No. _____

UNITED STATES SUPREME COURT

JEFFREY G. THOMAS,

Petitioner,
v.

STATE BAR ASSOCIATION OF CALIFORNIA,

Respondent.

PETITION FOR WRIT OF CERTIORARI CONCERNING STATE SUPREME COURT'S DENIAL OF REVIEW OF STATE BAR COURT'S ORDER OF DISBARMENT

(INCLUDING APPENDIX BEHIND THE PETITION)

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Petitioner In Propria Persona

QUESTIONS PRESENTED

(1) Whether the Final Decision of a State Court Denying Review of the Decision of an Administrative Agency Recommending Disbarment, Causes an Interlocutory order of Involuntary Enrollment to Expire of its own Terms, which Interlocutory Order the Lower Federal Court Mistakenly Relied Upon to Disqualify Petitioner and to *"Disbar"* Petitioner?

(2) Whether the State Administrative Agency's Order of Disbarment that Discriminates Against the Petitioner's Exercise of Constitutional Rights of Free Speech, Expressive Association and Petitioning is Invalid and Unenforcible under Strict and/or Intermediate Scrutiny?

(3) Whether the State Administrative Agency's Order of Disbarment that Ignores Petitioner's

Constitutional and Statutory Law Defenses is Inadequate Due Process of the Laws, rendering the Administrative Decision Invalid and Unenforcible?

STATEMENT OF THE BASIS FOR JURISDICTION

Jurisdiction of this petition for the writ of certiorari is authorized under *28 U.S.C. §1257(a)*, and it is discretionary.

28 U.S.C. §2101(c) allows a petition for writ of certiorari to be filed in this court on or before ninety (90) calendar days from the denial of a petition for review on the merits in the state court. *S. Ct. Rule 13.3*. The ninety (90) day period began on January 26, 2023 and will expire on April 26, 2023.

REASONS FOR GRANTING THE WRIT

There is paramount importance of issues involved herein involving the relationship between the federal and state laws and Petitioner's fundamental individual constitutional right to earn a living. *S. Ct. Rule 10(c).*

The licensed attorneys at law who complained to the State Bar Association regarding Petitioner's conduct to cause it to bring this disciplinary proceeding misused the system to obtain a default order of interlocutory suspension that violated Petitioner's constitutional rights. The complainants relied on the invalid order to successfully move the federal courts to disqualify Petitioner, and to secure the dismissal of the Petitioner's federal action filed for his clients, the opponents of complainants, a breach of his fundamental individual constitutional rights.

This arrangement between the complainant attorneys Mssrs. Perry, Gibson and Solomon and the

State Bar Association caused the federal courts to dismiss *True Harmony et al. v. State Dept. of Justice et al., case no. 20-cv-00170* in the Central District of California, and appeal *no. 21-55655* in the Ninth Federal Circuit Court of Appeals. The Petitioner challenged the interlocutory default order dated August 20, 2020 (and the order of the supreme court of the state denying review) on the basis of *Due Process of the Laws* in a prior petition for the writ of certiorari to this Court in *no. 20-1506*.

This court denied the prior petition in 2021. But the issues raised in the prior petition are a subset of the issues raised in this petition, which seeks direct review of the ensuing proceedings in the state bar court that resulted in a decision of disbarment by the state supreme court. And Petitioner invokes this Court's supervisory power to acknowledge the expiration of the invalid interlocutory order, which apparently has expired or merged in the decision of disbarment. *S. Ct. Rule 10(c)*.

With the expiration of the invalid interlocutory order of the (Cal.) State Bar Court, Petitioner seeks review of the federal court of appeals's order of dismissal of the clients' appeal in *no. 21-55655*. *S. Ct. Rule 10(c)*.

Petitioner seeks direct review of the ensuing phase of the proceedings in the State Bar Court with respect to its final decision in these disciplinary proceedings of disbarment, dated May 27, 2021 (the delays between now and then are attributable to delays in the Review Dept. of the State Bar Court and the Supreme Court of the State). The State Bar Court's decision dated May 27, 2021 violated Petitioner's constitutional rights of free speech, expressive association and petitioning, confrontation of witnesses against him, fair warning, a fair and unbiased tribunal, fair procedures, protection from Excessive Fines, and charges under a clear statute that a person of ordinary intelligence can understand.

The state supreme court denied review without doing an independent review of the record in the administrative agency, the State Bar Court, for the violations of Petitioner's constitutional rights. The state bar court artificially limited the scope of its decision by failing to consider the violations of Petitioner's individual constitutional rights and deeming them insignificant, in accordance with *art. III, section 3.5 of the state Constitution*, that withdraws from its jurisdiction of the state administrative agency such as the State Bar Court the consideration of individual constitutional rights. It is an issue that is very similar, if not identical to, the issue currently before this court in *Axon Enterprises, Inc. v. Federal Trade Commission, cert. granted 142 S. Ct. 895.* The decision in *Axon Enterprises* could control the result in this case, and require the reversal of the state supreme court.

The State Bar Court's violation of Petitioner's rights to free speech is reminiscent of the *"professional*

speech" licensing exemption to *Amendment One of the Constitution*, an exemption which this court discredited in *NIFLA v. Becerra (2018) 138 S. Ct. 2361.* In this Ninth Federal Circuit Court of Appeals in which the state court is located, a recent decision on review in this court purports to revive the exception of *"professional license speech"* from the rights granted by *Amendment One of the U.S. Constitution. Tingley v. Ferguson (9th Cir. 2022) 47 F. 4th 1053, reh. den 57 F. 4th 1072, S. Ct. no. 22-942.*

A third case before this court now, *Tyler v. Hennepin County (#21-166)*, could influence the decision on this petition as it relates to the Excessive Fines issue herein.

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I. CONSTITUTIONAL AND STATUTORY PROVISIONS

Amendment One of the United States Constitution:

> *"Congress shall make no law . . . abridging the freedom of the speech or of the press; or of the right peaceably to assemble, and to petition the government for a redress of grievances."*

Amendment Six 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."

Amendment Eight of the United States Constitution:

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

Amendment Fourteen of the U. S. Constitution, Section One:

"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 art. III Section 3.5:

"An administrative agency, including an administrative agency created by the Constitution or an initiative statute, has no power:

(a) To declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional;

(b) To declare a statute unconstitutional;

(c) To declare a statute unenforceable, or to refuse to enforce a statute on the basis that federal law or federal regulations prohibit the enforcement of such statute unless an appellate court has made a determination that the enforcement of such statute is prohibited by federal law or federal regulations."

State Bar Act Section 6068(c):

6068. It is the duty of an attorney to do all of the following: . . . .

(c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense.

State Bar Act Section 6103:

Section 6103 - Wilful disobedience or violation of court order or violation of oath or duties

A wilful disobedience or violation of an order of the court requiring him to do or forbear an act connected with or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney, constitute causes for disbarment or suspension.

State Bar Act Section 6128:

"Every attorney is guilty of a misdemeanor who either:

(a) Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party.

(b) Willfully delays his client's suit with a view to his own gain.

(c) Willfully receives any money or allowance for or on account of any money which he has not laid out or become answerable for.

Any violation of the provisions of this section is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both."

California Rule of Court 9.18:

Rule 9.18. Effective date of disciplinary orders and decisions

(a) Effective date of Supreme Court orders

Unless otherwise ordered, all orders of the Supreme Court imposing discipline or opinions deciding causes involving the State Bar become final 30 days after filing. The Supreme Court may grant a rehearing at any time before the decision or order becomes final. Petitions for rehearing must be served and filed within 15 days after the date the decision or order was filed. Unless otherwise ordered, when petitions for review under rules 9.13(c) and 9.14(a)(3) are acted upon summarily, the orders of the Supreme Court are final forthwith and do not have law-of-the-case effect in subsequent proceedings in the Supreme Court.

California Rule of Professional Conduct 1.0(d)(5):

> *Rule 1.0 Purpose and Function of the Rules of Professional Conduct*
>
> . . . .
>
> *[d][5] The disciplinary standards created by these rules are not intended to address all aspects of a lawyer's professional obligations. A lawyer, as a member of the legal profession, is a representative and advisor of clients, an officer of the legal system and a public citizen having special responsibilities for the quality of justice. A lawyer should be aware of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons* who are not poor cannot afford adequate legal assistance. Therefore all lawyers are encouraged to devote*

professional time and resources and use civic influence to ensure equal access to the system of justice for those who because of economic or social barriers cannot afford or secure adequate legal counsel. In meeting this responsibility of the profession, every lawyer should aspire to render at least fifty hours of pro bono publico legal services per year. The lawyer should aim to provide a substantial majority of such hours to indigent individuals or to nonprofit organizations with a primary purpose of providing services to the poor or on behalf of the poor or disadvantaged. Lawyers may also provide financial support to organizations providing free legal services. (See Bus. & Prof. Code, § 6073.)*

California Rule of Professional Conduct 3.1:

Rule 3.1 Meritorious Claims and Contentions (a) A lawyer shall not: (1) bring or continue an action, conduct a defense, assert a position in litigation, or take an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person; or (2) present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by a good faith argument for an extension, modification, or reversal of the existing law.*

II. STATEMENT OF THE CASE

In January 2020 before state systemwide abatement for pandemic COVID19, Petitioner filed *TRUE HARMONY et al. v. STATE DEPT. OF JUSTICE et al. (case no. 20-cv-00170, Central district of California,*

and appeal no. 21-55655, U. S. Court of Appeals for Ninth Circuit).

In January of 2020 the State Bar Association filed a second Notice of Disciplinary Charges ("NODC") in addition to the first NODC against Petitioner which was filed regarding nonpayment of appellate court sanctions in B254143 (*In re 1130 Hope Street Investment Associates LLC*). The charges in the combined NODCs include the failure to pay court-ordered sanctions as willful misconduct, and willfully maintaining unjust actions or defenses (but not naming the federal action, instead naming only the state court actions in which Petitioner drew sanctions by motion from complaining attorneys at law Perry, Gibson and Solomon).

In May, Petitioner filed a Second Amended Complaint in the federal action with five causes of action. *Second Amended Complaint pleading, APPX. # 8, pp. 153 - 275.* The five causes of action are: denial of constitutional right of access to courts *(42 U.S.C. §1983)*,

denial of civil rights secured by federal law under the Supremacy Clause and the Bankruptcy Clause *(ditto)*, fraud against a charitable trust under state law (arising under *28 U.S.C. Section 1331* nonetheless), denial of taxpayer's rights under the *Due Process of the Laws Clause of the U.S. Constitution (Amendment Fourteen)*, and violation of federal common law for the duty of the California Attorney General to sue to enforce its cease and desist order against complaining attorney's sale of True Harmony's property. *Ibid.*

The district court in 20-cv-000170 grossly erred in dismissing the Second Amended Complaint without leave to amend based on *Rooker-Feldman* and alleged lack of plaintiffs' standing under *Article III of the U.S. Constitution*. The pending appeal for Petitioner (and the appeal which could be reinstated for True Harmony if the disbarment is removed here) has substantial merit. With a reversed order of disbarment in this case and/or in *no. 20-cv-000170* in the *Dist. Ct. Cent. Dist. Cal.*, the

Petitioner, and the clients as reinstated after disbarment is removed may win the appeal of the federal action.

In June of 2020 the State Bar Association in the State Bar Court filed the emergency application for the order of involuntary enrollment during statewide and case-specific (by order) abatement for COVID19. *See the petition for the writ in 20-1506 in this Court*. The application was not served on an unknown person in an office not occupied by Petitioner or any employee for Petitioner in the building, and when the person who signed for the certified mail returned it to the post office, the post Office delivered it to Petitioner more than three weeks after the State Bar Association mailed by certified mail. *Ibid; TR (III) 146-47 (objection by State Bar Ass'n. employee Vasicek to Mr. Levy's testimony sustained)*. The time allotted for his response in the Application had passed by several weeks. *See the petition in no. 20-1506*. State Bar Court later entered a

default order for involuntary enrollment on August 20, 2020. *Ibid.*

In September, the Hearing Department struck Petitioner's Notice of Objections to proceeding with the involuntary enrollment filed with Hearing Dept. in late July, and at about the same time it denied his motion for relief from the interlocutory order. *See decision APPX. #7, p. 129 – 132.* The Review Department affirmed the Hearing Department's *"discretion,"* and the state supreme court denied the petition for review in no. S266556. This Court denied the petition for the writ of certiorari in *no. 20-1506.*

There was no formal discovery afforded by the State Bar Court rules or the State Bar Association in these disciplinary cases, simply an exchange of exhibits and exhibit lists and witness lists.

On February 24 through February 26, 2021 the Hearing Dept. had a *"zoom"* session including witnesses for Petitioner and a few witnesses from the southern Los

Angeles office and the complaining attorneys in the disciplinary case Perry, Gibson and Solomon as witnesses. On May 27, 2021 it acknowledged its decision. *Decision, APPX. #5.*

Despite assurances in a status conference prior to the *"zooming"* of his certain future opportunity to cross-examine Perry, Gibson and Solomon, the Hearing Dept. officer upheld the objection of State Bar Association to Petitioner's questions to complainant attorneys at law cross-examining them concerning their declarations and testimony that the True Harmony federal action was harassment. *See Petition APPX #2, pp. 17 – 18; Decision APPX. #5, p. TR (II) 157 – 164, 174 – 204 (Supp. APPX.).* The Hearing Dept. also ruled on the objection on the record in the *"zoom hearing"* on February 24 through February 26, 2021 that the order of involuntary enrollment was a separate case, and the sanctions court cases BC466413, B254143, BC546574, and B287017 could not be debated or inquired into during *"zoom."*

See Decision, APPX. #4, p. 73; TR (II) p. 184. The Hearing Dept. failed to allow any of Petitioner's cross-examination of Mssrs. Perry and Solomon as to their conduct of the lawsuits involving the sanctions, and thus clearly violated Due Process of the Laws to rule that Petitioner willfully disobeyed sanctions orders and conducted "unjust" actions by clear and convincing evidence. *TR (II) 157 – 164, 174 – 204 (Supp. APPX.).*

The Hearing Dept. also sustained State Bar Association's objections to Petitioner reading the allegations of the Second Amended Complaint into the record or referring to it as cross-examination of the complaining attorneys' greed, fraud and moral turpitude, despite its previous promise to him that cross-examination of Mssrs. Perry, Gibson and Solomon would be permitted *ad libitum*. *Petition APPX. #2, pp. 16 - 18; TR II p. 184; see State Bar Act Section 6085.* But the complainants' greed, fraud, moral turpitude and ethical and disciplinary violations caused the same fraudulent

judgments that the Los Angeles sanctions courts sanctioned Petitioner for characterizing as fraudulent, and not accepting *res judicata* or *collateral estoppel* of the fraudulent in the state courts.

State Bar Court rejected the Petitioner's arguments that the State Bar Association was guilty of unclean hands because of failure to investigate the complainant attorneys, despite that State Bar Court assisted the complainant attorneys at law with the order of involuntary enrollment against Petitioner, intentionally to stop the complainants' allegation of *"harassment"* because of the True Harmony federal action. *Petition, APPX. #2, pp. 14 – 26.* State Bar Court did not consider arguments over State Bar Association's objections that the State Bar Association's failure to investigate complainants' greed, fraud, moral turpitude and ethical violations violated its duties of honesty and integrity as a prosecutor. *Ibid; Decision APPX. #5, pp. 97 - 98.*

III. RECIPROCAL DISCIPLINE OF DISBARMENT EXPIRED OF ITS OWN ACCORD AND DISQUALIFICATION OF PETITIONER IN FEDERAL COURT SHOULD TERMINATE NOW

As to the order of disbarment in the Central District of California and United States Court of Appeals for the Ninth Circuit and the ensuing disqualification of Petitioner in *True Harmony v. State Dept. of Justice* that complainant attorneys at law procured with the assistance of the State Bar Court's orders, *Decision, APPX. #4, p. 51.* The State Bar Association conspired with the complainant attorneys Mssrs. Perry, Gibson and Solomon to obtain a default emergency order of involuntary enrollment that they used as evidence to move the federal courts to disqualify the Petitioner to represent his clients (True Harmony, a federal public charity, et al.) in *no. 20-cv-00170* in the federal district court and in the court of appeals in *no. 21-55655. Petition, APPX. #2, pp. 20 – 24.*

Which naturally and inevitably resulted in dismissal of a meritorious appeal by the clients, because the complainant attorneys have successfully over several years imposed the stigma on the True Harmony dispute of repeated unfair and illegal sanctions against Petitioner, and no other attorney wanted the engagement. Thus the Ninth Federal Circuit Court of Appeals dismissed the appeal after disqualification because there was no attorney at law to substitute.

Since the state Supreme Court affirmed the state bar court without opinion, *Order, APPX. #1, p. 1*, the order of involuntary enrollment from state bar court dated August 20, 2020 on which the complainant attorneys based their motion to disqualify Petitioner (and henceforth to dismiss the client's case and appeal) should have expired, because it is interlocutory as the Review Dept. of the State Bar Court stated in an order dated November 13, 2020. *Order, APPX. #6, p. 123.* However, *Cal. Rule of Court 9.18(a)* establishes that the

denial of review by the state supreme court is not law of the case, and the State Bar Court did not incorporate this interlocutory order in its final decisions. *See Decision, APPX. #4, p. 73.* This court under its supervisory power may reconsider its denial of the petition for the writ of certiorari in *no. 20-1506, Thomas v. State Bar Ass'n.*, without interference of inapplicable rules of bar, merger, jurisdiction or abstention.

This court may exercise its supervisory power to declare that interlocutory order of involuntary enrollment dated August 20, 2020 expired. *S. Ct. Rule 10(a), 10(c).* Because the final administrative orders of disbarment did not affirm or mention the interlocutory order. *Decisions APPX. ##4, 5, passim.* The denial of review by the state supreme court has no law of the case. *Cal. Rule of Court 9.18(a).* Because it is proper and just, this Court must reverse the order of disqualification dependent upon the interlocutory order, and reverse dismissal of the client's appeal in the federal court, in

True Harmony v. State Dept. of Justice (no. 21-55655) while this petition for the writ is pending. This court may also exercise its supervisory power to order the Central District of California to reverse its order of *"disbarment"* of the Petitioner. *S. Ct. Rule 14.* The lower federal court order violated his right to *Equal Protection of the Laws Class of One. See In re Rose (2000) 22 Cal. 4th 430.*

In *no. 20-1506* Petitioner previously petitioned this court to grant relief from the denial of the petition in the state supreme court in S266566 regarding his motion for relief from the default interlocutory order based on the *Due Process of the Laws. Jones v. Flowers (2006) 547 U.S. 220.* This order of the state bar court was interlocutory and not final, and an appeal of the denial of review in No. 266556 is includible herein. *See County Line Joint Venture v. City of Grand Prairie Tx. (5th Cir. 1989) 839 F. 2d 1142.* Petitioner will submit electronically the transcript of the State Bar Court

"zooming" on February 26, 2021, which includes relevant testimony of Mr. Levy regarding the failure of State Bar Association to substitute serve the emergency application on him. *TR (III) 146-47 (Supp. APPX.).* And the state bar court also lacked subject matter jurisdiction of the emergency application in 2020 because State Bar Association filed it during abatement for COVID19.

This issue raised by the petition in *no. 20-1506* is not moot because it evades effective review.

IV. THE STATE BAR COURT'S DECISION VIOLATES PETITIONER'S CONSTITUTIONAL RIGHTS OF FREE SPEECH, EXPRESSIVE ASSOCIATION AND PETITIONING

Petitioner's clients are charities and affiliated persons helping indigent without the means to help themselves with housing, food, transportation, advice, and companionship. *Second Amended Complaint, APPX. #8, pp. 153 - 275.* The support and resources that the clients have supplied to their patrons certainly helps them to support themselves and to take their own resources to pay for legal representation, as necessary.

And as a practical matter, Petitioner has owned and operated his own business of counseling clients as to the law since about 1996. Since at least since 2017 he has devoted ninety-five percent (95%) of his time to representing True Harmony, 1130 South Hope Street Investment Associates LLC (DEL.) and Ray Haiem in the courts.

The Petitioner's clients' pleading in the Second Amended Complaint in the federal action for denial of the rights of free speech and expressive association and denial of the constitutional right to access to courts to a registered public charity and nonprofit mutual benefit corporation under state law is violated by the involuntary enrollment order dated August 20, 2020 and the disbarment order dated January 25, 2023, and the disqualification order of both federal courts and the dismissal order of the federal court of appeals in no. 21-55655, which stopped the federal action and appeal. *Second Amended Complaint, #8*. It is a regulation of the

content of speech, and therefore the federal courts must apply strict scrutiny to the violations of the Petitioner's and his clients' constitutional rights. *In in re Primus (1978) 436 U.S. 412 (pro bono publico* law firm representing indigent persons); *see Boy Scouts of America v. Dale (2000) 530 U.S. 640; See Petition APPX. #2 pp. 16 – 18, 20 -26.*

Even if the State Bar Court's and federal court's restrictions on the Petitioner and his clients are considered to be permissible to regulate attorneys at law, intermediate scrutiny of the deterrent to speech of attorneys at law must be applied. The State Bar Court and federal court orders fall under intermediate scrutiny too, because of the compelling interest of helping indigent persons is more compelling than the interest of complainant attorneys at law Perry, Gibson and Solomon in collecting remuneration in the ongoing disputes in court concerning ownership and title to the Property. *Cal. Rules of Prof. Conduct 1.0(d)(5); Willey v. Harris*

County Dist. Atty. (5th Cir. 2022) 27 F. 4th 1125; compare Florida Bar v. Went for it Inc. (1995) 515 U.S. 618.

The State Bar Court's restrictions here offended substantive due process. *California Rule of Professional Conduct 1.0(d)(5)* and the *State Bar Act Section 6073* specify that a primary goal of the state bar association is to facilitate the provision of services to indigent persons whom are deemed to be underrepresented in society, and this is a basic goal of the state's legal system including legal discipline. These provisions of law establish the compelling state interest of Petitioner and his clients to succeed in recovery of title to the Property in the *("was")* True Harmony federal action and appeal. *Second Amended Complaint APPX. #8, passim.*

Complaining attorneys at law attempted to conspire with the State Bar Association to disbar Petitioner and used this procedural gambit of the interlocutory order to stop the federal action. *Petition*

APPX. #2, pp. 17, 20 - 24. The State Bar Association and State Bar Court erroneously assumed that the Petitioner intentionally harmed administration of justice in the course of filing pleadings and motions protected by *Noerr-Pennington* because Mssrs. Perry, Gibson and Solomon succeeded with their motions for sanctions. *Decision, APPX. #5, p. 114 – 118 (agency calls Petitioner "an avenger of justice," leaving "justice" undefined).* But if the pleadings and motions are constitutionally protected, the focus of harm to administration of justice should have been the trivial inconvenience to the courts of deciding Mr. Gibson's motions for sanctions "on the papers" without oral argument or a hearing of evidence. *See In re Criminal Contempt of Thomas McConnell (1962) 370 U.S. 230.*

Petitioner is the target of a facultative arrangement between the State Bar Association and complainant attorneys at law Mssrs. Perry, Gibson and Solomon to cause his clients' case against complainant

attorneys in the federal action to be dismissed. Petitioner is not a public figure. *See Gertz v. Welch (1974) 418 U.S. 323*. But, the sanctions orders and the disbarment decision portray him and his clients in a false light of a willfully evilly (and *"frivolous")* attorney at law. *Zacchini v. Scripps Howard Broadcasting Inc. (1977) 433 U.S. 562*. The State Bar Association's and State Bar Court's careless and haphazard approach to this disbarment case for alleged negligence in filing pleadings and motions is overtly biased and violates *Due Process of the Law*s for bias and predecision. *Second Amended Complaint, APPX. #8, passim*.

The State bar court's arbitrary prohibition on cross-examination and/or reading the Second Amended Complaint into the record of the purported *"trial by zoom"* as proof of the fraud, moral turpitude and greed at issue in the True Harmony is undoubtedly a restriction on the content of speech. *Petition, APPX. #2, pp. 16 – 24; compare Decision, APPX. #5; see also TR*

excerpts (Supp. APPX.). It must be judged by the standards of strict scrutiny of *In re Primus*.

The federal court of appeals for the Tenth Circuit held that artificial limitations on the jurisdiction of a court to hear and decide issues arising under the Constitution is a violation of the constitutional right of free speech. *Joseph A. ex rel Wolfe v. Ingram (10th Cir. 2002) 275 F. 3d 1253*. This is a wise rule that protects the attorney at law's speech, that applies to the State Bar Court's refusal to apply Petitioner's defenses under constitutional law.

In *Heffernan v. Hunter (3d Cir. 1999) 189 F. 3d 405*, the decision of the federal court accepted none of the arguments and disbelieved all of the evidence of Mr. Heffernan and credited all of the arguments and evidence of his opponents. The Third Circuit Court of Appeals struck down the district court decision as a violation of a right of free speech, seemingly as an example of viewpoint discrimination. Despite that the

State Bar Court admitted much of Petitioner's evidence and accepted much testimony from him, *see TR (excerpts from vols. I, II & III) in Supp. APPX.*, the State Bar Court arbitrarily rejected his arguments in rebuttal of willfulness and in support of violation of his rights of expressive association, free speech and petitioning and disbelieved all of his evidence, and arbitrarily credited the testimony of complainant attorneys at law and the arguments of State Bar Association in concert and facilitation with the complainant attorneys at law. *Petition, APPX. #2; Supp. APPX.*. Despite the severe limitations that the State Bar Court imposed on the scope of his cross-examination of the complainants. *Petition, APPX. #2, pp. 17 - 18; Decision, APPX. #5, TR (II) 160 – 168, 174 - 204.*

The untoward and unnatural crediting of the complainant attorneys at law's testimonies and the arguments of the State Bar Association in concert and facilitation with them misused the rules of evidence that

should justly apply to quasi-criminal proceedings against licensed attorneys at law. *Petition, APPX. #2; TR (vols. I, II and III Supp. APPX.).* It denied Petitioner his constitutional right to cross-examine the witnesses for State Bar Association and complaining attorneys at law. *Ibid; TR at vols. II and III*. It is as much of a viewpoint discrimination against speech as the district court's decision in *Heffernan*, or even more so.

The State Bar Court violated Petitioner's rights of free speech with reliance on the void for vagueness *State Bar Act Section 6103* and *Section 6068(c)* (illegal to maintain actions or defenses that are not "*just*") to prove willfulness for disbarment. A sanction of a frivolous pleading is a sanction of a negligent pleading, as defined by the *ABA Model Rules of Professional Conduct*. *See Cal. Rule of Prof. Conduct 3.1 (same as ABA Model Rule); In re Egbune (Colo. 1999) 371 P. 2d 1065; see also Supreme Court Attorney Discipline Board v. Rhinehart (Iowa 2021) 953 N.W. 2d 156*. The State Bar Court erred

as a matter of law in rejecting this critical element of Petitioner's defense. *Decisions, APPX. ## 4, 5; see King v. State Bar Cal. (1990) 52 Cal. 3d 307.*

Frivolity (for which the state courts sanctioned Petitioner, like obscenity and/or prurient interest, is a vague concept the meaning of which is dependent upon the viewpoint of the observer. *WSM Inc. v. Tennessee Sales (6th Cir. 1983) 709 F. 2d 1084.* There is no precedent under either of the willfulness provisions of law here, *State Bar Act Sections 6068(c)* and *6103,* for the State Bar Court's reliance on these void for vagueness disciplinary statutes in this context, to allow the complainant attorneys at law to use the decision that is the product of this faulty logic to cut off a pending federal appeal of their opponents without addressing the merits of the pleading. *Gibson v. Berryhill (1973) 411 U.S. 564.*

The State courts of this state and the state administrative agency, the State Bar Court, have never

found that multiple unsuccessful lawsuits constituted a willful pattern of willful disobedience of courts orders, or willfully not *"just"* actions subject to discipline under *Sections 6068(c) and 6103,* despite the denial of this principal theory of the defense by a biased and weary State Bar Court. *Decision, APPX. ## 4, 7.* The state courts and state agency the State Bar Court did sometimes find a serious abuse of the court system with the intent to cause opponents harm warranting disbarment where the abuse was equivalent to moral turpitude. *Eg. Maltman v. State Bar Cal. (1987) 43 Cal. 3d 924.*

The *Valinoti* decision is misquoted by the state agency, and involves facts very different from this case. It is one of these decisions that requires serious abuse of *"shooting the defendant"* with the same sham case to aggravate the same injury in the same manner (for example, the attorney at law instructing disabled persons to visit multiple establishments to claim sham violations

of the environmental laws regardless of merits) for disbarment, and a few of these agency decisions are cited in the *Petition, APPX. #2, at p. 10.* These decisions, especially *Valinoti, Decision, APPX. #5, p. 61*, are misquoted and reliance on the holding stated in the agency's decision is faulty. But these decisions always involved identical meritless causes of action in the actions or lawsuits aimed at damaging the same opponent or property multiple times, to cause the hapless opponents to surrender to the evil plaintiff.

Here, the actions that the State Bar Association and complaining attorneys at law labeled as serious abuses involved different causes of action and different theories of recovery in different contexts, connected merely by identity of some of the opponents and some of the subject matter. And in at least half of the motions and appeals faulted by the State Bar Association and complaining attorneys at law, the complaining attorneys at law brought the actions against Petitioner's clients

seeking unfair advantage from unrepresented opponents. The only identity between all of the motions and appeals and actions faulted by the co-conspirators was a loosely related identity of parties and subject matter, but the loose identity did not establish a *"willful"* pattern of disobedience or not "just" action for a *"signature"* method of abuse that the state evidence code requires for the exception from the hearsay rule of evidence. *Petition, APPX. #2, pp. 17 - 18.*

The State Bar Association and State Bar Court together in discordant harmony thus created of a new violation of a willful pattern of misconduct in *State Bar Act Section 6103*, which had no precedent. This vicious theory is destructive of creative attorney at law thinking, and it is punitive and retroactive. It lacks fair warning and offends free speech and Due Process of the Laws. *Kennedy v. Mendoza-Martinez (1963) 372 U.S. 144.*

The State Bar Association's and State Bar Court's accusations of Petitioner's maintaining action(s) or

defense(s) as appears to be not *"just"* under *State Bar Act Section 6068(c)* misapplied the statute out of context. The State Bar Court took none of the difficulties and obstacles to Petitioner's investigation of the appeals and motions into account, and the gathering of evidence. *Petition, APPX. #2, p. 6 - 8.* The failure of the Los Angeles court clerk to locate the docket or any of the documents or even to identify and date the documents in Los Angeles case no. BC244718, the failure of the California Attorney General to discuss its investigations or to make any documents in the background of Petitioner's appeals or motions available to Petitioner – despite that Petitioner's interests were putatively aligned with the California Attorney General. *Ibid; see Second Amended Complaint APPX. #8.* The same *functus officio* California Attorney General who served Mssrs. Perry and Solomon with an order to cease and desist from selling True Harmony's property (and the proof of service of the order was not discovered by Petitioner on

his own for many years), and Mssrs. Perry, Gibson and Solomon's anti-slapp and protective order motions slavishly granted by, the Los Angeles state court judges that stopped all discovery, and Mssrs. Perry and Gibson's obstinate bad faith refusals to comply with discovery requests – all of these standard local bar association member manipulations in the courts that were huge obstacles to success with the theory of the True Harmony state and federal actions. *Ibid*.

The State Bar court's and State Bar association's neglect and omission to focus on what *"appeared"* to be *"just"* to Petitioner, as the statute requires, makes the charge under *State Bar Act Section 6068(c)* void for vagueness and lacking fair warning. *See Gentile v. State Bar of Nevada (1991) 501 U.S. 1030*. Whatever "just" means to a bar association, it cannot mean that the intent of an unsuccessful motion or appeal to harm the opponent (with hindsight) is unjust. It is wholly

contrary to the idea of creative thinking of attorneys at law.

As further proof of the obstacles to Petitioner's lawyer in the state courts, consider the blockage to the theory of the clients' state and federal actions caused by the outlier and renegade decision of the state court of appeals in 2007 that True Harmony flunked the organization and operational standards for a public charity (*28 U.S.C. §501(c)(3); see Treas. Reg. 1.501(c)(3)-1(b)(5)*). *Petition, APPX. #2, pp. 6 - 8.* Consider the blockages to discovery and investigation raised by complainant attorneys at law Mssrs. Perry, Gibson and Solomon and their friends in the Los Angeles state bar court and state courts. *Ibid.*

The complainant attorneys filed sham anti-slapp motions and fake protective orders that the Los Angeles state courts approved, stopping all discovery by formal process by Petitioner for clients. *Ibid.* The State Bar Court ignored it. The State Bar Court ignored the failure

of the Los Angeles Superior Court to produce a docket and/or documents for case no. BC244718 in which there is tangible proof of the causes of action for True Harmony in federal law. *Ibid.*

The State Bar Court failed to consider that the California Attorney General refused to meet with Petitioner to discuss the case, and refused *"on principle"* (whatever it means) to produce any documents in its investigative files. *Ibid.*

Whatever *"appearing just"* means, it cannot mean that the mere volume of unsuccessful pleadings and documents filed by Petitioner in the state courts constituted a *"willful pattern"* of injury to his opponents. This is a *tour de force* that was prohibited to the State Bar Court's to justify its decision, *Decision, APPX. #5*, because an attorney at law's pleadings are privileged from attack under the *Noerr-Pennington* doctrine!

And the State Bar erred in ignored the precedent under the *Cal. Code of Civil Procedure* which excludes

an appeal from the definition of *"action." Gulf v. Coleman Ins. Group (1986) 41 Cal. 3d 782*. And as the courts defined a motion, it is principally directed to obtaining an order on a collateral issue, not an issue for trial in the *"action." Eg. Silver v. Gold (1989) 211 Cal. App. 3d 17.*

In sharp contrast to the State Bar Court's faulty reasoning, the paradigm case that rejected void for vagueness of the *Civil Rights Act, 18 U.S.C. §241,* considered the entire context of the language of the law and the precedent. *Screws v. United States (1945) 325 U.S. 91*. In *Screws*, this court considered that the vague language of *"due process of the laws"* was defined by court decisions, and the willful beating of a victim by a peace officer made the application of the statute seem clear. But there was, and is, no precedent for finding Petitioner guilty of willfully harming the complainant attorneys at law because of filing pleadings and briefs. Complainant attorneys at law have been victorious so

far, and they have suffered little or no injury from Petitioner's unsuccessful briefs and pleadings. Their estimates of attorneys' fees caused by the action or defense that the Los Angeles courts uncritically accepted were greatly overestimated and the product of fantasy. *See Fox v. Vice (2011) 563 U.S. 826.*

If the courts had prosecuted the alleged misconduct in the Complainant attorneys at law's motions as criminal contempt, see *In re Criminal Contempt of Thomas McConnell, supra,* the Petitioner could have defended with indigency. *United States v. Joyce (7th Cir. 1974) 498 F. 2d 592.* [1] In fact *"indigents"* are enshrined as a class of persons protected by the bar association in *Cal. Rule of Professional Conduct 1.0(d)(5), supra.* And Petitioner observes that in *Thomas W. McConnell, supra*, this court found that a

[1] The State Bar Court said that inability to comply was required to be presented to a court by motion or by appeal. Decision, APPX. #5, 99 – 100. But his right to practice law is a fundamental individual constitutional right, which cannot depend on procedural formalities. *See Felder v. Casey (1988) 487 U.S. 131.*

criminal contempt procedure was not an undue burden on administration of justice. Complaining attorneys at law were the ones guilty of serious multiple abuses of the system with their *"one size fits overall"* motions for sanctions, given their background of moral turpitude against Petitioner's clients. If Mssrs. Perry, Gibson and Solomon are not guilty of intentional harm to administration of justice, how did Petitioner's written oppositions to the motions which were always decided on tentative rulings without oral argument burden the public administration of justice as the state agency State Bar Court blithely asserted?

The State Bar Association arranged with the complaining attorneys Gibson, Perry (deceased 4/7/2022) and Solomon and the State Bar Court to violate Due Process of Laws and Petitioner's constitutional rights of free speech and expressive association, etc. This court in good conscience and justice for the federal public charity True Harmony

cannot let this decision stand as a monument to the obsolete and ugly *"professional licensing exemption"* against personal and individual freedoms to pursue and fundamental individual right to earn a living. Especially because this Supreme Court has already denied the existence of the so-called exemption. *NIFLA v. Becerra (2018) 138 S. Ct. 2361.*

However, in this area including California, a recent decision of the Ninth Federal Circuit Court of Appeals revived the rule of the exception of *"professional license speech"* from *Amendment One's* protections. *Tingley v. Ferguson (9th Cir. 2022) 47 F. 4th 1053, reh. den. 57 F. 4th 1072, S. Ct. no. 22-942.* This case squarely presents the same or similar issue of the exemption of *"professional speech"* as does *Tingley* here.

A third case before this court now, *Tyler v. Hennepin County (#21-166)*, could influence the decision on this petition as it relates to the Excessive Fines issue presented herein.

V. THE STATE BAR COURT'S DECISION VIOLATES PETITIONER'S CONSTITUTIONAL RIGHT TO DUE PROCESS OF THE LAWS

The disbarment decision of the State Bar Court and the previous involuntary enrollment decision of the State Bar Court, both as denied review by the state Supreme Court (*APPX. ##1, 4, 5, 6*) violated Petitioner's and his clients' rights of free speech, expressive association and petitioning. *See Petition, APPX. #2, passim; see discussion supra at VI*. It violated the *Due Process of the Laws of Amendment Fourteen of the U.S. Constitution*, as the State Bar Court denied meaningful cross-examination to Petitioner involving his *Amendments One and Six (of the Constitution*) rights, denied Petitioner a meaningful opportunity to put on his rebuttal and defenses relying on rights under *Amendment One*, aided and abetted the arrangement between the State Bar Association and complaining attorneys at law, denied Petitioner of an impartial decisionmaker, disregarded the lack of fair warning and

lack of *Due Process of the Laws* in the application of new retroactive law of the definition of a willful pattern of misconduct, and in the application of collateral estoppel from the sanctions courts' findings of misconduct to the ultimate fact in this case of willful misconduct, without review of the records in the sanctions courts for clear and convincing evidence, and in the failure to apply the protections that are due process for summary contempt in this evasive end run around the goal lines for the summary contempt power of the courts. *See Petition, APPX. #2, passim.*

The pending petition for the writ in the *Tingley* case (*see supra at VI*) and the pending decision in this court in *Axon Enterprises, Inc. v. Federal Trade Commission, cert. granted 142 S. Ct. 895* involve very similar issues pertaining to this case and the outcome of these decisions may control the result in this case, and this court should in good conscience, grant the writ in

this case and decide it based on the result in those pending cases herein.

It is very clear that the State Bar Association conspired with the complaining attorneys at law Perry, Gibson and Solomon to aid and abet the complaining attorneys to stop the federal action and appeal in the True Harmony case with the unconstitutional default emergency interlocutory order of the State Bar Court dated August 20, 2020. *See petition for the writ in Supreme Court U.S. no. 20-1506*. The State Bar Association with consent of the state agency the State Bar Court to limit the scope of cross-examination of complaining attorneys at law and defendants in the True Harmony federal action Mssrs. Perry (deceased), Gibson and Solomon, and to violate Petitioner's free speech, petitioning and expressive association constitutional rights. *See Maryland v. Craig (1990) 497 U.S. 836*. The conspiracy between complainant attorneys at law violated *State Bar Act Section 6128*, and the State Bar

Court had indirect financial bias against Petitioner against the *Due Process of the Laws* because it arbitrarily truncated proceedings and severely limited cross-examination. *Caperton v. A.T. Massey Coal Co. (2009) 556 U.S. 868*. Under *Caperton*, the decision of the Hearing Dept. to proceed with the emergency interlocutory order filed during abatement for COVID19, despite lack of subject matter jurisdiction and lack of jurisdiction over the person for the state employees to continue to draw very generous salaries violated *Due Process of the Laws*. And State Bar Court's finding that complainants' testimony was credible despite inability of Mr. Perry to recall his name and inability of all of them the correct dates for the record of the background events in the records of the sanctions courts is incredible, too.

The State Bar Association and the State Bar Court are a part of the same judicial branch of state government, subject to the command of *state const. art. III section 3.5* to ignore respondents' constitutional law

defenses, rebuttals and objections. *Lockyear v. City and County of San Francisco (2004) 33 Cal. 4th 1055.* The close relationship between State Bar Association and the State Bar Court involved he *de facto* consolidation of executive prosecutorial decisions and quasi-adjudicative decisions in one state employee, in this case the Hearing Department, in violation of the separation of powers and the *Due Process of the Laws. Caperton, supra; see Auer v. Robbins (1997) 519 U.S. 452. Art. III, section 3.5* of state constitution insulated this paternal relationship from the close scrutiny of the judiciary.

It also violated *Separation of Powers and Due Process of the Laws* that the state agency the State Bar Court was not responsible for enforcing the duties of honesty and integrity on the State Bar Association to require them to investigate the fraud, greed, moral turpitude and ethical and disciplinary violations of Mssrs. Perry, Gibson and Solomon alleged in the Second Amended Complaint of the True Harmony federal

action, and to choose wisely not to prosecute this *"case." Berger v. United States (1935) 295 U.S. 78; County of Santa Clara v. Superior Court (2010) 50 Cal. 4th 35.* There was an indirect financial incentive to refuse to investigate their concealed fraud, greed, moral turpitude and violations of ethics that caused the fraudulent judgments as fraudulent collateral estoppel and res judicata that the Los Angeles courts sanctioned Petitioner for disobeying, that was the State Bar Association's inspiration for this disbarment procedure, that violated Due Process of the Laws. *Caperton v. A.T. Massey Co., supra.*

In *In the Matter of Criminal Contempt of Thomas McConnell (1962) 370 U.S. 230* this Court reviewed the constitutional requirements of procedures for criminal contempt of attorneys at law including trial by jury. To be sure, criminal contempt may be punished by imprisonment, but currently the attorney at law has a

fundamental individual constitutional right to practice law.

The Ninth Federal Circuit court of appeals has long applied a rule requiring trial by jury and proof of guilt beyond a reasonable doubt to punitive requests for attorneys' fees, and Mssrs. Perry, Gibson and Solomon's request for attorneys' fees was punitive by that definition and required the enhanced criminal procedures. *Knupfler v. Lindblade (In re Dyer) (9th Cir. 2003) 322 F. 3d 1178; F. J. Hanshaw v. Emerald River Development Co., Inc. (9th Cir. 2001) 244 F. 3d 1128; Standing Committee v. Yagman (9th Cir. 1986) 796 F. 2d 1165.* The *Excessive Fines* clause of *Amendment Eight* now applies to the states, *Timbs v. Indiana (2019) 139 S. Ct. 682*, and it confirms that procedural protections of these Ninth Circuit decisions has a constitutional basis.

The State Bar Association cannot ignore the constitutional mandate of *Dyer and Timbs* for enhanced criminal procedures in the punitive sanctions motions of

Mssrs. Perry (deceased), Gibson and Solomon in the Los Angeles sanctions courts by bringing a quasi-criminal disbarment case based on those sanctions orders. The State Bar Court ignored its own rule requiring it to review the record of the sanctions courts to confirm the willfulness of the alleged misconduct in the sanctions courts (some of the alleged misconduct did not even violate jurisdiction of the courts!). *In re Kittrell (Rev. Dept. 2000) 4 State Bar Ct. Rptr. 195; see In re Egbune, supra*.

There is no doubt that State Bar Court violated the entitlement of Petitioner to enhanced procedural protections under the Constitution. And one of those enhanced procedural protections to criminal contempt is the good faith defense of indigency, applying to Petitioner. *United States v. Joyce (7th Cir. 1974) 498 F. 2d 592*.

It is accepted that offensive non-mutual collateral estoppel from a civil case to a criminal case violates *Due*

Process of the Laws. United States v. Arnett (9th Cir. 2003) (en banc) 353 F. 3d 765. The rule should be the same as applied to the quasi-criminal case, as indeed the state proclaims that it is open to criminal procedures in quasi-criminal cases. *Giddens v. (Cal.) State Bar (1981) 28 Cal. 3d 730; see In re Ruffalo (1968) 390 U.S. 544.* This Court held that the right to practice law *vel non* is a fundamental individual constitutional right. *Conn v. Gabbert (1999) 526 U.S. 28.* And the procedures that Petitioner advocates for his protection are also justified under the balancing rule of *Mathews v. Eldridge (1976) 424 U.S. 319* for civil cases.

A court, including an administrative tribunal such as the State Bar Court emulating a judicial body, cannot take judicial notice of hearsay statements which are not findings of fact in a court order because the alleged facts are not *"truth,"* because they are inadmissible hearsay evidence. *Lee v. City of Los Angeles (9th Cir. 2001) 250 F. 3d 668, 689; F.R.E. 201 (adjudicative facts); Sosinsky*

v. Grant (1992) 6 Cal. App. 4th 1548, 1561. This sloppy procedure of the State Bar Court that avoided the formal requirements for admitting hearsay evidence violated Petitioner's constitutional right to confront averse witnesses. *See Melendez-Diaz v. Massachusetts (2009) 557 U.S. 305.*

Petitioner did not have fair warning in the proceedings in the Los Angeles sanctions courts and disbarment in the State bar Court that the State Bar Court would rely on unsuccessful pleadings and briefs for appeals and for motions, which was rank hearsay evidence, of an alleged willful pattern of misconduct. *See F.R.E. 404(b); compare Sosinsky v. Grant (1992) 6 Cal. App. 4th 1548 with United States v. Bailey (9th Cir. 2012) 696 F. 3d 794; see also Huddleston v. United States (1988) 485 U.S. 681. Comparing Cal. Evidence Code Section 1101(b)* with *F.R.E. 404(b),* the right of confrontation of witnesses against him *(Amendment Six of the Constitution)* justly required the State Bar Court to

follow the advance notice and hearing requirement of *F.R.E 404(b)* over the blank space of *Evid. Code Section 1101(b). See Maryland v. Craig, supra; U.S. v. Mayans (9th Cir. 1994) 17 F. 3d 1174.*

In *Hirsh v. Justices of the Supreme Court of Cal. (9th Cir. 1995) 67 F. 3d. 708*, the regional federal court of appeals held that the SBC's *pro forma* rules were adequate for *Due Process of the Laws*. But in that case Mr. Hirsh did not raise any of the multiple objections to sloppy civil procedures raised by Petitioner. Nor did Mr. Hirsh argue to the regional federal court of appeals that he had a fundamental constitutional right to practice law, and *Hirsh* is not on point.

The Decision of the Review Department was erroneous as a matter of law, and the Review Department simply wasted a year or more of Petitioner's time. It got the burden of proof wrong, shifting it to Petitioner, and it failed to independently review the record or it would have understood that the Hearing

Dept. did not independently review the records in the sanctions courts. *Decision, APPX. #4, pp. 53-54; see Petition, APPX. #2, 17-18.* But with denial of review, the state supreme court now has ownership of all of the State Bar Court's many errors. *In re Rose, supra.*

"The definition of insanity is doing the same thing over and over again with expectations of different results." Whether it is defined as insanity, or privilege, their disbarment of a capable attorney at law in this case without following the dictates of the Constitution for individual constitutional rights is clearly wrong.

VI. CONCLUSION

The writ should be granted without further delay, and the final order of the state supreme court of disbarment must be denied enforcement. The interlocutory order of involuntary enrollment of the administrative agency of the State Bar Court must be acknowledged ae expired, and the orders of the lower federal courts concerning *"disbarment"* and

disqualification of Petitioner must be reversed under supervisory power.

Dated: April 24, 2023 JEFFREY G. THOMAS

/s/ Jeffrey G. Thomas
Petitioner

TABLE OF CONTENTS OF APPENDIX TO PETITION FOR THE WRIT OF CERTIORARI (there is only one volume, and it is included with the petition in the same booklet)

JEFFREY G. THOMAS,

v.

CAL. STATE BAR ASSOCIATION

No. _____

7	8/20/ 2020	Emergency Default Order of Involuntary Enrollment	A125
8	5/31/ 2020	Second Amended Complaint – True Harmony v. State Dept. of Justice	A153

#1

Order of Supreme Court
January 25, 2023

Supreme Court
Filed January 25, 2023
Jorge Navarrete Clerk

By _____
Deputy

State Bar Court - No. 15-0-14870, SBC-20-0 -00029
S276773
IN THE SUPREME COURT OF CALIFORNIA
En Banc
In re JEFFREY GRAY THOMAS on Discipline.

The request for judicial notice is denied.

The petition for review and application for stay are denied.

The court orders that Jeffrey Gray Thomas, State Bar Number 83076, is disbarred from the practice of law in California and that his name is stricken from the roll of attorneys.

Jeffrey Gray Thomas must comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the date this order is filed . *(Athearn v. State Bar* (1982) 32 Cal.3d 38, 45 [the operative date for identification of clients being represented in pending matters and others to be notified is the filing date of this order].)

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140. 7 and as a money judgment, and may he collected by the State Bar through any means permitted by law.

_____
GUERRERO, *Chief Justice*

#2

Petition for Review (Nov. 22, 2022)

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Statement of Jurisdiction

This petition for review or appeal is from a decision of the Review Board denying reconsideration (Appx. 2) "transmitted" to this court on October 5, 2022 (Appx. #1). It is a timely petition as Appellant has sixty days therefrom to appeal. Cal. Rule of Court 9.13(a).

I. Introduction

In this case, the State Bar Association ("SBA") seeks to punish Appellant with disbarment based on disciplinary charges ("NODC's") of willful failure to follow court orders and willfully maintaining an unjust action for disbarment or suspension (and violation of reporting duties and criminal threat under the California Rules of Professional Conduct ("CRPC"). In the "zoom" proceeding in the State Bar Court ("SBC") the State Bar Association ("SBA" a/k/a "State Bar") proffered no admissible evidence of Appellant's willful harm to the public administration of justice (see generally Tr., Appx. #9 (229 – 691), and SBC nevertheless concluded that Appellant intentionally harmed the public. Decs., Appx. #3 (9 – 41, esp. 25 - 29), #6 (129 – 165, esp. 146, 147, 150 - 153).

Licensed attorneys Rosario Perry, Norman Solomon and Hugh Gibson, as complainants instigated this disciplinary action. Tr., Appx. #9 (229 – 839). The SBA ("OCTC") is biased favoring complainants, despite that they are opposing parties to Appellant's clients in a pending federal appeal and SBA pleaded that the pending federal case was "unjustly … *maintaining … an action" under Section 6068(c) of the State Bar Act, and Appellant must be disbarred for it.*

Perry's, Gibson's and Solomon's frauds on the courts that the SBC accepted and relied on for evidence of Appellant's willful harm to the public, which are also but for causes of the fraudulent judgments that Appellant attacked in state court and in the pending federal action that were causes of fraudulent sanctions based on the fraudulent judgments, are Moral Turpitude

and Fraud punishable by disbarment under State Bar Act Section 6103 and 6106, and the CPRC pursuant to State Bar Act Section 6077.

The SBA filed two Notice of Disciplinary Charges ("NODCs") (Appx. #11, 921-930) in the SBC seeking Appellant's suspension and/or disbarment - one each in 2015 and 2020. *Ibid.* The first NODC pleaded willful disobedience or failure to pay sanctions ordered by courts upholding the fraudulent judgments and fraudulent sanctions based on the fraudulent judgments, the second NODC pleaded willful disobedience of additional sanctions orders and *"unjustly … maintaining … an action"* seeking disbarment.

Appellant challenges the SBA's bias and SBA's and complainants' insufficient evidence for intentional harm for disbarment under State Bar Act Section 6103 and State Bar Act Section 6077, and the SBC's failure to consider Appellant's defensive arguments including Judicial Estoppel, Unclean Hands, lack of Due Process of the Laws, and the violation of his rights of Free Speech and Petitioning under the Constitution. See Memo. P's and A's, Appx. #5 (90-128), #7 (166–196), #8 (197 - 228).

In August of 2020 the Hearing Department ("HD") of the State Bar Court entered an interlocutory decision recommending the involuntary inactive enrollment of Appellant. This court denied Appellant's timely petition for review. See Petition no. S266566.

In 2021 the HD did a "trial by zoom," and filed a recommendation of involuntary inactive enrollment dated May 25, 2021. Appx. #6 (129 - 168). The Review Department passed it on August 26, 2022, Appx. #3 (9 – 41), and denied reconsideration in September. Appx. #2 (6 – 8).

SBA lacked honesty and integrity because it refused to investigate the complainants' violations of CRPC 8.4(a) and 8.4(e), in regards to their instigation of this disciplinary case which was the direct proximate result of their frauds on the courts, the state attorney

general and the world. SBA's involvement bias violating Due Process of the Laws. See County of Santa Clara v. Santa Clara Superior Court (2010) 50 Cal. 4th 35.

SBC erred in failing to consider Judicially Estopping SBA from using this disciplinary case based on discipline of fraudulent and mistaken sanctions orders on the foundation of fraudulent judgments. It erred in failing to consider SBA's lack of honesty and integrity, and unconstitutional bias in bringing this case, as Unclean Hands. SBC erred in failing to find that the SBA's NODCs were void for vagueness, and violated Appellant's Free Speech and Petitioning.

The SBA transmitted the SBC's decision of interlocutory "disbarment" of August 19, 2020 to the federal courts, who disbarred (federal district court) Appellant as reciprocal discipline. The federal court of appeals subsequently disqualified Appellant, and dismissed the clients' appeal, in reliance on these premature recommendations.

The grounds for review in this court under Rule 9.16 are (a) (1) through (5).

II. Standard of Review

Appellant presents mixed questions of constitutional law, and the standard of review is de novo. Silicon Valley Taxpayers Ass'n. v. Santa Clara County Open Space Authority (2008) 44 Cal. 4th 431. As to the statute and the rules, the SBA has the burden of clear and convincing proof to a reasonable certainty. Skelly v. State Bar (1970) 9 Cal. 3d 502, 508. The burden is on Appellant to show that the findings of fact of violations of the statutes are unsupported by substantial evidence (or independent judgment). Brody v. State Bar (1972) 11 Cal. 3d 347, 350.

Errors of law are reviewed de novo and ab initio.

This court must independently (ab initio) do a de novo review of the record for constitutional errors and

errors of law. Hughes v. Board of Architectural Examiners (1998) 17 Cal. 4th 763.

III. Background

A brief review of the history of the dispute between Appellant's clients and the complainants in these disciplinary cases, Mssrs. Perry, Gibson and Solomon, is helpful. The verified Second Amended Complaint in the True Harmony (now Thomas) case reviewed prior disputes in the disputes between Mssrs. Perry, Gibson and Solomon, and pleaded that their continuous frauds on the courts by Perry, Gibson and Solomon caused Appellant's clients to have judgment entered against the clients as to title to their property, and to sell the property in violation of a cease and desist order of the state attorney general, violating civil rights and breaching the public trust in the charity. See Second Amended Complaint etc. ("SAC") passim, Appx. #10 (840-920); see also concurrent Request for Judicial Notice.

In the pending appeal in the federal court case, Appellant seeks leave of court to plead that Perry's, Gibson's, and Solomon's continuous frauds on many courts were "falsus in uno," that resulted in the "falsus in omnibus" of theft of title of the clients' property and the proceeds of its sale(s). Day v. Rosenthal (1985) 170 Cal. App. 3d 1125; see, eg. Seibel v. Ramsey 2022 N.Y. Slip Op. 31548(U) (limited liability company operating agreement was falsus in *omnibus)*. Mssrs. Perry, Gibson and Solomon's continuous judicial deception violated his client's and Appellant's civil rights. *Benavidez v. County of San Diego (9th Cir. 2021) 993 F. 3d 1134; SAC, Appx. #10 (passim 840-920)*. The SAC pleads these facts:

In 2003 Mr. Solomon agreed to pay Mr. Gladstone Hollar (deceased) One Hundred and Fifty Thousand Dollars ($150,000) for the sale of the property which Mr. Perry's client, True Harmony (now Appellant's client) owned in Los Angeles. A trial on the issue of the fraudulent deed to Mr. Hollar resulted in a verdict for True Harmony, Appellant's client.

Before the state court entered judgment, Mr. Perry argued to the court that the client (True Harmony) had previously signed a settlement agreement to transfer title to the property to a limited liability company managed by himself, and offered his own sworn testimony to support entry of judgment on the settlement agreement. But Mr. Perry did not obtain written consent from the client for the business transaction with his client. Nevertheless, in 2004, the Los Angeles superior and (in 2007) the appeals court held that Appellant's client signed the agreement and it was enforcible.

When True Harmony appealed the ruling in 2 CCA no. B183928, Mr. Perry and Mr. Solomon obtained the ruling from the court of appeals that the conflicts of interests issues were waived, the issue of the approval by the State attorney general was waived, and also that True Harmony lost its federal tax exemption – although none of these issues was ruled upon by the superior court.

Through several subsequent continuing frauds on the state courts and federal bankruptcy court ("falsus in unos") Mr. Perry and Mr. Solomon received title to the property and sold the property to related party BIMHF, LLC, who resold it for Six Million Five Hundred Thousand Dollars ($6,500,000). Perry and Solomon sold the property intentionally to violate a cease and desist order of the state's attorney general.

(1) Perry's and Solomon's (Gibson joined later) initial fraud on courts (falsus in uno) was their representation to the court in LA super. no. BC244718 that True Harmony's representative signed the settlement agreement with knowledge of its contents.

(2) The second fraud on court (in uno) was that True Harmony waived the attorney client privilege for Mr. Perry to testify. It did not waive the privilege (except perhaps to the issue of the signature of True Harmony's representative).

(3) The third fraud on the courts (in uno) is Mr. Perry's false testimony in BC244718 that the state's

attorney general approved the transaction (a letter from the state attorney general denied its approval).

(4) A fourth fraud on the court (falsus in uno) may be assigned to Mr. Perry's intentional failure to obtain True Harmony's written consent to the conflict of interest.

(5) The fifth fraud on the courts is that Mr. Perry and Mr. Solomon persuaded the state court of appeals to reject the client's federal tax exemption as a Section 501(c)(3) charity (although the issue in state court seems clearly preempted by Treas. Reg. 1.501(c)(3) -1(b)(5).)

(6) The sixth fraud on the courts is Perry, Gibson and Solomon's substitution for the settlement agreement approved by the court in LA super no. BC244718, which included a nonbinding arbitration clause, with a settlement agreement which had a binding arbitration clause in all pleadings and declarations in all arbitration "hearings" and further court proceedings. Complainants used it to obtain confirmation of the contracturally nonbinding arbitration awards as court judgments.

(7) The seventh fraud ("falsus in uno") on the courts is that the state's attorney general served a cease and desist order against complainants' sale of the property under signature of deputy ass't. attorney general Sonia Berndt on April 1, 2011, and Perry and Solomon intentionally violated this order, and concealed it from Appellant. They concealed it from Appellant, and the state attorney general didn't sue them to enforce the order, and refused to cooperate with Appellant and didn't provide its documents to Appellant (and complainants knew it).

(8) An eighth 'falsus in uno" concerns the unknown whereabouts of all documents and dockets and images thereof in LA super. No. BC244718 from the clerk's office of the Los Angeles superior court. Perry, Gibson and Solomon certainly knew that the clerk lost the

documents, the index and the docket. The documents and docket in LA super. no. BC244718 were not scanned to images or possessed in paper form, and the clerk of the court professed to have no knowledge whether they existed, until 2020.

(9) The ninth fraud on the courts (or "falsus in uno") is that Perry, Gibson and Solomon blocked discovery of all documents involving Appellant's clients with frivolous anti-slapp motions and protective orders in LA super nos. BC466413 and BC546574.

In its push back "to the zoom," the SBC (HD) stated that it would consider Appellant's evidence that the sanctions courts grossly and erroneously granted the motions. Tr., Appx. #9 (see 703 – 704). But in its decision, it said that Appellant was collaterally estopped. Dec., Appx. #6 (129-165, esp. 147).

In the HD, Appellant testified and introduced documents that the appellate court in B254143 erroneously held that the law prohibited the extension of the time for filing a motion for relief (Cal. Code Civ. Proc. Section 473) by five days for mailing of the order granting the court's own motion by the clerk, and the court did not have timely jurisdiction of the motion for relief, when he cited authority that the motion was timely.1 See Memo. P's and A's, Appx. #5 (90-128), #7 (166–196), #8 (197 - 228).

The court of appeals in its written ruling in B254143 criticized Appellant's style and execution of the appeal in 2 CCA no. B254143, but held that Appellant's brief did not cite case authority for a timely motion for

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[1] Defendant Gibson moved for sanctions separately from his brief in B254143. He did not attack Appellant's citations to *Cal. Code Civ. Proc. Section 1019.5* and *Cal. Business Council v. Superior Court (1997) 52 Cal. App. 4th 1100* for jurisdiction. His motion about *Vitkievicz v. Valverde (2012) 202 Cal. App. 4th 1306*, which is not the wrong authority for untimeliness.

relief. The SBA pleaded in the NODCs Appellant's breach of the duty to pay money under the sanctions orders. NODCs, Appx. #11 (921-930).

As to the sanctions in LA super. no. BC466413, Appellant testified and produced documents that the defendant Hugh John Gibson refiled his motion for sanctions after the appeal and requested the lower court to rely on the appellate decision. Tr., Appx. #9 (eg., 703 – 704). Appellant did not have the opportunity to withdraw the motion for relief in the safe harbor period pursuant to Cal. Code Civ. Proc. Section 128.7. Id.

In LA super. no. BC546574, Appellant explained with testimony and documents that he filed his motion for reconsideration of the demurrer was made before some defendants caused the court to enter judgment and/or served him with notice of entry of judgment. Tr., Appx. #9 (734 - 741). He relied on Berri v. Superior Court (1955) 43 Cal. 2d 854 and Cal. Code Civ. Proc. §581(f)(1) requiring defendants to move the court to enter judgment prior to his motion, which they did not do. Memos. Of P's & A's, Appx. #7 (166–196), #8 (197 - 228).

As to the sanctions in 2 CCA no. B287017, Appellant argued and testified and produced documents that the court of appeals had jurisdiction to decide the appeal because the superior court entered judgments for defendants on the demurrer without leave to amend without a motion to enter the judgments while a motion for reconsideration was pending. Tr., Appx. #9 (eg. 713-718, 724-740). Appellant could have argued that his time to file the notice of appeal was extended by thirty days because the court denied the motion for reconsideration, per Cal. Rule of Court 8.108(d)(1). This extension of time could have saved the appeal against two parties defendants, Rosario Perry and his Law Offices, considering the "outside" period for filing the notice of appeal of 180 days under the state Rules of Court.

It was a vigorously contested dispute that predated his involvement by many years. Appellant did not have

evil intent. In re Marriage of Flaherty (1982) 31 Cal. 3d 659.

IV. The State Bar Court failed to apply the correct law

The failure to apply the correct law is an error of law reviewed de novo, and it was part of the violation of Due Process of the laws that shut down Appellant's defense. It is not harmless error. San Jose Ranch Co. v. San Jose Etc. Co. (1899) 126 Cal. 322 [58 P. 824].

A case for disbarment or suspension of the licensee always requires willful misconduct. State Bar Act Sections 6077, 6103. The SBC misinterpreted the various provisions of the State Bar Act involved.

State Bar Act Section 6103 requires willful harm to the public administration of justice for disbarment or suspension. State Bar Act Section 6103 is in pari materia with State Bar Act Section 6068(c) and State Bar Act Section 6077. See Baker v. State Bar (1989) 49 Cal. 3d 804. The CRPC (esp. CRPC 3.1 and CRPC 8.4, see infra) and State Bar Act Section 6068 define the duties of an attorney for which he may be disbarred for a willful breach, and in pari materia.

In the NODCs, SBA failed to charge Appellant for willful harm to the public administration of justice as a "serious, habitual abuse of the judicial system" under State Bar Act 6068(c), 6077, 6103, 6106. NODCs, Appx. #11 (921 – 930); see In re Romano (2015) 5 Cal. State Bar Ct. Rptr. 391; In the Matter of Varakin (Rev. Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179, 186. Appellant had no fair warning of the "serious, habitual abuse." In re Ruffalo (1968) 390 U.S. 544.

The SBC did not have before it any such evidence of a pattern of serious willful abuse. Decisions, Appx. #3 (9 - 41), #6 (129 - 165). It did even discuss the holding of these cases.

The revised CRPC 3.1, since November of 2018, regards "frivolous" misconduct sanctioned by orders to

pay money as negligent misconduct, and not willful misconduct, as a fundamental principle of the corresponding ABA Model Rule. Eg. In re Egbune (Colo. 1999) 971 P. 2d 1065; Board of Professional Responsibility, Wyoming State Bar v. Dunn (Wyo. 2011) 262 P. 3d 1268; see Supreme Court Attorney Discipline Board v. Rhinehart (Iowa 2021) 953 N.W. 2d 156; see ABA Standards for Imposing Lawyer Sanctions (as amended 1992) Section 6.23; see also Levin, Leslie C., The Emperor's New Clothes and Other Tales about the Standards for Imposing Lawyer Discipline, 48:1 American U. L. Rev. 1 (1998).

This "negligence" characterization of "frivolous" misconduct under CPRC 3.1 applies whether or not the attorney at law sanctioned expressly argues that it is for extension or modification of existing law. In re Egbune, supra.

CPRC 8.4(a) establishes that Perry's, Gibson's and Solomon's invitation to the SBA (OCTC) attorneys at law to violate the rules by bringing a frivolous case for disbarment is intentional misconduct, and CPRC 8.4(c) establishes that their Fraud and Moral Turpitude is an intentional misconduct. CPRC 8.4(e) establishes that the completed threat of complainants Perry, Gibson and Solomon to bring a disciplinary charge against Appellant (whether or not through disciplinary counsel) is an intentional violation of the CPRC.

CPRC 3.1 and CPRC 8.4 complement one another, and assure the protection of the attorney at law's exercise of his rights of Free Speech and Petitioning under Amendment One of the U.S. Constitution. The "shutdown" by the SBC of the Appellant attorney at law's due process rights in this case, shutting down his rights to present evidence, to a decision by an impartial and neutral decisionmaker, and to confront witnesses against him and to cross-examine them is a prohibited regulation of the content of the his Free Speech and Petitioning. Joseph A. ex rel Wolfe v. Ingram (10th Cir. 2002) 275 F.

3d 1253; Heffernan v. Hunter (3d Cir. 1999) 189 F. 3d 405; see Legal Services Corp. v. Velazquez (2001) 531 U.S. 533; compare Thompson v. Florida Bar (S.D. Fla. 2007) 526 F. Supp. 2d 1264. It also violates the Due Process of the Laws and is not harmless error. San Jose Ranch, Co., supra.

The correct interpretation of the State Bar Act and the application of the current CRPC which protects Appellant's rights of Free Speech and Petitioning, result in victory for Appellant. The transcript of the "zoom session" and the decisions of the HD and RD establish beyond all doubt that the SBC considered none of Appellant's arguments in defense, and none of his evidence (although admitting some evidence anyway. The SBC denied him the right to cross-examine the complainants as to the issues involved in the so-called "underlying litigation" (the federal case), and it was biased in favor of complainants Perry, Gibson and Solomon. It arbitrarily credited the testimony of complainants and discredited his testimony. Tr., Appx. #9 (eg. 657-839).

If the SBC had applied the correct law of the revised CPRC, it would not have violated Due Process of the Laws and Free Speech and Petitioning for Appellant. Joseph A., supra; Heffernan, supra.

If this court's adoption of the ABA Model RPCs in November 2018 is "legislative," the "new" (from 2018) rules have prospective effect to the charges in the second NODC in 2020. NODC's Appx. #11 (921 – 930); see Landgraf v. USI Film Prods. (1994) 511 U.S. 244, 265-73. These prospective charges in the second NODC include the sanctions or misconduct in 2 CCA no. B287017, LA super. nos. BC546574 and BC466413, which were final after this court denied review in 2019. NODC, supra.

But even if the protection of the revisions to CPRC extend to the second NODC only, as to the appeal in 2 CCA no. B254143, Appellant proffered evidence that the complainants manufactured the court's jurisdiction in LA

super. no BC466413, and the action and the appeal therefrom in B254143 and the sanctions orders arising therefrom are void. Varian v. Delfino (2005) 35 Cal. 4th 180; see United Student Aid Funds Inc. v. Espinosa (2009) 559 U.S. 260 (egregious error of jurisdiction).

Appellant produced documentary and testimonial evidence that co-conspirators Perry, Gibson and Solomon caused the nonexistent plaintiff to bring the action in LA super. no. BC466413 in 2011 and to voluntarily dismiss all defendants (ie. to terminate the action) in BC466413. Transcript, Appx. 9 (675-680, 712-714); see Exhibits to complaint in Thomas v. Zelon - Exh. 1051- Appx. #9 (739)). There was no jurisdiction of the state court in personam. Oliver v. Swiss Club Tell (1963) 222 Cal. App. 2d 528.

There was no jurisdiction in rem of the interpleader because Perry and Solomon's sale of the property to BIMHF, LLC (the related party defendant in the federal action) violated the cease and desist order of the state's attorney general, and the proceeds of sale were illegal as a stake in court. Transcript, Appx. #9 (647-648, 663, 667-70, 712-714); SAC Appx. #10 (passim, 840-920).

If the revisions in 2018 to the CRPC are judicial rather than legislative, they are retroactive to all allegations in this case, and the revised CRPC dispose of all the charges of willful disobedience under both NODCs. Johnson v. Dept. of Justice (2015) 60 Cal. 4th 871; see Harper v. Virginia Dep't of Taxation (1993) 509 U.S. 86.

Member Homm of the RD stated his opinion that the changes to Cal. RPC adopted in November of 2018 are no different from prior case law, Tr., Appx. #4 (42 – 90), which makes the revisions procedural.

Finally, this decision has severe retroactive impact on Appellant, because as admitted by Member Stovitz of the Review Department, there is no precedent for disbarment under Section 6103 because of nonpayment

of money. The closest precedent, King v. State Bar (1990) 52 Cal. 3d 307, rejected disbarment.

The precedent from the closely related analogous law of malicious prosecution is that an appeal is not an "action," and a "motion" is not an "action." Coleman v. Gulf Ins. Co. (1986) 41 Cal. 3d 782; Silver v. Gold (1989) 211 Cal. App. 3d 17.

Furthermore, there is no precedent that unsuccessful pleadings and motions constitute "unjustly . . . maintaining ... action under Section 6068(c) as the SBC wrongfully concluded.

The severe retroactivity of this arbitrary and erratic decision of the SBC is inexcusable prejudice, that requires non-application to Appellant. See Chevron USA v. Huson (1971) 404 U.S. 9; Casas v. Thompson (1986) 42 Cal. 3d 131. This decision is so far removed from any precedent and wildly unpredictable, the result is outrageous and shocks the conscience, and violates substantive Due Process. County of Sacramento v. Lewis (1998) 523 U.S. 883; see Lingle v. Chevron USA Inc. (2005) 544 U.S. 528; Crown Point Development v. City of Sun Valley (9th Cir. 2007) 506 F. 3d 851.

V. The State Bar Court's decision is unsupported by lack of evidence of willful harm to the Public in the record, and it Violates Due Process of the Laws

A disbarred attorney at law is deprived of the fundamental constitutional liberty right to earn a livelihood. Gabbert v. Conn (9th Cir. 1997) 131 F. 3d 793, as limited by Conn v. Gabbert (1999) 526 U.S. 286. Appellant's bar license is a vested right to earn a living under the state constitution. Conway v. State Bar (1989) 47 Cal. 3d 1107, 1134 n. 7.

Without regard to the strict scrutiny of the restrictions on the content of the True Harmony federal action, the SBC violated Amendment One of the Constitution because it failed to balance the beneficial

effect of the federal case on public administration of justice against the alleged harm to the public administration of justice in the state courts. Gentile v. State Bar of Nevada (1991) 501 U.S. 1030; Bates v. State Bar of Arizona (1977) 433 U. S. 350. Harmful effect to the public administration of justice is required for SBC jurisdiction under State Bar Act Section 6001.1, but the SBA had no testimony and no documents citing harm to the public. Tr., Appx. #9 (229-839, passim).

Judicial Estoppel is a valid defense, because none of the sanctions orders of the state courts is correctly reasoned, and they are based solely on putative "evidence" of Appellant's negligence. Thomas v. Gordon (2000) 85 Cal. App. 4th 113; see discussion supra at III. SBC ignored this argument, perhaps because its authority is limited by the state constitution.

Due Process of the Laws includes the following procedures to due:

"At a minimum, an individual entitled to procedural due process should be accorded written notice of the grounds for the disciplinary measures; disclosure of the evidence supporting the disciplinary grounds; the right to present witnesses and to confront adverse witnesses; the right to be represented by counsel; a fair and impartial decisionmaker; and a written statement from the fact finder listing the evidence relied upon and the reasons for the determination made." Brown v. City of Los Angeles (2002) 102 Cal. App. 4th 155; see State Bar Act Section 6085.

SBC foreclosed consideration of all of Appellant's proffered evidence (whether or not admitted as evidence) and his arguments in defense and objections. SBC accepted the truth of all of SBA's allegations and credited their witnesses and documents, and discredited Appellant's witnesses and documents. Dec. Appx. #3 (9-41), Dec. Appx. #6 (129-165); Tr. Appx. #9 (229-839).

SBC egregiously violated Due Process of the laws such that it is not harmless error. San Jose Ranch Co. v. San Jose Etc. Co. (1899) 126 Cal. 322 [58 P. 824]; see Hasson v. Ford Motor Co. (1982) 32 Cal. 3d 388.

SBC's denial to Appellant of every one of its foregoing duties of Due Process is similar to a "gag order," making legal counsel superfluous to assertion of Appellant's legal rights, and violating his rights of Free Speech and Petitioning. Joseph A. v. Ingram, supra; Heffernan v. Hunter, supra.

The SBA presented no witness testimony or documentary evidence as to Appellant's intentional violation of court orders defining duties of attorneys. See Tr., Appx. #9, passim; State Bar Act Section 6077; see Baker, supra. It also presented no evidence of intentional interference with administration of justice. The SBC's conclusions that Appellant intentionally injured the administration of justice rest on thin air.

The HD erred in cutting off cross-examination of Perry, Gibson and Solomon concerning their dispute with Appellant's clients which the HD hypocritically referred to as the "underlying litigation," and the facts alleged therein relating to their Fraud and Moral Turpitude. Compare Dec. Appx. #6 (129-165) with Tr., Appx. #9 (662-839), passim. The HD erred in crediting all testimony of Gibson, Perry and Solomon (esp. Solomon's testimony of incurring attorneys' fees of $700,000 when the Los Angeles sanctions courts awarded less than $200,000) and denying all credibility of testimony and evidence for Appellant. Id.

To the extent that Art. III Section 3.5 of the state Constitution expressly forecloses the SBC's consideration of constitutional issues, in its review this Court must do an independent (ab initio) and de novo review of the record to comply with Cal. Rule of Court 9.13.

Appellant proffered evidence to HD and RD that he wasn't even negligent in 2 CCA no. B254143, and thus he was erroneously sanctioned. Memo. P's & A's, Appx.

#5 (90-128, esp. 109, 112, 113); Tr. Appx. #9 (esp. 506 – 507). This evidence also rebuts the charge that he willfully harmed Perry, Gibson and Solomon for sanctions of frivolity.

The HD and RD misapplied Collateral Estoppel to erroneously impute to Appellant a willful violation of the Los Angeles courts' sanctions orders. Memo. P's & A's #5 (116 - 117), Dec. Appx. #6 (147), Memo. P's & A's #7 (177 - 183). See In re Matter of Kittrell (I) (R.D. 2000) 4 State Bar Ct. Rptr. 195. SBC failed to consider the public interest exception to Collateral Estoppel. Chern v. Bank of America (1976) 15 Cal. 3d 866.

The HD erred in considering as evidence for an unspecified purpose, when it judicially noticed them for SBA, the bulk of en masse documents and pleadings from the underlying actions involving sanctions of Appellant. HD specifically admitted a few of these pleadings on request but the SBA also did not state the purpose of this alleged evidence and Appellant did not have fair warning that these pleadings were supposedly the SBA's evidence of injury to administration of justice. Dec. Appx. #6 (129-165, esp. 160 – 161).

For evidence of a pattern of willful disobedience based on bad acts, the "pattern and characteristics of the [charged offense] crimes must be so unusual and distinctive as to be like a signature." People v. Ewoldt (1994) 7 Cal. 4th 380; see In re McDonald (Minn. 2018) 906 N.W. 2d 238. SBA proffered no documents and no witness testimony as direct evidence of a signature pattern of abuse. And furthermore, precedent occludes SBC from inferring an offense of other provisions of the State Bar Act than the provisions alleged violated pleaded in the NODCs. See In re Matter of Lilley (1991) 1 Cal. St. Bar. Rptr. 476.

SBC cited no authority for a common element of either disobedience or of unjustly maintaining an action with "frivolity." The Los Angeles court of appeals in B254143 and B287017 failed to apply the clear and

convincing standard of proof to the sanctions, defeating Collateral Estoppel.[2] Kleveland v. Sigel & Wolensky LLP (2013) 215 Cal. App. 4th 534; see In re Egbune, supra.

Appellant sought and received admission into evidence of the verified Second Amended Complaint in the True Harmony federal case. Tr., Appx. #9 (esp. 823). It was plain, prejudicial error ("PPE") for SBC to disregard the violations of Appellant's and his client's Free Speech and Petitioning in a dispute of great public interest, and to deny him the right to confront and to cross examine complainants. Tr., Appx. #9 (passim 659-839).

Appellant even requested judicial notice from the RD post-argument of the brief that he filed in the True Harmony (now Thomas) appeal to provide notice of his intent to amend the Second Amended Complaint in the True Harmony action. See Request for Judicial Notice. The RD arbitrarily denied the request.

VI. The State Bar Court failed to Use Enhanced Due Process Procedures required by the Timbs decision in the U.S. Supreme Court and decisions of the United States Court of Appeals for the Ninth Circuit

The award of sanctions in B254143 constituting eighty-five (85%) of the fees that Gibson requested in his motion of the total of his fees billed to Solomon, and the so-called award of "fees on fees," to attorney at law

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[2] The superior court in LA no. BC466413 seemed to apply *Collateral Estoppel* to the appellate sanctions in 2 CCA B254143. But because of the holding in *Kleveland* and because *Collateral Estoppel* does not apply to rulings on motions involving mere documentary evidence, *Wright v. Ripley (1998) 65 Cal. App. 4th 1189*, it is incorrect.

Gibson are excessive sanctions in the federal courts. Eg. Standing Committee v. Yagman (9th Cir. 1995) 55 F. 3d 1430; Knupfler v. Lindblade (9th Cir. 2003) (in re Dyer) 322 F. 3d 1150; Emerald River Development Corp. v. F. J. Hanshaw Inc. (9th Cir. 2001) 244 F. 3d 1128; see Memo. P's and A's, Appx. #5 (esp. 112-127), Appx. #8 (esp. 212-213). For these excessive sanctions, the Ninth Federal Circuit Court of Appeals requires proof of misconduct beyond a reasonable doubt and a jury trial.

Appellant did not receive enhanced Due Process of the laws in the sanctions motions, although the requests were clearly excessive. Under Timbs v. Indiana, supra, the state courts must apply the Excessive Fines Clause of Amendment Eight to the sanctions, and the disbarment is additional punishment for the excessive fines of the sanctions, which triggers the Due Process rights of Yagman, Dyer, Emerald River "nunc pro tunc." Kennedy v. Mendoza-Martinez (1963) 372 U.S. 144; see In re Ruffalo (1968) 390 U.S. 544.

VII. The State Bar Court is Biased and Partial to the Complainants to the State Bar Association, Licensed Attorneys at law Perry, Gibson and Solomon, and the Partisan Bias Violates Due Process of the Laws for Appellant

State const. Art. III section 3.5 forbids the SBC to consider issues of the constitutionality of discipline. This in and of itself is an enormous bias, because Appellant must invoke the Due Process of the laws to attack the SBC's personal and financial bias. See A. T. Massey Co. v. Caperton (2009) 556 U.S. 668.

SBC demonstrated bias favoring the SBA in its denial of Appellant's collateral attack on the lack of subject matter jurisdiction and lack of personal jurisdiction of Appellant in the default order for involuntary inactive enrollment of August 20, 2020. Peralta v. Heights Medical Ctr. Inc. (1980) 485 U.S. 80;

Mullane v. Central Hanover Bank (1950) 306 U.S. 339; see Jones v. Flowers; see the petition, no. S266566.

SBC demonstrated bias again when it struck the Appellant's pleading, the "Notice of Objections," attempting to respond to the unconstitutionally unserved Application in 2020, on SBA's second attempt to serve by ordinary mail. Because there was no service as required by the Constitution and the ordinary mail was very late to provide Appellant with a first "look" at the Application, Appellant missed the deadline for filing a response to the Application. His late-filed Notice requested an in-person hearing with cross-examination, record of the proceedings, right to present evidence, etc. It was close enough to the response invited by the Application that the HD's striking of the pleading was plain prejudicial error ("PPE"). See Alan S. v. Superior Court (2009) 172 Cal. App. 4th 238.

This Supreme Court exercises the only judicial power over discipline. In re Rose (2000) 22 Cal. 4th 430. Appellant is entitled to fair warning of SBA's intent. In re Ruffalo (1968) 390 U.S. 544. Appellant did not have fair warning of the intent of SBA to provide Mssrs. Perry, Gibson and Solomon with the premature, unconstitutional SBC order of "disbarment" in 2020 to unconstitutionally disqualify him and to dismiss his clients' appeals. He did not have the in-person hearing that Conway, supra, required.

In aiding and abetting Perry, Gibson and Solomon with disqualification of Appellant and dismissal of his clients' appeals, in the Application which -pleaded that the federal court case was prohibited as "maintaining ..... unjustly ..... an action etc.," the SBA regulated the content of Appellant's Free Speech and Petitioning. Strict scrutiny of the biased order of involuntary inactive enrollment requires it to be invalidated. See Reed v. Town of Gilbert (2015) 576 U.S. 155.

A cursory reading of the Second Amended Complaint in the True Harmony case discloses that Perry

and Solomon (in concert with Gibson) committed Moral Turpitude under State Bar Act Section 6102, Fraud and Moral Turpitude under State Bar Act 6106, and conspiracy to deceive the court under State Bar Act 6128. They violated former RPC 3-300 (now CRPC 1.8(a)), former RPC 5-101 (now CRPC 3.7), CRPC 3.1, and RPC 8.4(a), 8.4(c) and 8.4(e).

Mssrs. Perry, Gibson and Solomon's Frauds and Moral Turpitudes are the "but for" cause of this disciplinary case. As disclosed in the SAC, Perry, Gibson and Solomon's Frauds and Moral Turpitudes caused the courts to enter fraudulent judgments of their title to the property that was owned by his clients, and to conceal the fraudulent judgments in disputes in which Appellant represented True Harmony. Perry, Gibson and Solomon blocked all discovery by Appellant and discussions about discovery, when the Los Angeles courts were missing from their records essential pleadings and documents as evidence, and they blocked all possibility of representation of True Harmony by the state's attorney general. Concealing their multifarious frauds from the courts and the arbitrator and Appellant, they obtained fraudulent sanctions against Appellant to make it too expensive for him to continue to represent his clients, and caused SBA to bring this disciplinary case to disqualify Appellant and to dismiss the appeal in the federal court against them. See Bacon v. Bacon (1907) 150 Cal. 477 [89 P. 317]; see Estudillo v. Security Loan etc. Co. (1906) 149 Cal. 556; see Memos. of P's & A's, Appx. #5 (passim 90-128), Appx. #7 (passim 166–196), and Appx. #8 (passim 197 - 228).

SBC never responded (and neither did the state's attorney general) to Appellant's request for an investigation of Perry, Gibson and Solomon's continuing Moral Turpitude and Fraud, despite Appellant's allegations that these licensed attorneys concealed their fraud from the courts and the public. With concealment,

the statute of limitations does not apply to that investigation. Cal. Rule State Bar Court 5.21(C).

SBA was required in the exercise of its highest integrity under the case to law to investigate the threats of bar discipline by complainants sua sponte under CPRC 8.4(e), and to cease and desist from prosecuting Appellant for the pending federal action attacking complainants Frauds and Moral Turpitudes as "unjustly … maintaining . . . an action" because it unreasonably refused to investigate complainants. County of Santa Clara v. Santa Clara Superior Court (2010) 50 Cal. 4th 35.

The SBC member "judges" emulate the role of a judge of a court, but the "judges" are not elected, and the state constitution prohibits the SBC's consideration of constitutional law issues. State Const. Art. III, Section 3.5; see Hirsch v. Justices of Supreme Court (9th Cir. 1995) 67 F. 3d 708. SBC arbitrarily discriminated against Appellant in intentionally prosecuting him without consideration of the violation of his constitutional rights, and the selective prosecution without regard to this constitutional rights violated the Due Process of Laws. See Oyler v. Boles (1962) (1962) 368 U.S. 448.

SBA intentionally refused to apply the same standards for non-investigation of Moral Turpitude and Fraud of Perry, Gibson and Solomon as continued by their threats of prosecution in the current disciplinary case, that it applied to Appellant. In effect, SBC extended to Perry, Gibson and Solomon the litigation privilege of Cal. Civil Code Section 47(1) that it denied to Appellant. Dec., Appx. #6 (148). This is a denial of Equal Protection of the laws, class of one to Appellant. Willowbrook v. Olech (2000) 528 U.S. 562. Appellant has alleged that the refusal to investigate Perry, Gibson and Solomon is Unclean Hands. See Memos. of P's & A's, Appx. #5 (passim 90-128), #7 (passim 166–196), #8 (passim 197 - 228); Kendall Jackson Winery Ltd. v. Superior Court (1999) 76 Cal. App. 4th 970.

In Gibson v. Berryhill (1973) 411 U.S. 564, the Supreme Court held that a financially biased state administrative agency made up of plaintiff's competitors could not enforce its orders in the state court because the respondent in the state agency had brought a simultaneous action covering the issues in federal court.

The State Bar Association pays the salaries of SBA employees and the SBC decisionmakers from the common fund of annual dues of SBA members. Memo. P's & As, Appx. #5 (90-128), #7 (166–196), #8 (197 - 228). The SBA has an incentive to keep its expenses of investigation to a minimum, to pay the salaries of SBA prosecutors and the SBC Members, and here the SBA was motivated to refuse to investigate complainants by the desire to minimize expenses and maximize the fund for payment of salaries to SBA employees and maximize the work logs of the salaried employees. It is a financial bias prohibited by state law. See Haas v. County of San Bernardino (2002) 24 Cal. 4th 1017; Today's Fresh Start v. Los Angeles County Board of Education (2013) 57 Cal. 4th 197.

The SBA chose to pursue the Application for involuntary inactive enrollment by default knowing that Appellant had not been properly served with the Application and the Application was filed during order of abatement for COVID by the RD. The SBA chose this case to prosecute because its employees were on salary and they needed full time logs to justify payment of salaries.

In 2014, the SBA requested the legislature to practically double the annual dues for members to Eight Hundred Dollars ($800). The legislature denied this huge request for annual dues, and subsequently, all significant increases in dues. Thus, SBA (OCTC) directed its efforts to low cost cases such as this one to maximize salaries to employees.

As a civil prosecutor the SBA is obliged to select its cases for prosecution with the highest integrity, not for

personal or financial motives. County of Santa Clara v. Santa Clara Superior Court (2010) 50 Cal. 4th 35 (discussing People ex rel. Clancy v. Superior Court (1985) 39 Cal. 3d 740 and applying it). ABA Criminal Justice Standards for the Prosecution Function (2017) 3 – 1.6. It has breached its duty of integrity and neutrality to the public because of its financial bias against Appellant, and because of its personal preference for Perry, Gibson and Solomon which it deemed to be more popular with the local bar association than Appellant because the local bar association's judges sanctioned Appellant, not Perry, Gibson and Solomon.

The SBA (OCTC included) itself should be investigated by a neutral prosecutor, invoking this court's inherent power.

VIII. The State Bar Court's Decision Violates the Free Speech, Petitioning and Freedom of Association Rights of Appellant and his Clients

SBA and SBC have infringed upon Appellant's clients' rights to exercise their Free Speech and Petitioning and Freedom of Association in a court case and appeal involving issues of public importance, specifically the right of people to associate as a federal public charity holding property and the duty of the state's attorney general to enforce the charitable property laws. See American Prosperity Foundation v. Bonta (2021) 594 U.S. ___ [141 S.Ct. 2373].

The SBA and SBC conducted this disciplinary case to deprive Appellant of all reasonable means with Free Speech and Petitioning of defending against the disbarment/suspension, and to deprive the clients of their property. It is an illegal restraint on the content of his speech. See Joseph A v. Ingram, supra; see discussion supra at V.

Appellant has standing to assert the violation of his client's rights of Free Speech ("FS"), Petitioning ("P")

and Freedom of Association ("FOA"). Caplin & Drysdale v. United States (1989) 491 U.S. 617, 623–624 n.3; compare Kowalski v. Tesmer (2004) 543 U.S. 123, 131.

Appellant's arguments in the so-called underlying litigation in True Harmony et al. v. State Dept. of Justice et. al. (case no. 21-55655 U.S. Court of Appeals for the Ninth Circuit) are novel and unusual, qualifying for protection of the contents of FS and P under CRPC 3.1 and CRPC 8.4. Consider that in 2007 in the B183928 court of appeals arbitrarily and erratically denied federal public charity status to True Harmony, without authority because its authority is preempted by Treas. Reg. 1.501(c)(3) – 1 (b)(5)). The B183928 decision seems to have cemented the defenses of res judicata and collateral estoppel for Mssrs. Perry, Solomon and Gibson, for the state's attorney general and others. It seems to have caused all doors of all state courts to be closed to Appellant's clients to fight the theft of their property. Consequentially, the state courts and administrative agencies (ie. the SBC, and the state's attorney general) have blocked True Harmony's attempts to undo the theft.

Under these circumstances, the federal court of appeals should be persuaded to permit the clients' state law cause of action under the Uniform Supervision of Charitable Trusts Act etc. to be brought and prosecuted in the federal action under federal question jurisdiction. Kansas City Title and Trust Co. v. Smith (1921) 255 U.S. 180.

Appellant argues in federal court that it violates his clients' civil rights because the state's attorney general has failed to enforce its cease and desist order against complainants as parens patriae. SAC, Appx. #10 (840-920), esp. exhs. B and C thereto (914 – 919). Appellant and his clients have not previously made this claim in any lawsuit against their opponents.

The federal district court wrongly applied Rooker-Feldman to dismiss the action, an issue on federal appeal now in no. 21-55655. The True Harmony appeal is not a

de facto appeal from state court, the court is not a defendant. Manufactured Home Communities v. City of San Jose (9th Cir. 2005) 420 F. 3d 1022, cert. den. The federal case is not inextricably intertwined with prior state court "judgments" because Appellant alleges harm to independent rights in his pleading and briefs. Exxon Mobil Corp. v. Saudi Basic Industries Corp. (2005) 544 U.S. 280.

Appellant asserts the independent right to challenge unconstitutional general practices of the state courts such as treating nonbinding arbitrations as binding judgments of the courts. See Dubinka v. Judges of Superior Court (9th Cir. 1994) 23 F. 3d 218. Appellant asserts the independent right to challenge the bias in state courts causing them to close the door on his clients' legal remedies. Nesses v. Shepherd (7th Cir. 1995) 68 F. 3d 1003; Bianchi v. Rylersdaam (9th Cir. 2003) 334 F. 3d 895 (Fletcher, J. concurring). Appellant asserts an independent right to attack Perry, Gibson and Solomon's unconstitutional interference with the truth finding function of the state courts as fraud on the court. Kougasian v. TMSL (9th Cir. 2004) 359 F. 3d 1159.

The SBC rejected Appellant's argument of void-for-vagueness of the State Bar Act Sections 6103 and 6068(c) as they pertain to willful disobedience of a court order and "unjustly … maintaining … and action, defense or proceeding." Clearly, if these sections are void-for-vagueness as applied, there is no statute authorizing disbarment or suspension.

Given the huge difference that the application of current CPRC 3.1 and CPRC 8.4 (together) make for disbarment or not, clearly this court expected the adoption of the current CPRC in 2018) to repair the vague, erratic and unpredictable results under the State Bar Act and the former CPRC. Tr., Appx. #4 (esp. 47 - 48, 57 – 58, 85).

"Willful disobedience" in Section 6103 is obviously in pari materia with State Bar Act Section 6077 and the

CPRC. In failing to recognize the in pari materia relationship of these code sections and the CPRC, and failing to apply the current CPRC to this case, the SBC has introduced vagueness into the statute and the rules where the Legislature and this court obviously intended a clear and certain result.

In Baker, supra, the Review Department held that a willful violation of the oath of office for suspension or disbarment (State Bar Act Section 6103) must be related to the duties of attorneys in the State Bar Act. Baker is precedent that Sections 6103, 6106 and 6068(c) of the State Bar Act, and Section 6077 and the relevant provisions of the CPRC relating to duties of attorneys at law must be interpreted in pari materia.

There is no precedent in state law, or even in decisions of the RD, that narrows the interpretation of "willful disobedience" to remedy its vagueness in this case, as the RD pointed out and the SBA admitted in oral argument. Tr., Appx. #4 (76). The only precedent on point favors Appellant. King v. State Bar, supra. In that case, Mr. King failed to pay an Eighty-four Thousand Dollar ($84,000) civil judgment and received a suspension of years and probation.

The SBA pleaded neither the Appellant's alleged intentional breach of duties in the State Bar Act or the CPRC, nor an alleged pattern of serious abuse tantamount to intent, that established his "willful disobedience" of duties of an attorney per Baker. NODCs, Appx. #11, (921-930). Appellant did not have fair warning of the SBA's arguments, or this decisions of the SBC (Appx. #3 and #6). The "new" CPRC 3.1 (adopted in 2018) establishes that the alleged breach of duties involved in the sanctions orders are negligent misconduct. Eg., In re Egbune, supra; Tr., Appx. #4, 47 – 48, 57 – 58, 85).

As the SBA pleaded its vague allegation of violation of Section 6068(c), NODCs,"[section 6103 and 6106 and 6068(c)] fail to give ordinary people fair notice

of what is proscribed, and, second, they are 'so standardless that [they] invites arbitrary enforcement.'" Johnson v. United States (2015) 135 S. Ct. 2551, 2556. The precedents cited by the SBC in its decision for pattern of serious abuse, Appx. #6 (esp. 132 – 133, 150 – 151, 160 - 161), for disbarment or suspension under Section 6068(c) have either involved allegations of attorneys sanctioned by courts as vexatious litigants, or a finding by SBC of Moral Turpitude because of *"serious, habitual abuse of the judicial system." Eg., n re Maltaman (1987) 43 Cal. 2d 924; In the Matter of Kinney (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 360*; *In the Matter of Varakin, supra; see In re Romano, supra.*

There are no existing narrow interpretations of the Section 6068(c) language of "unjustly" and/or "maintaining" an "action, proceeding or defense." The language of Section 6068(c) is similar to the language in the state rule regarding pre-trial publicity struck down as unconstitutional in Gentile v. State Bar of Nevada (1991) 501 U.S. 1030. The Supreme Court held that "general" and "elaboration" defining exceptions to the prohibition on lawyer's public statements were matters of degree that have no established usage or custom. The terms "unjustly" and "maintaining" and "action, proceeding or defense" are matters of degree that have no established usage or custom, as in Gentile.

Mssrs. Perry, Gibson and Solomon abused and misused anti-slapp motions and motions for protective order to shut off Appellant's only avenue for discovery of the documents that he needed to plead fraud specifically in the state court case and in the federal court case. The pleadings and written records required as the client's evidence were not available in the public or private court records. See Philippine Export & Foreign Loan Guarantee Corp. v. Chuidian (1990) 218 Cal. App. 3d 1058. Complainants violated Appellants' FS, P and FOA.

The prosecution for disbarment under Sections 6103 and 6068(c) is a denial of Equal Protection of the Laws, Class of One. Willowbrook v. Olech (2000) 528 U.S. 562.

IX. Conclusion

The State Bar Association and State Bar Court have trampled on and profoundly violated Appellant's constitutional and statutory rights, and the recommendation of disbarment is ultra vires the State Bar Act, the CPRC and the Constitution.

Date: Nov. 21, 2022 Jeffrey G. Thomas

/s/ Jeffrey G. Thomas

CERTIFICATE OF WORD COUNT

As required by the Cal. Rule of Court, I hereby certify that the word count of this petition/brief as measured by the Microsoft Word© word processing software is 8400 words in length.

Dated: November 21, 2022

Respectfully submitted,

___/s/ Jeffrey G. Thomas___
JEFFREY G. THOMAS

201 Wilshire Blvd. Second Floor
Santa Monica, California 90401

Telephone: 310-650-8326
Appellant In Propria Persona

#3
Order Denying Reconsideration

STATE BAR COURT OF CALIFORNIA
REVIEW DEPARTMENT
En Banc

FILED 9.28.2022

In the Matter of
JEFFREY GRAY THOMAS,
State Bar No. 83076.

REVIEW DEPARTMENT
En Banc
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)
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)
15-0 -14870; SBC-20-0 -00029
(Consolidated)

ORDER

On August 26, 2022, we filed an Opinion and Order in this case recommending that respondent Jeffrey Gray Thomas be disbarred from the practice of law in California. On September 12, 2022, respondent filed motions for reconsideration and for a stay or emergency relief. On September 13, 2022, the Office of Chief Trial Counsel of the State Bar (OCTC) filed an opposition. On September 14, 2022, respondent filed a pleading withdrawing his September 12, 2022 motions. Also on September 14, 2022, respondent filed additional motions for reconsideration and for a stay or emergency relief. On September 16, 2022, OCTC filed

oppositions to respondent's motions filed on September 14, 2022. OCTC also filed a nonopposition to respondent's pleading withdrawing his September 12, 2022 motions.[3] On September 20, 2022, respondent filed a reply to OCTC's non-opposition to withdrawal of the pleading. On September 21 and 22, 2022, respondent filed replies to OCTC's oppositions regarding the motions for reconsideration and requests for a stay or emergency relief.

After consideration of all of the pleadings in this matter, we deny respondent's motion for reconsideration for lack of good cause as he failed to (1) present new or indifferent facts, circumstances or law, or (2) show our Opinion or order contained errors of fact or law. See Rules Proc. of State Bar 5.115(B). Because we have denied respondent's motions for reconsideration his requests for stay or emergency relief are moot.

/s/ Honn_____, Presiding Judge

[3] We grant Respondent's request to withdraw the September 12, 2022 motions.

Proof of Electronic Service, etc.

X

X

x

#4
Decision of Review Department

PUBLIC MATTER-DESIGNATED FOR PUBLICATION
ST ATE BAR COURT OF CALIFORNIA
REVIEW DEPARTMENT
FILED
AUG 2 6 2022
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES
15-0-14870; SBC-20-0-00029
(Consolidated)

In the Matter of)
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JEFFREY GRAY THOMAS,
OPINION AND ORDER
State Bar No. 83076.
_____)

Jeffrey Gray Thomas was charged with ethical violations relating to his pursuit of unjust and frivolous actions in two superior court matters. A hearing judge found Thomas culpable on five counts of misconduct, including failing to obey a court order (two counts), failing to report judicial sanctions, threatening charges to gain an advantage in a civil suit, and maintaining unjust actions. The judge recommended Thomas be disbarred. Thomas appeals, asserting this matter should be dismissed due to constitutional violations and other errors by the judge. The Office of Chief Trial Counsel of the State Bar (OCTC) supports the judge's decision.

Upon independent review of the record (Cal. Rules of Court, rule 9 .12), we affirm the hearing judge's culpability determinations and reject Thomas's various constitutional arguments and collateral attacks. We also agree with the judge on discipline and recommend that Thomas be disbarred due to the seriousness of his multiple violations, the harm caused, and his inability to recognize the wrongfulness of his misconduct.

I. PROCEDURAL BACKGROUND

On September 2, 2016, OCTC filed a notice of disciplinary charges in State Bar Court No. 15-0-14870 (First NOC). That notice charged Thomas with (1) failure to obey a court order, in violation of Business and Professions Code section 6103,1 and (2) failure to report judicial sanctions, in violation of section 6068, subdivision (o)(3). The matter was abated shortly thereafter while related civil proceedings ensued.

On January 21, 2020, OCTC filed a notice of disciplinary charges in SBC-20-0-00029 (Second NOC). That notice charged Thomas with (1) threatening charges to gain an advantage in a civil suit, in violation of the former Rules of Professional Conduct, rule 5-100(A);2

(2) maintaining an unjust action, in violation of section 6068, subdivision (c); and (3) failure to obey a court order, in violation of section 6103.3

On February 24, 2020, the abatement was terminated in State Bar Court No. 15-0-14870. Both matters were abated in March and continued through June 29, 2020, due to the COVID-19 pandemic. On August 28, the matters were consolidated.

A three-day trial was held February 24 through 26, 2021.4 The parties filed closing briefs on March 15, and the hearing judge issued her decision on May 25. Thomas's request for review was filed on October 15.5 We heard oral argument on June 8, 2022.

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1 All further references to sections are to the Business and Professions Code unless otherwise noted.

2 All further references to rules are to the California Rules of Professional Conduct that were in effect until November 1, 2018, unless otherwise noted.

3 Two other counts were alleged in the Second NOC. In the decision, the hearing judge granted OCTC's motion to dismiss those counts (two and five).

4 In a separate disciplinary case, Thomas was enrolled on August 22, 2020, as an inactive attorney pursuant to Business and Professions Code section 6007, subdivision (c)(2) (TE case).
(SBC-20-TE-30411.)

5 Thomas's earlier requests for review, filed on June 18 and August 2, 2021 , were vacated and dismissed, respectively.

II. FACTUAL BACKGROUND6

A. General Background

Thomas was admitted to practice law in California on November 29, 1978, and has been a licensed attorney at all

times thereafter. The facts in this matter relate to litigation disputing the ownership of property at 1130 South Hope Street in Los Angeles (Property). Litigation concerning the Property began in 2003 when 1130 Hope Street Investment Associates, LLC (Hope Street) sued True Harmony, Inc. (True Harmony) to quiet title. In a 2009 judgment, a trial court found in favor of Hope Street and determined it was the "sole owner" of the Property. The judgment stated that, "True Harmony has not had any interest in the Property that could be transferred or encumbered since October 9, 2003." True Harmony was enjoined from representing that it was the owner of the Property. In addition, the judgment stated that Ray Haiem, a donor to True Harmony, never had authority to act on Hope Street's behalf. lnstruments purporting to transfer interest in the Property to Haiem were void and had no effect. Subsequently, the Property was sold.

B. Thomas Begins His Representation of Haiem

On July 28, 2011, Hope Street filed an interpleader action against Solomon; Hope Park Lofts, LLC (HPL); True Harmony; Haiem; Perry; and others.7 *(Hope Street* v. *Solomon et al.* (Super. Ct. Los Angeles County, No. BC466413).) On October 6, Haiem filed a cross-complaint in propria persona, but did not serve the cross-defendants. That cross-complaint was later struck because Haiem did not serve it, despite several warnings he received from the court.

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6 The facts are based on trial testimony, documentary evidence, and the hearing judge's factual and credibility findings, which are entitled to great weight. (Rules Proc. of State Bar, rule 5.155(A).) The judge found the testimony of Hugh Gibson, Rosario Perry, and Norman Solomon to be highly credible.

7 According to the 2009 judgment, Perry was the sole manager of Hope Street and Solomon formed HPL.

In October 2012, Thomas substituted into the case as counsel for Haiem. Despite the court striking the cross-complaint, Thomas filed a motion on November 15 attempting to amend the stricken cross-complaint.8 On February I, 2013, the court denied the motion as procedurally improper and legally baseless, as no cross-complaint existed. To the extent that Thomas's motion could be construed as seeking to file an initial cross-complaint, the court denied it as the claims were barred by issue preclusion-the court had previously determined that Haiem had "no right to, interest in, or lien in the [P]roperty at all." The court noted Thomas's arguments were unsupported and "based solely on conjecture." On March 29, the court denied Thomas's motion for reconsideration of the February 1 order.

ln February 2013, Haiem was dismissed from the interpleader action. On May 22, the court entered an order directing that the Property sale proceeds be distributed to HPL and Perry. Meanwhile, on May 14, 2013, Thomas had filed a motion to vacate the stricken cross-complaint-over six months after it had been stricken. Hugh Gibson, opposing counsel for HPL and Solomon, wrote to Thomas pointing out the motion's deficiencies as well as the court's lack of jurisdiction to hear it. Thomas received Gibson's letter but did not withdraw his motion.

Gibson filed a motion for sanctions in August 2013. The motion for sanctions was put on hold pending Thomas's appeal of the May 22 order, detailed *post*.9 On December 4,

201 3, the superior court denied Thomas's motion to vacate as untimely.

C. Thomas Appeals Interpleader Action

On July 22, 2013, Thomas filed a notice of appeal seeking review of the May 22 order directing distribution of the Property sale proceeds. At the time of the order, Haiem was

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8 On November 13, 2012, Thomas filed an ex parte application to amend the cross-complaint, which was denied the same day.
9 The motion for sanctions was granted in August 2016.

No longer a party to the interpleader action. Therefore, on December 16, the appellate court dismissed the appeal for lack of standing.10

On January 31, 2014, Thomas filed another notice of appeal in the interpleader action seeking to appeal the February 1, March 29, May 22, and December 4, 2013 orders. Gibson tried to convince Thomas to restrict his appeal to only the December 4 order, as the others were untimely or duplicative of previously dismissed appeals. Thomas received Gibson's letters, but declined to limit his appeal. Thereafter, Gibson filed a motion to dismiss the appeal of the February 1 and May 22orders, 11 which was granted on August 28, 2014. 12 (*Hope Street* v. *Solomon et al.* (Court of Appeal, Second Appellate District, No. 8254 143).) The appeal of the December 4, 2013 order continued. Gibson also filed a motion for sanctions against Thomas and Haiem to recover his client's expenses incurred in the appeal.

On April 27, 2015, the appellate court affirmed the trial court's December 4, 2013 ruling denying the motion to vacate. It also imposed sanctions against Thomas for filing a frivolous appeal. The appellate court found that Thomas's motion to vacate the dismissal of the cross-complaint was untimely. The court stated the time period for filing a motion to vacate was jurisdictional, noting Thomas failed "to cite even a single case to the contrary." The court also dismissed Thomas's argument that the deadline should have been extended by five days and noted Thomas did not present a colorable supporting argument.

Further, the court found Thomas's appeal was frivolous and intended to harass HPL and increase its litigation costs, describing Thomas's conduct as "unprofessional and at times

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10 In the interpleader action, Thomas also filed a petition for writ relief, which was denied as untimely.

11 Thomas opposed the motion, stating that Gibson's argument was "a fictive horse soon curried."

12 In its April 27, 2015 decision, detailed *post*, the appellate court dismissed the appeal of the March 29, 2013 order as untimely.

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outrageous." The court described Thomas's communications with Gibson as "gratuitous and unprofessional." 13 The court found Thomas's conduct "even more egregious" as the appeal proceeded. Gibson tried to prepare an adequate record on appeal, but Thomas resisted, asserting he was not obligated to send an appendix and calling Gibson's clients "crooks, thieves[,] charlatans and should be behind bars for the rest of

their lives." Thomas sent another email depicting Gibson's "skills as an attorney at law to be noncompensable" based on a recent appellate court opinion. He stated, "Enjoy yourself, Mr. Gibson and don't get in a family way before midnight." (Capitalization omitted.) After Gibson pleaded with Thomas to keep his emotions in check, Thomas told Gibson that the work on this case was very difficult and "beyond your capabilities." He added that he would "consider this request but you can rest assured that it will be given the proper priority not the rush doctors waiting room shrink wrapped in southern [C]alifornia plastic attention that you give to pleadings in this case. You really ought to see a psychiatrist immediately."

The appellate court found, Thomas's conduct, including his refusal to limit the scope of the appeal, his resistance to Gibson's effort to prepare an adequate record on appeal, his threat to communicate to Gibson's clients regarding alleged malpractice in a prior case, and his repeated gratuitous and unprofessional comments highlight the improper motives in prosecuting this appeal. Indeed, Thomas's comments that he will only respond to a "settlement offer" and that work on the case "will increase exponentially" over time reveal Thomas's intent to harass [HPL] and drive up its litigation costs in the hope of a settlement.

Finally, the appellate court stated Thomas's appeal "indisputably has no merit." The court found that Thomas failed to "cite even a single authority" supporting his positions and the cases he did cite "do not stand for the propositions he argues." The court concluded the appeal was “frivolous both

13 The court noted that Thomas said only a "settlement offer" or "state bar letter" would get his attention, that Thomas was rejecting Gibson's "purification efforts," and that there were "consequences" from Gibson's "client just hang[ing] around with the ' lessee university' crowd."

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because it is objectively devoid of merit and because it is subjectively prosecuted for an improper motive- to harass [HPL] and increase its litigation costs."

Accordingly, the appellate court found significant sanctions were appropriate for the frivolous appeal. The court found a high "degree of objective frivolousness" and that the hours Gibson worked were "caused in large part by Thomas's obstructive conduct." The court ordered Thomas to pay $58,650 in sanctions, individually, within 30 days from the date of the remittitur, which included $48,650 for HPL 's attorney fees and$ 10,000 to "discourage the type of inappropriate conduct displayed by Haiem and Thomas in this appeal."

On May 12, 2015, Thomas filed a petition for rehearing, which was denied. The court then issued the remittitur on August 21. On October 30, Thomas filed a motion to recall the remittitur, which was denied on November 2. Thomas then unsuccessfully attempted to petition the California Supreme Court and the Supreme Court of the United States for review. He did not pay the sanctions and did not report them to the State Bar.

D. Superior Court Orders Sanctions in Interpleader Action

Because the remittitur had been issued, the superior court could now rule on Gibson's motion for sanctions filed in August 2013. On August 24, 2016, the superior court granted that motion. *(Hope Street* v. *Solomon el al.* (Super. Ct. Los Angeles County, No. BC466413).) The court found that Thomas' s motion to vacate the dismissal of the cross-complaint was untimely and, when informed of this fact, Thomas refused to withdraw the motion, which justified sanctions under section 128.7 of the Code of Civil Procedure.

The court stated, [I]t is clear beyond a doubt that Mr. Thomas not only delayed far beyond a "reasonable time" in making his application for relief, not only pushed to the six month limit, but actually then pushed five days beyond that and now wants thecourt to rescue him and grant him [Code of Civil Procedure section] 473 relief even though more than the statutory six months have elapsed from the lime of the order he now seeks to challenge. Mr. Thomas's strategy of delay has backfired on him.

The court further found that Thomas's arguments were "without any legal or factual basis," that he pursued the motion "after having been expressly warned that said motion was without merit and should be dismissed," and, that he did so "for the purpose of harassing [HPL] and needlessly driving up the costs of this litigation." The court imposed sanctions against Thomas, individually, in the amount of $40,870, which included $22,810 for HP L's attorney fees and $18,060 under Code of Civil Procedure section 128. 7.

Over three months after the sanctions order was filed, Thomas filed a motion for clarification and relief from the sanctions order on December 5, 2016. In this motion, Thomas

acknowledged the sanctions order entered on August 24, but claimed he never received "communication of any kind directly from the court regarding the reserved decision on the motion for sanctions." In his supporting declaration, Thomas acknowledged he received a letter from the State Bar in October 2016 regarding the sanctions. However, he testified that he was never "served" with a copy of this order until receiving it from OCTC in 2020. Thomas did not pay the sanctions.

E. Thomas Files Lawsuit in Superior Court on Behalf of True Harmony

[n May 2014, Thomas filed a separate lawsuit on behalf True Harmony against Perry, Solomon, and HPL (True Harmony matter). *(True Harmony v. Perry et al.* (Super. Ct. Los Angeles County, No. BC546574.) Perry filed a demurrer. [n response, Thomas sent a letter to Perry's attorneys, Gibson and Lisa Howard, dated August 26, 2016, which provided, in part, Please be advised that YOU are guilty of mail fraud in violation of 18 U.S.C. *§* 1341 because YOU have not corrected the misrepresentation created by YOUR prior written notices for the dates of hearings on said motions by filing and serving written notices of the hearing dates that YOU have selected that are different from the dates that YOU have chosen.

Please be advised that YOU will be indicted, found guilty and sentenced to five years in the federal penitentiary for the mail fraud if YOU do not correct YOUR violations of the Code of Civil Procedure. [˜] ... [˜] Please be advised that YOUR illegalities described herein may be referred to the Attorney General of California for collection of civil penalties

per day for every day that YOUR violations of the mail fraud statute, 18 U.S.C. § 1341, continue . ... [if] .. .

Please be advised that YOU have committed criminal violations of my civil rights under 18 U.S.C. § 241 and § 242 by permitting the illegal appellate sanctions in case #8254143 to continue to persist without requesting the second court of appeals to remit them.

Please be advised that YOU may be tried, convicted and sent to prison for the remainder of YOUR lives for the criminal violations of 18 U .S.C. § 241 and § 242 that YOU have committed.

Gibson was concerned he would have to deal with various authorities to address these unfounded charges.14 He viewed the letter as a credible threat that Thomas would make the reports and feared he would have to expend significant time and effort to defend against them. Thomas testified it was probably "not the wisest letter to write," but it was an expression of his frustration.

In January 2017, over two years later, Thomas filed a second amended complaint, seeking to void the trial court's prior judgment and declare True Harmony as the owner of the Property. The defendants filed demurrers, which the court sustained without leave to amend on April 7, finding one failed to state a claim and the rest were barred by res judicata. Accordingly, the court entered judgment in favor of the defendants on April 7.

Thomas did not appeal the judgment, and instead filed a motion for reconsideration of the court's ruling sustaining the demurrers on April 17, 2017. 15 Gibson again tried to

convince Thomas to withdraw his motion due to lack of jurisdiction, providing statutory and case authority in his letters. Thomas read the letters and case authority, but nonetheless refused to withdraw his motion. The court denied Thomas's motion on October 17, 2017, using citations raised by Gibson in his letter to Thomas. The court found it did not

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14 The hearing judge found Gibson's testimony credible.
15 Thomas did not appeal the judgment dismissing the second amended complaint within the required 60 days from the notice of entry of judgment. As a result, the judgment became final on June 7, 2017.

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have jurisdiction to grant a motion for reconsideration because judgment had been entered on April 7, and Thomas filed for reconsideration after that date-on April 17.

Once again, Gibson filed a motion for sanctions on October 17, 2017, which was granted. The court found in its November 30 order that Thomas's motion for reconsideration "had no basis in law at the time it was filed," and was not supported by existing law. Further, the court described Thomas' s arguments as contrary to "clear and unambiguous authority" and "undisputed fact," lacking in "substantive merit," "irrelevant," "inapplicable," procedurally "improper," and "without merit." The court ordered Thomas to pay sanctions of $23,350 for Solomon's attorney fees, which Thomas has not done.

F. Thomas Appeals True Harmony Matter

On December 18, 2017, Thomas filed two appeals: one on behalf of himself and the other on behalf of True Harmony. The appeals sought review of three trial court orders: (l) an October 10, 2017 order denying True Harmony's application to file a supplemental memorandum of law; (2) the October 17, 2017 order denying True Harmony's motion to reconsider the decision entering judgment for the defendants; and (3) the November 30, 2017 order granting Solomon's motion for sanctions. *(True Harmony et al.* v. *Perry et al.* (Court of Appeal, Second Appellate District, No. B287017.) Once again, Gibson wrote to Thomas that his appeals were untimely and jurisdictionally improper, with the exception of Thomas's personal request for review of the November 30 sanctions order. Gibson urged Thomas to withdraw, but Thomas declined to withdraw or limit his appeals. In April 2018, Gibson filed a motion to dismiss the True Harmony appeal and Thomas's appeal of the October 10 and October 17 orders.

The court granted Gibson's motion on May 4, 20 18. It held that True Harmony lacked standing to appeal the November 30, 2017 sanctions order because the sanctions were only issued against Thomas. Thomas's individual appeal of the sanctions order was not dismissed.

The court found that Thomas and True Harmony could not appeal the October 10 and October 17 orders because they were linked to a motion for reconsideration, which is not appealable. 16 The court stated Thomas failed to offer "any reason or authority" for his argument that the motion for reconsideration should be treated as a motion to vacate judgment.

On October 12, 2018, Gibson filed his third motion for sanctions, which was granted on December 13. The appellate court affirmed the November 30, 2017 order imposing sanctions on Thomas. Thomas failed to support his arguments with citations to the record or to applicable legal authority. The court held Thomas's "unclean hands" argument was "merely an attempt to relitigate the underlying complaint and True Harmony's claims of fraud. In making this frivolous argument, Thomas has violated our court order specifically limiting his appeal to the sanctions motion."

The court further found that Thomas's conduct on appeal warranted sanctions because his "appellate filings were largely frivolous and done in violation of court orders and rules." The court held that Thomas "sought to prosecute an appeal on behalf of a party that clearly lacked standing and attack a judgment that had long become final." Even though only Thomas could properly appeal the sanctions order, he filed it on behalf of himself and True Harmony, and attempted to appeal two other orders that were not appealable. He refused to limit his appeal as Gibson asked, and Solomon "unnecessarily incurred costs in filing a successful motion to

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16 Thomas then filed a 45-page petition for rehearing of the dismissal, arguing that all his appeals and all True Harmony's appeals should be allowed to proceed. The appellate court denied the petition. Thomas then ignored the court's order and filed an opening brief on behalf of True Harmony, even though the court had dismissed all its appeals. Thomas then submitted a supplement to the opening brief, arguing yet again that True Harmony should be given the right to file a third amended complaint in the underlying action. The court struck the opening brief and supplemental brief, and allowed Thomas to file a new opening brief, which he did. The court found that

this brief "went outside the scope of the appeal by launching into an argument about the ownership and sale of the property in the fact section and a section on 'unclean hands.'"

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dismiss the improper appeals." Thomas then filed an improper brief on behalf of True Harmony and refused to withdraw it, causing Solomon to incur further costs bringing a successful motion to strike the opening brief. The court summed up Thomas's actions by stating, "It is evident from Thomas's pursuit of improper appeals and plain disobedience of our court orders that his briefing and motions are frivolous and intended to harass Solomon. Such improper briefing generated unnecessary and substantial costs for Solomon." Accordingly, the court found considerable sanctions were appropriate. Thomas was ordered to pay $65,480.64 in sanctions within 90 days of the date of remittitur-$56,980.64 in attorney fees for Solomon and $8,500 to be paid directly to the clerk of the appellate court. Thomas did not pay the sanctions.

On December 27, 2018, Thomas filed a petition for rehearing of the appellate court order, which was denied. He then filed successive petitions for review in the California Supreme Court and the Supreme Court of the United States, which were also denied.

G. *Thomas v. Zelon et al.*

In August 2016, Thomas filed a complaint on behalf of himself in federal court alleging civil rights violations against two appellate court justices who decided the interpleader appeal, as well as Solomon, Perry, HPL, Gibson, and others. (*Thomas* v. *Zelon et al.* (C.D.Cal., No. 16-cv-06544).) The

defendants filed a motion to dismiss, which was granted in February 2017. The court dismissed Thomas's complaint without leave to amend. It found Thomas's federal claims were barred by the *Rooker-Feldman* doctrine, which precludes federal adjudication of a claim that "amounts to nothing more than an impennissible collateral attack on prior state court decisions." *(Ignacio v. Judges of US. Court of Appeals* (9th Cir. 2006) 453 F.3d 1160, 1165 [explaining *Rooker-Feldman* doctrine].) Accordingly, Thomas could not pursue his additional state law claims in federal court under supplemental jurisdiction.

Thomas appealed the district court's decision. In March 2018, the United States Court of Appeals for the Ninth Circuit affirmed the district court's dismissal. The court held, "The district court properly dismissed Thomas's action as barred by the *Rooker-Feldman* doctrine because Thomas's claims stemming from the prior state court action constitute a 'de facto appeal' of prior state court judgments, or are ' inextricably intertwined' with those judgments. [Citations]."

H. *True Harmony et al. v. Department of Justice of the State of California et al.*

In January 2020, Thomas filed a federal lawsuit on behalf of himself, True Harmony, and Haiem, suing the California Department of Justice, Perry, Solomon, Gibson, ITPL, ITope Street, and others. *(True Harmony et al. v. Dept. of J of Cal. et al.* (C.D.Cal., No. 20-cv-00170).) This action again attempted to relitigate claims relating to the Property and previous legal actions. The district court dismissed Thomas's lawsuit with prejudice in May 2021. The court held that it did not have subject matter jurisdiction over some of the causes of action due to lack of standing, some were barred by the *Rooker-*

Feldman doctrine, others were barred by res judicata, and some failed to state a claim. The court determined that the claims brought were "nearly identical" to those in *Thomas v. Zelon et al.* and Thomas was seeking to relitigate previous dismissals.

In June 2021 , Thomas filed a notice of appeal. Because Thomas was no longer eligible to practice law, in November, the Ninth Circuit dismissed the appeal as to True Harmony and Haiem as they were not represented by counsel. Thomas appealed this decision to the Supreme Court of the United States. At oral argument before us, he stated his individual appeal was still pending in the Ninth Circuit.

III. THOMAS'S VARIOUS CHALLENGES TO THE HEARING JUDGE'S DECISION HAVE NO MERIT

Thomas makes several constitutional and jurisdictional arguments on review, all of which we have carefully considered. We note his arguments are largely unsupported and his briefing on review is difficult to understand, particularly as to the relevance of points he asserts in defense of these proceedings. We have independently reviewed all of his arguments; any not specifically addressed here have been considered and rejected without merit.

A. Collateral Attacks

An action by a court or judge is presumed valid and made within the lawful exercise of jurisdiction. (Evid. Code, § 666.) Final judgments are subject to collateral attack only on the following grounds: (1) lack of subject matter jurisdiction, (2) lack of personal jurisdiction, or (3) actions in excess of jurisdiction. *(Jn the Matter of Pyle* (Review Dept. 1998) 3

Cal. State Bar Ct. Rptr. 929, 933.) To succeed on collateral attack, Thomas must prove a jurisdictional defect from the face of the record. *(Ibid.)*

1. Challenges to Court Decisions in Civil Litigation

In the decision, the hearing judge stated Thomas was given the opportunity to present evidence to contradict, temper, or explain all admitted records from the various civil actions. After considering the evidence, the judge determined that the civil litigation findings were supported by substantial evidence and, therefore, adopted them. (Sec *Maltaman v. State Bar* (1987) 43 Cal.3d 924; *In the Matter of Kittrell* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195; *In the Matter of Kinney* (Review Dept. 2014) S Cal. State Bar Ct. Rptr. 360.)

Throughout his opening brief, Thomas challenges several court decisions and arguments made by his opponents there. He claims the decisions in the interpleader action and the appeal of the interpleader action were "frauds on the court" and the court lacked "all basis in jurisdiction."

Thomas alleges the hearing judge erred by ignoring his evidence relating to jurisdiction in the civil litigation.

Thomas claims OCTC and witness testimony were not produced to establish jurisdiction for the court decisions he now attacks. However, it is Thomas's burden to prove the jurisdictional defect since court actions are presumed valid. *(In the Matter of Pyle, supra,* 3 Cal. State Bar Ct. Rptr. at p. 933.) Because he has not established any jurisdictional defect, we must view the court decisions as valid, as the hearing judge did. Accordingly, we reject Thomas's collateral attacks on these decisions. Further, Thomas has already challenged

certain court orders in the courts of record. He may not continue to do so here as the orders are final and binding for disciplinary purposes. (See *In the Matter of Collins* (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 551, 559; *In the Matter of Boyne* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 389, 403-404.) "There can be no plausible belief in the right to ignore final, unchallengeable orders one personally considers invalid." *(Maltaman v. State Bar, supra,* 43 Cal.3d at p. 952.)

2. Challenge to Involuntary Inactive Enrollment

Thomas's briefs on review make several challenges to the TE case where he was placed on involuntary inactive enrollment.[17] He argues that the hearing judge lacked personal and subject matter jurisdiction over him in that matter. As with his other collateral attacks, discussed *ante*, Thomas has failed to prove any jurisdictional defect in the TE case. Also, that case is final and closed. He has not provided any support for our ability to review it long after it became final.

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17 See *ante*, p. 2, fn.4.

B. Constitutional Arguments

Thomas makes several constitutional objections regarding the hearing judge's decision, the constitutionality of sections 6103 and 6068, subdivision (c), and the sanctions orders. However, none of these arguments are supported by fact or law. After review of the record, we do not find any violation of Thomas's constitutional rights in this disciplinary matter.

C. Unclean Hands Defense and Other Alleged Hearing Judge Errors

Thomas argues the hearing judge erred by rejecting his affirmative defense of unclean hands. He asserts OCTC has unclean hands because it has never properly investigated Thomas's claims that Perry, Gibson, and Solomon committed moral turpitude and other misconduct. Thomas's unclean hands argument is unsupported. His allegations against others are irrelevant and have no effect on our findings of culpability for his own misconduct.

He also asserts OCTC presented irrelevant, inflammatory, and prejudicial evidence of other pleadings filed by him. However, he fails to identify the specific evidence to which he objects. The standard of review we apply to procedural rulings is abuse of discretion or error of law. *(Jn the Matter of Respondent l* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 454, 461.) Thomas failed to establish the hearing judge abused her discretion or erred by admitting OCTC's evidence. Further, he did not specify how the judge's decisions prejudiced his case. *(in the Matter of Hertz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 4 56, 469 [attorney must show specific prejudicial effect].) Therefore, we reject his evidentiary arguments.

In addition, Thomas argues the hearing judge improperly dismissed his "judicial estoppel" defense. He asserts the judge ignored his arguments and evidence that his motions were not frivolous. He also believes some actions taken in the civil litigation were "approved" by the court. Any proper actions he took in the civil litigation do not negate his multiple acts of misconduct, discussed *post.* Thomas failed to provide support for his various arguments or to explain how the

judge's decisions prejudiced him. The judge's culpability determinations are supported by the record. Therefore, Thomas's various evidentiary and culpability arguments must be rejected.

IV. **CULPABILITY18**

A. Count One of State Bar Court No. **15-0-14870: Failure to Obey Court Order (§ 6103)**

Count one of the First NDC alleged Thomas violated section 6103 by failing to comply with the April 27, 2015 court order for sanctions of $58,650 in the appeal of the interpleader action. *(Hope Street v. Solomon et al.* (Court of Appeal, Second Appellate District, No. B254143).) Section 6103 provides, in pertinent part, that a willful disobedience or violation of a court order requiring an attorney to do or forbear an act connected with or in the course of the attorney 's profession, which the attorney ought in good faith do or forbear, constitutes cause for suspension or disbarment. An attorney willfully violates section 6103 when, despite being aware of a final, binding court order, be or she knowingly chooses to violate the order. *(In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 787.) The hearing judge found Thomas had actual knowledge of the order, the order was final and binding, and he did not comply with it since he did not pay the sanctions within 30 days as ordered. The judge found a willful violation of section 6103.

Thomas argues that the sanctions ordered in the interpleader action and the True Harmony matter were "grossly erroneously decided."19 As discussed *ante,* his collateral attacks of the court orders in the civil litigation fail.

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18 We note that in his briefs and at oral argument, Thomas made several arguments regarding the American Bar Association (ABA) Model Rules of Professional Conduct, asserting they should be followed rather than the California Rules of Professional Conduct. Thomas also contended the ABA rules take precedence over the State Bar Act and the California disciplinary statutes. We reject his arguments as meritless.

19 The True Harmony matter was charged in the Second NDC.

Thomas also asserts OCTC failed to introduce evidence that his disobedience of court orders caused harm to the administration of justice. This is not relevant to a defense for misconduct under section 6103.

Thomas argues the hearing judge improperly found he acted willfully based on the state court sanctions orders that his motions and appeals were frivolous. Thomas believes the judge could not infer that he acted willfully as "negligence is never willfulness." He asserts the testimony of Perry, Gibson, and Solomon concerning willfulness was cumulative. We reject these arguments. Thomas was aware of the orders, admits he has not complied with them, and has made no effort to comply. No evidence suggests this was "negligence." We agree with the judge that Thomas acted willfully and find culpability as charged.

B. Count Two of State Bar Court No. 15-0-14870: Failure to Report Judicial Sanctions (§ **6068, subd.** (o)(3))

Count two of the First NDC alleged Thomas violated section 6068, subdivision (o)(3), by failing to report to the State Bar within 30 days the April 27, 2015 sanctions order in the appeal of the interpleader action. *(Hope Street v. Solomon et al.* (Court of Appeal, Second Appellate District, No. B254 l 43).) Section 6068, subdivision (o)(3), requires attorneys to report to the State Bar, in writing, within 30 days of knowledge of"[t]he imposition of judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars ($1,000)." The hearing judge found that, at the latest, Thomas knew of the sanctions order on May 12, 2015-the date of his petition for rehearing seeking review of the sanctions order. He did not report the order, and the judge found culpability as charged.

Thomas makes no specific argument on review as to his lack of culpability of misconduct for his failure to report the April 27, 2015 sanctions order. Based on our review of the record, we affirm the hearing judge's culpability finding.

C. Count One of SBC-20-0-00029: Threatening Charges to Gain Advantage in Civil Suit (rule 5-l00(A))

Count one of the Second NDC alleged Thomas violated rule 5- 100(A) when he stated, in his August 26, 2016 letter to Gibson and Howard, that they would be convicted of mail fraud and sentenced to five years in the federal penitentiary if they did not correct their violations of the Code of Civil Procedure and that they would be convicted of violating title 18 United States Code sections 241 and 242 and would be sent to prison for the remainder of their lives. The allegation stated Thomas made these charges to gain an advantage in the

True Harmony matter, by hampering and delaying Perry's attorneys, increasing litigation costs, and harassing Perry. Rule 5-100(A) provides, "A member shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute." The hearing judge found culpability as charged. In the letter, Thomas expressly threatened the recipients that they would be criminally indicted, found guilty, sentenced, and sent to prison if they did not take specific actions regarding their demurrers to the complaint in the True Harmony matter. The judge concluded the letter conveyed the message that Thomas would report Gibson and Howard for alleged criminal violations and that the letter was sent to intimidate and harass opposing counsel to gain an advantage in the True Harmony litigation.

Again, Thomas makes no specific argument on review as to his culpability of a rule 5-100(A) violation. Based on our review of Thomas's statements to opposing counsel threatening criminal charges, we affirm the hearing judge's culpability finding. *(Jn the Matter of Malek-Yonan* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627, 63 7 [violation of rule 5-100 by sending letter threatening criminal investigation].)

D. Count Three of SBC-20-0-00029: Maintaining an Unjust Action(§ 6068, subd. (c))

Section 6068, subdivision (c), provides that it is an attorney's duty "[t]o counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense." Count three of the Second NOC alleged Thomas violated section 6068, subdivision (c), by (1) making multiple claims and

arguments lacking any legal or factual basis and filing and pursuing an untimely motion (despite being forewarned that the motion was without merit and should be dismissed) in the interpleader action; (2) filing a frivolous appeal of the interpleader action, which lacked any merit and was prosecuted for the improper purpose to harass and increase litigation costs; (3) filing a motion for reconsideration in the True Harmony matter, which had no basis in law and unnecessarily increased the costs of litigation; and (4) repeatedly pursuing improper appeals and filing frivolous and harassing briefs and/or motions, which unnecessarily increased the costs of litigation in the appeal of the True Harmony matter. The hearing judge found culpability under section 6068, subdivision (c), for Thomas's use of abusive litigation tactics where he initiated and maintained multiple claims and defenses, at the trial and appellate levels, which were foreclosed by legal authority.

Thomas argues, without any support, that the notices of appeal, briefs, and motions he filed do not qualify as "actions" under section 6068, subdivision (c). We reject his claim as meritless and we affirm the hearing judge's culpability finding. (See *In the Matter of Kinney, supra*, 5 Cal. State Bar Ct. Rptr. at p. 365 [attorney who unreasonably pursued lawsuits "after unqualified losses at trial and on appeal" culpable under§ 6068, subd. (c)].)

E. Count Four of Case No. SBC-20-0-00029: Failure to Obey a Court Order(§ 6103)

Count four of the Second NDC alleged Thomas failed to comply with three court orders:

(1) the August 24, 2016 order requiring him to pay sanctions of $18,060 and attorney fees of $22,810 in the interpleader action; (2) the November 30, 2017 order requiring him to pay $23,350 in sanctions in the True Harmony matter; and (3) the December 13, 2018 order requiring him to pay $65,480.64 in sanctions, including $8,500 to the clerk of court, in the appeal of the True Harmony matter. The hearing judge found culpability as charged. Thomas admitted he has not paid the ordered sanctions
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Thomas's arguments on review involve collateral attacks on these sanctions orders. As discussed *ante*, we find the orders are valid. Thomas advances no other arguments concerning culpability under section 6103. Based on our review of the record, we affirm the hearing judge's culpability finding. *(In the Matter of Respondent X* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592, 603 [elements of§ 6103 violation].)

V. AGGRAVATION AND MITIGATION

Standard 1.5 of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct20 requires OCTC to establish aggravating circumstances by clear and convincing evidence. Standard 1.6 requires Thomas to meet the same burden to prove mitigation.

A. Aggravation

1. Multiple Acts of Wrongdoing (Std. 1.5(b)) and Pattern of Wrongdoing (Std. 1.5(c))

The hearing judge found Thomas committed multiple acts of misconduct by repeatedly pursuing unsupported legal claims in multiple legal proceedings, making improper threats,

20 All further references to standards are to this source.

disobeying four court orders, and failing to report the sanctions order in the interpleader appeal. We agree these acts sufficiently establish multiple acts of misconduct under standard l .5(b). *(In the Matter of Bach* (Review Dept. 1991) I Cal. State Bar Ct. Rptr. 631, 646-64 7 [three instances of misconduct considered multiple acts].)

The hearing judge also found Thomas' s misconduct demonstrated a pattern. He continually maintained frivolous legal positions in various proceedings, from 2013 to the time of the disciplinary trial, which was an abuse of the justice system. In addition, Thomas disregarded numerous court orders intended to curb his improper conduct. (Std. 1.5(c); *In the Matter of Kinney, supra,* 5 Cal. State Bar Ct. Rptr. at p. 368 [multiple acts and pattern where attorney repeatedly pursued vexatious litigation over more than six years]; *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 555 [pattern must involve serious misconduct spanning extended time period].) The judge assigned substantial aggravation, collectively, under standards 1.5(b) and (c).

Thomas argues the hearing judge's finding had no foundation in the record and did not satisfy the hearsay evidence exception for "custom or practice." These arguments are unsupported. Thomas was told by the courts that he was wrong and his pleadings were frivolous and harassing. Yet, he did not stop repeatedly advancing arguments without a legal basis. He began putting forth frivolous arguments in 2013 in the interpleader action and has done so in the appeal of that

action, the True Harmony matter, and the appeal of the True Harmony matter. He has also done so twice in federal court. In 2020, he filed a second federal lawsuit, which was dismissed because the claims were nearly identical to the federal lawsuit dismissed by the district court in 2017 and affirmed by the Ninth Circuit in 2018. His appeal in the second federal lawsuit is still pending. We agree with the judge that aggravation is warranted under standard 1.5(c) for Thomas's pattern of misconduct. The misconduct was serious and spanned several years (with evidence that Thomas continues to pursue these claims even now). We assign substantial aggravation under standards l .5 (b) and (c).

2. Significant Harm (Std. 1.5(j))

The hearing judge found Thomas's misconduct caused significant harm to the public and the administration of justice, warranting substantial aggravation under standard 1.5U). We agree with the judge's findings and reject Thomas's argument that OCTC did not prove harm to the administration of justice.

Thomas's relentless litigation campaign caused the courts and the parties to expend excessive time and money, as illustrated by the $188,350.64 in sanctions against him, including $8,500 for reimbursement to the court of appeal for administrative costs he generated. His frivolous litigation caused the courts to consider and rule on his meritless motions, which was a waste of judicial resources. *(In the Matter of Reiss* (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206, 217 [acts wasting judicial time and resources constitute significant harm].)

ln addition, Thomas's misconduct caused stress and emotional harm to Solomon, Perry, and Gibson, which was established by their testimony at trial. They were repeatedly forced to defend against Thomas's meritless claims and appeals. Solomon testified he incurred over $700,000 in legal fees owed to Gibson for dealing with Thomas's frivolous litigation.[21] Additionally, Thomas has not paid any of the ordered sanctions to Solomon and HPL. Solomon also testified that the litigation took time away from his business and that he must disclose the litigation each time he applies for a loan. Perry testified that Thomas's actions have caused him a great deal of stress and that he has spent hundreds of hours involved with this litigation. Gibson testified he has had stressful interactions with opposing counsel during his five decades of litigation, but never like the ones he experienced with Thomas. He also stated that, prior to

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21 At trial, Gibson confirmed this amount.

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filing motions for sanctions against Thomas, he had filed, at most, one or two motions for discovery sanctions. He testified he spent approximately 2,000 hours working on this litigation. Gibson also stated he paid $5,000 to his malpractice insurer for his defense of the federal lawsuits Thomas filed against him.

3. Indifference (Std. 1.5(k))

Standard 1.5(k) provides that an aggravating circumstance may include "indifference toward rectification or atonement for the consequences of the misconduct." The hearing judge assigned substantial weight in aggravation for Thomas's failure to accept responsibility for his actions and to atone for

the resulting harm. Thomas made no specific arguments on review concerning this aggravation finding.

Thomas has blamed others, testified his conduct was moral and correct, and characterized himself as the victim. For example, he stated the appellate court in the interpleader action was wrong and "roasted" him with a "gross error." He complained he was "at the butt end of a litigation machine juggernaut" and believed the sanctions orders were unfair. Further, he has made no payments towards the court-ordered sanctions. Thomas asserted he does not understand why OCTC brought the charges and he intends to continue to pursue litigation related to the underlying misconduct. In his closing argument at trial, he said he was "going to stick by my guns," which he has. He announced later at oral argument before us that he would appeal to the Supreme Court if his discipline was not overturned and he is continuing to pursue the second federal lawsuit.

Thomas has the right to defend himself vigorously; however, his arguments "went beyond tenacity to truculence." *(In re Morse* (1995) 11 Cal.4th 184, 209.) We agree with the hearing judge that his gross lack of insight into the wrongfulness of his actions merits substantial aggravation. *(In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511 [law does not require false penitence, but does require attorney to accept responsibility for his or her wrongful acts and show some understanding of culpability]; *In re Morse*, *supra*, 11 Cal. 4th 184 at p. 209 [unwillingness to consider appropriateness of legal challenge or acknowledge lack of merit is aggravating factor].) Thomas has refused to acknowledge he was wrong and that his actions have harmed the courts and others. He continues to raise the same unsuccessful arguments already struck down by several

courts. His failure to accept responsibility is a substantial aggravating factor. *(Carter v. State Bar* (1988) 44 Cal.3d 1091, 1100-1101 [blanket refusal to acknowledge wrongful conduct constitutes indifference].)

B. Mitigation
1. No Prior Record of Discipline (Std. l.6(a))

Mitigation includes "absence of any prior record of discipline over many years coupled with present misconduct, which is not likely to recur." (Std. 1.6(a).) Thomas practiced for nearly 35 years without discipline before the misconduct in this matter started. The hearing judge assigned minimal mitigation because Thomas stated at trial that he will not cease litigation related to legal claims that have already been rejected. Accordingly, Thomas has failed to establish his misconduct is aberrational and not likely to recur. (See *Cooper v. State Bar* (1987) 43 Cal. 3d 1016, 1029 [when misconduct is serious, long record without discipline is most relevant when misconduct is aberrational].) Given his complete lack of insight into misconduct, we assign only nominal weight in mitigation for his absence of a prior record of discipline.

2. Extraordinary Good Character (Std. 1.6(t))

Thomas may obtain mitigation for "extraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct." (Std. 1.6(f).) Thomas's character evidence consisted of four witnesses who testified at trial (two of whom also submitted character letters) and two additional character letters. The witnesses have known Thomas for many years and reported he is honest, of good moral character, and dedicated to his clients. The hearing judge found the witnesses did not

represent a wide range as they were all current or former clients. (See *In the Matter a/Myrdal* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 387 [three attorneys and three clients did not constitute wide range of references].) In addition, the witnesses were unaware of the full extent of the misconduct. (See *In re Aquino* (1989) 49 Cal.3d 1122, 1131 [testimony of witnesses unfamiliar with details of misconduct not significant in determining mitigation).

Finally, one witness revealed limitations as to Thomas's interpersonal and legal skills, disclosing that Thomas sometimes does not get along with others and the quality of his work is inconsistent. For these reasons, the judge did not assign mitigation credit under standard 1.6(f).

On review, Thomas failed to assert any specific arguments regarding the hearing judge's finding. We agree with the judge that Thomas has failed to establish mitigation for extraordinary good character.

VI. DISBARMENT IS THE APPROPRIATE DISCIPLINE

The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts, and the legal profession; to preserve public confidence in the profession; and to maintain high professional standards for attorneys. (Std. 1.1.) Our disciplinary analysis begins with the standards. While they are guidelines for discipline and are not mandatory, we give them great weight to promote consistency. *(In re Silverton* (2005) 36 Cal. 4th 81, 91-92.) The Supreme Court has instructed us to follow the standards "whenever possible." *(In re Young* (1989) 49 Cal. 3d 257, 267,

fn. 11.) We also look to comparable case law for guidance. (See *Snyder v. State Bar(1990) 49 Cal. 3d* 1302, 1310-1311.)

In analyzing the applicable standards, we first determine which standard specifies the most severe sanction for the at-issue misconduct. (Std. 1.7(a) [most severe sanction shall be imposed where multiple sanctions apply].) The most severe and applicable sanction here is standard 2.9(a), which applies because of Thomas's culpability under section 6068, subdivision (c).22 Standard 2.9(a) provides for actual suspension when an attorney maintains a frivolous claim for an improper purpose and disbarment is appropriate if the misconduct demonstrates a pattern.

The hearing judge found that Thomas's repeated pursuit of frivolous legal actions repetitively recycling previously rejected arguments, while consistently defying court orders aimed at curbing his improper conduct-demonstrates a pattern. "[O]nly the most serious instances of repeated misconduct over a prolonged period of time could be characterized as demonstrating a pattern of wrongdoing. [Citations.)" *(Levin v. State Bar* (1989) 4 7 Cal.3d 1140, 1149, fn. 14; see also *In the Matter of Kinney, supra,* 5 Cal. State Bar Ct. Rptr. at p. 368 [pattern where attorney repeatedly engaged in vexatious litigation over six-year period).) Thomas has relentlessly pursued the same arguments in two state court actions-the interpleader action and the True Harmony matter-both of which he appealed to the appellate court, the California Supreme Court, and the Supreme Court of the United States. He was heavily sanctioned in those actions ($188,350.64), and has not paid any money towards the sanctions. The sanctions orders have not deterred him, and he has continued to repeat his failed arguments in two federal lawsuits, which were both

dismissed as improper collateral attacks on the state court decisions.

He appealed both of those decisions to the Ninth Circuit, where the second action is still pending. His appeal of the second federal lawsuit occurred in June 2021, after the

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22 Standard 2.12(a) is also applicable and provides for disbarment or actual suspension for disobedience of a court order. (See also § 6103 [disbarment or suspension for violation of court order]; *Barnum v. State Bar* (1990) 52 Ca1.3d 104, 112 [violations of court orders are serious misconduct).) Standard 2. 12(b) provides for reproval for failure to report judicial sanctions. A rule 5-100(A) violation is subject to suspension of up to three years or reproval under standard 2.19.

Hearing Department's decision in this disciplinary proceeding recommending his disbarment. Besides maintaining multiple unjust actions, Thomas is also culpable of failing to obey four court orders, failing to report judicial sanctions, and threatening charges to gain an advantage in a civil suit. All of these acts may be considered in determining if a pattern of misconduct exists. *(Read* v. *State Bar* (1991) 53 Cal.3d 394, 423 [pattern of misconduct may be found even though acts encompass wide range of improper behavior].) We find Thomas's misconduct is serious, repetitive, and has been ongoing for over seven years. Accordingly, we agree with the hearing judge that it demonstrates a pattern of wrongdoing. Thus, recommending disbarment would be appropriate under standard 2.9(a).

Even if we were to not find a pattern of wrongdoing, disbarment would be the appropriate discipline to recommend due to Thomas's multiple instances of serious misconduct combined with several substantial aggravating factors that outweigh nominal mitigation for lack of a prior disciplinary record. Standard 1.7(b) provides a greater sanction than specified in a given standard may be appropriate due to serious aggravating circumstances that outweigh the mitigation. "On balance, a greater sanction is appropriate where there is serious harm to the client, the public, the legal system, or the profession and where the record demonstrates that the lawyer is unwilling or unable to conform to ethical responsibilities." (Std. 1.7(b).)

The findings from the state and federal courts highlight the seriousness of Thomas's misconduct. He pursued untimely motions, failed to cite authority to support his arguments, and filed frivolous claims intended to harass his opponents and increase their litigation costs.

Thomas presented claims to the court when he lacked standing or when the claims were barred by res judicata. The courts often found his arguments to be without merit, unsupported, irrelevant, and procedurally improper. He also disobeyed court orders requiring him to limit his appeals. In federal court, he improperly presented claims that were barred from collateral attack.

These actions caused serious harm, wasting judicial resources and unnecessarily burdening opposing parties, including two appellate court justices who had ruled against him.

In addition to maintaining unjust actions, being sanctioned for them, and failing to report the sanctions, he threatened criminal charges against his opponents. Further, his communications with opposing attorneys were very unprofessional. All of these actions by Thomas demonstrate that he is unable to conform to his ethical responsibilities. He fails to realize that his actions go beyond zealous advocacy, which leads us to no other conclusion than he will likely continue to abuse the legal system. Therefore, he meets the requirements of standard l .7(b). Using that standard to enhance the presumed sanction of actual suspension under standard 2.9(a) for maintaining an unjust action without demonstrating a pattern, we find that recommending disbarment is still appropriate.

We agree with the hearing judge that Thomas's misconduct is highly comparable to the misconduct in *In the Matter of Kinney, supra,* 5 Cal. State Bar Ct. Rptr. 360 and *Jn the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179, even though Kinney and Varakin were both culpable of moral turpitude violations in addition to maintaining unjust actions. Both Kinney and Varakin were culpable of violating section 6068, subdivision (c), and were disbarred despite lengthy years in practice without prior discipline. Thomas's misconduct is less extensive than both Kinney's and Varakin's misconduct, but *Kinney* and *Varakin* do not establish a minimum level of misconduct necessary to justify disbarment as an appropriate sanction for maintaining an unjust action, and no precedent requires that a moral turpitude finding is a requisite for disbarment in such cases. In this matter, recommending disbarment is appropriate under standards l.7(b) and 2.9(a).

We emphasize that Thomas has shown a lack of insight into the wrongfulness of his actions. We are troubled that he has declared he will continue to litigate issues that have already been foreclosed by the courts. He has become embroiled in the issues surrounding this litigation and has shown he is unable to refrain from engaging in frivolous litigation. Court orders sanctioning him have not deterred him from filing frivolous litigation.23 Thomas has committed five separate and serious ethical violations, causing significant harm with indifference to his misconduct. Accordingly, protection of the public, the courts, and the legal profession calls for us to recommend Thomas's disbarment.

VII. **RECOMMENDATIONS**

We recommend that Jeffrey Gray Thomas, State Bar Number 83076, be disbarred from the practice of law in California and that his name be stricken from the roll of attorneys.

CALIFORNIA RULES OF COURT, RULE 9.20

We further recommend that Jeffrey Gray Thomas be ordered to comply with the requirements of California Rules of Court, rule 9 .20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter. 24

MONETARY SANCTIONS

We do not recommend the imposition of monetary sanctions in this matter, as this matter was commenced before April 1, 2020. (Rules Proc. of State Bar, rule 5. l 37(H).)

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23 We do not recommend Thomas be ordered to pay the sanctions as OCTC requests in light of our disbarment recommendation and because the state courts have already ordered such payments. *(In the Matter of Schooler* (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 494, 498.)24 For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. *(Athearn v. State Bar* (1982) 32 Cal.3d 38, 45)

Further, Thomas is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court filed its order in this proceeding. *(Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

COSTS

We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment, and may be collected by the State Bar through any means permitted by law. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

VIII. ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

The order that Jeffrey Gray Thomas be involuntarily enrolled as an inactive attorney of the State Bar pursuant to section 6007, subdivision (c)(4), effective May 28, 2021, will remain in effect pending consideration and decision of the Supreme Court on this recommendation.

McGILL, J.
WE CONCUR:
HONN, P. J.
STOVITZ, J.*

•Retired Presiding Judge of the State Bar Court, serving as Review Judge Pro Tem by appointment of the California Supreme Court.

No. 15-0-14870; SBC-20-0-00029 (Consolidated)
In the Matter of
JEFFREY GRAY THOMAS
Hearing Judge
Hon. Cynthia Valenzuela
Counsel for the Parties
For Office of Chief Trial Counsel: Alex James Hackert, Esq.
Office of Chief Trial Counsel
The State Bar of California
845 S. Figueroa Street
For Respondent
Los Angeles, CA 90017-2515

Jeffrey Gray Thomas, Esq., in pro. per.
Attorney at Law

201 Wilshire Boulevard, Floor 2
Santa Monica, CA 9040 1-1219

CERTIFICATE OF ELECTRONIC SERVICE

(Rules Proc. of State Bar, rule 5.27.1.)
I, the undersigned, certify that I am a Court Specialist of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, on August 26, 2022, I transmitted a true copy of the following document(s):

OPINION AND ORDER FILED AUGUST 26, 2022

by electronic service to ALEX J. HACKERT at the following electronic service address as defined in rule S.4(29) and as provided in rule 5.26.1 of the Rules of Procedure of the State Bar: Alex.Hackert@calbar.ca.gov

by electronic service to JEFFREY GRAY THOMAS at the following electronic service address as defined in rule 5.4(29) and as provided in rule 5 .26. l of the Rules of Procedure of the State Bar: usoldit@hotmaiI.com

The above document(s) was/were served electronically. My electronic service address is

ctroomA@statebarcourt.ca.gov and my business address is 845 South Figueroa Street, Los Angeles, CA 90017.
1 declare, under penalty of perjury under the laws of the State of California, that the information
above is true and correct.
Date: August 26, 2022
Mel Zavala
Court Specialist
State Bar Court, Review Department

#5 Decision of Hearing Dept. May 27, 2021

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of
JEFFREY GRAY THOMAS,
State Bar No. 83076.
)
)
)
)
)
)
Case Nos. 15-O-14870;
SBC-20-O-00029 (Cons.)-CV
DECISION AND ORDER OF
INVOLUNTARY INACTIVE
ENROLLMENT

Introduction

In these consolidated contested disciplinary matters, the Office of Chief Trial Counsel of the State Bar of California (OCTC) charged respondent Jeffrey Gray Thomas (Respondent) with seven counts of misconduct. After dismissing two counts on OCTC's motions, the court concludes the record clearly and convincingly supports Respondent's culpability as to the remaining five. These include counseling and maintaining unjust actions and defenses; threatening criminal charges to gain an advantage in a civil suit; failing to obey court orders; and failing to report court-ordered sanctions to the State Bar. In light of the seriousness and harm caused by Respondent's ethical violations—stemming from his relentless pursuit of frivolous

litigation in multiple courts since 2013—and Respondent's steadfast

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[1] Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.) This "standard of proof . . . which requires proof making the existence of a fact highly probable – falls between the 'more likely than not' standard commonly referred to as a preponderance of the evidence and the more rigorous standard of proof beyond a reasonable doubt." (*Conservatorship of O.B.* (2020) 9 Cal.5th 989, 995.)

refusal to curb his abusive tactics, the court concludes his disbarment is necessary and appropriate to protect the public, the courts, and the legal profession.

Significant Procedural History

On September 2, 2016, OCTC filed the notice of disciplinary charges (First NDC) charging Respondent with two counts of professional misconduct in case No. 15-O-14870.[2] On October 17, 2016, the court granted Respondent's unopposed motion to abate the disciplinary matter, pending resolution of the related civil proceedings. While proceedings were abated, on January 19, 2017, Respondent filed his response to the First NDC, including a motion to dismiss the charges. The motion to dismiss remained pending during the abatement.

OCTC filed a second notice of disciplinary charges (Second NDC) on January 21, 2020, charging Respondent with five additional counts of misconduct, and initiating case No. SBC-

20-O-00029. On February 24, 2020, the court terminated the abatement in case
No. 15-O-14870. The next day, OCTC filed a motion to consolidate the two matters. And, on March 3, 2020, Respondent moved to dismiss four of the five Second NDC counts and submitted an opposition to OCTC's motion to consolidate.[3]

Shortly thereafter, the matters were abated due to the COVID-19 pandemic, pursuant to Hearing Department General Orders 20-22 and 20-23, issued March 17, and 27, 2020, respectively. OCTC's motion to consolidate and both of Respondent's motions to dismiss remained pending during the abatement, which was lifted on June

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[2] Case No. 15-O-14870 initially was assigned to State Bar Court Judge Donald F. Miles. Effective October 26, 2018, it was reassigned to the undersigned for all purposes.

[3] In both the motion to dismiss and opposition to the motion to consolidate, Respondent advanced substantive challenges to the Second NDC allegations. Though he did not submit a response to the Second NDC separately from this motion to dismiss and opposition to consolidation, Respondent's denial of the charges was clear, and OCTC did not seek his default based on the failure to file a formal response to the Second NDC.

29, 2020. By orders issued August 28, 2020, the court denied the motions to dismiss and granted the motion to consolidate these related proceedings.

Beginning February 24, 2021, the court held a three-day disciplinary trial.[4] The parties filed their respective closing briefs on March 15, 2021.

Motions to Dismiss Counts Two and Five of the Second NDC

At trial, OCTC orally moved to dismiss Count Five of the Second NDC. In its closing brief, OCTC seeks to dismiss Second NDC Count Two. Pursuant to rule 1.124(A) of the Rules of Procedure of the State Bar, OCTC's motions to dismiss Second NDC Counts Two and Five are granted. (See Rules Proc. of State Bar, rule 1.124(A) [charging party may move for voluntary dismissal of proceeding, in whole or in part, due to insufficient evidence].)

Motion to Strike Closing Brief

On March 15, 2021, OCTC filed an Objection to, and Motion to Strike, Respondent's closing argument brief. OCTC asserts Respondent improperly presented and relied on evidence that is not part of the record in this matter. The court agrees. Moreover, Respondent has not moved to reopen the record, nor demonstrated a basis to do so. (See Rules Proc. of State Bar, rule 5.113.) Accordingly, OCTC's motion to strike is granted in part: to the extent Respondent's arguments are based on facts and evidence outside the record in this case, they are hereby stricken. However, OCTC's request to strike Respondent's brief in its entirety is denied. The court will consider Respondent's closing brief to the extent it is based upon evidence in the record.[5]

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[4] Following the COVID-19 abatement, trial was reset for mid-October; but, on October 8, 2020, the court granted Respondent's unopposed motion to continue proceedings.

[5] OCTC points out also that Respondent's brief exceeds the 20-page limit the court imposed on both parties. Despite this, in the interest of judicial expediency, the court will exercise its discretion to consider Respondent's closing brief, to the extent it is based on the record.

Findings of Fact and Conclusions of Law

The following findings of fact are based on the documentary and testimonial evidence admitted at trial.
Respondent was admitted to the practice of law in California on November 29, 1978, and has been a licensed attorney at all times since.

Evidentiary Record in the Present Disciplinary Proceeding

Because the ethical violations at issue here stem from Respondent's conduct in various civil proceedings, the record in this disciplinary matter includes certified court records and court reporter's transcripts from the relevant civil actions identified herein.

In State Bar Court disciplinary proceedings, "the application of principles of collateral estoppel with respect to prior civil findings does not modify the fundamental requirement that, to establish a disciplinary violation, OCTC must prove each element of a charged violation by clear and convincing evidence." (*In the Matter of Kittrell* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195, 203.) To the extent civil findings are made based on proof under a lesser evidentiary standard,

they are not given preclusive effect; even so, this court affords them a strong presumption of validity, if they are supported by substantial evidence. (*Maltaman v. State Bar* (1987) 43 Cal.3d 924, 947; *In the Matter of Kinney* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 360, 365.) In addition, this court "may rely on a court of appeal opinion to which an attorney was a party as a conclusive legal determination of civil matters which bear a strong similarity, if not identity, to the charged disciplinary conduct." (*In the Matter of Kinney*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 365, internal quotations omitted.)

In this disciplinary case, the court has applied the clear and convincing standard of proof to independently assess the records admitted from the relevant civil proceedings, resolving all reasonable doubts in Respondent's favor. (See *In the Matter of Kittrell*, *supra*, 4 Cal. State Bar Ct. Rptr. at p. 206; *In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 934.) In addition, Respondent was given fair opportunity to present evidence to contradict, temper, or explain all admitted records from the various civil proceedings. (See *In the Matter of Kittrell*, *supra*, 4 Cal. State Bar Ct. Rptr. at p. 206.) After considering the evidence in this case, the court determines the findings discussed herein, made in the other relevant court proceedings, are supported by substantial evidence. Affording a strong presumption of validity, the court concludes these findings are supported and adopts them. (*Maltaman v. State Bar*, *supra*, 43 Cal.3d at p. 947; *In the Matter of Kinney*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 365.)

Credibility Determinations

There are four key witnesses with respect to the dispositive issues in this disciplinary proceeding: (1) Respondent, (2) Hugh Gibson, (3) Rosario Perry, and (4) Norman Solomon. During the trial of this matter, the court closely observed the testimony of Gibson, Perry, and Solomon—considering, among other things, their demeanors; the manner in which they testified and character of their testimony; their interests in the outcome of this proceeding; and their capacities to perceive, recollect, and communicate the matters on which they testified.

After doing so, and evaluating each witness's testimony in the context of the record as a whole, the court finds that Gibson, Perry, and Solomon's testimony was clear, direct, specific, highly credible, honest, and forthright. (See Evid. Code, § 780; see also *In the Matter of Wright* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 219, 227 [court should declare how it weighs evidence and determines witness credibility].)

Factual Findings

This disciplinary matter has its genesis in litigation spanning over 18 years in multiple courts: state and federal courts at the trial and appellate levels, up to and including the denial of petitions for certiorari by the United States Supreme Court.

The litigation was initiated in or about 2003 over a dispute as to the ownership of property located at 1130 South Hope Street in Los Angeles (Property). Two of the parties claiming interests were True Harmony, Inc. (True Harmony) and 1130 Hope Street Investment Associates, LLC (Hope Street). In 2005, the Superior Court of California, County of Los Angeles entered judgment in *Hope Park Lofts, LLC, et al. v. Gladstone Hollar, et al.*, case No. BC244718, determining

that (1) Hope Street was the "sole owner" of the Property, (2) True Harmony had no interest in the Property that could be transferred or encumbered since October of 2003, and (3) attempts by True Harmony's predecessor or its representatives to transfer or encumber the Property were void. Hope Street subsequently sold the Property for over $1.6 million, and further litigation ensued.

The Hope Street Interpleader (Superior Court of Los Angeles County, Case No. BC466413)

To resolve competing claims to Property sale proceeds, on July 28, 2011, Hope Street filed an interpleader complaint in the Superior Court of California, County of Los Angeles, initiating case No. BC466413 (Interpleader). Hope Street named the various parties asserting rights to the proceeds as defendants, including Hope Park Lofts 2001-02910056 LLC (HPL), Norman Solomon,[6] Rosario Perry, and Ray Haiem. Initially representing himself, Haiem answered the Interpleader complaint and filed a cross-complaint against Hope Street. After Haiem failed to promptly serve the cross-complaint, the superior court warned that it would be dismissed if he did not do so. Beginning in October 2012, Respondent represented Haiem in the Interpleader. On November 9, 2012, Respondent failed to appear at an order to show cause hearing regarding dismissal of Haiem's cross-complaint. The superior court ordered the cross-complaint

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[6] Solomon was the principal officer of HPL.

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stricken. Notwithstanding that order, Respondent filed multiple motions to amend the stricken cross-complaint. Because Haiem's cross-complaint had been stricken, and no

active cross-complaint existed to be amended, these motions were procedurally improper and legally baseless. The court denied them for those reasons. Further, to the extent Respondent's motions could be construed as seeking leave to file an *initial*—rather than *amended*—cross-complaint, the court denied them on several grounds—most notably, because the claims in the stricken cross-complaint were barred by the doctrine of issue preclusion. This was because the court had conclusively determined, in a prior action, that Haiem had "no right to, interest in, or lien in the [P]roperty at all."

In February 2013, Haiem was dismissed from the Interpleader action. And, on May 22, 2013, the court entered an order directing that the Property sale proceeds be distributed to HPL and Rosario Perry.

On May 14, 2013, over six months after Haiem's cross-complaint had been stricken, Respondent filed a motion to vacate (Motion to Vacate) the November 9, 2012 order striking it. HPL's counsel, Hugh Gibson, advised Respondent that the Motion to Vacate was untimely and the court lacked jurisdiction to consider it. Gibson requested that Respondent withdraw the motion to avoid the unnecessary expense of litigating a plainly meritless motion. On December 4, 2013, the superior court denied the Motion to Vacate, as it was untimely filed. (See Code Civ. Proc., § 473, subd. (b).)

The Hope Street Interpleader Appeals and Sanctions Ordered on Appeal (Court of Appeal, Second Appellate District,[7] Case No. B254143)

Respondent initiated multiple actions on Haiem's behalf, seeking review of rulings in the Interpleader action.

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[7] Unless otherwise indicated, all references to the Court of Appeal refer to the California Court of Appeal, Second Appellate District.

In July of 2013, he filed a notice of appeal from the trial court's May 22, 2013 order directing distribution of the Property sale proceeds. The Court of Appeal dismissed it, as Haiem lacked standing to appeal the order.[8] On January 31, 2014, Respondent filed a notice of appeal of orders entered in the Interpleader on "12/4/13 and 5/22/13 (taken together)" and on "2/1/13 and 3/29/13 and 12/4/13 (taken together)" (Interpleader Appeal). Gibson made multiple attempts to convince Respondent to narrow the scope of the appeal to the December 4 order, as the appeals from the other orders all were either untimely or duplicative of the previously dismissed appeal. Gibson explained that, if Respondent did not do so, Gibson would file a motion to dismiss the appeal as to the other orders. Respondent responded only with unproductive rancor. He ignored Gibson's warnings and filed an opening brief on appeal challenging the February 1, May 22, and December 4, 2013 orders. Gibson then filed a motion to dismiss the appeal as to the February 1 and May 22 orders, which the Court of Appeal promptly granted. The court also dismissed Respondent's appeal from the March 29 order. This dismissal was based on the court's lack of jurisdiction to review the untimely appeal of the March 29 order; in addition, the court noted, as a second basis for dismissal, that Respondent had not raised any points of error as to the March 29 order in the opening brief.

As to the single request for review that was properly before it—the appeal of the December 4 order denying the Motion to Vacate—the Court of Appeal affirmed the trial court's ruling

in an April 27, 2015 opinion. In addition, the court found the Interpleader Appeal, as a whole, was frivolous.

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8 Respondent also filed a petition for writ relief relating to the Interpleader; the petition was denied as untimely.

The court observed that Respondent's appeal of various orders "taken together" with the December 4, 2013 order was a transparent effort to circumvent the dismissal of his prior appeal of the May 22 order and impermissibly argue the merits of an order that was not timely appealed.

The Court of Appeal also noted Respondent's "unprofessional and at times outrageous conduct toward counsel for [HPL]," including gratuitous and unprofessional comments in response to Gibson's reasonable requests to limit the appeal to matters properly before the court and attempts to create a competent appellate record. This conduct highlighted Respondent's improper motives in prosecuting the appeal. In particular, Respondent's remarks to Gibson that he would only respond to a settlement offer and threatening that the work on the case "will increase exponentially" over time, revealed his intent to harass HPL and drive up costs.

Further, the Court of Appeal assessed: "this appeal indisputably has no merit." It noted that Respondent failed to cite any authority supporting his arguments and, instead, consistently cited to cases that do not stand for the propositions he asserted. In sum, the court concluded:

"this appeal is frivolous both because it is objectively devoid of merit and because it is subjectively prosecuted for an improper motive." Accordingly, the Court of Appeal imposed

judicial sanctions upon Respondent individually in the amount of $58,650, payable within 30 days from the date the remittitur issued.[9] Of this amount, the court specified that $48,650 was to reimburse HPL for its attorney's fees in defending the frivolous appeal; and the remaining $10,000 was "to discourage the type of inappropriate conduct displayed by Haiem and [Respondent] in this appeal."

This sanction, however, did not have the intended impact. Despite the unqualified rejection of the meritless Interpleader Appeal, which the Court of Appeal found

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[9] The court imposed the sanctions individually on Respondent, and not on his client, finding that "all of the unprofessional and abusive conduct" had been by Respondent, not Haiem.

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had a "high degree of objective frivolousness," on May 12, 2015, Respondent filed a 60-page petition for rehearing of the matter. The Court of Appeal denied it. Respondent then petitioned unsuccessfully for review in the California Supreme Court and the United States Supreme Court.

On August 21, 2015, the Court of Appeal issued its remittitur in the Interpleader Appeal, transferring jurisdiction back to the trial court. In response, on October 30, 2015, Respondent filed an 81-page motion to recall the remittitur. The Court of Appeal denied it three days later.

As addressed below, Respondent went on to file a federal lawsuit against two of the justices of the Court of Appeal that issued the Interpleader Appeal sanctions order, as well as HPL, Solomon, Perry, and Gibson.

Respondent has not paid any portion of the ordered $58,650 sanctions, although he is aware the order is final, nor has he reported them to the State Bar.

The Trial Court Sanctions Order in the Hope Street Interpleader (Superior Court of Los Angeles County, Case No. BC466413)

Before Respondent initiated the Interpleader Appeal, HPL had filed a motion in the underlying Interpleader action, seeking sanctions against him. The request for sanctions was based on Respondent's pursuit of the Motion to Vacate, with no basis in law or fact, even after Gibson advised that it was untimely.

The sanctions motion was held over until after the Court of Appeal issued its remittitur in the Interpleader Appeal. On August 24, 2016, the trial court granted HPL's motion. In doing so, the court determined that Respondent's claims in the Motion to Vacate were "without any legal or factual basis," that Respondent pursued the Motion to Vacate "after having been expressly warned that said motion was without merit and should be dismissed," and, that he did so "for the purpose of harassing [HPL] and needlessly driving up the costs of this litigation." The court imposed sanctions against Respondent, individually, in the amount of $40,870, plus 10 percent interest per year, from August 24, 2016. This included $22,810 for HPL's legal fees and $18,060 to deter repetition of similar conduct. (See Code Civ. Proc., § 128.7.) The order directed Respondent to pay these amounts "forthwith." Undeterred, on December 5, 2016, Respondent challenged the sanctions, filing a motion for clarification of, and relief from, the August 24, 2016 order. The superior court denied it.

Respondent has not paid any portion of the ordered sanctions, though he is aware the order is final.

The True Harmony Matter and Related Superior Court Sanctions Order (Superior Court of Los Angeles County, Case No. BC546574)

In May 2014, Respondent filed a lawsuit against Perry, Solomon, and HPL, on behalf of True Harmony, in the Superior Court for Los Angeles County (the True Harmony matter).

Respondent's August 26, 2016 Letter to Opposing Counsel

During the course of the True Harmony matter, Perry challenged True Harmony's complaint with an anti-SLAPP motion[10] and also joined in a demurrer. Thereafter, on or about August 26, 2016, Respondent sent a letter to Perry's attorneys, Gibson and Lisa Howard.

Respondent stated, in part:

Please be advised that YOU are guilty of mail fraud in violation of 18 U.S.C. § 1341 because YOU have not corrected the misrepresentation created by YOUR prior written notices for the dates of hearings on said motions by filing and serving written notices of the hearing dates that YOU have selected that are different from the dates that YOU have chosen.

Please be advised that YOU will be indicted, found guilty and sentenced to five years in the federal penitentiary for the mail fraud if YOU do not correct YOUR violations of the Code of Civil Procedure.

Despite Respondent's accusations and threats of criminal prosecution, both the anti-SLAPP motion and the demurrer were successful.

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10 An anti-SLAPP motion is a means to challenge a lawsuit that may infringe on constitutionally protected free speech and petitioning activities—i.e., a strategic lawsuit against public participation. (Civ. Proc. Code § 425.16, subd. (a); *Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 57-58.)

At trial in this disciplinary matter, Gibson credibly testified that he was concerned Respondent would cause him to have to deal with various authorities to address these unfounded charges. Gibson took the letter as a credible threat that Respondent would make the reports and feared that he would have to expend significant time and effort to defend them. While testifying before this court, Respondent agreed that the letter "was not the wisest letter to send" and that it was a symbol of his built-up frustration with the course of the litigation.

Respondent's Frivolous Motion for Reconsideration

In January of 2017, Respondent filed a second amended complaint in the True Harmony matter. Because the complaint was based on the same issues adjudicated in previous litigation, the defendants filed demurrers, which the court fully sustained. The court determined that the first alleged cause of action—seeking to invalidate previous court orders based on alleged extrinsic fraud—failed to state a claim upon which relief could be granted. As True Harmony had every

opportunity to litigate the purported fraud, and did specifically litigate the issue in a prior action, the claimed fraud was not extrinsic. (See *Caldwell v. Taylor* (1933) 218 Cal. 471, 476-477 [extrinsic fraud deprives aggrieved party of opportunity to litigate claims].)

Respondent's remaining causes of action were barred by the doctrine of res judicata. (See *Planning & Conservation League v. Castaic Lake Water Agency* (2018) 180 Cal.App.4th 210, 226 ["Res judicata, or claim preclusion, prevents relitigation of the same cause of action in a second suit between the same parties or parties in privity with them"].)

Thus, the court concluded the allegations in the True Harmony matter were "nothing more than another attempt to relitigate matters resolved in previous judgments." On April 7, 2017, the superior court entered judgment, dismissing the True Harmony matter with prejudice.

Respondent did not appeal the judgment within the required 60 days of its entry. Instead, he sought reconsideration of the court's ruling sustaining the demurrers (Motion for Reconsideration). Gibson tried to convince Respondent of the deficiencies and frivolousness of the motion—explaining, to no avail, that the court lacked jurisdiction to hear it because judgment had been entered. Respondent ignored Gibson. Meanwhile, in the absence of any appeal, on June 7, 2017, the True Harmony matter judgment became final.

On October 17, 2017, the court denied the Motion for Reconsideration, citing the exact reasons Gibson had pointed out in pleading with Respondent to withdraw it. Consequently, Gibson sought monetary sanctions. On November 30, 2017, the court granted the motion for sanctions, concluding

Respondent violated Code of Civil Procedure section 128.7 by pursuing the Motion for Reconsideration with no basis in law. The court rejected Respondent's various arguments—in support of the Motion for Reconsideration and in opposition to sanctions - as contrary to "clear and unambiguous authority" and "undisputed fact," lacking in "substantive merit," "irrelevant," "inapplicable," procedurally "improper," and "without merit." Ultimately, the superior court ordered Respondent, individually, to pay $23,350 for Solomon's reasonable attorney's fees and costs.

Though Respondent is aware the sanctions order is final, he has not paid any portion of the sanctions.

The True Harmony Matter Appeals and Sanctions Ordered on Appeal (Court of Appeal, Second Appellate District, Case No. B287017)

On December 18, 2017, Respondent filed two notices of appeal in the True Harmony matter (True Harmony Appeals)—one on behalf of True Harmony and one on behalf of himself.

Each sought review of three trial court orders: (1) an October 10, 2017 order denying True Harmony's request to submit supplemental briefing as to the Motion for Reconsideration; (2) the order issued on the same date denying the Motion for Reconsideration; and (3) the November 30, 2017 sanctions order. Gibson advised Respondent that the appeals were untimely and jurisdictionally improper, except as to Respondent's personal request for review of the November 30 sanctions order. The orders relating to the Motion for Reconsideration were not appealable (see Code Civ. Proc., § 1008, subd. (g)), and True Harmony lacked standing to appeal

the sanctions order, which was entered only against Respondent individually. Gibson implored Respondent to dismiss the meritless appeals, to avoid the unnecessary and inappropriate expense Gibson's client would incur to defend against them. Respondent refused.

Gibson then filed motions to dismiss True Harmony's appeal in its entirety and to dismiss Respondent's appeal as to the orders regarding the Motion for Reconsideration, both of which were granted. Moreover, as to the single procedurally proper appeal, the Court of Appeal affirmed the trial court's November 30 order imposing sanctions on Respondent.

In a December 13, 2018 opinion, the Court of Appeal found that Respondent had advanced frivolous arguments and repeatedly violated the court's order limiting the appeal's scope to the November 30, 2017 sanctions order.[11] The court elaborated: "It is evident from [Respondent's] pursuit of improper appeals and plain disobedience of our court orders that his briefing and motions are frivolous and intended to harass Solomon." In reaching this conclusion, the court noted that Respondent's "appellate filings were largely frivolous and done in violation of court orders and rules"; Respondent "sought to prosecute an appeal on behalf of a party that clearly lacked standing, and attack a judgment that had long become final"; Respondent's first opening brief, which was stricken, and improper portions of the second opening brief "indisputably ha[d] no merit" (internal quotations omitted); and Respondent's conduct "generated unnecessary and substantial costs for Solomon."

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[11] Ignoring the court's order striking True Harmony's appeal, Respondent filed an initial opening brief on behalf of both True Harmony and himself and argued the merits of the

underlying case and demurrer, rather than limiting his brief to the sanctions order. After the court granted a motion to strike Respondent's brief and ordered him to limit his arguments to the sanctions order, Respondent filed a second opening brief continuing to make arguments beyond the scope of the appeal.

Accordingly, the Court of Appeal ordered sanctions against Respondent in the amount of $65,480.64, to be paid within 90 days of the date of remittitur. This included $56,980.64 to Solomon for attorney's fees and $8,500 to Court of Appeal itself, to "reimburse costs of processing the various frivolous aspects of Respondent's] appellate filings."

Respondent filed a 47-page petition for rehearing of the True Harmony Appeals, which the Court of Appeal denied. He then filed successive petitions for review in the California Supreme Court and Supreme Court of the United States, both of which also were denied.

The Court of Appeal issued its remittitur as to the True Harmony Appeals on March 15, 2019. Respondent has not paid the sanctions ordered in the True Harmony Appeals, though he is aware the order imposing them is final.

The *Thomas v. Zelon* Matter
(U.S. District Court, Central District of California, Case No. 16-cv-6544-JAK)

On August 31, 2016, Respondent filed another lawsuit, this time in federal court. In this matter, Respondent sued two of the Court of Appeal justices who decided the Interpleader Appeal, as well as Solomon, Perry, HPL, Gibson, and others, alleging civil rights violations. He claimed the defendants

denied his rights to substantive and procedural due process, access to the courts, free speech, and equal protection under the law. Respondent sought a declaratory judgment that the Court of Appeal's April 27, 2015 order imposing sanctions in the Interpleader Appeal violated his constitutional rights, a permanent injunction prohibiting enforcement of the April 27, 2015 sanctions order, and monetary relief.

As Respondent's federal claims were "nothing more than an impermissible collateral attack on prior state court decisions," the district court dismissed the complaint, without leave to amend. (See *Ignacio v. Judges of the U.S. Court of Appeals* (9th Cir. 2006) 453 F.3d 1160, 1165 [explaining *Rooker-Feldman* doctrine].) Respondent appealed to the United States Court of Appeals for the Ninth Circuit, which affirmed the district court's dismissal in a March 22, 2018 memorandum disposition, concluding: "The district court properly dismissed [Respondent's] action as barred by the *Rooker-Feldman* doctrine because [his] claims stemming from the prior state court action constitute a 'de facto appeal' of prior state court judgments, or are 'inextricably intertwined' with those judgments. [Citations]." Respondent filed an unsuccessful petition for writ of certiorari with the United States Supreme Court to challenge this determination.

Thereafter, he filed a petition for rehearing in the United States Supreme Court, which also was denied.

Respondent's 2020 Federal Lawsuit Against Hope Street, Solomon, and Others (U.S. District Court, Central District of California, Case No. 20-cv-00170-JAK)

Despite the numerous adverse rulings and sanction orders, Respondent continues to litigate issues relating to the Hope

Street Property to this day. In January 2020, he filed another federal lawsuit, *True Harmony, et al. v. Department of Justice of the State of California, et al*., on behalf of himself, True Harmony, and Haiem, and against Solomon, Hope Street, HPL, Perry, the Department of Justice of the State of California, and others. In this lawsuit, Respondent seeks to again re-litigate claims relating to the Property and the previous legal actions.

Conclusions of Law[12]

Respondent has argued his positions profusely in this matter. Many of the arguments he articulated at trial and in his closing brief are convoluted and irrelevant to the charged misconduct and requested discipline. In reaching the following conclusions of law, the court has considered all of Respondent's arguments, whether or not specifically discussed herein, except those that rely entirely on facts outside the record.

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[12] The State Bar Rules of Professional Conduct were amended and renumbered, effective November 1, 2018. Unless otherwise indicated, all references to "former rules" refer to the Rules of Professional Conduct in effect before November 1, 2018, which govern Respondent's conduct before that date. In addition, all statutory references are to the Business and Professions Code, unless otherwise specified.

Respondent's Challenges to the Validity of Disciplinary Proceedings

At trial, and in his closing brief, Respondent raised various challenges to the validity of these proceedings. None are meritorious, and the court rejects them as follows.

First, Respondent claims that the court lacks jurisdiction, because these proceedings are not in the public interest and, instead, are solely of benefit to the private parties involved in the underlying litigation. He is incorrect. The misconduct charged in this matter implicates each of the primary purposes of discipline—protection of the public, the courts, and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession—all of which further the public's interests. Further, the Supreme Court has plenary jurisdiction to regulate attorneys in California (*Hallinan v. Committee of Bar Examiners* (1966) 65 Cal.2d 447, 253-254), and the State Bar Court functions as an adjudicative arm of the Supreme Court in determining disciplinary proceedings (*In the Matter of Acuna* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495, 500). The allegations in these proceedings thus fall squarely within this court's jurisdiction.

Second, Respondent asserts these proceedings are invalid because OCTC has "unclean hands" and, therefore, is judicially estopped from prosecuting the violations at issue. Essentially, Respondent argues that OCTC failed to investigate the alleged fraud that he claims was perpetrated by the parties to the underlying litigation, and that such investigation would demonstrate that he did not commit misconduct. The court rejects these claims. The record

contains no evidence that OCTC acted improperly in its investigations.[13]

Respondent's argument that he was entitled to a jury trial in this disciplinary matter also fails, as the constitutional right to a jury trial does not attach to these disciplinary proceedings.

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[13] Moreover, the evidence reflects that the parties and attorneys to the related civil matters were victims of Respondent's abuse, rather than perpetrators of any purported fraud.

(*In the Matter of Wells* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896, 911-912; see also *Van Sloten v. State* Bar (1989) 48 Cal.3d 921, 928 [rejecting constitutional due process challenges because the procedural safeguards provided by the Rules of Procedure of the State Bar sufficiently ensure due process].)

Finally, the court rejects Respondent's challenge to the remote trial of this matter by Zoom. As explained in the court's October 9, 2020 order overruling Respondent's identical objection, remote trial of this matter was authorized pursuant to emergency rule 3 of the California Rules of Court, effective April 6, 2020, to protect the health and safety of the public, due to the COVID-19 pandemic.

The court will not revisit these issues in the below discussions of Respondent's objections as to each of the specific charges.

First NDC (Case No. 15-O-14870)
Count One – Section 6103: Failure to Obey Court Order

Section 6103 provides that the willful disobedience or violation of a court order requiring an attorney to do or forbear an act connected with or in the course of the attorney's profession, which an attorney ought in good faith to do or forbear, constitutes cause for suspension or disbarment. In Count One of the First NDC, OCTC charges that Respondent willfully violated section 6103 by failing to comply with the April 27, 2015 sanctions order issued in the Interpleader Appeal.

Respondent admits he has not paid the ordered sanctions, but claims this was not willful misconduct, because the Court of Appeal "egregiously erred" in ordering sanctions. This argument fails. The essential elements of a willful violation of section 6103 are: (1) knowledge of a binding court order; (2) knowledge of what the attorney was doing or not doing; and (3) intent to commit the act or to abstain from committing it. (*In the Matter of Maloney and Virsik* (2005) 4 Cal. State Bar Ct. Rptr. 774, 787.) Here, Respondent was aware of the sanctions order, as evidenced by his many attempts to contest it. Yet, he did not pay the ordered sanctions within the period set forth in the order - within 30 days after issuance of the remittitur - nor at any time thereafter.

Respondent's attempts, in these proceedings, to collaterally challenge the merits of the final and binding sanctions order are improper. (*In the Matter of Collins* (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 551, 560 [attorney may not collaterally challenge civil court order in State Bar Court proceedings].) In addition, his claimed lack of financial ability to comply with the sanctions order does not negate Respondent's culpability. (*In the Matter of Respondent Y* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862, 868.) "In

the case of court-ordered sanctions, the attorney is expected to follow the order or proffer a formal explanation by motion or appeal as to why the order cannot be obeyed." (*In the Matter of Boyne* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 389, 403.)

Because Respondent had actual knowledge of the Court of Appeal's final and binding sanctions order and did not comply with it, he willfully violated section 6103.

Count Two – Section 6068, subd. (o)(3): Failure to Report Judicial Sanctions

Under section 6068, subdivision (o)(3), an attorney has a duty to report to the State Bar, in writing, the imposition of court-ordered sanctions of $1,000 or more against the attorney, which are not imposed for failure to make discovery. The attorney must do so within 30 days
after learning of the sanctions order. (§ 6068, subd. (o)(3).) OCTC alleges Respondent willfully violated this duty by failing to report the $58,650 sanctions order issued in the Interpleader Appeal. The court agrees.

Because the sanctions were unrelated to discovery and exceeded the statutory $1,000 threshold, Respondent was required to report them to the State Bar, in writing, within 30 days after learning of them. The record clearly and convincingly demonstrates Respondent's knowledge of the ordered sanctions, at latest, as of May 12, 2015, the date of his petition for rehearing seeking review of it. By failing to report the sanctions within 30 days thereafter, Respondent willfully violated section 6068, subdivision (o)(3).

Second NDC (Case No. SBC-20-O-00029)

Count One – Former Rule 5-100(A): Threatening Charges to Gain Advantage in Civil Suit

Former rule 5-100(A) provides that an attorney shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil suit. OCTC claims Respondent violated this rule by sending the August 26, 2016 letter threatening to present criminal charges against Gibson and Howard. Respondent contests this allegation. He asserts the letter is protected by the litigation privilege provided in Civil Code section 47, and therefore cannot serve as a basis for professional misconduct. In addition, Respondent argues that the letter contains his opinion only and did not imply that prosecution for the alleged criminal acts had been requested, begun, or would be dropped in exchange for an advantage in a civil action.

And, he testified that the purpose of the letter was merely to obtain clarification as to the demurrers filed in the True Harmony matter. These arguments are not persuasive.

To begin, the litigation privilege in Civil Code section 47 does not apply to disciplinary proceedings. (*Silberg v. Anderson* (1990) 50 Cal.3d 205, 212-214 [litigation privilege in Civil Code § 47, subd. (b), prohibits use of communications made during judicial proceedings as a basis for *tort liability*].)

Further, the court rejects Respondent's characterization of his statements in the letter as a simple expression of his opinions and request for clarification. In the letter, he expressly threatened that the recipients would be criminally indicted, found guilty, sentenced, and sent to prison if they did not take specified actions with regard to their demurrers to Respondent's client's complaint in the True Harmony matter.

Respondent's testimony that he sent the letter solely to obtain clarification is plainly incredible. The unambiguous message conveyed in the letter is that Respondent would report the recipients for alleged criminal violations—causing them, at minimum, extreme inconvenience in defending against the accusations—if they did not take certain actions as to the demurrers. This is precisely the type of communication that has been found to support culpability under former rule 5-100. (*In the Matter of Malek-Yonan* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627, 637 [attorney violated former rule 5-100 by sending letter asserting recipient was engaged in criminal activity and threatening to make recipient's conduct part of an investigation, although letter did not specifically state the attorney "was going to file criminal charges"].)

As such, the evidence clearly and convincingly establishes that Respondent sent the letter to intimidate and harass opposing counsel in the True Harmony matter and gain an advantage in that litigation. In doing so, he willfully violated former rule 5-100.

Count Three – Section 6068, subd. (c): Counseling and Maintaining Unjust Actions

Under section 6068, subdivision (c), an attorney has a duty to "counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just . . . ." OCTC charges that Respondent willfully violated this duty by: (1) making claims and arguments lacking any legal or factual basis in the Interpleader matter and pursuing the untimely Motion to Vacate; (2) filing the frivolous Interpleader Appeal, which he prosecuted for the improper motive of harassment; (3) filing the Motion for Reconsideration, which had no basis in law, in the True Harmony matter; and (4) pursuing the improper True

Harmony Appeals, and filing frivolous and harassing briefs and motions in doing so. Respondent opposes these claims on multiple grounds, each of which the court has considered and rejects.

First, as to the allegations relating to the Interpleader, Respondent asserts that he could not and did not maintain an unjust action, as his client was a defendant in that action. In addition, he argues that, because the stricken cross-complaint he pursued was never reinstated he did not "maintain an action," despite his attempts to do so. Respondent's narrow reading of section 6068, subdivision (c), is contrary to the statutory language, which precludes maintaining unjust or illegal "actions, proceedings, or defenses." (See also Black's Law Dict. (11th ed. 2019) [in court, a "proceeding" may include "all the steps taken or measures adopted in the prosecution or defense of an action"].) Moreover, Respondent's apparent position that, to be culpable, an attorney must be *successful* in prosecuting illegal or unjust legal positions is counter to the relevant case authority. Indeed, repeated pursuit of unsuccessful claims often is a hallmark of culpability under section 6068, subdivision (c). (E.g. *In the Matter of Schooler* (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 494, 503 [attorney culpable for filing frivolous appeals, which were dismissed]; *In the Matter of Kinney*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 365 [attorney who unreasonably pursued lawsuits "after unqualified losses at trial and on appeal" was culpable under § 6068, subd. (c)].)

Respondent argues further that section 6068, subdivision (c), does not provide notice that motions or appeals may constitute unjust actions and, accordingly, is unconstitutionally vague.

As noted, however, the plain language of the statute is broader than Respondent suggests. Moreover, the Supreme Court, which exercises independent review, has routinely imposed discipline based on violations of section 6068, subdivision (c), and has not invalidated it on constitutional or other grounds. (Cf. *In the Matter of Acuna*, *supra*, 3 Cal. State Bar Ct. Rptr. At p. 501.) For these reasons, Respondent's argument is unconvincing.

Finally, Respondent argues that the fact that he was sanctioned for filing frivolous motions and appeals does not necessarily demonstrate that he violated section 6068, subdivision (c). He is correct. But, as discussed, a civil court's findings are entitled to great weight when supported by substantial evidence, as the relevant findings are here. (*Maltaman v. State Bar*, *supra*, 43 Cal.3d at p. 947; see also *In the Matter of Kinney*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 365.) The superior court and Court of Appeal conclusions that Respondent advanced frivolous claims for improper purposes in the interpleader, Interpleader Appeal, True Harmony matter, and True Harmony Appeals are clearly and convincingly supported by the record in this disciplinary proceeding.

A legal claim is frivolous if it is "not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law." (*Peake v. Underwood* (2014) 227 Cal.App.4th 428, 440.) In the appellate context, an action is frivolous "when it is prosecuted for an improper motive—to harass the respondent or delay the effect of an adverse judgment—or when it indisputably has no merit—when any reasonable attorney would agree that the appeal is

totally and completely without merit." (*In re Marriage of Flaherty* (1982) 31 Cal. 3d 637, 650 [describing subjective and objective bases to find an appeal frivolous].)

Here, in the Interpleader, Respondent filed two fatally deficient motions to amend a cross-complaint that already had been stricken and pursued the untimely Motion to Vacate the order striking the cross-complaint. Respondent's challenges to the cross-complaint dismissal were legally improper, not only due to their obvious procedural invalidity, but also because the claims in the cross-complaint were barred by the doctrine of res judicata, having been determined unfavorably in a prior action. Despite this, he then filed and maintained the frivolous Interpleader Appeal, challenging several unreviewable orders and the legally unassailable order denying the Motion to Vacate. He went on to pursue baseless challenges to the Court of Appeal's rejection of his claims.

In the True Harmony matter, Respondent initiated and pursued the frivolous Motion for Reconsideration, over which the trial court lacked jurisdiction as a matter of established law. Moreover, the motion sought reconsideration of an order that was indisputably correct, sustaining demurrers as to claims that had been previously litigated to finality and rejected.

Respondent then initiated and maintained the True Harmony Appeals, attempting to challenge the jurisdictionally unreviewable orders relating to the frivolous Motion for Reconsideration. He sought review, on behalf of True Harmony, of a sanctions order it lacked standing to challenge.

And, he continued to pursue these improper appeals, ignoring the Court of Appeal's orders dismissing them and striking his opening brief arguing issues not properly before the court.[14]

In sum, Respondent initiated and maintained multiple claims and defenses, at the trial and appellate levels, that unambiguously were foreclosed by legal authority. He lacked any good faith basis to assert the law should be applied in his or his clients' favor, yet pursued unsupported arguments anyway, for the improper purposes of driving up costs and harassing other involved parties and counsel. Though he repeatedly was informed of the deficiencies in his claims, both by opposing counsel and the courts, he continued to assert them. By employing these abusive litigation tactics, Respondent willfully violated section 6068, subdivision (c).

Count Four – Section 6103: Failure to Obey Court Order

In Count Four of the Second NDC, OCTC charges Respondent with willfully violating section 6103 (willful disobedience of court order is cause for disbarment or suspension), by failing to comply with the superior court's August 24, 2016, and November 30, 2017 orders

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[14] The court notes that Respondent's own appeal—filed in his individual capacity—of the True Harmony matter sanctions order was neither procedurally improper nor frivolous on its face. Certainly, it may be reasonable for an attorney to seek review of an order imposing over $23,000 in sanctions against him. Rather, it is the nature of Respondent's pursuit of the appeal in conjunction with the other improper appeals, disregarding the Court of Appeal's orders narrowing the scope and continuing to intermingle arguments relating to the dismissed appeals

with those relating to the sanctions order, that was improper and unjust.

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imposing sanctions in the Interpleader and True Harmony matters, respectively, and the December 13, 2018 sanctions order in the True Harmony Appeals. Respondent concedes he has not paid the ordered sanctions. Still, he contests the alleged culpability, on the same bases he raised in opposition to First NDC Count One. As discussed above, these arguments fail.

Clear and convincing evidence demonstrates that Respondent failed to comply with the orders at issue, which he knew were final and binding.[15] Accordingly, he is culpable as charged in Count Four.

Aggravation and Mitigation[16]

OCTC must establish aggravating circumstances by clear and convincing evidence. (Std. 1.5.) Respondent bears the same burden to prove mitigation. (Std. 1.6.) Here, the aggravating circumstances significantly outweigh the mitigation. Respondent's misconduct is substantially aggravated by his multiple acts of wrongdoing, forming a pattern; the significant harm he caused to the public and the administration of justice; and his lack of insight and indifference to the consequences of his ethical violations. The record supports only minimal mitigation, based on Respondent's history of practice without prior discipline.

Aggravation Multiple Acts and Pattern of Misconduct (Std. 1.5(b), (c))

Respondent engaged in multiple, discrete acts of wrongdoing by repeatedly pursuing unsupported legal claims in multiple legal proceedings, making improper threats, disobeying [15] At trial, Respondent testified that he did not learn of the August 24, 2016 sanctions order, directing him to pay $40,870 in sanctions "forthwith," until he received an investigative letter about it from OCTC in October or November of 2016. There is no question Respondent knew about the sanctions order in December of 2016, however, when he sought relief from it, and he has not paid the sanctions during the more-than-four years since.

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[16] All references to standards (Stds.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

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four court orders, and failing to report the Interpleader Appeal sanctions order. (See Std. 1.5(b); *In the Matter of Song* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273, 279 [multiple discrete acts of wrongdoing supporting a single count of misconduct warrant aggravation]; see also *In the Matter of Kinney*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 368) Further, he demonstrated a pattern of misconduct by repeatedly advancing and maintaining frivolous legal positions in various proceedings—beginning in 2013, and continuing, unabated, to this day—abusing the justice system, making improper threats, and consistently disregarding the numerous court orders directed at curbing his improper conduct. (See std. 1.5(c); *In the Matter of Kinney*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 368 [attorney who repeatedly pursued vexatious litigation over more than six years engaged in multiple acts of wrongdoing and pattern of misconduct]; *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar

Ct. Rptr. 498, 555 ["Finding a pattern of misconduct or multiple acts of wrongdoing is not limited to the counts pleaded"].) For these reasons, the court assigns substantial aggravation, collectively, under standards 1.5(b) and (c).

Significant Harm (Std. 1.5(j))

Respondent's misconduct at issue in this proceeding caused significant harm to the public and the administration of justice, warranting substantial aggravation under standard 1.5(j). (See *In the Matter of Kinney*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 368.)

Through his relentless litigation campaign, Respondent intentionally caused expenditure of excessive amounts of time and money by opposing counsel and parties, and the courts in which he litigated. This is illustrated poignantly by the fact that he has been sanctioned $188,350.64, all of which remains unpaid, including $8,500 to reimburse the Court of Appeal for the administrative costs Respondent generated.[17]

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[17] Gibson testified also that, because Respondent sued him personally, he had to report the litigation to his malpractice insurance carrier and pay an initial $5,000 for his defense before the insurance kicked in. Because no misconduct is specifically charged as to the cases in which

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In addition, as established by witness testimony, Respondent's misconduct caused stress and emotional harm to Solomon, Perry, and Gibson, who were forced to defend against the same meritless claims over and over. Solomon testified that his experience with the underlying litigation has been "horrible" and stressful physically, emotionally, and financially. He described the distress and futility he feels, as

Respondent repeatedly sues him for significant damages, against which Solomon has no choice but to defend, and seeks review of each adverse ruling through writ petitions and/or appeals—all the way up to the United States Supreme Court—with no regard for court orders or imposed sanctions. As a result, Solomon has incurred over $700,000 in legal fees that he has no idea how he will pay. In addition, the ongoing litigation has negatively affected Solomon's business, as he must disclose it each time he applies for a loan. Perry, too, testified that Respondent's conduct in suing him repeatedly and threatening to report him to government agencies, based on unfounded criminal accusations, has caused him emotional disturbance, consuming hundreds of hours of Perry's time and resulting in a great deal of stress. Gibson testified that, in his five decades of handling hundreds of contentious litigation matters, he has never before experienced the kind of harassment Respondent engaged in.

Finally, not only did Respondent unjustifiably burden the individuals involved in his frivolous litigation campaign, but he clogged the court system for manifestly improper purposes, resulting in outrageous waste of judicial resources.

Indifference and Lack of Insight (Std. 1.5(k))

Respondent's misconduct is aggravated further by his utter failure to accept responsibility for his actions and atone for the resulting harm. (Std. 1.5(k).) Respondent named Gibson as a defendant, however, the court does not consider this harm in assessing aggravation.

Throughout these discipline proceedings, Respondent has refused to acknowledge the wrongfulness of his conduct and,

instead, blamed others: opposing parties, counsel, the courts, and OCTC. He testified that his conduct in the underlying litigation was moral and correct and characterized himself as a victim. For example, Respondent claimed that he was "roasted" by a "gross error of the Court of appeal" and was at the "butt-end of a litigation machine, a juggernaut." Respondent admits he has made no payments towards the court-ordered sanctions, insisting the sanctions orders are invalid and void, as "traps placed by wealthy and influential people."

As to the charged ethical violations, he opined that OCTC is simply "filling the void" and observed that he does not understand why they are coming after him and not after "rich" attorneys like Perry and Solomon. Of utmost concern, Respondent announced in his closing arguments before this court that he will "stick to [his] guns" and continue to pursue litigation of the same issues. His unwillingness to consider the inappropriateness of his positions goes "beyond tenacity to truculence" (*In re Morse* (1995) 11 Cal.4th 184, 209), presenting a significant risk of continued professional misconduct. (See also *In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511 [law does not require "false penitence" but "does require that the respondent accept responsibility for his acts and come to grips with his culpability"].)

Based on his gross lack of insight as to the wrongfulness of his actions and indifference to the consequences, the court assigns substantial aggravation under standard 1.5(k).

Mitigation
Lack of Prior Discipline (Std. 1.6(a))

Standard 1.6(a) provides that the absence of any prior discipline record over many years of practice, coupled with present misconduct that is not likely to recur, is a mitigating circumstance. When the misconduct at issue is serious, a prior record of discipline-free practice is most relevant where the misconduct is aberrational and unlikely to recur. (*Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029.)

Before the start of the current misconduct, Respondent practiced law for nearly 35 years, discipline-free. However, the current misconduct is quite serious. And, as discussed, Respondent expressly declared, at the close of trial in this matter, that he will not cease his litigation of previously rejected legal claims. On this record, the court finds minimal mitigation, at most, based on Respondent's lack of prior discipline. (See *In the Matter of Song*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 279 [limited mitigation for prior discipline-free practice, where misconduct not proven to be aberrational]; *In the Matter of Kinney*, *supra*, 5 Cal. State Bar Ct. Rptr. at p. 368 [no mitigation for attorney's 31 years of discipline-free practice because pattern of serious misconduct was highly likely to recur].)

Good Moral Character (Std. 1.6(f))

Under standard 1.6(f), the court may assign mitigating credit to a respondent who proves "extraordinary good character attested to by a wide range of references in the legal and general communities, who are aware of the full extent of the misconduct" at issue.

At trial, Respondent presented live testimony from four character witnesses. In documentary evidence, he submitted character letters from two of the witnesses who testified at

trial and two who did not. Respondent's witnesses have known him for many years and generally reported that he is honest, of good moral character, and dedicated to his clients. Some said they would recommend, or had recommended, Respondent's services to others. Still, one witness—a certified public accountant and business investor who has known Respondent for roughly 20 years—expressed qualifications as to Respondent's interpersonal and legal skills. He testified that, while Respondent generally is trustworthy, he sometimes does not get along with others; and, the quality of his work and attention to detail can be inconsistent. He suggested that Respondent would be better suited to handling simpler legal matters, and that while Respondent has "amazing ability" and some "genius", it is genius bordering on "insanity."

Further, though their professional backgrounds varied, Respondent's character witnesses do not represent a wide range of references vis-à-vis Respondent: they all are current or former clients. (See *In the Matter of Myrdall* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 387 [three attorneys and three clients, as character witnesses, were not a broad range of references from the legal and general communities].) In addition, and importantly, the witnesses were unaware of any details about the alleged ethical violations. (See *In re Aquino* (1989) 49 Cal.3d 1122, 1131 [character evidence from witnesses unfamiliar with charges is not significant in determining mitigation].) Those who appeared at trial testified that they knew he had been sanctioned, but were unaware of the bases for the sanctions or of the nature of the current disciplinary charges. Similarly, the letters from the two witnesses who did not appear at trial contained no indication that they were aware of the nature of the alleged misconduct. Due to these deficiencies, the court assigns no mitigating credit under standard 1.6(f).

Discussion

The purpose of attorney discipline is not to punish the attorney but to protect the public,the courts, and the legal profession; to maintain the highest professional standards; and to preserve public confidence in the legal profession. (Std. 1.1; *Chadwick v. State Bar* (1989) 49
Cal.3d 103, 111.)

Based on Respondent's serious misconduct and the substantial aggravation, OCTC seeks his disbarment. Respondent, in contrast, requests dismissal of all charges. He did not argue for any particular level of discipline in the event he was found culpable.

The court's discipline analysis begins with the standards, which promote the consistent and uniform application of disciplinary measures and are entitled to great weight. (*In re Silverton* (2005) 36 Cal.4th 81, 91 [Supreme Court will not reject recommendation arising from standards absent grave doubts as to propriety of recommended discipline].) The court may deviate from the standards only when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

If aggravating or mitigating circumstances are found, they should be considered alone and in balance with any other aggravating or mitigating factors. (Std. 1.7.)

In this case, standards 2.9(a) and 2.12(a) are most apt.18 Standard 2.9(a) provides that, when a lawyer maintains or counsels a frivolous claim or action for an improper purpose,

resulting in significant harm to the administration of justice or to an individual, actual suspension is the presumed sanction. If the misconduct demonstrates a pattern, disbarment is appropriate.

(Std. 2.9(a).) Under standard 2.12(a), disbarment or actual suspension is the presumed sanction for disobedience or violation of a court order related to an attorney's practice of law, the attorney's oath, or certain duties required of an attorney under section 6068 and the State Bar Rules of Professional Conduct.

There is no doubt Respondent's misconduct has caused tremendous harm, waste, and expense to the courts and parties subjected to his tactics. Further, his repeated pursuit of frivolous legal actions—repetitively recycling previously rejected arguments, while consistently defying court orders aimed at curbing his improper conduct—demonstrates a pattern. The court recognizes that the finding of a pattern is reserved for the most serious instances of repeated misconduct over prolonged time periods. (*Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149, fn. 14.) Still, Respondent's extensive and unrelenting abuse of the justice system, since 2013,

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18 Where multiple sanctions apply, the most severe shall be imposed. (Std. 1.7.)

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involving harassment and threats to other parties and counsel, and habitual disregard for court orders, is worthy of this label. (See *In the Matter of Kinney*, *supra*, 5 Cal. State Bar Ct. Rptr. At p. 368.) Thus, under standard 2.9(a), his disbarment is appropriate.19

The relevant decisional law also supports this result. (*In the Matter of Taylor* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563, 580 [court looks to case law, in addition to standards, to determine appropriate discipline].)

For example, in *In the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179, 183, an attorney with no prior record of discipline in more than 30 years before the misconduct was disbarred for filing frivolous motions and appeals in four different cases over 12 years. In litigating these matters, Varakin repeatedly misstated facts and failed to reveal prior adverse rulings, failed to follow court rules, and flouted the authority of the courts. (*Id.* at p. 186.) The Review Department concluded that "[s]uch serious, habitual abuse of the judicial system constitutes moral turpitude." (*Ibid.*) Like Respondent, Varakin was proud of his misconduct and persisted in his improper litigation tactics despite many sanctions. (*Id.* at pp. 183, 190.) Within four years, Varakin was sanctioned more than $80,000, which he failed to report to the State Bar but did pay. (*Id.* at p. 184.) Stressing Varakin's abuse of the judicial system, lack of repentance, and obdurate persistence in misconduct, the Review Department concluded that no discipline less than disbarment was consistent with the goals of maintaining high ethical standards for attorneys and preserving public confidence in the legal profession. (*Id.* at pp. 190-191.)

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19 Furthermore, even if the Respondent's misconduct did not qualify as a pattern, the court nevertheless would conclude his disbarment is appropriate and necessary to serve the primary purposes of discipline. Disbarment is included in the presumed-sanction range of standard 2.12(a), which applies to Respondent's misconduct. And, as discussed below, the court concludes no lesser sanction will prevent Respondent's further

misconduct. (Cf. Std. 1.7(b) [greater sanction appropriate when there is serious harm to public, legal system, or profession, and attorney is unwilling or unable to conform to ethical responsibilities].)

Similarly, in *In the Matter of Kinney, supra*, 5 Cal. State Bar Ct. Rptr. at p. 363, disbarment was the appropriate sanction for an attorney culpable of maintaining unjust actions and moral turpitude, based on his pursuit of frivolous litigation and appeals over more than six years, which he continued despite being declared a vexatious litigant. Kinney's pattern of misconduct significantly harmed the public and the administration of justice and was further aggravated by his failure to accept responsibility or atone for his actions. (*Id.* at p. 368.) Given the seriousness of the misconduct and Kinney's "total lack of insight into his harmful behavior," the Review Department concluded that, despite his 31 years of prior discipline-free practice, disbarment was the only sanction that would adequately protect the public, the courts, and the legal profession. (*Id.* at pp. 368-369.) Though Varakin and Kinney both were culpable of moral turpitude, which was not charged in the present matter, the nature of Respondent's misconduct remains highly comparable to that in those cases. Like Varakin and Kinney, Respondent pursued improper litigation tactics for years, for purposes of delay and harassment. In doing so, he regularly cited to authorities that did not support his positions, failed to follow the relevant procedural laws, and disobeyed court orders. Respondent also lacks any insight into the wrongfulness of his actions or concern for the harm caused. Unlike Varakin, Respondent has not paid any portion of the sanctions ordered against him. He instead is vengeful and spiteful towards the victims. Even during the trial in this disciplinary case, he blamed his actions on the underlying courts' lack of understanding of the issues;

indeed, he has filed lawsuits against two Court of Appeal justices. Moreover, Respondent has been wholly unresponsive to the courts' efforts to curb his misuse of the judicial system. He continues to litigate previously rejected issues, and pledged during trial that he will not stop. In fact, there is clear and convincing evidence of his ongoing misconduct even as of the final day of trial in this case.

Respondent earnestly believes he is an avenger of justice, working to protect the rights of his charity client, True Harmony. Attorneys have a duty to zealously represent their clients and assert unpopular positions in advancing their clients' legitimate objectives. But, as officers of the court, attorneys also have a duty to the judicial system to assert only legal claims or defenses that are warranted by the law or are supported by a good faith belief in their correctness. (*In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 591.) Respondent has decidedly crossed the line from zealous advocacy to abusing the system. In light of his serious misconduct and steadfast refusal to cease these improper practices, the court concludes no sanction short of disbarment will protect the public, the courts, and the administration of justice.

RECOMMENDATIONS

It is recommended that Jeffrey Gray Thomas, State Bar Number 83076, be disbarred from the practice of law in California and that his name be stricken from the roll of attorneys.

It is further recommended that Respondent be required to pay court-ordered sanctions to the following payees:

(1) Hope Park Lofts, 2001-02910056, LLC, in the amount of $58,650, as ordered in *1130 Hope Street Investment Associates, LLC v. Haiem, et al.*, Court of Appeal, Second Appellate District, case No. B254143;
(2) Hope Park Lofts, 2001-02910056, LLC, in the amount of $40,870, plus 10 percent interest per year from August 24, 2016, as ordered in *1130 Hope Street Investment Associates, LLC v. Solomon, et al.*, Superior Court of California, County of Los Angeles, case No. BC466413;

(3) Norman Solomon or his attorney of record, in the amount of $23,350, as ordered in *True Harmony v. Perry, et al.*, Superior Court of California, County of Los Angeles, case No. BC546574;

(4) Norman Solomon, in the amount of $56,980.64, as ordered in *Thomas, et al. v. Solomon, et al.*, Court of Appeal, Second Appellate District, case No. B287017; and (5) The Clerk of the Court of Appeal, Second Appellate District, in the amount of $8,500, as ordered in *Thomas, et al. v. Solomon, et al.*, Court of Appeal, Second Appellate District, case No. B287017.

CALIFORNIA RULES OF COURT, RULE 9.20

It is further recommended that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter.20

MONETARY SANCTIONS

Because these consolidated proceedings commenced before April 1, 2020, the court does not recommend imposition of monetary sanctions. (Rules Proc. of State Bar, rule 5.137(H).)

COSTS

It is further recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment, and may be collected by the State Bar through any means permitted by law. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

INVOLUNTARY INACTIVE ENROLLMENT

Jeffrey Gray Thomas is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). This status will be effective

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20 For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal. 3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule

9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

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three calendar days after this order is served and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the State Bar Rules of Procedure or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: May 25, 2021

_____
CYNTHIA VALENZUELA
Judge of the State Bar Court

CERTIFICATE OF ELECTRONIC SERVICE

(Rules Proc. of State Bar, rule 5.27.1.)

I, the undersigned, certify that I am a Court Specialist of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, on May 25, 2021, I transmitted a true copy of the following document(s):
DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT
by electronic service to JEFFREY GRAY THOMAS at the following electronic service address as defined in rule 5.4(29) and as provided in rule 5.26.1 of the Rules of Procedure of the State Bar: usoldit@hotmail.com
by electronic service to ANDREW J. VASICEK at the following electronic service address as defined in rule 5.4(29) and as provided in rule 5.26.1 of the Rules of Procedure of the State Bar:
Andrew.Vasicek@calbar.ca.gov

The above document(s) was/were served electronically. My electronic service address is ctroomD@statebarcourt.ca.gov and my business address is 845 South Figueroa Street, Los Angeles, CA 90017.
I declare, under penalty of perjury under the laws of the State of California, that the information
above is true and correct.
Date: May 25, 2021 /s/ Paul Barona
Paul Barona
Court Specialist
State Bar Court

#6 Order of Review Dept. (11/13/2020)

FILED NOV. 13 2020
Deputy _____
LA, CA

STATE BAR COURT OF CALIFORNIA
REVIEW DEPARTMENT
EN BANC

In the Matter of	)	
Jeffrey Gray Thomas	)	No. TE-30411
State Bar No. 83076	)	ORDER

On October 19, 2020, respondent Jeffrey Gray Thomas filed an Appeal to the Review Department regarding the Denied Request or Motion to Vacate Involuntary Inactive Enrollment, which we deemed a petition for interlocutory review of the Hearing Department's October 1, 2020 order. (Rules Proc. of State Bar, rule 5.150.)[1] Also on October 19, respondent filed a concurrent request for judicial notice of an order to showcase in his federal civil rights case.

On October 29, 2020, we ordered respondent to file an appendix in compliance with rule 5.150(C)(2)(b) within 10 days of the filing of our order. On November 9, 2020, respondent filed a corrected appendix with documents in compliance

with rule 5.150(C). Respondent also filed a revised

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1 Further references are to this source unless otherwise indicated.

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request for judicial notice. The revised request for judicial notice contains proper proof of service. Within 10 days of the date of this order, OCTC is ordered to respond to respondent's petition for interlocutory review and his revised request for judicial notice.

_/s/ PURCELL_____
Presiding Judge

#7 Emergency Default Interlocutory Order

In the Matter of
PUBLIC MATTER
STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES
FILED
AUG 19 2020
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

Case No. SBC-20-TE-30411-CV
JEFFREY GRAY THOMAS, State Bar No. 83076
)
)
)
)
)
)
DECISION AND ORDER GRANTING APPLICATION FOR INVOLUNTARY INACTIVE ENROLLMENT
(Bus. & Prof. Code, Section 6007, subd. (c)(2).)

Introduction

This matter is before the court on the verified application of the Office of Chief Trial Counsel of the State Bar of California (OCTC), seeking to enroll respondent Jeffrey Gray Thomas (Respondent) involuntarily as an inactive attorney of

the State Bar pursuant to Business and Professions Code Section 6007, subdivision (c)(2),1 and Rules of Procedure of the State Bar of California (Rules of Procedure), rule 5.225 et seq.

Section 6007, subdivision (c)(2), authorizes the State Bar Court to order an attorney's involuntary inactive enrollment upon a finding that: (1) the attorney has caused or is causing substantial harm to the attorney's clients or to the public; and (2) there is a reasonable probability that OCTC will prevail on the merits of the underlying disciplinary matter and that the attorney will be disbarred. (Section 6007, subd. (c)(2)(A)-(B).) As set forth *post*, the court finds that the prerequisites for involuntary inactive enrollment under section 6007, subdivision (c)(2), have

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1 Except as otherwise noted, future references to section(s) are to this source.

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been met by clear and convincing evidence. Accordingly, Respondent is ordered involuntarily enrolled as an inactive attorney of the State Bar pursuant to section 6007, subdivision (c)(2)

Procedural History

On June 26, 2020, OCTC filed an application seeking an order to enroll Respondent as an inactive attorney of the State Bar of California, pursuant to Business and Professions Code section 6007, subdivision (c)(2), and rule 5.225 et seq. of the Rules of Procedure (Application).

That same day, a copy of the Application was properly served on Respondent by certified mail, return receipt requested, at his official State Bar record address. (Rules Proc. of State Bar, rule 5.226(B).) OCTC expressly waived bearing on the Application and requested that the matter be submitted on the pleadings unless Respondent filed a response contesting the Application. (See Rules Proc. of State Bar; rule 5.226(A).)

On July 1, 2020, this court filed a notice of assignment and notice of hearing (Notice of Hearing) informing the parties that a hearing in this matter was set for July 30, 2020. A copy of this notice was properly served on Respondent by mail at his official State Bar attorney address.2

A copy of this notice was also emailed to Respondent that same day.

Respondent was given notice of this proceeding pursuant to rule 5.226(E) of the Rules of Procedure; however, he did not file a response to the Application, and the time for doing so has expired. (Rules Proc. of State Bar, rule 5.227.) Accordingly, this matter was submitted for decision on July

20, 2020. That same day, the court issued an order noting that this matter had been taken under submission and vacating the hearing date. 3

On July 23, 2020, Respondent filed a notice of objection and a motion in case Nos. 15-0-14870 and "20-TE-07458." The notice of objection was entitled Notice of Respondent's

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2 This mailing was not subsequently returned to the court by the U.S. Postal Service as undeliverable or for any other reason.

3 A copy of the submission order was served on Respondent in the same fashion as the Notice of Hearing.

Objections to Schedule for Hearing on July 30, 2020, and Declaration in Support (notice of objection). The motion was entitled Respondent's Motion to State Bar Court South to Reconsider Unabatement and Declaration in Support (motion to reconsider unabatement). These two filings were procedurally flawed on multiple grounds.

First, "20-TE-07458" is not a State Bar Court case number. Instead, it is OCTC's case number for which the corresponding State Bar Court case number is SBC-20-TE-30411.

Second, case Nos. 15-0-14870 and SBC-20-TE-30411 are not consolidated. Consequently, any pleadings should be filed separately in each case. And third, the present case was filed on June 26, 2020, and has never been abated. Accordingly, Respondent's Motion to Reconsider Unabatement is not applicable to the present matter.

Despite these issues, the court permitted Respondent's notice of objection and motion to reconsider unabatement to be filed in the present proceeding. However, as noted above, Respondent's motion to reconsider unabaternent is inapplicable to the present case, as this case was never abated. Consequently, that motion is denied, no good cause having been shown.4

Respondent's notice of objection consists of a short assertion that Respondent "objects to the 'virtual' hearing that was scheduled without notice to [Respondent] and/or opportunity to submit his criticisms, that is apparently scheduled for July 30, 2020." It is followed by a rambling declaration,5 in which Respondent makes the following assertions:

(1) OCTC6 should be investigating the opposing parties in the underlying disciplinary matters.

(2) State Bar employees and prosecutors "undoubtedly are negligently hired and negligently trained at work by 'The State Bar.'"

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4 This court has not yet ruled on this motion with regard to case No. 15-0-14870, but will do so in a separate order.
5 Respondent attached this exact same declaration to his Motion to Reconsider Unabatement.
6 Respondent generally refers to OCTC as "the State Bar south."

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(3) The court has not provided Respondent with an explanation for the "so-called hearing."

(4) OCTC included a false proof of service on the present application constituting elder abuse against Respondent. 7

(5) Respondent is requesting a restraining order against the elder abuse being perpetuated by OCTC's "youthful" prosecutors.

(6) OCTC is not complying with Respondent's discovery demands (presumably in case No. 15-0-14870);

(7) The numerous "so-called" sanctions awarded against Respondent (in reference to the underlying misconduct in case No. 15-0 -14870) are void or invalid;

(8) OCTC is proclaiming to be a "judicial branch agency" on the facade at the State Bar of California's Los Angeles office building and therefore violates separation of powers.

(9) The trial court and Court of Appeal "have deprived Respondent of his procedural due process rights, and if this State Bar Court proceeds with the hearing as scheduled, Respondent must request punitive sanctions to be paid from prosecutor's pockets to him."

(10) Respondent's new thermometer indicated that he has a fever, but he doesn't know if new thermometer works correctly.

(11) Respondent will be "obtaining a test result *[sic]* and extreme self-quarantining for thirty days minimum."

(12) Los Angeles County politicians are corrupt and are lying to the population about the risk of infection.

Respondent also asserts in this declaration that both OCTC's Application and the court's Notice of Hearing were received by him weeks after the mailing dates reflected in their respective proofs of service indicate. Specifically, Respondent claims that he received the Notice of Hearing from this court on or about July 17, 2020. This claim is not credible, because Respondent failed to provide any proof - such as a copy of the postage mark date on the envelope - that he actually received the Notice of Hearing two and a half weeks after it was sent.

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7 Respondent's claims that the proofs of service "must be false" because he "received and read" the Application on July 17, 2020, three weeks after the date on OCTC's proof of service.

As noted below, the court does not find credible Respondent's representation that he received the Application three weeks after the proof of service.

Moreover, this court's Notice of Hearing was also sent to Respondent by electronic mail on July 1, 2020.

The court does not find any of Respondent's other assertions in the declaration attached to the notice of objection to be credible or compelling. Respondent has made no effort to file a response to the Application, and his motivation here appears to be to stall, delay, or otherwise derail this proceeding. Respondent did not seek leave to file a belated response to the Application, but instead simply proclaims, based on his unsubstantiated argument that the Application was improperly served on him (as well as his litany of other objections), that the court must strike the Application and OCTC must start the process anew.8

Jurisdiction

Respondent was admitted to the practice of law in California on November 29, 1978, and has been licensed to practice law at all times since then.

Findings of Fact and Conclusions of Law

As noted above, section 6007, subdivision (c)(2), authorizes the State Bar Court to order an attorney's involuntary inactive enrollment upon a finding that: (1) the attorney has caused or is causing substantial harm to the attorney's clients or to the public; and (2) there is a reasonable probability that OCTC will prevail on the merits of the underlying disciplinary matter and that the attorney will be disbarred. (Section 6007, subd. (c)(2)(A)-(B).)

The Application in the present matter was properly filed pursuant to rule 5.226 of the Rules of Procedure. (See also Rules Proc. of State Bar, rule 5.231 (B).) It is based upon Respondent's alleged misconduct that is the subject of the disciplinary charges pending against Respondent in State Bar Court case numbers 15-0-14870 and SBC-20-0-00029, as well

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8 The notice of objection is not a motion. Accordingly, OCTC need not file and serve a written response, and no action is required by this court.

As evidence indicating that Respondent continues to engage in additional misconduct by recently filing yet another related

frivolous action despite having already been sanctioned over $188,000 for frivolous motions and appeals. OCTC asserts that Respondent, over the course of eight years, "has engaged in a pattern of misconduct in which he flouts the authority of the courts and frustrates the judicial process." In support of the Application, OCTC included, among other things, declarations of Norman Solomon and Rosario Perry, opposing counsel in the underlying litigation, and numerous court documents and records, including opinions issued by the Court of Appeal in two separate proceedings.9

Facts

The Hope Street lnterpleader

On July 28, 2011, 1130 Hope Street Investment Associates, LLC (Hope Street) filed an interpleader complaint in the Los Angeles County Superior Court against Hope Park Lofts, LLC (Hope Park); Norman Solomon (Solomon)1°; True Harmony, Inc. (True Harmony); Ray Haiem (Haiem); and Rosario Perry (Perry), among others. The purpose of the Hope Street interpleader was to provide a forum to the claimants to resolve their competing claims to the $1 .6 million proceeds resulting from the sale of property located at 1130 South Hope Street.

Representing himself, Haiem filed an answer and a cross-complaint against Hope Street. Haiem, however, failed to serve the cross-complaint and the superior court warned him that the cross-complaint would be dismissed if not served by a

certain date. Respondent substituted into the case on Haiem's behalf in October 2012. Thereafter, Respondent failed to appear at a November 9, 2012 order to show cause hearing re dismissal of the cross-complaint, and the superior court ordered the cross-complaint stricken.

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9 The Application includes a request for judicial notice of 14 attached court records. Good cause having been shown, that request is granted.

10 Solomon was the sole member of the Home Park LLC.

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Notwithstanding the fact that the superior court had stricken the cross-complaint, Haiem filed multiple motions to amend the no-longer-existent cross-complaint. These requests were denied. In February 2013, Hope Street dismissed Haiem from the interpleader action. On May 14, 2013, Respondent filed a motion to vacate the November 9, 2012 striking of Haiem's cross-complaint. On December 4, 2013, the superior court denied the motion to vacate since it was not timely, as more than six months had passed since the order striking the cross-complaint was filed and served. On January 31, 2014, Respondent filed an appeal on Haiem's behalf

The Court of Appeal Sanction Order Regarding the Hope Street Interpleader

On April 27, 2015, the Court of Appeal of the Second District of the State of California issued an order denying Respondent's appeal of the Hope Street interpleader. In its order, the Court of Appeal laid out Respondent's "unprofessional and at times outrageous conduct toward counsel for Hope Park." (Exh. 7, p. 15.) The Court of Appeal concluded that Respondent's appeal was frivolous because it was "objectively devoid of merit and . .. subjectively prosecuted for an improper motive-to harass [Hope Park] and increase its litigation costs." (Exh. 7, p. 19.)

Accordingly, the Court of Appeal issued an order imposing judicial sanctions upon Respondent individually (not his client) in the amount of $58,650, payable within 30 days from the date the remittitur issued. Of this amount, the Court of Appeal specified that $48,650 was to reimburse Hope Park for attorney fees paid in defending this frivolous appeal, and the remaining $10,000 was "to discourage the type of inappropriate conduct displayed by Haiem and [Respondent] in this appeal." (Exh. 7, p. 21.)

This sanction, however, did not have the intended impact. Respondent filed an application of rehearing with the Court of Appeal, which was denied. He then filed petitions to the California Supreme Court and United States Supreme Court, which were also denied. In addition, Respondent, as addressed below, went on to file a federal lawsuit against two of the Justices of the Court of Appeal that issued the judicial sanctions order, as well as Solomon, Perry, and others.

Moreover, Respondent has not paid any portion of the $58,650 in judicial sanctions. (See Exh. 2, p. 5.)11

The Superior Court Sanction Order in the Hope Street lnterpleader

Prior to Respondent's appeal in the Hope Street interpleader, Hope Park filed a request in superior court for sanctions against Respondent pursuant to Code of Civil Procedure section 128.7. This motion was based on the claim that counsel for Hope Park advised Respondent in July 2013 that Respondent's May 14, 2013 motion to vacate was without any legal basis because it was untimely. Nonetheless, Respondent refused to withdraw the untimely motion to vacate.

The Hope Park sanctions motion was held over until after the Court of Appeal issued its remittitur back to the superior court on August 18, 2015. Similar to the aforementioned Court of Appeal order, the superior court found, in an order filed on August 24, 2016, that there was no legal basis for Respondent to bring the motion to vacate. Moreover, the superior court echoed the Court of Appeal's sentiments that Respondent filed and maintained the motion to vacate for the purpose of harassing Hope Park and needlessly driving up the cost of litigation.

Accordingly, the superior court ordered that Respondent individually (not his client) pay Hope Park $18,060 in sanctions and $22,810 in attorney's fees - for a total of

$40,870. Respondent, however, did not subsequently pay any portion of either amount.

The Los Angeles Superior Court Sanction Order in the True Harmony Matter

In May 2014, Respondent filed a lawsuit in the Los Angeles Superior Court entitled *True Harmony and Haiem v. Perry, Hope Park, and Solomon* (the True Harmony matter). The

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11 In the present proceeding, OCTC also alleged that Respondent failed to timely report multiple judicial sanctions to the State Bar of California. These allegations, however, were not addressed in OCTC's declarations or otherwise established by clear and convincing evidence.

True-Harmony matter was predominately based on the same issues adjudicated in previous litigation. Consequently, the defendants filed demurrers, which were sustained in their entirety. Specifically, the superior court found that Respondent's first cause of action failed to state a claim and that his remaining causes of action were barred by res judicata. Accordingly, the superior court signed and entered a judgment dismissing the complaint in the True Harmony matter on April 7, 2017.

Rather than file a timely appeal of the dismissal of the True Harmony matter, Respondent sought reconsideration on April 17, 2017. This request was subsequently denied, and the

defendants sought monetary sanctions against Respondent. The superior court subsequently concluded that Respondent violated section 128.7(b)(2) by proceeding with a motion for reconsideration which had no basis in the law at the time it was filed. Noting that Respondent had refused to withdraw the motion for reconsideration even though opposing counsel admonished him that the motion had no legal basis, the superior court ordered Respondent to pay sanctions in the amount of $23,350. These sanctions have not been paid.

The Court of Appeal Sanction in the True Harmony Matter

On December 18, 2017, Respondent filed two notices of appeal in the True Harmony matter - one on behalf of True Harmony and another on behalf of himself. 12 On December 13, 2018, the Court of Appeal of the Second District of the State of California issued an order in the True Harmony matter affirming the sanctions order. (Exh. 10.) In its order, the Court of Appeal found that Respondent's appeal made frivolous arguments and repeatedly violated the Court of Appeal's order specifying that Respondent's appeal was limited to the superior court's sanctions order. The Court wrote: "It is evident from [Respondent's] pursuit of improper appeals and plain disobedience of our court orders that his briefing and motions are frivolous and intended to

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12 The Court of Appeal subsequently dismissed, as untimely, Respondent's appeal on behalf of True Harmony.

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harass Solomon." (Exh. 10, p. 17 .) Accordingly, the Court of Appeal ordered sanctions against Respondent in the amount of $65,480.64 ($56,980.64 to Solomon for attorney's fees and $8,500 to Court of Appeal to "reimburse costs of processing the various frivolous aspects of [Respondent's] appellate filings") to be paid within 90 days of the date of remittitur. (Exh. 10, p. 18.) Respondent has not paid these sanctions.

The Thomas v. Zelon Matter

On August 31, 2016, Respondent filed another lawsuit, this time in federal court. That lawsuit was entitled *Thomas v. Zelon et al.* In this matter, Respondent sued two of the Court of Appeal Justices that heard Respondent's Hope Street interpleader appeal, as well as Solomon, Perry, Hope Park, and others. *Thomas v. Zelon* involved the sanctions ordered by the Court of Appeal on April 27, 2015, as well as the same issues previously litigated by the parties with regard to the Hope Street interpleader.

Thomas v. Zelon was subsequently dismissed by the United States District Court for the Central District of California. Thereafter, Respondent appealed to the United States Court of Appeals for the Ninth Circuit. On March 22, 2018, the Ninth Circuit issued a Memorandum finding that the district court properly dismissed Respondent's action "because [Respondent's] claims stemming from the prior state court action constitute a 'de facto appeal' of prior state court

judgments, or are "inextricably intertwined" with those judgments. [Citation.]" (Exh. Thereafter, Respondent filed a petition for writ of certiorari with the United States Supreme Court in *Thomas v. Zelon.* That petition was denied. Respondent subsequently filed a petition for rehearing in the United States Supreme Court, which was also denied.

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13 The court is unable to cite to a page number because Exhibit 13, which is approximately 1600 pages, does not contain page numbers.

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Respondent's 2020 Lawsuit Against Hope Street, Solomon, and Others

Despite the numerous rulings and sanction orders, Respondent continues to litigate the Hope Street matter to this day. In January 2020, he filed another federal lawsuit, this time on behalf of True Harmony, Haiem, and himself against Solomon, Hope Street, Hope Park, Perry, the Department of Justice of the State of California, and others. This lawsuit is entitled *True Harmony, et al. v. The Department of Justice of the State of California, et al.* (Exhs. 11, 12, and 13.) In this lawsuit, Respondent seeks to again re-litigate claims regarding the property located at 1130 South Hope Street (See Exhs. 2, 3, 11, 12, and 13.)

Respondent's August 26, 2016 Letter to Opposing Counsel

On or about August 26, 2016, Respondent sent a letter to Perry's attorneys in the True Harmony matter after Perry filed an anti-SLAPP motion and joined in a demurrer. In that letter, Respondent wrote, in part, the following:

Please be advised that YOU are guilty of mail fraud in violation of 18 U.S.C. §1341 because YOU have not corrected the misrepresentation created by YOUR prior written notices for the dates of hearings on said motions by filing and serving written notices of the bearing dates that YOU have selected that are different from the dates that YOU have chosen.

Please be advised that YOU will be indicted, found guilty and sentenced to five years in the federal penitentiary for the mail fraud if YOU do not correct YOUR violations of the Code of Civil Procedure.
(Exh. 6, p. 2.)

Despite Respondent's accusations and threats of criminal prosecution, both the anti-SLAPP motion and the demurrer were ultimately successful.

Legal Conclusions

Pursuant to section 6007, subdivision (c)(2)(B), the court finds that there is a reasonable probability that the State Bar will prevail as to the following charges:
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1. Section 6103 [Failure to Obey Court Orders] with regard to Respondent's failure to comply with the following orders to pay sanctions: (1) the Court of Appeal's April 27, 2015 sanction order in the Hope Street interpleader appeal; (2) the Los Angeles Superior Court's August 24, 2016 sanction order in the Hope Street interpleader matter; (3) the Los Angeles Superior Court's November 30, 2017 sanction order in the True Harmony matter; and (4) the Court of Appeal's December 13, 2018 sanction order in the True Harmony matter.

2. Former rule 3-700(D)(2) of the Rules of Professional Conduct14 [Threatening Charges to Gain Advantage in Civil Suit] for threatening criminal charges against Perry's attorneys to gain a civil advantage in the True Harmony matter.

3. Section 6068, subd. (c) [Maintaining Unjust Actions, Proceedings, or Defenses] as follows: (1) filing and failing to withdraw an untimely motion to vacate in the Hope Street interpleader; (2) filing and pursuing a frivolous appeal with the Court of Appeal in the Hope Street interpleader matter; (3) filing and failing to withdraw an improper motion for reconsideration in the True Harmony matter; and (4) filing and pursuing a frivolous and improper appeal with the Court of Appeal in the True Harmony matter.

Discussion

As noted *ante*, under section 6007, subdivision (c)(2), the State Bar Court is authorized to order the involuntary inactive enrollment of an attorney if it finds:

A. The attorney has caused or is causing substantial harm to the attorney's clients or the public.

B. There is a reasonable probability that OCTC will prevail on the merits of the underlying disciplinary matter, and that the attorney will be disbarred. (Section 6007, subd. (c)(2).)

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14 The Rules of Professional Conduct were revised on November 1, 2018.

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OCTC bears the burden of establishing both of these factors with clear and convincing evidence. *(Conway* v. *State Bar* (1989) 47 Cal.3d 1107, 1126; *Jn the Matter of Mesce* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 658, 661.) In *Conway* v. *State Bar*, *supra*, 47 Cal.3d 1107, the five-justice majority rejected the dissent's position that section 6007, subdivision (c), was unconstitutional as an invalid delegation of judicial power to the State Bar by the Legislature and held that "the statutory authorization for the [State Bar Court] to order involuntary inactive enrollment in *exigent* circumstances, subject to our immediate and plenary review, cannot reasonably be said to 'defeat or materially impair' the inherent prerogatives of this court.,,,, (Citation.]" *(Id.* at p. 1120, fn. 7, italics added.)

Further, the Review Department has stated that a proceeding for involuntary inactive enrollment pursuant to section 6007, subdivision (c)(2) "may be very roughly analogized to a preliminary injunction proceeding in a civil matter." *(In the Matter of Phillips* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47, 49.)15

Substantial Harm to the Clients or the Public (Bus. & Prof. Code,§ 6007, snbd. {c){2)(A).)

Respondent's misconduct has caused substantial harm to the public. Solomon, who is seventy-three years old, has endured what he describes as Respondent's "unceasing legal extortion" for almost eight years. (Exh. 2, p. 1.) Solomon described a pattern in multiple lawsuits where Respondent loses at the trial level and then appeals that decision all the way up to the United States Supreme Court. Then after Respondent's appeal ultimately fails, be starts the procedure over again by filing a new complaint based on the same underlying matter. Solomon asserts that despite Respondent's repeated lack of success (including large sanctions and two State Bar referrals from the Court of Appeal), he remains undeterred from filing additional lawsuits related to the Hope Street matter.

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15 While *Conway* and *Phillips* are still good law, the court acknowledges that section 6007 has been substantially amended since those cases were issued.

Solomon has suffered substantial emotional and financial stress as a result of Respondent's misconduct over the past several years. None of the court victories Solomon has achieved over Respondent have provided him any respite because Respondent simply turns around and files the same case again in a different forum. Solomon characterizes this as a cycle of seemingly endless harassment." (Exh. 2, p. 3.)

Although multiple courts have awarded Solomon attorney's fees to at least partially reimburse him for costs expended fighting Respondent's frivolous actions, Respondent has not paid any of those sanctions. Respondent, to this point, has cost Solomon hundreds of thousands of dollars in legal fees and costs. And the sanction orders crafted to help make Solomon whole have had no effect, as Respondent has demonstrated no intention of paying them. 16

Perry, who is also seventy-three years old, describes himself as "very depressed by the continued harassment [he is] receiving from [Respondent)." (Exh 3, p. 1.) Perry estimates that he has thus far spent approximately $50,000 defending himself against Respondent's repeated lawsuits, and this does not include the hundreds of hours Perry has personally spent defending these matters. Perry notes that sanctions and the threat of State Bar discipline have not deterred Respondent from continuously refiling the same lawsuit in another venue. Perry asserts that Respondent "simply does not care."

Respondent's misconduct bas further caused substantial harm to the public through the harm to the administration of justice. The numerous sanctions are clear evidence that there was harm to the administration of justice. The Court of Appeal in the True Harmony matter ostensibly realized the resulting harm to the public when it ordered the $8,500 sanction to "reimburse costs of processing various frivolous aspects of [Respondent's] appellate filings." *(In the Matter of Field, supra*, 5 Cal. State Bar Ct. Rptr. 171, 184 [attorney's misconduct harmed administration of

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16 As noted *ante,* Respondent refers to these valid judicial orders as "so-called sanctions" and continues to dispute their validity in his notice of objection.

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justice by causing unnecessary litigation, compromising criminal cases, and negatively impacting public trust in judicial system].

Accordingly, the court finds that the State Bar has established, by clear and convincing evidence that Respondent has caused and is continuing to cause substantial harm to the public. Probability OCTC Will Prevail (Bus. & Prof. Code,§ 6007, subd. (c)(2)(B).)

Based on the Application and the attached declarations and court documents, this court concludes that there is a reasonable probability that OCTC will prevail on the merits of

the underlying disciplinary matters. Moreover, based on the severity of the charges, the harm to the victims, and Respondent's evident lack of remorse and insight, there is a reasonable probability that Respondent will be disbarred. (See *In the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179 [disbarment for attorney with 30 years of discipline-free practice who was sanctioned for filing frivolous motions and appeals over 12-year period, and who lacked insight and refused to change]; and standards 2.9(a) and 2.12(a) of the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.)

Conclusion

After careful consideration, the application for Respondent's involuntary inactive enrollment should be granted, as the record has established: (1) that Respondent has and is continuing to cause harm to the public; and (2) there is a reasonable probability that OCTC will prevail at trial and that Respondent will be disbarred.

Order

Accordingly, IT IS ORDERED that respondent Jeffrey Gray Thomas be enrolled as an inactive attorney of the State Bar of California, pursuant to Business and Professions Code section 6007, subdivision (c)(2), effective three days after service of tills order by mail. (Rules Proc. of State Bar, rule

5.23 l(D).) State Bar Court staff is directed to give written notice of this order to Respondent and to the Clerk of the Supreme Court of California. (Bus. & Prof. Code, § 6081.)

IT IS **FURTHER ORDERED** that:

1. Within 30 days after the effective date of the involuntary inactive enrollment,
2. Respondent must:

(a) Notify all clients being represented in pending matters and any co-counsel of his involuntary inactive enrollment and his consequent immediate disqualification to act as an attorney and, in the absence of co-counsel, notify the clients to seek legal advice elsewhere, calling attention to the urgency in seeking the substitution of another attorney or attorneys in his place;

(b) Deliver to all cljents being represented in pending matters any papers or other property to which the clients are entitled, or notify the clients and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to the urgency of obtaining the papers or other property;

(c) Provide to each client an accounting of all funds received and fees or costs paid, and refund any advance payments that have not been either earned as fees or expended for appropriate costs; and (d) Notify opposing counsel in pending

matters or, in the absence of counsel, the adverse parties of his involuntary inactive enrollment, and file a copy of the notice with the court, agency, or tribunal before which the matter is pending for inclusion in the respective file or files;

2. All notices required to be given by paragraph 1 must be given by registered or certified mail, return receipt requested, and must contain Respondent's current State Bar records address where communications may thereafter be directed to him;

3. Within 40 days of the effective date of the involuntary inactive enrollment, Respondent must file with the Clerk of the State Bar Court: (1) an affidavit (containing Respondent's current State Bar records address where communications may thereafter be directed to him) stating that he has fully complied with the provisions of paragraphs 1 and 2 of this order; and (2) copies of all documents sent to clients pursuant to paragraph 1 (c) of this order; and

4. Respondent must keep and maintain records of the various steps taken by him in compliance with this order so that, upon any petition for termination of inactive enrollment, proof of compliance with this order will be available for receipt into evidence. Respondent is cautioned that failure to comply with the provisions of paragraphs 1 - 4 of this order may constitute a ground for denying his petition for termination of inactive enrollment or reinstatement, or for imposing sanctions.

Dated: August 19, 2020
Cynthia Valenzuela
CYNTHIA VALENZUELA
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc.,§ 1013a(4)]

I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 19, 2020, I deposited a true copy of the following document(s):

DECISION AND ORDER GRANTING APPLICATION FOR INVOLUNTARY INACTIVE ENROLLMENT (Bus. & Prof. Code, Section 6007, subd. (c)(2).) in a sealed envelope for collection and mailing on that date as follows:

[8J by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JEFFREY GRAY THOMAS

ATTORNEY AT LAW
201 WILSHIRE BLVD FL 2
SANTA MONICA, CA 90401-1219
[8J A courtesy copy by electronic transmission e-mailed on August 19, 2020 to the following address:
JEFFREY GRAY THOMAS at Usoldit@hotmail.com
ANDREW J. VASICEK at Andrew.Vasicek@calbar.ca.gov

[8J by interoffice mail through a facility regularly maintained by the State Bar of California
addressed as follows:
ANDREW J. VASICEK, Office of Chief Trial Counsel, Los Angeles
I hereby certify that the foregoing is true and correct.
Executed in Los Angeles, California, on
August 19, 2020.

Paul Barona
Court Specialist
State Bar Court

#8 Second Amended Complaint (True Harmony v. State Dept. of Justice, no. 20-cv-00170, Cent. Dist. CA)

JEFFREY G. THOMAS CA SBN 83076
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Attorney at Law for Plaintiffs TRUE HARMONY, 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES, LLC, RAY HAIEM and Plaintiff *in Propria Persona*

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION

TRUE HARMONY, a registered public charity under Internal Revenue Code Section 501(c)(3) and a California nonprofit public benefit corporation, ex rel. THE DEPARTMENT OF JUSTICE OF THE STATE OF CALIFORNIA, a state agency, and XAVIER BECERRA, Attorney General of the State of California, 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC, a Delaware limited liability company, RAY HAIEM, a citizen of the state of California,	Case No.: 20-cv-00170 DO VERIFIED SECOND AMENDED COM-PLAINT FOR INJUNCTION AND DECLARATORY JUDGI DAMAGES AND OTHER EQUITABLE RELIEF AGAINST (1) VIOLATIONS OF CIVIL RIGHTS SECURED BY TH CONSTITUTION AND FE INCLUDING THE BANKR THE INTERNAL REVENU

and JEFFREY G. THOMAS, a citizen of California,

Plaintiffs,

vs.

THE DEPARTMENT OF JUSTICE OF THE STATE OF CALIFORNIA, a state agency, XAVIER BECERRA, Attorney General, personally and *ex officio*, ROSARIO PERRY, a citizen of California, NORMAN SOLOMON, a citizen of California, HUGH JOHN GIBSON, a citizen of California, BIMHF LLC, a California limited liability company, HOPE PARK LOFTS 2001-02910056 LLC, a California limited liability company, 1130 HOPE STREET INVESTMENT ASSOCIATES, LLC f/k/a 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES, LLC, a California limited liability company, and DOES 1 through 10 inclusive,

Defendants.

(2) VIOLATIONS OF CIVIL RIGHTS BECAUSE OF DENIAL OF THE RIGHT OF ACCESS TO THE COURTS, IN VIOLATION OF THE FEDERAL LAWS AND FEDERAL CO
(3) FRAUD UNDER THE UNIFORM SUPERVISION OF TRUSTEES ACT,
(4) VIOLATIONS OF TAXPAYERS' RIGHTS SECURED BY THE FEDERAL CONSTITUTION AND FEDERAL LAW, AND (5) VIOLATIONS OF THE FEDERAL COMMON LAW PERTAINING TO PUBLIC REGISTERED UNDER TH REVENUE CODE

INCLUDING DEMAND FOR JURY TRIAL

AF: January 27, 2020

I. INTRODUCTION

This action concerns the right of a registered public charity under *Section 501(c)(3) of the Internal Revenue Code* to bring an action to recover title to real property and/or proceeds of the DEFENDANTS' sale thereof under the federal common law, the *Civil Rights Act of 1871*, *42 U.S.C. §1983*, and the *Uniform Supervision of Charitable Trustees Act* as enacted in this state. The registered public charity is PLAINTIFF TRUE HARMONY of Compton, California.

The property is located in 1130 South Hope Street, Los Angeles *("Property")*. DEFENDANT ROSARIO PERRY (and his Law Offices of Rosario Perry PC) represented TRUE HARMONY back in 2001 when DEFENDANT NORMAN SOLOMON caused his limited liability company Hope Park Lofts, LLC to bring suit in no. BC244718 in the local superior court to quiet title to the Property under a purchase contract in the chain of title from an unauthorized deed and a forged deed in the chain of title of the seller. DEFENDANT PERRY and his law associates defeated Hope Park Lofts LLC in the trial. After the local superior court announced its verdict in

2004 but months before it filed the Statement of Decision and the judgment on the trial, DEFENDANT PERRY produced a settlement agreement *"out of thin air,"* that purported to be signed by all parties and their attorneys at law supposedly dated on the day preceding the first day of testimony in the trial, and showed it to TRUE HARMONY.

This *"fake"* settlement agreement attached hereto as *Exhibit "A"* attributed ownership of the property to a joint venture between Hope Park Lofts LLC (the predecessor of DEFENDANT HOPE PARK LOFTS 2001-02910056 LLC) and PLAINTIFF TRUE HARMONY and subjected disputes arising thereunder to nonbinding arbitration (the typed word *"binding"* was crossed out and initialed by DEFENDANT PERRY and Rick Edwards) and it appointed a friend of DEFENDANTS PERRY and SOLOMON (who were classmates in law school) as arbitrator. This agreement appointed DEFENDANT PERRY as manager of the joint venture which was called 1130 South Hope Street Investment Associates LLC (the predecessor of DEFENDANT 1130 HOPE STREET INVESTMENT ASSOCIATES LLC.

DEFENDANT PERRY did not specifically advise

PLAINTIFF TRUE HARMONY of its rights to independent legal advice and express written consent to the conflict of interest in his business transaction with his client, either in or out of the settlement agreement.

DEFENDANT PERRY caused PLAINTIFF TRUE HARMONY to substitute another attorney at law for the post-verdict hearings on the genuineness of signatures on the settlement agreement. His violation of *Rule of Professional Conduct 3-300* continued, and DEFENDANT PERRY is today still the putative manager of DEFENDANT 1130 HOPE STREET INVESTMENT ASSOCIATES LLC. DEFENDANT PERRY waived the attorney-client privilege for TRUE HARMONY without its consent and testified in the court that the signature of TRUE HARMONY's representative was genuine. He also testified falsely that because the CAL AG had not disapproved the change in ownership in response to his notice to the CAL AG, that it was tantamount to approval of the transaction. And the CAL AG did not conserve and protect the property for TRUE HARMONY, despite his role as defender and protector of nonprofit corporations and registered public charities. Eventually, as a result of DEFENDANTS' conspiracy among

themselves and because it was victimized by their sham arbitrations and sham petitions and denial of representation by the CAL AG and the means of financing the legal fees to defends title, PLAINTIFF TRUE HARMONY forfeited all legal rights in the Property.

PLAINTIFFS TRUE HARMONY, its major donor RAY HAIEM, and its attorney at law JEFFREY THOMAS brings this action requesting the CAL AG to join with it as plaintiff under the *Civil Rights Act of 1871* and federal and state common law in an action under the *Civil Rights Act* and the *Uniform Supervision of Charitable Trustees Act* against the tortfeasor DEFENDANTS, to recover title to its Property which is a public charitable asset under state and federal law. Also at stake are the proceeds from the sale of the Property by the tortfeasor DEFENDANTS in 2011 to DEFENDANT BIMHF, LLC for a gross sales price of approximately Two Million One Hundred and Fifty Thousand Dollars, of which the tortfeasor DEFENDANTS received the net amount of One Million Eight Hundred and Fifty Thousand Dollars ($1,850,000). Interest on that amount has accrued

under state law at the rate of ten percent (10%) per annum in the interim nine years.

The tortfeasor DEFENDANTS are DEFENDANTS PERRY, SOLOMON, HOPE PARK LOFTS 2001-02910056 LLC (f/k/a Hope Park Lofts LLC), 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, BIMHF, LLC and GIBSON. The STATE DEPARTMENT OF JUSTICE and the CAL AG are the state DEFENDANTS, and they are named as DEFENDANTS in the fourth and fifth causes of action because in 2011 the CAL AG served a cease and desist order under the Nonprofit Corporation Law on the tortfeasor DEFENDANTS in April of 2011, prohibiting a sale of the property. The tortfeasor DEFENDANTS proceeded with the sale in violation of the order, but the CAL AG did not follow up with enforcement of the cease and desist order. In the fourth and fifth causes of action against the state DEFENDANTS, PLAINTIFFS seek the relief of recognition of their relator status to the state DEFENDANTS in the third cause of action for recovery of title to the property or sales proceeds under the Uniform Supervision of Charitable Trustees Act, and/or enforcement of an implied private right of action therein,

under *Ex Parte Young (1908) 209 U. S. 123,* and the waiver of the state sovereignty in the Bankruptcy Act and Bankruptcy Clause under Amendment Eleven of the U. S. Constitution in the Bankruptcy Act. *See Central Virginia Community College v. Katz (2006) 546 U.S. 356.*

The evidence that confirms the conspiracy between the tortfeasor DEFENDANTS includes their continuing violation of Rule of Professional Responsibility 3-300, the involuntary waiver of attorney client privilege in DEFENDANT PERRY's testimony in BC244718 for the fake settlement agreement, and in DEFENDANT PERRY's professional negligence in the course of representation of PLAINTIFF TRUE HARMONY in BC244718. For the unauthorized and forged deeds in the chain of title above Hope Park Lofts LLC's purchase contract contained a material anomaly in the name of the grantor which was TRUE HARMONY's predecessor, Turner Technical Institute, Inc. And Coldwell Banker, another defendant in no. BC244718, was successful in its motion for summary judgment for this reason.

The fake settlement agreement between PLAINTIFF and DEFENDANTS requires a minimum sales price of the Property of One Million Four Hundred Thousand Dollars ($1,400,000). During the trial, DEFENDANT PERRY and his associate attorneys failed to object to the testimony of DEFENDANT SOLOMON's appraiser (expert) that the market value of the property then was Two Hundred Thousand Dollars ($200,000), or to move to dismiss TRUE HARMONY in a nonsuit. The net proceeds to the seller contemplated under his deed with a cloud on his title were less than $200,000, because SOLOMON's Metro Resources, Inc. was to receive a commission on the sale. Compared to a minimum value in the settlement agreement of One Million Four Hundred Thousand Dollars ($1,400,000), Hope Park Lofts, LLC's contract to purchase the property that it tried to enforce in BC244718 was void under state law. *See T. D. Service Co. v. Biancalana (2013) 56 Cal. 4th 807.*

Defendant PERRY had a professional duty to object to the testimony of the appraiser, and to move to nonsuit Hope Park Lofts, LLC on a void contract. He breached his professional duty, which proves that his

testimony that PLAINTIFF TRUE HARMONY executed the fake settlement agreement executed on October 9, 2003 was false. It also proves that there was no consideration for the settlement agreement in Hope Park Lofts LLC's hypothetical failure to put on a defense during trial as hypothesized by the court of appeals in its lead opinion by Judge Mosk in B183928, the appeal from the second amended judgment in BC244718 enforcing the settlement agreement as transferring ownership to 1130 South Hope Street Investment Associates LLC (the California LLC). The transcript of the trial testimony proves that Hope Park Lofts LLC fully defended its purchase contract in the trial against the fraudulent grantees under the forged deed in the chain of title above it anyway.

PLAINTIFF TRUE HARMONY appealed under a notice of appeal which attacked the ruling of Nov. 30, 2004 on *"validity of the settlement agreement."* The court of appeals decided the appeal on March 21, 2007 in *B183928, True Harmony v. Hope Park Lofts, LLC*. TRUE HARMONY did not brief the issue of *Cal. Corp. Code §5913*, or the CAL AG's approval. TRUE HARMONY did not brief the issue of the lack of control

of TRUE HARMONY of a 50% -50% split in ownership or control of the "new" entity or joint venture, or the lack of approval by the California attorney general. The court of appeals ruled that TRUE HARMONY waived these issues, or it flunked the operational and organizational tests of *Code §501(c)(3)*.

The clerk of the court of appeals deemed Judge Mosk's forty page lead opinion that discusses these issues to be the majority opinion. But Judge Mosk's opinion did not have the two votes out of the three judge panel for a majority opinion. The *"concurring opinion"* of Judge Kriegler did not agree with Judge Mosk's treatment of the jurisdiction of the superior court of the motion for reconsideration, and *"concurring opinion"* of Judge Armstrong did not agree with Judge Mosk on the power of the court of appeals to decide the *"legality"* of the agreement, referring to the tax law and CAL AG approval issues (at a minimum). No state court and no federal court has ever held an evidentiary hearing on the enforcibility of the fake settlement agreement for all purposes, including the federal income taxation law issue of deference to *Internal Revenue Ruling 98-16*, the lack of approval by the CAL AG, and the lack of written

consent to Defendant PERRY's conflicts of interest under *RPC 3-300*.

By analogy to *Cal. Code Civ. Proc. §585(c), §764.010*, however, state law required an evidentiary hearing on the state law issues that the court of appeals bypassed, and federal common law and constitutional law required a hearing on the federal income taxation law issues. DEFENDANTS PERRY and SOLOMON and DEFENDANTS HOPE PARK LOFTS 2001-02910056 LLC (f/k/a Hope Park Lofts LLC) and 1130 HOPE STREET INVESTMENT ASSOCIATES LLC (f/k/a 1130 South Hope Street Investment Associates LLC, the California LLC) instituted an arbitration hearing including the 50% - 50% split in ownership and control, before their long time *"chum"* and colleague, Ret. Judge Schloettler in 2005 or 2006. In 2008, the arbitrator held a hearing, and ordered TRUE HARMONY to transfer title to the Property to 1130 South Hope Street Investment Associates LLC. Despite that the word *"binding"* before arbitration was struck-through by a pen and the revision was initialed, DEFENDANTS moved the state court for an order confirming the award as a judgment in BC244718.

The state court ordered the PLAINTIFF TRUE HARMONY to execute the deeds, in a so-called judgment in BC244718. In BC244718, in November of 2008, the DEFENDANTS later moved the court for clerks' deeds, the court granted this motion, and the clerk signed the deeds to the joint venture on February 18, 2009. Despite that the second amended judgment in BC244718 and the opinion of the court of appeals in B183928 merely provided for ownership and enforcibility of the order for ownership, and did not provide for title in 1130 South Hope Street Investment Associates LLC.

PLAINTIFF was unrepresented in the motion for confirmation of the post-appeal arbitration award in BC244718 as a post-appeal judgment, and apparently there was no hearing in the courtroom on this motion. PLAINTIFF was represented at the hearing on the motion for clerks' deeds, in November of 2008 by a newly associated attorney at law. The fraud on the court in DEFENDANTS PERRY's testimony regarding the so-called *"nonapproval as approval"* of the fake settlement agreement by the CAL AG deprived PLAINTIFF TRUE HARMONY of representation by the CAL AG. The clerks' deeds which resulted from the fake *"nonbinding"*

post-appeal judgment in BC244718 deprived TRUE HARMONY of title, which was its sole means of securing financing for the legal fees and expenses necessary to defend against the tortfeasor DEFENDANTS' pleadings, motions, petitions, actions etc. in BC244718 after appeal and in the subsequent sham petitions and unconstitutional actions in the courts in BC385560 and BC466413 that followed.

PLAINTIFF TRUE HARMONY avoided 1130 South Hope Street Investment Associates LLC, the California LLC, getting into the chain of title before the clerk of the court executed the deeds to the California LLC. In January and February of 2008, TRUE HARMONY's officers cancelled the articles of Hope Park Lofts, LLC and 1130 South Hope Investment Associates LLC (the California LLC) and formed a Delaware LLC by the same name, and caused TRUE HARMONY to transfer title to the Property to it (before the court ordered clerks' deeds to the California LLC in 2008). DEFENDANTS petitioned the superior court to compel arbitration, and attached a *"judicially unapproved"* version of the fake settlement agreement to the petition which stated that arbitration was *"binding"* instead of

nonbinding. And the court ordered arbitration, despite that TRUE HARMONY did have legal representation who raised the issue to the court.

The tortfeasor DEFENDANTS denied TRUE HARMONY due process of the laws in action no. BC385560 because they held the next arbitration hearing in January of 2009 despite TRUE HARMONY's objection that ten days advance notice of the hearing was inadequate time to prepare. TRUE HARMONY's attorney at law declined the engagement, and did not attend the arbitration hearing. DEFENDANTS SOLOMON and PERRY both attended. Their friend Ret. Judge Schloettler awarded title to the Property to 1130 South Hope Investment Associates LLC (the California LLC), and in excess of One Million Dollars ($1,000,000) in damages and attorneys' fees to Hope Park Lofts, LLC and 1130 South Hope Investment Associates LLC, in an award dated February 23, 2009.

TRUE HARMONY and its officers next caused PLAINTIFF 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC (the *"Delaware LLC"*) to file a voluntary petition in bankruptcy under chapter 11 of the Bankruptcy Act on May 6, 2009. The superior court

confirmed the arbitrator's award in 2008 against PLAINTIFF TRUE HARMONY and its officers as a judgment on June 3, 2009, in action no. BC385560. The judgment, tracking the language of the arbitration award dated February 23, 2009, declared that the TRUE HARMONY's officers' cancellation of 1130 South Hope Street Investment Associates LLC, the California LLC, was a fraud and it *"had always existed."* And it confirmed the damages and fees award to DEFENDANTS. This so-called *"judgment"* (based on the award in the nonbinding arbitration) violated the automatic stay in bankruptcy.

In late December of 2009 (before the court ordered the automatic stay lifted in February of 2010), the superior court heard arguments from the attorney at law for 1130 South Hope Investment Associates LLC (the California LLC) for summary judgment on the fifth cause of action for declaratory judgment for title against TRUE HARMONY and its officers and against the Delaware LLC as to its title, and granted it. Despite that the superior court stayed entry of its judgment until the tortfeasor DEFENDANTS could lift the automatic stay,

the grant of the summary judgment violated the automatic stay a second time.

DEFENDANT 1130 HOPE STREET INVESTMENT ASSOCIATES LLC (as 1130 South Hope Street Investment Associates LLC) obtained an order from the bankruptcy court on February 24, 2010 lifting the automatic stay prospectively only, granting their first motion to lift the stay to the bankruptcy court. On March 15, 2010, the scheduled trial date in BC385560, the Hon. John Kronstadt presiding, denied the Delaware LLC, TRUE HARMONY and TRUE HARMONY's officers a continuance to allow a counselor at law who appeared and announced his intention to represent them, time to prepare. The counselor at law tentatively engaged by PLAINTIFF to represent it declined to associate into the trial on that date, because the court denied the continuance.

At the so-called trial, the court denied the PLAINTIFF TRUE HARMONY, its officers and the Delaware LLC the right to present evidence in the record, which denied constitutional due process of the laws to TRUE HARMONY and its officers, and the Delaware LLC, and violated the automatic stay in

bankruptcy as to the Delaware LLC (a third violation) since the counselor's request for a continuance was reasonable. And Plaintiff TRUE HARMONY has standing to raise this violation of the automatic stay in bankruptcy because the superior court treated it as the *alter ego* of the Delaware LLC in denying TRUE HARMONY, the Delaware LLC and its officers constitutional due process of the laws in the so-called trial, and in incorporating the summary judgment in the final judgment entered on April 22, 2010.

The superior court also violated the automatic stay a fourth time by *ex parte* entry on the same day as the trial (March 15, 2010) of the previously granted summary judgment against the Delaware LLC as a judgment. The DEFENDANT tortfeasors violated the automatic stay in bankruptcy again with entry of the judgment after trial on April 22, 2010. And at about the same time as entry of the judgment in the trial on April 22, 2010, the DEFENDANT tortfeasors moved the bankruptcy court in a second motion to lift the automatic stay in bankruptcy of the Delaware LLC. The bankruptcy court never decided this second motion, because it dismissed the Delaware LLC's petition.

p. 170 (A8), Appendix – Second Amended Complaint in True Harmony v. State Dept. of Justice, case no. 20-cv-000170

In July of 2011, relying on the moot judgment of title in BC385560 after trial, dated April 22, 2010, which grossly violated the automatic stay in bankruptcy, the tortfeasor DEFENDANTS (through the California LLC as seller) sold the property to defendant BIMHF, LLC in a related party sale. The tortfeasor DEFENDANTS transferred title in violation of a cease and desist order under signature of Sonja Berndt, the state's Deputy Ass't. Attorney General, against the sale on April 1, 2011, which she served defendants with, and who therefore knew that the sale was illegal. A true copy of this cease and desist order is attached hereto as *Exhibit B*. An email sent by DEFENDANT BIMHF, LLC's attorneys at law to the other defendants acknowledged the receipt of service of this order. This email is attached hereto as *Exhibit C*.

The DEFENDANTS proceeded with the sale despite the cease and desist order. The transfer of title pursuant to the judgments in BC385560 was illegal under the Bankruptcy Act and state law, and the tortfeasor DEFENDANTS had no claim to proceeds of the sale. The CAL AG has never withdrawn or rescinded this cease and desist order.

Nevertheless, in action no. BC466413 filed in July of 2011, the tortfeasor DEFENDANTS purported to bring an interpleader action to distribute funds from sale of the property as a fund in court. It was an illegal fund, because the sale violated the cease and desist order. The superior court lacked *in rem* jurisdiction of the so-called fund in court. The tortfeasor DEFENDANTS' fake interpleader action also lacked *in personam* jurisdiction. They filed a proof of service for TRUE HARMONY but did not file a entry of default. The tortfeasor DEFENDANTS brought the action in the name of a nonexistent limited liability company, 1130 Hope Street Investment Associates LLC (the same name as DEFENDANT 1130 HOPE STREET INVESTMENT ASSOCIATES LLC, but the DEFENDANT by this name is a continuation of 1130 South Hope Street Investment Associates, LLC). As they later voluntarily dismissed all defendants from the action, the court never acquired in *personam* jurisdiction. The voluntary dismissal was possible solely because tortfeasor DEFENDANTS did not dismiss "*1130 Hope Street Investment Associates LLC*" (not the named DEFENDANT herein) from the interpleader. The DEFENDANTS concealed their

violation of the cease and desist order from the court and PLAINTIFFS, who obtained a copy of the cease and desist order and proof that the CAL AG served it on the tortfeasor DEFENDANTS.

In appeal no. BC254143 in 2013, Plaintiff THOMAS appealed the denial by the superior court of a motion to order relief from its dismissal of the cross-complaint of his client Haiem in action no. BC466413, the plaintiffless, jurisdictionless, fund-in-court less nature of the fake interpleader action still concealed from everyone but defendants. The tortfeasor DEFENDANTS concealed the frauds on the courts and the lack of all jurisdiction in action no. BC466413 from the court of appeals, and moved the court of appeals for sanctions of a frivolous appeal. The court of appeals granted sanctions in the amount of Fifty-eight Thousand Six Hundred and Fifty Dollars ($58,650) against Plaintiff THOMAS and payable to Defendant HUGH JOHN GIBSON *("GIBSON")*, in 2015. Further explanation of this sanctions award and the later sanctions award and the Plaintiff's reason for attacking the sanctions orders in this action is contained herein at VII*, infra*.

Plaintiff TRUE HARMONY represented by Plaintiff THOMAS brought an action against Defendants in superior court in 2014 in action no. BC546574 to recover title to the property and monies derived from the sale thereof. There were two amendments of the pleadings between 2014 and January of 2017. The causes of action that TRUE HARMONY included in the Second Amended Complaint among others were: independent equitable action to set aside the void judgments of title etc., violation of the *Uniform Voidable Transaction Act*, violation of the state *Unfair Competition Act*, and the defendants' conversion of a limited liability company membership interest.

TRUE HARMONY's second amended complaint in action no. BC546574 expressly invoked TRUE HARMONY's standing to argue the public interest in preservation of a nonprofit public benefit corporation, under *Cal. Corp. Code §5142*. *Compare Corporations Code §5913*. However, the CAL AG declined to intervene as a party in response to TRUE HARMONY's multiple express invitations to intervene to the attorneys of the Charitable Trusts Section of the CAL AG.

p. 174 (A8), Appendix – Second Amended Complaint in True Harmony v. State Dept. of Justice, case no. 20-cv-000170

In action no. BC546574, the tortfeasor DEFENDANTS brought two abusive anti-slapp motions under *Cal. Code Civ. Proc. §425.16* against the complaint and the first amended complaint. The court granted the first motion. The tortfeasor DEFENDANTS intentionally and in bad faith brought the anti-slapp motions to deny all discovery to PLAINTIFFS. When the court denied the second motion, tortfeasor DEFENDANTS obtained an abusive overbroad protective order against discovery under the Second Amended Complaint.

DEFENDANTS demurred to the Second Amended Complaint in BC546574, the first such civil action brought by TRUE HARMONY as PLAINTIFF, in 2017 on the grounds of *collateral estoppel and/or res judicata* based on the judgments entered in action no. BC385560 against TRUE HARMONY and 1130 South Hope Street Investment Associates LLC (Delaware LLC). The second amended complaint, the opposition to the demurrer and the motion for reconsideration all raised the violation of the automatic stay in bankruptcy in BC385560 as a defense The superior court sustained the DEFENDANTS' demurrer without leave to amend in a minute order ostensibly dated April 7, 2017, and the

ruling violated TRUE HARMONY's civil rights under the *U.S. Constitution*, *the Civil Rights Act of 1871*, the *Bankruptcy Clause* and the *Bankruptcy Act* because it was based on the judgment or judgments entered by the superior court in BC385560 which violated the automatic stay.

The tortfeasor DEFENDANTS SOLOMON, HOPE PARK (as HOPE PARK LOFTS 2001-02910056 LLC) and 1130 HOPE STREET INVESTMENT ASSOCIATES LLC, through DEFENDANT GIBSON, caused the court to enter judgment *ex parte* for them on April 7, 2017 without knowledge of the PLAINTIFFS, despite that on the same day following the court's ruling on the demurrer, it adjourned for three weeks to prepare for retirement. The clerk of the court failed to enter the minute order and/or judgment in the public records of the court on April 7, 2017 and for several days thereafter. The minute order and/or judgment were unavailable for PLAINTIFFS to view on the public pc terminals of the court in the clerk's office in the week beginning with April 10, 2017.

Plaintiff TRUE HARMONY moved the court for reconsideration of the demurrer on April 17, 2017, based

on PLAINTIFF THOMAS's recollection of the court's ruling from memory on April 7, 2017. The other tortfeasor DEFENDANTS including DEFENDANTS PERRY and BIMHF, LLC caused the superior court to enter judgment *ex parte* for themselves on May 1, 2017 and May 19, 2017.

The superior court denied the motion to reconsider the demurrer on October 17, 2017, expressing in writing that it believed that it lacked jurisdiction because by October judgments were entered for each of the DEFENDANTS. But TRUE HARMONY had filed the motion before entry of judgment for DEFENDANTS PERRY and BIMHF, LLC. The only directly applicable precedent held that the state courts must enter judgment pursuant to a noticed motion following a demurrer sustained without leave to amend. *Berry v. Superior Court (1955) 43 Cal. 2d 856*. DEFENDANTS moved for sanctions of a frivolous motion under *Cal. Code Civ. Proc. §128.7* on the ground of lack of jurisdiction, and the superior court awarded these sanctions on or about November 30, 2017. PLAINTIFFS appealed the denial of the motion and the award of sanctions by notice of appeal filed on December 18, 2017.

The appeals court in B287017 dismissed the appeal of PLAINTIFF TRUE HARMONY because it deemed its appeal to be untimely. Subsequently Defendant SOLOMON moved for sanctions of a frivolous appeal and the court of appeals granted the motion on December 13, 2018 in the amount of approximately Fifty-eight Thousand Dollars ($58,000) and Eight Thousand Five Hundred Dollars ($8500) payable to the court of appeals, and affirmed the trial court's sanctions. The supreme court of the state denied PLAINTIFF'S petition for review of the appellate sanctions in which the PLAINTIFF THOMAS argued that the appeal was not frivolous because the court of appeals failed to consider the alternative of deeming the appeal to be a petition for relief *coram pro nobis*, or the motion for reconsideration itself as such a petition or motion.

The court of appeals failed to consider that the sanctions infringed upon PLAINTIFF'S constitutionally protected rights to free speech and petitioning in a matter of public interest. The trial court in BC546574 has not yet entered judgment after remittitur for these sanctions and costs in B287017.

p. 178 (A8), Appendix – Second Amended Complaint in True Harmony v. State Dept. of Justice, case no. 20-cv-000170

The Executive Director of the National Association of Attorneys' General wrote a letter to the DEFENDANT BECERRA regarding case no. BC546574 and the appeal from it in December of 2017, which enclosed PLAINTIFF THOMAS's letter and the proposed third amended complaint in BC546574 including for the first time a cause of action for violation of due process of the laws. The Executive Director wrote to PLAINTIFF THOMAS that he forwarded the letter and the pleading to DEFENDANT BECERRA for action as appropriate.

PLAINTIFF THOMAS requested the assistance of the southern states bar association multiple times to begin, or to reopen the investigations of violations of the State Bar Act by DEFENDANTS PERRY and SOLOMON many times. Each time, the southern state bar association stated frivolous reasons for refusing to investigate and it is very obvious that the southern state bar association is held captive by DEFENDANTS PERRY, SOLOMON and GIBSON, or it is incompetent. It continues to threaten suspension of PLAINTIFF THOMAS's license to practice law in the southern state area, and it has started a collection action for the

tortfeasor DEFENDANTS in the southern state bar court.

The U. S. Supreme Court denied a petition for writ of certiorari in case no. 19-537 to nullify the sanctions in appeal B287017 in *Thomas v. Solomon* on January 13, 2020. The grounds of the petition were violations of PLAINTIFF'S constitutional rights of free speech, and petitioning, to challenge the violations of TRUE HARMONY's right to recover title to the property under the *Bankruptcy Act* and the *Bankruptcy Clause of the U. S. Constitution*, and the *Internal Revenue Code*.

II. PARTIES AND STANDING

1. PLAINTIFF TRUE HARMONY *("True Harmony")* is a nonprofit public benefit corporation organized under the laws of the state of California. It is a public charity registered by the Internal Revenue Service under *Section 501(c)(3)* of the *Internal Revenue Code ("IRC")*. It is the former owner of record, and rightful owner, of property in 1130 South Hope Street, Los Angeles, California.

2. PLAINTIFF RAY HAIEM is a citizen of the state of California. He is a federal and state income taxpayer, and the most significant donor to the charity of

PLAINTIFF TRUE HARMONY. He is a resident of Los Angeles County.

3. PLAINTIFF 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC *(a/k/a "Delaware LLC")* is a limited liability company organized under Delaware law by the officers of TRUE HARMONY in 2008 to hold title to the Property, who qualified it to do business under the laws of the state of California in the same year. It is the agent of TRUE HARMONY.

4. PLAINTIFF JEFFREY G. THOMAS *("Thomas"*) is a citizen of the state of California and a licensed attorney at law who does business in Los Angeles and Orange Counties. He is a federal and state income taxpayer. The California state courts imposed monetary sanctions on THOMAS in an appeal involving the dispute between TRUE HARMONY and HAIEM and the tortfeasor DEFENDANTS in B254143 in 2015, and in addition to entering judgment for additional *"as if"* appellate sanctions in action BC466413 after remittitur from B254143, imposed sanctions in the trial court in action B546574, and in the appeal B287017 from BC546574 when the courts lacked jurisdiction under the Bankruptcy Clause of the Constitution and the

Bankruptcy Act to decide the appeal. The State Bar Association – Southern Branch, continues to threaten suspension of THOMAS's license in a disciplinary case involving collections.

5. DEFENDANT DEPARTMENT OF JUSTICE OF THE STATE OF CALIFORNIA *("DEPARTMENT OF JUSTICE")* is the principal law enforcement agency of this state of the United States of America in all fifty-eight (58) counties.

6. DEFENDANT XAVIER BECERRA *("BECERRA")* is the Attorney General of the State of California, and presides over the DEPARTMENT OF JUSTICE *ex officio*. The *Bankruptcy Act* and the *Bankruptcy Clause* and *Supremacy Clause of the U.S. Constitution*, and the *Due Process of the laws Clause of Amendment Fourteen of the U.S. Constitution* required him to act to do his duties that he allegedly failed to do herein.

7. DEFENDANT ROSARIO PERRY *("Perry")* is a citizen of the state of California, an attorney at law licensed to practice law in the state of California, who on information and belief does business as a professional corporation in Los Angeles and Orange counties.

8. DEFENDANT HOPE PARK LOFTS 2001-02910056, LLC *("HOPE PARK")* is a limited liability company organized under the laws of California, and it is the continuation of Hope Park Lofts LLC. The Secretary of State of the state cancelled the articles of Hope Park Lofts, LLC in January of 2008, at the request of the officers of TRUE HARMONY. The Secretary of State reinstated Hope Park Lofts LLC as HOPE PARK in September of 2013 pursuant to an order of the superior court in action no. BS140530, and any acts pleaded herein as done by Hope Park Lofts LLC between January of 2008 and September of 2013 were done while HOPE PARK was dissolved. Like *"1130 Hope Street Investment Associates LLC"* and *"1130 South Hope Street Investment Associates LLC,"* which were treated as passthrough entities by DEFENDANT PERRY and SOLOMON. DEFENDANT SOLOMON treated his wholly owned HOPE PARK and Hope Park Lofts LLC as passthrough entities.

9. DEFENDANT 1130 HOPE STREET INVESTMENT ASSOCIATES LLC ("*HOPE STREET*") was first organized under this name by the filing of the articles of organization in 2003 in the office of the

Secretary of State of California. The Secretary of State of the state filed a change of name to *"1130 South Hope Street Investment Associates LLC"* submitted by Defendant PERRY in 2005. The Secretary of State cancelled the articles of *"1130 South Hope Street Investment Associates LLC"* in February of 2008 on the application of certain officers of TRUE HARMONY; and any acts pleaded herein as done by HOPE STREET between January of 2008 and September of 2013 were done while it was dissolved under the name of *"1130 South Hope Street Investment Associates LLC" (the "California LLC")*. DEFENDANT PERRY described it in its articles filed to organize it as a *"lawsuit settlement vehicle."*

10. The superior court ordered the Secretary of State to reinstate *"1130 South Hope Street Investment Associates LLC" (the "California LLC")* in 2013 in action no. BS140530. The reinstated *"1130 South Hope Street Investment Associates LLC"* filed an administrative name change to HOPE STREET in 2013 because the Secretary of State of the state required it to file an administrative name change to any available name as a condition of reinstatement of its articles of organization.

DEFENDANT PERRY selected HOPE STREET for the administrative name of the reinstated *"1130 South Hope Street Investment Associates LLC (California LLC)"* in 2013.

11. In 2011, DEFENDANT PERRY brought a civil action in the courts in no. BC466413 under the name of "plaintiff" 1130 Hope Street Investment Associates LLC, which deceived PLAINTIFFS and the court because 1130 Hope Street Investment Associates LLC did not exist and the dissolved *"1130 South Hope Street Investment Associates LLC" (California LLC)* did not exist and had not been reinstated.

12. DEFENDANT NORMAN SOLOMON *("Solomon")* is a citizen of California, and an attorney at law and real estate broker licensed to practice both in the state of California. On information and belief his brokerage firm Metro Resources Inc. does business in both Los Angeles and Orange counties.

13. DEFENDANT BIMHF, LLC *("Bimhf, LLC")* is a limited liability company organized under the laws of the state of California, according to public records. It is the current titleholder of record of the Property.

14. DEFENDANT HUGH JOHN GIBSON *("Gibson")* is a citizen of California, and an attorney at law licensed to practice in the courts of California, who on information and belief does business as an LLP or PC in Los Angeles and Orange Counties.

15. DEFENDANTS PERRY, SOLOMON, HOPE PARK (including acts done in its prior name of Hope Park Lofts LLC, when not dissolved in and after 2008), HOPE STREET, and GIBSON, and each of them, are collectively referred to herein as the *"tortfeasor defendants."* As the context requires the phrase *"tortfeasor defendants"* may include Defendant BIMHF, LLC. The tortfeasor DEFENDANTS were the agents, partners, independent contractors, members, shareholders, employees, joint venturers, officers, directors, or were liable vicariously for the misdeeds of one another or conspired with one another in some legal capacity to do harm to PLAINTIFFS.

16. Defendants DOES 1 through 10 are individuals or entities whose true names and identities are unknown to PLAINTIFFS. PLAINTIFFS pray for leave of the court to amend this Complaint to substitute the true names of DOES 1 to 10 hereto, when PLAINTIFFS discover them.

17. PLAINTIFF TRUE HARMONY has standing to bring this action because it was the record owner of the Property prior to this dispute, and is the agent for the true owner of title, the Delaware LLC. PLAINTIFFS HAIEM and THOMAS have standing to bring this action because they are federal and state income taxpayors, in addition to PLAINTIFF HAIEM contributing the largest gift to TRUE HARMONY after its inception as Turner Technical Institute, Inc.

18. Additionally PLAINTIFF THOMAS has standing because of sanctions levied on him in previous moot lawsuits and/or moot appeals relating to TRUE HARMONY's property, the mootness of which the DEFENDANT tortfeasors intentionally concealed from the state courts. The state courts levied the sanctions in action no. BC466413, and the appeal therefrom in B254143, action no. BC546574, and the appeal therefrom in B287017. The trial court in BC546574 had not entered judgment for the appellate sanctions after remittitur when this action was filed in this court. The DEFENDANT tortfeasors intended for the sanctions, which were entered in violation of THOMAS's substantive and procedural rights to due process of the

laws as a *"judicial taking"* of his liberty and property, to suspend THOMAS from the practice of law, which they are very close to completing. The DEFENDANTS have almost achieved their goal, as the Southern state Bar Association in Los Angeles has brought disciplinary action to suspend THOMAS and will set a trial date. The sanctions have intimidated Mr. HAIEM (also known as Farzad Nejathaiem), the donor, and TRUE HARMONY and caused them to hesitate to engage THOMAS's legal services because of the sanctions. Thus the sanctions have irreparably damaged THOMAS's fundamental constitutional right to his preferred occupation for a livelihood, and the sanctions infringe upon his constitutional right of free speech under *Amendment One of the U. S. Constitution*.

19. As long as the state bar association threatens to suspend his license to practice law because of nonpayment of these sanctions, the sanctions are a sham, and violate PLAINTIFFS HAIEM's and TRUE HARMONY's constitutional rights of free speech and access to the courts. PLAINTIFF THOMAS is the PLAINTIFFS' TRUE HARMONY'S and HAEIEM's choice of a counselor at law to bring this action, and

apparently is the only attorney at law to agree to bring this action in the court.

III. JURISDICTION AND VENUE

20. Jurisdiction is based on a federal question under the Civil Rights Act of 1871. *28 U.S.C. §1332; 42 U.S.C. §1983*. DEFENDANTS violated PLAINTIFF's federal civil rights arising under and secured by federal statutes including the *Bankruptcy Act of 1978* and the *Bankruptcy Clause of the U. S. Constitution*, the federal common law for enforcement of the rights of pubic charities under the *Internal Revenue Code*, the due process of the laws clause of Amendment Fourteen of the United States Constitution *("Constitution")*, and the federal common law of conflicts of interest of an attorney at law who represents clients on opposite sides of a civil action involving federal laws.

21. Jurisdiction of the second cause of action of fraud in violation of the law of charitable trust is established because the allegations of PLAINTIFF TRUE HARMONY's and HAIEM's rights to recover the charitable assets of the public charity anticipate the DEFENDANTS' defenses to the fraud charges arising

under the *Bankruptcy Act* and/or *Bankruptcy Clause of the U.S. Constitution*, and the *Internal Revenue Code*.

22. The State of California including the STATE DEPARTMENT OF JUSTICE and the CAL AG have waived sovereign immunity in this dispute involving property rights intertwined with rights of TRUE HARMONY under bankruptcy law that assures that the judgment of the state court under which DEFENDANTS stake their claim to title is moot as a matter of federal law, under the rule of *Central Virginia Community College v. Katz (2006) 546 U. S. 356*, and under *Cal. Code Civ. Proc. §526a*.

23. Venue is appropriate in this division of this federal district court because the authority of the STATE DEPARTMENT OF JUSTICE and the CAL AG extends to this division. The violations of the PLAINTIFFS' civil rights and the fraud on them affect federal and state taxpayers throughout the state.

IV. TIME, INCLUDING FRAUDULENT CONCEALMENT, CONTINUING VIOLATION AND EQUITABLE TOLLING

24. The various frauds and sham petitions on the state courts and against TRUE HARMONY and

PLAINTIFFS' HAIEM and THOMAS committed by the tortfeasor DEFENDANTS include without limitation:

(a) misrepresenting to TRUE HARMONY in 2003 that the first and nonsignature page of the so-called settlement agreement was an agreement by TRUE HARMONY to pay some attorneys' fees to DEFENDANTS SOLOMON and/or HOPE PARK in exchange for their dismissal of the DEFENDANTS' complaint against TRUE HARMONY for specific performance and quiet title, in case no. BC244718, and not providing the first page of the agreement, in order to induce TRUE HARMONY's representative to sign the second and signature page of the fraudulent agreement, in furtherance of their conspiracy to defraud;

(b) misrepresenting to TRUE HARMONY and to the court in testimony in hearings regarding the fake settlement agreement in 2004 that the CAL AG's failure to disapprove of the fake settlement agreement was tantamount to approval of it under *Cal. Corp. Code §5913* and the *Uniform Supervision of Charitable Trustees Act*, which intentionally concealed the fraud of the 50%-50% split of ownership from the CAL AG, and caused the CAL AG to fail to intervene in the post-verdict

hearings in BC244718 or in the appeal in B183928, or the arbitration hearings, or post appeal proceedings in BC244718 or in the proceedings in BC385560 to protect TRUE HARMONY;

(c) testifying against TRUE HARMONY in regards to hearings on enforcement of so-called fake agreement before entry of any judgment for TRUE HARMONY in its victory in the trial in BC244718, with regard to the genuineness of the signature on the fake agreement by TRUE HARMONY's representative, and involuntarily waving attorney-client privilege for TRUE HARMONY;

(d) as its attorney at law representing TRUE HARMONY, failing to move the court to move for summary judgment based on unenforcibility of SOLOMON's (or Hope Park Lofts, LLC's) purchase contract in the chain of title under the forged deed from PLAINTIFF TRUE HARMONY's predecessor which the court found in the trial misstated the name of Turner Technical institute, Inc. and was ineffective to transfer title, or to nonsuit or to dismiss the action brought by DEFENDANTS SOLOMON and HOPE PARK against TRUE HARMONY based on a fake settlement

agreement, void under state law as a complete defense to the action;

(e) failing to advise TRUE HARMONY that it had the right under the Rules of Professional Responsibility to independent advice regarding the business transaction involved in the so-called settlement agreement with DEFENDANTS in which DEFENDANT PERRY was counselor at law to TRUE HARMONY and designated himself as the manager of the *"new LLC"* who later became owner of TRUE HARMONY's property, and failure to obtain its express written consent to the business transaction with DEFENDANT PERRY, on a continuing basis to the present;

(f) with knowledge that the settlement agreement as approved by the superior court had a strikethrough of the word *"binding"* before the phrase *"settlement agreement,"* treating the arbitration clause as binding in sham arbitration hearings, which the DEFENDANTS moved the court to confirm as judgments in 2008, and holding these hearings with Ret. Judge Norman Schloettler as arbitrator who is a longtime *"chum"* and friend of the tortfeasor DEFENDANTS;

(g) *"churning"* in frivolous and sham civil actions by DEFENDANT PERRY against TRUE HARMONY, alleging a right to enforce the settlement agreement before entry of judgment on the trial verdict, and before the court made its ruling in BC244718 that TRUE HARMONY's representative signed the fake settlement agreement, and suing TRUE HARMONY to obtain a default judgment for fees to PERRY, despite the continuing violation of the *Rules of Professional Conduct*;

(h) sham argument to the state court of appeals in B183928 in 2007 that TRUE HARMONY waived its rights to contest the lack of approval of the settlement agreement by the CAL AG in the trial court and the court of appeals, and acceptance of the sham lead opinion by the court of appeals deciding this issue for DEFENDANTS, which was not a part of the record on appeals and was not included in PLAINTIFF's notice of appeal;

(i) sham argument to the state court of appeals in 2007 that 50% - 50% control of 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC between TRUE HARMONY and HOPE PARK was

acceptable under *IRS Rev. Rul. 98-16* and the *Internal Revenue Code,* despite that it requires the state court's deference to federal law and federal common law, and acceptance of the sham lead opinion by the court of appeals deciding this issue for DEFENDANTS, which was not a part of the record on appeals and was not included in PLAINTIFF's notice of appeal;

(k) Obtaining the order to arbitrate the dispute over title in action no. nBC385560 on September 11, 2008 based on the misrepresentation and sham petition to the superior court in action no. BC385560 of an arbitration clause in an *"unreal"* version of the fake settlement agreement that did not have the word *"binding"* before *"arbitration"* struck through, attached to the petition. This version of the fake settlement agreement was not the agreement approved by the superior court in BC244718 which did contain a strikethrough of the word *"binding"* in the so-called arbitration clause;

(l) the intentional violation of automatic stay in bankruptcy of the Delaware LLC (which the superior court treated as agent of, or *alter ego* with, TRUE HARMONY in the so-called trial on March 15, 2010), by

among other acts, obtaining a judgment in state court during the bankruptcy, inducing the state court by Judge Kronstadt to rule on a moot and sham motion for summary judgment in case no. BC385560 before the bankruptcy court lifted the stay, inducing the superior court to hold a sham trial in this state court action in which TRUE HARMONY and the bankrupt debtor, its Delaware limited liability company 1130 South Hope Street Investment Associates LLC *("Delaware LLC")* and nominee holding title to the Property, were denied a continuance to allow its chosen counselor at law to prepare for the trial. Thus the Delaware LLC and PLAINTIFF TRUE HARMONY were unrepresented at the trial, and the state court denied them the rights to present evidence in their behalf in violation of the constitutional due process of the laws and the automatic stay in bankruptcy. Because the court in action no. BC385560 regarded TRUE HARMONY and its officers as *alter egos* of the Delaware LLC, PLAINTIFF TRUE HARMONY has standing to raise the violation of the automatic stay in the bankruptcy of the Delaware LLC, its nominee to hold title to the property;

(m) selling the property to DEFENDANT BIMHF LLC in 2011 pursuant to a judgment of title for 1130 South Hope Street Investment Associates LLC (California) in action no. BC385560 that was mooted because of the violation of the automatic stay in bankruptcy;

(n) violating the CAL AG's cease and desist order dated April 1, 2011, in selling the property to BIMHF, LLC, who had knowledge of the cease and desist order before the sale, and aided and abetted the fraud;

(o) selling the property to DEFENDANT BIMHF, LLC for a substantially under market value price of approximately Two Million One Hundred and Fifty Thousand Dollars ($2,150,000) when the market value of the property was approximately Three Million Three Hundred Thousand Dollars ($3,300,000);

(p) obtaining payment for personal loans by the tortfeasor DEFENDANTS Hope Park Lofts LLC to SOLOMON's Cordova Investment Properties LLC from the proceeds of the escrow for sale, despite that the putative titleholder and putative owner of the proceeds of sale in the escrow, DEFENDANT 1130 HOPE STREET INVESTMENT ASSOCIATES LLC (dissolved at the time,

when it was known only by the name *"1130 South Hope Street Investment Associates LLC"),* did not borrow the money,

(q) paying Lottie Cohen, TRUE HARMONY's former counselor at law in her failed defense of petition for arbitration in action no. BC385560, approximately Twenty-eight Thousand Dollars ($28,000) out of the proceeds of the escrow for sale in 2011 to release her judgment lien on 1130 South Hope Street Investment Associates LLC, creating a conflict of interest for Lottie Cohen and the DEFENDANTS, without obtaining approval from TRUE HARMONY,

(r) bringing a sham interpleader action against TRUE HARMONY in no. BC466413, naming HOPE STREET as a plaintiff when it clearly did not exist and had not existed since 2005, and therefore had no standing to bring the action and no standing to dismiss it voluntarily in 2013, making it a moot and sham action outside of all jurisdiction of the superior court, and obtaining the net proceeds of the escrow from the escrow officer, and paying it into the fund in court, and dismissal of the action no. BC466413 by the nonexistent

plaintiff, and thereby obtaining public funds as the fund in court, by false pretenses;

(s) bringing the sham of a jurisdictionless, plaintiffless interpleader action in no. BC466413 in 2011, and depositing a sham fund in court that was obtained by a sale of the property without authority to sell the property pursuant to a moot and sham judgment of title to the property that violated the automatic stay in bankruptcy, and in violation of the cease and desist order of the CAL AG;

(t) in 2015, moving the state courts for and obtaining the monetary sanctions against Plaintiff THOMAS in the appeal B254413 from the moot and sham action in BC466413, concealing the tortfeasor DEFENDANTS' lack of authority to sell the property pursuant to the moot judgment in action no. BC385560, and the lack of jurisdiction *in personam* and *in rem* of the interpleader action in the superior court in no. B254143 and lack of jurisdiction of an appeal from a void action in the court of appeals, which was a fraud on the court;

(u) in 2014 through 2017, bringing moot and sham anti-slapp motions and a sham motion for

protective order to deny all discovery to PLAINTIFFS in action no. BC546574, resulting in a bad faith denial of all discovery in action no. BC546574, in an abuse of legal pleading and process;

(v) from 2009 through the present, the continued sham violation of the automatic stay in bankruptcy because of the demurrer sustained to the Second Amended Complaint in BC546574 which was based on collateral estoppel of moot judgments entered in violation of the automatic stay in action no. BC385560, and which ignored the federal definition of fraud on the court of an attorney at law representing both opponents in a civil action applicable to bankruptcy law;

(w) from 2009 through the present, the lack of constitutional due process to TRUE HARMONY in sham application of collateral estoppel and res judicata in violation of federal law to moot and sham judgments in action no. BC385560 which implied jurisdiction of that courts to enter the judgments from their mere existence, and making this sham argument in opposition to TRUE HARMONY's motion for reconsideration in BC546574 and the appeal therefrom in B287017;

(x) in 2017, causing the entry of sham judgments in the superior court *ex parte* in the sustaining of their demurrer to the Second Amended Complaint action no. BC546574 while TRUE HARMONY's motion for reconsideration of the sustaining of the demurrer was pending, and without making a motion to the court to enter judgment;

(y) inducing the court to order clerks' deeds to the property in action no. BC244718 after remittitur from the appeal in 2009 to transfer title from TRUE HARMONY 1130 South Hope Street Investment Associates LLC (when it was dissolved) based on judgments that confirmed non-binding arbitration awards as a fraud on the court, which fraudulently deprived TRUE HARMONY of title to the Property and its means of financing attorneys' fees for the many attorneys that it was required to hire to represent it in the defense of its title to the Property, and which deprived it of the services of a private counselor at law which it needed to obtain discovery in action no. BC385560, the arbitration hearing thereunder and action no. BC466413; and

(z) continuing to the present to claim title to the Property under a moot judgment dated April 22, 2010 in action no. BC385560 and under a moot judgment in action no. BC546574 based on collateral estoppel of the moot and sham judgments despite that the sham judgment in BC385560 grossly violated the automatic stay and was therefore, moot.

25. PLAINTIFFS note additionally that the most analogous state law period of limitations according to the Supreme Court of the United States's decision in *Owens v. Okure* is the four year period of limitations according to the *"catch-all"* statute for all actions, because there is no *"one"* statute of limitations for personal injuries and no *"catch-all"* statute of limitations solely for personal injury actions.

V. CUSTOM OR POLICY, AND STATE ACTION

26. A single act of a policymaker such as a state court judge is sufficient to prove policy or custom under the Civil Rights Act of 1871. The policy or custom of the state courts' failing to correctly apply the automatic stay in bankruptcy is evidenced by the state court's entry of judgment in action no. BC385560 against TRUE HARMONY and its officers and the Delaware LLC on

July 3, 2009 as confirmation of the arbitration award after PLAINTIFF TRUE HARMONY's nominee to hold title, the Delaware LLC, filed the petition in bankruptcy in 09-bk-20914 on May 6, 2009, grant of summary judgment against TRUE HARMONY and its officers and the Delaware LLC in state court on or about December 24, 2009 based on the arbitration award, during the bankruptcy, the state court's permission to the DEFENDANTS to read the judgment dated June 3, 2009 and/or the summary judgment into the record at the so-called trial on March 15, 2009 and precluding the nominee from continuing the trial to associate a counsel to defend against the trial, despite that DEFENDANTS failed to obtain an order annulling the stay from the bankruptcy court, entry of the summary judgment on March 15, 2009 against TRUE HARMONY and its officers, entry of the judgment in state court on April 22, 2010 against TRUE HARMONY, its officers and the Delaware LLC based on the trial that violated the automatic stay, and sustaining the demurrer to TRUE HARMONY's demurrer to the Second Amended Complaint in BC546574 based on res judicata or collateral estoppel of the moot judgment.

p. 203 (A8), Appendix – Second Amended Complaint in True Harmony v. State Dept. of Justice, case no. 20-cv-000170

27. The decision of the court of appeals in B183928 on the issue of the legality of the 50% - 50% split of control and ownership of the Property in 1130 South Hope Street Investment Associates LLC (California LLC) despite that it lacked jurisdiction of the issue because TRUE HARMONY omitted it from the notice of appeal, as a policy or custom violated the federal tax law and the federal common law (see cause of action #5).

28. The DEFENDANTS' frauds were multiple, continuous, intentional, and repetitive frauds and deceptions intended to, and which resulted in, cover up of their initial frauds arising out of the conspiracy for conflicts of interest of DEFENDANT PERRY as TRUE HARMONY's attorney at law and as a witness testifying against TRUE HARMONY involuntarily waiving its attorney-client privilege, and the conspiracy for a continuing business transaction with DEFENDANT PERRY as self-appointed manager of 1130 South Hope Street Investment Associates LLC (the California LLC), without advising TRUE HARMONY of its rights to independent legal advice and written consent to the conflict of interest in a continuing business transaction with their former client.

29. DEFENDANT co-tortfeasors misrepresented to TRUE HARMONY and to the court that the fake settlement agreement required binding arbitration of disputes of TRUE HARMONY with the tortfeasor DEFENDANTS, knowing that the fake settlement agreement that the superior court and court of appeals had reviewed and decided was signed by TRUE HARMONY's representative required non-binding non-judicial arbitration, and knowing also that all such nonbinding arbitration awards presented to the court for confirmation as judgments are shams. The superior court has a policy or custom of confirming such fake private judicial arbitration awards as judgments.

30. DEFENDANT tortfeasors agreed and conspired among themselves by means of their various frauds on the court and sham petitions to violate TRUE HARMONY's constitutional due process of the laws and to deprive it of title to its property, in knowing violation of the cease and desist order of the state attorney general; and as a further object of their conspiracy they agreed to conceal from PLAINTIFFS and the court the course of sham petitions and frauds on the courts and violations of the federal common law and the

Bankruptcy Act and Bankruptcy and Supremacy Clauses in the course of the conspiracy.

31. The tortfeasor DEFENDANTS are private actors who conspired with and acted in concert with state actors, including judicial officers who caused among other things violations of the PLAINTIFF's' rights under federal common law, and state charitable trust laws and the Bankruptcy Act and Bankruptcy Clause and Supremacy Clause pursuant to moot and sham petitions to courts and to the CAL AG in violations of PLAINTIFFS' civil rights, and who participated in and ratified the violations of federal and state law and civil rights of the state actors.

32. The individual tortfeasor DEFENDANTS are licensed attorneys at law in this state. They committed overt acts in furtherance of the conspiracy under the cover of attorneys at law engaged in business transactions with former clients in violation of ethical standards, as managers and members of the limited liability company formerly known as 1130 South Hope Street Investment Associates LLC (the California LLC) and now known as 1130 HOPE STREET INVESTMENT ASSOCIATES LLC. And they committed overt acts of

involuntarily waiving attorney client privilege for TRUE HARMONY in testifying fraudulently against it, and in directing the limited liability companies to conduct sham arbitration hearings and to misrepresent them to the court as judicial arbitration awards and in petitioning the courts in a sham to confirm the sham awards as judgments, in obtaining clerks' deeds depriving TRUE HARMONY of title to the Property based on sham arbitrations, in defying the cease and desist order of the CAL AG and selling the Property in violation of the order, in bringing the sham, plaintiffless, jurisdictionless and fund-in-court less interpleader action and concealing it from the court in BC466413, and causing the court to distribute the illegal fund in court to themselves, and in causing the limited liability companies to defend action no. BC546574 on grounds of *collateral estoppel* or *res judicata* outside and beyond all jurisdiction of the state court, based on prior moot and sham judgments in action no. BC385560, in causing the superior court to judicially notice judgments in "the entire case file," and in causing the superior court to enter judgments ex parte against Plaintiff TRUE HARMONY while its motion for reconsideration was

pending, and in the frivolous assertion of monetary sanctions against PLAINTIFF THOMAS to cause him to be suspended from the practice of law to deny PLAINTIFFS TRUE HARMONY and HAIEM of their constitutional free speech and petitioning rights to their chosen counselor at law to represent them with regard to title to the Property. Each of these overt acts also constitutes a custom or policy of the local superior court. The last overt act in furtherance of their conspiracy – entry of the judgment against THOMAS in the superior court in action no. BC546574 on remittitur from B287017 - had not occurred as of May 29, 2020.

VI. CUSTOM OR POLICY – AND STATE ACTION PERTAINING TO JUDICIAL SANCTIONS

33. PLAINTIFFS reallege and incorporate by reference herein paragraphs 1 through 32 and the *Introduction, supra*.

34. Although PLAINTIFF THOMAS did not oppose the motion for sanctions in court of appeals in B254143, PLAINTIFF THOMAS included citations in the appellate brief to decisions allowing the extension of time for filing a motion for relief from an order under *Cal. Code Civ. Proc. §473* of five days, under *Cal. Code Civ. Proc. §1013*,

for response to notice of an order mailed by the clerk in an action involving an unrepresented party, and DEFENDANT PERRY was an unrepresented party to whom notice of the dismissal of PLAINTIFF HAIEM's cross-complaint was mailed by the clerk. DEFENDANTS successfully moved the court of appeals to strike the reply brief for matters of form, which also addressed the issue, and PLAINTIFF THOMAS was unsuccessful in reversing the decision striking the reply brief. PLAINTIFF THOMAS repeated this argument for extending the six month period to bring the motion by five days, in the courtroom during the appeal.

35. DEFENDANTS made his motion for appellate sanctions after the court of appeals struck the reply brief, requesting sanctions of approximately Seventy-nine Thousand Dollars ($79,000) for each minute of time logged by HUGH JOHN GIBSON on the appeal including the motion for sanctions. Despite PLAINTIFF THOMAS's citations to decisions in the one brief, and arguments in the courtroom, the court of appeals denied the appeal and assessed sanctions of Fifty-eight Thousand Five Hundred Dollars ($58,500) against THOMAS to be paid to DEFENDANT GIBSON, based on

attribution of a hypothetical motive to coerce a settlement which DEFENDANT GIBSON did not include in his so-called evidence for the motion.

36. PLAINTIFF THOMAS argued for reversal of the sanctions in the timely petition for rehearing to the court of appeals. He argued that the court of appeals erred because it did not apply the *stare decisis* rule of clear and convincing proof to the motion for sanctions. PLAINTIFF THOMAS argued that DEFENDANTS had not proven the hypothetical motive of continuing the appeal to coerce DEFENDANTS to pay money to settle the appeal stated as the reason for the sanctions by the court of appeals but not made by DEFENDANT GIBSON in the appeal, by clear and convincing proof.

37. PLAINTIFF THOMAS also argued in the petition that the DEFENDANT's request for restitution of the entire amount of fees for all hours allegedly worked in the appeal and the motion for fees as sanctions was punitive, triggering the due process of the law requirements of Ninth Federal Circuit decisions for punitive sanctions of trial by jury and proof beyond a reasonable doubt. And he argued the failure of the court of appeals to apply its own clear and convincing evidence

burden of proof from its own precedent denied due process of the laws. The court of Appeals summarily denied the petition for rehearing. The failure of the court of appeals to apply these rules of constitutional due process of the laws constituted a custom or policy, and there are many similar decisions in the court of appeals.

38. PLAINTIFF THOMAS was late in filing his petition for review of the ruling for sanctions in B254143 in the state supreme court, and the state supreme court denied his motion for leave to file a late petition for review. PLAINTIFF THOMAS was late in filing the petition because the rule of court of allowing ten days for filing a petition for review of a final decision of the court of appeal, and the occurrence of finality of the opinion thirty days after the date of the appellate decision was too brief to prepare a meaningful petition for review in accordance with constitutional due process of the laws. He did not have a reasonable opportunity to appeal the state court's denial of the petition for rehearing based on the Ninth Federal Circuit's due process of law requirements for punitive sanctions, or the failure of the state court of appeals to apply its clear and convincing evidence burden of proof to the sanctions.

39. After remittitur from the court of appeals to the trial court DEFENDANT GIBSON moved the trial court for sanctions against the motion that the trial court denied that PLAINTIFF THOMAS appealed for PLAINTIFF HAIEM in B254143, although of course the motion had been denied and was no longer pending. The PLAINTIFFS had no motion pending in the superior court in February of 2016, when this motion for sanctions was scheduled for hearing of arguments. The basis of DEFENDANT GIBSON's motion for sanctions was *collateral estoppel* or *res judicata* of the finding of frivolity of the appeal by the court of appeals, before remittitur.

40. At the same time in December of 2016 DEFENDANT GIBSON moved the superior court of entry of judgment on the sanctions in the court of appeals, and a writ of execution. The superior court heard arguments on this motion in February of 2017, and stated on the record of the transcript that it could not recall anything about the action or the ruling that it had made denying PLAINTIFF HAIEM's motion for relief, but the court of appeals *"was its boss,"* and it had to follow its orders. The superior court took the motion

for sanctions under submission, and announced that there was no need for verbal argument, and subsequently granted the motion for sanctions without serving notice on PLAINTIFF THOMAS, and although ordered to do so, DEFENDANT GIBSON did not serve notice of the court's order on PLAINTIFF.

41. These sanctions ordered by the trial court in 2016 of a motion that Plaintiff THOMAS filed for PLAINTIFF HAIEM that the superior court had denied in 2013 before the appeal of the denial, was not pending in the court in 2016 and the superior court lacked jurisdiction to order the sanctions. DEFENDANT GIBSON's theory of the sanctions was collateral estoppel of the appellate decision of frivolity, and the sanctions resulted from sham petitioning. These sanctions awarded by the trial court must be regarded as *"add-on"* amounts to the appellate sanctions. And the total amount of appellate sanctions awarded by the appellate court in B254143, when added to the sanctions awarded by the trial court in 2016 which did not have jurisdiction of a pending motion and which were ostensibly based on preclusion because of a frivolous appeal, were far in excess of the total amount of fees for the appeal that DEFENDANT

GIBSON requested as sanctions in the appeal in B254143 for SOLOMON.

42. The total amount of appellate and trial court sanctions as added together and compared to the amount requested in the appeal exceeded the DEFENDANT GIBSON's *"restitutionary"* request for all of the fees in the appeal for the appellate sanctions, and included *"fees on fees"* involved in making the motion for sanctions. The total amount of appellate and trial court sanctions awarded were punitive in effect compared to the total request for appellate sanctions in B254143, as evaluated by binding precedent of the Ninth Federal Circuit decisions which require the constitutional due process of trial by jury and proof beyond a reasonable doubt.

43. DEFENDANT GIBSON never served PLAINTIFF THOMAS with a notice of entry of the order for sanctions in BC466413 after remittitur. PLAINTIFF THOMAS was served with notice of a request for attorneys' fees from DEFENDANT GIBSON, but not a notice of entry of the order for sanctions. The trial court granted the request for attorneys' fees for the frivolous motion for sanctions in August of 2016, but neither the

court nor DEFENDANT GIBSON served him with notice of the order granting the attorneys' fees. It was not until Officer Jalene Mojica Jackson of the State Bar Administration in the Southern Branch (S.O.B.R.) wrote to PLAINTIFF THOMAS and charged him with failure to report under the *State Bar Act* that PLAINTIFF THOMAS was informed of a final judgment on sanctions according to DEFENDANT's frivolous motion.

44. PLAINTIFF THOMAS later moved the superior court in BC466413 to set aside the judgment of sanctions in the trial court on the basis of lack of jurisdiction of the frivolous motion; however the superior court denied it because THOMAS's supplemental memorandum of points and authorities, taken together with the memorandum of points and authorities with the motion, exceeded the fifteen page limit of the *Rules of Court*. This was punitive and contrary to the state court rule requiring *de novo* review of the record pertaining to a suspension of a vested interest in a license.

45. In action no. BC546574 the DEFENDANT GIBSON requested sanctions for the PLAINTIFF TRUE HARMONY's motion for reconsideration of the order sustaining the demurrer without leave to amend to the

Second Amended Complaint. The trial court erred in denying the motion for lack of jurisdiction, because the trial court had jurisdiction of the motion for reconsideration based on the date that it was filed before the superior court entered judgment for DEFENDANT BIMHF, LLC and DEFENDANT ROSARIO PERRY, and he filed the motion without a copy of the minute order dated April 7, 2017 which was unavailable in the clerk's office and without knowledge of the entry of the judgment for DEFENDANTS SOLOMON, 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC and HOPE PARK LOFTS 2001-02910056 LLC, in reliance on *Cal. Code Civil Procedure §581(f)(1)* and *Berri v. Superior Court (1955) 43 Cal. 2d 856* and the due process of the laws clause and *stare decisis*.

46. The motion for reconsideration attached copies of the CAL AG's cease and desist order and the email between the private actor defendants that acknowledged service of the cease and desist order, and the certified copy of the transcript of the so-called trial in BC385560 on March 15, 2010 which is evidence that the superior court violated the automatic stay in bankruptcy at least one time before trial, during the so-called trial, a third

time in ex parte entry of the summary judgment and a fourth time in entry of the judgment after trial on April 22, 2010. Even if the trial court was correct in BC546574 that it did not have jurisdiction of the motion for reconsider the demurrer to the Second Amended Complaint, in the motion pleadings PLAINTIFF THOMAS obviously stated a good faith belief in the merits of the motion for reconsideration in BC546574, as based on stare decisis and the constitutional due process of the laws.

47. The sanctions awarded by the superior court in BC546574 of Twenty-three Thousand Five Hundred Dollars ($23,500) on November 30, 2017 were less than the total attorneys' fees allegedly incurred by DEFENDANTS and requested by the DEFENDANTS, by about Eight Thousand Dollars ($8000). The sanctions awarded were more than the attorneys' fees that were reasonably necessary to defeat the motion for reconsideration, that according to the DEFENDANT HUGH JOHN GIBSON's theory of frivolous sanctionable conduct was because the court lacked statutory jurisdiction of the motion for reconsideration.

48. PLAINTIFF TRUE HARMONY represented by THOMAS appealed the denial of the motion for reconsideration to the court of appeals on December 18, 2017. DEFENDANTS GIBSON and SOLOMON argued for a jurisdictional bar of separate appeals of motions for reconsideration, and a jurisdictional bar of appeals of motions to vacate judgment sixty days after the motion is filed. PLAINTIFF THOMAS for PLAINTIFF TRUE HARMONY argued that the denial of due process of the laws in *ex parte* entry of the judgments in BC546574 and entry of the judgments after TRUE HARMONY filed its motion for reconsideration, and/or treatment of the motion as a nonstatutory motion to vacate the judgment, required the court of appeals to accept jurisdiction of the appeal.

49. The court of appeals dismissed TRUE HARMONY's appeal based on untimeliness. DEFENDANTS GIBSON and SOLOMON moved for sanctions against PLAINTIFF THOMAS, again requesting the punitive amount of the entire amount of fees allegedly incurred in the appeal. The court of appeals reduced the sanctions from the total amount

requested, deducting the alleged fees for opposing the appeal of the sanctions in the trial court.

50. In appeal no. B287017 the amount of sanctions awarded by the court of appeals (according to the court of appeals) was less than the total attorneys' fees allegedly incurred by DEFENDANTS in the appeal. However, the sanctions awarded by the court of appeals were more than the attorneys' fees that were reasonably necessary to move to dismiss the appeal by TRUE HARMONY, and thus they exceeded the sanctions reasonably related to deterrence of making an appeal from a motion for reconsideration, and an appeal from the judgment sustaining the demurrer that was filed more than one hundred and eighty days after the judgment sustaining the demurrer, and were punitive.

VII. FIRST CAUSE OF ACTION: FOR MONEY DAMAGES, INJUNCTION, DECLARATORY JUDGMENT AND OTHER EQUITABLE REMEDIES FOR VIOLATION OF FEDERAL RIGHTS SECURED BY THE DUE PROCESS OF THE LAWS CLAUSE OF AMENDMENT FOURTEEN OF THE CONSTITUTION, THE BANKRUPTCY ACT AND BANKRUPTCY CLAUSE OF THE U.S. CONSTITUTION AND THE INTERNAL REVENUE CODE AND FEDERAL COMMON LAW (PLAINTIFFS TRUE HARMONY, 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC (the Delaware LLC) and HAIEM against the DEFENDANTS

PERRY, HOPE STREET, SOLOMON, HOPE STREET, HOPE PARK, BIMHF, LLC and GIBSON)

51. PLAINTIFFS realleges and incorporates by reference herein paragraphs 1 through 50 and the *Introduction, supra*.

52. *26 U.S.C. 501(c)(3)* defines corporations organized for the purpose of holding title to property for charitable purposes as registered public charities. It is a federal definition of charitable property which requires uniform application in the public interest in all states and territories.

53. The Supreme Court of the United States has described the definition of property in the *Internal Revenue Code* in *United States v. Craft (2002) 535 U.S. 274, 278* as: *"[One] look[s] to state law to determine what rights the taxpayer has in the property the Government seeks to reach, then to federal law to determine whether the taxpayer's state-delineated rights qualify as 'property' or 'rights to property' within the compass of federal tax lien legislation." [quoting Drye v. United States (1999) 528 U.S. 49, 58].*

54. The definition of *"property"* in *Internal Revenue Code Section 501(c)(3)* is quasi-jurisdictional, because

the courts must defer to the Internal Revenue Service's definition of charitable property under *Chevron, U.S.A. v. Natural Resources Defense Council (S.Ct. 1986)*, and there is a need for a uniform definition of charitable property.

55. *Int. Rev. Rul. 98-16* requires a charity to have majority control of a joint venture with a for profit entity, such as the joint venture in 1130 South Hope Street Investment Associates LLC (the California LLC, now known as DEFENDANT 1130 HOPE STREET INVESTMENT ASSOCIATES LLC, or HOPE STREET) contemplated by the fake settlement agreement ruled to be *"enforcible"* by the tortfeasor DEFENDANTS in BC244718 and B183928, and the state and federal courts are required to defer to this Internal Revenue Ruling under *Chevron, supra*. And the need for a uniform federal definition of charitable property according to *Treas. Regs. 1.501(c)(3)-1(d)(1)(ii)* "*in the public interest"* requires the recognition of a federal common law definition of federal charitable property.

56. The right of individual persons in the United States of America to associate to form a *Section 501(c)(3)*

charity is a fundamental constitutional right under *Amendment One of the U. S. Constitution*.

57. In *No. B183928, TRUE HARMONY v. Hope Park Lofts, LLC*, the state court of appeals rendered a decision that violated the deference required to *Internal Revenue Ruling 98-16*, and/or the federal common law, when it purported to approve the arrangement of 50% - %50 joint ownership and control in the so-called *"new"* entity, 1130 South Hope Street Investment Associates LLC (the California LLC, now known as 1130 HOPE STREET INVESTMENT ASSOCIATES LLC) because this issue was not included in the notice of appeal, was not decided in the record below, was not argued by TRUE HARMONY, and the tortfeasor DEFENDANTS did not cross appeal, and the court of appeals did not have jurisdiction of the issue. The ruling violated the constitutional *Due Process of the Laws* secured by *Amendment Fourteen of the U.S. Constitution* and deference to federal law or federal common law for TRUE HARMONY, on a continuing basis because the tortfeasor DEFENDANTS relied upon this ruling in obtaining clerks' deeds to the Property after the remittitur from the court of appeals in B183928 and in

subsequent sham arbitrations and sham petitions to the court.

58. In *No. B183928, TRUE HARMONY v. Hope Park Lofts, LLC*, the state court of appeals rendered a decision outside of its jurisdiction that TRUE HARMONY waived the issue of the prohibition by *Cal. Corp. Code §5913* of the settlement agreement, because this issue was not included in the notice of appeal, was not decided in the record below, was not argued by TRUE HARMONY, the tortfeasor DEFENDANTS did not cross appeal, and the court of appeals did not have jurisdiction of the issue. The settlement agreement was not approved, as the CAL AG stated four years later in the cease and desist order dated April 1, 2011 (*Exhibit B; see also Exhibit C*).

59. Judge Mosk's lead opinion for the court of appeals in *B183928* in 2007 did not have the majority support of the court of appeals. Judge Armstrong's so-called concurring decision was opposed to Judge Mosk's opinion of these *"legality"* issues, and Judge Kriegler's so-called concurring decision objected to the jurisdiction of the trial court to decide the motion for reconsideration of the defendant tortfeasors. The conclusions of Judge Mosk as to the *"legality"* issues of the charitable status of

TRUE HARMONY and the waiver of the issue of non-approval by the CAL AG did not have the support of two out of the three judges on the panel of the court of appeals, and was a sham majority opinion.

60. The tortfeasor DEFENDANTS violated TRUE HARMONY's federal civil rights under the *Civil Rights Act of 1871* secured to it by the *Supremacy Clause of the Constitution*, the *Freedom of Association* guaranteed by *Amendment One of the Constitution*, and the *Internal Revenue Code*, and the *Due Process of the Laws* under *Amendment Fourteen of the U. S. Constitution* and state law by inviting, and accepting the rulings of the Mosk opinion of the state court of appeals in B183928 with regard to the lack of charitable status of TRUE HARMONY and the sham waiver by TRUE HARMONY of the issue of non-approval by the CAL AG.

61. The tortfeasor DEFENDANTS violated TRUE HARMONY's rights to constitutional due process of the laws by causing the state courts to confirm sham arbitration awards under the fake settlement agreement as non-sham binding judgments, which deprived TRUE HARMONY of the right to present evidence on title in a hearing before the judge under the analogous statutes of

Cal. Code Civ. Proc. §585(c) and §764.010, and by causing the court to ordering clerks' deeds to transfer property from TRUE HARMONY to 1130 South Hope Street Investment Associates LLC based on the sham judgments. The clerks' deeds deprived TRUE HARMONY of the title to secure financing for legal fees in its dispute with DEFENDANTS.

62. The tortfeasor DEFENDANTS brought the action against TRUE HARMONY, its officers and the Delaware LLC in BC385560 in 2008, committed fraud on the court to induce it to refer the issues to binding arbitration and obtained a so-called *"judgment,"* a court order confirming a nonjudicial nonbinding arbitration award entered on June 3, 2009, against TRUE HARMONY and its officers and the Delaware LLC declaring that the cancellation of 1130 South Hope Street Investment Associates LLC, the California LLC, was fraud, and was moot and a sham because it violated the automatic stay in bankruptcy of the Delaware LLC. The judgment also awarded damages and fees against TRUE HARMONY to SOLOMON's Hope Park Lofts, LLC.

63. The court's entry of this *"judgment,"* as did entry of all of the *"judgments"* in BC385560, including the

summary *"judgment"* entered on March 15, 2010 and the judgment in the trial entered on April 2, 2010 in violation of the automatic stay in bankruptcy violated the Delaware LLC's and Plaintiff TRUE HARMONY's civil rights secured under the *Bankruptcy Clause*, the *Supremacy Clause of the U. S. Constitution*, and the federal bankruptcy law, and the Due Process of the Laws clause of *Amendment Fourteen of the U. S. Constitution*. These judgments were a sham and moot because they violated the PLAINTIFFS' civil rights.

64. The *Bankruptcy Clause of the Constitution* and the *Bankruptcy Act* secured rights arising under federal law to Plaintiff TRUE HARMONY which the Defendants violated, because they violated the automatic stay in bankruptcy of the Delaware LLC. The portions of the judgments relating to the Delaware LLC, TRUE HARMONY and the officers of both entities were not severable. TRUE HARMONY was essentially treated as the agent or *alter ego* with the Delaware LLC to whom TRUE HARMONY transferred title to the Property, in the judgments in action no. BC385560, in the court's denial of a continuance of the trial to both entities in violation of constitutional due process of the laws, and

denying both entities the right to present evidence, in entering judgment simultaneously against TRUE HARMONY, 1130 South Hope Street Investment Associates LLC, the Delaware limited liability company, and the officers of TRUE HARMONY before the bankruptcy court lifted the automatic stay, and relying on the sham arbitration award and these judgments presented by the defendants and read to the trial court in the so-called trial, and in entering a judgment after the trial in reliance on these *"pre-stay lifted"* judgments.

65. The sham interpleader action in no. BC466413, which DEFENDANTS filed in the court in July of 2011, violated the Delaware LLC's and TRUE HARMONY's rights to constitutional Due Process of the Laws because, first, the tortfeasor DEFENDANTS had no right to sell the property pursuant to the constitutionally sham and moot invalid judgments in BC385560 that related back to the clerk's deeds, and in violation of a cease and desist order of the CAL AG (*see Exhibits B and C hereto*). Thus the superior court lacked jurisdiction of the fund in court. And it was also a sham because, second, the alleged plaintiff HOPE STREET was nonexistent at the beginning and end of that action in 2011 and 2013, and

the action was dismissed voluntarily by HOPE STREET, and the superior court never had jurisdiction *in personam* of the PLAINTIFFS in this plaintiffless, jurisdictionless moot action. And the DEFENDANTS intentionally concealed the lack of *in rem* and *in personam* jurisdiction from TRUE HARMONY and the Delaware LLC and the local superior court.

66. The state court further violated the automatic stay of the bankruptcy of the Delaware LLC (and PLAINTIFFS TRUE HARMONY and HAIEM as well because they have standing to dispute it), and violated their civil rights secured by the *U. S. Constitution* and the federal law of bankruptcy by sustaining a demurrer to the complaint seeking equitable relief for TRUE HARMONY to recover title to the Property in action no. BC546574. The sustaining of the demurrer violated federal law because the demurrer was based on the DEFENDANT tortfeasors' sham argument for *collateral estoppel* or *res judicata* of the moot *"judgments"* in action no. BC385560 that violated the automatic stay.

67. Because the harms to the TRUE HARMONY, the Delaware LLC and HAIEM resulted from the same moot judgments, frauds on the court and violations of due

process of the laws, the injuries to PLAINTIFFS TRUE HARMONY and HAIEM were joint and indivisible. The violations of TRUE HARMONY's and the Delaware LLC's civil rights were also violations of HAIEM's civil rights, and *vice versa*.

68. As a direct result of these violations of federal civil rights of the PLAINTIFF, DEFENDANTS have wrongfully deprived TRUE HARMONY and the Delaware LLC of all right, title and interest to the Property, and use or enjoyment thereof, and deprived PLAINTIFF HAIEM of his charitable donation to TRUE HARMONY, which TRUE HARMONY was coerced to expend on legal fees and legal expenses to defend against DEFENDANTS' frivolous and sham actions in the courts involving the Property.

69. Because the DEFENDANTS' shams and frauds on the courts, the public and their breach of public trust caused TRUE HARMONY to lose title to the Property and HAIEM to lose his charitable donation and to suffer irreparable injury, PLAINTIFFS TRUE HARMONY, the Delaware LLC and HAIEM are entitled to an injunction requiring DEFENDANT BIMHF, LLC to reconvey title to the property to HOPE STREET (the current name for the

entity that was dissolved as 1130 South Hope Street Investment Associates LLC in 2008), and also requiring HOPE STREET to reconvey title to the Delaware LLC and TRUE HARMONY.

70. PLAINTIFFS TRUE HARMONY, the Delaware LLC and HAIEM have no adequate remedy at law, and are therefore entitled to equitable remedies.

71. PLAINTIFF TRUE HARMONY and the Delaware LLC have suffered money damages in the amount of no less than Five Million Five Hundred Thousand Dollars ($5,500,000) to be proved at trial.

72. PLAINTIFF HAIEM has suffered money damages in the amount of no less than One Hundred and Fifty Thousand Dollars ($150,000) to be proved at trial.

73. PLAINTIFFS are entitled to a declaratory judgment that the transfer of title to BIMHF, LLC is null and void, and an injunction against the transfer of title to 1130 South Hope Street Investment Associates LLC because of the violations of their civil rights.

74. PLAINTIFFS are entitled to costs and prejudgment interest thereon at the legal rate established by federal law, and to attorneys' fees under *42 U.S.C. §1988* as prevailing parties.

VIII. SECOND CAUSE OF ACTION: : DAMAGES FOR DENIAL OF THE CONSTITUTIONAL RIGHT OF ACCESS TO COURTS (PLAINTIFFS TRUE HARMONY, 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC (the Delaware LLC) and HAIEM and THOMAS against DEFENDANTS SOLOMON, GIBSON and PERRY)

75. PLAINTIFFS reallege and incorporate by reference herein paragraphs 1 through 74 and the *Introduction*, *supra*.

76. PLAINTIFFS have liberty and property interests in their civil actions in the courts, including discovery rights to freedom of information, and the bankruptcy courts, under the due process of the laws clause of Amendment Fourteen of the U.S. Constitution.

77. PLAINTIFFS have free speech rights and freedom of association rights under Amendment One of the U.S. Constitution in their civil actions in the courts, including discovery rights to freedom of information, and the bankruptcy courts, under the due process of the laws of Amendment Fourteen of the U.S. Constitution.

78. PLAINTIFFS have free speech rights and freedom of association rights under Amendment One of the U.S. Constitution in their support for the charitable purposes of the health, education and welfare for the poor, the

sick, and the materially and spiritually disadvantaged people of Southern California, of PLAINTIFF TRUE HARMONY.

79. DEFENDANTS infringed upon PLAINTIFFS' liberty and property interests, and their free speech and freedom of association rights by concealing from PLAINTIFF TRUE HARMONY and the courts and the CAL AG the breach of their duties to advise and consent TRUE HARMONY to the adverse conflict of interest under *Rule of Professional Conduct 3-300*, and to obtain its express written consent thereto, of involving themselves as attorneys at law representing a client in a civil action in the courts in the business transaction of jointly owning the property in 1130 South Hope Street Investment Associates LLC.

80. DEFENDANTS infringed upon PLAINTIFFS' liberty and property interests, and their free speech and freedom of association rights by breaching the federal common law of adverse conflicts of interest in their role as attorneys at law representing a client in a civil action in the courts and their role as business partners in joint ownership of the property with TRUE HARMONY in 1130 South Hope Street Investment Associates LLC.

81. DEFENDANTS infringed upon PLAINTIFFS' liberty and property interests, and their free speech and freedom of association rights and the federal common law by concealing from the CAL AG that DEFENDANTS had not obtained Plaintiff TRUE HARMONY's express written consent to a 50% - 50% split of ownership and control of jointly owning the property in 1130 South Hope Street Investment Associates LLC and by concealing from the courts in sham testimony that involuntarily waived the PLAINTIFFS' attorney-client privilege their failure to obtain the consent of the CAL AG to the business transaction under *Cal. Corp. Code §5913*.

82. After the court ruled in BC244718 that PLAINTIFF TRUE HARMONY had signed the written settlement agreement with knowledge that it established a 50% - 50% split of ownership of the Property in 1130 South Hope Street Investment Associates LLC, DEFENDANTS continued to conceal from the courts and the CAL AG on a continuing basis in sham arbitration hearings, in sham arguments in the appeal in B183928, and in sham post appeal motions in BC244718 seeking transfer of title to the property based on sham

arbitration awards, in the sham jurisdiction of the state court in action BC385560, in the sham interpleader in action BC466413, and in sham arguments for *collateral estoppel* and *res judicata* in action BC546574, and in miscellaneous frivolous and sham civil actions that they brought in the courts against TRUE HARMONY, that the charity had expressly consented in writing to a 50% - 50% split of ownership and control of jointly owning the property in *"1130 South Hope Street Investment Associates LLC" (California LLC)* and the conflicts of interest under *Rule of Professional Conduct 3-300*, when it had not expressly consented, the sham of the representation that the CAL AG approving the transaction, when he/she had not approved it, and that the sham consent of the charity to participate in binding judicial arbitration hearings concerning disputes with TRUE HARMONY concerning the Property, when it had not consented.

83. As a direct and proximate result of the foregoing misrepresentations to the courts, to Plaintiff TRUE HARMONY, 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC and the CAL AG in BC244718, TRUE HARMONY, 1130 SOUTH HOPE

STREET INVESTMENT ASSOCIATES LLC and HAIEM were deprived of the legal services of the CAL AG's Charitable Properties Section to which they was entitled as a nonprofit corporation and charitable trust, in appeal no. B183928, in post judgment motions in BC244718, in action no. BC385560, in action no. BC466413, in appeal no. B254143, in action no. BC546574, and appeal no. B287017, and in the bankruptcy of the Delaware LLC, to contest the Defendants' violations of state law and federal civil rights alleged herein.

84. As a direct and proximate result of the foregoing misrepresentations to the courts, to Plaintiff TRUE HARMONY, and the CAL AG in BC244718, and appeal no. B183928, the courts ordered clerk's deeds to the property to be executed transferring ownership of the Property from TRUE HARMONY to 1130 South Hope Street Investment Associates LLC, thus depriving TRUE HARMONY of the means of financing and securing the legal services that it needed to contest the Defendants' false claims on legal title to the Property in action no. BC385560, no. BC466413, in appeal no. B254143, in action BC546574, in appeal no. B287017, in the bankruptcy of the Delaware LLC, and various

miscellaneous civil actions, thus depriving Plaintiffs of effective private legal representation to recover title to the Property.

85. Defendants waged a campaign of *"pay to play"* sanctions imposed on Plaintiff's attorney at law Plaintiff THOMAS in sham petitions for sanctions in action no. BC466413, appeal B254143, action no. BC546574, and appeal no. B287017, that were imposed as a direct and proximate result of the violations of state law and federal civil rights of TRUE HARMONY and HAIEM alleged herein.

86. The state courts lacked any jurisdiction to enforce a sham and moot judgment of title in action no. BC385550 in that action and in subsequent actions as *collateral estoppel* or *res judicata*, against TRUE HARMONY and 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC (the Delaware LLC) as alleged in the First Cause of Action. As alleged herein, each of these judgments or orders for sanctions against THOMAS were based on DEFENDANT'S attempt to enforce a moot judgment or title based on the moot and sham judgments against TRUE HARMONY requiring it to transfer title to the Property to *"1130 South Hope*

Street Investment Associates LLC" (the California LLC). The statutes and rules of court invoked by the DEFENDANTS for the sanctions, as applied, violated TRUE HARMONY's, the Delaware LLC's and THOMAS's rights under the *Supremacy Clause* and *Bankruptcy Clause of the U.S. Constitution*. The judicial sanctions were and are not justified under the inherent power of the state courts since the state law prohibits monetary sanctions to be assessed against parties under the inherent power of the state courts, which the state courts revised by decision without legislative authorization. In doing so, the state courts took THOMAS's property without just compensation therefore in violation of *Amendment Five of the U.S. Constitution* and his federal civil rights.

87. DEFENDANTS caused the courts to impose the judicial sanctions on THOMAS without minimal due process safeguards of a clear and convincing evidence burden of proof and the independence of the DEFENDANTS as prosecutors of the sanction from the court as the adjudicator of sanctions, that violated THOMAS's liberty and property under *Amendment Fourteen of the U.S. Constitution* and his free speech

and right to association under *Amendment One of the U.S Constitution*. The nonpayment of sanctions have caused the southern branch of the state bar association at Los Angeles to threaten suspension of THOMAS's license to practice law, and continues to threaten to deprive PLAINTIFFS of effective legal representation herein.

88. The tortfeasor DEFENDANTS brought groundless and frivolous actions against PLAINTIFF TRUE HARMONY to enforce the fake settlement agreement before the court even approved or enforced the agreement over PLAINTIFF 'S objections, that they later dismissed voluntarily, and brought groundless and frivolous actions and arbitrations to collect attorneys' fees that they knew were unenforceable under *Rule of Professional Conduct 3-300*, including BC466413, to intimidate and to harass TRUE HARMONY and to coerce it into submission.

89. The tortfeasor DEFENDANTS abused the state law anti-slapp statute (*Cal. Code Civ. Proc. §425.16*) and brought sham and frivolous frivolous anti-slapp motions and motions for protective order to block all discovery of the evidence by PLAINTIFF TRUE HARMONY in No.

BC546574. This discovery was needed to obtain critical evidence for the joint agency or the joint nominee of nominal purchaser Shawn Manshoory for 1130 South Hope Street Investment Associates LLC in the closing of escrow for sale of the Property in July of 2011 which resulted in acquisition of title by DEFENDANT BIMHF, LLC, and proof that the CAL AG's cease and desist order was served on all DEFENDANTS before closing of escrow of sale of property in 2011, and DEFENDANTS proceeded to close the escrow in violation of the cease and desist order.

90. As a direct and proximate of the DEFENDANTS' violations of PLAINTIFFS' liberty and property interests under *Amendment Fourteen of the U.S. Constitution* and their free speech and association rights under *Amendment One of the U.S. Constitution*, Defendants have infringed upon PLAINTIFFS' constitutional right to access to the courts.

91. The Civil Rights Act of 1871 secures PLAINTIFFS' federal rights to access to courts under *Amendments One and Fourteen of U.S. Constitution* and DEFENDANTS' injuries of PLAINTIFFS' access to courts violated the

Civil Rights Act, and are continuing violations of their civil rights.

92. As a direct and proximate result of the violations, PLAINTIFFS' TRUE HARMONY and the Delaware LLC were deprived of title to real property valued in excess of Five Million Five Hundred Thousand Dollars ($5,500,000) and has suffered compensatory damages in that amount.

93. As a direct and proximate result of the violations, PLAINTIFF HAIEM's donation to TRUE HARMONY of approximately One Hundred and Fifty Thousand Dollars ($150,000) was spent on legal fees and other legal expenses for PLAINTIFF TRUE HARMONY, of at least $150,000, and he has suffered compensatory damages in that amount.

94. As a direct and proximate result of the illegal sanctions of approximately One Hundred and Seventy-five Thousand Dollars ($175,000), Plaintiff THOMAS is entitled to compensatory damages in that amount, and damages to be proven at trial to compensate him for the harm caused to his professional reputation.

95. Plaintiffs TRUE HARMONY, the Delaware LLC and HAIEM have the right to equitable relief including

injunction and declaratory judgment restoring title to property to PLAINTIFF TRUE HARMONY and the Delaware LLC because of no adequate remedy at law and irreparable injury to it.

96. PLAINTIFFS are entitled to exemplary damages under *Cal. Civ. Code §3294* because of DEFENDANTS' fraud including intentional concealment of material facts to deprive the charity of its public assets, and their malicious, intentional, despicable and willful disregard of the public's right to charity and charitable assets, in an amount to be proven to the court at trial, which is within the scope of the public interest exemption from the state's anti-slapp law in *Cal. Code Civ. Proc. §425.17(d).*

97. PLAINTIFFS and each of them are entitled to costs of suit and attorneys' fees under *42 U.S.C. §1988* as prevailing parties.

VIII. THIRD CAUSE OF ACTION: FOR DAMAGES, INJUNCTION AND DECLARATORY JUDGMENT AND OTHER EQUITABLE RELIEF AGAINST FRAUD UNDER *CAL. GOVERNMENT CODE §12596(b)* (PLAINTFFS TRUE HARMONY, 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC (the Delaware LLC) and HAIEM against the DEFENDANTS PERRY, HOPE STREET, SOLOMON, SOUTH HOPE – CALIFORNIA, HOPE PARK, BIMHF, LLC and GIBSON)

98. PLAINTIFFS reallege and incorporate by reference herein paragraphs 1 through 97 and the *Introduction*, *supra*.

99. The *Uniform Supervision of Charitable Trustees Act, Cal. Gov't. Code §12596(b)*, *Cal. Regs. Title 11, §§999.2 and 999.6* and the *parens patriae* doctrine impress a charitable trust on the assets of nonprofit public benefit corporations, and TRUE HARMONY is a nonprofit public benefit corporation and a public registered charity under *Internal Revenue Code §501(c)(3)*. The law impressed a charitable trust on TRUE HARMONY's title to the Property.

100. PLAINTIFFS TRUE HARMONY and HAIEM have standing to bring this cause of action as a nonprofit public benefit corporation and a major donor to the nonprofit corporation, respectively.

101. PLAINTIFFS TRUE HARMONY and HAIEM have an implied private right of action to sue for damages and injunction herein, because of the legislative intent of *Cal. Penal Code §799* to abolish the limitations on the crime of theft of public assets including charitable assets, the legislative intent for a private right of action under *Cal.*

Corp. Code §5142, and the common law of charitable trusts, acknowledging their standing.

102. Each and every one of the DEFENDANTS' sham actions and frauds pleaded hereinabove at paragraph *24 (a –z)* was, and is a continuing fraud on TRUE HARMONY and a breach of the charitable trust impressed upon the assets of TRUE HARMONY by the *Uniform Supervision of Charitable Trustees Act, Cal. Gov't. Code §12580 et seq., Cal. Regs. Title 11, §§999.2 and 999.6* and the *parens patriae* doctrine.

103. Each and every one of the violations of the due process of the laws pleaded herein in *IV, supra* at paragraphs 24(a – z) are continuing shams and fraud on the public charitable trust in TRUE HARMONY's assets, which constitute a systematic and routine pattern of fraud and sham pleading on the court and TRUE HARMONY to deprive PLAINTIFFS of title to its property.

104. The transfer of title of the Property from 1130 South Hope Street Investment Associates LLC (the California LLC, now known as 1130 HOPE STREET INVESTMENT ASSOCIATES LLC) to DEFENDANT BIMHF, LLC through the nominee Shawn Manshoory

was a fraud on TRUE HARMONY and breached the public trust in the charity because it violated the cease and desist order served by the CAL AG on DEFENDANTS (*see Exhibits B and C*), and DEFENDANTS knew or had reason to know that they violated the cease and desist order.

105. The transfer of title of the Property from 1130 South Hope Street Investment Associates LLC (the California LLC, now known as 1130 HOPE STREET INVESTMENT ASSOCIATES LLC) to DEFENDANT BIMHF, LLC through the nominee Shawn Manshoory was a fraud on TRUE HARMONY and breached the public trust in the charity because it was a common law fraudulent conveyance at a consideration of less than market value, and DEFENDANTS knew or had reason to know it.

106. PLAINTIFF TRUE HARMONY has suffered money damages in the amount of no less than Five Million Five Hundred Thousand Dollars ($5,500,000) to be proved at trial.

107. PLAINTIFF HAIEM has suffered money damages in the amount of no less than One Hundred and Fifty Thousand Dollars ($150,000) to be proved at trial.

108. PLAINTIFFS have no adequate remedy at law, and have been irreparably injured, and are therefore entitled to equitable remedies.

109. PLAINTIFF TRUE HARMONY is entitled to an injunction requiring DEFENDANT BIMHF, LLC to reconvey title to the property to 1130 South Hope Street Investment Associates LLC (the California LLC, now known as 1130 HOPE STREET INVESTMENT ASSOCIATES LLC) and an injunction requiring 1130 South Hope Street Investment Associates LLC (the California LLC, now known as 1130 HOPE STREET INVESTMENT ASSOCIATES LLC) to reconvey title to TRUE HARMONY and/or the Delaware LLC.

110. PLAINTIFFS are entitled to a declaratory judgment that the transfer of title from 1130 South Hope Street Investment Associates LLC (the California LLC, now known as 1130 HOPE STREET INVESTMENT ASSOCIATES LLC) to BIMHF, LLC is null and void, and that the transfer of title from PLAINTIFF TRUE HARMONY to 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC (the California LLC, now known as 1130 HOPE STREET INVESTMENT ASSOCIATES LLC) is null and void because of the fraud.

111. PLAINTIFFS are entitled to costs and prejudgment interest thereon at the legal rate established by law at ten percent (10%) according to *Cal. Civil Code Section 3288 and 3289*, and to attorneys' fees under *Cal. Code Civ. Proc. §1021.5* as private attorneys general.

XI. FOURTH CAUSE OF ACTION: FOR INJUNCTION AND OTHER EQUITABLE RELIEF FOR VIOLATIONS OF TAXPAYERS' RIGHTS UNDER THE DUE PROCESS OF THE LAWS CLAUSE OF AMENDMENT FOURTEEN OF THE U.S. CONSTITUTION
(PLAINTIFFS TRUE HARMONY, HAIEM and THOMAS against the DEFENDANTS DEPARTMENT OF JUSTICE OF THE STATE OF CALIFORNIA and XAVIER BECERRA)

112. PLAINTIFFS reallege and incorporate by reference herein paragraphs 1 through 50 and the *Introduction*, *supra*.

113. PLAINTIFFS HAIEM and THOMAS, and some members of PLAINTIFF TRUE HARMONY are federal and state income taxpayers. As taxpayers, they have standing under *Cal. Code Civ. Proc. §526a* and the due process of the laws clause of *Amendment Fourteen of the U.S. Constitution* to contest unlawful exactions of taxes from PLAINTIFFS and the residents of the state in general, by the state of California.

114. The members of PLAINTIFF TRUE HARMONY, PLAINTIFF HAIEM as a major donor to TRUE HARMONY, and PLAINTIFF THOMAS who was sanctioned on multiple occasions by the state courts for representing PLAINTIFF TRUE HARMONY in its dispute over title to Property, have particularized injury as taxpayers particularly affected by the unlawful exactions of taxes challenged in this action.

115. The CAL AG declined to enforce the cease and desist order dated April 1, 2011 (*Exhibit B*) that she personally served on the DEFENDANT co-tortfeasors prohibiting the sale of the property to DEFENDANT BIMHF, LLC under state law, ie. *Cal. Gov't. Code §12596(b), Cal. Regs. Title 11 §§999.2 and 999.6*, the *parens patriae* doctrine and the federal common law (as pleaded in COA #5).

116. DEFENDANT tortfeasors waived formal enforcement proceedings of the cease and desist order by the CAL AG by going ahead with the sale on or about July 11, 2011 (*Exhibit C*), and proceeding to sell the Property to DEFENDANT BIMHF, LLC despite their knowledge that the sale violated the order.

117. The STATE DEPARTMENT OF JUSTICE and the CAL AG had a duty to reasonably exercise their discretion to enforce the cease and desist order. This duty is enforcible by taxpayers, because charitable assets are public assets that may be used in lieu of the welfare budget of the state of California to provide public services to low or no income residents in need of them.

118. The CAL AG and STATE DEPARTMENT OF JUSTICE breached their duty to taxpayers under the *parens patriae* doctrine and federal and state common law to enforce the cease and desist order.

119. If the CAL AG and STATE DEPARTMENT OF JUSTICE had enforced the cease and desist order, it would have resulted in restitution of the net proceeds of the sale of the property of about One Million Eight Hundred and Fifty Thousand Dollars ($1,850,000) to PLAINTIFFS TRUE HARMONY and RAY HAIEM.

120. The taxpayers' remedies in state court for the unlawful taxes are inadequate because the state courts have allowed and will continue to allow *res judicata* or *collateral estoppel* effect to a moot judgment in superior court case no. BC385560 that violated the automatic stay in federal bankruptcy law and the federal common law of

the income tax exemption for public charities registered under *Internal Revenue Code Section 501(c)(3)*.

121. The due process of the laws clause of Amendment Fourteen authorizes jurisdiction in this court to contest the state's unlawful exaction of taxes because remedies in the state court are inadequate.

122. Under *Cal. Code Civ. Proc. §526a* and Amendment Fourteen of the U.S. Constitution, the taxpayers will be irreparably injured if the court does not enjoin the CAL AG's breaches of duty, and the court must enjoin the CAL AG to enforce the cease and desist order.

123. PLAINTIFFS have no adequate remedy under state law for the CAL AG's breaches of duty as proven by the disregard of the state courts for federal bankruptcy law and federal common law of public charities as alleged, and are therefore entitled to invoke equitable remedies. Furthermore *Cal. Code Civ. Proc. §526a* is a waiver of sovereign immunity to taxpayers' suits in federal and state courts.

124. PLAINTIFFS are entitled to a letter from the CAL AG delegating responsibility to PLAINTIFFS or deputizing them as private attorneys general and relator

to the CAL AG to enforce *Cal. Gov't. Code §12596(b)*, *see Pacific Home v. County of Los Angeles (1953) 41 Cal. 2d 844*, *Cal. Regs. Title 11 §§999.2 and 999.6* and the *parens patriae* doctrine, or an injunction or declaratory judgment that the CAL AG is joined as an involuntary plaintiff in COA #3.

125. PLAINTIFFS are entitled to costs as prevailing parties, and attorneys' fees under *Cal. Code Civ. Proc. §1021.5* and *42 U.S.C. §1988* as private attorneys general.

XII. FIFTH CAUSE OF ACTION: INJUNCTION AND OTHER EQUITABLE RELIEF AGAINST VIOLATIONS OF THE FEDERAL COMMON LAW PERTAINING TO PUBLIC CHARITIES REGISTERED UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE (PLAINTIFFS TRUE HARMONY, HAIEM and THOMAS against the DEFENDANTS DEPARTMENT OF JUSTICE OF THE STATE OF CALIFORNIA and XAVIER BECERRA)

126. PLAINTIFFS reallege and incorporate by reference herein paragraphs 1 through 50 and the *Introduction*, *supra*.

127. PLAINTIFFS are residents of the state, and have standing to require the CAL AG to exercise his discretion to enforce the public trust in charitable assets under the

federal common law of public charities registered under *Section 501(c)(3) of the Internal Revenue Code*.

128. At least forty-four states of the United States of America incorporate the common law of the United Kingdom which established the authority of the sovereign to supervise and to protect charitable property for the common good and welfare of the subjects of the British Crown, and forty-nine states follow the tradition of common law authority. These forty-four states of the United States of America which incorporate common law include authority in a state official as *parens patriae* and protector of charitable trusts, which is also recognized in the federal common law.

129. In the state of California the official who protects charities as the *parens patriae* is the CAL AG, who is responsible for enforcement of the *Uniform Supervision of Charitable Trusts Act, Cal. Gov't. Code §12580 et seq.*, *Cal. Regs. Title 11 §§999.2 and 999.6* and the common law in the public interest, as alleged in COA#3.

130. PLAINTIFF True Harmony is a public charity established under *Internal Revenue Code Section 501(c)(3)*. The regulations of the Internal Revenue Service under *Code Section 501(c)(3)* include *Treas. Reg.*

1.501(c)(3)-1(d)(1)(ii), which provides that an organization operated exclusively for exempt purposes must *"establish that it is not organized or operated for the benefit of private interests…."*

131. *Internal Revenue Service Revenue Ruling 98-16* interprets this requirement of the public interest in charities under *Treas. Reg. 1.501(c)(3)-1(d)(1)(ii)* to require the public charity to retain fifty-one percent (51%) control of the public charity's partnership or joint venture with a for-profit entity.

132. *Treas. Reg. 1.501(c)(3)-1(d)(1)(ii)* and *Internal Revenue Service Revenue Ruling 98-16* restate the common law of the United Kingdom as it relates to charities. *See Alfred L. Snapp & Son, Inc. v. Commonwealth of Puerto Rico (1982) 458 U.S. 592*. It contemplates a federal common law for the protection of federal registered public charities such as TRUE HARMONY involved a joint venture with a for profit business.

133. This federal common law requires the *parens patriae* official of the state, the CAL AG in this case, to protect the controlling interest of the public charity in a joint venture with a for-profit entity.

134. On April 1, 2011 the CAL AG personally served the DEFENDANT tortfeasors with a cease and desist order against the sale of the PLAINTIFF True Harmony's charitable interest in the property. *Exhibit B hereto*. DEFENDANT tortfeasors waived formal enforcement proceedings by the CAL AG by going ahead with the sale on or about July 11, 2011, despite their knowledge that the order of the CAL AG required them to cease and desist. *See Exhibit C hereto*.

135. The STATE DEPARTMENT OF JUSTICE and CAL AG had a duty to enforce the cease and desist order under the federal common law, the state common law, and *Cal. Gov't. Code §12596(b)*, *Cal. Regs. Title 11 §§999.2 and 999.6*, which if enforced should have resulted in restitution of the net proceeds of the sale to Defendant BIMHF, LLC of about One Million Eight Hundred and Fifty Thousand Dollars ($1,850,000), or in the alternative the One Million Six Hundred Thousand Dollars ($1,600,000) paid as a deposit in court in the fake interpleader action BC466413, to TRUE HARMONY in the public interest.

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136. The CAL AG and STATE DEPARTMENT OF JUSTICE unreasonably refused to exercise discretion to enforce the cease and desist order and negligently breached their duty as *parens patriae* to enforce the cease and desist order.

137. The CAL AG's breach of his duty to enforce the cease and desist order directly and proximately injured taxpayers, because the burden of paying for welfare for the indigent people on taxpayers increased by One Million Eight Hundred and Fifty Thousand Dollars ($1,850,000) as a result of his breach of duty.

138. The CAL AG had a duty under the federal common law and the Bankruptcy Act and the Bankruptcy Clause to interpret the judgments dated June 3, 2009 and April 22, 2010 in action no. BC385560 as moot because of the state court's violations of the automatic stay in the bankruptcy of TRUE HARMONY's nominee to hold title to the property, the Delaware LLC, leading up to and involved in the judgment confirming title to the property in 1130 South Hope Street Investment Associates LLC dated April 22, 2010.

139. The CAL AG negligently breached his duty to treat the judgment of title in action no. BC385560 as moot, a

sham and a fraud on the court, and a violation of due process of the laws.

140. The CAL AG's breach of his duty to interpret the judgments in action no. BC385560 as moot directly and proximately injured residents of the state, deprived them of the public assets of the property of PLAINTIFF TRUE HARMONY, and adversely affected their quality of life.

141. PLAINTIFFS will be irreparably injured if the court does not enjoin the CAL AG's breaches of duty, and the court must enjoin the CAL AG and the STATE DEPARTMENT OF JUSTICE to enforce the cease and desist order.

142. PLAINTIFFS have no adequate remedy at law for the CAL AG's breaches of duty as alleged herein, and is entitled to an injunction.

143. In the alternative, if the court does not enjoin the CAL AG (DEFENDANT BECERRA) and STATE DEPARTMENT OF JUSTICE to enforce the cease and desist order because of the doctrine of prosecutorial discretion, the PLAINTIFFS are entitled to an injunction under the federal and state common law, *Cal. Corp. Code §5142(b)* and *Cal. Gov't. Code §12596(b)* (*see Pacific Home v. County of Los Angeles (1953) 41 Cal. 2d*

844), Cal. Regs., Title 11 §§999.2 and 999.6, recognizing their standing as private attorneys' general to enforce these laws against the tortfeasor DEFENDANTS and BIMHF, LLC or an injunction to require the CAL AG (Defendant BECERRA) and the state DEPARTMENT OF JUSTICE to join in the second cause of action pleaded herein as involuntary plaintiffs.

144. PLAINTIFFS are entitled to costs as prevailing parties, and attorneys' fees under *Cal. Code Civ. Proc. §1021.5* as private attorneys general.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS request the court for the following relief:

ON THE FIRST CAUSE OF ACTION, FOR PLAINTIFFS TRUE HARMONY, 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, AND HAEIM AGAINST DEFENDANTS ROSARIO PERRY, NORMAN SOLOMON, HOPE PARK LOFTS 2001-02910056 LLC, 1130 HOPE STREET INVESTMENT ASSOCIATES, LLC, and HUGH JOHN GIBSON:

1. Injunction and/or Declaratory Judgment that the transfer of title to the Property from TRUE HARMONY to 1130 South Hope

Street Investment Associates LLC violated the civil rights of TRUE HARMONY, the Delaware LLC and HAIEM;

2. Injunction and/or Declaratory Judgment that the sale of the property by 1130 South Hope Street Investment Associates LLC to BIMHF, LLC violated the civil rights of TRUE HARMONY and the Delaware LLC;

3. Injunction and/or Declaratory Judgment that the interpleader action no. BC466413 brought by 1130 HOPE STREET INVESTMENT ASSOCIATES LLC was moot and all orders made by the court therein violated the civil rights of TRUE HARMONY, the Delaware LLC and HAIEM;

4. Injunction and Declaratory Judgment requiring BIMHF, LLC to reconvey title to the property to 1130 HOPE STREET INVESTMENT ASSOCIATES LLC, and requiring 1130 HOPE STREET INVESTMENT ASSOCIATES LLC to reconvey title to TRUE HARMONY and

1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, the Delaware LLC;

5. Compensatory money damages in the amount of Five Million Five Hundred Thousand Dollars ($5,500,000) to be paid to TRUE HARMONY and the Delaware LLC;

6. Compensatory money damages in the amount of One Hundred and Fifty Thousand Dollars ($150,000) to be paid to HAIEM;

7. Attorneys' fees;

8. Costs; and

9. Such further and other relief as may be awarded by the court.

ON THE SECOND CAUSE OF ACTION, FOR PLAINTIFFS TRUE HARMONY, 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, HAEIM AND THOMAS AGAINST DEFENDANTS ROSARIO PERRY, NORMAN SOLOMON, HOPE PARK LOFTS 2001-02910056 LLC, 1130 HOPE STREET INVESTMENT ASSOCIATES, LLC, and HUGH JOHN GIBSON:

1. Injunction and Declaratory Judgment that the Action No. BC385560 infringed upon TRUE HARMONY's and the Delaware LLC's constitutional right of access to courts and violated their civil rights;
2. Injunction and/or Declaratory Judgment that the transfer of title to the Property from TRUE HARMONY to 1130 South Hope Street Investment Associates LLC violated the civil rights of TRUE HARMONY, the Delaware LLC and HAIEM;
3. Injunction and/or Declaratory Judgment that the sale of the property by 1130 South Hope Street Investment Associates LLC to BIMHF, LLC violated the civil rights of TRUE HARMONY and the Delaware LLC;
4. Injunction and/or Declaratory Judgment that the interpleader action no. BC466413 brought by 1130 HOPE STREET INVESTMENT ASSOCIATES LLC was moot and all orders made by the court therein violated the civil rights of TRUE

HARMONY, the Delaware LLC and HAIEM;

5. Injunction and Declaratory Judgment requiring BIMHF, LLC to reconvey title to the property to 1130 HOPE STREET INVESTMENT ASSOCIATES LLC, and requiring 1130 HOPE STREET INVESTMENT ASSOCIATES LLC to reconvey title to TRUE HARMONY and 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, the Delaware LLC;

6. Compensatory money damages and/or Restitution and/or Disgorgement in the amount of Five Million Five Hundred Thousand Dollars ($5,500,000) to be paid to TRUE HARMONY and the Delaware LLC;

7. Compensatory money damages and/or Restitution and/or Disgorgement in the amount of One Hundred and Fifty Thousand Dollars ($150,000) to be paid to HAIEM;

8. Compensatory money damages in the amount of One Hundred and Seventy-five Thousand Dollars ($175,000), to be paid to THOMAS to compensate him for the illegal sanctions, and compensatory damages for harm to his reputation to be proven at trial;
9. Exemplary damages to be proven at trial within the scope of the public interest exemption from the anti-slapp law;
10. Attorneys' fees;
11. Costs; and
12. Such further and other relief as may be awarded by the court.

ON THE THIRD CAUSE OF ACTION, FOR PLAINTIFFS TRUE HARMONY, 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC (Delaware LLC) AND HAEIM AGAINST DEFENDANTS ROSARIO PERRY, NORMAN SOLOMON, HOPE PARK LOFTS 2001-02910056 LLC, 1130 HOPE STREET INVESTMENT ASSOCIATES, LLC, and HUGH JOHN GIBSON:

1. Injunction and/or Declaratory Judgment that the transfer of title to the Property from

TRUE HARMONY to 1130 South Hope Street Investment Associates LLC defrauded TRUE HARMONY, 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC (the Delaware LLC) and HAIEM and breached the public trust in charity;

2. Injunction and/or Declaratory Judgment that the sale of the property by 1130 South Hope Street Investment Associates LLC to BIMHF, LLC defrauded TRUE HARMONY, the Delaware LLC and HAIEM and breached the public trust in charity;

3. Injunction and/or Declaratory Judgment that the interpleader action no. BC466413 brought by 1130 HOPE STREET INVESTMENT ASSOCIATES LLC was moot and all orders made by the court therein defrauded TRUE HARMONY, the Delaware LLC and HAIEM and breached the public trust in charity;

4. Injunction and Declaratory Judgment requiring BIMHF, LLC to reconvey title to

the property to 1130 HOPE STREET INVESTMENT ASSOCIATES LLC, and requiring 1130 HOPE STREET INVESTMENT ASSOCIATES LLC to reconvey title to TRUE HARMONY and the Delaware LLC;

5. Compensatory money damages and/or Restitution and/or Disgorgement in the amount of Five Million Five Hundred Thousand Dollars ($5,500,000) to be paid to TRUE HARMONY and the Delaware LLC;

6. Compensatory money damages and/or Restitution and/or Disgorgement in the amount of One Hundred and Fifty Thousand Dollars ($150,000) to be paid to HAIEM;

7. Attorneys' fees;

8. Costs; and

9. Such further and other relief as may be awarded by the court.

ON THE FOURTH CAUSE OF ACTION, FOR PLAINTIFFS TRUE HARMONY, HAIEM AND THOMAS

AGAINST DEFENDANTS STATE OF CALIFORNIA, AND CALIFORNIA ATTORNEY GENERAL XAVIER BECERRA:

1. An injunction requiring Defendants to join in the action against transfer of title to the Property to Plaintiff TRUE HARMONY, under *Cal. Government Code §12596*, as involuntary plaintiffs in the Second Cause of Action herein;
2. In the alternative, a declaratory judgment requiring the CALIFORNIA ATTORNEY GENERAL to acknowledge in writing to Plaintiffs and to the Court that he approves of Plaintiffs' Second Cause of Action in the public interest under *Cal. Government Code §12596* and the *Cal. Code of Regs*. and the *parens patriae* doctrine;
3. Attorneys' fees;
4. Costs; and
5. Such further and other relief as may be awarded by the court.

ON THE FIFTH CAUSE OF ACTION, FOR PLAINTIFFS TRUE HARMONY, HAIEM AND THOMAS

AGAINST DEFENDANTS STATE OF CALIFORNIA, AND CALIFORNIA ATTORNEY GENERAL XAVIER BECERRA:

3. An injunction requiring Defendants to join in the action against transfer of title to the Property to Plaintiff TRUE HARMONY, under *Cal. Government Code §12596*, as involuntary plaintiffs in the Second Cause of Action herein;

4. In the alternative, a declaratory judgment requiring the CALIFORNIA ATTORNEY GENERAL to acknowledge in writing to Plaintiffs and to the Court that he approves of Plaintiffs' Second Cause of Action in the public interest under *Cal. Government Code §12596* and the *Cal. Code of Regs*. and the *parens patriae* doctrine;

3. Attorneys' fees;

4. Costs; and

5. Such further and other relief as may be awarded by the court.

DEMAND FOR JURY TRIAL

FURTHERMORE, Plaintiffs request a trial by jury.

Dated: May 31, 2020

JEFFREY G. THOMAS

/s/Jeffrey G. Thomas
Attorney at law *in Propria Persona* and for the Plaintiffs
TRUE HARMONY and HAIEM

EXHIBIT 'A'
FAKE SETTLEMENT AGREEMENT

settlement and judgment RL

The parties stipulate to judgment of the Plaintiff's quiet title action as follows:

Title to the property commonly known as 1130 South Hope Street is quieted in the name of 1130 South Hope Street Investment Associates, LLC. (the "new LLC")

The property shall be minimally prepared for sale by Hope Park Lofts, LLC.

Effective immediately the property shall be exclusively listed for sale with Metro Resources, LLC, at a 5% commission. The listing price shall be $1.4m. For the first 7 days after the first offer is submitted it shall not be accepted without ~~True's Harmony's~~ Rosario Perry's permission. The listing price shall reduce to $1.3m if the property is not under a contract of sale within 30 days from ~~listing~~ entry of judgment, and shall reduce 50k every 20 days thereafter, except that the listing price shall remain frozen at any time the property is under a contract of sale. Excluded from commission are any buyers whose name Rosario Perry forwards to Norm Solomon before that buyer submits an offer and Lance Robbins and Asnchutz Entertainment Group.

If Davis or Hollar sues the new LLC Rosario Perry will defend the new LLC for free and Hope Park Lofts, LLC shall have no responsibility for fees or any judgment.

Except as stated above the manager of the new LLC shall have authority to sign a sale contract and deed. Rosario Perry shall be the manager. The members of the new LLC are True Harmony and Hope Park Lofts. 50% interest RL 50% interest RL

The proceeds of sale shall be divided as follows, and in the following order:

1. Payment of real estate commissions and all closing costs;
2. Payment of HMH + Coke (65m).
3. The next 450k to Hope Park Lofts, LLC plus such costs, to a maximum of 50k, it determines are reasonably necessary to prepare the property for sale including, without limitation, installation of lights, arrangement and payment of insurance, management of property, clean up of interior debris, securing and boarding the building, roof repairs, and

interfacing with the City, but shall not include extraordinary costs including without limitation City Code compliance or other governmental requirements.

4. The next 800k to True Harmony.

5. The next 75k to Hope.

6. The next 25k to True.

7. Any funds remaining shall be divided 50/50.

Any disputes hereunder shall be first mediated and then arbitrated, bindingly, by Retired Judge William Schoettler and if he is not available, by Retired Judge Richard Harris at JAMS.

Any payments to HMH and Koke shall be prorated based on net cash to each party, and shall be paid off the top from gross sale proceeds, after payment of escrow costs & commissions.

At Hope Park Loft's election, ownership to the LLC shall transfer to Hope after escrow closes and proceeds have been distributed

Each signatory below represents that he has authority to bind the entity for which he signs, and that all necessary approvals prerequisite to his signature being effective have been received.

Dated: 10/9/03

Hope Park Lofts, LLC and all Plaintiffs

for True Harmony & Turner's

Rosario Perry, atty

EXHIBIT 'B'
CEASE AND DESIST ORDER

KAMALA D. HARRIS
Attorney General

State of Califo
DEPARTMENT OF JUST

300 SOUTH SPRI
L

Tele
Fac
E-Mail: s

April 1, 2011

ALL SERVICE TO ADDRESSEES BY PERSONAL DELIVERY

True Harmony, a California Nonprofit
Public Benefit Corporation
c/o Samuel Benskin,
Agent for Service of Process
1211 W. Bennett St.
Compton, CA 90220

Ray of Life Charitable Foundation,
a California Public Benefit Corporation
c/o Farzad Haiem (aka Ray Haiem),
Agent for Service of Process
1675 Carla Ridge
Beverly Hills, CA 90210

1130 South Hope Street Investment Associates,
A Purported California Limited Liability Company
c/o Rosario Perry, Manager
312 Pico Blvd.
Santa Monica, CA 90405

Rosario Perry, Esq.
312 Pico Blvd.
Santa Monica, CA 90405

Metro Resources, Inc.
c/o Norman S. Solomon,
Agent for Service of Process
929 E. 2nd St, Suite 101
Los Angeles, CA 90012

David J. Stahl
c/o Metro Resources, Inc.
929 E. 2nd St., Suite 101
Los Angeles, CA 90012

Cordova Investment Partners, LLC
c/o Norman S. Solomon
Agent for Service of Process
929 E. 2nd St, Suite 101
Los Angeles, CA 90012

Hope Park Lofts, a Purported LLC
Carlton Slater,
Agent for Service of Process
1204 S. Whitemarsh Avenue
Compton, CA 90220

Hope Park Lofts, LLC
c/o Naz Rafalian,
Agent for Service of Process
101 S. Greenfield
Los Angeles, CA 90049

RE: Sale/Transfer of Real Property Located at 1130 South Hope Street, Los Angeles, California 90015
Notice of Violation of Corporations Code Section 5913; Cease and Desist

To All of the Persons/Entities to Whom This Notice is Addressed:

The Attorney General's Office has received information that there are ongoing efforts t sell or otherwise transfer or encumber the real property located at, and commonly known as, 1130 South Hope Street, Los Angeles, California 90015 ("1130 South Hope Street") and that t property may be in escrow as of the date of this letter and may close shortly. The legal description of this real property is as follows: Lot 6 in block 79 of Ord's survey, in the City of Los Angeles, County of Los Angeles, State of California, as per map recorded in book 31 page(s) 90 of miscellaneous records, in the Office of the County Recorder of said county.

This Office has become aware that the California nonprofit public benefit corporations True Harmony or Ray of Life Charitable Foundation ("Ray of Life"), or both, have a substanti financial interest in 1130 South Hope Street. Further, this Office has learned that the charitabl interest in 1130 South Hope Street would constitute all or substantially all of the assets of True Harmony and Ray of Life.

Pursuant to Corporations Code section 5913, the Attorney General must receive writter notice 20 days before a charitable corporation "sells, leases, conveys, exchanges, transfers or

otherwise disposes of all or substantially all of its assets . . . unless the Attorney General h given a written waiver of this section as to the proposed transaction." The Attorney Gene not received any such written notice and has given no waiver of notice and intends to revi transaction.

Accordingly, with regard to 1130 South Hope Street, you are hereby notified immediately cease all activity with regard to the sale, lease, conveyance, exchange, tr and any other activity that would affect title to the property until the requirements o Corporation Code section 5913 have been met.

If you have questions, you may contact Deputy Attorney General Sonja K. Berndt 897-2179.

Sincerely,

SONJA K. BERNDT
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

SKB:meh

LA2010201293

EXHIBIT 'C'

EMAIL OF SHEPHERD MULLIN ET AL. LLP

Edgeman, Elaine

From: Marianne Huettemeyer-Holm [MHuettemeyer-Holm@sheppardmullin.com]
Sent: Tuesday, April 05, 2011 5:40 PM
To: Shebesta, William; Hallman, Donald; Abernathy, Doug; Edgeman, Elaine
Cc: Pamela Westhoff
Subject: 1130 South Hope Street//Update
Attachments: 403415258_1 1130 South Hope Street - California Attorney General Letter dated April 1 2011.PD

I just wanted to let you all know we are currently out of contract on 1130 South Hope Street. It is very possible that the deal may come to life again, but unfortunately new issues were disclosed to us (in addition to the right of first refusal issue previously discussed). For your records, I am attaching a copy of a letter from the California Attorney General which we received this afternoon. Seller claims that this is an old issue which has already been resolved, however we have not researched the issues discussed in the Attorney General Letter.

Thank you all for your assistance and work with this transaction. We appreciate all your hard work and efforts.

Please call me or Pam if you have any questions.

Marianne

Marianne Huettemeyer-Holm
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VERIFICATION

I, Jeffrey G. Thomas, am the attorney at law for Plaintiffs True Harmony and Ray Haiem and I am also appearing *in propria persona* in this action which is captioned True Harmony ex rel. The Department of Justice of the State of California, in the Southern Division of the federal district court for the Central District of California. I have read the foregoing Verified Second Amended Complaint for Money Damages and Declaratory Relief and Injunction and know the contents hereof to be true of my own personal knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed at Los Angeles, California on the date set forth herein.

Dated: May 31, 2020 *_____/s/ Jeffrey G. Thomas*