No._____

SUPREME COURT OF THE UNITED STATES

Rafael Cezar Danam,

Petitioner,

vs.

Arizona Board of Education,

Diane Douglass, Et Al

Respondents.

On Petition from the United States District Court of Arizona

and

Supreme Court of the State of Arizona

APPLICATION TO CHIEF JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

EXTRAORDINARY WRIT OF MANDAMUS

THE HONORABLE CHIEF JUSTICE JOHN G. ROBERTS, JR.

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I. Statement of Application for Intervention Presented to the Honorable Chief Justice

CASE TITLE: ***Rafael Cezar Danam v. Arizona Board of Education, Diane Douglass Et Al.***

The "Perpetual Union" of the United States of America is established by the United States Constitution as the "Supreme Law of the Land" in Article VI, Paragraph 2, which therefore no Justice of the United States District Court nor Justice of the Supreme Court of a State can violate, but rather must defend and uphold the Constitution pursuant to Article III, Sections 1 and 2 and "Oath of Office" pursuant to 28 U.S. Code § 453. Errors of injustice violating the Constitution must have forum for "Redress of Grievances" by authority of the First Amendment and foundational premise of "EQUAL JUSTICE UNDER LAW" where the Supreme Court of the United States, *Georgia v. Brailsford* (1794) by First Chief Justice John Jay stated, "Justice is indiscriminately due to all, without regard to numbers, wealth, or rank." That "Justice" established in Preamble of the Constitution is sought by Honorable Chief Justice John G. Roberts, Jr. for interventions of constitutional violations and questions of law presented due to judicial fundamental errors by the United States District Court of Arizona by Writ of Mandamus.

President Abraham Lincoln defined the "Perpetual Union" of the United States of America established in the United States Constitution, in his first inaugural address on March 4, 1861, Abraham Lincoln stated:

> The Union is much older than the Constitution. It was formed, in fact, by the Articles of Association in 1774. It was matured and continued by the Declaration of Independence in 1776. It was further matured, and the faith of all the then thirteen States expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778. And finally, in 1787, one of the declared objects for ordaining and establishing the Constitution was to form a more perfect Union

1.) Application to Chief Justice John G. Roberts, Jr. as designated by jurisdiction over the United States District Courts pursuant 28 U.S. Code § 42, Appellant as Applicant Rafael Cezar Danam presents pursuant to Supreme Court Rule 22 by authority of Article III, Sections 1 and 2, and Article VI, Paragraph 2 of the U.S. Constitution, Applicant presents pursuant to First Amendment "Redress of Grievances" from United States District Court of Arizona in violation of 42 US Code § 1983 and § 1988, Applicant's Right of "Trial by Jury" pursuant to Seventh Amendment against Arizona Board of Education, Et Al, Appellees as Defendants for violation of the Supremacy Clause of the United States Constitution, Article VI, Clause 2.

2.) Application to Chief Justice John G. Roberts, Jr. pursuant to Supreme Court Rule 22, United States Constitution Article III, Sections 1 and 2, by Applicant Rafael Cezar Danam as Appellant from United States District Court of Arizona against Arizona Board of Education, Et Al, Appellees as Defendants for violation of 42 US Code § 1983 and § 1988 for Defendants violations of U.S. Constitution First (I), Fifth (V), Sixth (VI), Eighth (VIII) and Fourteenth (XIV) Amendments; furthermore State of Arizona violations by jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343 based on 42 U.S.C. §1983, State law claims pursuant to 28 U.S.C. §1367 for violations of Arizona Constitution Article 2, § 4, 5, 6 and 32. Applicant seeks right of vindication from constitutional violations by "Redress of Grievances" by Writ of Mandamus.

II. Questions for Application to Chief Justice for Writ of Mandamus

1.) Application pursuant to Supreme Court Rule 22, United States Constitution Article III, Sections 1 and 2, Applicant as Petitioner seeks intervention for direction to the United States District Court of Arizona, with appeal for right of "Jury Trial" pursuant to Seventh Amendment U.S. Constitution for violations of Supremacy of the United States Constitution and right of "Redress of Grievances" for "Cruel and Unusual Punishment" and violations of "Due Process" pursuant to First, Fifth, and Fourteenth Amendments by Writ of Mandamus. Are Defendants greater than these Constitutional Statutes that have been violated?

2.) Application pursuant to Supreme Court Rule 22, United States Constitution Article III, Sections 1 and 2, Applicant as Petitioner seeks intervention for direction to the United States District Court of Arizona, for permitting right of "Witnesses and Evidence" pursuant to Sixth Amendment U.S. Constitution for violations of United States Constitution's First, Fifth and Fourteenth Amendments by Writ of Mandamus. Are Defendants greater than these Constitutional Statutes that have been violated?

3.) By Writ of Mandamus, application pursuant to Supreme Court Rule 22, United States Constitution Article III, Sections 1 and 2, Applicant as Petitioner seeks intervention for direction to the United States District Court of Arizona, for right of "Redress of Grievances" pursuant to First Amendment U.S. Constitution for violations of wrongful "Cruel and Unusual Punishments"

pursuant to Eighth Amendment U.S. Constitution and recovery and restoration of all rights, privileges of certifications, graduate degree, salary and wages protected by the Preamble of the U.S. Constitution and public mettle of character, virtues of good citizenship restored as proclaimed by First President George Washington, "Still I hope I shall always possess firmness and virtue enough to maintain (what I consider the most enviable of all titles) the character of an honest man." (Letter to Alexander Hamilton. August 28, 1788) Are Defendants greater than these Constitutional Statutes that have been violated?

Arizona Board of Education as Defendants' violations of Rafael Cezar Danam as Plaintiff's constitutional rights, establishes the wisdom of St. Augustine, "In the absence of justice, what is sovereignty but organized robbery?" Arizona Revised Statutes ("A.R.S.") §12-820.01 "Absolute Immunity" is unconstitutional and directly violates essence of the United States Constitution, which Thomas Jefferson emphasized in stating, "Equal rights for all, special privileges for none." Which Justice Harlan stated in *Plessy v. Ferguson*, 163 U.S. 537 (1896) that:

> **In view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is colorblind, and neither knows nor tolerated classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful.**

United States Constitution

Preamble of the United States Constitution

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article VI, Clause 2 of the United States Constitution

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

First Amendment of the United States Constitution

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

Fifth Amendment of the United States Constitution

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Sixth Amendment of the United States Constitution

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Seventh Amendment of the United States Constitution

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

Eighth Amendment of the United States Constitution

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Fourteenth Amendment of the United States Constitution

Section 1

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

III. Related Cases

Arizona State Board of Education (AZSBE) vs. Rafael C. Danam, AZSBE Admin. Case No.: C-2016- 585. Order entered October 23, 2017; Appeal rehearing denial order February 26, 2018

Rafael Cezar Danam vs. Arizona Board of Education, Maricopa County Superior Court Case No.: LC2018-00093-001. Judgement entered March 2, 2018

Rafael Cezar Danam vs. Garnett Winders, Maricopa County Superior Court Case No.: CV 2018-051493. Judgement entered 2018.

Rafael Cezar Danam vs. Arizona Board of Education, U.S. District Court of Arizona Case No.: CV-18-1493-PHX-DGC. Judgement entered May 30, 2019.

Rafael Cezar Danam vs. Arizona Board of Education, Court of Appeals- Division One Case No.: 1 CA-CV 18-0668. Judgement entered October 31, 2019; Finalized April 23, 2020.

Rafael Cezar Danam vs. Arizona Board of Education, Arizona Supreme Court Case No.: CV-19-0284. Denial of review entered April 23, 2020.

***Rafael Cezar Danam vs. Arizona Board of Education*, Petition for Writ of Certiorari from Court of Appeals of Arizona, Division One, SUPREME COURT OF THE UNITED STATES Case No. 20-5831. Denied Petition for Writ of Certiorari December 7, 2020.**

Rafael Cezar Danam vs. Arizona Board of Education, U.S. District Court of Arizona Case No. CV-20-02489-PHX-MTL. Judgement entered August 9, 2021.

In Conjunction to Violation of V Amendment of U.S. Constitution with Respondents

Rafael Cezar Danam vs. Elaine Kelley, U.S. District Court of Nevada Case No.: 2:19-CV-01606-JAD-DJA. Judgement entered April 14, 2020.

Rafael Cezar Danam vs. Elaine Kelley, Supreme Court of the State of Nevada Case No.: 82036. Judgement entered

IV. List of Parties

Supreme Court Rules 24 (1)(b) and 35.5 the list of all parties does not appear in the caption of the case on the cover page. A list of all parties in the Matter of ***RAFAEL CEZAR DANAM vs. ARIZONA BOARD OF EDUCATION*** to the proceeding in the court whose judgment is the subject of this application and petition is as follows as Defendants to Appellant as Application Rafael Cezar Danam:

1.) Diane Douglass, Superintendent (Former)

2.) Tim Carter, President

3.) Lucas J. Narducci, Vice President

4.) Dr. Rita H. Cheng, Member

5.) Dr. Daniel P. Corr, Member

6.) Michelle Kaye, Member

7.) Janice Mak, Member

8.) Calvin Baker, Member

9.) Chuck Schmidt, Member

10.) Jared Taylor, Member

11.) Patricia Welborn, Member

12.) Ms. Prudence Lee, Hearing Officer

13.) Dr. Melissa Sadorf, Member Professional Practices Advisory Committee ("PPAC")

14.) Mr. Jay Cryder, Member PPAC

15.) Ms. Bonnie Sneed, Member PPAC

16.) Mr. Claudio Coria, Member PPAC

17.) Garnett Winders, Chief Investigator

18.) David W. Spelich, Investigator III

19.) Alicia Williams, Executive Director

Bullhead Elementary School District No. 15, Colorado River Schools

A.) Martin Muecke, Principal B.) Benji Hookstra, Assistant Superintendent

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VII. Statement of the Case for Writ of Mandamus

Application for "Extraordinary Writ of Mandamus" Petitioner, RAFAEL CEZAR DANAM, 'Pro Se' by 28 U.S.C. § 1654 as Applicant presents in accordance with Supreme Court Rule 22, United States ("U.S.") Constitution Article III, Sections 1 and 2, assigned to United States ("U.S.") District Courts to Honorable Chief Justice John G. Roberts, Jr. in seeking "justice" as declared by First Chief Justice John Jay in *Georgia v. Brailsford* (1794) stated, "Justice is indiscriminately due to all, without regard to numbers, wealth, or rank." *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816). Supreme Court Rule 10 (A) in application of U.S. District Court decisions, has presented fundamental errors in violation of constitutional provisions from Judicial Officers that intervention is sought by Chief Justice of the Supreme Court of the United States for orders from *Rafael Cezar Danam vs. Arizona Board of Education*, U.S. District Court of Arizona Case No.: CV-18-1493-PHX-DGC; *Rafael Cezar Danam vs. Arizona Board of Education*, U.S. District Court of Arizona Case No. CV-20-02489-PHX-MTL. Application is sought to correct injustices perpetrated by Government Officials in their respective Public Capacities, with direct reference to essence of "The Bill of Rights" Preamble, **"in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution."** Supreme Court Rule 10 (B) is sought for fundamental errors by Judicial Officers on ordered judgements that are in conflict with U.S. Constitution and "Stare Decisis" of the Supreme Court of the United States, where Applicant as Appellant, Rafael Cesar Danam seeks intervention in *Rafael Cezar Danam vs. Arizona Board of Education*, Court of Appeals- Division

One Case No.: 1 CA-CV 18-0668, which the Supreme Court of the State of Arizona denied review *Rafael Cezar Danam vs. Arizona Board of Education*, Arizona Supreme Court Case No.: CV-19-0284. "Justice" is sought by Honorable Chief Justice John G. Roberts, Jr. thru the foundational decree of First President George Washington statement on Judicial Officers:

> **Impressed with a conviction that the due administration of justice is the firmest pillar of good Government, I have considered the first arrangement of the Judicial department as essential to the happiness of our Country, and to the stability of its political system; hence the selection of the fittest characters to expound the law, and dispense justice, has been an invariable object of my anxious concern.** (Letter to U.S. Attorney General Edmund Randolph (1789)

The inception, "ab initio," of this case exhibits core violations of the U. S. Constitution from Judicial Officers of the U.S. District Court of Arizona, *Rafael Cezar Danam vs. Arizona Board of Education*, U.S. District Court of Arizona Case No.: CV-18-1493-PHX-DGC; *Rafael Cezar Danam vs. Arizona Board of Education*, U.S. District Court of Arizona Case No. CV-20-02489-PHX-MTL, the Arizona Judicial System, *Rafael Cezar Danam vs. Arizona Board of Education*, Maricopa County Superior Court Case No.: LC2018-00093-001; *Rafael Cezar Danam vs. Arizona Board of Education*, Court of Appeals- Division One Case No.: 1 CA-CV 18-0668, and Administrators of Arizona Board of Education, *Arizona State Board of Education (AZSBE) vs. Rafael C. Danam*, AZSBE Admin. Case No.: C-2016- 585, that has now culminated in a preposterous and vile compilation of violations of Providential laws such as, "endowed by their Creator with certain Unalienable rights" and those rights that the Founders of the United States vehemently expressed in the Declaration of Independence and in establishing our U. S. Constitution with "The Bill of Rights" as a perpetual foundational right, which rights are also presented in The Federalist to ensure to "establish Justice" as declared in the Preamble

of the U. S. Constitution, as President John F. Kennedy declared, "the belief that the rights of man come not from the generosity of the state, but from the hand of God" from his Inaugural Address, January 20, 1961. The rebuke to Justices and the Justice System by President John Quincy Adams in *United States v. Schooner Amistad*, 40 U.S. (15 Pet.) 518 (1841) precisely exhibits the culminated fundamental errors by Judicial Officers and Administrative Officials perpetrated in record of cases associated with this Application to Honorable Chief Justice John G. Roberts, Jr. for Writ of Mandamus. Furthermore, direct inference to Defendants constant violations against Petitioner's rights founded by the U.S. Constitution and Arizona Constitution represent severe acts of injustices directly disdained of by the U.S. Declaration of Independence, in particular the constant "Redress of Grievances" by the forum of appeals by Applicant (*Martin v. Hunter's Lessee*, 14 U.S. 304 (1816):

> **In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury...They too have been deaf to the voice of justice...**

The "eternal principles of justice" declared by Justice Joseph Story in *United States v. Schooner Amistad,* 40 U.S. (15 Pet.) 518 (1841) is the paramount violation of "establish Justice" from Preamble of U.S. Constitution that the Arizona Board of Education as Defendants, joined in original violations of U.S. Constitution by Administrators of Bullhead Elementary School District, Martin Muecke and Benji Hookstra, along with Judicial Officers of U.S. District Court of Arizona fundamental errors of constitutional provisions and rights that Offenders have violated against Applicant pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 for Defendants violations of Supremacy Clause of the United States Constitution (Article VI, Clause 2), U.S. Constitution Amendments 1st (I), 5th (V), 6th (VI), 8th (VIII), 14th (XIV); Arizona Constitution

Article 2, § 4, 5, 6 and 32 (Nevada Constitution Article 1 § 1, 2, 3, 4, 8, and 9). *Ex Parte Young*, 209 U.S. 123, 714 (1908).

Presented to Honorable Chief Justice John G. Roberts, Jr. Applicant seeks "Redress of Grievances" pursuant to Supreme Court Rule 22, U.S. Constitution Article III, Sections 1 and 2, by right of First Amendment, U.S. Constitution to "establish Justice" authorized by Preamble of U.S. Constitution against injustices perpetrated by the Arizona Board of Education. William Shakespeare, with historical references to scholastic works of Raphael Holinshed, stated "the law's delay" ("Hamlet" Act III, Scene I) depicts the "calamity" and "vexation" of the effects of corrupted injustices within a Justice System as depicted by scholar Talcott H. Russell of Yale Law School. Applicant seeks Supreme Court Rule 22, U.S. Constitution Article III, Sections 1 and 2, addressed to Honorable Chief Justice John G. Roberts, Jr. to defend and uphold rights and paramount laws of Applicant from U.S. Constitution as emphasized by the Preamble of the Bill of Rights against government officials "abuse of powers" and "ensure the beneficent ends" of constitutional law. Alexander Hamilton in Federalist No. 78 emphasized the core principle of judicial jurisprudence, **"uncommon portion of fortitude in the judges to do their duty as faithful guardians of the [C]onstitution..."** *Ex Parte Young*, 209 U.S. 123 (1908).

VIII. Jurisdiction and Constitutional Provisions Involved for Writ of Mandamus

(1) Preamble U.S. Constitution, "establish Justice:"

In violation of "Justice" thru injustices perpetrated by the Arizona Board of Education ("ABOE"), as Defendants, *ABOE v. Danam* Case No. C2016-585, in continued injustices of constitutional errors by assigned Judicial Officers, U.S. District Court of Arizona Cases No. CV-18-1493-PHX-DGC (2019); CV-20-02489-PHX-MTL (2021) ; invokes the greater power of "Justice" solemnly proclaimed by First Chief Justice John Jay, *Georgia v. Brailsford* (1794) stating, **"Justice is indiscriminately due to all, without regard to numbers, wealth, or rank."** Paramount is Third President Thomas Jefferson inscribed words from his First Inaugural Address at the U.S. Library of Congress, **"EQUAL AND EXACT JUSTICE TO ALL MEN."** This Application exhibits Questions of Law for "Absolute Immunity" "Totality of Circumstances Test" "Tolling the Statue of Limitations" for violations of abuse of power, arbitrary and capricious violations of "Due Process", prohibited unconstitutional acts of discrimination of perpetual rights as a Citizen by authority of the U.S. Constitution, and compensation for damages pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 by Supreme Court Rule 42.

Stare Decisis: *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816), ***United States v. Schooner Amistad*, 40 U.S. (15 Pet.) 518 (1841) U.S. Lexis 279**, *First Nat. Bank & Trust Co. of Bridgeport, Conn. v. Beach*, 301 U.S. 435, 439 (1937), *American Pipe & Construction Co. v. Utah*, 414 U.S. 538 (1974), *Board of Regents of State Colleges v. Roth,* 408 U.S. 564 (1972), *Illinois v. Gates*, 462 U.S. 213 (1983), *Bell Atlantic Corp. v. Twombly,* 550 U.S. 544 (2007), *Florida v. Harris*, 568 U.S. 237 (2013); *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir.1991),

Usher v. City of L.A., 828 F.2d 556, 561 (9th Cir. 1987), *Estate of Conners v. O'Connor*, 846 F.2d 1205, 1208 (9th Cir.1988), *Fargo v. City of San Juan Bautista*, 857 F.2d 638, 641 (9th Cir.1988), *Grossman v. City of Portland,* 33 F.3d 1200, 1208 (9th Cir.1994), ***Ortez v. Wash. County*, 88 F.3d 804, 807 (9th Cir.1996)**, *Mull for Mull v. Motion Picture Indus. Health Plan*, 865 F.3d 1207, 1209 (9th Cir. 2017); *Hudson v. Pittsburg Unified Sch. Dist.*, 850 F.3d 996, 1002 (9th Cir. 2017); *Lewis v. Ariz. State Pers. Bd.*, 240 Ariz. 330, 379 P.3d 227, 2016 Ariz. App. LEXIS 166, 742 Ariz. Adv. Rep. 14; *Winters v. Ariz. Bd. of Educ.*, 207 Ariz. 173, 83 P.3d 1114, 2004 Ariz. App. LEXIS 25, 419 Ariz. Adv. Rep. 25.

(2) Supremacy Clause of U.S. Constitution, Article IV, Clause 2:

In violation of the Supremacy Clause of the U.S. Constitution, Article IV, Clause 2, by the ABOE as Defendants, having violated the "Bill of Rights" and essential protections and rights of the Amendments to U.S. Constitution to and for Applicant and Appellant, Rafael Cezar Danam, Founders—First Chief Justice John Jay, First Secretary of the Treasury Alexander Hamilton, and 4th President James Madison directly and specifically established in The Federalist the Supremacy of the U.S. Constitution as paramount of government actions. Applicant has properly addressed Complaints against ABOE as Defendants by "Redress of Grievances" in the form of Petitions and Actions in Courts of Jurisdiction to bring to "Justice" ABOE as Defendants for abuse of power in violation of the U.S. Constitution, as stated by Alexander Hamilton, *Federalist 33*, **"If the federal [state] government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence**

justify." Furthermore, James Madison, *Federalist 48*, stated, "It will not be denied that power is of an encroaching nature and that it ought to be effectually restrained from passing the limits assigned to it." For the ABOE as Defendants manipulating their power for actions of injustice are direct violations of the U.S. Constitution, which James Madison, *Federalist 10*, stated, "When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens."

Stare Decisis*:* ***Marbury v. Madison*, 5 U.S. 137 (1803)**, *McCulloch v. Maryland,* 17 U.S. 316 (1819), *Cohens v. Virginia*, 19 U.S. 264 (1821), *Gibbons v. Ogden,* 22 U.S. 1 (1824), *Worcester v. Georgia,* 31 U.S. 515 (1832), *Ableman v. Booth,* 62 U.S. 506 (1858), *In re Neagle,* 135 U.S. 1 (1890), ***United States v. Schooner Amistad*, 40 U.S. (15 Pet.) 518 (1841)** U.S. Lexis 279, ***Ex Parte Young*, 209 U.S. 123, 28 s. ct. 441, 52 l. ed. 714 (1908)**, *Pennsylvania v. Nelson,* 350 U.S. 497 (1956), *Chambers v. Baltimore & Ohio R.R.*, 207 U.S. 142, 148 (1907), *Emporium Capwell Co. v. Western Addition Community Organization,* 420 U.S. 50 (1975), *Printz v. United States,* 521 U.S. 898 (1997); *Awabdy v. City of Adelanto*, 368 F.3d 1062, 1066 (9th Cir.2004)

(3) First Amendment U.S. Constitution:

In violation of First Amendment, ABOE arbitrarily and capriciously issued a "Brutum Fulmen" order that violated all constitutional Complaints presented by Applicant as Appellant Rafael Cezar Danam and pursuits of "Redress of Grievances" thru Federal Judicial System of U.S. District Court of Arizona and State Judicial System of Arizona Appeals Court Division One and Superior Court of Arizona, stifling "Freedom of Speech" of Applicant for "Redress of Grievances." Justice Brennan stated, "loss of First Amendment freedoms, for even minimal

periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Justice Kennedy in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), cf. *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002), emphasized the paramount importance of "Freedom of Speech"

> Speech is an essential mechanism of democracy, for it is the means to hold officials accountable to the people. [...] The right of citizens to inquire, to hear, to speak, and to use information to reach consensus is a precondition to enlightened self-government and a necessary means to protect it. [...] By taking the right to speak from some and giving it to others, the Government deprives the disadvantaged person or class of the right to use speech to strive to establish worth, standing, and respect for the speaker's voice. The Government may not by these means deprive the public of the right and privilege to determine for itself what speech and speakers are worthy of consideration. The First Amendment protects speech and speaker, and the ideas that flow from each.

Applicant sought right of First Amendment to apply "Freedom of Speech" for the purposes of "Redress of Grievances" against original Defendants from Bullhead Elementary School District eventually culminating against ABOE as Defendants, which Judicial Officers of U.S. District Court of Arizona committed fundamental errors of constitutional rights that have been violated against Applicant, Rafael Cezar Danam. *Pickering v. Board of Education*, 391 U.S. 563 (1968). First President George Washington emphasized the primary importance of "Freedom of Speech" eventually established in the First Amendment, U.S. Constitution ((Note: The first 10 Amendments to the Constitution were ratified December 15, 1791, the "Bill of Rights.") where he stated:

> If men are to be precluded from offering their sentiments on a matter which may involve the most serious and alarming consequences that can invite the consideration of mankind, reason is of no use to us; the freedom of speech may be taken away... (Address to officers (15 March 1783))

Justice Louis D. Brandeis in *Whitney v. California*, 274 U. S. 357 (1927) represents the scope of injustices Applicant, Rafael Cezar Danam, has endured from ABOE as Defendants, as he stated, "if there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence." The ABOE as Defendants have sought to suppress the very essence of the U.S. Constitution's "Freedom of Speech" as expounded upon from Benjamin Franklin, **"Without Freedom of Thought, there can be no such Thing as Wisdom; and no such Thing as publick Liberty, without Freedom of Speech."** ("Silence Dogood, No. 8," The New-England Courant, July 9, 1722) "Freedom of Speech" is a World-wide right as declared, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." UN Universal Declaration of Human Rights. John Milton emphasized "Freedom of Speech" as he stated in "Areopagitica," "Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties."

Stare Decisis: *Whitney v. California*, 274 U. S. 357 (1927), ***Pickering v. Board of Education*, 391 U.S. 563 (1968)**, *Elrod v. Burns*, 427 U.S. 347, 373 (1976), *Givhan v. Western Line Consolidated School District,* 439 U.S. 410 (1979), *Connick, DA in and for The Parish of Orleans, Louisiana v. Myers*, 461 U.S. 138 (1983), *Agency for Int'l Dev. V. All. For Open Soc'y Int'l, Inc.*, 133 S. Ct. 2321, 2327 (2013),

(4) Fifth Amendment U.S. Constitution:

In violation of Fifth Amendment, ABOE as Defendants heinous violation of "Due

Process" directly caused loss of employment, loss of graduate educational degree completion and further post-graduate pursuits, loss of salary and loss of employment opportunities. In violating "fundamental fairness" of "Due Process" prescribed by definition of Civil Procedural "Due Process" is addressed in *Snyder v. Massachusetts,* 291 U.S. 97, 105 (1934):

> ...if a practice or rule offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental.

The Supreme Court of the United States constitutional doctrine "Due Process" clause reiterates the principle of the rule of law: the government must act in accordance with legal rules and not contrary to them. A more specific application of the Clause is the doctrine "Procedural Due Process," which concerns the fairness and lawfulness of decision-making methods used by the courts and the executive. Governmental actors violate "Due Process" when they frustrate the fairness of proceedings, such as when a prosecutor fails to disclose evidence to a criminal defendant that suggests they may be innocent of the crime, or when a judge is biased against a criminal defendant or a party in a civil action. ABOE as Defendants violated standard of Chief Judge Henry Friendly of United States Court of Appeals for the Second Circuit, "Elements of Procedural Due Process" from "Some Kind of Hearing" article University of Pennsylvania Law Review, Vol. 123:1267.

Stare Decisis: *Hurtado v. California*, 110 U.S. 516 (1884), *Moore v. Dempsey*, 261 U.S. 86 (1923), *Snyder v. Massachusetts*, 291 U.S. 97, 105 (1934), *Murray v. Carrier*, 477 U.S. 478 (1986), *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007)

(5) Sixth Amendment U.S. Constitution:

In violation of Sixth Amendment, ABOE as Defendants deprived Applicant right of providing "Evidence" and "Witnesses." Chief Justice Warren stated in *Washington v. Texas*, 388 U.S. 14 (1967), "the right of an accused to have compulsory process for obtaining witnesses in his favor, guaranteed in federal trials by the Sixth Amendment, is so fundamental and essential to a fair trial that it is incorporated in the Due Process Clause of the Fourteenth Amendment." Furthermore, "held" in *Washington v. Texas*, ABOE violated constitutional provision of obtaining "Witnesses" for Applicant, *ABOE v. Danam Case No. C2016-585*:

> 2. The State arbitrarily denied petitioner the right to have the material testimony for him of a witness concerning events which that witness observed, and thus denied him the right to have compulsory process for obtaining witnesses in his favor. Pp. 388 U. S. 19-23.

The constant denial to present "Evidence" and "Witnesses" from ABOE and Judicial Officers presents clear violation of Sixth Amendment against Applicant, *Rafael Cezar Danam vs. Arizona Board of Education*, Maricopa County Superior Court Case No.: LC2018-00093-001; *Rafael Cezar Danam vs. Arizona Board of Education*, Court of Appeals- Division One Case No.: 1 CA-CV 18-0668. The denial of "Witnesses" violates "Due Process" for Appellant's right to defend against false accusations, "The right to offer the testimony of witnesses, and to compel their attendance, if necessary, is in plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecution's to the jury so it may decide where the truth lies. Just as an accused has the right to confront the prosecution's witnesses for the purpose of challenging their testimony, he has the right to present his own witnesses to establish a defense." Vol 3, Justice Joseph Story "Commentaries on the Constitution of the United States" (1833), cf. *Rosen v. United States*, 245 U.S. 467 (1918)

Defendants accepted perjured testimony A.R.S. § 13–2702(A) of Witness, Ms. Laura Kapusta, against Plaintiff without confirming credibility of testimony with (26) parents of 4th grade class 2016-2017, affidavit and testimony provided by Plaintiff invalidating false and perjured testimony submitted by Defendants was presented officially before all entities of the ABOE to include PPAC and AZSBE Investigative Unit, "Knowing use of perjured or false testimony by the prosecution is a denial of due process and is reversible error without the necessity of a showing of prejudice to the defendant." *State v. Ferrari,* 112 Ariz. 324, 334 (1975) cf. *Larsen v. Decker*, 196 Ariz. 239, 241 ¶ 6 (App. 2000). Furthermore, "Gross Negligence" is defined as "a conscious, voluntary act or omission in reckless disregard of a legal duty and of the consequences to another party, who may typically recover exemplary damages." Defendant failed their duty by acts of gross negligence by the standard of judicial review for negligence:

> Four elements are required to establish a "*Prima Facie*" case of negligence:
>
> (1) The existence of a legal duty that the Defendant owed to the Plaintiff
>
> (2) Defendant's breach of that duty
>
> (3) Plaintiff's sufferance of an injury
>
> (4) Proof that defendant's breach caused the injury (typically defined through proximate cause)

Stare Decisis: *Rosen v. United States*, 245 U.S. 467 (1918), ***Washington v. Texas*, 388 U.S. 14 (1967)**, *Duncan v. Louisiana*, 391 U.S. 145 (1968)

(6) Seventh Amendment U.S. Constitution:

In violation of Seventh Amendment, Judicial Officers in collaboration with ABOE as Defendants deprived Applicant right of "Trial by Jury." "Jury Trial" by Seventh Amendment

ensures what Third President Thomas Jefferson emphasized, "I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution." Furthermore, the purpose of trial by jury, as the Supreme Court itself has noted, is to prevent "oppression by the government." In *Williams v. Florida*, 399 U.S. 78 (1970), Justice Byron White stated:

> The purpose of the jury trial, as we noted in Duncan, is to prevent oppression by the Government. "Providing an accused with the right to be tried by a jury of his peers gave him an inestimable safeguard against the corrupt or overzealous prosecutor and against the compliant, biased, or eccentric judge." Given this purpose, the essential feature of a jury obviously lies in the interposition between the accused and his accuser of the commonsense judgment of a group of laymen, and in the community participation and shared responsibility that results from that group's determination of guilt or innocence.

Right of "Trial by Jury" was denied by Judicial Officers in U.S. District Court of Arizona Cases No. CV-18-1493-PHX-DGC (2019); CV-20-02489-PHX-MTL (2021) pursuant to authority of FRCP Rule 38. As the Supreme Court has stated, "What many of those who oppose the use of juries in civil trials seem to ignore is that the founders of our Nation considered the right of trial by jury in civil cases an important bulwark against tyranny and corruption, a safeguard too precious to be left to the whim of the sovereign, or, it might be added, to that of the judiciary." Justice William Rehnquist for *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 343 (1979). Seventh Amendment and Arizona Constitution Article 2, Section 23 provides, "the right of trial by jury shall remain inviolate." 42 U.S.C. § 1983 and 42 U.S. Code § 1988 with further authority of 28 U.S.C. § 1331, 28 U.S.C. § 1343 and 28 U.S.C. §1367 in application of "Standard of Review" by Administrative Procedure Act (APA), Pub.L. 79–404, 60 Stat. 237, 5 U.S. Code § 706 – "Scope of Review" *Brown v. Greer*, 16 Ariz. 215, 141 P. 841 (1914);

Donahue v. Babbitt, 26 Ariz. 542, 227 P. 995 (1924), *Rothweiler v. Superior Court*, 100 Ariz. 37, 41, 410 P.2d 479, 482 (1966); *Hoyle v. Superior Court*, 161 Ariz. 224, 227, 778 P.2d 259, 262 (App. 1989).

The Seventh Amendment right of "Jury Trial" authority to FRCP 38 (b)(c) see *Granfinanciera v. Nordberg* - 492 U.S. 33 (1989), Justice William Brennan, Jr. delivering opinion, with concurrence by Chief Justice William Rehnquist, Justices Thurgood Marshall, Justice John Stevens, Justice Anthony Kennedy and Justice Antonin Scalia:

> Congress lacks the power to strip parties who are contesting matters of private right of their constitutional right to a jury trial. See, e.g., *Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n*, 430 U. S. 442; *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, 458 U. S. 50. For these purposes, a "public right" is not limited to a matter arising between the Government and others, but extends to a seemingly "private" right that is closely intertwined with a federal regulatory program that Congress has power to enact. *Thomas v. Union Carbide Agricultural Products Co.*, 473 U. S. 568, 473 U. S. 586, 473 U. S. 593-594. Pp. 492 U. S. 51-55.

Applicant, Rafael Cezar Danam, emphasized by Motion to Judicial Officers in U.S. District Court of Arizona that the "Jury" will provide a public check and balance against violations of the U.S. Constitution and Arizona Constitution, *Granfinanciera v. Nordberg*:

> The claim that juries may serve usefully as checks only on life-tenured judges' decisions overlooks the potential for juries to exercise beneficial restraint on the decisions of fixed-term judges, who may be beholden to Congress or the Executive.

Applicant, Rafael Cezar Danam, sought pursuant to FRCP Rule 38 (b) "Demand Trial by Jury" in U.S. District Court of Arizona for violations of U.S. Constitution against Applicant *Rogers v. Missouri Pac. R. Co.*, 352 U.S. 500 (1957):

> Cognizant of the duty to effectuate the intention of the Congress to secure

> the right to a jury determination, this Court is vigilant to exercise its power of review in any case where it appears that the litigants have been improperly deprived of that determination. [352 U.S. 500, 510]

Finally, as First Chief Justice John Jay resided over the only "Jury Trial" in the Supreme Court of the United States, *Georgia v. Brailsford*, 3 U.S. (3 Dall.) 1 (1794), the fundamental right of citizens as jurist who are well informed and instructed will ensure "Justice" as noted by Lochlan F. Shelfer, "*Special Juries in the Supreme Court*," Yale School of Law (2013) which Judicial Officers in U.S. District Court of Arizona Cases No. CV-18-1493-PHX-DGC (2019); CV-20-02489-PHX-MTL (2021) committed fundamental error against Applicant.

Stare Decisis: *Georgia v. Brailsford*, 3 U.S. (3 Dall.) 1 (1794), *Rogers v. Missouri Pac. R. Co.*, 352 U.S. 500 (1957), *Williams v. Florida*, 399 U.S. 78 (1970), *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 343 (1979), *Granfinanciera v. Nordberg*, 492 U.S. 33 (1989)

(7) Eighth Amendment U.S. Constitution:

In violation of Eighth Amendment, ABOE as Defendants violated (2)(e) "Excessive or insufficient penalties" further violating Eighth (8th) Amendment of the U.S. Constitution "Cruel and Unusual Punishment" from originating order that violated 42 USC § 1983 against Appellant as Plaintiff that are "unconstitutional" pursuant to Supreme Court Rule 10 for "unconstitutional acts in violation of the U.S. Constitution" and A.R.S. § 12-931 "...the assertion is made that the statute or administrative order is unconstitutional and invalid..." Alexander Hamilton in Federalist No. 79, with reference to Judicial Salaries stated, "In the general course of human nature, a power over a man's subsistence amounts to a power over his will." (U.S. Constitution Article III, 28 U.S. Code, Federal Salary Act of 1967 (2 U.S.C. 351–361)). The effects of injustice from violations of "Due Process" has negatively affected numerous aspects of

Appellant's civil pursuits of higher education, career opportunity and progression and obtaining competitive salaries, thus, as Chief Justice Earl Warren stated that the clause "evolving standards of decency" test of "cruel and unusual punishment" stated that, "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." (*Trop v. Dulles*, 356 U.S. 86, 100-101 (1958).) "First Amended Complaint" ("FAC") in U.S. District Court of Arizona, *Rafael Cezar Danam vs. Arizona Board of Education*, CV-20-02489-PHX-MTL (2021), presented clear and concise statements of fact on damages against Appellant from ABOE as Defendants.

Stare Decisis: *Trop v. Dulles*, 356 U.S. 86 (1958), *United States v. Wong*, 575 U.S. ___ (2015)

(8) Fourteenth Amendment U.S. Constitution:

In violation of Fourteenth Amendment, ABOE as Defendants heinous violation of "Equal Protection" are addressed by Justice Rehnquist in *Jackson v. Metropolitan Edison Co*, 419 U.S. 345 (1974):

> Supreme Court found that the prohibitions of the Fourteenth Amendment "have reference to actions of the political body denominated by a State, by whatever instruments or in whatever modes that action may be taken. A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty, without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State

The U.S. Constitution with perspective of equality and equity finalized in the Thirteenth,

Fourteenth and Nineteenth Amendments with perspective of Civil Rights Act of 1964, enhanced what Secretary of State William Seward stated, "[...] there is a Higher Law than the Constitution." President John Quincy Adams advocated the right of "Redress of Grievances" in the "Gag Rule" 1836-1844, highlighting "Freedom of Speech" and "Redress of Grievances" in *Borough of Duryea v. Guarnieri*, 564 U.S. 379 (2011) to ensure "Equal Protection" and "Due Process" is implemented to "establish Justice" as proclaimed in Preamble of U.S. Constitution.

Stare Decisis: *Hurtado v. California,* 110 U.S. 516 (1884), *Patton v State of Mississippi*, 332 U.S. 463 (1947), *Wieman v. Updegraff*, 344 U. S. 183 (1952), *Brown v. Board of Education of Topeka*,347 U.S. 483 (1954), *Elrod v. Burns*, 427 U.S. 347, 373 (1976), *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009); *Awabdy v. City of Adelanto*, 368 F.3d 1062, 1066 (9th Cir.2004).

The foundational principles of the U.S. Constitution, as further noted by Alexander Hamilton, writer of Federalist No. 78 -81, **"The sacred rights of mankind are not to be rummaged for among old parchments or musty records. They are written, as with a sunbeam, in the whole volume of human nature, by the hand of the divinity itself, and can never be erased or obscured by mortal power."** ("The Farmer Refuted", February 5, 1775) Abuse of power by Defendants is checked by "Justice" and obedience to the U.S. Constitution as emphasized by Third President Thomas Jefferson, "In questions of power, then, let no more be heard of confidence in man [woman], but bind him [her] down from mischief by the chains of the Constitution." (Thomas Jefferson's Fair Copy of the Kentucky Resolutions of 1798, October 4, 1798; U.S. Library of Congress, Washington DC (DLC); MS (DLC). Published in PTJ, 30:543–9)

IX. Unconstitutional State Statute: Absolute Immunity

The Arizona Board of Education ("ABOE") as Defendants have by Counsels from the State of Arizona's Office of Attorney General, Mark Brnovich, have applied Arizona State Statute of "Absolute Immunity" A.R.S. §12-820.01 in U.S. District Court of Arizona cases, *Rafael Cezar Danam vs. Arizona Board of Education*, U.S. District Court of Arizona Case No.: CV-18-1493-PHX-DGC and *Rafael Cezar Danam vs. Arizona Board of Education*, U.S. District Court of Arizona Case No. CV-20-02489-PHX-MTL, in addition to defenses presented for "Absolute Immunity" in *Rafael Cezar Danam vs. Arizona Board of Education*, Court of Appeals- Division One Case No.: 1 CA-CV 18-0668 and *Rafael Cezar Danam vs. Arizona Board of Education*, Arizona Supreme Court Case No.: CV-19-0284. "Absolute Immunity" was subsequently filed in the Arizona Court of Appeals Division One and remains challenged by Petitioner/Plaintiff in violation of U.S. Constitution and Arizona Constitution reference to A.R.S. § 12-1841 and this question of law remains before the Supreme Court of Arizona pursuant A.R.S. § 12-1861 (Article 3 Certification of Questions of Law Act) of A.R.S. §12-820.01 "Absolute Immunity" of Defendants and conflict of law in A.R.S. § 15-203 "Powers & Duties" 41(B)(2), "B. The state board of education may:" "2. Sue and be sued." Plaintiff/Appellant sought jurisdiction by the Arizona Supreme Court that provides in A.R.S. § 12-2103(B) **"B. When the judgment or order is reversed or modified the court may make complete restitution of all property and rights lost by the erroneous judgment or order."**

In application of U.S. Constitution, Section 2 of Article III gives the Supreme Court judicial power over "all Cases, in Law and Equity, arising under this Constitution" In application of Federal Rules of Civil Procedure (FRCP) 5.1 "Constitutional Challenge to a Statute" 28 U.S.

Code § 1251 (A) (B) (3) "Original jurisdiction" 28 U.S. Code § 1257 (A) "State courts; certiorari" "(A)... where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution..." 28 U.S.C. §2403 (B) "Intervention by United States or a State; constitutional question." and A.R.S. § 12-1841 (A) "Parties; notice of claim of unconstitutionality" "(A)... In any proceeding in which a state statute, ordinance, franchise or rule is alleged to be unconstitutional..." Appellant seeks application of Whistleblower Protection Act of 1989, 5 U.S.C. 2302(b)(8)-(9) in jurisdictional agreement with Arizona Employment Protection Act (AEPA) A.R.S. § 23-1501 "...the employer, has violated, is violating or will violate the Constitution of Arizona..." (c, ii) for violation of 42 U.S.C. § 1983 and 42 U.S. Code § 1988 ABOE as Defendants violations Supremacy Clause of the United States Constitution (Article VI, Clause 2), U.S. Constitution Amendments 1st (I), 5th (V), 6th (VI), 7th (VII), 8th (VIII) and 14th (XIV); Arizona Constitution Article 2, § 4, 5, 6 and 32; 28 U.S.C. § 1343 based on 42 U.S.C. §1983 and questions of federal constitutional law, 28 U.S.C. §1367 "Supplemental Jurisdiction"

Chief Justice Marshall in *Marbury v Madison*, 5 US 137 (1803), stated, **"It is a proposition too plain to be contested, that the [C]onstitution controls any legislative act repugnant to it."** Furthermore, stating, "The authority, therefore, given to the Supreme Court, by the act establishing the judicial courts of the United States, to issue writs of mandamus to public officers." The authority of the U.S. Constitution strikes down and nullifies or voids A.R.S. §12-820.01 for the preeminence of the right of citizens, whom public servants equally share. Furthermore, Alexander Hamilton clearly stated that any and all types of legislation that is

contrary to the U.S. Constitution such as "Absolute Immunity" by persons who violate the rights of citizens to the U.S. Constitution including State of Arizona Constitution are a direct violation of the authority of the U.S. Constitution:

> [E]very act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

Chief Justice Marshall further reprimands any law or statute that is contrary to the "Supreme" authority of the U.S. Constitution in *Marbury v. Madison*:

> The particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the Constitution is void; and that courts, as well as other departments, are bound by that instrument.

It is by fact that former Superintendent Diane Douglass-Defendant, was not re-elected to her public position for her negative stance against the Arizona State Teachers Union "Red for Ed" in 2018, which thousands of public teachers and support staff rallied against former Superintendent Diane Douglass, and a thorough an investigative research of data and opinions will prove thousands of public-school teachers disdained her leadership, in addition to numerous third-party official statements of psychological effects of harm against students of the Arizona Department of Education. "Absolute Immunity" is not authorized by the U.S. Constitution and is repugnant of ancient constitutions which Founding Fathers referenced in creation of the U.S. Constitution, where Greek Stateman Solon (630-560 B.C.) stated, "We can have justice whenever those who have not been injured by injustice are as outraged by it as those who have been." (Solon, author of the Constitution of Athens, 594 B.C.). Justice O'Connor addressed the

issue of citizens' rights in *New York v. United States*, 488 U.S. 1041 (1992), stating:

> The Constitution does not protect the sovereignty of States for the benefit of the States or state governments as abstract political entities, or even for the benefit of the public officials governing the States. To the contrary, the Constitution divides authority between federal and state governments for the protection of individuals.

In "Stare Decisis" of the United States Supreme Court (SCOTUS) in specific reference to Fourteenth Amendment of U.S. Constitution emphasis on "Equal Protection of the Laws" Chief Justice Vinson delivered the opinion of the Court in *Shelley v. Kraemer*, 334 U.S. 1 (1948), with supporting statement by Justice Kennedy, in that Appellant/Plaintiff has right of "Equal Protection" by the U.S. Constitution, "As the Constitution endures, persons in every generation can invoke its principles in their own search for greater freedom.":

> That the action of state courts and judicial officers in their official capacities is to be regarded as action of the State within the meaning of the Fourteenth Amendment is a proposition which has long been established by decisions of this Court. That principle was given expression in the earliest cases involving the construction of the terms of the Fourteenth Amendment. Thus, in *Virginia v. Rives,* 100 U. S. 313, 100 U. S. 318 (1880), this Court stated: "It is doubtless true that a State may act through different agencies, either by its legislative, its executive, or its judicial authorities, and the prohibitions of the amendment extend to all action of the State denying equal protection of the laws, whether it be action by one of these agencies or by another."
>
> In *Ex parte Virginia,* 100 U. S. 339, 100 U. S. 347 (1880), the Court observed: "A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way." In the Civil Rights Cases, 109 U. S. 3, 109 U. S. 11, 17 (1883), this Court pointed out that the Amendment makes void "State action of every kind" which is inconsistent with the guaranties therein contained, and extends to manifestations of "State authority in the shape of laws, customs, or judicial or executive proceedings." (Page 334 U. S. 15) In numerous eases, this Court has reversed criminal convictions in state courts for ailure of those courts to provide the essential ingredients of a fair hearing. (Page 334 U. S. 17) *by the use of perjured testimony known by the prosecution to be such* (Page 334 U. S. 18)

In the letter and spirit of Alexander Hamilton's Federalists No. 78 and context of *Shelley v. Kraemer*, 334 U.S. 1 (1948) ABOE as Defendants protection by Arizona Statute of "Absolute and Qualified Immunity" by A.R.S. §§12-820.01 & 12-820.02 are unconstitutional by violation of 42 U.S.C. 1983, and statement by Justice Harlan refutes any provision of "Absolute Immunity" of public servants, **"But in view of the [C]onstitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens..."** Furthermore, "Stare Decisis" in *Jackson v. Metropolitan Edison Co*, 419 U.S. 345 (1974) provides support of constitutional challenge to "Absolute and Qualified Immunity" of Defendants by opinion delivered by Justice Rehnquist:

> Supreme Court found that the prohibitions of the Fourteenth Amendment "have reference to actions of the political body denominated by a State, by whatever instruments or in whatever modes that action may be taken. A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty, without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State."

Arizona Legislative Branch enacted the "Actions Against Public Entities or Public Employees" ARS §§12-820 through 826. ARS § 12-820.01 that is contradictory to the Arizona Constitution, Article 2, Sections 3, 13, 32 and a direct violation of the U.S. Constitution Article VI, Clause 2. Arizona Supreme Court rejected the governmental immunity doctrine. *Stone v. Arizona Highway Commission*, (1963) 93 Ariz. 384, 381 P.2d 107 Argument Presented from *Chamberlain v. Mathis*, 151 Ariz. 551 (1986) 729 P.2d 905, Justice Feldman:

> Once an immunity defense has been raised properly, the court determines

whether defendants are entitled to immunity. *Green Acres*, 141 Ariz. at 613, 688 P.2d at 621;

> **The arguments favoring official immunity are countered by the legitimate complaints of those injured by government officials.** *Grimm*, 115 Ariz. at 265, 564 P.2d at 1231. One's reputation is a significant, intensely personal possession that the law strives to protect. The entire common law of defamation attests to the importance we attach to an individual's right to seek compensation for damage to his reputation. *Dombey v. Phoenix Newspapers, Inc.*, 150 Ariz. 476, 479-80, 724 P.2d 562, 565-66 (1986).
> The interests furthered by absolute official immunity are also countered by basic principles of equal justice. "Our system of jurisprudence rests on the assumption that all individuals, whatever their position in government, **are subject to [the] law.**" *Butz v. Economou*, 438 U.S. 478, 506, 98 S. Ct. 23. 2894, 2910, 57 L. Ed. 2d 895 (1978) (federal executive officials entitled only to qualified immunity when "constitutional tort" is alleged). As we stated in Grimm, **"[t]he more power bureaucrats exercise over our lives, the more ... some sort of ultimate responsibility [should] lie for their most outrageous conduct."** 115 Ariz. at 266, 564 P.2d at 1233. **Grimm recognized that imposing liability for wrongful acts serves two important goals: compensating victims and deterring wrongdoers**. Id. This case requires us to reconcile the competing interests furthered by immunity and responsibility. In Arizona, as elsewhere, courts generally have reconciled these interests by granting public officials either absolute or qualified immunity. E.g., *Green Acres*, 141 Ariz. at 613, 688 P.2d at 621. Because the decisions just cited establish that government executive employees are presumptively entitled to some immunity, our analysis is limited to a comparison of qualified and absolute immunity. **Before proceeding to that comparison, however, it is important to note that not all official conduct is protected by immunity.**

In *Chamberlain v. Mathis*, 151 Ariz. 551 (Ariz. 1986) "...*Carlson v. Pima County*, 141 Ariz. 487, 492, 687 P.2d 1242, 1247 (1984) ("There is no absolute privilege in Arizona for public officers and employees of the state and its political subdivisions.") (*558):

> Although there may be some government offices that require absolute immunity, e.g., *Nixon v. Fitzgerald*, 457 U.S. 731, 102 S.Ct. 2690, 73 L.Ed.2d 349 (1982), we believe the general rule of qualified immunity announced in Grimm should govern the case before us. Qualified immunity protects government officials from liability for acts within the scope of their public duties **unless the official knew or should have**

> **known that he was acting in violation of established law or acted in reckless disregard of whether his activities would deprive another person of their rights.** *Butz v. Economou*, 438 U.S. at 497-98, 98 S.Ct. at 2906; *Wood v. Strickland*, 420 U.S. 308, 322, 95 S.Ct. 992, 1001, 43 L.Ed.2d 214 (1975); *Green Acres*, 141 Ariz. at 616, 688 P.2d at 624; Restatement (Second) of Torts § 600 (1977). We believe this to be the better rule for several reasons.

FORFEITURE of immunity by Defendants by standard of conclusion in *Chamberlain v. Mathis*, 151 Ariz. 551 (Ariz. 1986), **"He forfeits his immunity if, and only if, he ..., or (2) acted with malice in that he knew his statements regarding plaintiffs were false or acted in reckless disregard of the truth."** Defendants failure of Oath of Office for State of Arizona by Arizona Constitution, Article 2, Section 7; Article 5, Section 9; Article 11, Sections 3 and A.R.S. § 38-231 constitutes further nullification of immunities in order to participate in trial by Judicial Officers of the Supreme Court of Arizona. This Notice of Constitutional Challenge of Statute is officially presented to Chief Justice John G. Roberts, Jr. in accordance with FRCP Rule 5.1, pursuant to A.R.S. §12-1841 Plaintiff as Applicant presented Notice of Constitutional Challenge of Statute of Defendants "Absolute and Qualified Immunity" per A.R.S. §§12-820.01 & 12-820.02 for the purpose of nullification and provision for all (19) listed Defendants in current Application for Writ of Mandamus before the Supreme Court of Arizona to face Judicial and Grand Jury trial before the Supreme Court of Arizona pursuant to A.R.S. § 21-421. Chief Justice Marshall, in *Marbury v. Madison*, 5 U.S. 137 (1803) stated:

> **The [C]onstitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, alterable when the legislature shall please to alter it. It is emphatically the province and duty of the judicial department to say what the law is. This is the very essence of judicial duty.**

Defendants violations of the U.S. Constitution as the "Supreme Law of the Land" U.S. Constitution Article VI, Clause 2 and Arizona Constitution, Article 2 Section 2.1. The authority

of "Stare Decisis" validates this right of Petitioner as Applicant as stated by Justice Harlan in *Ex Parte Young*, 28 S. Ct. 441, 209 U.S. 123 (1908) [209 U.S. Pages 176-177]:

> And this court has said: "A state court of original jurisdiction, having the parties before it, may consistently with existing Federal legislation determine cases at law or in equity arising under the Constitution or laws. of the United States or involving rights dependent upon such Constitution or laws. Upon the state courts, equally with the courts of the Union, rests the obligation to guard, enforce, and protect every right granted or secured by the Constitution of the United States and the laws made in pursuance thereof, whenever those rights are involved in any suit or proceeding before them; for the judges of the state courts are required to take an oath to support that Constitution, and they are bound by it, and the laws of the United States made in pursuance thereof, and all treaties made under their authority, as the supreme law of the land, 'anything in the Constitution or laws of any State to the contrary notwithstanding.' If they fail therein, and withhold or deny rights, privileges, or immunities secured by the Constitution and laws of the United States, the party aggrieved may bring the case from the highest court of the State in which the question could be decided to this court for final and conclusive determination." *Robb v. Connolly*, 111 U.S. 624, (1884)

The Arizona Supreme Court, *Rafael Cezar Danam vs. Arizona Board of Education*, Arizona Supreme Court Case No.: CV-19-0284, Denied of review entered April 23, 2020, with further denial of new evidence and original witnesses and enhanced list of witnesses in *Rafael Cezar Danam vs. Arizona Board of Education*, Court of Appeals- Division One Case No.: 1 CA-CV 18-0668, Judgement entered October 31, 2019; Finalized April 23, 2020.

Benjamin Franklin expounds upon the fundamental truth of the "Right" of "Freedom of Speech" for the purpose of "Redress of Grievances" and accountability of Public Officials, as he stated:

> The Administration of Government, is nothing else but the Attendance of the Trustees of the People upon the Interest and Affairs of the People: And as it is the Part and Business of the People, for whose Sake alone all publick Matters are, or ought to be transacted, to see whether they be well or ill transacted; so it is the Interest, and ought to be the Ambition, of all honest Magistrates, to have their Deeds openly examined, and publickly

> scann'd: Only the wicked Governours of Men dread what is said of them; Audivit Tiberius probra queis lacerabitur, atque perculsus est. [Benjamin Franklin quoting from Tacitus, Annales, iv, 42; Printed in The New-England Courant, July 9, 1722; "Silence Dogood, No. 8" The Papers of Benjamin Franklin, vol. 1, January 6, 1706 through December 31, 1734, ed. Leonard W. Labaree. New Haven: Yale University Press, 1959, pp. 27–30.]

X. Reasons for Granting Application for Intervention By Mandamus

Applicant seeks intervention by Chief Justice John G. Roberts, Jr. by Writ of Mandamus for errors of judicial jurisprudence in U.S. District Court of Arizona, *Rafael Cezar Danam vs. Arizona Board of Education*, U.S. District Court of Arizona Case No.: CV-18-1493-PHX-DGC, and Case No. CV-20-02489-PHX-MTL. Senior Judge David G. Campbell, where obstruction of justice by security personnel for Arizona Board of Education had been committed in attempts to properly and peacefully service civil complaint in violation of 18 U.S.C. §1501, with threats of physical harm against Applicant/Plaintiff, Rafael C. Danam in violation of A.R.S. § 13-1202 for attempts to service Defendants, in addition to obstructing officials serving from the Court Server of Maricopa County, Arizona. In application of 28 U.S.C. § 144 towards Senior Judge David G. Campbell, Case No.: CV-18-1493-PHX-DGC,"Motion for Recusal" (See *Glick v. Edwards*, 803 F.3d 505, 508 (9th Cir. 2015); *Hamid v. Price Waterhouse*, 51 F.3d 1411, 1414 (9th Cir. 1995); *Price v. Kramer,* 200 F.3d 1237, 1252 (9th Cir. 2000)) was officially presented, for judicial impartiality in *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), with further standards of judicial prudence is in 28 U.S.C. § 455, which a litigant should have full confidence that his constitutional rights to Due Process and a fair trial will be executed by judicial discretion and prudence, *Cain,et al. v Department of Corrections, supra; Delaware v Van Arsdall*, 475 US 673 (1986); *Rose v Clark,* 478 US 570 (1986); Standard of judicial professional conduct is prescribed by The Code of Conduct for United States Judges and Guide to Judiciary Policy.

Judge Michael T. Liburdi Case No. CV-20-02489-PHX-MTL, failed fundamental principals of jurisprudence from errors by failure to implement standards of review for "Totality of Circumstances Test," "Continuing Violations Doctrine," "Tolling the Statute of Limitations," "Right of Jury Trial," and "Question of Law: Absolute Immunity." Applicability of "Totality of Circumstances Test" that in the ruling in *Florida v. Harris*, 568 U.S. 237 (2013), the Supreme Court of the United States affirmed that "lower court judges must reject rigid rules, bright-line tests, and mechanistic inquiries in favor of a more flexible, all-things-considered approach." Writing for the majority of the Supreme Court, Chief Justice William Rehnquist explained that a totality test was superior to a bright line rule because magistrates would not be "restricted in their authority to make probable cause determinations" *Illinois v. Gates*, 462 U.S. 213 (1983), which presented in the case before Hon. Justice Michael T. Liburdi the "totality of circumstances test" in civil violation of 42 U.S.C. 1983 and 1988 provided Plaintiff's substantiated cause for case against Defendants. Furthermore, for Plaintiff the "Continuing Violations Doctrine," which typically arises in the context of employment discrimination, permits employees to recover for discriminatory acts, such as harassment or promotion denials, that fall outside the limitations period, as long as part of a "continuing violation" is within the period, provides further standard of "Judicial Notice" by Rule 201 – "Judicial Notice of Adjudicative Facts." The doctrine relieves a [P]laintiff of a limitations bar if Plaintiff can show a series of related acts to him, one or more of which falls within the limitations period. *Pegram v. Honeywell, Inc.*, 361 F.3d 272, 279 (5th Cir. 2004). "Continuing Violations Doctrine" is clearly present in violations of Defendant, Garnett Winders, Chief Investigator, was direct cause of termination in the State of Nevada reference to cases, *Rafael Cezar Danam vs. Elaine Kelley*, U.S. District Court of Nevada Case

No.: 2:19-CV-01606-JAD-DJA, and *Rafael Cezar Danam vs. Elaine Kelley*, Supreme Court of the State of Nevada Case No.: 82036. "Question of Law: Absolute Immunity" has been addressed by authoritative documents from U.S. National Documents and "Stare Decisis" of the Supreme Court of the United States, concurrence by 9th District Court, See *Brown v. California Dep't of Corr.*, 554 F.3d 747, 749-50 (9th Cir. 2009); *Miller v. Davis*, 521 F.3d 1142, 1145 (9th Cir.2008); *Garmon v. Cty. of Los Angeles*, 828 F.3d 837, 842 (9th Cir. 2016); *Olsen v. Idaho State Bd. of Medicine*, 363 F.3d 916, 922 (9th Cir.
2004).

Under the Justice System of the State of Arizona, this petition to Chief Justice John G. Roberts, Jr, for granting "MANDAMUS" requests pursuant to A.R.S. § 12-1841 "Parties; notice of claim of unconstitutionality" A.R.S. § 12-2021 "A writ of mandamus may be issued by the supreme...." comes from denial of review by the Arizona Supreme Court from the Court of Appeals-Division One, Case No. 1 CA-CV 18-0668 under the jurisdiction of Honorable Judicial Officers; Hon. Kenton D. Jones, Hon. Diane M. Johnsen and Hon. James B. Morse Jr. whom have unanimously "AFFIRMED" Petitioner's Appeal from Superior Court of Administrative Office of Appeals "ORDER" by Hon. Judge Patricia Ann Starr in LC Case No. LC2018-00093-001 affirming decision and order of the Arizona Board of Education (ABOE) Defendants administrative issuance order in ABOE Case No. C-2016-585 "Revoking Substitute License and Notifying All States and Territories." Respondents all of whom have obligation to Oath to the U.S. Constitution by authority of 5 U.S.C. § 3331, 28 U.S. Code § 453, and failure to execute standards of A.R.S. § 12-102, A.R.S. § 12-120.21, A.R.S. § 12-541, A.R.S. §12-820.02, ... Arizona Administrative Code (ACC) §R7-2-709(B) have failed the foundation of the U.S.

Constitution against Petitioner. Petitioner clearly provided inference of "Freedom of Speech" from Chief Justice Marshall opinion of SCOTUS on *Pickering v. Board of Education*, 391 U.S. 563 (1968) in official correspondence to the Board for Bullhead City Unified School District against original Defendants Martin Muecke-Principal and Benji Hookstra-Asst. Superintendent, whom Respondents contorted the essence of truth arbitrarily against Petitioner for Respondents end means of administrative order affirmed by judicial officers:

> The public interest in having free and unhindered debate on matters of public importance --the core value of the Free Speech Clause of the First Amendment -- is so great that it has been held that a State cannot authorize the recovery of damages by a public official for defamatory statements directed at him except when such statements are shown to have been made either with knowledge of their falsity or with reckless disregard for their truth or falsity. *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964). It is therefore perfectly clear that, were appellant a member of the general public, the State's power to afford the appellee Board of Education or its members any legal right to sue him for writing the letter at issue here would be limited by the requirement that the letter be judged by the standard laid down in New York Times. This Court has also indicated that statements by public officials on matters of public concern must be accorded First Amendment protection despite the fact that the statements are directed at their nominal superiors.

Chief Justice Rehnquist spoke clearly of the fact that administrative/judicial error is evident and present in decisions that can significantly affect and harm litigants (Petitioner) in *Herrera v. Collins*, 506 U.S. 390 (1993): **"It is an unalterable fact that our judicial system, like the human beings who administer it, is fallible."** Petitioner seeks to expose violations of "Due Process" guaranteed by Amendments V, XIV of U.S. Constitution, and Arizona Constitution Article 2 § 4. Respondents issued an administrative order, with affirming order of judicial officers from the Arizona Superior Court and Arizona Court of Appeals Division One that directly violated right to present by Petitioner evidence and witnesses to expose perjury of

witness and false evidence against Petitioner, *Washington v. Texas*, 388 U.S. 14 (1967). In *Napue v. Illinois* , 360 U.S. 264 (1959) ("a State may not knowingly use false evidence") and *United States v. Agurs*, 427 U.S. 97, 104 (1976) (the government's knowing use of false factual assertions "involve[s] a corruption of the truth seeking function of the" Courts) and *Miller v. Pate*, 386 U.S. 1, 7 (1967) ("the Fourteenth Amendment cannot tolerate a state [court determination; administrative and judicial] obtained by the knowing use of false evidence") was specifically decided that state court Judges are forbidden from Lying." 18 U.S. Code § 1001.

A thorough scrutinization of the chronology of this Petition will prove severe violations of the U.S. Constitution by Defendants against Petitioner with particular judicial error that has continued the violations of constitutional rights of Petitioner, "Our system presumes that there are certain principles that are more important than the temper of the times. And you must have a judge who is detached, who is independent, who is fair, who is committed only to those principles, and not public pressures of other sort." (Justice Anthony Kennedy; Interview: Justices Stephen Breyer and Anthony Kennedy (1999-11-23). Retrieved on 2006-11-26. (Interviewed by Bill Moyers for the Frontline documentary "Justice for Sale"). These violations by Defendants against Plaintiff are direct violations of the premise and purpose of Associate Justice Joseph Story's "Commentaries on the Constitution of the United States" (1833); Book III The Constitution of the United States, which Respondents have failed in their public capacities:

> The state governments have no right to assume, that the power is more safe or more useful with them, than with the general government; that they have a higher capacity and a more honest desire to preserve the rights and liberties of the people, than the general government; that there is no danger in trusting them; but that all the peril and all the oppression impend on the other side. The people have not so said, or thought; and they have the exclusive right to judge for themselves on the subject. They avow, that the constitution of the United States was adopted by them, "in order to

> form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity." (Book III, 398 § 415)

Petitioner, Rafael Cezar Danam, seeks from Chief Justice John G. Roberts, Jr. "MANDAMUS" to the U.S. District Court of Arizona and Arizona Supreme Court. A (writ of) Mandamus is an order from a court to an inferior government official ordering the government official to properly fulfill their official duties or correct an abuse of discretion. (See, e.g. *Cheney v. United States Dist. Court For D.C.* (03-475) 542 U.S. 367 (2004) 334 F.3d 1096.) According to the U.S. Attorney Office, "Mandamus is an extraordinary remedy, which should only be used in exceptional circumstances of peculiar emergency or public importance." "The All Writs Act" 28 U.S.C. § 1651 gave the "Supreme Court and all courts established by Act of Congress" the authority to issue writs of mandamus: "(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law. (b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction." Only the Supreme Court of the United States and Arizona Supreme Court are empowered to exercise Writ jurisdiction, under Articles 32 and 226 of the Constitution. The Judiciary Act, Section 13, the act to establish the judicial courts of the United States authorizes the Supreme Court "to issue writs of mandamus, in cases warranted by the principles and usages of law, to any courts appointed, or persons holding office, under the authority of the United States." The Clause in Section 13 of the Judiciary Act, which granted the Supreme Court the power to issue Writs of Mandamus under its original jurisdiction, was later declared unconstitutional. In *Marbury v. Madison*, the Supreme Court held that was unconstitutional because it purported to enlarge the original jurisdiction of the Supreme

Court beyond that permitted by the Constitution. This case was the first that clearly established that the Judiciary of the Supreme Court can and must interpret what the Constitution permits and declare any laws which are contrary to the Constitution as unenforceable, i.e. "Brutum Fulmen." For this paramount reason, "MANDAMUS" is sought by Chief Justice John G. Roberts, Jr. in what Alexander Hamilton stated in Federalist No. 78 stated, "...it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the [C]onstitution, where legislative invasions of it had been instigated by the major voice of the community." In the humor of dramatic comedy of "Mr. Smith Goes to Washington" where Jimmy Stewart as Jefferson Smith says, "There's no compromise with truth... There's no place out there for graft, or greed, or lies, or compromise with human liberties." I, the Petitioner, Rafael Cezar Danam, seeks "MANDAMUS" to "right the unrightable wrong" by Writ from the SUPREME COURT OF THE UNITED STATES, in the spirit and letter of Justice O'Connor, "It is the individual who has acted or tried to act who will not only force a decision but also have a hand in shaping it." ("*The Majesty of the Law: Reflections of a Supreme Court Justice*")

XI. Orders Requested by Chief Justice by Writ of Mandamus

Authority of Supreme Court Rule 42, Plaintiff seeks award of damages due to loss of employment by the gross negligent actions of Defendants (A.R.S. §12-820.02). Amount of award is justified as follows pursuant to A.R.S. Article 2, "Actions Against Public Entities or Public Employees;" A.R.S. §§ 12-821.01 "Authorization of claim against public entity, public school or public employee;" A.R.S. §12-820.05 (A); A.R.S. § 12-823 "Judgment for plaintiff; amount; interest and costs" by authority of 42 U.S. Code § 1988; FRCP Rule 8(a), Rule 38, Rule 39, Rule 56 and Rule 69:

MONETARY COMPENSATION DAMAGES Supreme Court Rule 42

(1) Compensation Loss of Employment/Salary: 6-years (School Years) x $57,000= $342,000.00 Compensatory Damages for 2018-2024 authority of A.R.S. § 23-1501 and FRCP Rule 39, Rule 56 and Rule 69. $17,500 Loss of Employment Heritage Elementary Charter School (2017-2018) by FRCP Rule 8(a), $45,000.00 Loss of Employment Somerset Charter School (2019-2020).

(2) $20,000.00 Loss of Graduation Completion of Grand Canyon University College of Education M.A. Elementary Education (2017-2018). $81,653.00 loss loan relief. Authority of FRCP Rule 8(a), Rule 39, Rule 56 and Rule 69 for violation of 42 U.S.C. § 1983 and 42 U.S. Code § 1988.

(3) JURY TRIAL by U.S. District Court of Arizona FRCP 38 or Arizona Supreme Court, Rule 12.22. "Selection and Preparation of State Grand Jurors, Arizona Revised Statutes Annotated, Rules of Criminal Procedure," $1,354,664.00 Punitive Damages for Defamation pursuant to A.R.S. §§ 12 541(1), and 12-731 for intentional emotional distress of Combat Veteran. Total is

current deaths in ALL American Wars as of April 26th, 2018; Authority of FRCP Rule 8(a), Rule 38, Rule 69. *Morris v. Warner*, 160 Ariz. 55, 62 (Ariz. Ct. App. 1988); *Godbehere v. Phoenix Newspapers, Inc.*, 162 Ariz. 335, 341 (Ariz. 1989); *Sewell v. Brookbank*, 119 Ariz. 422, 425 (Ariz. Ct. App. 1978); *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 351 (1974).

(4) JURY TRIAL by U.S. District Court of Arizona FRCP 38 or Arizona Supreme Court, Rule 12.22. "Selection and Preparation of State Grand Jurors, Arizona Revised Statutes Annotated, Rules of Criminal Procedure," $1,000,000.00 Punitive Damages direct and indirect gross negligence of "emotional distress" of students (77) students former elementary students of Diamondback Elementary School BCESD, AZ (2016-2017) and HES Charter School, AZ (2017-2018), Somerset Charter School Aliante, N. Las Vegas, NV (2019-2020). Authority of FRCP Rule 8(a), Rule 38, Rule 69. See *Fletcher v. Tomlinson*, No. 16-4399 (8th Cir. 2018): Pursuant to 42 U.S.C. § 1983, a successful plaintiff may also seek in addition to compensatory award, "Punitive Damages" are awarded by the jury when there is a finding that the officers violated the plaintiff's constitutional protections, as noted by the appellate court, "Punitive damages may be awarded under 42 U.S.C. § 1983 when the defendant's conduct is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others." Upholding the jury's award, the court determined that there was sufficient evidence of malice, recklessness or callous indifference.

Continuing that Plaintiff seeks "Punitive Damages" against Defendants, *Larez v. City of Los Angeles,* 946 F.2d 630 (9th Cir. 1991) cf. *Smith v. Wade*, 461 U.S. 30 (1983); *Turpin v. Mailet*, 579 F.2d 152 (2d Cir. 1978):

> Id. at 639. The district court in Larez instructed the jury that:
>
> [I]n its discretion, it could impose punitive damages upon the individual officers once finding liability. It explained that punitive damages would be

> appropriate only if the jury found the officers' injurious acts were maliciously, wantonly, or oppressively done. The court further emphasized that punitive damages must be fixed with calm discretion.

TOTAL MONETARY COMPENSATION DAMAGES: **$2,860,817.00** authority of Supreme Court Rule 42; A.R.S. §12.821.01 and A.R.S. § 15-203 42(B)(2).

a.) Plaintiff's cause against Defendants approved by the SCOTUS in *Monell v. Department of Soc. Svcs.*, 436 U.S. 658 (1978):

> "Local governing bodies (and local officials sued in their official capacities) can, therefore, be sued directly under § 1983 for monetary, declaratory, and injunctive relief in those situations where, as here, the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted or promulgated by those whose edicts or acts may fairly be said to represent official policy. In addition, local governments, like every other § 1983 "person," may be sued for constitutional deprivations visited pursuant to governmental "custom" even though such custom has not received formal approval through the government's official decision-making channels. Pp. 436 U. S. 690-691

DECLARATORY AND INJUNCTIVE RELIEF ORDERS

(5) Official retract of negative information submitted by Defendants to National Association of State Directors of Teacher Education and Certification (NASDTEC) against Plaintiff, authority of FRCP Rule 57, Rule 65, Rule 71; 1629 K Street NW, Suite 300, Washington, D.C. 20006.

(6) Official retract and reinstatement of student rights caused by Defendants against Plaintiff at Grand Canyon University (GCU), authority of FRCP Rule 57, Rule 65, Rule 71. Injunction Order to GCU Board of Directors and Board of Trustees, College of Education Department Executives, 3300 W. Camelback Rd., Phoenix, AZ 85017.

(7) Authorize trial of Plaintiff of original Complaint against Principal Martin Muecke and Asst. Superintendent Benji Hookstra at Superior Court of Arizona County of Mohave, 2225 Trane Rd., Bullhead City, AZ 86442 authority of FRCP Rule 42, Rule 57, Rule 65, Rule 71 for violations of

42 U.S.C. § 1983 and 42 U.S. Code § 1988 violation of A.R.S. § 12-541; Whistleblower Protection Act of 1989, 5 U.S.C. 2302(b)(8)- (9) in jurisdictional agreement with Arizona Employment Protection Act (AEPA) A.R.S. § 23-1501. Justice Douglas in *Board of Regents of State Colleges v. Roth*, 408 U.S. 564 (1972), writing:

> **When a violation of First Amendment rights is alleged, the reasons for dismissal or for nonrenewal of an employment contract must be examined to see if the reasons given are only a cloak for activity or attitudes protected by the Constitution.**

Arizona Supreme Court provides in A.R.S. § 12-2103(B) "B. When the judgment or order is reversed or modified the court may make complete restitution of all property and rights lost by the erroneous judgment or order." Defendants in violation of 42 U.S.C. § 1983 "A plaintiff may bring an action under §1983 to redress violations of his 'rights, privileges, or immunities secured by the Constitution and [federal] laws' by a person or entity, including a municipality, acting under the color of state law." *Awabdy v. City of Adelanto*, 368 F.3d 1062, 1066 (9th Cir.2004). A.R.S. §12.821.01 and A.R.S. § 15-203 42(B)(2). The SUPPREME COURT OF THE UNITED STATES Rule 42 authorizes award of damages for prevailing party.

The great thinker Sophocles warned that, "If we are to keep our democracy, there must be one commandment: 'Thou shalt not ration justice.'" "JUSTICE" is a right secured by the U.S. Constitution, which Petitioner seeks for the violations of the U.S. Constitution that Respondents have committed, to ensure the Preamble of the U.S. Constitution is upheld, as Plato emphasized of genuine citizenry, being quoted by Farewell Address of Attorney General Robert F. Kennedy, from the inscription on the U.S. Department of Justice Building, "Justice in the life and conduct of the State is possible only as first it resides in the hearts and souls of the citizens." Concluding the argument for Writ of Mandamus, is the wisdom of Benjamin Franklin in his public

presentation stating:

> Guilt only dreads Liberty of Speech, which drags it out of its lurking Holes, and exposes its Deformity and Horrour to Daylight. Horatius, Valerius, Cincinnatus, and other vertuous and undesigning Magistrates of the Roman Commonwealth, had nothing to fear from Liberty of Speech. Their virtuous Administration, the more it was examin'd, the more it brightned and gain'd by Enquiry. When Valerius in particular, was accused upon some slight grounds of affecting the Diadem; he, who was the first Minister of Rome, does not accuse the People for examining his Conduct, but approved his Innocence in a Speech to them; and gave such Satisfaction to them, and gained such Popularity to himself, that they gave him a new Name; inde cognomenfactum Publicolae est; to denote that he was their Favourite and their Friend. Latae deinde leges—Ante omnes de provocatione Adversus Magistratus Ad Populum, Livii, lib. 2. Cap.8.

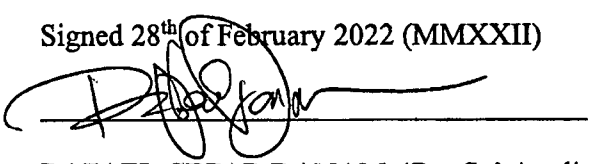
XII. Conclusion

Presented with solemn respect to Honorable Chief Justice John G. Roberts, Jr. pursuant to Supreme Court Rule 22, for the purpose of Application for Writ of Mandamus for violations by Defendants against Petitioner, Rafael Cezar Danam, violating the perpetual solemn rights of the U.S. Bill of Rights, which President John F. Kennedy proclaimed, "For the Bill of Rights is the guardian of our society as well as our liberty." Seven ("7") Requests for Extraordinary Writ of Mandamus Orders have been presented in violation of 42 U.S. Code § 1983 and § 1988 for Defendants violations of Preamble to U.S. Constitution, United States Constitution, Article VI, Clause 2, First, Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments. "Demand for Jury Trial" is respectfully submitted for the purpose of "We the People" to scrutinize violations committed by Defendants and ensure Seventh Amendment U.S. Constitution is upheld, Justice William Rehnquist for *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 343 (1979), "What many of those who oppose the use of juries in civil trials seem to ignore is that the founders of our Nation considered the right of trial by jury in civil cases an important bulwark against tyranny and corruption, a safeguard too precious to be left to the whim of the sovereign, or, it might be added, to that of the judiciary."

Respectfully Submitted to

JOHN G. ROBERTS, JR., CHIEF JUSTICE

Signed 28th of February 2022 (MMXXII)



RAFAEL CEZAR DANAM, 'Pro Se' Applicant/Petitioner