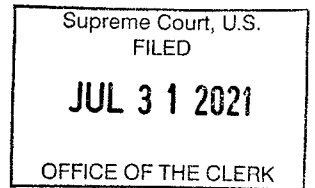


No. 21-162



IN THE SUPREME COURT OF THE UNITED STATES

MARK LEE WILLIAMS – PETITIONER

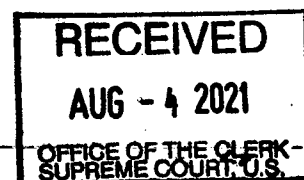
vs.

ARIZONA STATE BAR – RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO THE
ARIZONA SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI

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Pro Se Petitioner



QUESTIONS PRESENTED FOR REVIEW

1. Whether Petitioner was denied his right to notice and Due Process in Arizona bar disciplinary proceedings?
2. Whether the Arizona Supreme Court and Respondent violated Petitioner's right to Due Process and notice of the charges by filing and using a bar complaint which conflicts with relevant decisions of this Court?
3. Whether the Arizona Supreme Court and Respondent violated Petitioner's right to Due Process by ignoring the Respondent's burden to file a complaint that complies with Petitioner's right to Due Process and shifting that burden which conflicts with relevant decisions of this Court?
4. Whether the Arizona Supreme Court and the Hearing Panel violated Petitioner's right to notice and Due Process by finding 6 ER violations based on statutes and rules not cited in the Respondent's defective bar complaint?
5. Whether the Arizona Supreme Court decided negatively what is required of the contents of a bar complaint to satisfy an attorney's right to notice and Due Process which is an important issue that has not been, but should be, settled by this Court?
6. Whether the Arizona Supreme Court decided negatively what is required of the contents of a bar complaint to satisfy an attorney's right to notice and Due Process in a way that conflicts with the decisions of the California Supreme Court and Oregon Supreme Court?

PARTIES TO THE PROCEEDING

The Pro Se Petitioner (Appellant below and Respondent in the bar proceedings at issue below) is Mark Lee Williams, an attorney in the State of Arizona, a citizen of the United States and the great State of Arizona.

The Respondent (Appellee below and Plaintiff in the bar proceedings at issue below) is the State Bar of Arizona.

LIST OF ALL PROCEEDINGS DIRECTLY RELATED

OFFICE OF THE PRESIDING DISCIPLINARY JUDGE Case No.: PDJ2019-9058, IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA, MARK LEE WILLIAMS, Bar No. 022096. Decision and Order Imposing Sanctions FILED FEBRUARY 27, 2020.

SUPREME COURT OF ARIZONA Case No.: SB-20-0017-AP, In the Matter of a Member of the State Bar of Arizona, MARK LEE WILLIAMS, Attorney No. 22096. AMENDED DECISION ORDER FILED 03/05/2021, ORDER denying Motion for Reconsideration of March 5, 2021, Amended Decision Order FILED 04/14/2021.

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PETITION FOR A WRIT OF CERTIORARI

Mark Lee Williams ("Petitioner") respectfully petitions for a writ of certiorari to review the judgment (App. 2-5) in this case of the Arizona Supreme Court

OPINIONS BELOW

The Arizona Supreme Court entered judgment (Amended Decision Order) on March 5, 2021 and is unpublished. (App.2-5). The court denied Petitioner's motion for reconsideration of March 5, 2021 Amended Decision Order on April 14, 2021 and is unpublished. (App. 255-256). The Decision and Order Imposing Sanctions filed on February 27, 2020 is unpublished. (App. 12-49).

JURISDICTION

The Arizona Supreme Court entered judgment (Amended Decision Order) on March 5, 2021. (App.2-5). The court denied Petitioner's motion for reconsideration of March 5, 2021 Amended Decision Order on April 14, 2021. (App. 255-256). On March 19, 2020 the U.S. Supreme Court issued administrative order which extended by 150 days the deadline to file a petition for writ of certiorari due on or after March 19, 2020. This Court has jurisdiction under 28 U.S.C. §1257.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fifth Amendment to the U.S. Constitution provides in relevant part: "No person shall... be deprived of life, liberty or property, without due process of law...."

Section 1 of the Fourteenth Amendment to the U.S. Constitution provides in relevant part: "No state shall... deprive any person of life, liberty, or property without due process of law...."

Article 2, Section 4 of the Arizona Constitution provides: “No person shall be deprived of life, liberty, or property without due process of law.”

INTRODUCTION

Petitioner’s case raises a question of first impression that is of nationwide importance: *What must a bar disciplinary complaint contain in order to satisfy an attorney’s right to notice and Due Process?* This particular issue has never been interpreted by this Court. States such as California (with its Rule 5.41, Rules of Procedure of the State Bar of California) and Oregon (with its Rule 4.1 and Rule 13.1, Rules of Procedure) have already answered this question.

This case has broad legal significance for lawyers in bar disciplinary proceedings across the United States and addresses attorneys’ rights to Due Process in bar disciplinary proceedings.

The present case involving Pro Se Petitioner attorney Mark Lee Williams represents a regrettable example of how an attorney in bar proceedings can have his rights to notice and Due Process guaranteed by the 5th and 14th Amendments to the U.S. Constitution *violated* by a constitutionally defective bar complaint (App. 50-56) that failed to give fair notice of the conduct that allegedly constituted a violation of each of the 6 Ethical Rules (ER) and failed to cite the alleged rules/statutes that were violated, and by disciplinary proceedings that were not conducted according to Federal (Due Process) and Arizona law.

Sadly, the record and the decisions below demonstrate that, the Arizona Supreme Court and the disciplinary Hearing Panel (which is comprised of 3 people

of which is the Presiding Disciplinary Judge) (hereinafter “PDJ”) abused their discretion and reached clearly erroneous decisions in violation of Petitioner’s right to Due Process that resulted in them finding 6 ER violations resulting in a 30-day suspension from the practice of law, 2 years of probation, a fine the amount of \$4,704.63 with interest, notification to the public, and other sanctions.

A review of the record and decisions below will make it clear to this Court that the March 5, 2021 Amended Decision Order (App. 2-5) and March 3, 2021 Decision Order (App. 6-9) of the Arizona Supreme Court and the Decision and Order Imposing Sanctions (App. 12-49) of the PDJ should all be set aside and vacated and the constitutionally defective bar complaint (App. 50-56) dismissed with prejudice.

The judgment (App. 2-5) of the Arizona Supreme Court will have wide ranging and destructive effects for attorneys in bar disciplinary proceedings in Arizona.

This Court should be persuaded by California’s and Oregon’s interpretation of their rules of procedure concerning the contents of their bar disciplinary complaints. The wording that California and Oregon have adopted that is contained in their rules of procedure to guarantee Due Process to attorneys, is significantly different and justifies this Court following California’s and Oregon’s interpretation of the Due Process requirements.

STATEMENT

Respondent commenced disciplinary proceedings against Petitioner by filing a constitutionally defective bar complaint (App. 50-56) on August 20, 2019 that

failed to give Petitioner fair notice of the charges and deprived Petitioner of his federal right to Due Process guaranteed by the 5th and 14th Amendments to the U.S. Constitution.

The Respondent's constitutionally defective bar complaint is at App. 50-56.

Petitioner filed his response to the constitutionally defective bar complaint App. 72-77.

An Initial Case Management Conference was held on October 2, 2019 and the Order from that Conference set a motions deadline of November 1, 2019 and a Hearing [trial (hereinafter "Hearing")] date of December 2, 2019.

On November 25, 2019, Petitioner filed and served his Separate Prehearing Memorandum which identified to the Hearing Panel and Respondent the specific constitutional defects in the complaint and for each of the 6 alleged ER violations. (App. 78-87)

An expedited hearing conference was held on November 27, 2019 and the Order from that conference set the motions deadline for December 6, 2019 and reset the Hearing on the matter, to January 15, 2020.

Respondent failed to file a motion to amend the constitutionally defective complaint by the December 6, 2020 motion's deadline.

A Hearing was held on January 15, 2020. Respondent failed to seek an amendment to the constitutionally defective complaint before or at the Hearing and failed to seek an amendment to the pleadings.

At the beginning of the January 15, 2020 Hearing Petitioner made an oral motion to dismiss the defective complaint but the PDJ would not consider it nor allow Petitioner to make a record:

“And before I making my opening comment, I had a preliminary motion that I was hoping to run by you that concerns this action. ... I would call it a Motion to Dismiss some or all of the allegation in the Complaint. If I could be heard on that?

PRESIDING DISCIPLINARY JUDGE: You’re too late for that. We’re at the hearing.

MR. WILLIAMS: Could I make an offer of proof for the record?

PRESIDING DISCIPLINARY JUDGE: Nope.” (App. 94 lines 20-25 to App. 95 lines 1-4)

At the conclusion of the January 15, 2020 Hearing Petitioner argued in his closing argument regarding the failure to provide notice and Due Process to Petitioner.

On February 27, 2020 the Hearing Panel issued its Decision finding 6 ER violations (many based on rules not cited in the complaint) and imposing a suspension of 6 months and 1 day along with other sanctions App 12-49.

Petitioner timely made his appeal to the Arizona Supreme Court on March 9, 2020 from the Hearing Panel’s Decision App. 88-89.

On March 17, 2020 the PDJ granted Petitioner’s request for a stay with conditions of supervision while the matter proceeded to the Arizona Supreme Court on appeal. (App. 10-11).

Petitioner timely filed his transcript of the and January 15, 2020 Hearing select portions of which are at App. 90-101.

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Petitioner filed October 8, 2020 his Opening Brief with the Arizona Supreme Court at App. 102-143 and raised the violations of his right to Due Process on pages App. 103, 105, 109, 111, and 113-120.

Petitioner on December 9, 2020 filed his Reply Brief at App. 144-173 with the Arizona Supreme Court and raised the violations of his right to Due Process on pages App.145, 146, 149-151, 155, 157, 158, 162, and 166-171.

On March 3, 2021 the Arizona Supreme Court issued its Decision Order (App. 6-9).

On *March 5, 2021* the Arizona Supreme Court issued its Amended Decision Order (App. 2-5) which rejected Petitioner's Due Process arguments stating:

"First, Respondent [Petitioner] argues that he was denied due process in the discipline proceedings because the complaint failed to give fair notice of the conduct and charges...

On these facts, Respondent [Petitioner] has not demonstrated that he was denied fair notice of the charges.

The allegations in the Complaint are straightforward and, except for the ER 1.4 charge, it is clear which facts relate to which charged ethical rule." (App. 2).

The Arizona Supreme Court *granted* Petitioner's Appeal and in the process reduced the suspension from 6 months and a day to 30 days effective 30 days from March 5, 2020, ordered 2 years of probation, ordered compliance with Rule 72, Arizona Rules of Supreme Court (which required in pertinent part for Petitioner to withdraw from his then current cases and notify his clients, opposing counsel, and the courts of his suspension within 10 business days of March 5, 2021 and ordered costs to be paid by Petitioner. (App. 4-5).

Respondent filed its Statement of Costs and Expenses (App. 193) and its Statement of Costs and Expenses seeking \$4,704.63. (App. 194).

Petitioner filed his Objections to the Statement of Costs and Expenses. (App. 195-204).

Respondent filed its Response to Objections to Statement of Costs and Expenses. (App. 205-211).

The Arizona Supreme Court issued its Order dated March 30, 2021 denying Petitioner's objections and awarding Respondent judgment in the amount of \$4,704.63 together with interest. (App. 212-213).

Petitioner filed his Motion for Reconsideration of March 5, 2021 Amended Decision Order with the Arizona Supreme Court. (App. 214-254) and raised the issue that to satisfy an attorney's right to Due Process in bar disciplinary hearings a bar complaint in California must comply with "Rule 5.41, of the Rules of Procedure of the State Bar of California and in Oregon a bar complaint must comply with Bar Rule 4.1. which both provide Due Process while Arizona does not.

On April 14, 2021 the Arizona Supreme Court issued an order (App. 255-256) denying Petitioner's Motion for Reconsideration of March 5, 2021 Amended Decision Order stating: "Upon consideration of Respondent's [Petitioner's] "Motion for Reconsideration of March 5, 2021 Amended Decision Order," **IT IS ORDERED** denying the motion." (App. 255).

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REASONS FOR GRANTING THE PETITION

This Court's review is warranted because the decision of the Arizona Supreme Court deprived Petitioner of his right to notice and Due Process in his bar disciplinary proceedings. The Arizona Supreme Court has effectively decided that allegations of misconduct in a bar complaint are not required to be related nor connected to the ethical rules allegedly violated to satisfy an attorney's right to notice and Due Process and this question has not been, but should be, settled by this Court. This Court should review the March 5, 2021 Amended Decision Order of the Arizona Supreme Court, and set aside that decision.

This Court should address the express split between California and Oregon on the one hand, and Arizona on the other, regarding what contents must a state's bar complaint have in order to comply with an attorney's right to notice and Due Process in bar disciplinary proceedings and resolve that question in favor of applying Rule 5.41, of the Rules of Procedure of the State Bar of California.

I. PETITIONER WAS DENIED HIS RIGHT TO NOTICE AND DUE PROCESS IN ARIZONA BAR PROCEEDINGS

A. The Arizona Supreme Court and Respondent have violated Petitioner's right to Due Process and notice of the charges by filing and using a bar complaint which conflicts with relevant decisions of this Court.

An attorney is guaranteed a right to Due Process in bar disciplinary proceedings.

The 14th Amendment to the U.S. Constitution states:

"Section 1.

... 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.” [Emphasis added]

The 5th Amendment to the U.S. Constitution states:

“No person shall ... be deprived of life, liberty, or property, without due process of law” [Emphasis added]

In the case of *Konigsberg v. State Bar of California*, 353 U.S. 252 (1957) this Court found a violation of Due Process in violation of the Fourteenth Amendment and stated:

“While this is not a criminal case, its consequences for Konigsberg take it out of the ordinary run of civil cases. The Committee’s action prevents him from earning a living by practicing law. This deprivation has grave consequences for a man who has spent years of study and a great deal of money in preparing to be a lawyer.” *Id.* at 257-258.

As in *Konigsberg*, Petitioner’s bar case is not a criminal case; however, the consequences take the case out of the ordinary run of civil cases. The March 5, 2021 Amended Decision Order of the Arizona Supreme Court (App. 2-5) prevented Petitioner from earning a living by practicing law for thirty days commencing April 5, 2021, placed Petitioner on 2 years of probation, and fined Petitioner over \$4,704.63 with interest, and is reporting this negative information against Petitioner in the Arizona State bar’s website. This deprivation has grave consequences for Petitioner, a man who has spent many years of study, 17 years in the practice of law, and a great deal of money preparing for and being a lawyer.

The March 5, 2021 Amended Decision Order of the Arizona Supreme Court (App. 2-5) and Decision of the Hearing Panel (App. 12-49) should be vacated and the constitutionally defective bar complaint (App. 50-56) dismissed with prejudice

because the decisions and defective bar complaint violated Petitioner's right to Fair Notice/Due Process guaranteed by the 5th and 14th Amendments to the U.S. Constitution and contradict this Court's holdings in *Schware v. Board of Bar Examiners*, 353 U.S. 232 (1957) and *Matter of Ruffalo*, 390 U.S. 544, 550-551, 88 S.Ct. 1222, 1226, 20 L.Ed.2d 117 (1968).

This Court held in the case of *Schware v. Board of Bar Examiners*, 353 U.S. 232 (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." *Id.* at 238-239.

In *Matter of Ruffalo*, 390 U.S. 544, 550-551, 88 S.Ct. 1222, 1226, 20 L.Ed.2d 117 (1968), this Court held that an attorney charged with unethical conduct is entitled to procedural due process which *includes*, but is not limited to, fair notice of the charge *before* the proceedings commence:

"He is accordingly entitled to procedural due process, which includes fair notice of the charge. See *In re Oliver*, 333 U.S. 257, 273, 68 S.Ct. 499, 507, 92 L.Ed. 682....

These are adversary proceedings of a *quasi-criminal nature*. Cf. *In re Gault*, 387 U.S. 1, 33, 87 S.Ct. 1428, 1446, 18 L.Ed.2d 527. The charge must be known before the proceedings commence." [Emphasis added]

This Court held that quasi-criminal proceedings, like attorney discipline trigger procedural due process because attorneys have a property interest in their licenses to practice law, procedural due process is more than just a hearing and "it is not satisfied by merely formal procedural correctness, nor is it confined by an absolute rule such as that which the Sixth Amendment contains in securing to an

accused the assistance of counsel for his defense.” *Foster v. Illinois*, 332 U.S. 134, 136 (1947).

The Respondent’s bar complaint is at App. 50-56 and violates Petitioner’s right to Notice and Due Process because the complaint contains a total of 13 paragraphs, the first 12 paragraphs contain 25 sentences which make up the factual allegations of misconduct and none of those sentences nor the first 12 paragraphs are related nor connected to any of the 6 ethical rules (ER 1.1, ER 1.3, ER 1.4, ER 3.1, ER 3.4(c), nor ER 8.4(d)) listed in paragraph 13. Respondent’s paragraph 13 merely states: “Respondent’s conduct [stated in the first 25 sentences in paragraphs 1-12] violated ERs 1.1, 1.3, 1.4, 3.1, 3.4(c), and 8.4(d).” (App. 53).

Which and how many of the first 12 paragraphs and/or 25 sentences were alleged to have violated ER 1.1? ER 1.3? ER 1.4? ER 3.1? ER 3.4(c)? ER 8.4(d)?

The defective complaint’s complete failure to give Petitioner the required procedural Due Process with fair notice is especially damaging with respect to ER 1.4 (App. 61-63) because it has 3 sections (a-c) and 1 section (a) has 5 subsections (1-5): the defective Complaint failed to give Petitioner fair notice of which **section** and or **subsection** of ER 1.4 he allegedly violated (App. 53.)

The defective Complaint failed to give Petitioner fair notice of the alleged **conduct** that was “prejudicial to the administration of justice” which ER 8.4(d) proscribes. (App. 68).

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Like charges in a criminal complaint, each of the 6 ERs (ER 1.1, ER 1.3, ER 1.4, ER 3.1, ER 3.4(c), nor ER 8.4(d)) in paragraph 13 contain different and distinct elements.

ER 1.1. Competence states:

“A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” (App. 57-58).

Which of the 25 sentences of allegations contained in the first 12 paragraphs of the defective complaint give notice to Petitioner as to how he is alleged to have violated ER 1.1? *The answer is none. Respondent failed to give notice to Petitioner.*

ER 1.3. Diligence states:

“A lawyer shall act with reasonable diligence and promptness in representing a client.” (App. 59-60).

Which of the 25 sentences of allegations contained in the first 12 paragraphs of the defective complaint give notice to Petitioner as to how he is alleged to have violated ER 1.3? *The answer is none. Respondent failed to give notice to Petitioner.*

ER 1.4. Communication states:

“(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in ER 1.0(e), is required by these Rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter;
- (4) promptly comply with reasonable requests for information; and

- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
- (c) In a criminal case, a lawyer shall promptly inform a client of all proffered plea agreements." (App. 61-63).

Which paragraph of ER 1.4 did Petitioner allegedly violate? Was it paragraph (a)? (a)(1)? (a)(2)? (a)(3)? (a)(4)? (a)(5)? (b)? (c)? ***Respondent failed to identify the section.***

Which of the 25 sentences of allegations contained in the first 12 paragraphs of the defective complaint give notice to Petitioner as to how he is alleged to have violated ER 1.4? ***The answer is none. Respondent failed to give notice to Petitioner.***

ER 3.1. Meritorious Claims and Contentions states:

"A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous, which may include a good faith and nonfrivolous argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established." (App. 64-65).

Which of the 25 sentences of allegations contained in the first 12 paragraphs of the defective complaint give notice to Petitioner as to how he is alleged to have violated ER 3.1? ***The answer is none. Respondent failed to give notice to Petitioner.***

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ER 3.4. Fairness to Opposing Party and Counsel states:

“A lawyer shall not:...

(c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists...” (App. 66-67).

Which of the 25 sentences of allegations contained in the first 12 paragraphs of the defective complaint give notice to Petitioner as to how he is alleged to have violated ER 3.4? *The answer is none. Respondent failed to give notice to Petitioner.*

ER 8.4. Misconduct states:

“It is professional misconduct for a lawyer to:...

(d) engage in conduct that is prejudicial to the administration of justice...” (App. 68-71).

Which of the 25 sentences of allegations contained in the first 12 paragraphs of the defective complaint give notice to Petitioner as to how he is alleged to have violated ER 8.4? *The answer is none. Respondent failed to give notice to Petitioner.*

Rule 46, Arizona Rules of Supreme Court (“Ariz. R. Sup. Ct.”) gives the following definition:

“7. “**Complaint**” means a formal complaint prepared and filed with the disciplinary clerk pursuant to these rules.” (Emphasis added.)

Rule 48, Ariz. R. Sup. Ct. states:

“(d) **Standard of Proof.** Allegations in a complaint shall be established by clear and convincing evidence.” (Emphasis added.)

The Respondent’s defective complaint also violated Rule 58(a), Ariz. R. Sup.

Ct. which states:

“Complaint. Formal discipline proceedings shall be instituted by bar counsel filing a *complaint*... with the disciplinary clerk. *The complaint shall be sufficiently clear and specific to inform a respondent of the alleged misconduct.*” (Emphasis added.)

Rule 58(j), Ariz. R. Sup. Ct. states in relevant part:

“3. Procedure. The state bar shall prove the allegations contained in the complaint by clear and convincing evidence.” (Emphasis added.)

The prejudice at the January 15, 2020 Hearing was so great to Petitioner by being deprived of notice of the charges and having his right to Due Process denied that the evidence presented at the Hearing (presented in violation of Petitioner’s right to Fair Notice/Due Process) should have been disregarded. The presumption of prejudice is rooted in the principle that “some constitutional errors require reversal without regard to the evidence in the particular case.” *Rose v. Clark*, 478 U.S. 570, 577, 106 S.Ct. 3101, 92 L.Ed.2d 460 (1986).

The Amended Decision Order (App. 2-5) and Decision Order (App. 6-9) of the Arizona Supreme Court and the Decision and Order Imposing Sanctions of the Hearing Panel (App. 12-49) should be vacated and the bar complaint dismissed with prejudice and Petitioner’s payment of the judgment refunded because a judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. *Pennoyer v. Neff*, 95 U.S. 714, 95 U. S. 732-733 (1878).

Respondent’s constitutionally defective bar complaint violated Petitioner’s right to Due Process guaranteed by the 5th and 14th Amendments to the U.S. Constitution, and this Court’s decisions in *Ruffalo* and *Schware* by failing to give

Petitioner notice of the of the conduct that allegedly violated each of the 6 alleged ER violations and these violations require that the Amended Decision Order (App. 2-5) and Decision Order (App. 6-9) of the Arizona Supreme Court and the decision and order imposing sanctions of the hearing panel (App. 12-49) be vacated and dismissed, and the constitutionally defective bar complaint (App. 50-56) dismissed with prejudice and Petitioner's payment of the judgment refunded.

B. The Arizona Supreme Court and Respondent have violated Petitioner's right to Due Process by ignoring the Respondent's burden to file a complaint that complies with Petitioner's right to Due Process and shifting that burden which conflicts with relevant decisions of this Court.

This Court stated in the case of *Speiser v. Randall*, 357 U.S. 513, 357 U. S. 525 (1958): "it is plain that where the burden of proof lies may be decisive of the outcome."

Similarly, the party who bore the burden to file a bar Complaint that met the requirements of Fair Notice/Due Process to Petitioner and that was "sufficiently clear and specific to inform a respondent of the alleged misconduct" is decisive of the outcome of the case at hand.

Rule 58(a), Ariz. R. Sup. Ct. identifies very clearly which party bears the burden of filing a complaint that gives notice:

"Complaint. Formal discipline proceedings shall be instituted by bar counsel filing a *complaint*... with the disciplinary clerk. *The complaint shall be sufficiently clear and specific to inform a respondent of the alleged misconduct.*" (Emphasis added.)

It is not Petitioner's obligation but rather Respondent's obligation and duty to
~~file a complaint which complies with the requirements of the rules, and notice~~

requirement guaranteed by *Ruffalo* and *Schware* and by the Due Process clause contained in the 5th and 14th Amendments to the U.S. Constitution and Rule 58(a), Ariz. R. Sup. Ct.

Respondent cannot *dispense with, ignore, waive, circumvent, transfer, redirect, assign, delegate, nor shift* its duty to file a complaint that gives fair notice as required by the 5th and 14th Amendments to the U.S. Constitution and by this Court's decisions in *Ruffalo* and *Schware* and its failure to do so *must* have legal consequences, such as dismissal with prejudice. Respondent's duty existed from the filing of its complaint through the January 15, 2020 Hearing and did not *evaporate nor dissipate*.

Respondent never sought to amend its constitutionally defective complaint and *ignored* the December 6, 2019 motion's deadline. The Respondent could have easily filed a motion to amend its complaint to correct its numerous defects but failed and chose not to do so. See Rule 47(a) and (b)2, Ariz. R. Sup. Ct. There was no express nor implied consent of the parties to have issues tried that were not raised by the pleadings. Rule 47(b)1, Ariz. R. Sup. Ct.

All of the authority cited above shows that only the Respondent is authorized make allegations in a complaint or amended complaint if a motion to amend is granted. The Arizona Rules of Supreme Court do not authorize nor allow the Respondent to make allegations in any other pleading other than in a complaint or amended complaint.

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Respondent's constitutionally defective complaint did not give Petitioner the Fair Notice/Due Process required by the Due Process Clause of the 5th and 14th Amendments to the U.S. Constitution nor this Court's decisions in *Ruffalo* and *Schware*.

Respondent has no excuse for its failures. On November 25, 2019 (almost 2 months before the January 15, 2020 Hearing took place), Petitioner gave the Hearing Panel, the PDJ, and Respondent notice of the Respondent's constitutionally defective bar complaint when he filed and served his Separate Prehearing Memorandum (App. 78-87):

"Every hearing panel addresses the specific allegations within the complaint. It is that pleading that gives fair notice (which is lacking in this case and will be addressed at the start of the hearing) of the basis of the claim. The State Bar must prove each of its allegations. It is bound by its pleadings and is entitled to no greater or different relief than arise from those allegations. ...

ER 1.1...

The State Bar did not state which of its allegations apply to ER 1.1. ...

ER 1.3...

The State Bar did not state which of its allegations apply to ER 1.3. ...

ER 1.4...

The State Bar did not identify which section nor subsection of ER 1.4 that was allegedly violated.

The State Bar did not state which of its allegations apply to ER 1.4, its sections, nor sub-sections. ...

ER 3.1...

The State Bar did not state which of its allegations apply to ER 3.1. ...

ER 3.4(c)...

The State Bar did not state which of its allegations apply to ER 3.4(c). ...

ER 8.4(d)...

The State Bar did not state which of its allegations apply to ER 8.4(d) nor which other ethical rule forms the basis for the alleged violation of ER8.4(d)." (App. 78-87)

At the beginning of the January 15, 2020 Hearing Petitioner made an oral motion to dismiss the defective complaint:

“And before I making my opening comment, I had a preliminary motion that I was hoping to run by you that concerns this action. ... I would call it a Motion to Dismiss some or all of the allegation in the Complaint. If I could be heard on that?

PRESIDING DISCIPLINARY JUDGE: You’re too late for that. We’re at the hearing.

MR. WILLIAMS: Could I make an offer of proof for the record?

PRESIDING DISCIPLINARY JUDGE: Nope.” (App. 94 lines 20-25 to App. 95 lines 1-4)

The PDJ abused his discretion in not allowing Petitioner to make his motion, not granting it, and in not allowing him to make a record.

At the conclusion of the January 15, 2020 Hearing Petitioner argued in his closing argument:

“Your Honor, it – the allegations in the Complaint are supposed to be established by clear and convincing evidence. My argument is that the State Bar has failed to do that. (App. 96 lines 4-5.)

“Your Honor, the allegations in the Complaint – there’s -- there’s a number of them, I think 13 or so in this Complaint. They specifically don’t say what – what rules are – are – Ethical Rules are being violated. It – it’s just kind of like a – there’ll all thrown together without specifically saying in the Complaint which allegation refers to which Etherical Rule violation.” (App. 97 lines 16-22.)

“With respect to ER 1.4.... The State Bar failed to identify which subsection in its Complaint it’s referring to or – or—or which allegation applies to the one that they want to – they—they want to allege has been violated.” (App. 98 lines 14-21.)

“With respect to the State Bar’s allegation in 3.4 – ER 3.4(c).... Again, I point out in the Complaint it doesn’t state which allegation is – supports this—this violation. I submit that the State Bar has – has not – has not established a violation by clear and convincing evidence of this ER.” (App. 99 lines 24-25 to App. 100 lines 1-8.)

“With respect to, Your Honor, ER8.4(d),... Again, the same point, the allegation in the Complaint doesn’t state which specific allegation applies to this particular alleged rule violation.” (App. 100 lines 11-15.)

The PDJ abused his discretion in not dismissing the complaint after oral argument.

The Arizona Supreme Court in its order (App. 2) stated: “Respondent [Petitioner] does not allege that he was unaware of the specific charge and did not file a motion challenging the sufficiency of the Complaint.”

That court’s statement *overlooks and ignores* the fact that Petitioner gave notice to Respondent and the Hearing Panel almost 2 months before the Hearing of the matter of the specific defects in the Respondent’s complaint and it was *Respondent’s duty and obligation to file a complaint that complied with Petitioner’s right to Due Process and notice and Respondent failed to do so.*

C. The Arizona Supreme Court and the hearing panel have violated Petitioner’s right to notice and Due Process by finding 6 ER violations based on statutes and rules not cited in the Respondent’s defective bar complaint.

The Hearing Panel found a violation of *ER1.4(a)(3)*, *1.4(a)(4)*, and *1.4(b)* stating:

“Mr. Williams violated ER 1.4(b) and (a)(4)...
The Panel also finds that Mr. Williams violated ER1.4(a)(3) by failing to timely provide Client with information regarding the Court of Appeals decision.” (App. 30).

The defective bar complaint (App. 30) *failed* to cite *ER1.4(b)*, *ER1.4(a)(4)*, and *ER1.4(a)(3)*.

The Hearing Panel found a violation of *ER 3.4(c)* stating:

“Mr. Williams failed to comply with Rule 49 and Rule 76 FLRP [(App. 35)]...
The Panel finds that Mr. Williams knowingly violated Rule 49 and ARCAP 13 and therefore violated ER 3.4(c).” (App. 36).

The defective bar complaint (App. 50-56.) *failed* to cite **Rule 49** and **Rule 76** of the **Arizona Rules of Family Law Procedure**, and **Arizona Rules of Civil Appellate Procedure, Rule 13**.

The Hearing Panel found a violation of **ER 8.4(d)** stating “Mr. Williams failed to comply with Rule 49 and Rule 76 FLRP.” (App. 37).

The defective bar complaint (App. 50-56) failed to cite **Rule 49** and **Rule 76** of the **Arizona Rules of Family Law Procedure**.

The Amended Decision of the Arizona Supreme Court at page 2 (App. 3) held:

“Accordingly, the Court accepts the panel’s findings that Respondent’s conduct violated ERs 1.1, 1.3, 1.4(a)(3), 3.1, 3.4(c), and 8.4(d).”

The Arizona Supreme Court should not have imposed discipline for rule violations that were not cited in the defective bar complaint. (App. 50-56).

Rule violations not cited in the defective bar complaint should not be relied upon as a basis for discipline.

The Arizona Supreme Court has ruled in the case of ***In the Matter of W. Michael Walz***, (Case #SB-16-0050 filed 4/20/17 at Page 3) that the Hearing Panel and the PDJ are ***not*** permitted to ***initiate*** the amendment of a complaint:

“Similarly, Rule 47(b)(2) relates specifically to pre-hearing amendments and permits bar counsel to amend the complaint. ***It too does not permit the panel or PDJ to initiate an amendment of the complaint.*** Reserving the right to seek amendment of the pleadings to the parties is appropriate because the hearing panel acts as the objective, independent trier of fact and should not be assuming the role of prosecutor and deciding what charges to bring. Rule 47(b) does not authorize the panel to amend the pleadings *sua sponte*.” [Emphasis added].

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The Hearing Panel and PDJ were stuck with a constitutionally defective bar complaint that **failed** to cite nor specify a violation of *ER1.4(b)*, *ER 1.4(a)(4)*, *ER1.4(a)(3)*, *Rule 49* and *Rule 76, Arizona Rules of Family Law Procedure* and *Arizona Rules of Civil Appellate Procedure, Rule 13* and **failed** to *relate* the alleged facts to the rules allegedly violated and they were powerless to amend it.

As in *Gendron v. State Bar*, 35 Cal.3d 409, 420-421 (1983), since leave to amend was never asked for nor granted, only the charges contained in the complaint may have been considered.

The parties filed their “Joint Pre-Hearing Statement” (the parties’ pretrial statement) on November 8, 2019 and the State Bar **failed** to cite *ER1.4(b)*, *ER1.4(a)(4)*, *ER1.4(a)(3)*, *Rule 49* and *Rule 76, Arizona Rules of Family Law Procedure* and *Arizona Rules of Civil Appellate Procedure, Rule 13* as **contested issues of law deemed material** by it:

“V. CONTESTED ISSUES OF LAW DEEMED MATERIAL BY THE STATE BAR

1. Whether Respondent violated ER 1.1, Rule 42, Ariz. R. Sup. Ct.
2. Whether Respondent violated ER 1.3, Rule 42, Ariz. R. Sup. Ct.
3. Whether Respondent violated ER 1.4, Rule 42, Ariz. R. Sup. Ct.
4. Whether Respondent violated ER 3.1, Rule 42, Ariz. R. Sup. Ct.
5. Whether Respondent violated ER 3.4(c), Rule 42, Ariz. R. Sup. Ct.
6. Whether Respondent violated ER 8.4(d), Rule 42, Ariz. R. Sup. Ct.”

On January 3, 2020 (1 week before the Hearing) the parties filed an “Amended Joint Pre-Hearing Statement” (an Amended Pretrial Statement) and the State Bar **did not change** its “*Contested Issues of Law Deemed Material by the State Bar*” filed on November 18, 2019.

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It was a violation of Petitioner's right to notice and Due Process for the Arizona Supreme Court to find ER violations based upon rules not cited in the defective bar complaint

II. THE ARIZONA SUPREME COURT DECIDED NEGATIVELY WHAT IS REQUIRED OF THE CONTENTS OF A BAR COMPLAINT TO SATISFY AN ATTORNEY'S RIGHT TO NOTICE AND DUE PROCESS WHICH IS AN IMPORTANT ISSUE THAT HAS NOT BEEN, BUT SHOULD BE, SETTLED BY THIS COURT.

This Court, as far as Petitioner has been able to investigate, has never decided what a state's bar complaint must contain to satisfy an attorney's right to Notice and Due Process in bar disciplinary proceedings:

California and Oregon satisfy an attorney's right to Notice and Due Process in bar disciplinary proceedings.

Rule 5.41, of the Rules of Procedure of the State Bar of California is entitled "Notice of Disciplinary Charges" and states in pertinent part:

"(A) Initial Pleading. A notice of disciplinary charges is the initial pleading in a disciplinary proceeding, unless specified otherwise in the rules.

(B) Contents. The notice of disciplinary charges *must*:

- (1) *cite the statutes, rules, or Court orders that the attorney allegedly violated* or that warrant the proposed action;
- (2) *contain facts, in concise and ordinary language, comprising the violations in sufficient detail to permit the preparation of a defense; no technical averments or any allegations of matters not essential to be proved are required;*
- (3) *relate the stated facts to the statutes, rules, or Court orders that the attorney allegedly violated or that warrant the proposed action...."* [Emphasis added] (App. 246).

Oregon's rule that states the requirements of the contents of a bar disciplinary complaint is Rule 4.1 and states:

“Rule 4.1 Formal Complaint....

The formal complaint shall be in substantially the form set forth in BR 13.1.

(c) Substance of Formal Complaint. *A formal complaint shall be signed by Disciplinary Counsel, or his or her designee, and shall set forth succinctly the acts or omissions of the respondent, including the specific statutes or rules of professional conduct violated, so as to enable the respondent to know the nature of the charge or charges against the respondent. When more than one act or transaction is relied upon, the allegations shall be separately stated and numbered.....*” [Emphasis added] (App. 248).

Oregon has a sample formal complaint (referred to in BR 13.1) and is at (App. 250-251).

In Arizona, Rule 58, Ariz. R. Sup. Ct. addresses the *contents* of a bar disciplinary complaint and merely states:

“(a) Complaint. Formal discipline proceedings *shall* be instituted by bar counsel filing a complaint... with the disciplinary clerk. ***The complaint shall be sufficiently clear and specific to inform a respondent of the alleged misconduct....***” [Emphasis added]

Arizona denies attorneys right to notice and Due Process in bar disciplinary proceedings because there is no requirement that a bar complaint 1) cite the statute, rules, or court orders that the attorney allegedly violated, 2) contain facts in concise and ordinary language comprising the violations in sufficient detail to permit the preparation of a defense, 3) relate the stated facts to the statutes, rules, or court orders that the attorney allegedly violated, and 4) when more than one act or transactions is relied upon, to separately state and number them.

Arizona further denies attorneys right to Notice and Due Process in bar disciplinary proceedings because it allows its Hearing Panel and PDJ to find

violations of Ethical Rules based on statutes and rules not cited in a bar disciplinary complaint.

In all candor with the Court, Petitioner has investigated each state's statutes/rules concerning the contents of their bar complaints and Petitioner is sad to report that a majority of states have statutes/rules similar to Arizona's Rule 58, Ariz. R. Sup. Ct.

Rule 48(a), Ariz. R. Sup. Ct. states "[d]iscipline ... proceedings are neither civil nor criminal, but are *sui generis*"; however, the U.S. Supreme Court in *Ruffalo* referred to bar disciplinary proceedings as being of a "quasi-criminal nature" which include notice of the charge before the proceedings commence.

Since bar disciplinary proceedings are of "quasi-criminal nature", Petitioner urges this Court to consider the notice this Court requires of a criminal indictment and apply the same notice requirement to all states, including the Respondent in Arizona, when it is filing its bar complaints (including Petitioner's case at hand).

This Court in *United States v. Cruikshank*, 92 U.S. 542, 558, 23 L.Ed. 588 (1875) held that the charging of a criminal offense is regulated by the requirement found in the Sixth Amendment that in all criminal prosecutions, the accused shall enjoy the right... to be informed of the nature and cause of the charges against him ... with respect to charging an offense, this requirement, generally referred to as the "notice" component of the Amendment, means that the indictment or information must describe the offense with sufficient specificity so as to enable the accused to

prepare a defense and to permit and to avail himself of the protection against double jeopardy.

The Respondent's constitutionally defective complaint (App. 50-56) could have and should have given notice to Petitioner by stating independently each alleged ER violation, e.g., ER 1.1, and then described the alleged facts/conduct that comprised the alleged ER 1.1 violation or it could have and should have alleged specific facts/conduct and then alleged that the facts/conduct violated a specific ER such as ER 1.1.

ER 1.4 (App. 61-63) has 3 sections and the first section has 5 subsections so the complaint should have and could have *identified* in ER 1.4 the specific section and/or subsection and then described the alleged facts/conduct that comprised the alleged ER 1.4 violation.

Petitioner made his constitutional arguments in his Opening Brief (App. 102-143) and Reply Brief (App. 144-173) filed in the Arizona Supreme Court.

The Arizona Supreme Court ruled in its March 5, 2021 Amended Decision Order (App. 2-5):

"First, Respondent argues that he was denied due process in the discipline proceedings because the complaint failed to give fair notice of the conduct and charges.... On these facts, Respondent has not demonstrated that he was denied fair notice of the charges.

The allegations in the Complaint are straightforward and, except for the ER 1.4 charge, it is clear which facts relate to which charged ethical rule.

Respondent is correct that ER 1.4 has several subparts, and the Complaint did not specify which subpart Respondent was alleged to have violated. This deficiency, however, did not deny Respondent due process or cause him prejudice. ... While the Complaint could have been more specific, Respondent has not demonstrated that he was denied fair notice of the charges or that he suffered any prejudice." (App. 2-3:)

The ultimate decision nor the rationale given by the Arizona Supreme Court holding that the “allegations in the Complaint are straightforward” do not withstand scrutiny.

Petitioner urges this Court to adopt Rule 5.41, of the Rules of Procedure of the State Bar of California for the contents of all states’ bar complaints and so order.

III. THE ARIZONA SUPREME COURT DECIDED NEGATIVELY WHAT IS REQUIRED OF THE CONTENTS OF A BAR COMPLAINT TO SATISFY AN ATTORNEY’S RIGHT TO NOTICE AND DUE PROCESS IN A WAY THAT CONFLICTS WITH THE DECISIONS OF THE CALIFORNIA SUPREME COURT AND OREGON SUPREME COURT.

Rule 58, Ariz. R. Sup. Ct. concerns the *contents* of a bar disciplinary complaint in Arizona and states:

“(a) **Complaint.** Formal discipline proceedings *shall* be instituted by bar counsel filing a complaint... with the disciplinary clerk. *The complaint shall be sufficiently clear and specific to inform a respondent of the alleged misconduct...*” [Emphasis added]

The plain language of Rule 58(a), Ariz. R. Sup. Ct. *does not* require a bar complaint in Arizona to cite *the statutes, rules, or court orders* that the attorney allegedly violated and *does not* require that the alleged facts be *related* to the *statutes, rules, or court orders* an attorney allegedly violated.

In California, the seminal case on the topic of adequacy of notice is *Woodard v. State Bar*, 16 Cal.2d 755 (1940). In that case, the California Supreme Court emphasized that “[t]he right to practice law is a valuable one which should ~~be suspended or revoked only on charges alleged and proved and to which~~

full notice and opportunity to defend have been accorded.” (Id. at 757.)

Woodard disapproved of a disciplinary culpability finding of a violation for which the respondent was not charged in the initial notice to show cause. The court in Woodard affirmed the need to, at the very least, file a formal amendment to the notice citing the particular regulation alleged to have been violated and provide the respondent with a reasonable opportunity to formally answer those amended charges and procure evidence in his or her defense.

Since then, the California Supreme Court held fast to this requirement in numerous published cases. (e.g., *Gendron v. State Bar*, 35 Cal.3d 409, 420-421 (1983) “***It is well established that “[t]he license [to practice law] may not be arbitrarily taken away and the holder is entitled to procedural due process in any disciplinary proceedings relating thereto.”*** [citations omitted] This is also true where the State Bar seeks to discipline a member of the bar [citations omitted].... ***Since the notice was not properly amended, the State Bar cannot impose discipline on any of the charges which were not contained in the original notice... Since leave to amend was never granted, only the charges contained in the original notice may be considered.***”). [Emphasis added].

In 1987, a pair of California Supreme Court cases criticized the California State Bar for deficiencies in its Notices to Show Cause (renamed Notice of Disciplinary Charges, effective January 1, 1995). In *Maltaman v. State Bar*, 43 Cal.3d 924 (1987), the California Supreme Court disapproved of “material gaps in

the analytical path from charges to proof to findings and conclusions to recommendations” (*Id.* at 931) as well as “mismatched” charges. (*Id.* at 932.).

In *Guzetta v. State Bar*, 43 Cal.3d 962 (1987), the California Supreme Court *criticized the notice’s failure to relate the conduct charged to the statute or rule alleged to have been violated.*

In *Baker v. State Bar*, 49 Cal.3d 804 (1989), the California Supreme Court once again highlighted these two basic requirements. (*Id.* at 816.). Subsequent to *Maltaman*, *Guzetta*, and *Baker*, the California State Bar codified these requirements into the Rules of Procedure.

The Supreme Court of the State of California approved the Rules of Procedure of the State Bar of California which govern bar discipline of attorneys and can be viewed at:

<http://www.statebarcourt.ca.gov/Portals/2/documents/Rules/Rules-of-Procedure.pdf>

Rule 5.41, of the Rules of Procedure of the State Bar of California is entitled “Notice of Disciplinary Charges” and states in pertinent part:

“(A) Initial Pleading. A notice of disciplinary charges is the initial pleading in a disciplinary proceeding, unless specified otherwise in the rules.

(B) Contents. The notice of disciplinary charges *must*:

- (1) *cite the statutes, rules, or Court orders that the attorney allegedly violated* or that warrant the proposed action;
- (2) *contain facts, in concise and ordinary language, comprising the violations in sufficient detail to permit the preparation of a defense; no technical averments or any allegations of matters not essential to be proved are required;*
- (3) *relate the stated facts to the statutes, rules, or Court orders that the attorney allegedly violated or that warrant the proposed action....*” [Emphasis added] (App. 246).

Petitioner submits that the State of *California* complies with an attorney's right to Due Process in bar disciplinary proceedings as guaranteed by the 5th and 14th Amendments to the U.S. Constitution by *requiring* its bar disciplinary complaints to:

- “(1) *cite the statutes, rules, or Court orders that the attorney allegedly violated* or that warrant the proposed action;
- (2) *contain facts, in concise and ordinary language, comprising the violations in sufficient detail to permit the preparation of a defense ...;*
- (3) *relate the stated facts to the statutes, rules, or Court orders that the attorney allegedly violated or that warrant the proposed action...*” (App. 246).

The bar complaint (App. 50-56) against Petitioner violated his right to Due Process guaranteed by the 5th and 14th Amendments to the U.S. Constitution, *Ruffalo* and *Schware*, and violated Rule 58(a), Ariz. R. Sup. Ct. because:

- 1) it failed to give notice by *failing* to cite *Rule 49* and *Rule 76* of the *Arizona Rules of Family Law Procedure, Arizona Rule of Civil Appellate Procedure, Rule 13*, and *ER1.4(a)(3), ER1.4(b), and ER1.4(a)(4)* (the Hearing Panel used all those rules to justify its finding of most of the ER violations); and
- 2) it failed to correlate the alleged misconduct or “*relate the stated facts [in the complaint] to the statutes, rules [e.g., ER 1.1, 1.3, 1.4(a)(3), 1.4(b), 1.4(a)(4), 3.1, 3.4(c), 8.4(d), Rule 49, Rule 76, ARCAP Rule 13]... that the attorney [Petitioner] allegedly violated*”.

The Supreme Court of the State of Oregon approved the Rules of Procedure which govern bar discipline of attorneys and can be viewed at:

<https://www.osbar.org/docs/rulesregs/rulesofprocedure.pdf>

Oregon's rule that states the requirements of the contents of a bar disciplinary complaint is Rule 4.1 and states:

"Rule 4.1 Formal Complaint....

The formal complaint shall be in substantially the form set forth in BR 13.1.

(c) Substance of Formal Complaint. *A formal complaint shall be signed by Disciplinary Counsel, or his or her designee, and shall set forth succinctly the acts or omissions of the respondent, including the specific statutes or rules of professional conduct violated, so as to enable the respondent to know the nature of the charge or charges against the respondent. When more than one act or transaction is relied upon, the allegations shall be separately stated and numbered....*" [Emphasis added] (App. 248).

The formal complaint referred to in BR 13.1 is at (App. 250-251).

Petitioner asserts that the State of Oregon complies with an attorney's right to Due Process in bar disciplinary proceedings as guaranteed by the 5th and 14th Amendments to the U.S. Constitution by *requiring* its bar complaints to set forth succinctly the acts or omissions of the attorney, including the specific statutes or rules violated and to separately state them and number them.

If California and Oregon can comply with an attorney's right to Due Process guaranteed by the 5th and 14th Amendments to the U.S. Constitution by requiring their bar disciplinary complaints to cite the specific *statute, rules, or court orders* violated and then *relate* the facts to the alleged *statute, rule, or court orders* violated then shouldn't the great State of Arizona be required to do the same?

This Court should require the Supreme Court of Arizona to interpret and define Arizona's Rule 58(a), Ariz. R. Sup. Ct. "*complaint shall be sufficiently*

clear and specific to inform a respondent of the alleged misconduct” to mean the same as California’s Rule 5.41 and/or Oregon’s Rule 4.1 and Rule 13.1.

Adequacy of notice is an essential element of due process. “Due process of law requires that an accused be advised of the charges against him in order that he may have a reasonable opportunity to prepare and present his defense and not be taken by surprise by evidence offered at trial.” *People v. Thomas*, 43 Cal.3d 818, 823 (1987).

“No principle of procedural due process is more clearly established than the notice of the specific charge, and a chance to be heard in a trial of the issues raised by that charge, if desired, are among the constitutional rights of every accused in a criminal proceeding in all courts, state or federal.” (*Id.* at p. 823, citing *Cole v. Arkansas*, 333 U.S. 196, 201 (1948)). This principle applies with equal force in State Bar proceedings. (*Woodard* at 737.) This Court should hold the same.

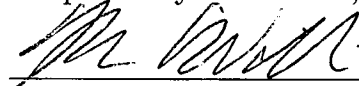
The bar complaint (App. 50-56) in Petitioner’s case violates Due Process and is defective because it does not *relate* the alleged facts to the rules Petitioner allegedly violated. The bar proceedings conducted against Petitioner as described above violated his right to Due Process.

CONCLUSION

The petition for writ of certiorari should be granted.

Dated: July 31, 2021

Respectfully submitted,



Mark Lee Williams
Pro Se Petitioner