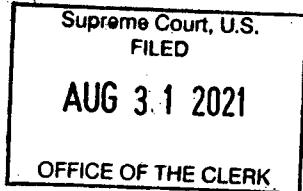


No. 21-503

**ORIGINAL**

IN THE  
SUPREME COURT OF THE UNITED STATES



Bo Peng

Petitioner

Vs.

F.M. Tarbell Co.

Respondent

On Petition For A Writ Of Certiorari

TO The 2<sup>nd</sup> Appellate District Of California Court of Appeal

**PETITION FOR WRIT OF CERTIORARI**

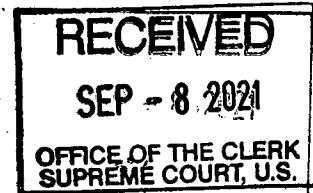
Bo Peng

Pro Per

2332 Crystal Pointe

Chino Hills, CA 9170

951-423-0594



## **Question(s) Presented**

1. Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, (Kiugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985)")

"A decision produced by fraud upon the court is not in essence a decision at all, and never becomes final." Kenner v. C.I.R., 387 F.3d 689 (1968)

"Every constitutional provision is self-executing to the extent that everything done in violation of it is void." (Katzberg v. Regents of University of California (2002) 127 Cal.Rptr.2d 482, 29 Cal.4th 300, 58 P.3d 339 .Constitutional Law 640)

Void order which is one entered by court which lacks jurisdiction over parties or subject matter, or lacks inherent power to enter judgment, or **order procured by fraud**, can be attacked at any time, in any court, either directly or collaterally, provided that party is properly before court. (People ex Rel. Brzica v. Lake Barrington, 268 Ill. App. 3d 420,425, 644 N.E.2d 66 (Ill. App. Ct. 1994))

"Fraud destroys the validity of everything into which it enters," (Nudd v. Burrows (1875), 91 US 426, 23 Led 286,290)

**This case has experienced various forms of void orders, judgment, appealable orders, and amended judgment. Any of these forms can reverse the void order and judgment of this case, but the reality is that it has advanced freely, and even passed California Supreme Court having jurisdiction over the largest judicial system in the nation. How does the United States Supreme Court ensure the authority of above published case laws and maintain the uniform of the national case law?**

2. The Illinois Supreme Court held that if a court "could not hear the matter upon the jurisdictional paper presented, its finding that it had the power can add nothing to its authority, - it had no authority to make that finding." *The People v. Brewer*, 128 Ill. 472, 483 (1928).

The judges in the multi-judge corruption ring ignored and did not conduct the trial according to Labor code §98.2 and 5 claims, and violated the due process of this case. Judgment which is inconsistent with due process is void, The judgment rendered by judges in multi-judge corruption ring was void.

Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, (*Kiugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985)"

The labor code §98.2 legal principle and 5 claims, are the due process of this case, which control the entire process of this case, the trial must be strictly complied with. Multi-judge corruption ring deliberately acted outside the limit of jurisdiction of labor code 98.2 and 5 claims. The judges have no jurisdiction, no authority to hear and rule, and all decisions made are void. The defendant and multiple judges claimed that the trial was tried in accordance with an invalid independent contractor agreement declared by law; and they proceeded according to invalid independent contractor agreement declared by law.

We conclude, therefore, that a salesman, insofar as his relationship with his broker is concerned, cannot be classified as an independent contractor. Any contract which purports to change that relationship is invalid as being contrary to the law (*Gipson v. Davis Realty Co.*, *supra*, 215 Cal. App. 2d 190, 207)." (*Resnik v. Anderson & Miles* (1980) [109 Cal. App. 3d 570, 573]) [Emphasis added]

Because the contract cannot give corrupt Judges jurisdiction, the defendant is the prevailing party of the contract, not the prevailing party of this case, and, they cheated the court in the name of the prevailing party of the contract, extorted attorney fees in the amount of \$72,519.03 from appellant, and seriously violated the 14 amendments to U.S. Constitution.

## **How does U.S. Supreme Court stop that multi-judge corruption ring is in treason to the Constitution and usurp the jurisdiction which is not given?**

"Judges have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution". Cohen . Virginia, (1821), 6 Whcat. 264 and U.S. v. Will, 149 U.S. 200

3. In judicial system controlled by multi-judge corruption ring, they controlled the upper and lower levels. They are in the color of the government and used the court as an instrument of injustice; they violated due process clause of 14th Amendment to the U.S. Constitution by depriving appellant of wage properties; they violated equal protection of laws clause of 14th Amendment to the U.S. Constitution; they denied constitutionally entitled jury trial; they made many void orders and judgments valid; they did not reverse this case which the law required to reverse; they legalized defendant's wage theft, wrongful termination and misclassification; and they benefited financially from this case.

The multi-judge corruption ring is organized and the division of work is clear. Each corrupt judge knows its own functions and is the link of the multi-judge corruption ring chain. They cannot accomplish the defendant's unlawful objectives alone and benefit from it. They must conspire, cooperate with each other, shield each other, and complete their own part of the task. The corrupt judges of the trial court arbitrarily rendered void judgments because they knew that Justice Hoffstadt from the appellate court is their umbrella. Justice Hoffstadt from the court of appeal with higher position in the multi-judge corruption ring made the void judgment valid, which indeed protected the corrupt judges of the trial court. The two levels of judges cooperated to finally accomplish the defendant's unlawful objectives, so that every member of the multi-judge corruption ring can benefit financially from this case.

"Not only is a biased decisionmaker constitutionally unacceptable, but "our system of law has always endeavored to prevent even the probability of unfairness." *In re Murchison*, *supra* at 349 U. S. 136; cf. *Tumey v. Ohio*, 273 U. S. 510, 273 U. S. 532 (1927). In pursuit of this end, various situations have been identified in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable. Among these cases are those in which the adjudicator has a pecuniary interest in the outcome, [Footnote 14] and in which he has been the target of personal abuse or criticism from the party before him. [Footnote 15] "(*Withrow v. Larkin*, 421 U.S. 35 (1975))

This case has been established as Jury trial. Jury trial posed a great pressure to defendant since defendant could not use illegal proceeds to influence and control many jurors who are randomly selected, so Defendant gave the two unlawful orders to the corrupt judges:

Ordering the judge that the court must preclude "emotional distress, lost wages, punitive damages". (AA 322,) which is worth over 1 million dollars calculated based on jury instruction.

"This case must be taken from the jury and a decision rendered on the written and admitted evidence at trial." (AA 318) which destroyed the impartiality of our judiciary system, namely, Trial by jury is an inviolate right and shall be secured to all (Constitution Article 1, section 16)

Defendant's 2 unlawful wills:

Change from a losing lawsuit to a winning lawsuit, finally being the prevailing party.

Extorting the attorney's fees. (1AA 401)

1) The role of Judge Moreton in the multi-judge corruption ring

He engaged improper ex parte communication with and conspired with the defendant; he sold out his judicial power; without motion, he precluded over 1 million dollar penalty against Defendant, Tarbell Co; he shared his judiciary power with defendant (defendant can directly use court title to draft proposed orders and statement of decision, he and

defendant did not give the appellant the opportunity to object ); without motion, he denied constitutionally entitled jury trial; he made void orders and judgment in favor of the defendant, that is, corrupt decisions, and he exchanged interests with the defendant.

## 2) The role of Judge Linfield in the multi-judge corruption ring

Inherited and continued the corrupt decision made by the corrupt Judge Moreton because he openly tied to the corrupt Judge Moreton; avoided the legal principle of labor code §98.2 and 5 subjects of action in this case; violated due process; and used the defendant's illegal objectives to conduct hearings; was highly partial to defendant; made orders and amended the judgment in favor of the defendant; and extorted attorney fees in the amount of \$72,519.03 for defendant from appellant. He exposed in the open court that the Court of Appeal has his umbrella, that is, Justice Hoffstadt from the Court of Appeal who will make void orders and amended judgments valid. Because of the sheltering from the higher members of the Corruption Circle in the Court of Appeal, Linfield need not to worry.

## The role of Justice Hoffstadt in the multi-judge corruption ring

He made the void orders, void judgment, and amended judgment made by the corrupt judges in the trial court valid, collaborated with the trial court's corrupt judges to achieve the defendant's illegal objectives, covered up the existence of the multi-judge corruption ring and sheltered the corrupt judges from the trial court; he committed fraud upon the court to fabricate an entire jury trial by non-existent CCP 581c motion to deny constitutionally entitled jury trial on his first opinion. On his second opinion, he fabricated a contract action in the labor commissioner. He finally accomplished the defendant's unlawful objectives and violated 14th Amendment to the U.S. Constitution by depriving appellant's wage properties over \$100,000 (wage, unjustified sanction, extorting attorney fees) and approved lien appellant's property; and he violated equal protection of laws clause of 14th Amendment to the U.S. Constitution.

**Facing the theory of a government outside of the supreme law of the land found lodgment in our constitutional jurisprudence, how U.S. Supreme Court**

**exerted its full authority to prevent all violation of the principles of the Constitution?**

“It will be an evil day for American liberty if the theory of a government outside of the supreme law of the land finds lodgment in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violation of the principles of the Constitution.” (Downs v. Bidwell, 182 U.S.244, 382, (1901))

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

### Related Cases

Bo Peng vs. F.M. Tarbell Co. No. 19STCP00416, Los Angeles County Superior court of California. Order entered at July. 23, 2020

Bo Peng vs. F.M. Tarbell Co. No. 19STCP00416, Los Angeles County Superior court of California. Order entered at Aug. 17, 2020

Bo Peng vs. F.M. Tarbell Co. No. 19STCP00416, Los Angeles County Superior court of California. Amended judgment entered at Aug. 18, 2020

Bo Peng vs. F.M. Tarbell Co. No. B307484, 2nd Appellate District Of California Court of Appeal. Opinion entered at May. 27, 2021

Bo Peng vs. F.M. Tarbell Co. No. B307484, 2nd Appellate District Of California Court of Appeal. Order entered at Jun. 15, 2021

Bo Peng vs. F.M. Tarbell Co. No. S269724, Supreme Court Of The State Of California. Order entered at Aug. 11, 2021

The following is the judgment of 19STCP00416 for the basis of order granting defendant's motion for attorney fees, order denying appellant's motion to tax costs, amended judgment and opinion regarding attorney's fees and costs. The judgment was made without conducting the trial of labor code § 98.2 and 5 claims; which was made in violation of due process of law: which was made by denial of a trial by jury to one constitutionally entitled; which were rendered through fraud upon the court; which was void; and which can be attacked at anytime and anywhere.

The following has provided to U.S. Supreme Court No. 21-22.

Bo Peng vs. F.M. Tarbell Co. No. 19STCP00416, Los Angeles County Superior court of California. Judgment entered at Feb. 3, 2020

The following is the opinion B304763 regarding judgment of 19STCP00416; which was made by violation of 14th Amendment to the U.S. Constitution.

Bo Peng vs. F.M. Tarbell Co. No. B304763, 2nd Appellate District Of California Court of Appeal. Opinion entered at Dec. 24, 2020

The following is order of the Supreme Court Of The State Of California;  
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Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

### **OPINION BELOW**

The case from state courts: The opinion (No. B307484) of the highest state court to review the merits appears at Appendix A to the petition and is unpublished.

The case from state courts: The opinion of (No. B304763) the highest state court to review the merits appears at Appendix I to the petition and is unpublished.

### **JURISDICTION**

For cases from state courts: The date on which the highest state court decided my case was Aug. 11th, 2021. A copy of that decision appears at Appendix E.

This petition for a writ of certiorari is on 8/31/21. California Supreme court denied discretionary review on 8/11/21. Pursuant to Rule 13: Review on Certiorari: Time for Petitioning, this petition for writ of certiorari is on time.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

The 14th amendment to the U.S. Constitution, which provides, in part: 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.

Here special thanks the honest judges with integrity for providing good cases authority, to help identify justice and injustice, legal and illegal, morals and immorality.

#### **I. Regarding the jurisdiction of the two opinions of Justice Hoffstadt from**

**California 2nd Court of Appeal with a higher position in multi-judge corruption ring<sup>1</sup>, and his affirmance in full of the void judgment, order granting defendant's motion for attorney fees, order denying appellant's motion to tax costs, amended judgment**

**A. In comparison with the legal principle of § 98.2 and the 5 claims in this case, Justice Hoffstadt violated the due process**

**1. Legal principle and 5 claims of this case**

This case is a jury trial with legal principle of de novo hearing required by Labor Code §98.2 and with subjects of action of five claims:

Five claims against defendant are:

- 1) Intentionally not paying wages, is defined by the Labor commissioner as wage theft and as a crime
- 2) For the purpose of stealing employees' wages, discharge without cause in violation of public policy is wrongful termination, and caused the plaintiff harm.
- 3) Willful misclassification taking advantage of state and federal taxes and employee's benefits.
- 4) Compensatory damages of economic and emotional distress to plaintiff caused by defendant's wage theft and wrongful termination.
- 5) Punitive damages for Defendant's a large amount of illegal proceeds obtained through unlawful practice pattern of wage theft, wrongful termination and

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<sup>1</sup> (See STRATOS PAHIS, Corruption in Our Courts: What It Looks Like and Where It Is Hidden (2009) 118 THE YALE LAW JOURNAL 1900, 1924)

misclassification.

The above abbreviated as 5 claims.

This case is a jury trial with legal principle of hearing de novo required by Labor Code §98.2 and with subjects of action of five claims, which govern the whole process of this case, and the trial must be strictly complied with.

**2. Justice Hoffstadt departed from due process of this case, that is, the legal principle of labor code §98.2 and 5 claims;**

Justice Hoffstadt deliberately got away the constraint of labor code §98.2 and 5 claims; he exercised his arbitrary discretion to conduct the proceeding according to Defendant's unlawful objects, that is, 2 unlawful orders and 2 unlawful wills. Defendant's unlawful orders are 1) "**this case must be taken from the jury and a decision rendered on the written and admitted evidence at trial.**" (AA 318) 2) the court **must preclude "emotional distress, lost wages, punitive damages".** (AA 322,) Defendant's unlawful wills are 1) Change from a losing lawsuit to a winning lawsuit, finally being the prevailing party.2) Extorting the attorney's fees. (1AA 401)

Since Justice Hoffstadt did not conduct the proceeding according to the legal principle of labor code §98.2 and 5 claims, his opinion has no jurisdiction to the action of defendant's unlawful objectives which are 2 unlawful orders and 2 unlawful wills, and his opinions are void.

"The process due at any given time must reflect the nature of the proceeding and the interests involved." KC v. State, 2015 WY 73, 351 P.3d 236 (Wyo. 2015).

"Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process. (Kiugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985))"

B. In comparison with California Supreme Court's interpretation of Labor Code §98.2; he asserted that the labor commissioner's determination valid, actually he hasn't because actually it was completely nullified; and he made an opinion based on statute that he tampered with; and by getting rid of the constraints of Labor Code §98.2, he exercised his arbitrary discretion outside of the limits of the jurisdiction of the court.

**1. California Supreme Court's interpretation regarding hearing de novo required by Labor Code §98.2**

Pursuant to California Supreme Court's interpretation regarding de novo hearing required by Labor Code §98.2.

- 1) A hearing de novo [under Labor Code section 98.2] is a new trial.
- 2) The same as if no labor commissioner's hearing had ever been held.
- 3) Completely nullifies the labor commissioner's determination of the matter.

"Although denoted an 'appeal,' unlike a conventional appeal in a civil action, hearing under the Labor Code is de novo. (Lab. Code, § 98.2, subd. (a).) "A hearing de novo [under Labor Code section 98.2] literally means a new hearing," that is, a new trial' (Pressler v. Donald L. Bren Co., *supra*, 32 Cal.3d at p. 835, 187 Cal.Rptr. 449, 654 P.2d 219.) (Smith v. Rae-Venter Law Group, 58 P. 3d 367)

"A hearing de novo literally means a new hearing, or a hearing the second time. (18 Cor. Jur. 486.) Such a hearing contemplates an entire trial of the controversial matter in the same manner in which the same was originally heard. It is in no sense a review of the hearing previously held, but is a complete trial of the controversy, the same as if no previous hearing had ever been held. It differs, therefore, from an ordinary appeal from an inferior to an appellate body where the proceedings of the hearing in the inferior court are reviewed and their validity determined by the reviewing court. A hearing de novo therefore is nothing more nor less than a trial of the controverted matter by the court in which it is held. The decision therein is binding upon the parties thereto and takes the place of and completely nullifies the former determination of the matter. (Collier & Wallis, *supra*, 9 Cal.2d at 202, 205)

**2. Justice Hoffstadt deliberately tampered with statutes labor code §98.2**

Justice Hoffstadt tampered with the statute and changed "A hearing de novo [under Labor Code section 98.2]" to "an appeal de novo"; he attempted to acquire jurisdiction over the labor commissioner determination, however, California Supreme Court Labor Code

§98.2's Interpretation is that the trial court is the original court, Justice Hoffstadt has no authority to change the original court to the labor commissioner and pushed the litigation time to the labor commissioner. California Supreme Court Labor Code §98.2's Interpretation is that the determination of labor commissioner was completely nullified. The determination of labor commissioner cannot be the basis for the opinion. So Justice Hoffstadt's opinion based on completely nullified labor commissioner's determination is void. His purpose is to cover up the existence of the multi-judge corruption ring, to blame others, especially to blame the labor commissioner.

C. The statute of Bus. & Prof. Code, § 10132, § 10137, § 10160, § 10177, subd. (h) and case law all declared that real estate salesman is employee. Justice Hoffstadt publicly violated the equal protection of laws clause of the 14th Amendment to the U.S. Constitution, so Justice Hoffstadt's opinion is void.

#### **1. Bus. & Prof. Code and case law regarding real estate salesman and 14th Amendment to the U.S. Constitution**

The 14th amendment to the U.S. Constitution, which provides, in part: 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.

Equal protection of the law means that persons who are similarly situated with respect to a law **must be treated alike under the law**. (Arcadia Development Co. v. City of Morgan Hill, 197 Cal. App. 4th 1526, 129 Cal. Rptr. 3d 369 (6th Dist. 2011)). [Emphasis added]

Every state official, high and low, **is bound by** the Fourteenth Amendment.(U.S. v. Raines, 362 U.S. 17, 80 S. Ct. 519, 4 L. Ed. 2d 524 (1960)) [Emphasis added]

The Law has declared that "**A real estate salesman** cannot contract in his own name (ibid.); **he can only be employed by a licensed real estate** [109 Cal. App. 3d 573] **broker** (Bus. & Prof. Code, § 10132; fn. 3 he cannot "be employed by...any person other than the broker under whom he is at the time licensed" (§ 10137); and his license must remain in the possession of **his broker employer** (§ 10160), who risks the suspension or revocation of his own license if he fails "to exercise reasonable supervision over the activities of his salesmen" (§ 10177, subd. (h)).

We conclude, therefore, that a salesman, insofar as his relationship with his broker is concerned, **cannot be classified as an independent contractor. Any contract which**

**purports to change that relationship is invalid as being contrary to the law**  
(Gipson v. Davis Realty Co., *supra*, 215 Cal. App. 2d 190, 207)." (Resnik v. Anderson & Miles (1980) [109 Cal. App. 3d 570, 573]) [Emphasis added]

**2. Justice Hoffstadt violated publicly violated the equal protection of laws clause of the 14th Amendment to the U.S. Constitution.**

Per above Bus. & Prof. Code and case law, Law expressly declared:

- 1) A licensed real estate salesman is employee
- 2) A licensed real estate salesman cannot be classified as an independent contractor
- 3) Any contract which purports to change that relationship is invalid as being contrary to the law

Bo Peng is also a licensed real estate salesman and also is the employee the law declares. However, in order to keep ignoring appellant's Labor Code §98.2 action, to prevent appellant from 5 claims, and to accomplish the defendant's unlawful objectives and to benefit financially from this case, Justice Hoffstadt from California 2nd District Court of Appeal with higher position of multi-judge corruption ring, adversely targeted to appellant; he is above the law and made a re-finding that a licensed real estate salesman Bo Peng is an independent contractor and blatantly violated equal protection of the laws clause to 14th Amendment to the U.S. Constitution. So Justice Hoffstadt's re-finding is void because he violated the constitution. Justice Hoffstadt has no authority to change the statute that declares Bo Peng is an employee.

"Every constitutional provision is self-executing to the extent that everything done in violation of it is void."( Katzberg v. Regents of University of California (2002) 127 Cal.Rptr.2d 482, 29 Cal.4th 300, 58 P.3d 339 .Constitutional Law 640)

**D. In comparison with 14th Amendment to the U.S. Constitution, Justice Hoffstadt violated Constitution by depriving appellant's wage properties without due process of law.**

**1. 14th Amendment to the U.S. Constitution and due process of this case**

The 14th amendment to the U.S. Constitution, which provides, in part: 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 law.

**2. Justice Hoffstadt violated due process clause of 14th Amendment to the U.S. Constitution, by depriving appellant's wage properties without due process of law.**

Justice Hoffstadt publicly violated the 14th Amendment to the U.S. Constitution; without due process of law of conducting the trial of labor code §98.2 and 5 claims, deprived appellant from wage properties in different mode repeatedly, namely, deprived the appellant of wages<sup>2</sup> in the amount of \$28,268.01, unjustified sanction appellant \$500 and extorted attorney's fees \$72,519.03 from appellant, totaling over 100,000 dollars and approved to place a lien<sup>3</sup> on appellant's property. Justice Hoffstadt's opinion is void.

"Every constitutional provision is self-executing to the extent that everything done in violation of it is void." ( Katzberg v. Regents of University of California (2002) 127 Cal.Rptr.2d 482, 29 Cal.4th 300, 58 P.3d 339 .Constitutional Law 640)

**E. Justice Hoffstadt committed fraud upon the court. Fraud makes everything invalid.**

**1. Justice Hoffstadt committed fraud upon the court in his second opinion.**

With his second opinion (B307484), he committed fraud upon the court by fabricating contract action in the labor commissioner; seriously departed from due process of this case, namely, Labor Code §98.2 and 5 claims. It is a common sense that labor code and contract

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<sup>2</sup> Court have found a sufficient property interest to trigger application of the due process clause: Wages. Sniadach v Family Finance Corp of Bay View (1969) 395 U.S. 337.

<sup>3</sup> Temporary or partial impairments to property rights entailed by attachments, liens, and similar encumbrances are sufficient to merit due-process protection even though they do not amount to any complete, physical, or permanent deprivation of real property. Connecticut v. Doehr, 501 U.S. 1, 111 S. Ct. 2105, 115 L. Ed. 2d 1 (1991)

law are different types of action.

2. Justice Hoffstadt committed fraud upon the court in his first opinion

On his first opinion B304763, Justice Hofstadt from California 2nd District Court of Appeal with higher position in the multi-judge corruption ring, violated due process of this case, that is, labor code 98.2 and the 5 claims; Thus his opinion is void; he fabricated a jury trial with a non-existent CCP 581c motion; he committed fraud upon the court to deny the constitutionally entitled jury trial; and His opinion is void because fraud made everything invalid.

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them" (Miranda v. Arizona, 384 U.S. 436.491)

Jurisdiction in any proceeding is conferred by the constitution or by statute. Labor code §98.2 did not confer him the jurisdiction to the contract action. Justice Hoffstadt has no jurisdiction over contract action. Therefore, his opinion is void, and he has no jurisdiction to make affirmation granting defendant the attorney fees according the contract action fabricated by him. Law has declared that the independent contractor agreement is invalid. He also has no jurisdiction to affirm to grant defendant the attorney fees according to independent contractor agreement.

We conclude, therefore, that a salesman, insofar as his relationship with his broker is concerned, **cannot be classified as an independent contractor. Any contract which purports to change that relationship is invalid as being contrary to the law** (Gipson v. Davis Realty Co., *supra*, 215 Cal. App. 2d 190, 207)." (Resnik v. Anderson & Miles (1980) [109 Cal. App. 3d 570, 573]) [Emphasis added]

He has no jurisdiction to affirm in full the order granting defendant's motion for attorney fees, order denying appellant's motion to tax costs, and amended judgment. Thus his opinion is void.

In other words, a court, in order to exercise jurisdiction over a given action or proceeding, must have jurisdiction over the subject matter, that is, the constitutional and

statutory power to adjudicate the matter in controversy <sup>4</sup>

The judgment of a court wholly lacking jurisdiction over the subject matter, parties, or specific thing, is void.[see *Kulko v. California Superior Court* (1978) 436 U.S. 84, 91, 98 S. Ct. 1690, 56 L. Ed. 2d 132; *Hanson v. Denckla* (1958) 357 U.S. 235, 250, 78 S. Ct. 1228, 2 L. Ed. 2d 1283;

When a court grants relief which it has no authority to grant, its judgment is to that extent void. (*Michel v. Williams* (1936) 13 Cal. App. 2d 198, 199 [56 P.2d 546].)

### **3. Fraud upon the court destroys the validity of everything into which it enters**

"a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final." *Kenner v. C.I.R.*, 387 F.3d 689 (1968)

"Fraud destroys the validity of everything into which it enters," (*Nudd v. Burrows* (1875), 91 US 426, 23 Led 286,290)

**F.** Justice Hoffstadt used the method of rendering void order and judgment valid, which played an important role in the multi-judge corruption ring. He cooperated with the corrupt Judge Moreton and corrupt Judge Linfield of the trial court to accomplish every defendant's illegal objective, namely 2 unlawful orders and 2 unlawful wills; covered up the existence of the multi-judge corruption ring; and sheltered Judge Moreton and Judge Linfield who are corrupt members of multi-judge corruption ring in the trial court; and made members of multi-judge corruption ring benefit financially from this case.

A void judgment is not rendered valid by a mere affirmance on appeal. *Bank of Italy v. E.N. Cadenasso*, 206 Cal. 436, 274 P. 534 (1929); *Ball v. Tolman*, 135 Cal. 375, 67 P. 339 (1902).

"Fraud destroys the validity of everything into which it enters," (*Nudd v. Burrows* (1875), 91 US 426, 23 Led 286,290)

### **G. Because Justice Hoffstadt, who is from California 2nd District Court of Appeal with the higher position in the multijudge corruption ring, violated the 14th Amendment**

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<sup>4</sup> [see *Abelleira v. District Court of Appeal* (1941) 17 Cal. 2d 280, 288; *Harrington v. Superior Court* (1924) 194 Cal. 185, 188, 228 P. 15; *Workmen's Comp. Appeals Bd. v. Small Claims Court* (1973) 35 Cal. App. 3d 643, 645, 111 Cal. Rptr. 6]

to the U.S. Constitution, he lost his official status and should be held criminally responsible for his personal actions

In his opinion, Justice Hoffstadt violated the passive role and was highly partial to the defendant. This is not allowed by the Constitution. By violating the due process of law; he deprived the appellant of the wages properties on which the appellant depends for survival; he violated the equal protection of laws clause of the 14th Amendment to the U.S. Constitution; he lost his official status. In comparison with Penal Code 132, Justice Hoffstadt from California 2nd District Court of Appeal with a higher position in the multi-judge corruption ring is as responsible as any other person for the violation of a criminal statute; he is criminally liable for his fraud upon the court (in his first opinion, he fabricated an entire jury trial by a non-existent CCP 581C motion in the record to deny constitutionally entitled jury trial; in his second opinion, he used the same method to fabricate a contract action before labor commissioner to extort attorney fees from appellant, tampering with the labor code §98.2 from "A hearing de novo" under labor code §98.2 to a "an appeal de novo", tampering with evidence 7 and evidence 500 and his using phrase of "undisputed facts" for his dishonest false statement to the court, in fact, he has no facts. In comparison with Penal Code 132, Justice Hoffstadt is as any other person to be held criminally liable for violation of a criminal statute.

"When a state officer acts under a state law in a manner violative of the Federal Constitution, he / she comes into conflict with the superior authority of that Constitution, and he /she is in that case stripped of his / her official or representative character and is subjected in his/ her person to the consequences of his /her individual conduct. The State has no power to impart to him / her any immunity from responsibility to the supreme authority of the United States." (Scheuer v. Rhodes, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974))

A judicial officer is as responsible as any other person for the violation of a criminal statute. (Boags v. Municipal Court, 197 Cal. App. 3d 65, 242 Cal. Rptr. 681 (2d Dist. 1987); Frazier v. Moffatt, 108 Cal. App. 2d 379, 239 P.2d 123 (2d Dist. 1951)).

## **II. Two opinions from California 2<sup>nd</sup> district court of appeal are void**

### **A. The opinions are void because Justice Hoffstadt violated 14th Amendment to the U.S. Constitution**

"Every constitutional provision is self-executing to the extent that everything done in violation of it is void." ( *Katzberg v. Regents of University of California* (2002) 127 Cal.Rptr.2d 482, 29 Cal.4th 300, 58 P.3d 339 .Constitutional Law 640)

**B.** The opinions are void because Justice Hoffstadt violated the due process of the legal principle of Labor Code § 98.2 and 5 claims in this case.

"Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, ( *Kiugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985))"

**C.** The opinions are void because Justice Hoffstadt acted without jurisdiction

"Judgment is a void judgment if court that rendered judgment **lacked jurisdiction of the subject matter**, or of the parties, or acted in a manner inconsistent with due process, ( *Kiugh v. U.S.*, 620 F.Supp. 892 (D.S.C. 1985))"

**D.** The opinions are void because Justice Hoffstadt committed fraud upon the court.

"Fraud destroys the validity of everything into which it enters," (*Nudd v. Burrows*. (1875) 91 U.S. 426,440)

Justice Hoffstadt's egregious errors against the Constitution are cumulative, so his opinions are void. The root cause is corruption. (See Formation of multi-judge corruption ring )

As mentioned in Pahis's Yale law journal: *Corruption in Our Courts: What It Looks Like and Where It Is Hidden* (2009) 118 1900, 1907,1924), Decisions, absent corruption, would not be *prima facie* wrong or in violation of another law; These cases do seem to intimate that corruption has a potentially infective quality and flourishes when those higher up in the hierarchical structure engage in it."

"Not only is a biased decisionmaker constitutionally unacceptable, but "our system of law has always endeavored to prevent even the probability of unfairness." *In re Murchison*, *supra* at 349 U. S. 136; cf. *Tumey v. Ohio*, 273 U. S. 510, 273 U. S. 532 (1927). In pursuit of this end, various situations have been identified in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable. Among these cases are those in which the adjudicator has a pecuniary interest in the outcome, [Footnote 14] and in which he has been the target of personal abuse or criticism from the party before him. [Footnote 15] "(*Withrow v. Larkin*, 421 U.S. 35 (1975))

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The 14th amendment to the U.S. Constitution, which provides, in part: 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.

California Constitution Article 1, section 16 which provides, in part:  
SEC. 16. Trial by jury is an inviolate right and shall be secured to all.

"A real estate salesman cannot contract in his own name (ibid.); he can only be **employed** by a licensed real estate [109 Cal. App. 3d 573] broker (Bus. & Prof. Code, § 10132; fn. 3 he cannot "be **employed** by...any person other than the broker under whom he is at the time licensed" (§ 10137); and his license must remain in the possession of **his broker employer** (§ 10160), who risks the suspension or revocation of his own license if he fails "to exercise reasonable supervision over the activities of his salesmen" (§ 10177, subd. (h)).

## **STATEMENT OF THE CASE**

### **I.**

#### **Introduction**

Bo Peng is an ordinary American citizen. As a certified real estate salesman, Bo Peng was employed by F.M. Tarbell in June 2015. Bo Peng's job is to sign a home sales contract on behalf of F.M. Tarbell Co. Law<sup>5</sup> declared that a licensed salesman is employee, because Bo Peng cannot sign contract in his own name and can only represent one real estate broker – F.M. Tarbell Co, to sign a contract to complete the sale. After employment, F.M. Tarbell Co. provided Bo Peng workplaces and facilities, required Bo Peng to use Tarbell's mandatory email address; and his every document signed with the customer has to be

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<sup>5</sup> Resnik v. Anderson & Miles (1980) [109 Cal. App. 3d 570, 573]

approved by the Manager. As an employee, Bo Peng is managed by his Manager. In order to realize the American dream, Bo Peng worked hard; for two consecutive years, he achieved silver awards; he obtained several other medals, certificates, and awards (Evidence 18); he earned the highest sales share of 90%. In November 2017, at the pinnacle of Bo Peng's career, when Bo Peng's big deal went into the escrow which contract was signed by all parties and was the time to get paid, for the purpose stealing employees' wages, F.M. Tarbell Co. suddenly announced that Bo Peng was terminated without cause from F.M. Tarbell Co. See evidence 7 (1AA 179): "You have been terminated from Tarbell Realtors" "[s]trong evidence in support of an employment relationship is the right to discharge at will, without cause. [Citations.]" (S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989.) 48 Cal.3d 341.)

Not only F. M. Tarbell Co. stole this large amount of wage, but also stole another wage of Bo Peng, with total amount over \$20,000. Apparently F.M. Tarbell Co. committed wage theft by wrongful termination for the purpose of stealing employee wages.

In its reference guide to rules and regulations, F.M. Tarbell Co wrote the policy that the terminated salesman will get paid (See page 13 of Evidence 1); in the subsequent court documents, F.M. Tarbell Co. admitted that two unpaid wages were owed to Bo Peng; (1AA 314). In the defendant's evidence 500, F.M. Tarbell Co admitted that Bo Peng is employee of F.M. Tarbell Co. F.M. Tarbell Co. owed wages to Bo Peng in the amount of \$28,268.01. By its unlawful business pattern, F.M. Tarbell Co. deliberately failed to pay Bo Peng the hard earned wage to which he is entitled till today's date. F.M. Tarbell Co. committed classic wage theft

Wages are the property that employees depend on for survival. In order to protect his legitimate rights and interests, Bo Peng reported F.M. Tarbell to the Labor commissioner. The labor commissioner defined the non-payment of wages as wage theft. Therefore, the case was filed and the hearing was conducted. In the face of factual evidences, the defendant only agreed Pay 50% of the wages owed and no agreement was reached. F.M. Tarbell Co. hired a dishonest and unethical attorney who violated the code of professional conduct, deliberately lied to Labor Commissioner, and wrote a letter full of lies to Labor commissioner. (1AA 181)

(1) Benjamin Griffin knowingly lied to Labor Commissioner: "Mr. Peng is not a signatory to any Tarbell listing agreement". In fact, Bo Peng's signatures were on the original listing documents for the listing Bo Peng claimed wage for.

(2) Benjamin Griffin knowingly lied to Labor Commissioner to use "leave" instead of the "termination" because the right of termination from F.M. Tarbell Co. is a strong evidence of employer and employee relationship and Bo Peng is an employee. (See evidence 7: "You have been terminated from Tarbell Realtors").

(3) Benjamin Griffin knowingly lied to Labor Commissioner that no commission would be paid to agent after "leave" but in reality, F.M. Tarbell Reference Guide to Rules and Regulation stated that the terminated agent would get paid. (See evidence 1 page 3-13 third paragraph from top when F.M. Tarbell Co initiated the termination, the terminated agent would get paid).

(4) The defendant's lawyer provided an invalid independent contractor agreement. When entering F.M. Tarbell Co., Bo Peng is required to sign an independent contractor

agreement as a condition for joining the company. Employees had no choice but to sign a agreement. Therefore, this independent contractor agreement was actually invalid. Law has declared that a licensed real estate salesman is employee, they cannot be classified as independent contractor and the independent contractor agreement is invalid.<sup>6</sup>

On 2/13/19, Lawsuit was filed by Bo Peng to Los Angeles County Superior court with labor code §98.2 as legal principle and with 5 claims (deliberately not paying wages (wage theft), wrongful termination, willful misclassification, compensatory damage for economic loss and emotional distress and punitive damage)(1AA 009-020.)

The trial court, as the original court, denied the defendant's motion to dismiss appeal and ordered this case to enter into the jury trial. So jury trial with Labor Code §98.2 and 5 claims govern the whole proceeding of this case, with which the trial must be complied with.

"The process due at any given time must reflect the nature of the proceeding and the interests involved." KC v. State, 2015 WY 73, 351 P.3d 236 (Wyo. 2015).

## **II. The defendant faces losing the lawsuit**

**A.** The defendant faces to pay more than one million dollars in compensatory damages and per Labor Code §226.8, defendant also has to pay a government fine over tens of millions of dollars due to defendant's willful misclassification of an licensed real estate salesman as an independent contractor. Therefore, the defendant used his huge illegal gains to take risk to influence, induce and corrupt the judges in the upper and lower level of judiciary system because the trial court's orders or judgment need to be affirmed by the Court of Appeal. If defendant and his attorney were to meet an honest judge who has integrity, defendant's attorney will lose his professional license. Defendant can only influence, induce and corrupt judges who pursue personal gains and was weak.

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<sup>6</sup> See Resnik v. Anderson & Miles (1980) [109 Cal. App. 3d 570, 573]

**B.** Judge Moreton permitted the defendant to have improper ex parte communication with him, signaled that he could accept law prohibited ex parte communication and that he can be influenced, induced and corrupted

When defendants or litigants already have a low opinion of the honesty of judges and the judicial process, they are far more likely to resort to bribing court officials, lawyers and judges to achieve their ends. ( TI GLOBAL CORRUPTION REPORT 2007, Comparative analysis of judicial corruption xxiv )

"Generally ex parte contacts between a judge and counsel are improper, and if not unjust in actuality, give the appearance of injustice." (Haluck v. Ricoh Electronics, Inc. (2007) 151 CA4th 994, 1002-1003)

The U.S. Supreme Court has ruled and has reaffirmed the principle that "justice must satisfy the appearance of justice", Levine v. United States, 362 U.S. 610, 80 S.Ct. 1038 (1960)

### **III. Formation of the corruption circle**

#### **A. Improper ex parte communication between defendant and Judge Moreton**

Improper ex parte communication between defendant's attorney and Judge Moreton can decide all the matters of this case, including order and statements of decision; they did not give appellant an opportunity to object. Judge Moreton violated the passive role of judge, violated the principle of adversary and precluded appellant from the right of speak; failed to listen to the opinions of all parties; lost fairness and impartiality; violated the due process of the law; and thus the order and judgment he made were invalid. Absent a motion and the two sides did not fight yet, Judge Moreton violated passive role of Judge, gave defendant the right to draft an order. The defendant submitted the drafting order without giving appellant the opportunity to object, and Judge Moreton judge approved it without changing a word and did not give the appellant an opportunity to object; he acted in excess of jurisdiction of jury: and without entering the jury trial, he approved to preclude all penalties against the defendant.

The general standard for improper ex parte communication is stated in various ways, but it is in essence a rule of fairness to ensure that all interested parties are heard on an issue. "It extends to communication of information in which counsel knows or should know the opponents would be interested. ... Construed in aid of its purpose, we conclude the

standard generally bars any ex parte communication by counsel to the decisionmaker of information relevant to issues in the adjudication." (55 C.A.4th 1317.)

"Generally ex parte contacts between a judge and counsel are improper, and if not unjust in actuality, give the appearance of injustice." (Haluck v. Ricoh Electronics, Inc. (2007) 151 CA4th 994, 1002-1003)

"Proper notice and service are fundamental element of due process, and failure to abide by the statutes and rules will often render any judgment or order void. Failure to comply with statutory requirements for service by mail deprives a court of jurisdiction to act." (Lee v. Placer Title Co. (1994) 28 CA4th 503, 511 33 CR2d 572)

The Supreme Court has ruled and has reaffirmed the principle that "justice must satisfy the appearance of justice", Levine v. United States, 362 U.S. 610, 80 S.Ct. 1038 (1960)

#### **B. The defendant made two unlawful orders to Judge Moreton**

Due to conclusive evidences, the defendant is impossible to win the case, repeatedly expressed willingness to pay the unpaid wages, (in labor commissioner, defendant was willing to pay 50% of unpaid wages, the last meeting with the defendant president, defendant was willing to pay \$23,000, but refused to pay the damage). After the case was formally established as a jury trial, calculated on the basis of the jury's instruction, Compensatory and Punitive damages will be over million dollars which shall be tried by Jury, not Judge Moreton.

Jury trial posed a great pressure to defendant since defendant could not use illegal proceeds to influence and control many jurors who are randomly selected.

Defendant felt it is impossible to win this case. Defendant filed Status Conference Statement (FINAL.) to express: "Tarbell remains willing and able to discuss settlement, including at the Final Status Conference." (AA 322,). At the same time, Defendant gave Judge Moreton an unlawful order: "**this case must be taken from the jury and a decision rendered on the written and admitted evidence at trial.**" (AA 318) Then defendant gave Judge Moreton another unlawful order that the court **must preclude "emotional distress,**

**lost wages, punitive damages". (AA 322,)**

**C. Multi-judge corruption ring assessed the risk of engagement of corruption**

The defendant presented unlawful objectives (AA 318, 322). Multiple judges in the trial court and the court of appeal have undergone risk assessment; they knew the actual value of this case was worth tens of millions of dollars calculated based on Labor Code §226.8<sup>7</sup> because the defendant will face a fine of over tens of millions dollars from government due to willful misclassification; Multiple judges also knew defendant's unlawful objectives; they considered that it was a rare opportunity for benefiting financially with high returns and low risk, or even zero risk because of plaintiff's status of self representing. So Judges who pursued private gain, disregarded of the judiciary dignity, accepted defendant's orders, took advantage of their judicial positions to join the defendant, were highly partial to defendant, were unable to remain impartial and served the interests of the defendant, to benefit financially from this case.

**D. Multi-judge corruption ring is organized association.**

The multi-judge corruption ring is organized and the division of work is clear. Each corrupt judge knows its own functions and is the link of the multi-judge corruption ring chain. They cannot accomplish the defendant's unlawful objectives alone and benefit from it. They must conspire, cooperate with each other, shield each other, and complete their

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<sup>7</sup> (a) It is unlawful for any person or employer to engage in any of the following activities: (1) Willful misclassification of an individual as an independent contractor. ... (c) If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.

own part of the task. The corrupt judges of the trial court rendered void judgments because they knew that Justice Hoffstadt from the appellate court is their umbrella. Justice Hoffstadt from the court of appeal with higher position in the multi-judge corruption ring made the void judgment valid, which indeed sheltered the corrupt judges of the trial court. The two levels of judges cooperated to finally accomplish the defendant's unlawful objectives, so that every member of the multi-judge corruption ring can benefit financially from this case. Defendant's unlawful objectives included two unlawful orders and two unlawful will:

Defendant's two unlawful orders to the corrupt judges:

- 1) Ordering the judge that the court must preclude "emotional distress, lost wages, punitive damages". (AA 322,) which is worth over 1 million dollars calculated based on jury instruction.
- 2) "This case must be taken from the jury and a decision rendered on the written and admitted evidence at trial." (AA 318) which destroyed the impartiality of our judiciary system and violated constitution, namely, Trial by jury is an inviolate right and shall be secured to all (Constitution Article 1, section 16)

Defendant's 2 unlawful will:

- 1) Change from a losing lawsuit to a winning lawsuit, finally being the prevailing party.
- 2) Extorting the attorney's fees. (1AA 401)

Since this case is divided into two appeals, the first appeal is the basis for the second appeal, and the second appeal is the continuation of the first appeal. Therefore, the incidental attack on the invalidity of the first appeal is placed in chronological order. Before the appeal number of this case, appellant hereby explains.

Upholding rule of law is the constitutional responsibility and obligation of the U.S. Supreme Court to safeguard the Constitution and laws. This not only affects the certainty of U.S. Supreme Court Supreme Court's case law, but also affects the national judicial system.

For the above reasons, this petition petitions the Supreme Court to review the appellant's second appeal and at the same time to review collateral attack on the void judgment (B304763).

"A judgment absolutely void upon its face may be attacked anywhere, directly or collaterally, whenever it presents itself, either by parties or strangers. It is simply a nullity, and can be neither the basis nor evidence of any right whatever. ..." (Forbes v. Hyde, 31 Cal. 342, 347; Texas Co. v. Bank of America etc. Assn., 5 Cal. 2d 35, 41 [53 P.2d 127].)"

#### **IV. The judgment made by the corrupt judge Moreton in multi-judge corruption ring is void.**

**A. In order to accomplish the defendant's unlawful objectives and benefit financially from this case, corrupt Judge Moreton violated the constitution, violated due process of law, committed fraud upon the court.**

**1. Without motion, without trial, without jurisdiction of jury, corrupt Judge Moreton precluded all the penalties against Tarbell**

After joining the defendant through improper ex parte communication, in order to show his loyalty, to gain the defendant's trust, without entering into jury trial, Judge Morton violated labor code §98.2 and the 5 claims, namely, due process of this case; he exceeded his jurisdiction to exercise the rights of a jurors; without a motion and notices, he violated the constitutional due process; when two parties haven't played yet, he violated the passive role of the judge and gave the defendant the right to draft an order; he did not give appellant the opportunity to object; he violated the constitutional adversary principle; he did not change a word and also approved the self-serviced order drafted by the defendant that "precludes any claims by Plaintiff of punitive damages, emotional distress, lost wages or ancillary claims against Tarbell" in which compensatory damage payment is over million dollars, which indicated that Judge Moreton was highly partial to the defendant

and could not remain impartial; therefore, he was a corrupt judge controlled by the defendant.

**2. Defendant made 180 degree U-Turn and raised two unlawful wills.**

Corrupt Judge Moreton did accomplish the defendant's unlawful order; he precluded over million dollars of penalties against the defendant; and he gained the defendant's trust. The very next day, the defendant made a 180-degree U turn, withdrawing previous commitment of paying unpaid wages \$23,000 and settlement, asked for attorney fees of \$40,000 from the victim of their unlawful business practice. These are the best proof that Judge Moreton joined the defendant, was highly partial to the defendant, and shared judicial power with the defendant. At the same time, the defendant made two wishes:

1) Change from a losing lawsuit to a winning lawsuit, finally being the prevailing party. (1AA 401)

2) Extorting the attorney's fees (1AA 401)

**3. Corrupt Judge Moreton violated due process, unjustified sanction appellant in the amount of \$500**

Without the jury trial of labor code §98.2 and 5 claims, the order made in violation of due process to exempt the defendant from all punishments is void. Corrupt Judge Moreton forced appellant to comply with void order made by him through violation of due process of law; he prevented appellant from raising claims; and otherwise he would impose a sanction of \$500.

**4. Appellant filed a timely writ of mandate, however Justice Hoffstadt sheltered corrupt Judge Moreton, was unable to remain impartial, denied the appellant's writ of mandate, and meantime exposed himself exposed himself as the one from California 2nd District Court of Appeal with a higher position in the multi-judge corruption ring;**

Regarding corrupt Judge Moreton's void order and unjustified sanction, appellant filed a timely writ of mandate to court of appeal. However, Justice Hoffstadt denied appellant's

writ of mandate. With his experience as Justice, Justice Hoffstadt should know that corrupt Judge Moreton joined defendant, was highly partial to defendant and was unable to remain impartial. Meanwhile, Justice Hoffstadt should be able to identify corrupt Judge Moreton's violation of constitutional due process; that without the jury trial of labor code §98.2 and 5 claims, the order made in violation of due process to exempt the defendant from all punishments is void. Justice Hoffstadt should take action to stop Judge Moreton's violation. Not only did he not stop it, but denied the plaintiff's writ of mandate, exposing that the Court of Appeal has the umbrella of corrupt Judge Moreton, that is, Justice Hoffstadt from California 2nd District Court of Appeal with higher position in the multi-judge corruption ring .

In order to shelter corrupt Judge Moreton, a member of the multi-judge corruption ring, Justice Hoffstadt upheld the corrupt Judge Moreton by denying the plaintiff's writ of mandate; he rendered the void order violating constitutional due process made by Judge Moreton valid; he collaborated with corrupt Judge Moreton to complete the defendant's unlawful order to remove penalties over a million dollars for defendant; In return, he benefitted from this case; meanwhile he exposed himself as the higher member in the multi-judge corruption ring; he was highly partial to the defendant; he was unable to remain impartial; and he also served the interests of the defendant.

“Bribery can occur at every point of interaction in the judicial system: court officials may extort money for work they should do anyway; lawyers may charge additional ‘fees’ to expedite or delay or to direct clients to judges known to take bribes for favourable decisions. For their part, judges may accept bribes to delay or accelerate cases, accept or **deny appeals**, influence other judges or simply decide a case in a certain way.”[Emphasis added] (Transparency International, the global coalition against corruption, Global Corruption Report 2007, Published in the United States of America by Cambridge University Press, New York, xxiv Comparative analysis of judicial corruption)

#### **B. Corrupt Judge Moreton denied constitutionally entitled jury trial.**

Because of Justice Hoffstadt's shelter and support, corrupt Judge Moreton was more disregarding for the law; he violated CCP. 177.5 and CRC Rule 2.30 (e.) to unjustified

sanction appellant \$500 without due process; he departed from the essentially passive role that is characteristic of the adversary system; he committed fraud upon the court by fabricating a re-request for a jury trial; without a motion of denying jury trial, he violated due process of law; he denied constitutionally entitled jury trial according to defendant's unlawful orders; and he unconstitutionally changed the jury trial by 12 jurors to his 1 judge court trial presiding by himself.

Denial of a trial by jury to one constitutionally entitled thereto is "both reversible error and an act in excess of jurisdiction" [Olivia N. v. National Broadcasting Co. (1977.) 74 CA3d 383, 389]

If a timely jury demand was made, and there is no proof of waiver, denial of a jury trial is prejudicial error per se. Thus, reversal of the judgment is mandatory. There is no need to demonstrate actual prejudice (i.e., no need to show the court trial was unfair, etc.).

Due process requires that any order imposing sanctions state with particularity the basis for finding a violation of the section [Caldwell v. Samuels Jewelers (1990) 222 Cal. App. 3d 970, 977–978, 272 Cal. Rptr. 126]. For further discussion, see § 510.13[2].

[The U.D. Registry, Inc. (2003) 105 Cal. App. 4th 1382, 1392 (court reversed sanctions order when order did not recite in detail the conduct or circumstances justifying it)]

C. The judgment made by the corrupt judge Moreton in multi-judge corruption ring is void.

1. **In the moral sense, the judgment made by corrupt Judge Moreton subverted the judiciary conscious.**

Wage theft, Defendant committing felony can never become a prevailing party because Wage theft is crime and caused public several times more harm than burglary and bank robbery. Judgment is against public policy, against the universal maxim of "pay the debt you owe", and shocked the judiciary conscious.

2. **In the legal sense, judgment rendered for the purpose of corruption in violation of due process by Corrupt Judge Moreton was void.**
  - 1) Without proceeding jury trial by Labor Code §98.2 and 5 claims, corrupt Judge Moreton seriously violated constitutional due process, thus the judgment rendered by Corrupt Judge Moreton is void.

“Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, (Kiugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985)“)
  - 2) Legally, a judgment based on a denying a constitutionally entitled jury trial, based on tampering with the plaintiff's evidences, made for the purpose of corruption by a corrupt judge, made in violation of due process, and fraud upon the court is void.

“Every constitutional provision is self-executing to the extent that everything done in violation of it is void.”( Katzberg v. Regents of University of California (2002) 127 Cal.Rptr.2d 482, 29 Cal.4th 300, 58 P.3d 339 .Constitutional Law 640)
  - 3) Judge Moreton committed fraud upon the court by fabricating a re-request for a jury trial; without a motion of denying the jury trial, he violated due process; and he denied constitutionally entitled jury trial, so his judgment is void. Fraud makes everything invalid.

“Fraud destroys the validity of everything into which it enters,” (*Nudd v. Burrows.* (1875) 91 U.S. 426,440)
- 4) The Law has declared that **“A real estate salesman cannot contract in his own name (ibid.); he can only be employed by a licensed real estate [109 Cal. App. 3d 573] broker (Bus. & Prof. Code, § 10132; fn. 3 he cannot "be employed by...any person other than the broker under whom he is at the time licensed" (§ 10137); and his license must remain in the possession of his broker employer (§ 10160), who risks the suspension or revocation of his own license if he fails "to exercise reasonable supervision over the activities of his salesmen" (§ 10177, subd. (h)).**

“We conclude, therefore, that a salesman, insofar as his relationship with his broker is concerned, cannot be classified as an independent contractor. Any contract which purports to change that relationship is invalid as being contrary to the law (Gipson v. Davis Realty Co., *supra*, 215 Cal. App. 2d 190, 207).” (Resnik v. Anderson & Miles (1980) [109 Cal. App. 3d 570, 573]) Thus, judgment is void as being contrary to the law.

**3. Based on defendant’s admitted Evidence 500, defendant and Judge Moreton who joined defendant:**

- 1) fully admitted relationship of employer and the employee between defendant F.M. Tarbell Co. and plaintiff Bo Peng.
- 2) fully admitted Bo Peng was an employee of defendant F.M. Tarbell Co.
- 3) fully admitted the facts that defendant F.M. Tarbell Co. owed wages to Bo Peng and the amount of claim is \$28,268.01.

**V. The order granting defendant’s motion for attorney fees, order denying appellant’s motion to tax costs, amended judgment made by the corrupt Judge Linfield in multi-judge corruption ring are void.**

**A.** The order granting defendant’s motion for attorney fees, order denying appellant’s motion to tax costs, and amended judgment are all void because Judge Linfield violated the 14th Amendment to the U.S. Constitution by depriving appellant’s wage property in different mode which is extorting attorney fees from appellant; he approved placing a lien to appellant’s property.

Without conducting the proceeding of labor code §98.2 and 5 claims, Judge Linfield deprived wage property in different mode which is extorting attorney’s fees in the amount of \$72,519.03 from appellant and approved placing a lien on appellant’s property; he deliberately violated 14th Amendment to the U.S. Constitution; and thus the order granting defendant’s motion for attorney fees, order denying appellant’s motion to tax costs, and amended judgment made by Judge Linfield are void.

**B.** The order granting defendant’s motion for attorney fees, order denying appellant’s motion to tax costs, amended judgment are all void because Judge Linfield violated

the due process of the legal principle of Labor Code § 98.2 and 5 claims in this case.

Labor Code § 98.2 and 5 claims are due process of this case, which govern this case from start to finish, from trial court to appellate court.

Without conducting the trial by Labor Code §98.2 and the 5 claims, Judge Linfield from trial court violated due process of this case, thus order granting defendant's motion for attorney fees, order denying appellant's motion to tax costs, amended judgment are all void.

"The process due at any given time must reflect the nature of the proceeding and the interests involved." KC v. State, 2015 WY 73, 351 P.3d 236 (Wyo. 2015).

"Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 Kiugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985)"

**C. Order granting defendant's motion for attorney fees, order denying appellant's motion to tax costs, amended judgment are all void because Judge Linfield from the has no jurisdiction over the contract action**

The subject matter of this case, that is, legal principle of labor code §98.2 and the five claims, govern the whole proceeding of this case from trial court to court of appeal. The contract action is completely different nature action from labor code § 98.2 of this case. Neither the trial court, nor the court of appeal has jurisdiction over the contract action. Without the jurisdiction over the contract action, order granting defendant's motion for attorney fees in the amount of \$72,519.03, order denying appellant's motion to tax costs, amended judgment the order and amended judgment are all void.

Subject matter jurisdiction has been defined as the authority of a court to try actions of the type or class to which a suit belongs. (Hughes v. Blue Cross of Northern California (1989) 215 Cal. App. 3d 832, 849, 263 Cal. Rptr. 850)

The judgment of a court wholly lacking jurisdiction over the subject matter, parties, or specific thing, is void [see Kulko v. California Superior Court (1978) 436 U.S. 84, 91, 98 S. Ct. 1690, 56 L. Ed. 2d 132;

Lack of subject matter jurisdiction can be raised at any time, even for the first time on appeal (DeTomaso v. Pan American World Airways, Inc. (1987) 43 Cal. 3d 517, 520 n.1, 235 Cal. Rptr. 292, 733 P.2d 614)

**D.** Order granting defendant's motion for attorney fees, order denying appellant's motion to tax costs, and amended judgment are all void because Judge Linfield committed fraud upon the court.

Corrupt Judge Linfield from the trial court used a phrase "in any action on a contract" from CCP 1717 to fabricate a nonexistent contract action and committed fraud upon the court.

Similarly, in order to avoid responsibility and cover up the exposure of multi-judge corruption ring, Justice Hoffstadt, higher member in the hierarchical structure of multi-judge corruption ring, committed fraud upon the court by fabricating a contract action in the labor commissioner, which also made everything invalid, that is, Minute Order dated 7/23/2020 granting defendant's motion for attorney's fees in the amount of \$72,519.03, Minute Order dated 8/17/2020 denying Plaintiff's motion to tax costs and Amended judgment dated 8/18/2020 are all void. Fraud destroys everything. Therefore defendant is not entitled to attorney's fees and costs.

"Fraud destroys the validity of everything into which it enters," (Nudd v. Burrows (1875), 91 US 426, 23 Led 286,290)

**E.** Judge Linfield is biased constitutionally unacceptable decisionmaker 案件号,

Judge Linfield is the successor of corrupt Judge Moreton; he voluntarily and publicly tied to corrupt Judge Moreton; regardless of right or wrong, he fully accepted defendant's attorney's fees motion which was full of mistakes and defects and with perjury service; he violated passive judge role to grant relief to defendant, even by tampering with Law; and he covered up defendant's felony offering ante-dated proof of service. Linfield Judge Linfield accepted the defendant's motion completely regardless of right or wrong and defects.

1) Judge Linfield committed impunity when defendant committed felony by offering ante-dated evidence to the court.

- 2) Judge Linfield is influenced and controlled by corrupt judge Moreton in the multi-judge corruption ring. He voluntarily and publicly tied to Judge Moreton, repeatedly stated in the open court that he tied to the corrupt Judge Moreton, which proves that he lost independence and is biased. Regarding defendant attorney's committing felony by tampering with Bo Peng's evidences and lost this case, Judge Linfield answered that because Judge Moreton didn't find it, he was not finding that. (2AA 135)
- 3) Regarding that through improper ex parte communication with defendant, Judge Moreton disregarded judiciary dignity, accepted defendant's orders, joined the defendant, took advantage of judicial position to serve defendant's interest, Judge Linfield stated in the open court: "If Appeal court finds Judge Moreton is wrong, then I am wrong. If Appeal court finds Judge Moreton is right, I am right. (2AA 135). Later Judge Linfield has publicly and repeatedly stressed that if Judge Moreton is wrong, he is wrong. If Judge Moreton is right, he is right, (2AA 136 )
- 4) Judge Linfield's public statement exposed the umbrella of corruption in the California 2nd District Court of Appeal, that is Justice Hoffstadt, because Justice Hoffstadt had been unfair in denying writ of mandate, he was highly partial to the defendant and sheltered the corrupt Judge Moreton. So Linfield publicly stated that Judge Moreton was right, and he was right, so he publicly tied to the corrupt Judge Moreton and would also be protected by Justice Hoffstadt

Lack of subject matter jurisdiction is such a basic defect that it can be raised at any time by any party during the course of an action. [Boisclair v. Superior Court, 51 Cal. 3d 1140, 276 Cal. Rptr. 62, 801 P.2d 305 (1990)]

- 5) Judge Linfield, the corrupt judge in the multi-judge corruption ring, gave the defendant relief when the defendant did not apply for CCP473, and without the authorization from CCP473, Judge Linfield violated the passive role of the judge; actively granted the defendant relief which defendant is not entitled; and he violated due process.
- 6) In order to adapt to the defendant's false statement, that is, defendant's

Memorandum of cost was filed on time, Judge Linfield, the corrupt judge in the multi-judge corruption ring, tampered with the CRC Rule 3.1700 and changed the starting date of 15-day deadline, which was recorded in the record, he actually committed the fraud upon the court.

The U.S. Supreme Court has ruled and has reaffirmed the principle that "justice must satisfy the appearance of justice", Levine v. United States, 362 U.S. 610, 80 S.Ct. 1038 (1960)

"Not only is a biased decisionmaker constitutionally unacceptable, but "our system of law has always endeavored to prevent even the probability of unfairness." In re Murchison, *supra* at 349 U. S. 136; cf. Turney v. Ohio, 273 U. S. 510, 273 U. S. 532 (1927). In pursuit of this end, various situations have been identified in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable. Among these cases are those in which the adjudicator has a pecuniary interest in the outcome, [Footnote 14] and in which he has been the target of personal abuse or criticism from the party before him. [Footnote 15] "(Withrow v. Larkin, 421 U.S. 35 (1975))

In Summary, the corrupt judges in the multi-judge corruption ring have a common illegal objectives; they acted and did use illegal means, namely, violating the due process of this case, committing fraud upon the court, making decisions on issues other than this case, making void orders, judgments, opinions; conspired with the defendants to extort attorney fees; violated the 14th amendments to the U.S. Constitution; failed to conduct a trial in accordance with due process; after depriving appellant's wage property, unjustified sanctioned appellant, they extorted attorney fees for defendant from appellant; they benefit financially from this case. Multi-judge corruption ring conspired with defendant to extort attorney fees for defendant from appellant.

In order to accomplish the defendant's illegal objectives, Judge Linfield, the corrupt judge in multi-judge corruption ring, committed fraud upon the court. Without the authorization of the law, according to the void judgment made by corrupt Judge Moreton by violation of due process of law, without the jurisdiction over the contract action and that the independent contract agreement that has been declared invalid by the law he granted the defendant's attorney fees which defendant is not entitled; he benefitted financially from it.

## **VI. The pattern, harm and consequence of the multi-judge corruption ring**

The practice pattern, divide of work and cooperate of the multi-judge corruption ring have been clearly described in the Supreme court case Blumenthal v. United States . The corrupt judges in the corruption circle know that their personal participation is just a link in the corruption circle. Each corrupt judge has a different role in multi-judge corruption ring, and work together to accomplish the defendant's unlawful objectives:

Practice pattern of multi-judge corruption ring

### **1. Regarding the facts:**

- 1) Justice Hoffstadt committed fraud upon the court by fabricating an entire jury trial with non-existent CCP 581C motion on the first appeal (B304763)
- 2) Justice Hoffstadt committed fraud upon the court by fabricating a contract action before labor commissioner.
- 3) Justice Hoffstadt fraudulently altered the evidence 7.

In fact, appellant was terminated without cause. See evidence 7: "You have been terminated from Tarbell Realtors")

"[s]trong evidence in support of an employment relationship is the right to discharge at will, without cause. [Citations.]" (S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989.) 48 Cal.3d 341.)

Justice Hoffstadt deliberately used false statement of "In November 2017, Tarbell terminated the independent contractor arrangement with plaintiff." to adapt to accomplishing defendant's unlawful objectives.

- 4) Justice Hoffstadt used the phrase "undisputed fact" to replace the evidence because he has no evidence to support his opinion.

Justice Hoffstadt's "undisputed fact" is disputed in fact. The dispute have been shown in the appeal briefs and records, Justice Hoffstadt's "undisputed fact" is false statement, and Justice Hoffstadt has deliberately written these false statements into appeal court opinions to commit the fraud upon the court. Only defendant's evidence 500 admitted by Judge Moreton, demonstrated the undisputed fact: Bo Peng is an employee of F.M. Tarbell.

## **2. Regarding the law**

Justice Hoffstadt tampered with Law by changing “a hearing de novo” under labor code §98.2 to “ an appeal de novo”, rendered void judgment valid, denied equal protection of the law, and made a multi-judge corruption ring version of the law, either law they tampered with to adapt to accomplishing the defendant’s illegal goals

## **3. Regarding the judiciary process**

They violated due process of law, carried out multi-judge corruption ring’s version of judicial process outside the limit of the jurisdiction of the court. That judiciary process is that the trial court makes void orders, imposed unjustified sanction and made void judgments, and Justice Hoffstadt departed from the legal constraints of § 98.2 and 5 claims of this case to render the void orders and judgment valid; sheltered the corrupt judge Judge Moreton in trial court;

On the second appeal, Justice Hoffstadt departed from the legal constraints of § 98.2 and 5 claims of this case; without jurisdiction over the contract action, rendered the void order granting defendant’s motion for attorney fees, void order denying appellant’s motion to tax costs, and void amended judgment rendered without jurisdiction and produced by fraud upon the court, valid; sheltered the corrupt Judge Linfield, the member of multi-judge corruption ring in trial court; violated due process to extort attorney fees; deprived the appellant of wages property in different ways repeatedly that is, deprived the appellant of wages in the amount of \$28,268.01, unjustified sanction appellant in the amount of \$500 and extorted attorney’s fees \$72,519.03 from appellant, totaling over 100,000 dollars and approved to place a lien on appellant’s property. Corrupt Judges in the multi-judge corruption ring conducted multi-judge corruption ring’s version of judiciary process outside the limits of jurisdiction of the court; they committed lawless judiciary violence.

### **F. The harm of the multi-judge corruption ring**

The bribery of judges has a direct impact on the very essence of the judicial function,

which is to deliver an independent, fair and impartial decision. The consequence is unfairness and unpredictability in the legal process from start to finish, and a systematic undermining of the rule of law. Corruption in the judiciary is all the more damaging because of the important role the judiciary is expected to play in combating this very evil. As a consequence judicial corruption hampers national development, and the institution at the heart of the fight against corruption is disabled.(TI, Global Corruption Report 2007 supra P62)

#### **G. Risks and consequences faced by corrupt judges in multi-judge corruption ring**

A judge convicted of any bribery or corruption crimes specified in provisions governing crimes against public justice, in addition to the punishment prescribed, forfeits the judge's office and is forever disqualified from holding any office in the state.<sup>3</sup> (Pen. Code, § 98.)

Corrupt judges have overestimated their own abilities and miscalculated the situation and the consequences. The reason why they are so disregarding constitution is because there is no one to supervise and manage them so far.

## **REASONS FOR GRANTING THE PETITION**

### **I. California 2nd District Court of Appeal and California Supreme Court have entered decisions in conflict with the decision of other states court of appeal, other state Supreme Court, United States court of appeals or U.S. Supreme Court**

#### **A. Regarding the jurisdiction**

In its opinions of B307484 and B304763, by tampering with labor code §98.2 from “A hearing de novo [under Labor Code section 98.2]” to “an appeal de novo” and ignoring 5 claims, California 2<sup>nd</sup> District Court of appeal acquired jurisdiction by the mere assertion of it, actually “No court or tribunal can acquire jurisdiction by the mere assertion of it”<sup>8</sup> California 2<sup>nd</sup> District Court of appeal has no jurisdiction over labor commissioner’s

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<sup>8</sup> In re Madera Irrigation District, 92 Cal. 296, 28 P. 272 (1891); Mannix v. Superior Court of Sacramento County, 133 Cal. App. 740, 24 P.2d 507 (3d Dist. 1933).

determination and it has no jurisdiction over the contract action fabricated by Justice Hoffstadt. Labor Code action and contract action are different types of actions. Obviously, opinions of California 2<sup>nd</sup> District Court of appeal are void because of out of jurisdiction.

However, California Supreme Court is mute and denied appellant's petition for review. Their decisions conflicted with the decision from Illinois court of appeal and Illinois Supreme Court.

In other words, a court, in order to exercise jurisdiction over a given action or proceeding, must have jurisdiction over the subject matter, that is, the constitutional and statutory power to adjudicate the matter in controversy <sup>9</sup>

The requirements for the court's statutory subject-matter jurisdiction must be strictly complied with and must affirmatively appear in the record. *Evans v. Corporate Services* (1990), 207 Ill. App.3d 297, 302.

**Void order** which is one entered by court which **lacks jurisdiction over parties or subject matter**, or lacks inherent power to enter judgment, or order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that party is properly before court. (*People ex Rel. Brzica v. Lake Barrington*, 268 Ill. App. 3d 420,425, 644 N.E.2d 66 (Ill. App. Ct. 1994)) [emphasis added]

## **B. Regarding denying the equal protection of 14th Amendment to the U.S.**

### **Constitution**

In its opinion of B307484 and B304763, by targeting Bo Peng who is a licensed real salesman to re-find him as independent contractor while the law declared that a licensed real estate salesman is employee, California 2<sup>nd</sup> District Court of appeal denied the equal protection of the law. And California Supreme Court is mute and denied appellant's petition for review. Their decisions conflicted with the decisions from U.S. Supreme Court.

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<sup>9</sup> [see *Abelleira v. District Court of Appeal* (1941) 17 Cal. 2d 280, 288; *Harrington v. Superior Court* (1924) 194 Cal. 185, 188, 228 P. 15; *Workmen's Comp. Appeals Bd. v. Small Claims Court* (1973) 35 Cal. App. 3d 643, 645, 111 Cal. Rptr. 6]

Every state official, high and low, is **bound by** the Fourteenth Amendment.(U.S. v. Raines, 362 U.S. 17, 80 S. Ct. 519, 4 L. Ed. 2d 524 (1960)) [Emphasis added]

#### C. Regarding due process of laws

In its opinion of B307484 and B304763, California 2nd District Court of Appeal violated due process of this case which is labor code §98.2 and 5 claims, made opinion on the non subject of action of this case. And California Supreme Court is mute and denied appellant's petition for review. Their decisions conflicted with the decision from Wyoming Supreme Court.

"The process due at any given time must reflect the nature of the proceeding and the interests involved." KC v. State, 2015 WY 73, 351 P.3d 236 (Wyo. 2015).

#### D. Regarding the rendering void judgment valid by the Court of Appeal

In its opinion of B307484 and B304763, California 2nd District Court of Appeal made void judgment, void appealable orders and void amended judgment valid. And California Supreme Court is mute and denied appellant's petition for review. Their decisions conflicted with the decision from Wyoming Supreme Court.

'The judgment of affirmance rendered by this court could not impart to it validity, but would itself be void by reason of the nullity of the judgment appealed from.' (Chambers v. Hodges, 23 Tex. 104, 110.)

A "void" judgment, as we all know, grounds no rights, forms no defense to actions taken there under, and is vulnerable to any manner of collateral attack (thus here, by). No **statute of limitations or** repose runs on its holdings, the matters thought to be settled thereby are not res judicata, and years later, when the memories may have grown dim and rights long been regarded as vested, any disgruntled litigant may reopen old wound and once more probe its depths. And it is then as though trial and adjudication had never been. (Fritts v. Krugh, Supreme Court of Michigan, 92 N.W.2d 604, 354 Mich.)

#### E. Regarding the fraud upon the court

With opinion of B307484, Justice Hoffstadt who is from California 2nd District Court of Appeal with the high position in multi-judge corruption ring committed fraud upon the

court by fabricating a contract action before labor commissioner.

With the opinion of B304763, Justice Hoffstadt who is from California 2nd District Court of Appeal and is in the high position in multi-judge corruption ring committed fraud upon the court by fabricating a entire jury trial with a non-existent CCP 581c motion, to deny the right of trial by jury to one constitutionally entitled.

California Supreme Court is mute, denied the appellant's petition for review, made decisions (order granting defendant's motion for attorney fees, order denying appellant's motion to tax costs, amended judgment and opinion (B307484) of California 2nd District Court of Appeal, judgment and ) produced by fraud upon the court become final. California Supreme Court's decisions are in conflict with the decision of United States court of appeals and U.S. Supreme Court.

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." Kenner v. C.I.R., 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and **never becomes final.**" (Emphasis added)

"Furthermore, tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society. Surely it cannot be that preservation of the integrity of the judicial process must always wait upon the diligence of litigants. The public welfare demands that the agencies of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud." Hazel-Atlas Glass Co. v. Hartford Empire Co. [322 U.S. 238, 246 (1944)].

#### F. Regarding defendant attorney felony tampering with Bo Peng's evidence (AA )

In comparison with the penal code 132, defendant attorney committed felony. With his opinion of B304763, Justice Hoffstadt from California 2nd District Court of Appeal with the higher position in multi-judge corruption ring found defendant's attorney felony as

“relabeling” which showed Justice Hoffstadt’s being highly partial to defendant and conducting miscarriage of justice. Reversal is automatic, however Justice Hoffstadt did not reverse the judgment with false evidence and on the contrary to affirmed it in full. And California Supreme Court made it final.

The Ninth Circuit has declared that reversal is ““ virtually automatic ” ” once it is established that false evidence was introduced. (Hayes v. Brown (9th Cir. 2005) 399 F.3d 972, 978.)

**II. The U.S. Supreme Court has the paramount right conferred by the Constitution, it should uphold the constitution, has responsibilities and obligations to perform supervisory duty to make the Constitution and laws of the United States uniform, and the same in every State.**

As above, California 2nd District Court of Appeal and California Supreme Court have entered decisions in conflict with the decision of other states court of appeal, other state Supreme Court, United States court of appeals or U.S. Supreme Court

It is not confined to suits in the inferior courts of the United States, but extends to all cases where such a question arises, whether it be in a judicial tribunal of a State or of the United States. And it is manifest that this ultimate appellate power in a tribunal created by the Constitution itself was deemed essential to secure the independence and supremacy of the General Government in the sphere of action assigned to it, to make the Constitution and laws of the United States uniform, and the same in every State, and to **guard against evils** which would inevitably arise from conflicting opinions between the courts of a State and of the United States, if there was no common arbiter authorized to decide between them. ( Ableman v. Booth, 62 U.S. 506, 518 (1858))

**III. This case is a big and national level case**

Regarding the value of this case: As the defendant faces losing this case, depending on the time, numbers of employees of the F.M. Tarbell Co, the government's fine will exceed tens of millions dollars or even hundreds of millions dollars, so the value of this case is even hundreds of millions, which is a big case affecting the national economy and

influencing the interests of every American citizen. This case has national importance. Federal and state lost tens of millions in tax revenue on one company. Based on the numbers of companies in the U.S. Supreme Court it was counted more than billions of dollars in tax revenue loss, which directly affected the development of the national economy. In order to reverse the loss of this big case, the defendant frantically used illegal gains to influence and corrupt officials in the judicial system.

Labor commissioner defined the act of intentionally not paying employees as wage theft and a crime. Wage theft can rob employee of significant earnings and caused harm to public more serious several times than burglary and bank robbery, should attract the attention of the whole society. (AA 485)

The legalization of wage theft, wrongful termination, misclassification will have adverse impact on national economy.

**IV. The multi-judge corruption ring wars against Constitution, usurped the administration of justice, disregarded for the laws, made multi-judge corruption ring's version of law and conducted judiciary violence outside of limit of Constitution. The U.S. Supreme Court should intervene.**

The merits of the case and applicable law are not paramount in corrupt judiciaries, but rather the status of the parties and the benefit judges and court personnel derive from their decisions. (TI Global Corruption Report 2007 Corruption within the judiciary: causes and remedies Page 3)

Accomplishing the defendant's illegal objectives has consequences. The corrupt Judges in multi-judge corruption ring are very aware of the risks and consequences they face. This is why Justice Hoffstadt carefully planned and employed all the illegal means. He tampered with evidence, committed fraud up the court, and wars against the Constitution,

to prevent the exposure of multi-judge corruption ring. In the end, he attempted to use the method of putting blame on others, namely labor commissioner.

There are a lot of false statements in Justice Hoffstadt's opinions. He made up stories which are not in the records to belittle the self represented appellant. What Justice Hoffstadt committed will show up and the truth will come to light. Multi-judge corruption ring will eventually be noticed by honest judges with integrity. We are in a country under the rule of law. Corruption is not tolerated.

"No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence." Ableman v. Booth, 21 Howard 506 (1859).

Corruption is undermining judicial systems around the world, denying citizens access to justice and the basic human right to a fair and impartial trial, sometimes even to a trial at all, according to the Global Corruption Report 2007: Corruption in Judicial Systems issued today by Transparency International, the global coalition against corruption.

"Equal treatment before the law is a pillar of democratic societies. When courts are corrupted by greed or political expediency, the scales of justice are tipped, and ordinary people suffer," said Huguette Labelle, Chair of Transparency International. "Judicial corruption means the voice of the innocent goes unheard, while the guilty act with impunity."

Corrupt Judges in the multi-judge corruption ring has made invalid thing valid, made unlawful thing lawful, and made void judgment valid and has undermined impartial system of random selection of cases, impartial system of automatic disqualification, impartial jury system disabled, they subverted the administration of justice: and they conducted lawless violence. The harm of multi-judge corruption ring is extremely severe. It made American people lose the confidence of impartiality of judiciary system; It affected the national economic development; It undermined the predictability stability and the appearance of integrity in the judicial process; it is far more than an injury to a single litigant; and it is a wrong against the institutions set up to protect and safeguard the

public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society.

The U.S. Supreme Court has the paramount authority conferred by U.S. Constitution to intervene.

**V. The U.S Supreme Court cannot make the American people having no law to follow,**

The Supreme Court's use of the 14th amendment expanded the application of the Bill of Rights across the country because of all this and because of the due process clause within it the 14th amendment now guarantees fundamental rights to every citizen of our country

I firmly believe that our country is a country under the rule of law. U.S. Supreme Court High Law has created the glory of the Brown case. The same can be done. It can also create another glory, stop the lawless violence from the corruption circle, make the justice more honest, and increase public's confidence which affects the life of every American.

**VI. Justice Hoffstadt from California 2nd District Court of Appeal violated principle of stare decisis with**

Black's Law Dictionary to find stare decisis has let the decision stand to adhere to precedence and not to unsettle things which are established. (John Robert) Chairman, I would point out that the principle goes back even farther than Cardozo and and frankfurter Hamilton in Federalist number 78 said that to avoid an arbitrary discretion in the judges they need to be bound down by rules and precedents so even that far back the founders appreciated the role of precedent in promoting even-handedness predictability stability the appearance of integrity in the judicial process. (Excerpts from statement John Roberts at his confirmation hearing for Chief Justice of the United States)

Judges in the corruption circle do the opposite. They are not bound by laws and precedents and abused exercised their arbitrary discretionary powers (outside the limit of jurisdiction of the court, and not subject to limitation of specific laws, such as labor code §98.2 in this case), violating the principle of stare decisis, and their purpose is to reverse

right and wrong. unsettled the established laws; outside the limit of jurisdiction of the court, they tampered with laws and re-found laws to enact multi-judge corruption ring's version of law to adapt to accomplishing the defendant's unlawful objectives. Once the honest justice judge outside the multi-judge corruption ring intervene, multi-judge corruption ring will collapse, causing it to be completely defeated, corrupt judges will be losing their career and never being able to hold public office.

A judicial officer is as responsible as any other person for the violation of a criminal statute. (Boags v. Municipal Court, 197 Cal. App. 3d 65, 242 Cal. Rptr. 681 (2d Dist. 1987); Frazier v. Moffatt, 108 Cal. App. 2d 379, 239 P.2d 123 (2d Dist. 1951)).

## CONCLUSION

The petition for a writ of certiorari should be granted.

"It will be an evil day for American liberty if the theory of a government outside of the supreme law of the land finds lodgment in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violation of the principles of the Constitution." (Downs v. Bidwell, 182 U.S.244, 382, (1901))

Respectfully submitted,



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