant, he is "entitled to fair and equal treatment by the Courts." *Young v. Barrow, 130* S.W.3d 59, 62 (Tenn. Ct. App. 2003). Tennessee courts recognize that self-represented "litigants who invoke the complex and sometimes technical procedures of the courts assume a very heavy burden." *Irvin v. City of Clarksville,* 767 S.W.2d 649, 652 (Tenn. Ct. App. 1988). Given their lack of experience and training, courts must provide self-represented parties with a certain amount of leeway in drafting their papers and pleadings. *Id* at 653 (internal citations omitted). Self-represented parties are expected, however, "to comply with the same substantive and procedural rules" that attorneys must follow. *Hessmer* v. *Hessmer,* 138 S.W.3d 901, 903 (Tenn. Ct. App. 2003). "[C]ourts cannot create claims or defenses for *pro se litigants* where none exist. *Young,* 130 S.W.3d at 63 (citing *Rampy* v. ICl

[10] **At** least one of the provisions in *Mason's Manual* provides several methods by which a legislative body may receive a petition, including filing the petition with the legislative clerk-which is the same method that Tennessee's House and Senate asked Petitioner to use.

Acrylics, Inc., 898 S.W.2d 196, 198 (Tenn. Ct. App. 1994)).

Petitioner has filed a series of repetitive and factually unsupported motions, responses and replies, followed by a series of supplemental or amended and corrected motions, responses and replies. Despite the multiplicity of these filings, the Amended Petition for Writ of Mandamus supplants the original petition and moots nearly all of the prior filings and proceedings, including Respondents' motion to dismiss and Petitioner's various motions filed thereafter objecting to the motion to dismiss, seeking sanctions related to the motion, and seeking to alter the Court's orders

With the filing of the Amended Petition, the questions presented to the Court are straight forward: Is Petitioner entitled to a writ of mandamus ordering Respondents to (i) mandate the Clerks of the House and Senate "to properly announce" the Petition of Remonstrance and allow Petitioner "to petition by address (orally)," (ii) mandate the Senate and the House "to hear and. decide" his Petition of Remonstrance, and (ii) mandate the Clerk of the Senate to correct the copy of the Tennessee Constitution posted on the General Assembly's website? None of the questions presented are addressed to the substance of Petitioner's underlying grievances or the merits of the legislative reforms proposed in his Petition of Remonstrance.

A. The Petition for Writ of Mandamus Is Defective.

Petitioner's Amended Petition, as well as his original petition, are facially defective. The Tennessee Constitution requires a petition for a writ of mandamus to be prosecuted in the name of the State on the relation of the person interested. Tenn. Const. Art. VI, § 12 ("All writs and other process shall run in the name of the State of Tennessee and bear test and be signed by the respective clerks."); *see also* William H. Inman, *Gibson's Suits in Chancery,* § 510 (7'h ed. 1988) ("The Complaint [for a writ of mandamus] is in the name of the State on the relation of the person interested"). Failure to do so may be cause for a court to dismiss such a petition. *Whitesides v. Stewart,* 20 S.W. 245, 246 (Tenn. 1892) (holding it was error not to dismiss a mandamus petition "[b]ecause the proceedings should be in the name of the state, on the relation of the petitioner.").

Neither the original petition nor the Amended Petition are prosecuted in the name of the State on relation of Petitioner. This defect alone is sufficient for the Court to dismiss the Amended Petition. *Id.* Despite this deficiency, the Court addresses the merits of the Amended Petition. *See Meighan v. US. Sprint Communications Co.,* 942 S.W.2d 476,479 (Tenn. 1997).

B. Petitioner Is Not Entitled to a Writ of Mandamus.

1. *Petitioner Has Exercised His Constitutional Right to Apply for* Redress of Grievances by Address or Remonstrance.

Under Tenn. Const. Art. I, § 23, Petitioner has a clear constitutional right "to apply to those invested with the powers of government for redress of grievances . . . by address or remonstrance." Petitioner has fully exercised this right and has remonstrated to both the Tennessee Senate and the House. He filed with the Senate and had filed on his behalf with the House his Petition of Remonstrance, exercising his right to apply for redress of the grievances set forth in his Petition of Remonstrance. No other rights are conferred under Art. I, § 23.

Petitioner does not limit his Amended Petition for a Writ of Mandamus to the exercise of his right to apply for redress of grievances by address or remonstrance. Petitioner seeks more. He seeks a mandate compelling the Clerks of the Senate and House "to properly announce" his Petition of Remonstrance and allow him "to petition by address (orally)." He seeks a mandate compelling the Senate and House to "hear and decide" his Petition for Remonstrance. He seeks a mandate compelling the Clerk of the Senate to correct the last phrase of Art. I, § 23 of the PDF version of the Tennessee Constitution posted on the General Assembly's website.

The Tennessee Constitution does not confer any of these rights on Petitioner. The relief Petitioner seeks in his Amended Petition are not "purely ministerial" acts of the legislature, but are discretionary choices made by the Senate and the House regarding their internal rules and procedures that this Court cannot compel on a writ of mandamus. *Peerless,* 14 S.W.2d at 733.

Mandamus is an extraordinary remedy. The "office of mandamus is to execute, not adjudicate." *Peerless,* 14 S.W.2d 732. The only right protected under Art. I, § 23 is the right to apply for redress of grievances. A citizen may do so by address or remonstrance. As Petitioner acknowledges, he has "asserted his constitutionally protected right pursuant to Tenn. Const. Art. I, § 23, and on January 14, 2019 filed a Petition of Remonstrance with the Chief Clerk of the Senate." Amended Petition, p. 3 at ¶4 and Ex. B. Petitioner further acknowledges that "[o]n January 18, 2019, Representative Bud Hulsey, District Two (2), on behalf of Petitioner, filed Petitioner's Petition of Remonstrance with Chief Clerk of the House of Representatives." Amended Petition, p. 3 at, ¶5 and Ex. C. Petitioner also acknowledges that on January 18, 2019, his Petition for Remonstrance "was announced on the House Floor," Amended Petition, p. 4 at ¶ 6, and "was announced on the Senate Floor." Amended Petition, p. 4 at ¶7. Petitioner's complaints rest entirely on the manner by which his Petition was announced and the General Assembly's alleged failure to hear and decide his Petition. Petitioner also seems to claim a right to personally address (orally) the General Assembly. Nothing in the Tennessee Constitution guarantees the method or procedures by which applications for remonstrances are "announced" or "heard and decided." Nothing in the Tennessee Constitution confers a right on a citizen to orally address the Senate and the House. In the absence of any such clear rights, this Court lacks the authority to issue the requested writ of mandamus.

Both the House and the Senate are empowered under the Constitution to establish their own Rules. Tenn. Const. Art. II, § 12. These internal rules are discretionary in nature and govern each house's legislative proceedings. No rights are granted to Petitioner under the Senate or House Rules. This Court is without authority to issue the extraordinary remedy of mandamus to compel discretionary acts of the General Assembly that are governed by internal Senate and House Rules.

As to the second element required for a writ of mandamus, Respondents' clear duty to perform the acts that Petitioner seeks to compel, it necessarily follows that if Petitioner does not have a clear right to the relief he seeks, Respondents do not have a clear duty to perform those acts. Petitioner applied for redress of his grievances, and both the House and the Senate received Petitioner's Petition for Remonstrance. In short, that is the extent of the relief to which Petitioner is entitled under Art. I, §23 and the corresponding extent of the House and Senate's duties. In addition, the House and the Senate each announced the Petition of Remonstrance on the floor of its house.

In any event as discussed above, the Senate and House Rules on which Petitioner relies are discretionary. The Constitution provides that "[e]ach House may determine the rules of its proceedings." Tenn. Const. Article II, § 12.[11] Each

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[11] Article II, § 12 of the Tennessee Constitution provides: "Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same

house has the discretion to determine and conduct its legislative duties in the manner it deems appropriate. Moreover, as held by the Tennessee Supreme Court, each house is the judge of its own rules. In *State v. Cumberland Club,* 188 S.W. 583 (Tenn. 1916), the Senate had passed a bill while there was a pending motion to reconsider the bill "on the table." The plaintiffs claimed that the Senate passed the bill in violation of Senate rules. The Court held that the Senate's violation of its own rules "cannot furnish a basis for the court's annulment of an act. The Senate has the right, under the Constitution, to make its own rules, and it must be the judge of those rules." *Id.* at 585. The Court went on to hold that courts do not concern themselves with whether legislative actions follow procedural rules, so long as the legislative actions comply with constitutional requirements.[12] *Id.* Because there is no constitutional requirement for the General Assembly to "announce," "read at the table," or "hear and decide" Petitioner's Petition of Remonstrance, this Court cannot order the General Assembly or the Clerks to do so, even if provided for by Senate or House Rules.

Petitioner insists that he is not asking the Court to order the General Assembly to "act" on his Petition of Remonstrance. Instead, he claims that he is asking the Court to mandate the General Assembly to perform its "duty" to "hear and decide"

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offense; and shall have all other powers necessary for a branch of the Legislature of a free state."

[12] For example, the Constitution requires that any bill passed concern only one subject, Tenn. Const. Article II, § 17, and that a bill be "considered and passed on three different days in each House" before it can become law. Tenn. Const. Article II, § 18.

his Petition of Remonstrance. The Court finds that this is a distinction without a difference. Beyond allowing Petitioner to apply for redress of grievance by filing the Petition of Remonstrance, it is within the House and Senate's legislative discretion to determine whether, when, and how to announce, read, and act in response. The Court cannot compel the House or Senate or the Clerks to "properly announce" or "hear and decide" the Petition of Remonstrance in the manner he seeks to compel.

As to the third element necessary to support a mandamus, the Petitioner's own allegations seem to establish the adequacy of other available remedies. In making his grievances known to the legislature, he is able to complain, to lobby, to call, to write, and to appear at his representatives' offices to attempt to convince them that his proposed legislative reforms are needed. He acknowledges in his Amended Petition that he has met with the Clerks of the House and the Senate to discuss his grievances. He has filed or had filed on his behalf, his written Petitions of Remonstrance with both the Senate and the House. The Clerks of both houses announced his Petition of Remonstrance on their respective floors the day of or the next day after filing. Petitioner has met with legislative staff members and with more than 50 legislators about his grievances. Petitioner has emailed "the entire General Assembly" demanding hearing of his Petition of Remonstrance. That Petitioner does not have a clear right, as a private citizen, to speak on the floor of the General Assembly or require the General Assembly to hear and decide his legislative proposals, in no way has curtailed his constitutional right to apply for redress of his

grievances. Petitioner has actively engaged in robust political discourse with Tennessee's elected legislators in both the House and the Senate. He has addressed the General Assembly. And he has remonstrated.

The Court finds that the following separation of power provisions of the Tennessee Constitution are relevant to the writ of mandamus issue presented in this case:

> **Article** II, § **1.** The powers of the government shall be divided into three distinct departments: legislative, executive and judicial.
>
> **Article** II, § **2.** No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.

The separation of powers doctrine was explained by the Court of Appeals in *State* v. *King*:

> In general, the "legislative power" is the authority to make, order, and repeal law; the "executive power" is the authority to administer and enforce the law; and the "judicial power" is the authority to interpret and apply law. The Tennessee constitutional provision prevents an encroachment by any of the departments upon the powers, functions and prerogatives of the others. The branches of government, however, are guided by the doctrine of checks and balances; the doctrine of separation of powers is not absolute.

973 S.W.2d 586, 588 (Tenn. Ct. App. 1998) (citing *State v. Brackett,* 869 S.W. 2d 936, 939 (Tenn. Crim. App. 1993)). While courts may remedy an unconstitutional legislative action or be called upon to construe and apply statutes, the separation of powers doctrine precludes the court from deciding "purely political questions" because they are non-justiciable. *See Mayhew v. Wilder,* 46 S.W.3d 760, 773 (Tenn. Ct. App. 2001); *Baker v. Carr,* 369 U.S. 186,217 (1962).

Petitioner seems to suggest that any citizen who wishes to personally address and present political grievances on the floor of the General Assembly has a constitutional right to do so. Tennessee's Constitution, however, commits to the legislature the power to determine policy, to "hear and decide" proposed bills, and to enact legislation. The legislature's internal rules govern how those bills wend their way through the legislative process and whether they come to the floor for a vote by its members. The judicial branch interprets and applies existing law, but cannot mandate to the legislature what policies, proposals, bills, or grievances it must consider.

The Senate and House have exercised their discretion and not acted on Petitioner's demand that they "hear and decide" his Petition for Remonstrance. The Clerks of each house have declined Petitioner's demand to orally address the General Assembly. These are decisions vested within their discretion. For the Court to insert itself into this legislative process would contravene the separation of powers established by the Constitution. *Mayhew,* 46 S.W.3d at 773.

2. Petitioner Has No Clear Right to Demand the General Assembly to Display or Correct Its Copy of the Constitution on Its Website.

Petitioner claims that the General Assembly has posted a copy of the Tennessee Constitution containing a typographical error on its website, and this action amounts to a "constructive fraud upon all citizens of the State of Tennessee." He alleges that Respondents' "duty" to support the Tennessee Constitution " requires that the type-written form of the Tennessee Constitution be properly presented to the public." Petitioner has cited to no constitutional or statutory provision naming Respondents as the "official" repository of the Tennessee Constitution,[13] or requiring them to display the Constitution on the General Assembly's website. Because Respondents have no duty to display the Constitution, this Court cannot order Respondents to correct the version voluntarily posted on the General Assembly's website. The Court further rejects Petitioner's accusations that any typographical error in the currently posted version somehow evidences the General Assembly's nefarious intent or conspiracy to deprive Tennessee citizens of their constitutional rights.

B. Petitioner Is Not Entitled to a Jury

[13] The official version of Tennessee's laws is compiled in the volumes of Tennessee Code Annotated, as certified by the Tennessee Code Commission. *See* Tenn. Code Ann. §§ 1-1-110, 1-1-111, and 1-2-114. The Tennessee Constitution, adopted in 1870, appears in Volume 1A of Tennessee Code Annotated.

(*sic* sub¶3?).

At the time of filing his Amended Petition, Petitioner filed a separate "Jury Demand & Written Stipulation." This "stipulation" purports to set forth the "specific issues of fact to be determined by jury."

1. Do' Respondents have a duty to ensure that the type written version of the Constitution of the State of Tennessee is properly presented to the public, and have they violated or failed to perform that duty?
2. Do Respondents have a duty under sworn oath to uphold the constitution, and have they violated that duty?
3. Do Respondents have a duty to not violate constitutionally protected rights, and have they violated or failed in their duty to uphold constitutionally protected rights?
4. Do Respondents have a duty [to] receive and read petitions at the table, and have they violated or failed to perform that duty?
5. Does Petitioner have a constitutionally protected right to petition for redress of grievance or other proper purpose by address, and has his right been violated?
6. Did Respondents violate their oath of office and duty to uphold the Constitution of the state by tendering

falsified and counterfeit documents to this court?[14]

7. Did Respondents conspire to violate due process of law through intentional violation of Local Rules and Tennessee Rules of Civil Procedure, or through exploitation of unconstitutional Local Rule and violate or fail to perform their duty to uphold the Constitution of the state?[15]

Petitioner cites to Article I, § 6 of the Tennessee Constitution ("the right of trial by jury shall remain inviolate"), and Rule 38.01 of the Tennessee Rules of Civil Procedure ("[t]he right of trial by jury as declared by the Constitution or existing laws of the State of Tennessee shall be preserved to the parties inviolate") in demanding a jury.

Tenn. Code Ann. § 29-25-107, governing writs of mandamus, provides that when an answer is filed in response to a petition for a writ of mandamus denying "any material facts stated in the petition, the court may determine the issues upon evidence, or cause them to be submitted to a jury." Whether to permit a jury to determine facts on a petition for writ of mandamus is "in the discretion of the trial judge, and no constitutional

[14] As noted above, this "Stipulation" addresses Respondents' motion to dismiss, which motion became moot when Petitioner filed his Amended Petition.

[15] As with the prior "Stipulation," this question also addresses Respondents' motion to dismiss and is not relevant to the Amended Petition for Writ of Mandamus.

objection can be interposed." *Marler v. Wear,* 96 S.W. 447, 448 (Tenn. 1906).

> While our Constitution declares that "the right of trial by jury shall remain inviolate" (article 1, § 6), yet it has been held too often to need citation of authorities here, that the purpose of this provision was to protect the right as it existed at common law. But at common law, no jury was impaneled in mandamus cases, since the return was treated as conclusive.

Id Here, Respondents have not filed an answer denying any facts contained in the Amended Petition. Further, a court's interpretation of the Tennessee Constitution to determine whether it creates clear duties on the part of the legislature or bestows clear rights on Petitioner presents questions of law, and not issues of fact. *In re Bentley D.,* 537 S.W.3d 907, 910 (Tenn. 2017) ("Issues of statutory and constitutional interpretation are questions of law"). Accordingly, Petitioner has no right to a jury trial on his Amended Petition for Writ of Mandamus.

VI. CONCLUSION (*sic* Sect. V)

The Court concludes that Petitioner has exercised the clear right he is granted under Art. I, § 23 to apply for redress of his grievances by address or remonstrance. He filed his Petition of Remonstrance with both houses of the General Assembly. Petitioner has no clear right to compel the specific manner in which his remonstrance is "announced" on the floors of the House and Senate,

to allow Petitioner to orally address the legislature, or to compel the General Assembly to "hear and decide" his Petition. *Douglas,* 2015 WL 4484352 at *1. The Court concludes, conversely, that Respondents do not have a clear duty to perform the acts that Petitioner seeks to compel. Each house is empowered under the Tennessee Constitution to determine its own rules, within its discretion, to govern legislative proceedings. *Id.* The Court further concludes that Respondents have no clear duty to publicly display the Tennessee Constitution or correct the version of the Constitution voluntarily posted on the General Assembly' s website. The Court further concludes that Petitioner has available to him and has, in fact, pursued other remedies to engage in political discussions with and express his grievances to members of the General Assembly and their staff. *Id.*

It is, accordingly, ORDERED, ADJUDGED and DECREED that Petitioner is not entitled to the issuance of a writ of mandamus. The Amended Petition for Writ of Mandamus is DENIED and the Amended Petition is DISMISSED, with prejudice.

It is further ORDERED, ADJUDGED and DECREED that any other requests for relief in this cause not specifically granted or denied are hereby DENIED.

It is further ORDERED, ADJUDGED and DECREED that the Clerk & Master is directed to enter final judgment in this matter pursuant to Rule 58 of the Tennessee Rules of Civil Procedure.

It is further ORDERED, ADJUDGED AND DECREED that, in accordance with Tenn. Code Ann. § 29-25-108(b), the costs of this cause are taxed to Petitioner, for which execution may issue.

PATRICIA HEAD MOSKAL
CHANCELLOR, PART I

RULE 58 CERTIFICATION OF SERVICE BY THE CLERK

I hereby certify that I have forwarded a true and exact copy of the foregoing via U.S. Mail, postage pre-paid, with a courtesy copy by email, to the parties and/or their counsel listed below.

John A. Gentry
Petitioner
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Goodlettsville, Tennessee
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Lisa Deal
Deputy Clerk & Master

September 11, 2019
Date

Appendix B

TENNESSEE COURT OF APPEALS AT NASHVILLE ORDER DENYING MOTION FOR ALL APPELLATE COURT JUDGES TO RECUSE OR DISQUALIFY

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

JOHN ANTHONY GENTRY v. FORMER SPEAKER OF THE HOUSE GLEN CASADA ET AL.

Chancery Court for Davidson County No. 19-644-I

No. M2019-02230-COA-R3-CV

ORDER

Petitioner, John Anthony Gentry ("Petitioner"), filed a motion pursuant to Rule 10B, § 3.01 of the Rules of the Tennessee Supreme Court seeking to have all members of this Court recuse themselves from this appeal. This case originated when petitioner filed suit in the Chancery Court for Davidson County ("the Trial Court") against the Former Speaker of the House Glen Casada, Speaker of the Senate Lt. Gov. Randy McNally, Chief Clerk of the House Tammy Letzler, and Chief Clerk of the Senate Russell A. Humphrey ("Respondents"). Petitioner later amended his petition to add Speaker of the House Elect Cameron Sexton as a respondent. Petitioner sought a writ of mandamus ordering the Tennessee House of Representatives and Senate to announce, hear, and decide a petition for

remonstrance filed by Petitioner. Respondents filed a motion to dismiss.

In September of 2019, the Trial Court entered its order dismissing Petitioner's amended petition after finding that the petition was facially defective as it was not prosecuted in the name of the State, because Petitioner was not entitled to the relief sought since the acts were within the discretion of the House and Senate with regard to their internal rules and procedures and could not be compelled by the courts, and because Petitioner had exercised his right to apply for redress of grievance by address or remonstrance and had no clear right to compel the manner in which his remonstrance was announced, heard, or decided by the House and Senate.

After the Trial Court entered its final order dismissing the amended petition, Petitioner filed a motion seeking to have the Trial Court judge recuse pursuant to Rule 10B and a motion to alter or amend the final order pursuant to Tennessee Rule of Civil Procedure 59. The Trial Court denied the Rule 10B motion to recuse, and Petitioner did not appeal that order. The Trial Court then found that the Rule 59 motion raised many of the same arguments as the Rule 10B motion, and denied the Rule 59 motion to alter or amend.

Petitioner appealed the Trial Court's order denying his Rule 59 motion to alter or amend to this Court. After filing his notice of appeal, Petitioner filed a document titled "Appellant's Notice of Non Consent," seeking the "voluntary recusal of the entire judiciary without the need or necessity of a Rule 10B motion." By Order entered on January 6, 2020, this Court denied Petitioner's request for recusal because the recusal of appellate judges is governed by Rule

10B, § 3 and Petitioner's "Notice" failed to comply with the requirements of that rule.

Petitioner then filed the instant motion titled "Motion For All Appellate Court Judges To Recuse or Disqualify" ("the Motion") pursuant to Rule 10B, § 3. Petitioner's motion alleges that recusal or disqualification of the judges on this Court is required by Art. VI, § 11 of the Tennessee Constitution, which provides:

> No Judge of the Supreme or Inferior Courts shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been counsel, or in which he may have presided in any inferior Court, except by consent of all the parties. In case all or any of the Judges of the Supreme Court shall thus be disqualified from presiding on the trial of any cause or causes, the Court, or the Judges thereof, shall certify the same to the Governor of the State, and he shall forthwith specially commission the requisite number of men, of law knowledge, for the trial and determination thereof. The Legislature may by general laws make provision that special Judges may be appointed, to hold any Courts the Judge of which shall be unable or fail to attend or sit; or to hear any cause in which the Judge may be incompetent.

Tenn. Const. art. VI, § 11. Also, as pertinent, Tennessee Code Annotated § 17-2-101 provides:

§ 17-2-101. Grounds of incompetency. --

No judge or chancellor shall be competent, except by consent of all parties, to sit in the following cases:

(1) Where the judge or chancellor is interested in the event of any cause;
(2) Where the judge or chancellor is connected with either party, by affinity or consanguinity, within the sixth degree, computing by the civil law;
(3) Where the judge or chancellor has been of counsel in the cause;
(4) Where the judge or chancellor has presided on the trial in an inferior court; or
(5) In criminal cases for felony, where the person upon whom, or upon whose property, the felony has been committed, is connected with the judge or chancellor by affinity or consanguinity within the sixth degree, computing by the civil law.

Tenn. Code Ann. § 17-2-101 (2009).

In the Motion, Petitioner asserts that "the Appellate Court Judges presiding over this matter" have an interest in this case because Petitioner's remonstrance demands reform of the Tennessee judiciary and demands "the impeachment of all members of the Tennessee Court of Appeals," and that "the members of this Court have an interest to not be reformed." Petitioner also asserts that "this court has an affinity of consanguinity, with 'brothers and sisters of the robe,' and, therefore, pursuant to the Tennessee Constitution cannot preside over this

matter without the consent of all parties, which Petitioner asserts that he refuses to give. Petitioner bases his assertion about "affinity of consanguinity" upon a statement in the Motion, which reads: "Based upon the recent statement by Justice Gorsuch that '**any criticism of his brothers and sisters of the robe is an attack or a criticism on everybody wearing the robe as a judge.**"[1] (emphasis in original).

A review of Petitioner's remonstrance solely to determine whether the undersigned judges[2] have an interest in this case shows that in the remonstrance Petitioner alleges: "Incident to their position as appellate court judges, the Tennessee Court of Appeals judges have engaged in criminal and unconstitutional conduct with respect to all appellate court litigants that is incompatible with the trust and confidence placed in them as a judge . . . ." Petitioner

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1 'Affinity' is defined by Black's Law Dictionary as: "A close agreement," or "The relation that one spouse has to the blood relatives of the other spouse; relationship by marriage," or "Any familial relation resulting from a marriage." Black's Law Dictionary 59 (7th ed. 1999). 'Consanguinity' is defined as: "The relationship of persons of the same blood or origin." Black's Law Dictionary 299 (7th ed. 1999). As the Judges of this Court have neither a blood nor a marital relationship with any of the parties to this suit, neither consanguinity nor affinity present any infirmity mandating disqualification or recusal. See Hume v. Commercial Bank, 78 Tenn. 1 (Tenn. 1882) (providing explanation of affinity and the method of calculating degrees of affinity). Justice Gorsuch was employing the words "brothers and sisters of the robe" rhetorically, not literally.

2 The undersigned judges comprise the panel of judges assigned to this appeal. As the other judges on the Court of Appeals are not assigned to this appeal, Petitioner's motion to recuse those judges is moot.

then asserts: "Appellate Court judges are guilty of crimes and should be removed from office."

Given the allegations in Petitioner's remonstrance, we conclude that we the undersigned judges have an interest in the underlying case to the extent that it seeks to impeach the judges of this Court. The interest in this case, however, does not mandate recusal, as we find that the Rule of Necessity applies.

The Rule of Necessity was explained by the United States Supreme Court in *United States v. Will*, which states:

> In federal courts generally, when an individual judge is disqualified from a particular case by reason of § 455, the disqualified judge simply steps aside and allows the normal administrative processes of the court to assign the case to another judge not disqualified. In the cases now before us, however, all Article III judges have an interest in the outcome; assignment of a substitute District Judge was not possible. And in this Court, when one or more Justices are recused but a statutory quorum of six Justices eligible to act remains available, see 28 U.S.C. § 1, the Court may continue to hear the case. Even if all Justices are disqualified in a particular case under § 455, 28 U.S.C. § 2109 authorizes the Chief Justice to remit a direct appeal to the Court of Appeals for final decision by judges not so disqualified. However, in the highly unusual setting of these cases, even with the authority to assign other federal judges to sit temporarily under 28 U.S.C. §§ 291–296 (1976 ed. and Supp. III), it is not possible to convene

a division of the Court of Appeals with judges who are not subject to the disqualification provisions of § 455. It was precisely considerations of this kind that gave rise to the Rule of Necessity, a well–settled principle at common law that, as Pollack put it, "although a judge had better not, if it can be avoided, take part in the decision of a case in which he has any personal interest, yet he not only may but must do so if the case cannot be heard otherwise." F. Pollack, A First Book of Jurisprudence 270 (6th ed. 1929).

* * *

The Rule of Necessity had its genesis at least five and a half centuries ago. Its earliest recorded invocation was in 1430, when it was held that the Chancellor of Oxford could act as judge of a case in which he was a party when there was no provision for appointment of another judge. Y.B. Hil. 8 Hen. VI, f. 19, pl. 6. Early cases in this country confirmed the vitality of the Rule.

The Rule of Necessity has been consistently applied in this country in both state and federal courts. In *State ex rel. Mitchell v. Sage Stores Co.*, 157 Kan. 622, 143 P.2d 652 (1943), the Supreme Court of Kansas observed:

> "[I]t is well established that actual disqualification of a member of a court of last resort will not excuse such member from performing his official duty if failure to do so would result in a denial of a litigant's constitutional right to have a

question, properly presented to such court, adjudicated." *Id.*, at 629, 143 P.2d, at 656.

Similarly, the Supreme Court of Pennsylvania held:

> "The true rule unquestionably is that wherever it becomes necessary for a judge to sit even where he has an interest- where no provision is made for calling another in, or where no one else can take his place-it is his duty to hear and decide, however disagreeable it may be." *Philadelphia v. Fox*, 64 Pa. 169, 185 (1870).

Other state and federal courts also have recognized the Rule.

The concept of the absolute duty of judges to hear and decide cases within their jurisdiction revealed in Pollack, *supra*, and *Philadelphia v. Fox*, *supra*, is reflected in decisions of this Court.

* * *

The declared purpose of § 455 is to guarantee litigants a fair forum in which they can pursue their claims. Far from promoting this purpose, failure to apply the Rule of Necessity would have a contrary effect, for without the Rule, some litigants would be denied their right to a forum. The availability of a forum becomes especially important in these cases. As this Court has observed elsewhere, the Compensation Clause is designed to benefit, not the judges as individuals, but the public interest in a competent and independent

> judiciary. *Evans v. Gore*, supra, at 253, 40 S.Ct., at 553. The public might be denied resolution of this crucial matter if first the District Judge, and now all the Justices of this Court, were to ignore the mandate of the Rule of Necessity and decline to answer the questions presented.

United States v. Will, 449 U.S. 200, 212-17, 101 S.Ct. 471, 479-82 (1980) (footnotes omitted).

Giving us some guidance, our Supreme Court discussed, in dicta, the Rule of Necessity in *Hooker v. Haslam*, stating:

> In *Gay v. City of Somerville*, 878 S.W.2d 124, 128 (Tenn. Ct. App. 1994), our Court of Appeals recognized that the "Rule of Necessity permits an adjudicative body to proceed in spite of its possible bias" if no one else is authorized to act. This rule allows an otherwise disqualified judge to participate "if the case cannot be heard otherwise." *Citizen's Protecting Mich.'s Constitution*, 755 N.W.2d at 149 (internal quotation marks omitted). Our Supreme Court rules acknowledge the viability of the rule and recognize that it may, under certain circumstances, potentially "override the rule of disqualification":
>
> > For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters that require

> immediate action, the judge must disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

Tenn. Sup. Ct. R. 10, Canon 2.11, Comment [3]; *see also Citizen's Protecting Mich.'s Constitution*, 755 N.W.2d at 151–52 (recognizing a disqualifying "economic interest" as to a constitutional initiative to reduce judicial salaries, but declining to recuse based upon the "rule of necessity").

In *Fent v. Oklahoma Capitol Improvement Authority*, 984 P.2d 200, 203, 218 (Okla. 1999), one justice, observing that the Governor was a named defendant, pointed out that the rule of necessity applied because of the "*venerable common law adage that no litigant can appoint his own judges.*" *Id.* at 218. "The rule of necessity governs this case not because there is no replacement mechanism but because the exercise of that mechanism, controlled by one who is a party to the lawsuit, would be clouded by grave fundamental [ ] infirmity." *Id.* (footnote omitted). The justice's reasoning was that because "there exist[ed] no constitutionally credible provision for post-recusal filling of vacant seats, the justices ha[d] a duty to decide the controversy notwithstanding their imputed lack of impartiality." *Id.* (emphasis omitted).

Further, in *White v. Priest*, 348 Ark. 135, 73 S.W.3d 572, 575 (2002), a case involving a proposal to cap the salaries of all state employees, the Arkansas Supreme Court

> recognized the applicability of the rule of necessity because the Governor, who would have otherwise appointed their successors, "would have [had] the same or similar conflict ... the justices ha[d]."

Hooker v. Haslam, 393 S.W.3d 156, 167 n.8 (Tenn. 2012).

We have determined that the Rule of Necessity applies based upon a review of Petitioner's remonstrance, which alleges:

> This Petition of Remonstrance essentially; (1) challenges unconstitutional conduct of the judiciary and legal profession, (2) challenges statutes as unconstitutional that grant emolument, provide false immunity, or confound due process, and (3) demands protections be provided THE PEOPLE from unconstitutional conduct of the judiciary and legal profession.
>
> It is common sense that attorneys and members of the BAR have a clear conflict of interest pertaining to this remonstrance and should willingly disqualify.
>
> * * *
>
> Make no mistake, the usurpation of fundamental rights of due process and equal protection have been usurped due to the pecuniary interests of the legal profession. It is common sense that statutes enacted that grant emolument and unconstitutional immunity to the legal profession were enacted for the

> pecuniary interests of the legal profession and judiciary. This Petition of Remonstrance demands correction of these unfortunate circumstances, and attorneys and members of the BAR have a clear conflict of interest and should voluntarily disqualify.[3]

Petitioner's remonstrance further alleges that:

> In routine practice, throughout the courts of Tennessee, judges in collusion with attorneys and other agents and agencies of the state, conspire to deprive rights and perpetrate crimes under color of law with impunity...
>
> Compound the unconstitutional judicial oversight of the judiciary – by the judiciary, with the fact that the BAR and judiciary have sole oversight of attorneys licensed by the state, and who maintain seats in both legislative houses, then there exists control of two branches of government by a fraternity of lawyers and judges in collusion.

Although our Supreme Court declined to apply the Rule of Necessity in *Hooker v. Haslam* because "Tennessee has constitutional and statutory provisions which allow the Governor to appoint 'special judges' who would have no economic interest in the subject matter of the litigation," the facts in the underlying case are distinguishable from those in *Hooker v. Haslam. Id.*, 393 S.W.3d at 168. In *Hooker*

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[3] These assertions in the remonstrance concern Petitioner's allegations with regard to grounds that Petitioner claims require the recusal of any attorney who may be a member of the House or Senate from deciding his remonstrance.

v. Haslam, it was possible for the Governor to appoint a special supreme court of persons not subject to the infirmity alleged in that case. In the instant case, Petitioner's remonstrance does not merely call for the impeachment of all judges. Rather, Petitioner's remonstrance alleges that all judges and attorneys must be "reformed." Given the allegations in Petitioner's remonstrance, there is no qualified pool from which either the Chief Justice or our Governor could appoint special judges to hear this appeal. As such, we find that the Rule of Necessity applies, and we the undersigned judges individually have decided to decline to recuse from this appeal.[4]

D. MICHAEL SWINEY, CHIEF JUDGE

FRANK G. CLEMENT, JR., P.J., M.S.

ANDY D. BENNETT, J.

[4] Pursuant to Rule 10B, § 3.02: "If a motion is filed seeking disqualification, recusal, or determination of constitutional or statutory incompetence of more than one judge of the intermediate appellate court ("recusal motion"), and if the recusal motion is denied by the judges in question, the movant, within twenty-one days of entry of the order, may file a motion for court review to be determined promptly by three other judges of the intermediate appellate court who were not subjects of the recusal motion, upon a de novo standard of review. If there are not three judges of the intermediate appellate court who were not subjects of the recusal motion, then a motion for court review pursuant to this section 3.02(b) is not available; under such circumstances, the order denying the recusal motion may be appealed pursuant to section 3.02(c)." R. Sup. Ct. 10B, § 3.02(b).

Appendix C

TENNESSEE COURT OF APPEALS

AT NASHVILLE OPINION

UPHOLDING CHANCERY COURT

MEMORANDUM & ORDER

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
August 6, 2020 Session

JOHN ANTHONY GENTRY V. FORMER SPEAKER OF THE HOUSE GLEN CASADA ET AL.

Appeal from the Chancery Court for Davidson County No. 19-644-I Patricia Head Moskal, Chancellor

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No. M2019-02230-COA-R3-CV

A citizen filed a petition of remonstrance with the Tennessee General Assembly and then filed a petition for writ of mandamus in chancery court requesting that the legislative chambers be ordered to hear and consider his petition of remonstrance. The trial court dismissed the petition for writ of mandamus on the basis that the petitioner was not entitled to mandamus relief. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed

ANDY D. BENNETT, J., delivered the opinion of the Court, in which FRANK G. CLEMENT, JR., P.J., M.S., and W. NEAL MCBRAYER, J., joined.

John Anthony Gentry, Goodlettsville, Tennessee, pro se.
Herbert H. Slatery, III, Attorney General and Reporter, Andrée Blumstein, Solicitor General, and Janet Irene M. Kleinfelter, Deputy Attorney General, for the appellees, House Speaker, Senate Speaker, Chief Clerk of the House, and Chief Clerk of the Senate.

OPINION

FACTUAL AND PROCEDURAL BACKGROUND

In January 2019, John Anthony Gentry, a Tennessee citizen, filed a petition of remonstrance with the Chief Clerk of the Tennessee Senate and the Chief Clerk of the Tennessee House of Representatives ("the House"). The petition was announced on the floor of both chambers on January 18, 2019, but the entire petition was not read before either chamber. During February and March 2019, Mr. Gentry met with various legislators and officers of the General Assembly to discuss the petition and his claim that he was entitled to have the petition heard by the General Assembly. He also emailed a copy of the petition to every member of both legislative houses.

In May 2019, Mr. Gentry filed a petition for writ of mandamus in the chancery court against Former Speaker of the House Glen Casada, Lieutenant Governor McNally, and the chief clerks of the House and the Senate. The petition sought an order mandating that the House and Senate clerks "properly announce" the petition of remonstrance in accordance with Senate Rule 22 and House Rule 15

and an order requiring the Senate and House "to hear and decide" the petition of remonstrance pursuant to article 1, sections 1, 23, and 35 of the Tennessee Constitution. The defendants filed a motion to dismiss for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted.

Mr. Gentry subsequently filed an amended petition for writ of mandamus asserting three causes of action: (1) violation of a duty, pursuant to article 1, section 23, and article 10, section 1 of the Tennessee Constitution, to properly present the typewritten form of the Constitution to the public; (2) violation of a duty, pursuant to article 1, section 23, and article 11, section 16 of the Tennessee Constitution, to "receive and read Petitions at the table"; and (3) pursuant to article 1, section 17 and article 11, section 16 of the Tennessee Constitution, conspiracy "to deny due course of law through abuse of process and violation of local court and state rules of procedure" and by tendering to the court "a fraudulent and materially altered, counterfeit version" of the petition of remonstrance. In addition to the relief requested in the original petition, Mr. Gentry asked that the Clerk of the Senate correct the last phrase of article 1, section 23 of the Tennessee Constitution on the General Assembly's website "to properly read 'by address or remonstrance.'" Mr. Gentry later requested that the case be tried before a jury.

In a memorandum and order entered on September 11, 2019, the trial court denied Mr. Gentry's amended petition and dismissed the action. The court ruled that Mr. Gentry was not entitled to mandamus relief. He had "exercised the clear right

he is granted under Art. I, § 23 to apply for redress of his grievances by address or remonstrance." As the court explained, Mr. Gentry did not satisfy the elements required to obtain a writ of mandamus. Mr. Gentry had "no clear right to compel" the specific acts he requested, and the General Assembly had no "clear duty to perform the acts" he sought to compel.

Mr. Gentry filed a Tenn. R. Civ. P. 59 motion to alter or amend and a motion to recuse the chancellor, both of which the trial court denied. Mr. Gentry then filed a motion to reconsider under Tenn. R. Civ. P. 60, and the trial court denied that motion on December 18, 2019.

On appeal, Mr. Gentry raises a number of issues, which we restate as follows:

1. Whether article 1, section 23 of the Tennessee Constitution requires the General Assembly to hear and decide a petition of remonstrance filed by a citizen of the state of Tennessee.
2. Whether Supreme Court Rule 10B, House Rule of Order 15, and Senate Rule of Order 22 are repugnant to the state constitution and violate or oppress constitutionally protected rights.
3. Whether Mr. Gentry was denied due process as a result of gross procedural errors.
4. Whether it was an abuse of discretion by the trial court to involuntarily dismiss the case while there was no operating motion to dismiss before the court.
5. Whether the defendants and their counsel can falsify evidence and make false statements to a chancery court with impunity.

6. Whether the state government has a duty to present an accurate version of the Tennessee Constitution to the public.

ANALYSIS

Mr. Gentry is representing himself on appeal, as he did at the trial level. As a pro se litigant with no legal training, Mr. Gentry is "entitled to fair and equal treatment by the courts." *Young v. Barrow*, 130 S.W.3d 59, 62 (Tenn. Ct. App. 2003) (citing *Whitaker v. Whirlpool Corp.*, 32 S.W.3d 222, 227 (Tenn. Ct. App. 2000); *Paehler v. Union Planters Nat'l Bank, Inc.*, 971 S.W.2d 393, 396 (Tenn. Ct. App. 1997)). The following principles apply to pro se litigants:

> The courts should take into account that many pro se litigants have no legal training and little familiarity with the judicial system. However, the courts must also be mindful of the boundary between fairness to a pro se litigant and unfairness to the pro se litigant's adversary. Thus, the courts must not excuse pro se litigants from complying with the same substantive and procedural rules that represented parties are expected to observe.

Young, 130 S.W.3d at 62-63 (citations omitted); see also *Hessmer v. Hessmer*, 138 S.W.3d 901, 903 (Tenn. Ct App. 2003). We grant pro se litigants "a certain amount of leeway" in the preparation of their appellate briefs. *Hessmer*, 138 S.W.3d at 903 (citing Whitaker, 32 S.W.3d at 227; *Paehler*, 971 S.W.2d at 397). This means that courts "measure the papers prepared by pro se litigants using standards that are

less stringent than those applied to papers prepared by lawyers." Id. (citing Hughes v. Rowe, 449 U.S. 5, 9-10 (1980); Baxter v. Rose, 523 S.W.2d 930, 939 (Tenn. 1975); Winchester v. Little, 996 S.W.2d 818, 824 (Tenn. Ct. App. 1998)).

I. Article 1, section 23—the right of petition.

The basis of Mr. Gentry's petition of remonstrance is article 1, section 23 of the Tennessee Constitution, which states:

> That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance.[1]

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[1] In *Courtyard Manor Homeowners' Ass'n, Inc. v. City of Pelham*, 295 So. 3d 1061, 1065 (Ala. 2019), the Alabama Supreme Court interpreted a similar provision, § 23 of that state's constitution, which gave citizens the right "to apply to those invested with the power of government for redress of grievances or other purposes, by petition, address, or remonstrance." In that context, the Court stated: (footnote continued next pg.)

Black's Law Dictionary defines "remonstrance" as "[a] formal document stating reasons for opposition or grievance." Black's Law Dictionary 1549 (11th ed. 2019). Garner's dictionary defines "address," a verb, as "to direct (a question, etc.) to (someone)." Garner's Dictionary of Legal Usage 20 (3d ed. 2011). The use of the words "address" and "remonstrance" in § 25 merely denotes various methods of applying to the government for the redress of grievances; this Court is not at liberty to

As Mr. Gentry points out, Tennessee caselaw contains little discussion of the right of petition embodied in article 1, section 23—the right "to apply to those invested with the powers of government for redress of grievances . . . by address or remonstrance." The right of petition is, however, "an ancient right" and "the cornerstone of the Anglo-American constitutional system." Norman B. Smith, "Shall Make No Law Abridging . . .": An Analysis of the Neglected, But Nearly Absolute, Right of Petition, 54 U. CIN. L. REV. 1153 (1986).

Under Magna Carta, noblemen petitioned the king to secure their rights. Smith, supra, at 1153. Parliament used the Petition of Right to "gain popular rights from the king," and the people eventually "used petitioning as the means to secure their own rights against parliament." Id. Thus, "[t]he development of petitioning is inextricably linked to the emergence of popular sovereignty." Id. The drafters of the United States Constitution guaranteed the right of petition in the First

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broaden the meaning of those words to impose on the government a duty to hold a hearing or otherwise to respond, as Courtyard Manor suggests. The right to petition or complain about governmental action or inaction is clearly within the Alabama Constitution; nothing can prevent citizens from asking their government to consider a request. But, requiring a response, or in this case mandating that a city hold a hearing, imposes a duty that does not exist under our law. We must respect the legislative function of governments and not intrude on their separate, but coequal, power to decide when, where, and whether to conduct hearings or respond to petitions. Legislative inaction in this case is cured not by court intervention, but at the ballot box.

Courtyard Manor, 295 So. 3d at 1065.

Amendment:

> Congress shall make no law . . . abridging . . . the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

It should also be noted that "[v]igorous exercise of the right to petition has been associated with forward strides in the development of speech, press, and assembly." Smith, *supra*, at 1179.

Mr. Gentry asks this court to determine whether the right of petition includes the right to have the legislature hear or consider his petition. This question has been answered in the negative by the United States Supreme Court. In Smith v. Arkansas State Highway Employees, Local 1315, 441 U.S. 463 (1979), the state highway commission refused to consider grievances by employees of the Arkansas highway department unless the employees submitted their complaints directly to a designated employer representative. The district court held that this procedure violated the First Amendment by denying the employees' union the ability to submit grievances effectively on behalf of the employees. Smith, 441 U.S. at 463. The Eighth Circuit affirmed. Id. The Supreme Court granted certiorari and reversed the judgment of the court of appeals. Id. at 464. While recognizing that procedures bypassing the union "might well be unfair labor practices" if federal statutes applied, the Court found no constitutional violation. Id. In reaching this conclusion, the Court reasoned:

> The First Amendment right to associate and to advocate "provides no guarantee that a

> speech will persuade or that advocacy will be effective." [Hanover Twp. Fed'n of Teachers v. Hanover Cmty. School Corp., 457 F.2d 456, 461 (1972)]. The public employee surely can associate and speak freely and petition openly, and he is protected by the First Amendment from retaliation for doing so . . . . But the First Amendment does not impose any affirmative obligation on the government to listen, to respond or, in this context, to recognize the association and bargain with it.

Id. at 464-65 (citations and footnote omitted). The union's complaint was that the commission "refuses to consider or act upon grievances when filed by the union rather than by the employee directly." Id. at 465. The Court concluded that the Constitution did not prohibit such an "impairment." Id. at 466. In the Court's view, "all that the Commission has done in its challenged conduct is simply to ignore the union. That it is free to do." Id.; see also Minn. State Bd. for Cmty. Colls. v. Knight, 465 U.S. 271, 286-87 (1984) (citing Smith and upholding state public employment labor statute restricting participation in "meet and confer" sessions to union representative).

In the Tennessee case of *Vincent v. State*, No. 01A-01-9510-CH-00482, 1996 WL 187573, at *1 (Tenn. Ct. App. Apr. 19, 1996), Ms. Vincent filed a mandamus action to force state officials to include on the ballot for the November 1994 election "a question concerning the process of 'initiation and referendum' (I & R)." The trial court granted the defendants' motion to dismiss for failure to state a claim upon which relief can be granted. *Vincent*,

1996 WL 187573, at *1. On appeal, the court found no statutory or constitutional authority for citizens to require that an issue be placed on a ballot. *Id.* at *2. Responding to Ms. Vincent's reliance upon article 1, section 23 of the Tennessee Constitution as a source of authority, the court stated that this provision "guarantees the right of peaceable assembly, to '*instruct*' representatives, to '*apply*' to officials for redress of grievances, or other purposes 'by address or remonstrance.'" *Id.* Thus, the court concluded, article 1, section 23 did not empower a group of citizens to compel officials to place a certain question on a ballot. *Id.*

This court addressed the right of petition again in *State ex rel. Potter v. Harris,* No. E2007-00806-COA-R3-CV, 2008 WL 3067187, at *1 (Tenn. Ct. App. Aug. 4, 2008), a case involving a petition for referendum to repeal a local options sales tax. The relators circulated the petition for signatures and submitted it to the county election commission for certification and placement on the ballot. *Harris,* 2008 WL 3067187, at *1. Pursuant to the statutory procedure, the commission checked the authenticity of the signatures and the registration of the signatories. *Id.* The commission determined that the petition did not include enough valid signatures and refused the relators' demand for certification. *Id.* at *1-2. The relators then filed a petition for writ mandamus in chancery court to compel certification; the petition included allegations that the commission's actions violated constitutional rights. *Id.* at *2. The trial court granted summary judgment in favor of the commission under an arbitrary and capricious standard of review. *Id.* at *3.

One of the relators' constitutional arguments

on appeal was that the commission's rejection of signatures based upon the signers' addresses or lack of voter registration at the time of signing deprived them of their right of petition under article 1, section 23 of the Tennessee Constitution. *Id.* at *8. The court responded:

> While some states, *e.g.* Colorado and Arizona, have provided for referendum in their state constitutions, Tennessee has not done so. As we noted in *Vincent v. State*, No. 01A-01-9510-CH-00482, 1996 WL 187573 at *3 (Tenn. Ct. App. M.S., filed April 19, 1996), "[t]he Constitution of Tennessee conveys to the three designated departments all governmental power of the state. It contains no reservation to the people of the powers of initiative or referendum." And we do not agree that either the cited Petition Clause of the Tennessee Constitution or its federal counterpart pertain to a petition to initiate a referendum. Tennessee courts have recognized that Article I, § 23 of the state constitution serves to protect the citizen's rights "to '*instruct*' representatives [and] to '*apply*' to officials." *Vincent,* at *2 (emphasis added), and the U.S. Supreme Court has construed the Petition Clause of the federal constitution as a guaranty "that people 'may communicate their will' through direct petitions to the legislature and government officials." *McDonald v. Smith,* 472 U.S. 479, 482 (1976).

Id. at *9. Thus, the court found no violation of the right of petition.

Also instructive is a Maryland decision interpreting a similar provision of that state's constitution. In *Richards Furniture Corp. v. Board of County Commissioners of Anne Arundel County*, 196 A.2d 621, 623-25 (Md. Ct. App. 1964), a furniture company challenged the validity and constitutionality of a legislative enactment regulating its operations. The Maryland appellate court rejected all of the company's challenges, including its assertion that the act violated Maryland's constitutional provision stating that "every man hath a right to petition the Legislature for the redress of grievances in a peaceable and orderly manner." *Richards Furniture*, 196 A.2d at 626; MD CONST. DECLARATION OF RIGHTS art. 13. The court stated that the constitution "does not require that a hearing be held upon suggested legislation." *Richards Furniture*, 196 A.2d at 626. Addressing the impact of article 13, the court reviewed the history of the right of petition:

> The right of petition first appeared in Magna Carta, Chapter 61, and was incorporated in the English Bill of Rights of 1689. Corwin, Constitution, United States, 82 Congress, 2d Session Senate Document No. 170, p. 805. However, the meaning of the "right to petition the Legislature for redress of grievances" can best be understood in the context of the pre-Revolutionary period between the enactment of the Stamp Act in 1765 and the Declaration of Independence by the Colonies in 1776. Morgan, The Stamp Act Crisis, pp. 53-70; Rossiter, Seedtime of the Republic, 319. The celebrated trial in 1734 of John Peter Zenger, the newspaper editor and pamphleteer, for

seditious libel had shown the colonists the fate to be expected by outspoken critics of British policy. Drinker, The Four Freedoms of the First Amendment, p. 5. The suppression by the British of written and spoken criticism by the Colonists of British colonial policies was one of the real fears of the period. Cooley, op. cit. 498; 1 Blackstone; Commentaries (Lewis ed.), 142(3). And the rights of the Colonists, as Englishmen, to the freedom of speech, press, assembly and petition were among the most cherished rights of the citizens of that time. It was in the light of this background that the framers of the Declarations of Rights of the original States and the Bill of Rights of the Federal Constitution drafted the provisions relating to the "right to petition" the legislative branch of the government.

It is clear, we think, that the authors and the people who actually adopted our Declaration of Rights intended no more than to permit any person or peaceable assembly of persons, without fear of reprisal or prosecution, to communicate directly with the legislative body by way of a statement of grievances and a petition requesting a correction of wrongs previously committed. The appellant is seeking herein not a right to petition for the *redress* of an alleged grievance after the passage of a law which it does not like, but the right of a hearing and a right to petition *before* the passage of the law. The right guaranteed by Article 13 provides no assistance to the appellant in this regard.

Id. at 626-27; *see also Courtyard Manor*

Homeowners' Ass'n, Inc. v. City of Pelham, 295 So. 3d 1061, 1064-65 (Ala. 2019) (holding that state constitution's right of petition did not require legislative body to accept or reject citizens' proposed legislative initiative); *Piekarski v. Smith*, 153 A.2d 587, 592 (Del. 1959) (stating that, "[h]istorically, the right of petition means just what it says: the right to present to the sovereign a petition or remonstrance setting forth a protest or grievance," and that the right does not include "the right to debate in person or through counsel the subject matter of the remonstrance").

Under Tennessee law, a court may issue a writ of mandamus only "where a plaintiff's right to the relief sought has been clearly established, the defendant has a clear duty to perform the act the plaintiff seeks to compel, and 'there is no other plain, adequate, and complete method of obtaining the relief to which one is entitled.'" *Manhattan, Inc. v. Shelby Cnty.*, No. W2006-02017-COA-R3-CV, 2008 WL 639791, at *7 (Tenn. Ct. App. Mar. 11, 2008) (quoting *Cherokee Country Club, Inc. v. City of Knoxville,* 152 S.W.3d 466, 479 (Tenn. 2004)). Even if the plaintiff establishes a "clear legal right," the issuance of the writ remains within the discretion of the trial court. *Harris v. State*, 34 S.W. 1017, 1022 (Tenn. 1896). As discussed above, Mr. Gentry does not have a clearly established right to have his petition heard or considered by either house of the General Assembly.

In arguing that the General Assembly had a clear duty to consider his petition of remonstrance, Mr. Gentry points to House Rule of Order 15 and Senate Rule of Order 22. House Rule of Order 15 states: "Before any petition or memorial addressed

to the House shall be received and read at the table, a brief statement of the contents of the petition or memorial shall be filed with the Chief Clerk." The Senate rule is similar. Mr. Gentry interprets these rules to mean that both chambers "have a duty to receive and read petitions at the table." We do not agree.

Article 2, section 12 of the Tennessee Constitution addresses the power of the legislature to regulate itself:

> Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the Legislature of a free State.

Our Supreme Court has interpreted this provision to give the legislative houses the right to make their own rules and to be the judge of those rules. *State v. Cumberland Club*, 188 S.W. 583, 585 (Tenn. 1916). The role of the courts is limited "to ascertain[ing] whether the Constitution has been complied with." *Id.*; *see also Mayhew v. Wilder*, 46 S.W.3d 760, 772-74 (Tenn. Ct. App. 2001). Thus, the General Assembly had no duty to read at the table or to hear and decide Mr. Gentry's petition of remonstrance.

In light of the absence of a clear right to have his petition heard and no clear duty on the part of the General Assembly to hear it, we conclude that the trial court acted within its discretion in denying Mr. Gentry's petition for a writ of mandamus.

II. Constitutionality of Supreme Court Rule 10B and House and Senate rules.

Mr. Gentry asserts that Supreme Court Rule 10B,[2] House Rule of Order 15, and Senate Rule of Order 22 are repugnant to the Tennessee Constitution and violate or oppress constitutionally protected rights.

Mr. Gentry did not raise these constitutional arguments concerning the House or Senate procedural rules until he filed his Rule 59.04 motion to alter or amend the trial court's final order denying his amended petition. Motions pursuant to Tenn. R. Civ. P. 59 "should not be used to raise new, previously untried theories or to present new, previously unasserted, legal arguments." *Local Union 760 of Int'l Bhd. of Elec. Workers v. City of Harriman*, No. E2000-00367-COA-R3-CV, 2000 WL 1801856, at *4 (Tenn. Ct. App. Dec. 8, 2000). The trial court acted properly in declining to address Mr. Gentry's constitutional challenge.

With respect to Mr. Gentry's challenge to the constitutionality of Supreme Court Rule 10B, the trial court declined to address the issue in part because Mr. Gentry did not raise it until he filed his reply brief on his Rule 60.02 motion. A reply brief cannot be used to raise new issues. *See* TENN. R. CIV. P. 7.02(1); *Regions Fin. Corp. v. Marsh USA, Inc.*, 310 S.W.3d 382, 392 (Tenn. Ct. App. 2009). Moreover, "only the Tennessee Supreme Court may

[2] Supreme Court Rule 10B concerns disqualification or recusal of a judge, the subject of Mr. Gentry's petition of remonstrance.

determine the facial validity of its rules." *Long v. Bd. of Prof'l Responsibility of the Supreme Ct. of Tenn.*, 435 S.W.3d 174, 184 (Tenn. 2014). Thus, the trial court properly declined to address this constitutional issue.

III. Due process issues.

Mr. Gentry further argues that he was denied due process as the result of "gross procedural errors" that allegedly occurred with respect to his original petition for writ of mandamus.

We begin with a review of the relevant procedural history. The defendants filed a motion to dismiss Mr. Gentry's original petition for writ of mandamus on June 7, 2019. On June 12, 2019, Mr. Gentry filed a motion to strike the defendants' motion to dismiss for failure to adhere to local rules. After a hearing on June 21, 2019, the trial court entered an order denying Mr. Gentry's motion to strike. On July 8, 2019, the trial court entered a separate order based on the same hearing stating that it reserved ruling on the defendants' motion to dismiss and requesting copies of caselaw cited by the defendants. The court allowed Mr. Gentry additional time to respond to the defendants' supplemental authority, "without further oral argument." The court then took the motion to dismiss under advisement. On July 8, 2019, Mr. Gentry filed a motion to alter the court's order denying his motion to strike.[3] He filed a corrected and amended motion

[3] A few days later, Mr. Gentry filed a motion to alter the July 8, 2019 order of the court regarding the motion to dismiss. The trial court entered an order on July 10, 2019, entitled Order Clarifying Order on June 21, 2019 Hearing. In this order, the court clarified that "it is only the Court's consideration of the

to alter the same order on July 13, 2019.

On July 29, 2019, Mr. Gentry filed a motion for leave to amend his petition for writ of mandamus.

The trial court heard Mr. Gentry's motion to alter the order denying his motion to strike on August 16, 2019. Relying on the requirements of Tenn. R. Civ. P. 12.06, the court found that Mr. Gentry's motion "was not directed to a pleading containing an insufficient defense or a pleading containing any redundant, immaterial, impertinent or scandalous matter." The court entered an order on August 19, 2019, denying Mr. Gentry's motion to alter, which the court treated as a motion to revise because the order at issue was not a final order.

On August 19, 2019, the trial court also entered an order granting Mr. Gentry leave to file his amended petition for writ of mandamus, which was filed the same day.

Mr. Gentry's argument regarding procedural violations stems from the defendants filing their motion to dismiss on June 7, 2019, and setting it for hearing on June 21. According to Mr. Gentry's interpretation of the local rules, the motion should not have been set for hearing until at least 37 days after the filing date.[4] We need not, however, decide

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Motion to Dismiss that is 'without further oral argument.'" Mr. Gentry thereafter struck his motion concerning the July 8, 2019 order.

[4] Mr. Gentry bases his analysis on Davidson County local court rule 26.03, which addresses motions for summary judgment. *See* TENN. 20TH DIST. CT. RULES OF PRACTICE § 26.03. It is only when a court chooses to consider evidence outside the pleadings that a motion to dismiss is converted to a motion for summary judgment. *See Schodowski v. Tellico Vill. Prop. Owners Ass'n, Inc.*, No. E2015-01145-COA- R3-CV, 2016 WL 1627895, at *8 (Tenn. Ct. App. Apr. 23, 2016). Local court rule

how the local rules apply in this situation. The motion to dismiss about which Mr. Gentry claims he was denied due process was never ruled upon by the trial court. Once Mr. Gentry filed his amended petition, the original petition (and all related motions) became moot. An amended petition "supersedes and destroys the original complaint as a pleading." H.G. Hill Realty Co., L.L.C. v. Re/Max Carriage House, Inc., 428 S.W.3d 23, 35 (Tenn. Ct. App. 2013) (citing McBurney v. Aldrich, 816 S.W.2d 30, 33 (Tenn. Ct. App. 1991)).

The trial court properly rejected Mr. Gentry's due process argument.[5]

IV. Dismissal of amended petition without motion.

Mr. Gentry asserts that the trial court abused its discretion in dismissing the amended petition for writ of mandamus with no motion before the court.

Our Supreme Court has interpreted the Tennessee Rules of Civil Procedure to allow a trial court "under certain circumstances and upon

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26.03 did not apply here because the trial court did not consider the petition of remonstrance in ruling on the defendants' motion to dismiss.

[5] Mr. Gentry also argues that he was denied due process because the trial judge was not impartial. Mr. Gentry did not raise this issue until he filed a post-judgment motion to recuse. A litigant must bring alleged errors to the attention of the trial court in a timely manner in order to preserve those issues for appeal, and "objections to the competency of the trial judge are deemed waived if not raised before trial." *Woodside v. Woodside*, No. 01-A-01-9503-PB00121, 1995 WL 623077, at *9 (Tenn. Ct. App. Oct. 25, 1995) (Koch, J., concurring) (citing *Dupuis v. Hand*, 814 S.W.2d 340, 342 (Tenn. 1991); *Grozier v. Goodwin*, 69 Tenn. 125, 128 (1878)).

adequate grounds" to "[s]ua sponte[6] order the involuntary dismissal of an action." *Harris v. Baptist Mem'l Hosp.*, 574 S.W.2d 730, 731 (Tenn. 1978). The Court advised that "this power must be exercised most sparingly and with great care that the right of the respective parties to a hearing shall not be denied or impaired." *Id.* A trial court has the authority to dismiss a case sua sponte for failure to state a claim for which relief can be granted. *See Huckeby v. Spangler*, 521 S.W.2d 568, 571 (Tenn. 1975).

To evaluate the actions of the trial court in the present case, it is important to bear in mind that mandamus is a "summary remedy" that is "to be applied only when a right has been clearly established." *Peerless Constr. Co. v. Bass*, 14 S.W.2d 732, 733 (Tenn. 1929). A defendant is not obligated to answer a petition for writ of mandamus "that does not present a prima facie case to justify granting the writ." *Jellicorse v. Russell*, 1 S.W.2d 1011, 1012 (Tenn. 1928). As discussed above, the plaintiff must establish a clear right to the relief sought and a clear duty on the part of the defendant to perform the requested act(s) to be entitled to a writ of mandamus. *See Manhattan, Inc.*, 2008 WL 639791, at *7. In *Cotten v. Tennessee Board of Paroles*, No.

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[6] "Sua sponte" is Latin for "of one's own accord; voluntarily." BLACK'S LAW DICTIONARY (11th ed. 2019). Black's Law Dictionary defines the term to mean: "[w]ithout prompting or suggestion; on its own motion." *Id.* An example of its use is: "The court took notice sua sponte that it lacked jurisdiction over the case." *Id.*

M2001-00875-COA-R3-CV, 2002 WL 1484446, at *1 (Tenn. Ct. App. July 12, 2002), this court affirmed the trial court's sua sponte dismissal of a petition for writ of mandamus "because mandamus was not the appropriate remedy and the Petitioner was not in custody of the State of Tennessee for the purposes of parole revocation." In the present case, the trial court acted within its discretion in dismissing the petition for a writ of mandamus sua sponte because, as discussed above, Mr. Gentry could not establish a clear right to the relief he sought or a clear duty on the part of the defendants to perform the requested acts. The trial court set out the reasons for its decision in a detailed memorandum.

V. Falsifying evidence.

Mr. Gentry frames this issue to be whether the defendants and their counsel can falsify evidence and make false statements to a chancery court with impunity. The crux of his argument is that the defendants attached a "falsified counterfeit version" of his petition of remonstrance to the memorandum in support of their motion to dismiss Mr. Gentry's original petition for writ of mandamus.

After the defendants filed their motion and memorandum, Mr. Gentry filed a true copy of his petition of remonstrance as an attachment to his response to the defendants' motion to dismiss and supporting memorandum.[7] On September 6, 2019,

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[7] In its September 11, 2019 order, the trial court stated that the defendants attached to their memorandum "a copy of the thirteen-page Remonstrance, although the cover page of

the trial court held a hearing on several of Mr. Gentry's motions, including motions for sanctions under the Tennessee Rules of Civil Procedure and Davidson County local court rules based upon his assertion that the defendants and their counsel "maliciously and materially altered and concealed evidence" by attaching an "inaccurate and incomplete" version of the petition of remonstrance to their memorandum. In an order filed on September 11, 2019, the trial court denied Mr. Gentry's motion for sanctions and supplemental motion for sanctions.

Appellate courts review a trial court's imposition of sanctions pursuant to Tenn. R. Civ. P. 37 under an abuse of discretion standard. *Amanns v. Grissom,* 333 S.W.3d 90, 98 (Tenn. Ct. App. 2010). Likewise, we review a trial court's ruling on a Rule 11 motion under an abuse of discretion standard. *Hooker v. Sundquist,* 107 S.W.3d 532, 535 (Tenn. Ct. App. 2002). A trial court abuses its discretion when its decision "has no basis in law or fact and is therefore arbitrary, illogical, or unconscionable." *Id.* (citing *State v. Brown & Williamson Tobacco Corp.,* 18 S.W.3d 186, 191 (Tenn. 2000)).

a. Spoliation.

Respondents' exhibit was different from the cover pages Mr. Gentry had exhibited to his mandamus petition." Mr. Gentry provided as an exhibit to his memorandum "his 72-page Remonstrance," "but without approximately 700 additional pages of appendices that he stated were filed with the Remonstrance in the House and Senate."

In his motion for sanctions, Mr. Gentry argued that the defendants should be sanctioned under Tenn. Rs. Civ. P. 34A.02 and 37. Rule 37 of the Tennessee Rules of Civil Procedure governs sanctions for failure to make or cooperate in discovery. Rule 34A.02 provides: "Rule 37 sanctions may be imposed upon a party or an agent of a party who discards, destroys, mutilates, alters, or conceals evidence." TENN. R. CIV. P. 34A.02. The trial court rejected Mr. Gentry's argument for alleged spoliation of evidence for three reasons. First, there was no spoliation of evidence. In *Tatham v. Bridgestone Americas Holding, Inc.*, 473 S.W.3d 734, 746-47 (Tenn. 2015), our Supreme Court established the following factors to be considered by a trial court in determining the sanctions, if any, to impose for the spoliation of evidence:

> (1) the culpability of the spoliating party in causing the destruction of the evidence, including evidence of intentional misconduct or fraudulent intent;
> (2) the degree of prejudice suffered by the non-spoliating party as a result of the absence of the evidence;
> (3) whether, at the time the evidence was destroyed, the spoliating party knew or should have known that the evidence was relevant to pending or reasonably foreseeable litigation; and
> (4) the least severe sanction available to remedy any prejudice caused to the non-spoliating party.

The implication from these factors is that spoliation requires the destruction of the evidence, which did not occur in the present case. Because Mr. Gentry provided the trial court with a copy of the complete version of his petition of remonstrance, Mr. Gentry suffered no prejudice. Moreover, the defendants' copy of the petition of remonstrance was not submitted as evidence; it was an attachment to a memorandum in support of a motion.

The second reason that the trial court rejected Mr. Gentry's spoliation argument was that, as previously stated, the copy of the petition for remonstrance attached to the defendants' memorandum was not submitted as evidence. In making their motion to dismiss for failure to state a claim and lack of subject matter jurisdiction, the defendants admitted the truth of all relevant and material allegations in Mr. Gentry's petition for writ of mandamus. *See Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011). The attachment of the petition of remonstrance served only to confirm that Mr. Gentry filed such a petition with the clerks of the House and the Senate.

Third, as discussed above, Mr. Gentry's original petition became moot when he filed his amended petition for writ of mandamus.

b. Rule 11.

Mr. Gentry argued in a supplemental motion for sanctions, filed on August 22, 2019, that the defendants should be sanctioned under Tenn. R. Civ. P. 11. This motion was heard on September 6, 2019. Tennessee Rule of Civil Procedure 11.03(1)(a) requires a party moving for sanctions under Rule

11.02 to serve the motion upon the opposing party at least 21 days before filing the motion with the court. The trial court denied Mr. Gentry's motion pursuant to Rule 11 for his failure to comply with this "safe harbor" provision. The court further noted the lack of factual support for Mr. Gentry's motions for sanctions and the mootness of the defendants' motion to dismiss in light of Mr. Gentry's filing of the amended petition.

We find no abuse of discretion in the trial court's denial of Mr. Gentry's motions for sanctions.

VI. Copy of Constitution on website.

Finally, Mr. Gentry argues that the trial court erred in failing to order the defendants to present an accurate version of the Tennessee Constitution to the public. This argument stems from the fact that, when Mr. Gentry presented his petition of remonstrance to the General Assembly, the Tennessee Constitution on the General Assembly website contained a typographical error so that article 1, section 23 stated that citizens have a right "to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address *of* remonstrance," instead of "address *or* remonstrance."[8] The trial court ruled that, because the defendants have no duty to display the Tennessee Constitution, the court had no authority to order them to correct the version

[8] According to Mr. Gentry's brief, he learned of the correct wording at a hearing on June 21, 2019. As of the date of the filing of this opinion, the error remains on the General Assembly website.

posted voluntarily on the General Assembly website.

We find no merit in Mr. Gentry's argument that he is entitled to mandamus relief for the General Assembly's typographical error. As discussed above, article 2, section 12 of the Tennessee Constitution gives the legislature the power to regulate itself and includes "all other powers necessary for a branch of the Legislature of a free State." Pursuant to the doctrine of separation of powers found in article 2, sections 1 and 2 of the Tennessee Constitution, "'The legislature has unlimited power to act in its own sphere, except so far as restrained by the Constitution of the state and of the United States.'" *Mayhew*, 46 S.W.3d at 774 (quoting *Bank of Commerce & Trust Co. v. Senter,* 260 S.W. 144, 146 (Tenn. 1924)).

Furthermore, as the trial court pointed out, the General Assembly has no duty to display the Tennessee Constitution. The official version of the Tennessee Code, including the Constitution, appears in volumes of Tennessee Code Annotated certified by the Tennessee Code Commission. Tenn. Code Ann. §§ 1-1-110–1-2-114. The General Assembly is under no duty to perform the act of correction requested by Mr. Gentry in his mandamus action.

Thus, the trial court acted within its discretion in dismissing Mr. Gentry's petition for a writ of mandamus. We would, however, encourage the General Assembly to make the correction.

CONCLUSION

The judgment of the trial court is affirmed. Costs of appeal are assessed against the appellant,

John Anthony Gentry, for which execution may issue if necessary.

ANDY D. BENNETT, JUDGE

Appendix D

COURT OF APPEALS OF TENNESSEE AT NASHVILLE ORDER DENYING PETITION FOR REHEARING

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

JOHN ANTHONY GENTRY V. FORMER SPEAKER OF THE HOUSE GLEN CASADA ET AL.

Chancery Court for Davidson County No. 19-644-I

No. M2019-02230-COA-R3-CV

ORDER

On September 25, 2020, the appellant, John Anthony Gentry, submitted a petition for rehearing pursuant to Rule 39 of the Tennessee Rules of Appellate Procedure. Upon due consideration of the petition, this court's opinion filed on September 17, 2020, and the record, the motion is respectfully denied.

Costs associated with the motion are assessed to the appellant, John Anthony Gentry, for which execution may issue if necessary.

PER CURIAM

Appendix E

SUPREME COURT OF TENNESSEE

ORDER DENYING APPLICATION

FOR PERMISSION TO APPEAL

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

JOHN ANTHONY GENTRY v. FORMER SPEAKER OF THE HOUSE GLEN CASADA ET AL.

Chancery Court for Davidson County
No. 19-644-I

No. M2019-02230-SC-R11-CV

ORDER

Upon consideration of the application for permission to appeal of John Anthony Gentry and the record before us, the application is denied.

PER CURIAM

Appendix F

PETITION OF REMONSTRANCE

RECEIVED AND RECORDED IN

JOURNALS OF TENESSEE HOUSE &

SENATE

(Appendixes Omitted)

In the One Hundred Eleventh Congressional Session & General Assembly Of The State of Tennessee

JOHN ANTHONY GENTRY;

SIMILARLY AGGRIEVED CITIZENS OF THE STATE OF TENNESSEE

ON PETITION OF GRIEVANCES OF THE PEOPLE & CITIZENS OF THE STATE OF TENNESSEE FOR: UNCONSTITUTIONAL & VOID STATUTES, FAILURE TO ADDRESS GRIEVANCES; JUDICAL REFORM; RE-INSTITUTION OF CONSTITUTIONALLY GUARANTEED RIGHTS

PETITION OF REMONSTRANCE

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sui juris

ORAL ARGUMENT DEMANDED

INTRODUCTION

It is acknowledged that few, if any members of the House and Senate, neither recognize that fundamental rights are routinely denied for corrupt purpose, nor comprehend the great harm and cost to individuals and to society. This unfortunate circumstance is not the fault of any person, but the result of passage of time causing us to forget the lessons of our past, and a largely complacent and uninformed society.

Fundamental rights of due process, equal protection, and right to petition redress of grievance caused by state officials have been usurped. The facts proving this assertion are incontrovertible. These rights are as precious to us as our right to bear arms, and our right of free speech. Indeed, arguably more so, as one cannot defend a right of free speech or right to bear arms without the constitutionally protected rights of due process, equal protection and right to petition government for redress of grievances.

This Petition of Remonstrance DEMANDS simple, low-cost or no-cost reforms be put in place to ensure that fundamental principles of our form of government, and fundamental rights be restored, and that oversight of our judiciary in collusion with attorneys who perpetrate crimes under color of law be provided.

JURISDICTIONAL STATEMENT

This document is a FORMAL WRITTEN PROTEST, and PUBLIC PETITION; a Petition of Remonstrance as titled. Jurisdiction of the General Assembly and One-Hundred and Eleventh

Congressional Session is proper, and a CONSTITUTIONALLY GUARANTEED RIGHT, as provided for in THE CONSTITUTION OF THE STATE OF TENNESSEE, and THE CONSTITUTION OF THE UNITED STATES OF AMERICA. The procedure for address by remonstrance is provided for in House and Senate Rules and *Mason's* Manual of Legislative Procedure. Jurisdiction is proper in the General Assembly and One Hundred and Eleventh Congressional Session as follows:

Mason's Manual of Legislative Procedure, § 518, A Legislative Body Cannot Delegate Its Powers, § 518, ¶1 affirms:

> The power of any legislative body to enact legislation **or take final action requiring the use of discretion cannot be delegated to a minority, to a committee, to officers or members, or to another body**.

Constitution of the United States of America, Amendment I affirms:

> **Congress shall make no law** respecting an establishment of religion, or prohibiting the free exercise thereof; or **abridging** the freedom of speech, or of the press; or **the right of the people** peaceably to assemble, and **to petition the government for a redress of grievances**.

Tennessee Constitution, Article I Declaration of Rights, § 1 affirms:

> **That all power is inherent in the people,** and all free governments are founded on their authority, and instituted for their

> peace, safety, and happiness; for the advancement of those ends **they have at all times, an unalienable and indefeasible right to alter, reform**, or abolish **the government in such manner as they may think proper.**

Tennessee Constitution, Article I Declaration of Rights, § 2 affirms:

> That government being instituted for the common benefit, **the doctrine of nonresistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.**

Tennessee Constitution, Article I Declaration of Rights, § 23 affirms:

> **That the citizens have a right**, in a peaceable manner, to assemble together for their common good, **to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purpose, by address of remonstrance.**

Remonstrance is defined as follows:

> **A formal protest against the policy or conduct of the government or of certain officials drawn up and presented by aggrieved citizens.** *Black's Law Dictionary 5th Edition.*
>
> 1. **A presentation of reasons** for opposition or **grievance.** 2. **A formal document stating reasons for opposition or grievance**, 3. **A**

> **formal complaint or protest against governmental policy, actions, or officials.** *Black's Law Dictionary 10th Edition.*[1]

Petition is defined as follows:

> **A written address**, embodying an application or prayer from the person or persons preferring it, to the power, body, or person to whom it is presented, **for the exercise of his or their authority in the redress of some wrong**, or the grant of some favor, privilege, or license. **A formal written request addressed to some governmental authority. The right of the people to petition for redress of grievances is guaranteed by the First Amendment, U.S. Constitution.** *Black's Law Dictionary 5th Edition.*
>
> A formal written request to a court or other official body. Black's *Law Dictionary 10th Edition.*[2]

The House's 110th Rules of Order, Rule No. 79 states that *Mason's* Manual of Legislative Procedure

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[1] It is worth noting the change in definition of "remonstrance" between the Fifth and Tenth Editions of Black's Law dictionary. Clearly, "*drawn up and presented by aggrieved citizens*" is language **removed from the Tenth edition for corrupt purpose**. This change in definition reflects the sentiment of Thomas Jefferson regarding the judiciary and legal profession: "***...an irresponsible body, working like gravity by night and by day, gaining a little to-day & a little tomorrow, and advancing it's noiseless step like a thief, over the field of jurisdiction...***" National Archives: Letter from Thomas Jefferson to C. Hammond, August 18, 1821.

[2] See footnote one [1] above.

is to govern any question that may arise which is not provided for in the House's Rules of Order. Similarly, Senate Rules of Order, Rule No. 71 provides the same.

Mason's Manual of Legislative Procedure, § 143 states that questions come before the body in any of several different ways, including: Communications or Petitions, and Requests or Demands.

Mason's Manual of Legislative Procedure, § 148, ¶ 1, further establishes "*The right of petition is usually guaranteed in the constitution and presents a means by which questions can be presented to a legislative body.*" § 148, ¶ 2, establishes the construct of a petition, pursuant to which this petition complies. § 148, ¶ 3, states that: "*When the object of a petition is for the COMMON INTEREST or good, or for the redress of some public grievance, it is a public petition.*" This Petition of Remonstrance is a PUBLIC PETITION given that it is presented for the COMMON INTEREST of the Citizens and PEOPLE of the State of Tennessee and to ensure their PEACE, SAFETY, AND HAPPINESS.

ORAL ARGUMENT DEMANDED

Mason's Manual of Legislative Procedure, § 148, ¶ 4, affirms: "**A petition is presented to the body by the petitioners themselves.**"

§ 148, ¶ 2, requires a petition be "**addressed to the legislative body in which it is to be presented...**" Due to the critical nature of this Petition of Remonstrance and imperative of this body to address matters herein stated, questioning the republican character of the government of the State of Tennessee, **this Petition of Remonstrance is addressed to the One Hundred**

Eleventh Congressional Session & General Assembly Of The State of Tennessee and must be heard by the members qualified, of both the House and the Senate.

Again, Mason's Manual of Legislative Procedure, § 518, **A Legislative Body Cannot Delegate Its Powers**, ¶1 affirms:

> The power of any legislative body to enact legislation **or take final action requiring the use of discretion cannot be delegated to a minority, to a committee, to officers or members, or to another body.**

Since it is a fact that this Petition of Remonstrance is addressed to the General Assembly and joint houses, and because of the magnitude of the questions raised challenging the republican character of the state, DEMANDING REFORM, and the further procedural rule that a legislative body cannot delegate its powers, and the still further fact that redress of grievance by address of remonstrance is a constitutionally protected right, it is incontestable, that this Remonstrance must be heard in joint session.

As established above, Citizens have an unalienable and indefeasible right, at all times, to reform or alter their government so as to preserve the peace, safety, and happiness, and Citizens have a right to redress of grievances by address of remonstrance.

Further pursuant to Tennessee Constitution, Art I, § 17, "**all courts shall be open**; and **every man shall have remedy by due course of law**, and **right and justice administered without sale, denial, or delay**."

Since it is guaranteed in our constitution **an unalienable and indefeasible right to reform**, or alter

government, and **Citizens have a right of redress by address of remonstrance, and remedy by due course of law, these guarantees require fair due process which includes a right to be heard.** Herein, Petitioner asserts this right and demands oral argument before the full General Assembly, less those disqualified due to their inherent conflict of interest.

In the U.S. Supreme Court case, Mathews v. Eldridge, 424 US 319 · Supreme Court 1976, our Supreme Court stated;

> **The "right to be heard** before being condemned to suffer grievous loss of any kind, **even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society**." Joint Anti-Fascist Comm. v. McGrath, 341 U. S. 123, 168 (1951) (Frankfurter, J., concurring).

In Armstrong v. Manzo, 380 US 545, 552 · Supreme Court 1965, the earlier Supreme Court stated;

> **A fundamental requirement of due process is "the opportunity to be heard."** Grannis v. Ordean, 234 U. S. 385, 394. **It is an opportunity which must be granted at a meaningful time and in a meaningful manner**.

Fundamental elements of due process include a right to be heard and present oral argument. In the case, Goldberg v. Kelly, 397 US 254 · Supreme Court 1970, our Supreme Court of the United States stated the following;

> In the present context these principles require ... an effective opportunity **to defend by confronting any adverse witnesses and by presenting his own arguments and evidence orally.**

Therefore, and on premises considered, petitioner hereby asserts his constitutional right of due process and asserts right to be heard orally before the General Assembly to whom this Petition of Remonstrance is presented. Petitioner respectfully demands that Senate and House Rules be adhered to, including *Mason's* Manual of Legislative Procedure, § 148, ¶ 4, and § 518, ¶ 1.

Oral Argument is sought before the General Assembly only for the purpose of presenting why this Petition Of Remonstrance should be carefully considered. Due to the complexities of the matters presented, only cursory evidence will be presented herein and through oral argument. Further hearings must be conducted so as to consider complete evidence and proof of allegations and IMPERATIVE OF REFORM and REDRESS.

DISQUALIFICATION OF MEMBERS WITH INTEREST DEMANDED

Pursuant to Mason's Manual of Legislative Procedure, § 522, ¶ 1, It is the general rule that **no members can vote on a question in which they have a direct personal or pecuniary interest** and § 502 affirms:

> Every member entitled to vote should be counted in determining whether a quorum is present, **but members disqualified on account of interest from voting on any**

question cannot be counted for the purpose of making a quorum to act on that question.

Petitioner respectfully requests members of the House and Senate who are also members of the BAR or attorneys, or who have close familial ties who are members of the BAR or attorneys, disqualify themselves from consideration and voting on this matter.

This Petition of Remonstrance essentially; (1) challenges unconstitutional conduct of the judiciary and legal profession, (2) challenges statutes as unconstitutional that grant emolument, provide false immunity, or confound due process, and (3) demands protections be provided THE PEOPLE from unconstitutional conduct of the judiciary and legal profession.

It is common sense that attorneys and members of the BAR have a clear conflict of interest pertaining to this remonstration and should willingly disqualify.

As a perfect example, Petitioner recently met with Representative Garrett, who is an attorney. During the meeting, Petitioner informed Rep. Garrett of DEMAND for audio/visual to be installed in all courtrooms w/ live and recorded proceedings to be made available to the public. Despite being a first term representative, and having never served on the Finance, Ways and Means Committee, and without any idea of the potential cost, and likely without knowledge of finance options available to the state, and or, financial or budgetary resources available to the state, Rep. Garrett quickly responded, "*It costs too much*".

Without having basis for such a statement as, "*It costs too much*", strongly suggests a conflict of interest, and a predisposition to ensure that courts

are allowed to continue to conduct proceedings without transparency.

Make no mistake, the usurpation of fundamental rights of due process and equal protection have been usurped due to the pecuniary interests of the legal profession. It is common sense that statutes enacted that grant emolument and unconstitutional immunity to the legal profession were enacted for the pecuniary interests of the legal profession and judiciary. This Petition of Remonstrance demands correction of these unfortunate circumstances, and attorneys and members of the BAR have a clear conflict of interest and should voluntarily disqualify.

Mason's Manual of Legislative Procedure § 522, ¶ 1 affirms:

> **It is the general rule that no members can vote on a question in which they have a direct personal or pecuniary interest**. The right of members to represent their constituencies is of such major importance that members should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal. **This rule is obviously not self-enforcing and unless the vote is challenged, members may vote as they choose.**

The phrase: "**This rule is obviously not self-enforcing**", is clear. "Not self-enforcing" means it falls to other members of the body to enforce the rule. For any members of the body who are attorneys and refuse to disqualify voluntarily, **Petitioner implores the other members of the House and Senate, to challenge their vote pursuant to Mason's § 522.**

The further phrase in § 522 that: "The right of members to represent their constituencies is of such major importance..." begs the questions: "Who exactly is the constituency of the members of the House and Senate who are also attorneys? Is their constituency and loyalty to the BAR and judiciary or WE THE PEOPLE?" This Petition of Remonstrance is about reaffirming constitutionally protected rights and is in *COMMON INTEREST* of all Tennesseans who are not members of the legal profession or judiciary. A member of the House or Senate, who is also an attorney or member of the BAR, who refuses to disqualify, and votes against DEMANDS herein stated, evidences a member whose loyalty is to their profession, and not to THE PEOPLE.

STATEMENT

This Petition of Remonstrance is presented on behalf of the Citizens, PEOPLE, and government of the State of Tennessee, in demand for return to the republican principals upon which this state and our nation were founded. Testing whether THE PEOPLE retain rights constitutionally protected, of due process, equal protection, open courts, trial by jury, and for redress of grievances against government policy, and state officials. In the case, *United States v. Cruikshank*, 92 US 542, 23 – Sup. Ct, 1876 (at 553), the Supreme Court stated: "*the very idea of a government, republican in form, implies a right of its citizens to petition for redress of grievances.*"

Here before the One Hundred and Eleventh Congressional Session and General Assembly for the State of Tennessee is an opportunity to be recorded in history as the legislative body that began a great

healing of our State, and indeed our Republic. Petitioner implores the **qualified members of the General Assembly** to embrace this opportunity and stand in defense of our Constitution and Republic[3].

Judges and state officials have been given tremendous power. Preventing abuse of that power is necessary to the imperative, to preserve the state's republican character, to ensure the physical, emotional, and financial health and well-being of the state's Citizenry and PEOPLE, and to ensure overall economic stability.

In the year 1822, Tennessee's 3rd governor, William Carroll[4], stated to the general assembly: "***A well-regulated and independent judiciary is so essential to the character of the State... that it has a strong claim upon your attention at all times.***" In Tennessee today, there is no objective oversight of our judiciary, and Tennesseans are routinely subjected to federal law and rights violations, and have no means to seek redress, and no means to enforce constitutionally protected rights.

The government of the State of Tennessee has so far departed from the principles upon which our country was founded, the State has forsaken its republican character[5] and subjects its people to

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[3] U.S. Const., Art. IV, § 4: The United States **shall guarantee to every state in this union a republican form of government.**

[4] Governor Carrol is credited with initiating numerous legal reforms.

[5] **Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. ..., the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority.** *Luther v. Borden, 48 US 1, 12 L. Ed. 581, - Supreme Court, 1849.*

despotism. The facts proving this assertion are undisputed, and one need only consider objectively to see this fact. In the case, Pacific States Telephone & Telegraph Co. v. Oregon, 223 US 118, 32 – Sup. Ct., 1912, our highest court stated:

> ... **to afford no method of testing the rightful character of the state government, would be to render people of a particular State hopeless in case of a wrongful government.** (at 146)

In routine practice, throughout the courts of Tennessee, judges in collusion with attorneys and other agents and agencies of the state, conspire to deprive rights and perpetrate crimes under color of law with impunity. Color of law is defined as follows:

> The appearance or semblance, without the substance, of legal right. **Misuse of power**, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state, is action taken under "color of law". *Black's Law Dictionary 5th Edition.*

These crimes routinely perpetrated upon THE PEOPLE under COLOR OF LAW, include, but are not limited to:

- **18 U.S.C § 241 – Conspiracy against rights;** If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; They shall be fined under this title or

imprisoned not more than ten years, or both;

- **18 U.S. Code § 242 - Deprivation of rights under color of law** Whoever, under color of any law, ..., willfully subjects any person in any State, ... to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ...shall be fined under this title or imprisoned not more than one year
- **Tenn. Code Ann. § 39-14-112 - Extortion;** (a) A person commits extortion who **uses coercion** upon another person with the intent to: (1) Obtain property, services, any advantage or immunity;

Respected members of the judiciary have warned of the great peril we find ourselves facing today. Speaking at a conference sponsored by the BAR at Columbia Univ., as reported on May 28, 1977, by The New York Times, Supreme Court Chief Justice Warren E. Burger warned: *"but the harsh truth is that if we do not devise substitutes for the courtroom processes, and do not do it rather quickly, we may well be on our way to a society overrun by hordes of lawyers, hungry as locusts, and brigades of judges in numbers never before contemplated."*

In his book, "THE FRATERNITY, Lawyers and Judges in Collusion, Paragon House, 2004, endorsed by Senator John McCain and other legislators and dignitaries, The Honorable Judge John Fitzgerald Molloy tells us that the legal profession must change lest chaos consume our courts.

But, caution! If we are to move away from the potentially fatal favoritism that the Fraternity has achieved for itself, it will require delicate tailoring because the present system is still working – and, in some respects, well. **But, change course we must, for we are on the "edge of chaos," as an objective observer of this system has concluded.**[6]

Changing course does not necessarily mean throwing away a precious baby with the bathwater. **There is great good in parts of our system – proven by our standard of living and freedom from tyranny, oppression, and discrimination.**[7] But the legal system that achieved this is simply not the same legal system that we have today, as it has been massaged to the benefit of the few – the Fraternity.

Changes as fundamental as now needed should be achieved in increments[8], keeping always to the twin objectives of providing a judicial system that will effectively reveal the truth and that will discourage forces

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[6] Quoting from Mary Ann Glendon's A Nation Under Lawyers, (New York: Farrar, Straus & Giroux, 1995), p. 285

[7] Judge Molloy wrote his book as a confessional, and was published in 2004. Facts to be presented to the General Assembly, will show that the legal profession and judiciary are now today, acting in tyranny and oppression.

[8] As Judge Molloy suggests: **Changes as fundamental as now needed should be achieved in increments.** The reforms demanded as of right, and herein are just that – fundamental and incremental, with some already guaranteed in our constitution but usurped.

> that are anti-social, i.e., discourage burglary, rape, murder, etc. **And it is in this category of the "anti – social" that the dominance of our society by the Fraternity should be placed.**
>
> **This means that <u>every opportunity should be taken to sever the Fraternity into its two constituent parts – lawyers and judges</u> – so as to deprecate the awesome strength that it obtains by having the bench and the bar as one fraternal organization. This separation should take place in as many ways as possible and whenever possible.** *The Fraternity "Lawyers and Judges in Collusion"*, p. 227-228

Consider a judge who is a "jury of one", easily corrupted[9], who often sees the same attorneys in case after case, day in and day out, and often fraternizing together outside the courtroom. Consider how that circumstance alone facilitates attorneys and judges in collusion, the opportunity to "strategize" in each case for corrupt purpose, and especially with the attorneys knowing the exact financial resources of both parties – to the penny.

Add to that "recipe", the legal profession's solid organization, high intelligence, and convenience of unconstitutional statutes that provide them false immunities, special privileges, and statutes and court rules that confound due process and deprive protected rights; and it becomes a simple matter for attorneys and judges in collusion to "orchestrate" proceedings, through various "dog-whistle" and cue

[9] See Federalist Paper 83, written by Alexander Hamilton

phrases, to extract all financial resources from the parties. These unfortunate circumstances result in "mock trials" which our founders declared an act of tyranny in our Declaration of Independence.

Our courts are no longer on the "edge of chaos" as quoted by Judge Molloy, but rather **in a state of chaos!** Perjury is suborned of their clients by attorneys so as to perpetuate vexatious litigation and generate unnecessary billable hours. Obvious perjurious testimony is routinely used as basis of decision, and when perjury is proven; perjury statutes are not enforced, neither in the trial courts, nor in our appellate courts. **Our courts now serve the primary purpose of generating as much revenue as possible for the legal profession, without regard for fairness or justice**, causing great emotional, and financial harm to the parties of the case, their children, and to the economy overall.

Whether by design, or happenstance accumulation of one unconstitutional circumstance on top of another, our present society effectively finds itself subject to a new "aristocracy" comprised of members of the BAR, operating in the "practice of law", or from the bench, and/or from attorneys in legislative seats. This new "aristocracy", in character and form, (1) lobbies the legislature, (2) enacts unconstitutional statutes for their own benefit as members of the legislative bodies, (3) establishes their own unconstitutional rules of procedure, to complicate process and to confound due process, (4) creates their own oversight agencies that do not provide objective oversight and while operating in the dark, (5) establishes ethical rules providing only an illusion of ethical standards, all the while holding themselves above the rules, ethical standards, and

statutes the put in place – **holding themselves above the law**. The BAR and the bench, in collusion, use the convenience of the statutes they enact, and control of the courts and oversight functions, to violate rights and perpetrate crimes with impunity. The facts proving these assertions are undeniable, and one need only look with open eyes to know this is true.

Oversight agencies, federal and state court judges, all look the other way and conceal the evidence of misconduct and operate in the dark. Law enforcement and legislators always direct those complaining of judicial misconduct to the agencies that protect them through willful gross negligence, thus aiding and abetting rights violations and crimes perpetrated under color of law. The BAR and the Judiciary lobby congress in violation of separation of powers doctrine and infringe upon a right reserved to the people. The statutes lobbied by the BAR and judiciary are then enacted though non-quorum consensus of BAR members that should disqualify due to conflict of interest but never do. To compound injury, attorneys and judges are the ones who draft and edit the final language of our statutes, to suit corrupted purpose.

Consider the wisdom of our founders who included in our constitution, Art. II, § 26 stating: "No judge of any court of law or equity, ..., shall have a seat in the General Assembly. Yet despite that wisdom, we presently have judges in de facto legislative seats in the Tennessee Board of Judicial Conduct and Tennessee Code Commission, performing the legislative function of providing oversight of the judiciary and drafting legislation, a power granted solely to the House and joint houses.

Compound the unconstitutional judicial oversight of the judiciary – by the judiciary, with the fact that the BAR and judiciary have sole oversight of attorneys licensed by the state, and who maintain seats in both legislative houses, then there exists control of two branches of government by a fraternity of lawyers and judges in collusion.

Further consider the wisdom of our founders who included in our Declaration of Rights, **Art. I § 1**, an unalienable and indefeasible right to reform, alter or abolish our government, **Art. I § 6** an inviolate right of trial by jury, **Art. I § 19**, an invaluable right to speak, write, and print on any subject including the official conduct of men in public capacity, **Art. I § 23**, right to redress of grievance by address of remonstrance, and **Art. 5**, Impeachments.

These protected rights and provisions set forth in our constitution are why Thomas Jefferson declared the Tennessee Constitution the "*least imperfect and most republican*". These declared rights and provisions were set forth in our constitution, according to the wisdom of the founders, because they learned from lessons of the past and knew these eventualities would come to pass. **These rights and provisions are prima facie evidence of the need to protect against tyranny and oppression of THE PEOPLE by the judiciary.** Our founders were so concerned to preserve declared rights of THE PEOPLE, they further declared in Tenn. Const., Art. XI, § 16:

> The declaration of rights hereto prefixed is declared to be a part of the Constitution of the state, and shall never be violated on any pretense whatever. And to guard against transgression of the high powers

> we have delegated, **we declare that everything in the bill of rights contained, is excepted out of the general powers of the government, and shall forever remain inviolate.**

Let us not pretend that rampant corruption does not exist in our courts. Let us not pretend that judges and attorneys are all saints and never deserving of impeachment or discipline, despite the fact that there has not been an impeachment of a judge since 1958 and little if any disciplinary action. In Federalist Paper 83, written by Alexander Hamilton: "*The excellence of the trial by jury in civil cases appears to depend on circumstances foreign to the preservation of liberty. The strongest argument in its favor is, that* ***it is a security against corruption.***" Yet, THE PEOPLE are routinely and unconstitutionally denied trial by jury for the purpose of subjecting them to the despotism and oppression of corrupted court proceedings.

Tenn. Const. Art. I, § 17 states that all courts shall be open but somehow the "administrative courts" of the Tenn. Bd. Judicial Conduct and Board of Professional Responsibility, and courts of record such as the Ct of Appeals, all operate in the dark, without public or legislative oversight, and complaints and appellant briefs are kept "confidential" or concealed from the public, thus concealing the misconduct of attorneys and judges.

> Without publicity, all other checks are insufficient: in comparison of publicity, all other checks are of small account. Recordation, appeal, whatever other institutions might present themselves in

> the character of checks, would be found to operate rather as cloaks than checks; as cloaks in reality, as checks only in appearance. J. Bentham, Rationale of Judicial Evidence 524 (1827). (at 569)

In the case, Richmond Newspapers, Inc. v. Virginia, 448 US 555 - Supreme Court 1980, Chief Justice Burger, provided a comprehensive summary of the history and value of open courts that included the following;

> **The crucial prophylactic aspects of the administration of justice cannot function in the dark; no community catharsis can occur if justice is "done in a corner [or] in any covert manner."** Supra, at 567. It is not enough to say that results alone will satiate the natural community desire for "satisfaction." **A result considered untoward may undermine public confidence, and where the trial has been concealed from public view an unexpected outcome can cause a reaction that the system at best has failed and at worst has been corrupted.** (at 571 - 572).

Not only is there no objective oversight of the legal profession and judiciary through "self-policing", there are no performance measurements whatsoever. In corporate America, businesses meticulously measure performance of employees and contractors down to minute detail. Performance measurements take many forms including customer satisfaction surveys, manager evaluations, independent third-party surveys. Some leading-edge companies even

utilize third-party blind surveys of employees on the performance of upper management.

Where is the scorecard on judges? Where is the measuring of performance of judges? There is none. So even if the general public did engage in elections of judicial officials, there is no information available to the public to scrutinize, or with which to gauge if they are voting for a knowledgeable and fair judge, let alone one corrupted such as Casey Moreland, recently sentenced in federal court, and who remained on the bench despite multiple complaints against him. How is the legislature able to manage compensation and reward good judges, or how is the legislature to make determination whether or not a bad actor judge should be removed or impeached? The legislature cannot, because the legal profession and judiciary operate in the dark, without transparency, and without any oversight whatsoever. The current situation is a culmination of circumstance that invites and propagates corruption.

Not only is there a lack of self-policing, and lack of performance measurement, but judges and attorneys are corruptly held above the law. It is an undeniable fact that attorneys will neither bring suit on behalf of a non-legal professional, against another member of BAR, nor against a member of the judiciary, particularly when the suit arises out of family or child custody court cases. It is also an undeniable fact, as the proof will show, that both state and federal judges, including state and federal appellate court judges proactively and criminally protect the criminal and unconstitutional conduct of judges and attorneys for crimes and rights violations perpetrated under color of law. This is yet another

declared act of tyranny as aggrieved in our Declaration of Independence!

Many of the grievances stated in our Declaration of Independence are the same injustices to which Tennessee litigants are routinely subjected. These "long train of abuses and usurpations" provide sound justification for demanding reform, just as the grievances stated in our Declaration of Independence justified our independence from Great Britain. To name a few ...:

> He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people;
> For protecting them, by a mock Trial, from punishment for any Murders (crimes) which they should commit on the Inhabitants of these States;
> For depriving us in many cases, of the benefits of Trial by Jury;
> For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments;
> For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

In an Executive Order, our President recognized the harm caused by corruption as follows:

> **Human rights abuse and corruption undermine the values that form an essential foundation of stable, secure, and functioning societies; have devastating**

> **impacts on individuals; weaken democratic institutions; degrade the rule of law; perpetuate violent conflicts; facilitate the activities of dangerous persons; and undermine economic markets.** *Executive Order Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,* December 21, 2017

These harms enumerated by our President, are the exact same harms resulting of state court corruption, and why reform is necessary. Since these same harms enumerated by our President are the same harms caused by corrupted state court proceedings, hereto is imperative for this General Assembly to take action.

Consider the phrase: "***have devastating impacts on individuals.***" Recently many of the people of this nation were captivated by the confirmation hearings of our most recently appointed Supreme Court Justice, Kavanaugh. As was widely publicized, Justice Kavanaugh was forced to address unsupported allegations made against him.

Again, let us not pretend, in courtrooms across the state, litigant after litigant is the victim of unsupported and false allegations used as basis for decision, while the falsely accused is deprived due process to prove allegations false. These decisions are venal and intentional for the corrupted purpose of vexatious litigation; knowing the wrongfully accused will use the entirety of their emotional and financial resources seeking justice (thus perpetuating vexatious litigation). And again, even when perjury and unsupported allegations are proven false, our trial and appellate courts refuse to

enforce perjury statutes in clear denial of equal protection of the laws.

As one can well imagine, this vexatious and corrupt litigation caused by the BAR and judiciary in collusion, leads to substance abuse, suicide, and both parties financially and emotionally bankrupt. In family court cases particularly, spouses and the legal system are weaponized with one parent wrongfully alienated, causing extreme emotional and mental damage to both the alienated parent and to the children. Coupled with the fact that society shuns victims, many become isolated from their support network of friends and family.

How many more suicides must there be? How many more to become addicted to substance abuse before action is taken? How many more to be left emotionally devastated and financially insolvent? How many more children kept from loving parents? How long will we pretend this problem does not exist and how long will we continue to fail to recognize simple corrective measures that can be put in place?

Or..., will we wait until it is too late, and the damage cannot be undone..., the corruption too entrenched?

Consider the phrase: "***and undermine economic markets.***" The result of persons emotionally and financially devastated by court corruption has long term adverse economic consequences. Former productive members of society and the workforce become so emotionally devastated, it becomes impossible for them to remain as productive as they once were, and many lose their jobs. This emotional devastation tears at the very fabric of our nation, not only at an individual level, but economically as well.

It is not uncommon for legal expenses in a lone family court or divorce case to exceed hundreds of thousands of dollars, with some divorce cases costing families more than one-half million dollars (+$500,000), as a result of monopolistic rates and vexatious litigation. Very often, these cases drag on for years for no other purpose than to slowly bleed families of their wealth through contrived conflict. This fact alone evidences a corrupt and broken legal system. It should never, under any circumstance, cost hundreds of thousands of dollars to divide up the assets of two people getting divorced.

Moreover, with life savings depleted, and families buried in debt, they can no longer provide for their children as before, including a complete incapacity to take advantage of college savings plans or pay for the education of their children. This has even longer and far-reaching adverse consequences to individuals and to society. Coupled with the resulting dysfunctional behavior and PTSD caused by abuse of the legal system, the fabric of our nation tears irreparably.

It was conveyed to Petitioner by Attorney Sarah Richter Perky, BPR No. 024676, that divorce cases involving family businesses most always lead to the closure of family businesses. The proof will show that this very often proves true, and that this failure of family court system, results in lost jobs and loss of revenue to the state. Clearly, if the result of corrupted and or vexatious court proceedings leads to the closures of businesses, this greatly harms our economy and state budget. The lost sales tax revenue alone from a small family business, that remits on average $1,000 per month to the state is harmful to the state. Compound that with the lost franchise and

excise tax, and employer SUTA taxes, etc., amplified by the number of businesses destroyed, and compounded over time, and the lost revenue to the state is significantly material costing the state millions in lost revenue.

Further consider the lost sales tax revenue from individual spending. According to the 2018-2019 Budget, fifty-four percent (54%) of the revenue of the state budget is collected though state sales tax. Excluding housing expenditures, effectively all individual spending is spent on goods and services subject to state sales tax. When individuals and families are subjected to corrupted state court proceedings, their life savings are first depleted, and then they amass debt through personal loans and credit cards to pay unnecessary legal expenses. Many eventually become insolvent and are forced into bankruptcy. Where before, much of their disposable income was spent on goods and services subject to state sales tax, after being subjected to corrupted court proceedings, they no longer have disposable income to spend on goods and services, and all of their income then goes to debt payments instead, adversely affecting sales tax revenue. Very obviously, this is not a long-term sustainable business model.

If the General Assembly wants to see first-hand, the full ramifications of unchecked corruption and a legal profession in control of two branches of government, look to the State of California. Presently there is a large migration of skilled and professional labor from the State of California because the standard of living in California, and conduct of the state government there is no longer

tenable to many California Citizens with many of them coming to Tennessee.

Case in point, see **Appendix M**, which summarizes California state statutes requiring a meal break if an employee works more than five hours in a day. Also see **Appendix N**, Chamber of Commerce summary of California state statutes pertaining to meal and rest breaks. As noted in Appendix N, "***Meal and rest break compliance continues to be the source of a great deal of litigation for California employers.***"

It is common sense reasoning that the meal break statute in California was not enacted due to an outcry of the workforce being denied meal breaks by their employers. No! Enactment of that statute was the result of the legal profession lobbying the state congress to create a "new product line" and tort for the legal profession to effectively extort money from businesses under color of law. The result of that statute is costing business, both domestic and out-of-state businesses, millions of dollars in unnecessary legal expenses. This adversely affects the ability of those businesses to invest in growth and to invest in their workforce. This too materially impacts the state budget by reducing taxable business income, further reducing tax revenue to the state.

Again, it is common sense that it is not a sustainable business model to continue to transfer wealth from individuals and businesses to members of the legal profession, pursuant to unconstitutional statutes, and through rights deprivations and mock trials conducted by attorneys and judges in collusion, in litigation that serves no true purpose of law, but only unnecessary and artificial conflict contrived to generate revenue for the legal profession.

Consider the root of the word attorney which is to attorn. Black's Law Dictionary defines the word attorn as: *To turn over; to transfer to another money or goods; to assign to some particular use or service.* Our present legal profession creates no value (transforming raw materials into something of value), sells no product desired by society. The profession as it stands today, and for the most part, merely transfers property, often unconstitutionally and through rights deprivations.

It is common sense that to transfer wealth from; (1) businesses that create value, (2) individuals that innovate business (targeted high earners), (3) Citizens that spend disposable income and generate sales tax revenue, and then transfer that wealth to legal professionals who do not create, innovate, or drive the economy, is a non-sustainable business model that contracts GDP for the state and nation.

As stated by Judge Molloy above, there are essential functions of our judiciary and legal profession; "*keeping always to the twin objectives of providing a judicial system that will effectively reveal the truth and that will discourage forces that are anti-social.*" However, the legal profession all too often encourages forces that are anti-social (extortion under color of law, rights deprivation, unconstitutional statutes and rules), thus "*questioning whether a nation conceived in liberty, and dedicated to the proposition that all men are created equal, so conceived and so dedicated, can long endure.*[10]"

It is not contended that all court proceedings are corrupted and certainly there is value in our legal

[10] Paraphrase ¶ 1of the Gettysburg Address.

system, and as also stated by Judge Molloy, we should not throw out the baby with the bathwater. However, the facts evidenced in appendixes and further evidence to be presented, leave no doubt that incremental changes must be made, and must be made expeditiously.

Imagine a nation where justice is once again ensured in our courts, and where cases are resolved in a few months instead of years. Imagine, the prosperity restored that caused our nation greatness. Imagine this nation as conceived, once again an inspiration to the world. The initial steps necessary to achieve this are not difficult, cost little or nothing, with some already constitutionally required. The reforms and redresses sought herein are more than reasonable and should be embraced. Frankly stated, if the General Assembly does not also desire these same reforms and redresses, evidences a General Assembly that, like the judiciary, desires to protect unconstitutional and criminal conduct and subjection of THE PEOPLE to despotism and tyranny.

Tennessee Constitution, Article I, § 1 states that power is inherent in THE PEOPLE. THE PEOPLE are represented by members of the legislature and primarily by the HOUSE. Has the power of THE PEOPLE been usurped, and the power of their legislatures rendered impotent by the power of the BAR and judiciary? Is this how far we have fallen, that republican principals, and the right to redress of grievances has been forsaken? Say this is not true. Prove this is not true through your actions, and through proper hearing and consideration of this Petition of Remonstrance.

Take proper action and void unconstitutional statutes. Put into effect, reforms and redresses

herein DEMANDED. Remove or impeach bad actor judges.

Impeach one bad judge, and the legislature representative of THE PEOPLE will have the attention of the judiciary. Impeach all those herein evidenced of their crimes, and this General Assembly will not only have the attention of the judiciary, but such constitutionally mandated action will shake the foundation of corruption so profoundly, members of the judiciary and legal profession will most certainly give pause before further perpetrating crimes and rights violations against WE THE PEOPLE.

Take back our republican form of government! Adhere to your oaths! Stand in defense of your constitution as you swore to do! Do so and other state legislatures will follow your courageous example. Do so and a great healing of our nation will begin to commence.

Pursuant to Tenn. Const. Art X, § 2:

> **Each member of the Senate and House of Representatives**, shall before they proceed to business **take an oath or affirmation** to support the Constitution of this state, and of the United States and also the following oath: I_____ do solemnly swear (or affirm) that as a member of this General Assembly, I will, in all appointments, vote without favor, affection, partiality, or prejudice; and that **I will not propose or assent to any bill, vote or resolution, which shall appear to me injurious to the people, or consent to any act or thing, whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared by the Constitution of this state.**

In Latin, the legal maxim – *NON EST ARCTIUS VINCULUM INTER HOMINES QUAM JUSJURANDUM* translates approximately to: **There is no closer (or firmer) link among men than an oath.** The reforms and redress herein sought, restore constitutionally protected rights, and provide for the safety, happiness and well-being of the Citizens and PEOPLE of the State of Tennessee.

If the General Assembly does not agree that court proceedings should be available to the public via livestream and recorded video, then the General Assembly desires courts that operate in the dark, so as to facilitate crimes and rights violations which is in violation of oath of office. "It costs too much" is a false argument based on the fact the state has budgeted one-million dollars ($1,000,000) for grants to the counties to enhance courtroom security.

If the General Assembly does not agree that all litigants must be advised of their right of due process and what due process is comprised of, then the General Assembly desires that litigants remain ignorant of their rights, so as to facilitate crimes and rights violations which is in violation of oath of office.

If the General Assembly does not agree that statutes that provide false immunities, grant emolument, and/or that usurp constitutionally protected rights should be voided, then the General Assembly desires to protect rights violations, and provide false immunities, and grant emoluments which is in violation of oath of office.

If the General Assembly does not agree to retain sole power of impeachment, then the General Assembly desires unconstitutional transfer of power to the judiciary, for oversight of the judiciary, which is in violation of oath of office.

If the General Assembly does not agree to impeach judges evidenced of crimes perpetrated against THE PEOPLE, then the General Assembly desires to subject THE PEOPLE to try their cases before judges evidenced of knowingly and willfully depriving protected rights, and who commit crimes under color of law for corrupted purpose.

These reforms and redresses are not to be feared, but should embraced as lost republican principles. **The awesome power achieved by having the bench and the bar as one fraternal organization is but a house of cards, easily tumbled, by simply following the instructions and safe guards provided to us by our founders in our constitution.** Your oaths require this of you: and in your hearts, you know this reformation must be achieved, lest our republic ultimately fail.

To prove this, let fair and impartial legislators consider facts and arguments of constitutional law as follows;

STATEMENT OF FACTS & EVIDENTIAL PROOF

The following documents prove that: **(1) judges and attorneys conspired to and perpetrated crimes, and violated protected rights under color of law, (2) there is no objective oversight of attorneys and judges, (3) judges and attorneys are held above the law in both state and federal courts.** These documents (exhibits to Appendixes to be provided in subsequent hearings), effectively prove allegations and necessity of reform beyond reasonable doubt.

These Appendixes are detailed as follows:

Appendix A: Complaint to TBJC: Judge Thompson

Appendix B: Amended Verified Complaint: Civil Rights Violation Judge Thompson

Appendix C: Wrongful Dismissal of Complaint by TBJC

Appendix D: State Court Complaint: Fraud, Abuse of Process, Civil Conspiracy. Atty Defendants: Pamela Anderson Taylor, Brenton Hall Lankford

Appendix E: Federal Court Complaint: RICO, Civil Rights & Reform. State of TN, Atty Defendants: Taylor, Lankford, and Perky

Appendix F: Supreme Court of United States Motion To Disqualify All Supreme Court Justices

Appendix G: Supreme Court of the United States Petition for Writ of Certiorari: State of TN, Atty Defendants: Taylor, Lankford, Perky

Appendix H: Supreme Court of the United States Petition for Writ of Certiorari: Judge Thompson

Appendix I: Supreme Court of the United States Petition for Rehearing: Judge Thompson

Appendix J: Supreme Court of the United States Petition for Rehearing: State of TN, Atty Defendants: Taylor, Lankford, Perky

Appendix K: Supreme Court of the United States Motion To Expedite

Appendix L: Transcript of Taylor, Lankford Fraud and Abuse of Process Case; proving Judge McClendon conspired to deprive rights through abuse of power and fraud upon the court

Appendix O: Complaint & Supplemental Complaint to Tenn. Bd of Prof. Responsibility

Appendix P: Memorandum Evidencing Conduct of Federal Magistrate Judge That is Impeachable In Nature

Appendix Q: Transcript of Court Proceedings Proving Extortion Under Color Law, and Violations of 18 U.S.C. §§ 241 and 242

Appendix R: Affidavit of Truth Attesting to Crimes Perpetrated Under Color of Law

Appendix A, B, C clearly evidence rights violations defined as criminal conduct in 18 U.S.C. §241 and §242 by Judge Thompson, ignored by the T.B.J.C. and wrongfully dismissed by the U.S. District Court, thus aiding and abetting those violations and crimes.

Appendix D was a fraud and abuse of process complaint against attorneys Pamela Anderson Taylor and Brenton Hall Lankford wrongfully dismissed by Judge Amanda McClendon through her abuse of power, conspiracy to deprive rights, and her intentional fraud upon the court and false application of law. Any law student knows res

judicata is no defense in a case with different parties, different causes of action, and where no final judgement had been rendered. Any law student knows litigation privilege is no defense for fraud and abuse of process. Clearly attorneys were held above the law for crimes and tortious conduct, by Judge Amanda McClendon with her knowing appellate courts would affirm her wrongful dismissal in further conspiracy. Appendix L is a transcript of proceedings in that case, proving Judge McClendon conspired to deprive rights.

Appendix E is a federal lawsuit filed under federal RICO and Civil Rights statutes and as a reform cause of action. Included in that lawsuit were Exhibits A through W proving allegations beyond reasonable doubt. **Appendix E proves Judge Thompson conspired with attorneys to deny protected rights and to perpetrate crimes.** Appendix E and further evidence to be provided proves Atty Sarah Richter Perky conspired against her own client. **Appendix E and Third Cause of Action stated therein, evidences the breakdown of state's oversight agencies and appellate court.** When it was evidenced in the record that the federal magistrate judge was conspiring with the attorney defendants of the case and engaging in conduct impeachable in nature, referral to the magistrate was withdrawn and the case was dismissed by Dist. Ct. Judge Trauger without permitting intended response. **See Appendix P evidencing conduct of federal magistrate judge impeachable in nature.**

Appendix F is a motion filed in the Supreme Court of the United States and provides compelling argument of the breakdown of our legal system, and how the judiciary is provided false immunity, and

how the judiciary fails to self-police resulting in rights violations and crimes perpetrated by the judiciary with impunity. Petitioner implores the General Assembly to read this Appendix thoroughly.

Appendix G is a Petition for Writ of Certiorari filed in the Supreme Court of the United States, regarding the Complaint attached as Appendix E. This writ proves wrongful dismissal of the case, and that attorneys and judges are held above the law even in our highest court. The case is docketed in Sup. Ct of U.S. here: https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/18-170.html

Appendix H is a Petition for Writ of Certiorari filed in the Supreme Court of the United States, regarding the Complaint attached as Appendix A. This writ proves wrongful dismissal of the case, and that judges are held above the law even in our highest court. The case is docketed in Sup. Ct of U.S. here: https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/17-1479.html

Appendixes I and J are Petitions for Rehearing docketed in the Supreme Court of the United States. These documents further prove that attorneys and judges are held above the law, and the unwillingness of the judiciary to hold judges and attorneys accountable to federal civil and criminal statutes. These documents further evidence that even the justices of our highest court hold themselves above the law. Take note of the last page of Appendix J which is "**Additional material from this filing is available in the Clerk's Office**" That "additional material" is actually a copy of the federal lawsuit (Appendix E herein), concealed from public view by

the Clerk's Office of the Supreme Court of the United States, so concealed to preserve FALSE PUBLIC TRUST, and to hide the misconduct of the judiciary and legal profession in collusion.

Appendix K is a motion filed in the Supreme Court of the United States. That motion evidences the fact that the Clerk's Office of the Supreme Court of the United States, corruptly concealed fourteen (14) of seventeen (17) appendixes from public view. See Appendix K, pages 9 – 15. Those fourteen (14) appendixes were concealed from public view so as to hide the criminal and unconstitutional conduct of federal District Court and Circuit Court judges and magistrates.

Appendix L is a transcript of proceedings in a hearing of a case bringing suit against bad actor attorneys Pamela Anderson Taylor and Brenton Hall Lankford, for fraud, abuse of process, etc. That transcript proves beyond any doubt whatsoever, that the Judge Amanda McClendon conspired to deprive due process, held attorneys above the law, and committed fraud on the court through intentional false application of law.

Appendix O are a complaint and supplemental complaint filed with the Tennessee Board of Professional Responsibility, proving that agency does not provide objective oversight of attorneys.

Appendix P is a Memorandum filed in U.S. District Court, Middle District Tennessee evidencing conduct of a federal magistrate judge impeachable in nature, conduct that was engaged in to protect unconstitutional and criminal actions perpetrated by bad actor attorneys, in an effort to hold them above the law.

Appendix Q is a transcript of court proceedings proving Judge Woodruff conspired with Attorneys Russ Heldman and Robert Todd Jackson to extort more than one-hundred thousand dollars (+$100,000) under color law, and violations of 18 U.S.C. §§ 241 and 242 by Judge Woodruff.

Appendix R is an uncontested affidavit of truth attesting to crimes perpetrated under color of law, as evidenced in Appendix Q. It is a criminal offense write a false affidavit. Since the affidavit is uncontested and because the affiant was not arrested for executing a false affidavit, it is clear the affidavit is factually true. *Morris v National Cash Register*, 44 S.W. 2d 433 (Tex. Civ. App. 1931), the holding clearly states that '*uncontested allegations in affidavit must be accepted as true*'. Also, *Group v. Finletter*, 108 F. Supp. 327 - Dist. Court, Dist. of Columbia 1952, "Defendant has filed no counter-affidavit, and therefore for the purposes of the motion before the Court, the allegations in the affidavit of plaintiff must be considered as true, Federal Rules of Civil Procedure, Rule 9(d)". Federal Rules of Civ. Procedure Rule 9(d): OFFICIAL DOCUMENT OR ACT. In pleading an official document or official act, it suffices to allege that the document was legally issued or the act legally done.

REASONS FOR GRANTING THE PETITION AND IMPLEMENTING REFORMS

I. Constitutionally Guaranteed Rights Are Unenforceable In Any Court, Under Any Circumstance

The undeniable fact that constitutionally guaranteed rights are no longer enforceable for Tennesseans, alone provides sound basis for General Assembly to redress grievances and implement reforms. No matter the crime or rights violation, Tennesseans cannot enforce their rights against state court judges, even when only seeking equitable relief. **(1)** If a citizen complains of rights violations or crimes perpetrated against them by a state court judge to The Tenn. Bd. of Judicial Conduct (TBJC), the complaint is dismissed. The TBJC does not dispute the fact that the TBJC dismisses 100% of complaints filed by non-legal professionals. **(2)** If suit is brought against the state court judge in state or federal court, the state asserts that "sovereign immunity" protects them in their official capacity and so too are these cases dismissed, even when only equitable relief is sought. **(3)** In both federal and state courts, if suit is brought against a state court judge in his personal capacity, the state asserts "judicial immunity" protects them in their personal capacity, and again, the courts always dismiss these cases too, even when only equitable relief is sought. **(4)** If suit is brought against the state for rights violations perpetrated by a judge, the defense of "sovereign immunity" is used as a false cloak to deny enforcement of constitutionally guaranteed rights. **(5)** If a Tennessean attempts to bring suit against a "governmental entity" for rights or federal law violations, the state has enacted unconstitutional statute providing false and unconstitutional immunity from suit (see below) as well the sovereign immunity defense.

Similarly, redress is also unavailable for rights violations and tortious conduct perpetrated by

attorneys, as proven in Appendix D, E, G, J, L, and O.

These undisputed facts leave no doubt that Tennesseans are provided no means to redress grievances against the state, its officials or attorneys for rights violations and criminal conduct. This further fact also provides sound basis for this General Assembly to redress grievances and implement reforms.

According to the Chief Clerk of the House of Representatives, Ms. Tammy Letzler, the last time a Remonstrance was submitted to Tennessee's General Assembly was in the year 1850. It should have never become necessary for this Petitioner to Remonstrate before this General Assembly. Your petitioner has humbly sought the protection of his government and redress through every possible channel, including law enforcement agencies, oversight agencies, state and federal courts, and even our highest court – all in vain.

This matter brought before this General Assembly, is quite simply, history repeating itself. Have we not learned from the lessons of the past? Does one not comprehend the similarities between this matter and the causes of our founders that led to our Declaration of Independence? Consider the words of Patrick Henry in his "Give me liberty or give me death speech."

> Shall we try argument? Sir, we have been trying that for the last ten years. Have we anything new to offer upon the subject? Nothing. We have held the subject up in every light of which it is capable; but it has been all in vain. Shall we resort to entreaty and humble supplication? What terms

shall we find which have not been already exhausted? Let us not, I beseech you, sir, deceive ourselves. **Sir, we have done everything that could be done, to avert the storm which is now coming on. We have petitioned; we have remonstrated; we have supplicated; we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and Parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne. In vain, after these things, may we indulge the fond hope of peace and reconciliation. There is no longer any room for hope.** If we wish to be free, if we mean to preserve inviolate those inestimable privileges for which we have been so long contending, if we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the glorious object of our contest shall be obtained, we must fight! I repeat it, sir, we must fight! An appeal to arms and to the God of Hosts is all that is left us!

Already today, we see vigilante justice occurring because THE PEOPLE have no means for redress of grievances against state officials, particularly those

involved in family court and child custody cases[11]. In recent news, little covered by the media; a shootout on the steps of a courthouse outside Chicago; eight social workers and attorneys killed in a shooting rampage in Arizona; and the all too common story of a spousal suicide-murder that includes children. How many more of these stories before proper action is taken to address the underlying problem of rampant court corruption and vexatious litigation? Correlation can even be found in the school shootings of which the entire nation is appalled, where the shooters are the product of parental alienation and vexatious litigation.

This is exactly the concern our president stated in executive order, referenced above: "***Human rights abuse and corruption perpetuate violent conflicts; facilitate the activities of dangerous persons.***" Rather than addressing the underlying problem causing the need for courthouse security, which is injustice served by corrupted court proceedings, the state has budgeted one million dollars ($1,000,000) for the single purpose of studying enhancement of court security, which is in analogy, to prescribe an aspirin for a headache caused by brain tumor. In his book, THE FRATERNITY, Lawyers and Judges in collusion, Judge Molloy noted that prior to corruption of our legal processes, court security had been unnecessary (Chapter 5, page 81). If further failure of the government persists in failing to redress

[11] It is important to note that petitioner does not have children, and is not a victim parental alienation. As a result of his advocacy, communicating with thousands of persons across the nation, the pain of parental alienation, and criminal abduction of children under color of law, studies evidence tremendous emotional and mental damage to both parents and children.

grievances, then eventually THE PEOPLE will find themselves in the circumstance of our founders with no choice but to abolish the government and start over.

As also stated in Patrick Henry's speech: "*I have but one lamp by which my feet are guided; and that is the lamp of experience. I know of no way of judging of the future but by the past.*" No person can predict the future, but our present circumstance of tyrannical courts can have but only one outcome, which is reform either from within the government or through THE PEOPLE, with the former being preferred to the latter. Knowing the lessons of the past, and through study of history, our present circumstance suggests we are only one or two generations away from large scale and organized demand for reform. Why wait for such a tipping point, when it remains within the power of the legislature to begin implementing corrective measures. Many lives can be saved, and our economy strengthened, if proactive action is taken now.

II. The Constitution of Tennessee Guarantees An Unalienable And Indefeasible Right To Reform Government

The Const. of the State of Tenn., art. I, § 1 (See Appendix Q) states;

> "That **all power is inherent in the people, ... they have at all times, an unalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.**"

In the case, Marbury v. Madison, 5 US 137, 2 L. Ed. 60, 2 – Sup. Ct. 1803, quoting Blackstone: "*it is a general and indisputable rule, that where there is a*

legal right, there is also a legal remedy by suit, or action at law,..." (at 163). Further in the Marbury opinion, the Supreme Court states the people have an original right to establish for their future government, such principles as shall conduce their own happiness. (*id* at 176, 179)

III. The Doctrine of Nonresistance is "Absurd" And The Intent Of The State's Congress To Encourage Reform Actions Is Clear

Considering Sections 1 and 2 of Article I of the state's constitution, the intent of the state's constitutional convention in 1870 was obvious in establishing power inherent in THE PEOPLE and **duty** to ensure a republican form of government. Joshua W. Caldwell, author of *STUDIES IN THE CONSTITUTIONAL HISTORY OF TENNESSEE,* who had the "good fortune" to be acquainted with members of 1870 convention, conveyed this fact in his book. "*No Tennessean... fails to quote Mr. Jefferson's (Thomas) declaration that the Constitution was "the least imperfect and most republican of the state constitutions.*"

Tennessee Constitution, Article I, § 2 affirms:

> That government being instituted for the common benefit, **the doctrine of nonresistance against arbitrary power and oppression is absurd**, slavish, and destructive of the good and happiness of mankind.

Our Declaration of Independence states much the same:

> **But when a long train of abuses and usurpations**, pursuing invariably the same Object **evinces a design to reduce them under absolute Despotism,** it is their right, **it is their duty,** to throw off such Government, and to provide new Guards for their future security.

"*It is their duty*," "*the doctrine of nonresistance... is absurd, slavish, and destructive of the good and happiness of mankind.*" Upon reading this remonstrance, these words should have new and profound meaning to this General Assembly.

Your petitioner, as a former Force Reconnaissance Marine, who served his country honorably for more than eight years, well understands duty to protect, preserve, and defend the constitution..., as an American Citizen to ensure our birthright, and as a veteran under sworn oath.

Frankly stated; every time a corrupted judge colludes with an attorney to intentionally and wrongfully deny fair due process, they spit upon the graves of our fallen who gave their last full measure to defend our constitution.

That is the purpose of this Petition of Remonstrance... "***that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.***" — Abraham Lincoln

Your Petitioner did not choose this path, and has no desire for this civic engagement with his government..., but such is his duty as an American

Citizen and according to his oath. To do otherwise would be "*absurd, slavish, and destructive of the good and happiness of mankind.*"

TENNESSEE CODE COMMISSION MUST BE DISOLVED AND CERTAIN "STATUTES" REPEALED OR MADE VOID

All statutes challenged as unconstitutional and complained of herein: (1) provide false immunities to attorneys and members of the BAR, judges, state officials, or "governmental entities" (2) were "enacted" to confound due process for corrupted purpose, or (3) were "enacted" for the benefit of BAR members, certain professionals, and judges as unconstitutional emolument. It is no surprise THE PEOPLE are subjected to these constitutionally repugnant "statutes" since members of the BAR are writing legislation without oversight and without act of congress in violation of the separation of powers doctrine.

In October 2001, Justice Antonin Scalia, speaking before the Senate Judiciary Committee on the topic of the role of judges under the U.S. Constitution stated:

> "**What is the reason you think that America is such a free country, what is it in our constitution that makes us what we are?** And I guarantee you that the response will get is... the answer would be freedom of speech, freedom of the press... those marvelous provisions of the bill of rights. **But I tell them, if you think that a bill of rights is what sets us apart, you're crazy!**

> **Every Banana Republic in the world has a bill of rights. ...just words on paper, what our framers would have called a parchment guarantee.** ... **The real key to the distinctiveness of America is the structure of our government** ... the independence of our judiciary... very few countries have two separate bodies in the legislature, equally powerful. ... **It is the separation of powers that is the main protection...**"
>
> https://www.youtube.com/watch?v=Ggz_gd--UO0&t

Indeed, this petitioner agrees with Justice Scalia, due to the fact of the present circumstance of a single branch of government of the legislature and judiciary effectively controlled by the judiciary and legal profession, has made the bill of rights, a worthless parchment guarantee, wholly unenforceable. This must stop. Separation of powers doctrine, and our Declaration of Rights must be restored and made enforceable.

Tenn. Code Ann. § 1-1-101

> (a) There is created a Tennessee code commission of five **(5) members** composed of the **chief justice of the supreme court, the attorney general and reporter, a director of the office of legal services for the general assembly, and two (2) other members appointed by the chief justice.**

Tenn. Const. Art. II, § 26 affirms:

> **No judge of any court of law or equity**, secretary of state, **attorney general**, register, clerk of any Court of Record, **or**

> **person holding any office** under the authority of the United States, **shall have a seat in the General Assembly**;

Tenn. Const., Art II, § 26 clearly affirms that NO JUDGE, ATTORNEY GENERAL, or PERSON HOLDING ANY OFFICE, shall have a seat in the General Assembly, and yet here we have a "laundry list" of persons specifically excluded from seats in the General Assembly sitting in de facto legislative seats. This fact is so repugnant to our form of government and separation of powers doctrine, it frustrates rational thought. The Tennessee Code Commission must be dissolved, and T.C.A., Title 1 repealed or rendered void. Indeed, since THE PEOPLE are subjected to members of the judiciary having unconstitutional "authority" to "edit" congressional acts, the entire Tenn. Code Ann. must be reviewed thoroughly to discern which parts are congressional acts and which are not, and to further discern whether "edits" circumvented the intent of congress.

Pursuant to Tenn. Code Ann. § 1-1-105

> (a) **The Tennessee code commission is hereby authorized** and directed **to formulate and supervise the execution of plans for the** compilation, arrangement, classification, **annotation**, <u>editing</u>, indexing, printing, binding, publication, sale, distribution and the performance of all other acts necessary for the publication of an official compilation of the **statutes, <u>codes</u> and session laws of the state of Tennessee of a public and** general nature, **now existing and to be enacted in the future**, including an electronically

> searchable database of such code, which official compilation shall be known as "Tennessee Code Annotated."

As referenced above in Tenn. Code Ann. § 1-1-101 and § 1-1-105, a chief justice (attorney), attorney general (attorney), director of the office of legal services (also likely an attorney), and members appointed by the chief justice (also likely attorneys) comprise the Tennessee Code Commission who are "authorized" to annotate, "edit", and compile statutes, "***codes***" and session laws.

Black's Law Dictionary, Fifth Edition defines terms as follows:

> "**Statutes**" as acts of legislature declaring, commanding, or prohibiting something.
>
> "**Statutes at Large**" are an official compilation of the acts and resolutions of each session of congress. "
>
> "**Session laws**" are statutes enacted by a particular session of congress and a "**Session**" is sitting of the legislature.
>
> "**Code**" is defined as a **systematic collection**, compendium or revision of laws, rules or regulations.

Herein lies the problem in that members of the judiciary and BAR "compiling" Tennessee Code Annotated. T.C.A. 1-1-105 clearly reads the commission is authorized to compile statutes, "***codes***" and session laws for the state. This falsely asserts the commission has the authority to compile, edit, and annotate "***codes***". This begs the question: "*What are the 'codes' to be compiled and who creates the 'codes' and under what lawful authority?*" Black's

clearly defines "Code" (singular) as systematic collection, compendium or revision of laws, rules or regulations. Accordingly, "Code" is a compilation of lawful acts of congress, while "*codes*" are not something to be compiled along with the lawful acts of congress.

Essentially, T.C.A. 1-1-105 unconstitutionally creates a commission who have unlawful authority to compile "*codes*", perhaps made up by themselves, and who are "authorized" to "edit" and "annotate" acts of congress. Clearly, the legislative authority of the state is vested in the General Assembly consisting of the Senate and House of Representatives, pursuant to Tenn. Const. Art. II, §3. Who reviews the "editing and annotating" of the attorneys and judges who comprise the Tenn. Code Comm., and does the Tenn. Code Ann. reflect the intent of Congress?

The first step that must be taken in determining whether the "statutes" challenged and contained in Tenn. Code Ann. are constitutional, is to first determine if they were in fact acts of congress, and whether the language reflects the intent of congress, or whether some are merely "*codes*" purported as lawful statutes under color of law.

Moreover, it must also be determined whether or not the legislature can lawfully delegate authority to a commission comprised of attorneys and judges, who have authority to "edit and annotate" and compile "*codes*" along with the lawful acts of congress. Petitioner contends such authority cannot be lawfully delegated as provided for in Tenn. Const. Art II, § 3 and Mason's Manual of Legislative Procedure, § 518, ¶1.

Respectfully stated, the legislature has apparently "authorized" five (5) persons, who are all

likely attorneys or judges, the power to "edit and annotate" lawful acts of congress and compile "codes" created by who knows, along with acts of congress and apparently so without any oversight whatsoever.

Considering T.C.A. 1-1-111, this is an awesome but unconstitutional delegation of power:

> (a) **Upon appropriate certification of approval by the commission** filed with the secretary of state as provided in § 1-1-110, the compilation in each volume and supplement **so certified shall be in force.**

Therefore, pursuant to T.C.A. 1-1-111(a) above, judges and attorneys as unelected members of the commission certify their own "edits" to acts of congress and they "*shall be in force*". In subparagraph (b) noted below, the commission's "certificate of approval" is **prima facie evidence of the statutory law of this state** used in all courts, agencies, etc., etc.

Esteemed Senators and Representatives, please **take pause and carefully consider the language: "*shall constitute prima facie evidence of the statutory law of this state and be received, recognized, referred to and used in all courts, agencies, departments, offices of and proceedings in the state as the official compilation of the statutory law.*"** As we learned above, "**Statutes**" are acts of legislature declaring, commanding, or prohibiting something. As we learned above, the commission has unlawful authority to compile, edit, and annotate "codes" made up by whom we don't know. And we know that "codes" are not session laws or statutes at large. This language permits the commission to purport their

"edits" and incorporated "codes", under color of law[12] as lawful acts of congress. As stated in T.C.A. 1-1-111(b):

> (b) The text of the statutes, codes and code supplements (but not the annotations, footnotes and other editorial matter) appearing in the printed copies of the compilation, containing a copy of the commission's certificate of approval, **shall constitute prima facie evidence of the statutory law of this state and be received, recognized, referred to and used in all courts, agencies, departments, offices of and proceedings in the state as the official compilation of the statutory law,** and may be cited as Tennessee Code Annotated or by the abbreviation "T.C.A."

The commission comprised primarily (if not completely) of attorneys and judges, is further granted the power to lobby the congress in T.C.A. §1-1-114 without registration as lobbyists as required in T.C.A. Title 3, Chapter 6:

> **The commission may prepare and submit to succeeding sessions of the general assembly its recommendations for the revision in substance and form or the repeal or amendment of certain statutes or any portion thereof, and submit bills for the**

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[12] The appearance or semblance, without the substance, of legal right. **Misuse of power**, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state, is action taken under "color of law". *Black's Law Dictionary 5th Edition.*

> **accomplishment of such proposed revision, repeal or amendment.** T.C.A. §1-1-114

This is yet another violation of the separation of powers doctrine in granting power to the Chief Justice of the Supreme Court of Tennessee (and members of the BAR), to lobby congress "**for the revision in substance and form or the repeal or amendment of certain statutes or any portion thereof, and submit bills for the accomplishment of such proposed revision, repeal or amendment.**

One can well imagine the outrage if Chief Justice Roberts of the Supreme Court of the United States made recommendations to U.S. Congress "**for the revision in substance and form or the repeal or amendment of certain statutes or any portion thereof, and submit bills for the accomplishment of such proposed revision, repeal or amendment.**" One can also well imagine the outrage if Chief Justice Roberts of the Supreme Court of the United States were "editing" and compiling the lawful acts of the U.S. Congress. **Again, these facts are so repugnant to our form of government and separation of powers doctrine, it frustrates rational thought.**

Petitioner has also recently learned that the Executive Branch lobbies the General Assembly. Petitioner encourages discussion as to whether or not such lobbying violates the separation of powers doctrine.

These facts further evidence declared acts of tyranny as stated in our Declaration of Independence.

> For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

> He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

"Legislative bodies at places unusual" is exactly what the Tennessee code commission is and does. The members of Tennessee Code Commission are Reverse Practicing the Declaration of Independence.

Further now consider the language of Tenn. Const. Art VI, § 1 which affirms:

> **The judicial power of this state shall be vested in one Supreme Court and in such Circuit, Chancery and other Inferior Courts as the Legislature shall from time to time, ordain and establish**; in the judges thereof, and in justices of the peace. The Legislature may also vest such jurisdiction in Corporation Courts as may be deemed necessary. Courts to be holden by justices of the peace may also be established.

Black's Law Dictionary defines Judicial Power as follows:

> The authority vested in courts and judges to hear and decide cases and to make binding judgments on them: the power to construe and apply the law when controversies arise over what has been don or not done under it.

As part of their judicial authority, the judiciary may be called upon to make determination as to whether an act of congress encoded in state statute is constitutional or not. Since the Tennessee Code

Commission (1) "**is hereby authorized** and directed **to formulate and supervise the execution of plans for the** compilation, ..., **annotation**, **editing**, ... **of the statutes, codes and session laws of the state of Tennessee of a public and general nature, now existing and to be enacted in the future,...**" and because (2) "**...of the commission's certificate of approval, shall constitute prima facie evidence of the statutory law of this state and be received, recognized, referred to and used in all courts,..**" and further that, **(3) "The commission may prepare and submit to succeeding sessions of the general assembly its recommendations for the revision in substance and form or the repeal or amendment of certain statutes or any portion thereof, and submit bills...**" renders the Chief Justice and Attorney General incapable of one of their primary functions which is to determine or defend the constitutionality of state statutes.

T.C.A. 29-14-107, requires a person challenging statute, ordinance, etc., to serve the attorney general with a copy of the proceeding as follows:

> 29-14-107. Parties to proceedings.[13]
>
> (a) When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall

[13] It is worth noting the deceptive title of 29-14-107 "Parties to proceedings" found under Chapter 14 Declaratory Judgments. This further evidence deceptive practices to the Tennessee Code Commission. T.C.A. 29-14-107 (b) is routinely used by corrupted courts to ignore statute "validity" or constitutionality challenges for failure to adhere to a deceptively labeled "statute" which may be one of the "codes" enacted under color of law and purported to be a statute enacted by congress.

> prejudice the rights of persons not parties to the proceedings.
>
> (b) **In any proceeding which involves the validity** of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, **and if the statute, ordinance, or franchise is of statewide effect and is alleged to be unconstitutional, the attorney general and reporter shall also be served with a copy of the proceeding and be entitled to be heard.**

Again, the Chief Justice and Attorney General are incapable of impartial constitutionality challenge of state statutes due to being members of the commission who "edit" and certify, propose bills, etc. How possibly can the Chief Justice and Attorney General provide impartial consideration as to the constitutionality of state statutes if they are the ones writing, editing and certifying the statutes? Again, this confounds rational thought.

In the case, *Peterson v. Peterson,* 320 P. 3d 1244 - Idaho: Supreme Court 2014, Justice Eismann provided a comprehensive analysis of what is code and what is law and that the "**The Idaho Code is not the law. The code commission has no legislative authority.**"

> In 1947, the legislature created the "1947 Idaho Code Commission" to consist of three members of the Idaho State Bar who were not holders of any public office or position, were actively engaged in the practice of law, and were to be appointed by the governor from a list of seven qualified persons whose names were submitted by

the board of commissioners of the state bar. Ch. 224, § 1, 1947 Idaho Sess. Laws 541, 543. **The commission was "empowered, directed and authorized to cause to be edited, compiled, annotated, printed, bound** (including provision for insertion of pocket supplements) and published the existing codes and statutes of the State of Idaho of permanent and general nature, including enactments of the Twenty-Ninth regular session of the Legislature." Id. Like the prior compilations, upon completion, publication, and approval of the compilation by the commission and a proclamation by the governor announcing its publication, **the compilation was to be received "as evidence of the statute law of the State of Idaho.**" Ch. 224, § 7, 1947 Idaho Sess. Laws 541, 546 (emphasis added).

The 1947 legislation provided that the compilation completed by the 1947 **Idaho Code Commission would be known "by such name as the Commission shall determine."** Ch. 224, § 7, 1947 Idaho Sess. Laws. 541, 545. **The Commission named the publication it produced the Idaho Code.** In 1949, the legislature adopted that as the official name, Ch. 167, § 2, 1949 Idaho Sess. Laws 355, 356, and it created a "continuing code commission" to keep the Idaho Code current without the necessity of forming a commission to compile the statutes from time to time, Ch. 167, §§ 1, 3, 1949 Idaho Sess. Laws 355, 356-57. The legislation authorized the "publication of pocket parts

to the volumes of the Idaho Code, or as necessary the republication of single or more volumes, or the addition of volumes, or by other devised designed and intended to maintain the Idaho Code up to date." Ch. 167, § 1, 1949 Idaho Sess. Laws 355, 356. **The 1949 legislation provided that "the `Idaho Code' published pursuant to Session Laws of 1947, Chapter 224, shall be received in all courts and by all justices, judges, public officers, commission and departments of the state government and all others as evidence of the general laws of Idaho then existing and in force and effect.**" Ch. 167, § 9, 1949 Idaho Sess. Laws 355, 359 (emphasis added). That wording has remained. I.C. § 73-209 (2006).

The Idaho Code is a compilation of laws enacted by the legislature; it is not a codification in the sense that the legislature has enacted the contents of the current version of the Idaho Code as the laws of Idaho. "**The present Idaho Code is a compilation of laws, evidentiary, but not a codification thereof.**" Golconda Lead Mines v. Neill, 82 Idaho 96, 102, 350 P.2d 221, 224 (1960).

Thus, the compilation of statutes in the Idaho Code is merely evidence of the laws enacted by the legislature as set forth in the session laws. **The Idaho Code is not the law. The code commission has no legislative authority**. *Peterson v. Peterson,*

320 P. 3d 1244 · Idaho: Supreme Court 2014, (at 1249).

Pursuant to Mason's Manual of Legislative Procedure, § 16, Fraud Will Invalidate Acts:

> Where there is more than a mere technical violation of the rules of procedure, the violation may invalidate the act, and **an act will be invalidated where there is fraud or bad faith.**

It is the personal observation of Petitioner, who is a Certified Public Accountant, that the Tennessee Code Annotated is compiled in such a manner for the purpose of deception. Petitioner alleges that the titles of statutes are intentionally misleading so as to deceive the public and confound the layperson. Petitioner alleges the "statutes" as detailed and compiled are not all lawful acts of Congress, but "codes" created and compiled by the commission, deceptively purported to be acts of congress.

These statutes may be void at the outset because they were enacted by a non-quorum of members of the bodies comprised of members who should have been disqualified from vote[14]. The statutes herein challenged as unconstitutional were enacted not through mere "technical violation" but by non-quorum legislative bodies comprised of members that should have disqualified due to a clear conflict of interest and bad faith and a commission unlawfully empowered to "edit" lawful acts of congress and the power to lobby congress without registration. Furthermore, the commission is unlawfully

[14] This is assuming the vote would not have carried without the vote of members that should have disqualified.

comprised of and chaired by the Chief Justice of the Tennessee Supreme Court, and Attorney General, both of whom are specifically excluded from seats in the General Assembly, **including their present de facto seats**. Therefore, regardless of whether these statutes are unconstitutional, they are invalidated by major procedural error and bad faith.

Attorney members of the body, being well educated in procedural, ethical, and statutory and constitutional provisions, know full well they should disqualify from any vote in which they have an interest. Mason's Manual of Legislative Procedure, § 502 clearly states members of the body disqualified on account of interest should not be counted in computing a quorum. Furthermore, § 522 affirms: "It is the general rule that no members can vote on a question in which they have a direct personal or pecuniary interest." In the case, Wilson v. Iowa City, 165 NW 2d 813 - Iowa: Supreme Court 1969; "*We have held in several cases a vote contrary to a conflict of interest rule is void, but in each case the vote was necessary to the passage of the resolution.*" In the case, Williams v. State, 315 P. 2d 981 - Ariz: Supreme Court 1957: quoting Dillon on Municipal Corporations, § 444:

> "**One who has power, owing to the frailty of human nature will be too readily seized with the inclination to use the opportunity for securing his own interest at the expense of that for which he is intrusted.** * * * The law will in no case permit persons who have undertaken a character or a charge to change or invert that character by leaving it and acting for themselves in a business

in which their character binds them to act for others."

One can reasonably question whether members of the BAR should be allowed to sit in legislative seats at all. Tenn. Const. Art. II, § 26 affirms:

> **No judge of any court of law or equity**, secretary of state, **attorney general**, register, clerk of any Court of Record, or person holding any office under the authority of the United States, **shall have a seat in the General Assembly**; nor shall any person in this state hold more than one lucrative office at the same time; provided, that no appointment in the Militia, or to the Office of Justice of the Peace, shall be considered a lucrative office, or operative as a disqualification to a seat in either House of the General Assembly.

Petitioner contends the judiciary has unlawfully taken control over the licensure of attorneys, and that control of licensure provides the judiciary control of the legal profession, and control over the licensure of attorneys who are sitting in legislative seats. Having this unlawful authority[15] over the licensure of attorneys, provides opportunity and power to the judiciary to coerce votes of attorney members of the houses of the General Assembly in violation of Tenn. Const. Art. II, § 26 through potentially de facto legislative seats and in further violation of the separation of powers doctrine.

In 1916, the United States Supreme Court affirmed in opinion, that **a law "must be construed, if**

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[15] Lawful authority further discussed below.

fairly possible, so as to avoid not only the conclusion that it is unconstitutional, but also grave doubts upon that score." *United States v. Jin Fuey Moy, 241 U.S. 394, 401, Sup. Ct. (1916); see also Clark v. Martinez, 543 U.S. 371, 380–81. Sup. Ct. (2005).* Here, there is no "grave doubt". The below listed state statutes are in violation of multiple constitutional provisions and principles.

In Federalist No. 43, in consideration of Article I § 9, U.S. Constitution, James Madison asked: **"But who can say what experiments may be produced by the caprice of particular States, by the ambition of enterprising leaders...?"** Today, we have one answer to that question... Clearly members of BAR have successfully lobbied state Congress, effectively lobbied themselves, to enact a statute granting special privilege and false immunities to themselves, in violation of state and federal constitutions.

As further stated by James Madison in Federalist 43:

> **"In a confederacy founded on republican principles, and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchial innovations.** The more intimate the nature of such a union may be, the greater interest have the members in the political institutions of each other; and the greater right to insist that the forms of government under which the compact was entered into should be SUBSTANTIALLY maintained. **But a right implies a remedy; and where else could the remedy be deposited, than where it is deposited by the**

> **Constitution?** Governments of dissimilar principles and forms have been found less adapted to a federal coalition of any sort, than those of a kindred nature. "As the confederate republic of Germany," says Montesquieu, "consists of free cities and petty states, subject to different princes, experience shows us that it is more imperfect than that of Holland and Switzerland. " "Greece was undone," he adds, "as soon as the king of Macedon obtained a seat among the Amphictyons." In the latter case, no doubt, the disproportionate force, as well as the monarchical form, of the new confederate, had its share of influence on the events. **It may possibly be asked, what need there could be of such a precaution, and whether it may not become a pretext for alterations in the State governments, without the concurrence of the States themselves.**

Indeed, at the time of the founding, it was obvious to the members of our new Republic to repudiate, and guard against, a government comprised of monarchial or aristocratic rule and privileged persons. "*What need there could be of such a precaution?*" Today, we now know the need of that precaution and why Article I § 9, U.S. Constitution was included in our federal constitution and Art. I, § 30 of our state constitution. Fortunately, having suffered the grievances detailed in our Declaration of Independence, our founding fathers included in the constitution, the emoluments clause, constitutionally protected rights, and other provisions, and we need

only look to our past history to know well why such privileges should be vehemently guarded.

Moreover, the conduct of the legislature is in violation of oath of office, and contrary to the well-being of the people, and in violation of both state and federal constitutions. The Const. of the State of Tenn., Art. X. § 2 states;

> Each member of the Senate and House **of Representatives**, shall before they proceed to business **take an oath or affirmation** to support the Constitution of this state, and of the United States and also the following oath: I_____ do solemnly swear (or affirm) that as a member of this General Assembly, I will, in all appointments, vote without favor, affection, partiality, or prejudice; and that **I will not propose or assent to any bill, vote or resolution, which shall appear to me injurious to the people, or consent to any act or thing, whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared by the Constitution of this state.**

Most certainly the statutes complained of herein are injurious to the people, usurping their guaranteed rights to bring suit against the state and seek redress for false arrest, malicious prosecution, civil rights violations, etc., etc. Tenn. Const. Art I § 17, states all courts shall be open for an injury done him in his lands, goods, person, or reputation.

I. State Statute Providing Unconstitutional Immunity – TCA 29-20-205; Governmental Tort Liability, Actus repugnans non potest in esse produci

State statute, Tennessee Code Annotated (TCA) 29-20-205 is repugnant to the principles upon which our Republic was founded. This law is self-incriminating, and prima facia evidence that the state must be required to reform. Knowing that conduct such as; *"gross negligence, false imprisonment pursuant to a mittimus from a court, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, infliction of mental anguish, invasion of privacy, civil rights violations, and malicious prosecution without probable cause,"* should all be anomaly conduct by governmental entities, this begs the question: "*Why would the State enact in statute, and provide immunity for conduct that should be an anomaly..., conduct for which redress should be available*?" The only answer to this question is that this conduct by state officials and "governmental entities" is not the occasional anomaly, but common occurrence, and the state seeks to protect its corrupt activities by unlawfully preventing suits against the state through the enactment of unconstitutional law. Perhaps it is further true that the Tenn. Code Comm. "edited" lawful acts of congress to circumvent the intent of congress?

The purpose of our legal system is to prevent not punish crime. By enacting TCA 29-20-205, the state removes all deterrent for such conduct. For the state to nullify deterrent law by enacting a law providing unconstitutional immunities, and then through its oversight agencies to grossly and negligently dismiss all complaints made against state court officials, demonstrates a profound necessity of reform.

Most certainly TCA 29-20-205, is injurious to the people, usurping their guaranteed right to bring suit

against the state and seek redress for false arrest, malicious prosecution, civil rights violations, etc., etc. Tenn. Const. Art I § 17, states all courts shall be open for an injury done him in his lands, goods, person, or reputation. TCA 29-20-205 usurps this right for redress of harms caused by state agencies.

In 1916, the United States Supreme Court affirmed in opinion, that a law "*must be construed, if fairly possible, so as to avoid not only the conclusion that it is unconstitutional, but also grave doubts upon that score.*" *United States v. Jin Fuey Moy, 241 U.S. 394, 401, Sup. Ct. (1916)*; see also *Clark v. Martinez, 543 U.S. 371, 380–81. Sup. Ct. (2005.* Here, TCA 29-20-205 is repugnant to state and federal constitutions. In Latin, ***Actus repugnans non potest in esse produci,*** translates approximately to; a repugnant act cannot be brought into being (that is, cannot be made effectual).

II. State Statute Corrupting Due Process – TCA 24-9-101 Deponents Exempt from Subpoena to Trial But Subject to Subpoena to Deposition

TCA 24-9-101 is a statute in violation of U.S. Const. Amend XIV, § 1, and Tenn. Const. Art. I, § 17 due process clauses. Our entire system of jurisprudence rests on the well-established procedures of direct and cross-examination of witness testimony. TCA 24-9-101 unconstitutionally provides that certain persons are exempted from testifying at trial, but subject to subpoena to a deposition.

In recent legislation, the state voted to expand the list of persons exempt from testimony through proposed legislation which makes licensed clinical

social workers exempt from subpoena to trial. TCA 24-9-101 sets the stage for economically disadvantaged litigants to be subjected to one-sided deposition testimony. The likely and devastating outcomes resulting from this unconstitutional legislation are deprivation of due process, children wrongfully taken, persons wrongfully declared mentally unfit, etc. Such outcomes are the clear intent and purpose of this unconstitutional statute.

Judges and juries should not be deprived the opportunity to gauge for themselves and credibility of witnesses and litigants should not be deprived an element of due process to confront adverse witness testimony.

The final clause of TCA 24-9-101, grants the state trial courts authority to award attorney fees to a party successfully defending against a subpoena to trial, which is nothing more than an unjust punishment, and seizure of property without jury, inflicted upon a party seeking fair due process.

TCA 24-9-101 is also in violation of Tenn. Const., Art. I, § 30; "That no privileges shall ever be granted or conferred in this state. It is most certainly a special privilege to be exempt from subpoena to trial further establishing the unconstitutionality of TCA 24-9-101.

TCA 24-9-101 is also in violation of Tenn. Const., Art. I, § 9

> That in all criminal prosecutions, the accused hath the right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof, **to meet the witnesses face to face,** to have compulsory process for obtaining witnesses in his favor,

and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county in which the crime shall have been committed, and shall not be compelled to give evidence against himself.

III. TCA 28-3-104 Personal Tort Actions: Actions against Certain Professionals is Unconstitutional Under Both State and Federal Constitutions

"*Congress surely did not intend to assign to state courts and legislatures a conclusive role in the formative function of defining and characterizing the essential elements of a federal cause of action.*" *Wilson v. Garcia*, 471 US 261 · Supreme Court 1985, 471 US 261, 105, 1938, 85 L. Ed. 2d 254 · Supreme Court, 1985. "*The relative scarcity of statutory claims when § 1983 was enacted makes it unlikely that Congress would have intended to apply the catchall periods of limitations for statutory claims that were* ***later enacted by many States***." (at 278).

"*Thus, in considering whether all § 1983 claims should be characterized in the same way for limitations purposes, it is useful to recall that § 1983 provides "a uniquely federal remedy against incursions under the claimed authority of state law upon rights secured by the Constitution and laws of the Nation.*" *Mitchum v. Foster*, 407 US 225, 92 S. Ct. 2151, 32 L. Ed. 2d 705 · Supreme Court, 1972.

TCA 28-3-104(a)(1)(B) affirms: "...the following actions shall be commenced within one (1) year after the cause of action accrued: **Civil actions** for

compensatory or punitive damages, or both, **brought under the federal civil rights statutes**"

Suits brought under the federal rights statutes are brought in federal court, not state courts. Yes, it is accepted (perhaps falsely) that state legislatures have authority to enact statutes setting time limitations for civil suit for state statute violations and torts. Yes, if the U.S.C. does not define a statute of limitations, federal courts turn to state statutes for time limitations in "like-kind" causes of action. Regardless, states do not have authority to create statutes of limitations on federal statutes. Due to the fact that this law explicitly affirms: "***Civil actions... brought forth under the federal civil rights statutes***": (1) this subsection of statute does not set time limitations on state suits brought in state courts under state statute, (2) this statute is expressly directed at federal suits, brought in federal courts, under federal statutes, which makes this law unconstitutional. **Congress has never granted power to the various states to set time limit bars on suits in federal courts under federal laws, and TCA 28-3-104 does exactly that – and TCA 28-3-104 is therefore unconstitutional.**

In truth, Tennessee does not have authority to legislate any statute of limitation for any injury caused to a person's land, goods, person, or reputation. Tenn. Const., Art. I, § 17 affirms: "*That all courts shall be open; **and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.***"

"WITHOUT SALE, DENIAL, OR DELAY", means exactly as it reads – "WITHOUT DENIAL". Indeed, any and every "statute of limitation" is an

unconstitutional denial of justice. All statutes of limitations are to say: "Sorry..., you waited too long, so you are DENIED JUSTICE" or, "Sorry..., too bad you didn't know at the time, but now it is too late to seek redress, so you are DENIED JUSTICE". Justice and due course of law are not for sale. Justice and due course of law is not to be denied. Justice and due course of law is not to be delayed. These facts could not have been stated clearer in our state constitution.

Again, State of Tenn. Const., art. X. § 2 affirms:

> I_____ do solemnly swear (or affirm) that as a member of this General Assembly, I will, in all appointments, vote without favor, affection, partiality, or prejudice; and that **I will not propose or assent to any bill, vote or resolution, which shall appear to me injurious to the people, or consent to any act or thing, whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared by the Constitution of this state.**The state constitution explicitly states that legislators are to swear oath to not propose or assent to any bill, or consent to any act or thing, whatever, that shall have a tendency to "**lessen or abridge their rights and privileges**", as declared by the Constitution of this state."

Clearly TCA 28-3-104 unjustly lessons and abridges remedy by due course of law, and administration of justice, and the legislators enacting TCA 28-3-104 are in violation of their oath of office, and therefore TCA 28-3-104 is unconstitutional under the State's constitutional

provisions. It must be obvious that in enacting TCA 28-3-104, the state is circumventing the intent of U.S. Congress's enactment of federal civil rights statutes and lessoning the right of its people to seek redress of harm caused by rights violations and discriminatorily privileged "certain professionals". Perhaps too, the Tenn. Code Comm. "edited" the intent of Congress.

TCA 28-3-104 is also in violation of the equal protection clause of U.S. Const. Amend. XIV § 1, Tenn. Const., art. I. § 30, and U.S. Const. Art. I § 9. TCA 28-3-104(c) clearly grants special privilege to persons of "trust"; attorneys and CPA professionals, while denying that same "privilege" to medical professionals. The title alone of TCA 28-3-104 "Personal tort actions; actions against certain professionals" tells us TCA 28-3-104 is unconstitutional. "Certain Professionals"? What about other professionals? Why aren't other professionals provided equal protection of the law as required by U.S. Const. Amend. XIV § 1? TCA 28-3-104 is nothing more than a "special privilege" granted in violation of federal and state constitution emolument clauses.

TCA 28-3-104 is in violation of U.S. Const. Amendment XIV, equal protection clause. TCA 28-3-104 (c)(1) affirms: "*Actions and suits against licensed public accountants, certified public accountants,* ***or attorneys for malpractice shall be commenced within one (1) year after the cause of action accrued...***" Conversely, there is a larger deadline for medical malpractice lawsuits encoded in TCA 29-26-116: "*In no event shall any such action be brought more than three years after the date on which the negligent act or omission occurred...*" Considering

that the professions of accountancy, medicine, and law are professions that are self-regulated, provide service to society, and require formal education and qualification, the statute of limitations provided in the law should be equal for these professions. Obviously, this law was enacted to eliminate legal malpractice suits, while preserving revenue streams to the legal profession from medical malpractice suits.

The unconstitutional immunities and shorter statute of limitations provided for in TCA 29-20-205 and 28-3-104, are also in violation of the emoluments clause, U.S. Const. art I § 9 in that persons holding office, and or, trust under them are granted special privilege and emolument, as well as Tenn. Const., Art. I, § 30; "That no privileges shall ever be granted or conferred in this state.

TCA 29-20-205 is also in contradiction of TCA 28-3-104 which provides a one-year statute of limitations for false imprisonment, and malicious prosecution, etc. False imprisonment and malicious prosecution are most often tortious actions perpetrated by the state through its "governmental entities" (agents). To provide a statute of limitations in TCA 28-3-104 for false imprisonment and malicious prosecution, and then provide immunity from these torts in TCA 29-20-205 is contradictory statute.

IV. TCA 23-2-102 Attorney Lien on Right of Action is Unconstitutional Under Both State and Federal Constitutions

Tenn. Code Annotated § 23-2-102. Lien on right of action.

Attorneys and solicitors of record who begin a suit shall have a lien upon the plaintiff's or complainant's right of action from the date of the filing of this suit.

U.S. Constitution, Art. I § 9 Clause 8 affirms:

> No title of nobility shall be granted by the United Affirms: and **no person holding any office of profit or trust under them**, shall, without the consent of the Congress, **accept of any present, emolument, office, or title**, of any kind whatever, from any king, prince, or foreign state.

The Constitution of the State of Tennessee, Art. I, § 30 affirms:

> That **no hereditary emoluments, privileges, or honors, shall ever be granted or conferred in this state.**

There can be no doubt, Tenn. Code Ann. § 23-2-102 is an emolument and privilege granted to persons in public trust - Attorneys. Clearly this statute was enacted in violation of State Constitution and U.S. Constitution. Clearly attorneys are a distinct class of persons. There is no doubt Tenn. Code Ann. § 23-2-102 provides an extra protection to a "set of men" in collecting fees not provided to other professions. Therefore, Tenn. Code Ann. § 23-2-102 is not only in violation of emoluments clauses, Tenn. Code Ann. § 23-2-102, was also enacted in violation of Amend XIV, U.S. Const.

Considering enactment of Tenn. Code Ann. § 23-2-102, it becomes apparent that Tennessee has forgotten lessons of the past, and the grievances that caused our nation to declare independence from

Great Britain. It is apparent the legislators who enacted Tenn. Code Ann. § 23-2-102 did not consider Art. I, § 30 of the state's constitution. Perhaps too, the Tenn. Code Comm. "edited" the intent of Congress.

Like any profession, the legal profession should rely on good customer service and a process that does not bankrupt one or both of the parties. This begs the question: "*If attorneys are providing good customer service, why should there be need for enactment of a statute such as Tenn. Code Ann. § 23-2-102?*" Enactment of such a statute is prima facie evidence of a breakdown in the legal system, and attorney clients are either not satisfied with services received, or they are left unable to pay by the process, or both, "*necessitating*" such statute.

In his book, "THE FRATERNITY, Lawyers and Judges in Collusion", The Honorable Judge John Fitzgerald Molloy, details how the legal profession had transformed over the last several decades. Judge Molloy details the most profound transformation occurred as a result of billing practices of the legal profession. Around the year 1947, Judge Molloy's firm billed based on the following factors: "***1)*** *what we had achieved for the client,* ***2)*** *what was the client able to pay, and* ***3)*** *what the client expected to pay." id* p. 3. By the year 1969, all top-rated lawyers began billing on the "time-is-money" concept and thus came into effect today's billing standard of six-minute increments. Judge Molloy stated:

> "And, as this time-is-money concept became gospel, the time necessary to get things done extended wondrously — oh, yes! — wondrously!" p. 5

Judge Molloy then went on to explain how this new "time-is-money" concept, incentivized the legal profession to create new procedural rules, complicating the legal process, "to make less, what lay persons could do for themselves." (establishment of a monopoly).

Not only is TCA 23-2-102 unconstitutional under the state and federal constitutions, TCA 23-2-102 encourages collusion between judges and attorneys to extort unearned attorney's fees under color of law. Appendix Q is a transcript evidencing collusion to extort under color of law and provides a perfect example. In that case, the litigant was extorted more than one-hundred thousand dollars ($100,000) while being denied due process, denied trial by jury, and through criminal threat of force under color of law perpetrated by the judge.

Let us be honest together and recognize glaring facts. The number one complaint filed with the Tennessee Board of Professional Conduct is for exorbitant and fraudulent attorney's fees. Perhaps hereto the Tennessee Code Commission, "enacted" their own legislation, compiling their own "code" into the lawful acts of congress under color of law.

V. TCA 23-3-103 Unauthorized Practice of Law is Unconstitutional Under Both State and Federal Constitutions

Petitioner asserts T.C.A. 23-3-103 is unconstitutional in that it unlawfully establishes a monopoly, and deprives protected rights of due process and remedy by due course of law, provided for in U.S. Const. Amend., XIV, § 1, and Tenn. Const. Art I, § 17. Moreover, as discussed above, the validity

of this "statute" is challenged as discussed above, and may very well be one of the "*codes*" compiled into T.C.A. and not an actual act of congress.

The language of this statute is so restrictive, it too is the equivalent of requiring a medical license to sell aspirin.

> 23-3-101. Chapter definitions.
>
> As used in this chapter, unless the context otherwise requires:
>
> (3) "Practice of law" means the **appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies, or the soliciting of clients directly or indirectly to provide such service**s.

Since the language of T.C.A. 23-3-101 and 23-3-103 is so restrictive, the statute effectively establishes a monopoly in violation of Tenn. Const. Art. I, § 22, "*That perpetuities and monopolies are contrary to the genius of a free state, and shall not be allowed.*"

It is a well-known fact, and the proof will show, that attorneys routinely conspire against their own clients for the purposes of; (1) vexatious litigation to generate unnecessary billable hours, and (2) civil conspiracy for various reasons. It is a further well-known fact, and the proof will show, that attorneys

refuse to provide representation to any person seeking to bring a cause of action against another attorney or member of the BAR, or a member of the judiciary for; (1) tortious acts such as abuse of process, mal-practice, etc., (2) rights violations, or (3) crimes perpetrated under color of law.

It is well-established in Tennessee that litigants have a right of self-representation in Tennessee courts, and Tenn. Const., Art I, § 17 guarantees that all persons, "*for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.*"

In the case, *Meyer v. Nebraska,* 262 US 390 - Supreme Court 1923, it was affirmed:

> **The established doctrine is that this liberty may not be interfered with, under the guise of protecting the public interest**, by legislative action which is arbitrary or without reasonable relation to some purpose within the competency of the State to effect.

In the case, Schware v. Board of Bar Examiners of NM, 353 US 232 - Supreme Court 1957

> **A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment.**

The end result is attorneys and judges who have lobbied for these special emolument privileges, now arrogantly claim they are the only ones entitled to

them which is monopoly leveraging. Members of the BAR use this unconstitutional statute as defense mechanism to protect corrupted proceedings.

> The case law of the United States Supreme Court "**reflect the obvious concern that there be no sanction or penalty imposed upon one because of his exercise of constitutional rights.**" *Gray v. Commonwealth*, Pa: Commonwealth Court 2017

The facts of (1) the unconstitutional conduct of the Tennessee Code Commission "editing" acts of congress, and compiling "codes" purported to be statute, (2) attorneys refusal to represent persons bringing causes of action against attorneys and judges, (3) the lack of objective oversight of the legal profession and judiciary, (4) conspiratorial conduct of members of the judiciary and legal profession in collusion to deprive rights and extort property under color of law through vexatious litigation designed to perpetuate unnecessary billable hours at monopolistic rates, renders THE PEOPLE effectively incapable of defending fundamental rights when the courts have been weaponized against them.

Compound these facts with the purported enactment of T.C.A. 23-3-103, further deprives Citizens and THE PEOPLE, from assistance of counsel outside the membership of the BAR who are the very ones causing them harm. Therefore, T.C.A. 23-3-103 deprives fundamental rights rendering the statute unconstitutional.

UNCONSTITUTIONAL COURT RULES MUST BE RENDERED VOID

Tennessee Rules of Civil Procedure, Rule 38.02: Demand, is unconstitutional and limits an inviolate right to trial by jury. Rule 38.02 states:

> Any party may demand a trial by jury of any issue triable of right by jury **by demanding the same in any pleading specified in Rule 7.01** or **by endorsing the demand upon such pleading when it is filed**, or **by written demand filed with the clerk, with notice to all parties, within fifteen (15) days after the service of the last pleading raising an issue of fact.**

Tennessee Const. Art. I, § 6 affirms: "***That the right of trial by jury shall remain inviolate,*** *and no religious or political test shall ever be required as a qualification for jurors.*" Black's Law Dictionary defines Inviolate as: "Intact; not violated; free from substantial impairment. In the case, Lakin v. Senco Products, Inc., 987 P. 2d 463 - Or: Supreme Court 1999, the Supreme Court of Oregon determined "Inviolate" means the same thing today as it did in the 1800's when the Tennessee Constitution was ratified.

> In 1828, the word "inviolate" meant "unhurt; uninjured; unprofaned, unpolluted; unbroken." Noah Webster, American Dictionary of the English Language, Vol. 1, p. 113 (1828). Although it post-dates adoption of Article I, section 17, in 1889 "inviolate" meant "not violated; free from violation or hurt of any kind; secure against violation or impairment." The Century Dictionary, Vol. III, p. 3174 (1889). **Thus, for purposes of this case, whatever**

> **the right to a jury trial in a civil case meant in 1857, it has the same meaning today.** The plain wording of Article I, section 17, does not answer the question whether the right to a jury trial then meant, and, therefore, now means, that the legislature may not adopt a statute imposing a cap on the amount of noneconomic damages recoverable in a civil case. (at 468)

Tennessee Rules of Civil Procedure, Rule. 38 limits demand for trial by jury unconstitutionally. Just as state congresses cannot adopt a statute imposing a cap that limits a right to trial by jury, neither can the courts impose limits requiring demand in writing or at specified times.

Furthermore, the same conclusions of law stated in Miranda v. Arizona, 384 US 436 - Supreme Court 1966, prove that THE PEOPLE are deprived their inviolate right trial to by jury by never being informed of their right for the purpose of depriving them of their fair due process, and to perpetuate unnecessary billable hours through vexatious litigation. In the Miranda opinion, the Supreme court made clear that the (1) **"accused must be adequately and effectively apprised of his rights and the exercise of those rights must be fully honored,** (2) **The warning of the right to remain silent must be accompanied by the explanation that anything said can and will be used against the individual in court. This warning is needed in order to make him aware not only of the privilege, but also of the consequences of forgoing it,** and (3) **Only through such a warning is there ascertainable assurance that the accused was aware of this right.**

Today, then, there can be no doubt that the Fifth Amendment privilege is available outside of criminal court proceedings and serves to protect persons in all settings in which their freedom of action is curtailed in any significant way from being compelled to incriminate themselves. **We have concluded that without proper safeguards the process of in-custody interrogation of persons suspected or accused of crime contains inherently compelling pressures which work to undermine the individual's will to resist and to compel him to speak where he would not otherwise do so freely. In order to combat these pressures and to permit a full opportunity to exercise the privilege against self-incrimination, the accused must be adequately and effectively apprised of his rights and the exercise of those rights must be fully honored.** Miranda v. Arizona, 384 US 436 - Supreme Court 1966 (at 467)

The warning of the right to remain silent must be accompanied by the explanation that anything said can and will be used against the individual in court. This warning is needed in order to make him aware not only of the privilege, but also of the consequences of forgoing it. It is only through an awareness of these consequences that there can be any assurance of real understanding and intelligent exercise of the privilege. Moreover, this warning may serve to make the individual more acutely aware that he

> is faced with a phase of the adversary system—that he is not in the presence of persons acting solely in his interest. (*id* at 469)
>
> **Accordingly, we hold that an individual held for interrogation must be clearly informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation under the system for protecting the privilege we delineate today. As with the warnings of the right to remain silent and that anything stated can be used in evidence against him, this warning is an absolute prerequisite to interrogation.** No amount of circumstantial evidence that the person may have been aware of this right will suffice to stand in its stead: **Only through such a warning is there ascertainable assurance that the accused was aware of this right.** (*id* at 472).

The exact same argument is true regarding the right of due process and right to trial by jury but THE PEOPLE are never warned, never advised of their rights in "courts of law', and are then so deprived for corrupt purpose, and subjected to the confidence schemes of attorney and judges in collusion.

> Although the confidence man is sometimes classed with professional thieves, pickpockets, and gamblers, he is really not a thief at all because he does no actual stealing. **The trusting victim literally thrusts a fat bank roll into his hands.** It is a point of pride with him that he does not have to steal.

> Confidence men are not "crooks" in the ordinary sense of the word. **They are suave, slick and capable. Their depredations are very much on the genteel side. Because of their high intelligence, their solid organization, the widespread convenience of the law, and the fact that the victim [sometimes] must admit criminal intentions if he wishes to prosecute, society has been neither willing nor able to avenge itself affectively.** (*Scamming: The Misunderstood Confidence Man, Yale Journal of Law & the Humanities p.250*)

As an example, here is a common scam perpetrated by attorneys and judges in collusion. First the targeted victim is identified, and in family court cases, it is typically the high earner, or the person least at fault for the divorce. The first information attorneys require before accepting a divorce case is a detailed listing of assets and liabilities, so they will know exactly how much money can be extracted from the trusting victim(s). The parties, uninformed of the corruption of our courts, and through FALSE PUBLIC TRUST, assume they will be provided fair and impartial proceedings and adherence to the "law". They are never advised of their rights of due process, right to trial by jury, and right to remonstrate grievance of wrongdoing by government officials. As in Miranda, this is a clear deprivation of constitutionally protected rights.

In coordination with opposing counsel, the opposing party makes false and unsupported allegations, often suborned perjury encouraged by an attorney, and upon which the judge in collusion then bases unjust decision. These unjust rulings are made

knowing that the falsely accused party will expend all their emotional and financial resources disproving false and unsupported allegations.

> "No official with an IQ greater than room temperature in Alaska could claim that he or she did not know that the conduct at the center of this case violated both state and federal law. (perjury statutes)" *Hardwick v. County of Orange*, 844 F. 3d 1112 - Ct of App, 9th Cir., 2017 (at 1119).

Continuing in FALSE PUBLIC TRUST, the wrongfully accused, continues to believe that when further evidence is provided to the court, the court (corrupted judge), will then render justice. Typically, it takes as much as one-year passage of time, exposed to corrupted and vexatious litigation, for the wrongfully accused, to finally understand and recognize that no matter what evidence they present, no matter what proper legal argument is made, they will never be provided fair due process, and they will always be denied justice. It is then that they begin to seek redress of grievance by petition to oversight agencies, or suits in federal courts, only to further find all the agencies and courts have been corrupted. It is common sense, that these corrupted practices of the legal profession and judiciary in the trial courts would not be engaged in, except for knowing they can do so with impunity. See Appendix F, for expanded argument.

The first step to combat this corruption of our courts is to advise persons of their rights, including their inviolate right to trial by jury (if necessary).

THE TENNESSEE BOARD OF JUDICIAL CONDUCT IS UNCONSTITUTIONAL TRANSFER OF POWER

The Tennessee Board of Judicial Conduct (TBJC), is a governmental entity that never should have come into being and is repugnant to our Constitution. The TBJC is an unconstitutional transfer of power from the legislature to the judiciary to oversee the judiciary. Article V, § 2 of the Tennessee Constitution affirms: "**The House of Representatives shall have the sole power of impeachment.**", and § 3 of the same Art. further affirms: "**The House of Representatives shall elect from their own body three members, whose duty it shall be to prosecute impeachments.**"

The phrases "shall have **sole power** of impeachment", "**shall elect** from their own body", and "**whose duty** it shall be to prosecute impeachments" could not be clearer. It is the DUTY of the House to prosecute impeachment, and the House is required and "SHALL ELECT" three members to prosecute impeachment.

It is for good reason our Constitution set forth these duties of the House. The House is representative of the people, elected to office, with the solemn responsibility to protect the welfare of their constituents. Conversely, the TBJC's officers and members are appointed and comprised primarily of judges performing duties clearly mandated to the legislature in our constitution, and in violation of Separation of Powers doctrine. Astoundingly, Tenn. Const. Art. II, § 26 affirms: "**No judge of any court of law or equity, shall have a seat in the General Assembly...**" and yet here we have judges in de facto

legislative seats clearly performing the duties of the House, in clear violation of our Constitution. THIS MUST STOP.

Our Constitution states that "All courts shall be open" and while legislative proceedings are conducted in the open and under scrutiny of livestream and recorded video, review of complaints against judges are concealed from public view and the TBJC unconstitutionally operates in the dark so as to preserve FALSE PUBLIC TRUST. Indeed, even the record retention policy of the TBJC, suggests intent to conceal judicial misconduct.

Despite it being the House's responsibility to prosecute impeachments and hear complaints, one can well expect that the judiciary, through the TBJC, will defy the General Assembly and refuse to provide copies of complaints and evidence filed with the TBJC. Petitioner challenges this body to demand review of complaints. The judiciary will likely and falsely assert their contorted view of "separation of powers"

According to Petitioner's research, and the SUMMARY of OVERSIGHT OF JUDICIAL CONDUCT IN TENNESSEE 1971 TO 2011, prepared by the Administrative Office of the Courts, the last time a judge was impeached by the General Assembly was 1958, and prior to the creation of the Judicial Standards Commission (JSC) in 1971, now the TBJC. This is not surprising, since we have the fox watching the hen house, and no judge will take action against another judge, except in corrupted interest, or where there is infighting. Indeed, Supreme Court Justice Gorsuch stated: ""any criticism of his brothers and sisters of the robe is an

attack or a criticism on everybody wearing the robe as a judge."

Your people are suffering greatly. Corrupted judicial proceedings conducted by judges who have no objective oversight are causing great harm. The travesties of our judiciary perpetrated upon our fellow Americans, very often leads to substance abuse to dull the pain of injustice, and all too often leads to suicide and sometimes even vigilante justice. THIS TOO MUST STOP.

In considering proper legislation and quorum to establish the TBJC (or abolish), further consideration should be given to the conduct of the TBJC. I would direct the General Assembly's attention to the fact that the TBJC has not once recommended impeachment, and has dismissed 100% of complaints filed by non-legal professionals. It is a statistical impossibility that 100% of complaints are without merit. See attached Auditor's Compilation proving this fact based on the TBJC's own annual reports (previously provided to US Congress in requested brief and emailed to this General Assembly). That Auditor's Report is not a statistical analysis, but simple addition and subtraction: Complaints received, minus complaints acted upon, equals complaints dismissed.

Tennessee judge, Casey Moreland was arrested by federal authorities and recently sentenced in federal court. Judge Moreland had been on the bench since 1998, and the TBJC admitted to the media, that multiple complaints to the board, against Judge Moreland had been received and dismissed. A USA Today reporter stated in her article: "Documents suggest Moreland had continued control in those cases, and that may be symptom of a larger

problem." Further in that article is a quote of David Cook, a former member of the TBJC: "It could just be a bureaucratic mix-up, but it certainly has every appearance of a conflict and does not inspire confidence in the judicial system."

In a Tennessean news article, it was reported Moreland kept a list of 13 people on his iPhone labeled "witnesses" and he paid more than $6,000 so a woman would recant her allegations against Moreland and he plotted to have drugs planted in her car to be "discovered" in a staged traffic stop. Judge Moreland's wife testified he moved out of their home due to infidelity allegations, was diagnosed with a depressive disorder in 2009, and struggled with mental illness and alcohol abuse. The fact that the TBJC received and dismissed multiple complaints against a judge of such character, evidences the TBJC provides no objective oversight of the judiciary. It is common sense logic that judges would not engage in that type of conduct except for the fact that they know they can do so with impunity, and that the TBJC is not functioning as intended.

It is further suggested to the General Assembly to consider the "return on investment" and work product of the TBJC, and whether the services they provide merit the expense to the state and its citizens. Very likely the caseload of 1.4 complaints per day is manageable by the House. Respectfully, if a few judges are impeached, such as the ones presented herein, it is very probable the rest of the judiciary will begin to conduct themselves with honor, and within the confines of the constitution, and complaints against the judiciary will decrease dramatically.

During preparation of this Petition of Remonstrance, it has come to Petitioner's attention, through members of the bodies, that the General Assembly intends to "sunset" the TBJC, and perhaps transfer that authority to the Supreme Court of Tennessee. Perhaps, this is for the purpose of circumventing this Remonstrance and declaring the issue "moot" as court's often do when forced to adhere to the law of the land and constitutional provisions. Petitioner strongly cautions members of the Senate and House from transferring the authority of the TBJC to the Supreme court as THE PEOPLE can expect more of the same lack of objective oversight in the judiciary having oversight of the judiciary. The Tenn. Const. Art. V, clearly states the House has the sole power of impeachment and it is the duty of the House to oversee the conduct of the judiciary.

THE TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY IS UNCONSTITUTIONAL TRANSFER OF POWER

The Tennessee Board of Professional Responsibility is but yet another unconstitutional mechanism of the BAR and judiciary in collusion, to protect corrupted court proceedings. If an attorney complains about the conduct of a judge, very often that attorney is brought before the discipline counsel under false, and unsupported allegations. The Tenn. Bd. of Prof. Resp. is used by the judiciary to hold the licensure of attorneys hostage when a well-minded attorney calls into question the conduct or integrity of a member of the judiciary, or when an attorney advocates a position "unpopular" to the judiciary.

In subsequent hearings, members of the BAR will present testimony to this General Assembly that they have been retaliated against by members of the judiciary for the purpose of protecting corrupted court proceedings, and or, for taking a position "unpopular" or contrary to judiciary.

In addition to the normal privilege tax imposed by the state, the judiciary also imposes a tax used to fund the Tenn. Bd. of Prof. Resp. This is of course unconstitutional due to the fact that the judiciary does not have lawful authority to impose taxes. It is further alleged that pursuant to lawful act of congress, court rules must be approved by congress, and that Tenn. Sup. Ct. Rule 9: Disciplinary Enforcement, has never been approved by congress, and that the Tennessee Supreme Court is acting outside their jurisdiction and authority.

Again, as referenced above, Tenn. Const. Art VI, § 1 which affirms:

> **The judicial power of this state shall be vested in one Supreme Court and in such Circuit, Chancery and other Inferior Courts as the Legislature shall from time to time, ordain and establish**; in the judges thereof, and in justices of the peace. The Legislature may also vest such jurisdiction in Corporation Courts as may be deemed necessary. Courts to be holden by justices of the peace may also be established.

Also, as referenced above, Black's Law Dictionary defines Judicial Power as follows:

> The authority vested in courts and judges to hear and decide cases and to make binding judgments on them: the power to

construe and apply the law when controversies arise over what has been done or not done under it.

It is the state that licenses attorneys to practice law, not the judiciary or BAR. **The constitution does not grant lawful authority to the judiciary to legislate or oversee licensure of any profession, including the "profession of law".** Only judicial power is granted to the judiciary and no other powers.

In the words of an undisclosed member of the BAR:

> *"The third is about the **intimidation of attorneys**. So Attorney's not only have to pay a privilege tax just like everybody else who has a license which goes to the state treasury, attorneys have to pay the supreme court an additional fee to operate the Board of professional responsibility and then **if they are disciplined they have to pay attorney's fees on top of that**.*
>
> ***And then if they put him on probation the attorney has to pay another attorney to supervise them**.*
>
> ***The power and control that the supreme court has over attorneys is greater than you even understand**.*
>
> *I challenge the constitutionality of the attorney discipline system and of course the supreme court found that it was constitutional."*

This General Assembly should take pause and carefully consider the words of an attorney and member of the BAR: "***The power and control that the***

supreme court has over attorneys is greater than you even understand."

The repugnancy of this concept of the judiciary having power over attorneys who appear before them, is yet another unconstitutional concept that frustrates rational thought and is repugnant to our form of government and in violation of constitutional provisions.

Consider the words of this attorney... "**if they are disciplined, they have to pay attorney's fees on top of that..., And then if they put him on probation the attorney has to pay another attorney to supervise them.**

Very obviously, the judiciary does not have power to legislate. The judiciary only has judicial power (defined above). The judiciary cannot force payment of attorney fees, nor does the judiciary have power to coerce payment to another attorney for supervising them. Effectively, this amounts to extortion under color of law.

Pursuant to Tenn. Const. Art. I, § 8, "***That no man shall be*** *taken or imprisoned, or* ***disseized*** *of his freehold, liberties or privileges,* ***or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers, or the law of the land.***" It is an incontrovertible fact that attorneys are deprived trial by jury in Bd of Prof. Responsibility proceedings. This begs the further question: "Under what lawful authority, and under what law of the land are attorneys subject to in paying attorney's fees, and fees for another attorney to supervise them?" Perhaps one of the "codes" compiled by the Tennessee Code Commission without lawful act of congress?

Having licensure of attorneys subject to the "oversight" of the judiciary and BAR, through an agency controlled by the judiciary, unconstitutionally sets the stage for coercive oversight of well-minded attorneys. Premises considered, the Tennessee Board of Professional Responsibility should be abolished, power returned to the THE PEOPLE inherent in their representation in the House.

Just has the House has the sole power of impeachment, the House and the legislature have oversight of the licensure of all professions, including the profession of law. Also, as stated above:

> Petitioner contends the judiciary has unlawfully taken control over the licensure of attorneys, and that control of licensure provides the judiciary control of the legal profession, and control over the licensure of attorneys who are sitting in legislative seats. **Having this unlawful authority over the licensure of attorneys, provides opportunity and power to the judiciary to coerce votes of attorney members of the houses of the General Assembly in violation of Tenn. Const. Art. II, § 26 through potentially de facto legislative seats and in further violation of the separation of powers doctrine.**

PROPOSED ARTICLES OF IMPEACHMENT AND/OR REMOVAL FROM OFFICE

Pursuant to Tennessee Constitution, Article V, § 1, the **House of Representatives shall have the sole power of impeachment**. Pursuant to Article V, § 4,

judges shall be liable to impeachment, whenever they may commit any crime in their official capacity which may require disqualification but **judgment shall only extend to removal from office, and disqualification to fill any office thereafter**.

Further pursuant to Tennessee Constitution, Article VI, § 6;

> **Judges and attorneys for the state may be removed from office by a concurrent vote of both Houses of the General Assembly**, each House voting separately; but two-thirds of the members to which each House may be entitled must concur in such vote. The vote shall be determined by ayes and noes, and the names of the members voting for or against the judge or attorney for the state together with the cause or causes of removal, shall be entered on the journals of each House respectively. The judge or attorney for the state, against whom the Legislature may be about to proceed, shall receive notice thereof accompanied with a copy of the causes alleged for his removal, at least ten days before the day on which either House of the General Assembly shall act thereupon.

Tennessee Code Ann. § 17-1-104. Oath of office, states as follows:

> Before entering upon the duties of office, **every judge and chancellor in this state is required to take an oath or affirmation to support the constitutions of the United States and that of this state**, and to administer justice without respect of

persons, and impartially to discharge all the duties incumbent on a judge or chancellor, to the best of the judge's or chancellor's skill and ability. The oath shall be administered in accordance with title 8 or any other applicable law.

18 U.S.C § 241 – Conspiracy against rights; If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; They shall be fined under this title or imprisoned not more than ten years, or both;

18 U.S. Code § 242 - Deprivation of rights under color of law Whoever, under color of any law, ..., willfully subjects any person in any State, ... to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ...shall be fined under this title or imprisoned not more than one year

Tenn. Code Ann. § 39-14-112 - Extortion; (a) A person commits extortion who **uses coercion** upon another person with the intent to: (1) Obtain property, services, any advantage or immunity;

IN MAINTENANCE AND SUPPORT OF IMPEACHMENT AGAINST THE FOLLOWING FOR CRIMES AND MISDEMEANOURS AND CONDUCT IN VIOLATION OF OATH OF OFFICE.

I. Judge Joe H. Thompson, Circuit Court Judge, Sumner County

Judge Joe H. Thompson, is Circuit Court Judge for Sumner County at Gallatin, with office located at: 105 Public Square, Gallatin, TN 37066, Phone 615-452-6771.

Incident to his position as a circuit court judge, Joe H. Thompson engaged in criminal and unconstitutional conduct with respect to a litigant that is incompatible with the trust and confidence placed in him as a judge as follows:

Article I

Petitioner John A Gentry was a litigant in a divorce case appearing before Judge Joe H. Thompson.

On numerous occasions, during court proceedings, Judge Thompson repeatedly and grossly deprived Mr. Gentry fair due process, which included deprivation of: right to be heard, right to present evidence, right to confront adverse witness testimony, right to present argument orally. Such conduct is in violation of 18 U.S. Code § 242 and commission of crime while in office.

Wherefore, Judge Joe H. Thompson is guilty of crime and should be removed from office.

Article II

Petitioner John A Gentry was a litigant in a divorce case appearing before Judge Joe H. Thompson.

On two occasions, during court proceedings, Judge Thompson conspired to injure, oppress, threaten, and intimidate free exercise of fair due process. Such conduct is in violation of 18 U.S. Code § 241 and commission of crime while in office.

Wherefore, Judge Joe H. Thompson is guilty of crimes and should be removed from office.

Article III

Petitioner John A Gentry was a litigant in a divorce case appearing before Judge Joe H. Thompson.

On several occasions, during court proceedings, Judge Thompson conspired to extort money under color of law. Such conduct is in violation of Tenn. Code Ann. § 39-14-112 – Extortion, 18 USC § 1951(b)(2), and commission of crime while in office.

Wherefore, Judge Joe H. Thompson is guilty of crimes and should be removed from office.

Article IV

Petitioner John A Gentry was a litigant in a divorce case appearing before Judge Joe H. Thompson.

During court proceedings, Judge Thompson conspired to evade subpoenaed evidence and testimony. Such conduct is in violation 18 USC § 1512 and commission of crime while in office.

Wherefore, Judge Joe H. Thompson is guilty of crimes and should be removed from office.

II. Judge Joseph A. Woodruff

Judge Joseph A. Woodruff is Circuit Court Judge in the Chancery Court For The 21st Judicial District at Williamson County, with office located at: 135 4th Avenue South, Suite 286 Franklin, TN 37064, Phone 615-425-4009.

Incident to his position as a circuit court judge, Joseph A. Woodruff engaged in criminal and unconstitutional conduct with respect to a litigant

that is incompatible with the trust and confidence placed in him as a judge as follows:

Article I

Petitioner Ronna Lyn Ueber was a litigant in a divorce case and ancillary separate cause of action to obtain judgment for collection of attorney fees appearing before Judge Joseph A. Woodruff.

On numerous occasions, during court proceedings, Judge Joseph A. Woodruff repeatedly and grossly deprived Ronna Lyn Ueber fair due process, which included deprivation of: right to be heard, right to present evidence, right to confront adverse witness testimony, right to present argument orally. Such conduct is in violation of 18 U.S. Code § 242 and commission of crime while in office.

Wherefore, Judge Joseph A. Woodruff is guilty of crime and should be removed from office.

Article II

Petitioner Ronna Lyn Ueber was a litigant in a divorce case and ancillary separate cause of action to obtain judgment for collection of attorney fees appearing before Judge Joseph A. Woodruff.

During court proceedings, Judge Joseph A. Woodruff conspired to injure, oppress, threaten, and intimidate free exercise of fair due process. Such conduct is in violation of 18 U.S. Code § 241 and commission of crime while in office.

Wherefore, Judge Joseph A. Woodruff is guilty of crimes and should be removed from office.

Article III

Petitioner Ronna Lyn Ueber was a litigant in a divorce case and ancillary separate cause of action to

obtain judgment for collection of attorney fees appearing before Judge Joseph A. Woodruff.

During ancillary case court proceedings, Judge Joseph A. Woodruff conspired to extort money under color of law. Such conduct is in violation of Tenn. Code Ann. § 39-14-112 – Extortion, 18 USC § 1951(b)(2), and commission of crime while in office.

Wherefore, Judge Joseph A. Woodruff is guilty of crimes and should be removed from office.

Article IV

Petitioner Ronna Lyn Ueber was a litigant in a divorce case and ancillary separate cause of action to obtain judgment for collection of attorney fees appearing before Judge Joseph A. Woodruff.

During court proceedings, Joseph A. Woodruff conspired to accept illegally obtained subpoenaed documents including personal banking information. Such conduct amounts to aiding and abetting criminal conduct and he is guilty as principal of commission of crime while in office.

Wherefore, Judge Joseph A. Woodruff is guilty of crimes and should be removed from office.

Article V

Petitioner Ronna Lyn Ueber was a litigant in a divorce case and ancillary separate cause of action to obtain judgment for collection of attorney fees appearing before Judge Joseph A. Woodruff.

During court proceedings, Joseph A. Woodruff conspired to take jurisdiction in a case where he had none, and then conspired to "create jurisdiction" for the purpose of perpetrating crimes listed in Articles I through IV above, and also to extort through unlawful attorney's fees from both parties.

Wherefore, Judge Joseph A. Woodruff is guilty of crimes and should be removed from office.

Article VI

Petitioner Ronna Lyn Ueber was a litigant in a divorce case and ancillary separate cause of action to obtain judgment for collection of attorney fees appearing before Judge Joseph A. Woodruff.

During court proceedings, Joseph A. Woodruff conspired to issue unlawful arrest warrant, and set excessive bail on an out of state person. Such conduct is in violation of 18 U.S. Code § 241, 242 and commission of crime while in office.

Wherefore, Judge Joseph A. Woodruff is guilty of crimes and should be removed from office.

III. Judge Amanda McClendon

Judge Amanda McClendon is Circuit Court Judge in the Second Circuit for Davidson Country, Tennessee, Twentieth Judicial District, with office located at: 1 Public Square, Suite 506, Nashville, TN 37201, Phone 615-862-5905

Incident to her position as a circuit court judge, Amanda McClendon engaged in criminal and unconstitutional conduct with respect to a litigant that is incompatible with the trust and confidence placed in him as a judge as follows:

Article I

Petitioner John A Gentry was a Plaintiff in a fraud and abuse case appearing before Judge Amanda McClendon.

Judge Amanda McClendon repeatedly and grossly deprived Mr. Gentry fair due process, which included deprivation of: right to be heard, right to present evidence, right to confront adverse witness

testimony, right to present argument orally. Such conduct is in violation of 18 U.S. Code § 242 and commission of crime while in office.

Wherefore, Judge Amanda McClendon is guilty of crime and should be removed from office.

Article II

Petitioner John A Gentry was a Plaintiff in a fraud and abuse case appearing before Judge Amanda McClendon.

Judge Amanda McClendon refused equal protection of the law. Such conduct is in violation of 18 U.S. Code § 241, 242 and commission of crime while in office.

Wherefore, Judge Amanda McClendon is guilty of crime and should be removed from office.

Article III

Petitioner John A Gentry was a Plaintiff in a fraud and abuse case appearing before Judge Amanda McClendon.

During court proceedings, Judge Amanda McClendon conspired to injure, oppress, threaten, and intimidate free exercise of fair due process. Such conduct is in violation of 18 U.S. Code § 241 and commission of crime while in office.

Wherefore, Judge Amanda McClendon is guilty of crime and should be removed from office.

Article IV

Petitioner John A Gentry was a Plaintiff in a fraud and abuse case appearing before Judge Amanda McClendon.

During court proceedings, Judge Amanda McClendon committed fraud upon the court through intentional false application of res judicata and

litigation privilege doctrines. Such conduct is commission of crime while in office.

Wherefore, Judge Amanda McClendon is guilty of crime and should be removed from office.

IV. Tennessee Court of Appeals at Nashville, Appellate Court Judges

Incident to their position as appellate court judges, the Tennessee Court of Appeals judges have engaged in criminal and unconstitutional conduct with respect to all appellate court litigants that is incompatible with the trust and confidence placed in them as a judge as follows:

Article I

The Tennessee Court of Appeals aides and abets rights violations and refuses to enforce perjury statutes and refuses to report judicial misconduct. It is true and incontestable that crimes and rights violations occurring in the lower courts would not occur, except for the intentional gross negligence, and fraud upon the court of the appellate court judges.

Wherefore, all Appellate Court judges are guilty of crimes and should be removed from office.

Article II

The Tennessee Court of Appeals conspired to deprive a litigant fair due process of appellate court proceedings in violation of 18 U.S.C. §§ 241 and 242. See Appendix E Third Cause of Action.

Wherefore, Appellate Court judges are guilty of crimes and should be removed from office.

Article III

The Tennessee Court of Appeals previously issued invoices for "State Litigation Tax" in the amount of $13.75. The bottom of each invoice reads in part: "*Failure to pay the litigation tax within 15 days from the date of this invoice will subject your appeal to dismissal*". Clerks in the Appellate Court Clerk's Office have stated that cases are often dismissed for failure to pay a $13.75 invoice. More recently, the Ct of Appeals has accelerated the pay by date from 15 days to 7 days. There can be no valid business purpose in accelerating payment for "State Litigation Tax" for such a small amount. The fact that cases are dismissed under such circumstance is clear evidence of a confidence scheme and intentional deprivation of constitutionally protected rights in violation of 18 U.S.C. §§ 241 and 242.

Wherefore, Appellate Court judges are guilty of crimes and should be removed from office.

V. Chief Justice of the Tennessee Supreme Court

Justice Jeffrey S. Bivins is Chief Justice of the Supreme Court of Tennessee and Chair of the Tennessee Code Commission, with office located at: Supreme Court Building, Suite 321, 401 7th Avenue North, Nashville, TN 37219.

Incident to his position as Chief Justice, he has engaged in declared acts of tyranny and violation of our most sacred separation of powers doctrine:

Article I

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

Article II

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

Article III

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation.

Article IV

For protecting them, by a mock Trial from punishment for any crimes which they should commit on the Inhabitants of this state.

VI. Attorney General for the State of Tennessee

Attorney General Herbert H. Slatery III is Attorney General & Reporter for the State of Tennessee with office located

Justice Jeffrey S. Bivins is Chief Justice of the Supreme Court of Tennessee and Chair of the Tennessee Code Commission, with office located in Nashville, TN 37202.

Incident to his position as Attorney General, he has engaged in declared acts of tyranny and violation of our most sacred separation of powers doctrine:

Article I

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

Article II

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

Article III

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation.

Article IV

For protecting them, by a mock Trial from punishment for any crimes which they should commit on the Inhabitants of this state.

Article V

For holding himself above the law and above review by any court.

MISCELLANEOUS GRIEVANCE

On or about November 14, 2018, Petitioner visited the office of the Chief Clerk of the House of Representatives, Tammy Letzler, inquiring about in which office a Petition of Remonstrance should filed. Ms. Letzler, informed me that she was unaware of what a Remonstrance was but that she would research and follow up with me at a later time.

On November 15, 2018, Petitioner sent a follow-up thank you email to which no response was received. On November 26, 2018, Petitioner sent another follow-up email, and again, no response was received.

On or about November 28, 2018, having received no communication from Chief Clerk Tammy Letzler, Petitioner again visited her office, and met with her

briefly in the corridor outside her office. During a brief conversation in the corridor, Chief Clerk Letzler informed Petitioner that the last time a remonstrance was filed in the State of Tennessee was in the year 1850. Chief Clerk Letzler suggested to Petitioner that he should introduce a bill to the legislature, apparently suggesting a remonstrance was not the proper way to seek redress of grievances against government policy or government officials.

As evidenced above, it is most certain that a right to redress of grievance by address of remonstrance is a constitutionally provided right. As evidenced above, it is beyond doubt that inherent in the republican character of a state, is the right to petition the government for redress of grievances. This right is fundamental to our form of government and guaranteed in both state and federal constitutions.

The conduct of Chief Clerk Letzler, in ignoring email communication, suggesting Petitioner introduce a bill to the legislature, failing to provide instruction on where to file a remonstrance, strongly suggests intent to deprive a constitutionally guaranteed right of remonstrance, possibly in violation of criminal codes 18 **U.S. Code § 241, and 242.**

At best, the conduct of Chief Clerk Letzler is in violation of oath, and evidences lack of competence in performance of duty. Petitioner respectfully DEMANDS that Chief Clerk Letzler be informed of her duty to preserve rights guaranteed in our constitution, and be responsive to THE PEOPLE to whom she serves.

REFORMS DEMANDED & REDRESS OF GRIEVANCES

I. Impeachment of Those Found Guilty of Crimes Committed While in Office.

Pursuant to Tenn. Const. Art. V, § 1, The House of Representatives shall have the sole power of impeachment. Pursuant to Tenn. Const. Art. V, § 4, judges of the Supreme Court, judges of the inferior courts, and attorneys for the state, shall be liable to impeachment, whenever they may, in the opinion of the House of Representatives, commit any crime in their official capacity which may require disqualification.

The above Proposed Articles of Impeachment allege crimes, declared acts of tyranny, violation of oath of office. The attached appendixes and proof to be further presented prove beyond reasonable doubt, that those accused are guilty of crimes and declared acts of tyranny inflicted upon the inhabitants, Citizens, and PEOPLE of the State of Tennessee.

For their crimes and acts of tyranny, they should be impeached so as to never again hold office in public trust. For the House to discharge or ignore its duty in this regard, is to further subject the inhabitants, Citizens, and PEOPLE of the State of Tennessee to despotism and oppression, thus forsaking the state's republican character in violation of THE CONSTITUTION OF THE UNITED STATES.

Tenn. Const. Art. VI, § 6 further provides the House authority to remove from office, judges and attorneys of the state by concurrent vote of both houses, should they be found to have engaged in conduct incompatible with the trust and confidence placed in them.

II. Drug Testing of Judges & Attorneys

Many professions require drug testing as a prerequisite to employment for good reason. For attorneys and especially judges, mandatory drug tests before taking office, and for attorneys when being licensed to practice must be required. It is further suggested that judges from the pool of the judiciary be randomly selected and tested for illegal substances.

THE PEOPLE should not be subjected to try their cases before judges who may be drug dependent of use illegal substances for obvious reasons.

Since members of the judiciary more commonly come from a more economically privileged class, those members of the judiciary who may use illegal substance recreationally or habitually, are more likely to utilize more expensive illegal substances. An expensive drug habit will likely predispose them to engage in corruption as a means to finance expensive illegal substance use or abuse. Random drug testing will minimize or eliminate the potential for criminal or unconstitutional conduct.

III. Live Stream and Recorded Court Proceedings Must Be Made Available To The Public

Tenn. Const. Art. I, § 17 affirms: "That all courts shall be open". It is for good reason our founders included this protection in our constitution. As stated by U.S. Supreme Court Justice Burger in opinion in the case *Richmond Newspapers, Inc. v. Virginia*:

> **The crucial prophylactic aspects of the administration of justice cannot function in the dark; no community catharsis can occur if justice is "done in a corner [or] in any covert manner."**

> Supra, at 567. It is not enough to say that results alone will satiate the natural community desire for "satisfaction." **A result considered untoward may undermine public confidence, and where the trial has been concealed from public view an unexpected outcome can cause a reaction that the system at best has failed and at worst has been corrupted.** (at 571 - 572).

"Star Chambers", "In Chamber Proceedings", and any and all closed-door sessions of the courts with less than both parties and both counsels present (including pro se litigants), must be declared by session statute unlawful and prohibited. Since our constitution states that all courts shall be open, any and all "In Chamber" and similar closed-door sessions of court are in violation of Tenn. Const. Art. I, § 17 and must be declared so by this General Assembly.

All Court proceedings must be made available to the public via audio visual recorded proceedings, and made available online through the court's website(s). It is a false statement to assert "it costs too much" considering the 2018-2019 budget includes $1,000,000 for the single purpose of "Courtroom Security: To provide non-recurring funding for grants to counties to implement or improve security systems in courtrooms." What better way to improve courtroom security than to ensure justice is served fairly through truly open courts, thus minimizing the need for courtroom security?

Further false arguments of protecting victims, juveniles, etc. can be addressed through the use of aliases and other similar measures.

On July 9, 2018, Senator Grassley, chairman of the Senate Judiciary Committee, made the case in a video address for increasing transparency and confidence in the federal judiciary by allowing cameras in federal courtrooms.
https://www.facebook.com/grassley/videos/10156439972170797/UzpfSTEwMDAwODI5NTAwNzg0Njoy Mjc5NTEzODg5MDAxNzU2/

In his video address, Senator Grassley states:

> *"... it brings transparency, it brings an educational opportunity, so I think it is about time we have rules mandating cameras in the courtroom, including the Supreme Court here so people can see how the judicial branch of government functions, so they can be educated about it, but the more important thing is to have respect for the judicial branch and in turn greater respect for rule of law."*

If somehow the state does not desire to makes its courts safe for the people by installing audio/visual equipment, the legislature must declare it illegal in session statute, to prohibit litigants from providing their own audio-visual equipment. Many courthouses in Tennessee, post rules that cameras and recording equipment are not permitted. Some courthouses require permission of the court to record court proceedings in violation of Tenn. Const. Art. I, § 17.

The General Assembly must declare in session statute that it is unconstitutional to prohibit or

require permission to record court proceedings. The General Assembly must take action to begin outfitting all courtrooms with audio-visual equipment and make recorded proceedings available to the public online.

IV. All Courts Shall be open, and the Tennessee Court of Appeals Should Not Conceal The Record from Public Access.

The Tennessee Court of Appeals is operating unconstitutionally by concealing the record from public view. On the Court of Appeals website, at the court's "discretion", many documents are concealed, and not made available to the public for viewing or download. Many documents are not made available so as to hide the misconduct of attorneys and judges that occurs in the lower courts.

Recently Petitioner was notified that the record in his own personal case was to be destroyed but that he could withdraw the record if desired. Petitioner notified the appellate court of his desire to withdraw the record.

While standing at the counter in the Clerk's Office of the Court of Appeals at Nashville, to withdraw the record, the clerks removed all the motions, briefs, and orders from the record, prior to turning over the record to Petitioner. Petitioner inquired if he could also have the motions, briefs, and orders since those documents too were part of the record. The clerk responded, that those documents were the property of the court and would not be released. Inquiring further if those documents were to be retained by court, Petitioner was informed that the documents would be destroyed. This fact renders the Tennessee Court of Appeals as NOT a COURT OF RECORD due to the facts that certain documents are excluded from

the online record at the "discretion" of the court and clerk's office, and that those documents excluded from the electronic record are ultimately destroyed, thus rendering the Court of Appeals NOT A COURT OF RECORD.

The General Assembly must declare in session statute that the Tennessee Court of Appeals is to make ALL DOCUMENTS (Appellant/Appellee Briefs, Motions, Memorandums, Orders, etc.) available online for public viewing and download and maintain a complete permanent record electronically available to the pubic. Our federal courts already do this via the Public Access To Court Electronic Records (PACER) website and database.

V. Litigants Must Be Advised Of Their Right Of Due Process

Respectfully stated, this DEMAND, cannot rightfully be denied by the General Assembly, and must be put into effect immediately. Upon presentation of Remonstrance, Petitioner moves for a vote of the joint houses of the Senate and House.

As stated above: In the Miranda opinion, the Supreme court made clear that the (1) **"accused must be adequately and effectively be apprised of his rights and the exercise of those rights must be fully honored,** (2) **The warning of the right to remain silent must be accompanied by the explanation that anything said can and will be used against the individual in court. This warning is needed in order to make him aware not only of the privilege, but also of the consequences of forgoing it,** and (3) **Only through such a warning is there ascertainable assurance that the accused was aware of this right.**

In the same basis as stated in opinion of the Supreme Court of the United states in Miranda,

litigants must be advised of their right of due process which includes: (1) Right to be heard, (2) Right to Present Evidence, (3) Right to confront adverse witness testimony, (4) Right to fair and impartial court, (5) Right to trial by jury in civil cases and at any time the impartiality of the court is questioned.

CONSTRUCT & PROCESS

Upon commencement of any and all litigation, both civil and criminal, all parties to any case, both Defendant(s) and Plaintiff(s) must be advised and acknowledge advisement and understanding, in writing, of their constitutionally protected rights. This writing is to be evidenced by their signature and witnessed by a member of the court, and recorded permanently into the court of record.

BEGIN DOCUMENT

Rights retained by THE PEOPLE in all courts.

Tenn. Const. Art. I, § 17: That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.

Due course of law means you have a right of DUE PROCESS. Essential elements of DUE PROCESS as determined by the Supreme Court of the United States include the following:

- You have a right to be heard;
- You have a right to present evidence according to the rules of evidence;
- You have a right to present your evidence orally;
- You have a right to confront adverse witness testimony of ANY person(s) face to face;

- You have an inviolate right to trial by jury in both civil and criminal cases;
- You have a right to a fair and impartial court;
- You have a right to record proceedings with audio/visual equipment if not provided by the court;
- If in your own opinion, and at any time, if you feel you are being deprived a fair and impartial court (JUDGE), you have a right to stop proceedings and STAY ALL ORDERS, and DEMAND TRIAL BY JURY;
- It is a federal crime to violate constitutionally protected rights under 18 U.S.C. §§ 241 and 242.
- If you have evidence beyond doubt that a member of the judiciary has violated any of these rights, you have a right to Petition of Remonstrance to seek impeachment of any judge to be filed with the Clerk's Office of the House of Representatives.

Do you understand these rights? If you understand your rights presented above, acknowledged so by your signature.

Litigant Name Printed: _____

Litigant Signature: _____

Witness Name Printed: _____

Witness Signature: _____

END DOCUMENT

VI. Unconstitutional Statutes Granting Emolument, Providing False Immunities, and Usurping Rights Are Void

As discussed above, statutes challenged must be made void or repealed. When the constitutionality of a state statute is challenged, the challenge is presented first to the state Supreme Court. Due to the fact that the Chief Justice of the Tennessee Supreme Court is a member of the Tennessee Code Commission, who edits, compiles, and organizes the Tennessee Code Annotated, and certifies acts of state congress placing them if force, the Tennessee Supreme Court is incapable of impartial review. Therefore, it will fall to the Supreme Court of the United States to review and make determination, should the General Assembly decide not to void/repeal.

VII. Oversight of the Judiciary Must Be Restored to the House

ARTICLE V. Impeachments. § 1. The House of Representatives shall have the sole power of impeachment. The process of Remonstrance and Demand for Impeachment for crimes should be put in place and streamlined.

This process should include the following:

- Complaint is to be accepted by the House of Representatives. It is suggested committee(s) be put in place by the House to review complaints.
- The "voting members" of the committee(s) should never include a member who is an attorney due to clear conflict of interest. An attorney may be a part of the committee to provide advisement.

- Petitioners have a right to attend proceedings and present orally.
- If the committee determines a complaint is without merit, the complainant has a right to petition either the full House, or request review by a jury of twelve (12) from the jury pool, with proceedings to be conducted in the House Hearing Rooms, with House member oversight. If the jury concurs that the complaint has merit, the petition is presented to the House for vote.
- If crimes are evidenced and the House concurs that crimes are evidenced, impeachment proceedings should commence under Art. V.
- If the conduct complained of is such that it is incompatible with the trust and confidence placed, then removal proceedings should commence under Art. IV, § 6.

VIII. Licensure of Attorneys Must Be Restored To the Legislature & Tenn. Bd. of Prof. Resp. Abolished

For reasons stated above, the Tennessee Board of Professional Responsibility must be abolished. The state must create a new agency with oversight and/or controlled by the House.

IX. The Tennessee Code Commission Must Be Abolished

For obvious reasons stated above, the Tennessee Code Commission must be abolished. The entire Tennessee Code must be reviewed to ensure the Code reflects the lawful acts of congress. Repealed statutes must be reviewed to make determination of lawful repeal. The compilation, structure, etc. of the Tennessee Code must be restored to the General

Assembly, or Secretary of State. It is respectfully suggested to follow the process used in publishing of the United States Code.

X. Performance Measurements of Judges Must Be Put In Place

Blind surveys mandatory by litigants, court workers, attorneys, members of juries should be put in place. There is a common phrase of varying sorts by different groups. In business the phrase might be; "What gets measured, gets managed" or "Measure what you treasure"

Perhaps law students attend court proceedings and complete survey. Perhaps CPE credits for attorneys who court watch and complete surveys.

The results of surveys should be made available to the public online and reviewed on a regular basis by the House.

XI. Personal Redress of Grievance Demanded

Your petitioner John Anthony Gentry has suffered grievous loss due to the failure of the state to provide him fair and impartial courts, and due to the repeated and gross violations of his protected rights by state officials. Petitioner therefore, respectfully and humbly requests the state to reimburse him all of his litigation and court costs (including attorney fees paid), incurred in both state and federal courts. As a Certified Public Accountant, Petitioner is well capable of providing detailed listing of costs and fees incurred, supported by credit card and bank statements and receipts. Petitioner anticipates this reimbursement to total less than Fifty-thousand dollars ($50,000). Considering the emotional and financial devastation caused by state officials, and countless hours spent over several years, researching, writing complaints,

memorandums, motions, appeals, this should be considered a very humbly sought redress.

Petitioner further requests the General Assembly to declare the judgments of Judge Amanda McClendon, in Case No. 16C2615, void for fraud on the court and false application of law, and civil conspiracy to deprive equal protection and due process of law. Petitioner seeks this redress so that he may bring suit once again, before a jury of peers and a fair and impartial court to seek redress for fraud, constructive fraud, civil conspiracy, deprivation of rights, abuse of process, and intentional infliction of emotional anguish against the perpetrators Pamela Anderson Taylor and Brenton Hall Lankford. It is due to the criminal and tortious conduct of Pamela Anderson Taylor and Brenton Hall Lankford, that this matter is now brought before this Honorable General Assembly.

Respectfully Submitted,

John Anthony Gentry, CPA
208 Navajo Court
Goodlettsville, TN 37072
johng@wethepeoplev50.com
(615) 351-2649

Oath

State of Tennessee)

County of _____)

I, John Anthony Gentry, after being first duly sworn according to law, do hereby make oath and affirm that all statements included in this PETITION OF REMONSTRANCE and attached appendixes, are true and correct to the best of my knowledge, information and belief

_____
John Anthony Gentry

Sworn to and subscribed before me, this
the _____ day of _____, 2019

Notary Public

My Commission Expires _____

Appendix G

CONSTITUTION OF THE UNITED STATES (excerpts)

Constitution of the United States, Art. IV Section 4

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Constitution of the United States, Art. VI, ¶ 3

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, **and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution**; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Constitution of the United States, Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or **abridging** the freedom of speech, or of the press; or **the right of the people** peaceably to assemble, and **to petition the government for a redress of grievances.**

Constitution of the United States, Amendment XIV, Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor **shall any state deprive any person of** life, **liberty**, or property, **without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**

TENNESSEE CONSTITUTION (excerpts)

Tennessee Constitution, Art. I Section 1

That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of those ends **they have at all times, an unalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.**

Tennessee Constitution, Art. Section 2

That government being instituted for the common benefit, the doctrine of nonresistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

Tennessee Constitution, Art. I Section 23

That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address of remonstrance.

Tennessee Constitution, Art. X Section 2

Each member of the Senate and House of Representatives, shall before they proceed to business take an oath or affirmation to support the Constitution of this state, and of the United States and also the following oath: **I_____ do solemnly swear** (or affirm) that as a member of this General Assembly, I will, in all appointments, vote without favor, affection, partiality, or prejudice; and **that I will not propose or assent to any bill, vote or resolution, which shall appear to me injurious to the people, or consent to any act or thing, whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared by the Constitution of this state.**

Tennessee Constitution, Art. XI Section 16

The declaration of rights hereto prefixed is declared to be a part of the Constitution of the state, and shall never be violated on any pretense whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained, is excepted out of the general powers of the government, and shall forever remain inviolate.