No. _____

In the Supreme Court of the United States

MAUDE LAROCHE-ST. FLEUR

Petitioner,

v.

BOARD OF BAR OVERSEERS OF THE SUPREME JUDICIAL COURT OF MASSACHUSETTS, et al.,

Respondents / Complainants.

On Petition for a Writ of Certiorari
to the Massachusetts Supreme Judicial Court

PETITION FOR A WRIT OF CERTIORARI
(Corrected and Re-submitted)

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THE QUESTIONS PRESENTED

The Massachusetts Supreme Judicial Court seized Petitioner's law license for 18 months since March 25, 2022. This seizure is based upon the recommendation of the Board of Bar Overseers ("the BBO"), a subsidiary State agency of the court. Both the BBO and the court have exclusive jurisdiction over all matters involving attorneys admitted to practice law in the Commonwealth of Massachusetts. The BBO's duties include handling complaints against attorneys for misconduct. This case stems from Petitioner's underlying divorce case.

The three questions presented are:

1. Whether, when dealing with its citizens, a State court is permitted to issue decisions that are in direct conflict with this Court's precedents, and in violation of the fundamental inalienable rights to fair proceedings and equal protection under Section One of the Fourteenth Amendment to the Constitution of the United States.

2. Whether the Massachusetts Supreme Judicial Court Rule 4:01, § 9 (3), vesting in the BBO and its entire staff immunity from liability for any conduct in the course of their official duties, is void for vagueness when the BBO's actions and omissions create an adversarial environment that makes the BBO a fortress to reckon with.

3. Whether a State highest court's failure to adjudicate a case on its merits is permissible, where the party is left with nowhere to turn to vindicate their fundamental inalienable Constitutional rights.

PARTIES TO THE PROCEEDINGS

Petitioner, Maude Laroche-St. Fleur, was Appellant in the court below; Respondent in the BBO's Proceedings; Appellant in the State Appellate Courts in 2017 and 2019; Plaintiff in the Suffolk Probate and Family Court since 2014; and Plaintiff and Appellant in the federal courts below in 2021.

Respondents include the Board of Bar Overseers of the Supreme Judicial Court of Massachusetts in its capacity of performing its duties.

Respondents also include Rodney S. Dowell, in his official capacity as Bar Counsel of the Board of Bar Overseers of the Supreme Judicial Court of Massachusetts.

Respondents also include Robert M. Daniszewski, in his official capacity as Assistant Bar Counsel of the Board of Bar Overseers of the Supreme Judicial Court of Massachusetts.

Finally, Respondents include Joseph S. Berman, in his official capacity as General Counsel of the Board of Bar Overseers of the Supreme Judicial Court of Massachusetts.

All Respondents were Appellees and Complainants in the court below.

RULE 29.6 STATEMENT

As required by this Court's Rule 29.6, Petitioner hereby states that she is an individual, and therefore has no parent entities and does not issue stock.

Dated: February 24, 2023

Respectfully submitted,

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Dated: April 4, 2023

Respectfully Re-submitted

RELATED PROCEEDINGS

The proceedings below are:

1. In the Matter of Maude Laroche-St. Fleur, 490 Mass. 1020 (2022), No. SJC-13262, Massachusetts Supreme Judicial Court. Opinion entered Oct. 27, 2022.

2. In re Maude Laroche-St. Fleur, No. BD-2022-012, Massachusetts Supreme Judicial Court. Judgment entered Nov. 30, 2022.

3. In re Maude Laroche-St. Fleur, No. BD-2022-012, Single Justice of the Massachusetts Supreme Judicial Court. Order entered March 25, 2022.

4. Bar Counsel v. Maude Laroche-St. Fleur, No. C1-16-0004, Board of Bar Overseers of the Supreme Judicial Court of Massachusetts. Petition for Discipline entered June 25, 2020. Information entered Jan. 25, 2022.

5. Laroche-St. Fleur, Maude v. St. Fleur, Sr., James, No. 14D1029DR, Suffolk Probate and Family Court. Judgment of Divorce and Findings of Fact and Conclusions of Law entered Jan. 6, 2016.

6. M.L.-S.F. v. J.S.F., No. 2016-P-1108, Massachusetts Appeals Court. Order Affirming State Trial Court Judgment entered June 19, 2017.

7. Maude Laroche-St. Fleur v. James St. Fleur, Sr., No. FAR-25471, Massachusetts Supreme Judicial Court. Denial of Petitioner's Application for Further Appellate Review, Entered Sept. 14, 2017.

8. M.L.-S.F. v. J.S.F., No. 2018-P-1151, Massachusetts Appeals Court. Order Affirming Denial of Petitioner's Rule 60 Motion, Entered June 24, 2019.

9. Maude Laroche-St. Fleur v. James St. Fleur, No. 2018-P-1088, Massachusetts Appeals Court. Denial of Petitioner's Motion for Reconsideration, Entered July 9, 2019.

10. M.L.-S.F. v. J.S.F., No. FAR-26963, Massachusetts Supreme Judicial Court. Denial of Petitioner's Application for Further Appellate Review, Entered Sept. 13, 2019.

11. M.L.-S.F. v. J.S.F., No. FAR-26964, Massachusetts Supreme Judicial Court. Denial of Petitioner's Application for Further Appellate Review, Re-entered Sept. 13, 2019.

Related Proceedings are:

1. SF v. Budd, No. 21-cv-10078-DJC, U. S. District Court for the District of Massachusetts. Judgment Dismissing Petitioner's Complaint with Prejudice entered Aug. 30, 2021.

2. M.L.-S.F. v. Kimberly S. Budd, et al, No. 21-1685, U.S. Court of Appeals for the First Circuit. Judgment Affirming Dismissal of Petitioner's Complaint with Prejudice; and Granting Appellees' Joint Motion for Summary Judgment, Entered Aug. 23, 2022.

Proceedings in this Court are:

1. M.L. - S.F. v. Kimberly S. Budd., et al., No. 22M54. Order Denying Petitioner's Motion to Direct the Clerk to File Petition for a Writ of Certiorari Out of Time, Entered Jan. 9, 2023.

2. Maude Laroche-St. Fleur v. Board of Bar Overseers of the Supreme Judicial Court of Massachusetts, No. 22A640. Order Granting Petitioner's Motion for Extension of Time to File Petition for a Writ of Certiorari until February 24, 2023, Entered Jan. 17, 2023.

3. Maude Laroche-St. Fleur v. Board of Bar Overseers of the Supreme Judicial Court of the Massachusetts, No. 22A703. Order Denying Petitioner's motion for a Stay pending the filing and disposition of a Petition for a Writ of Certiorari, Entered Feb. 6, 2023.

There are no other proceedings in State, or federal trial, or appellate courts, or this Court directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

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OPINIONS BELOW

The opinion of the Massachusetts Supreme Judicial Court, affirming the suspension of Petitioner's law license, is included in the Appendix for this Petition at (Pet. App. 1a-9a), and is reported at 490 Mass. 1020 (2022). The order of the Singe Justice of the Massachusetts Supreme Judicial Court suspending Petitioner's law license appears at Pet. App. 10a-20a, and is unreported.

JURISDICTION

The Massachusetts Supreme Judicial Court issued its opinion on October 27, 2022 (Pet. App. 1a-9a), affirming its Single Justice's Order. The judgment was entered on November 30, 2022. See Pet. App. 82a. No petition for rehearing was applicable, nor filed, in this case. On January 17, 2023, this Court granted the Application (22A640) extending the time to file the petition for a writ of certiorari until February 24, 2023. This is an initial petition. As such, there is no cross-petition. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Due Process Clause of the Fourteenth Amendment to the Constitution of the United States provides that "No State shall deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1.

The Equal Protection Clause of the Fourteenth Amendment to the Constitution provides that "No State shall deny to any person within its

jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

The United States Code, 28 U.S.C. § 1257(a) provides: "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States."

The United States Code, 42 U.S.C. § 1983, provides: "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

INTRODUCTION

Petitioner is an attorney. This case stems from her underlying divorce case, which she initiated in May 2014. A two day trial was held in November

2015. The trial court's findings of fact and judgment of divorce are dated December 30, 2015. The judge reported Petitioner to the BBO for alleged violation of ethical rules of the Bar. The BBO held the case in deferment pending appeals. The BBO commenced its proceedings on the record in June 2020. The Massachusetts Supreme Judicial Court seized Petitioner's law license in 2022.

STATEMENT OF THE CASE

A. Factual Background

1. Entry in Mortgage Field of Petitioner's Financial Statements

The disciplinary proceedings against Petitioner are based entirely upon the record of her underlying divorce case. On May 13, 2014, Petitioner filed a complaint for divorce in the Suffolk Probate and Family Court. App. Vol. 2 at 11, Entry #1. An incident that led to separation and then divorce occurred on November 14, 2013. Opposing Party left with Son. *Infra* at 23. Of note, Son's funds (*Infra* at 119-121) are inextricably intertwined in the equity in the home. When it became clear that the separation was final, Petitioner put the home on the market from December 12, 2013 to March 12, 2014. The intention was to return the funds to Son prior to initiating the divorce proceedings. The home was not sold. See *Infra* at 144-147. In February 2014, Opposing Party asked Petitioner to send him divorce papers. *Id.* at 148-150. Petitioner filed the complaint for divorce in May 2014.

Due to serious safety concerns, Petitioner entered Son's funds in the mortgage field of her financial statement . See *Supra* at 309 and 315 (Sealed Pages). Notably, the "Rent or Mortgage" field under "Weekly Expenses" at 8(a) is left blank. *Id.* at 308 & 314 (Sealed Pages). *See also Supra at 136 (Sealed Page)* ***(Pages 130-135 + 137-139 are Removed)***. Petitioner disclosed the entry very early in the proceedings to both Opposing Party and the trial court. Although disclosure occurred a lot earlier, see App. Vol. 1, at 144, Lines 5-14. Notably, the BBO said three things in particular about this entry.

First, in March 2021, the Assistant Bar Counsel said during closing argument: "... the defense makes no sense... It's a complete *non sequitur*... it is simply not a rational concern... It simply defies any logic..." *Infra* at 184, Lines 1-2; Lines 7-9; Line 23. *Second*, in July 2021, an event occurred that shocked the world. In its August 2, 2021 Hearing Report, the BBO says: "We credit that [Petitioner] had this generalized concern." Pet. App. at 44a, ¶79 (c). *Third*, the BBO maintains the same position in its October 21, 2021 Amended Hearing Report. See *Infra* at 75a, ¶78 (a).

In August 2014, Opposing Party agreed to amend his first pre-trial memorandum to remove certain information therein. App. Vol. 2 of 2 at 11, Entries #13 and #16. This is memorialized through two emails to and from Opposing Party on August 14, 2014. See *Infra* at 24-25. Then, the parties

mutually agreed that, going forward, certain information and documents would be excluded from the divorce proceedings. As further precaution, the parties filed a motion to impound the entire file on October 13, 2015. This motion was allowed on the same day. *Id.* at 26-27. The entry was made for safety and protection.

2. Contempt Judgments Against Petitioner

a. History of the Three Contempt Judgments in 2015

On August 24, Petitioner filed a request for discoverable documents. App. Vol. 2 at 11, Entry #19. This motion was allowed on October 10, 2014. *Id.* at 12, Entries #35. See *Infra* at 38, 41, 42. On December 30, 2014, Petitioner filed a complaint for contempt. *Id.* at 12, Entry #41. See *Infra* at 89. The Other Side claimed falsely that Petitioner did not comply with discovery. On January 12, 2015, the court appointed a master to oversee discovery. *Supra* at 12, Entry #43. The master requested a retainer that would eventually have to be replenished. *Infra* at 30. Petitioner informed the master that Petitioner was not in a position to satisfy her retainer. The master would not waive her fees. Petitioner could not work with the master. *Id.* at 31, 3rd Paragraph. The master worked *ex parte* with the Opposing Party.

April 17, 2015. Contempt Judgment #1. The court held Petitioner in contempt on her own December 30, 2014 complaint. *Supra* at 13, Entry #69; *Infra* at 89.

April 17, 2015. Contempt Judgment #2. Petitioner was also held in contempt for "not cooperating with the discovery master." *Supra* at 13, Entry #67. *Infra* at 90-91.

Capias Issued for Petitioner's Arrest. The discovery master and the other side filed a complaint for contempt. The hearing was scheduled for December 2, 2015 for not satisfying the master's fee. A *capias* was issued for Petitioner's arrest. *Supra* at 14, Entry #97; *Infra* at 36-37.

Correction. Petitioner previously said that she did not receive notice of the December 2, 2015 hearing. Upon a closer reading of this part of the record, Petitioner realized that she did receive notice of the hearing. Petitioner had to be out of state for an emergency situation, and missed notifying the court of such.

December 30, 2015. Contempt Judgment. The judge held Petitioner in contempt for not satisfying the master's fees. *Supra* at 15, Entry #107; *Infra* at 92-93.

When is Payment Due? For the April 17, 2015 contempt judgments: "These funds shall be used as a credit at the time of property division and are not payable until that time." *Id.* at 91, ¶4. And for the December 30, 2015 contempt judgment, payment is due "prior to any distribution of the sale proceeds [of he home]... per the judgment of this court of this date." *Infra* at 93.

"Judgment of this Court of this Date." The judgment for property division was issued December 30, 2015. *Supra* at 28-29; *Infra* at 15, Entry #106.

b. History of the Three Contempt Judgments in 2018

The Massachusetts Supreme Judicial Court denied Petitioner's request for further appellate review on September 14, 2017. See App. Vol. 2 at 159. From September 14, 2017 to December 21, 2017, Petitioner attempted to reach a negotiated settlement with Opposing Party via emails. *Infra* at 160-176.

On September 19, 2017, Petitioner offered to transfer the Deed to his name, and Petitioner would walk out with only her personal belongings. *Id.* at 162-164. Through his attorney, he turned down that this offer. *Id.* at 165-166.

On October 3, 2017, Petitioner offered to buy him out. He turned down this offer as well. *Id.* at 167; *Id.* at 173-176. On December 21, 2017, he said through his attorney that he filed a motion. He said: "I did not do it as a Contempt because I think we have been trying to negotiate in good faith." *Id.* at 176.

A hearing was held on January 31, 2018 on Opposing Party's Motion to Enforce Court Order. *Supra* at 18, Entry #163. The judge urged him to file a complaint for contempt. *Infra* at 195, Lines 18-23. Opposing Party filed such complaint on the same day. *Supra* at 189-190.

February 22, 2018. Two Contempt Judgments. The judge held Petitioner in contempt twice on the same day. Why? For not selling her home.

The judge appointed a partition commissioner to seize and sell Petitioner's home through a contempt judgment. *Supra* at 94-95. *Id.* at 96.

March 27, 2018. Contempt Judgment. Petitioner was held in contempt for not selling her home. *Id.* at 97.

c. History of the Contempt Judgment in 2020

Through a January 9, 2020 contempt judgment, the judge gave his appointed partition commissioner the authority to seize Petitioner's home and evict her therefrom. *Id.* at 98-99. On March 5, 2020, Petitioner was served with "Notice to Quit and Vacate" her home within 14 days. See App. Vol. 2 at 287-288. During his testimony on March 23, 2021, the appointed partition commissioner said that the moratorium of COVID-19 stopped him from taking further action. He added: "[I]t's largely in a dormant state." See App. Vol. 1 at 147, Lines 14-23.

d. BBO's Motion for Issue Preclusion

On November 13, 2020, the BBO filed a Motion for Issue Preclusion. See App. Vol. 1 at 97-100. This motion is exclusively on three of the seven contempt judgments: (1) one of the two April 17, 2015 judgments. *Id.* at 97 ¶2; (2) the December 30, 2015 judgment. *Id.* at 98, ¶3; and (3) one of the two February 22, 2018 judgments. *Id.* at 98, ¶4. Petitioner hotly contested this motion. See Supra at 86: Entries #38, #47-48, #50-52, #54-56, #60. See *Id.* at 87: Entries #70, #72-73. See also *Infra* at 97-134.

3. Rule 60 Motion for Relief Post Judgment

The findings of fact dated December 30, 2015 (App. Vol. 2 at 44-56) reveal that - *inter alia* - four trial exhibits were not considered.

(1) Trial Exhibit #2, under Exh P, Vol. 2 at 119-121;

(2) Trial Exhibits #8 and #9, under Exh J, Vol. 2 at 100-113; and

(3) Trial Exhibit #13, under Exh NN, Vol. 2 at 252-256

On January 27, 2016, Petitioner filed a motion to supplement the record with leave of court, including the additional documents. The court granted this motion on February 9, 2016. See App. Vol. 2 at 15, Entry #116; *Id.* at 16, Entry #130; *Infra* at 116. As such, documentary evidence that was not presented at trial entered into the record. On January 19, 2016, Petitioner filed two motions: (1) a motion to amend the judgment of divorce. See *Id.* at 114. This motion was denied on February 9, 2016. See *Id.* at 15, Entry #112; *Id.* at 16, Entry #128; and (2) Petitioner filed motion to reconsider and amend findings of fact. See *Id.* at 115. This motion was denied on February 9, 2016. See *Id.* at 15, Entry #113; *Id.* at 16, Entry #134.

On February 12, 2016, Petitioner filed a Rule 60 motion for relief post judgment. Pet. App. at 85a. This motion was summarily denied on February 21, 2018. See App. Vol. 2, at 18, Entries #169 and #175. Opposition to the Rule 60 motion was entered on the docket 34 days after the motion had already been

ruled on. The ruling on this opposition is dated March 29, 2018. See *Id.* at 192-193. See *Supra* at 19, Entry #181.

B. Procedural History

1. On May 13, 2014, Petitioner initiated the proceedings in the Suffolk Probate and Family Court by filing a complaint for divorce. App. Vol. 2 at 11, Entry #1. A two-day trial was held on November 5 and November 6, 2015. See *Infra* at 44, 1st Paragraph. The findings of fact and conclusions of law were entered on January 6, 2016. See *Supra* at 15, Entry #108. In making his factual findings, the judge did not consider: trial exhibits #2 under Exhibit P, trial exhibits #8 and #9 under Exhibit J, and trial exhibit #13 under Exhibit NN (among other things). On February 9, 2016, the judge allowed Petitioner to supplement the record. *Infra* at 116. As a result, new evidence that was not presented at trial came to light. However, the judge denied Petitioner's motion to amend the judgment of divorce. *Supra* at 114. The judge also denied Petitioner's motion to amend the findings of fact and conclusions of law. *Id.* at 115. But, the judge allowed Petitioner's motion for leave to file an affidavit pursuant to Rule 60(b)(3) on March 5, 2016. See Pet. App. at 84a.

On June 19, 2017, the Massachusetts Appeals Court issued an Order affirming the trial court's judgment. *Infra* at 151-158. On September 14, 2017, the

Massachusetts Supreme Judicial Court denied Petitioner's Application for Further Appellate Review. *Id.* at 159.

2. From September 14, 2017 to December 21, 2017, Petitioner attempted to reach a negotiated settlement via emails. *Infra* at 160-176. Through his attorney, the other side turned down an offer to transfer the Deed of the home to his name. *Id.* at 162-164; *Id.* at 165-166. He also turned down an offer to buy him out. *Id.* at 167; *Id.* at 173-176. He filed a Motion to Enforce Court Order, and a hearing was held on January 31, 2018. See *Supra* at 18, Entry #163. The judge urged him to file a complaint for contempt. *Infra* at 195, Lines 18-23. He filed a complaint for contempt on the same day. *Supra* at 189-190.

Then, the judge said to Petitioner: "... if you are saying that there has been some fraud... that's a Rule 60(b) motion... a motion for relief from judgment. That's not before me, so I'm not getting into that." *Id.* at 197, Lines 5-9. Petitioner filed a Rule 60 motion on February 12, 2018. See Pet. App. at 85a. Petitioner specifically argued that the other side perpetrated fraud on the court. *Infra* at 88a, ¶¶19-21. On February 21, 2018, the judge denied the motion with this note: "Insufficient Basis - no fraud is found." *Id.* at 85a. On June 13, 2018, the judge said in open court: "Concerning seeking findings of fact, ... There's not going to be any supplemental findings of fact." *Id.* at 92a, Lines 24-25; *Id.* at 93a, Line 1.

The judge added that Petitioner provided no proof "or substantial evidence of fraud..." *Id.* at 93a, Lines 4-5; *Id.* Lines 9-12.

On January 31, 2019, Petitioner filed her brief in the Massachusetts Appeals Court. *Infra* at 96a-115a. Among other things, Petitioner argued (1) material and relevant documentary evidence in the record has been ignored. *Id.* at 97a-99a; (2) the findings of fact need to be amended and supplemental findings need to be made. *Id.* at 99a-102a; (3) the voidness of the judgment of divorce. *Id.* at 103a-107a.; and (4) judicial bias. *Id.* at 113a-114a. On June 24, 2019, the court issued an order affirming the judgment of contempt and denial of Petitioner's Rule 60 motion, without addressing the void judgment arguments. The court made some findings on the surface by going around Petitioner's arguments. App. Vol. 2 at 213-217. The order states that the conduct of the other side does not rise to the level of fraud on the court. *Id.* at 214. On July 9, 2019, the court denied Petitioner's motion for reconsideration. *Id.* at 218.

On July 15, 2019, Petitioner filed an Application for Further Appellate Review in the Massachusetts Supreme Judicial Court. Petitioner argues that the judgment lacks finality, it is a nullity, and fraud has been perpetrated on the court. *Infra* at 121a-125a. The court denied the application on September 13, 2019. *Id.* at 126a.

3. On December 17, 2019, a hearing was held in the trial court at the request of the appointed partition commissioner. App. Vol. 2 at 20, Entries #204 and Entry on 12/17/2019. Petitioner made a fervent void judgment argument in open court to no avail. *Id.* at 136a, Lines 9-11; *Id.* at 138a, Lines 5-11. In response, the judge said to his appointed partition commissioner: "... [Y]ou have the discretion to execute the plan as you see fit... [Y]ou'd have to go to housing court and have her evicted... [Y]ou can take whatever course you deem appropriate..." *Id.* at 138, Lines 14-21.

On December 20, 2019, Petitioner filed a motion seeking reversal of the conveyance of her home. The motion hit a dead end. *Id.* at 141a-143a. Petitioner's January 8, 2020 Motion to Recuse met the same fate. *Id.* at 144a-152a. And on March 5, 2020, Petitioner was served with Notice to Quit and Vacate her home. *Id.* at 153a-154a. On March 23, 2021, the appointed partition commissioner said his effort to evict Petitioner from her home "got caught up in the moratorium of COVID-19, so it's largely been in a dormant state..." App. Vol. 1 at 147, Lines 14-23. The last entry on the trial court's docket was made on September 15, 2020. See App. Vol. 2 at 21, Entry #221. There are no upcoming events scheduled to be held in the trial court.

4. The Massachusetts Supreme Judicial Court and the BBO have exclusive jurisdiction over attorney disciplinary matters involving attorneys who

are admitted to practice law in the Commonwealth of Massachusetts. SJC Rule 4:01, § 1 (1). See Pet. Add. at 1. The court appoints the "Board of Bar Overseers to act, ... with respect to the conduct and discipline of lawyers..." SJC Rule 4:01, § 5 (1). See Pet. Add. at 1.

The trial judge reported Petitioner to the BBO. On December 17, 2019, he said in open court: "I reported you to the BBO in the first part of this case." See Pet. App. at 133a, Lines 5-6. See also App. Vol. 1 at 19 (March 22, 2016 Letter from the BBO). Petitioner received an initial letter dated January 22, 2106 from the BBO. See *Supra* at 17-18. The case was in deferment pending appeals. *Infra* at 20-29. On June 25, 2020, the BBO entered a Petition for Discipline for formal proceedings against Petitioner. *Infra* at 85, Entry #1. *Infra* at 89-96. On August 26, 2020, Petitioner filed an Answer to the Petition for Discipline. *Id.* at 85, Entry #11.

On November 13, 2020, the BBO filed a motion for issue preclusion. *Supra* at 86, Entry #32 and *Infra* at 97-100. The BBO sought to prevent Petitioner from raising any defense on three of the seven contempt judgments the trial court issued against her. In her opposition, Petitioner raised the constitutional issues relating to this motion and the contempt judgments themselves. *Infra* at 106-110. Petitioner asked that the BBO's proceedings be terminated to allow her to continue pursuing relief from judgment in federal court(s). *Id.* at 110. Petitioner's

motion for a hearing on this motion was denied. *Infra* at 122-125; *Id.* at 126-132. Petitioner let her objections be known one last time on this motion for issue preclusion and the BBO's final order. *Id.* at 133-134.

The BBO held a hearing on March 23 and March 24, 2021 solely on the record of Petitioner's underlying divorce case. The BBO availed itself of 31 exhibits from the record. App. Vol. 1 at 12 ¶5. But the BBO allowed Petitioner to present only 2 exhibits from the same underlying divorce case. *Infra* at 169, Lines 12-22. Particularly, the BBO's exhibit list includes excerpts from the November 5 and November 6, 2015 trial transcripts in the underlying divorce case. Pet. App. at 155a, #12-#13. But the BBO blocked Petitioner from presenting statements from the same trial transcripts in her defense. App. Vol. 1 at 171, Lines 8-20. *Id.* at 172, Lines 18-23.

Shockingly, the Assistant Bar Counsel said in his closing argument that "all the evidence before the committee, particularly in the exhibits ... establishes very clearly that all of the charges in the Petition for Discipline are well substantiated." *Infra.* at 176, Lines 1-11. Then, Assistant Bar Counsel proceeded to villainize, denigrate, and humiliate Petitioner with callous indifference. *Id.* at 182; 188-190; 191-194. The BBO live-streamed this hearing. *Id.* at 185, Lines 13-14.

The BBO's August 2, 2021 Hearing Report and its October 21, 2021 Amended Hearing Report are laden with inconsistencies. Facts are being cited

that do not exist in the record. For instance, the BBO cites pages of its hearing transcripts in both of its hearing reports to support its claim that Petitioner promised to produce a written agreement. Petitioner made no such promise. See Pet. App. at 158a-182a.

5. On January 25, 2022, the BBO filed an Information in the court below recommending that Petitioner's law license be suspended for 18 months. See App. Vol. 1 at 12. On February 23, 2022, Petitioner filed a Memorandum in Opposition to the fraudulent conduct charge. *Pet.* App. at 251a, Entry #20. On February 24, 2022, a hearing was held before the Single Justice. Both the Single Justice and the Assistant Bar Counsel had sort a one-on-one conversation regarding finding number 13 of the hearing committee reports. This finding concerns the various bank accounts in the underlying divorce record. See *Supra* at 27a; Id. at 59a. They concede that this finding would not pass the "substantial support in the record" standard of review. See *App. Vol 1 at 40, Lines 21-25; Id.* at 41, Lines 2-3; Lines 4-7; Lines 12-16; Lines 17-19; and Lines 20-25.

Yet, the Single Justice issued a Memorandum of Decision suspending Petitioner's law license for 18 months. Pet. App. at 10a-20a. The first page of this decision reads verbatim: "I find that substantial evidence supports the board's findings and agree with the board's recommendation." *Id.* at 10a, End of 1st

Paragraph. The subsidiary findings in the BBO's hearing reports are echoed throughout this memorandum of decision.

On April 4, 2022, the Single Justice denied Petitioner's motion for a Stay pending appeal before the full court. Pet. App. at 252a, Entry #32. Petitioner's Requests for the findings of fact and conclusions of law the Single Justice relied upon to suspend Petitioner's law license have remained unanswered to date. The first request was filed on September 9, 2022. See Pet. App. at 252a, Entries #42 and #41.Yet, an Order of contempt was entered against Petitioner on September 30, 2022. See *Id.* at 253a, Entry #46. The second request was filed on October 4, 2022. See *Id.* at 253a, Entry #50. And the third request was filed on December 22, 2022. See *Id.* at 254a, Entries #58 and #59. On December 21, 2022, the BBO filed a motion seeking to have Petitioner arrested. See *Id.* at 253a, Entry #56. See *Infra* at 255a-257a. A hearing was held on January 19, 2023 on the BBO's motion seeking to have Petitioner arrested. *Infra* at 261a. There is no upcoming event on the docket.

6. On October 27, 2022, the full court below issued an opinion affirming the Order of its Single Justice. See Pet. App. at 1a-9a. Footnote 1 reads verbatim: "We have reviewed the respondent's preliminary memorandum and appendix, as well as the record that was before the single justice." See 1a. However, the factual Background begins with: "We summarize the relevant facts as found by

the hearing committee and adopted by the board." *Infra* at 3a, #2. Then, the court continues: "We agree with the single justice that these facts are supported by substantial evidence." *Id.* at 3a, #2. Notably, the Single Justice said on February 24, 2022 in open court that finding number 13 of the hearing committee "might be a specific contention" as to the substantial support standard of review. See App. Vol. 1, at 40, Lines 21-25; *Id.* at 41, Lines 12-16. See also *Id.* at Lines 20-25.

The "sufficiency of the evidence" provision contains 10 and a half lines, and consists of conclusory statements. The "sanction" section (*Id.* at 6a-9a) occupies about three pages of the Opinion. In this section, the court cites and summarizes cases relating to disciplinary proceedings to justify why the Order of its Single Justice should be affirmed. Right before its conclusion, the court says: "After careful review of the record... we conclude that the sanction imposed by the single justice" is justified. See Pet. App. at 9a.

REASONS FOR GRANTING THE PETITION

I. The Opinion of the Massachusetts Supreme Judicial Court is in Conflict with this Court's Precedents

A. The Opinion of the Massachusetts Supreme Judicial Court Affirming the Order of its Single Justice Violates the Due Process Clause

The Due Process Clause of the Fourteenth Amendment reads "[n]o State shall ... deprive any person of life, liberty, or property without due process of law." *U.S. Const. Amend. XIV, § 1.* This Court declares that this Clause "guarantees

more than fair proceedings." *Washington v. Glucksberg*, 521 U.S. 702, 719 (1997). The Due Process Clause prohibits "certain government actions regardless of the fairness of the procedures used to implement them." *Daniels v. Williams*, 474 U.S. 327, 331 (1986). "In this respect, the Fourteenth Amendment substantively prohibits a State from 'abusing government power' or 'employing it as an instrument of oppression." *Davidson v. Cannon,* 474 U.S. 344, 348 (1986). The core requirements of procedural "due process" are "notice and an opportunity to respond." *Cleveland Board of Education v. Loudermill,* 470 U.S. 532, 546 (1985). Employment and other means of livelihood are protected property interests. *Id.* at 543. The "due process" guaranteed under the Fourteenth Amendment "is flexible and calls for such procedural protection as the particular situation demands." *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972).

Here, Petitioner is a *solo* practitioner. Petitioner's law license is her means to earn a living. Therefore, Petitioner's law license is a protected property interest. This is an inalienable right under the Constitution. The State highest court affirms the decision of its Single Justice suspending Petitioner's law license for 18 months. Pet. App. at 1a-9a. The court explicitly says that it affirms the order of its Single Justice after reviewing the record. *Id.* at 1a, Footnote 1. The court also says it reviewed the record carefully. See *Infra* at 9a, 2nd Paragraph. However, under its "factual background," the court says that this section is a

summary of the facts "as found by the hearing committee and adopted by the board." *Infra* at 3a, § 2. The court adds that it is in agreement with its Single Justice that "these facts are supported by substantial evidence." *Id.* Among others, seven things jump on their feet and are competing to be acknowledged first to ensure that they are not forgotten:

First, the court says: "these facts are supported by substantial evidence," but omits the second part of this sentence "in the record (*Id.* at 3a, § 2);"

Second, the Single Justice says in open court on February 24, 2022 that finding number 13 of the hearing committee "[might a specific contention]." App. Vol. 1, at 41, Lines 2-7 and Lines 12-19. Then, the Single Justice acknowledges that he has an unmet challenge relating to the "substantial support in the record" standard of review and the findings of the hearing committee. *Id.* 41, Lines 20-25;

Third, the Single Justice's Order suspending Petitioner's law license reads that he finds "substantial evidence supports the board's findings and agree with the board's recommendation." *Supra* at 10a, End of 1st Paragraph;

Fourth, the BBO holds a hearing in March 2021. The BBO admitted 33 exhibits into evidence (*Infra* at 21a, Last Paragraph), avails itself of 31 of those admitted exhibits (*Infra* at 155a-157a); and allowed Petitioner to present only two exhibits from the record into evidence in her defense. See App. Vol. 1, at 169, Lines 12-22. Notably, Petitioner submitted Exhibits A-VV to the BBO on January

14, 2021. See *Supra* at 159, Lines 10-16. See also *Supra* at 121. Then, the BBO says in its closing argument that all of the evidence before the hearing committee and in the record "establishes very clearly that all of the charges" against Petitioner "are well substantiated." See *Infra* at 176, Lines 1-11;

Fifth, the core requirements of procedural "due process" are "notice and an opportunity to respond." *Cleveland Board of Education v. Loudermill,* 470 U.S. 532, 546 (1985). The BBO denied Petitioner the opportunity to present exonerating evidence in the record in her defense.

Sixth, this Court explicitly says that the Fourteenth Amendment substantively prohibits a State from 'abusing government power' or 'employing it as an instrument of oppression." *Davidson v. Cannon,* 474 U.S. 344, 348 (1986);

Seventh, Finding number 13 of the hearing committee (Pet. App. at 27a and 59a) coincidentally corresponds with Trial Exhibit number 13. The latter is in Appendix Volume 2 of 2 under Exhibit NN, at 252. Trial Court finding of fact number 30 is regarding the statements of four bank accounts (App. Vol. 2, at 47). The record (App. Vol. 2 of 2) demonstrates that Opposing Party in the underlying divorce case became the co-owner of two of those four accounts early in the proceedings or as of September 22, 2014.

- Account ending in 2635: see pages 252, 254, 261, and 262
- Account ending in 1401: see pages 252, 255, 259, and 260

The Massachusetts Supreme Judicial Court's opinion affirming the suspension of Petitioner's law license for 18 months relies on unfair proceedings. This Opinion condones abuse of government power. The BBO has used its government power as an instrument of oppression against Petitioner. The BBO has tried to strong-arm Petitioner into submission. This Opinion espouses the unfair seizure of Petitioner's law license, an inalienable property right secured by the Constitution. This opinion is both antithetical to the Constitution and in direct conflict with this Court's precedents.

B. The Opinion of the Massachusetts Supreme Judicial Court Violates the Equal Protection Clause Under the Class of One Theory

The Equal Protection Clause of the Fourteenth Amendment provides that "[n]o State shall ... deprive any person within its jurisdiction of life, liberty, or property without the equal protection of the laws." *U.S. Const. Amend. XIV, § 1.* "The Fourteenth Amendment prohibits a State from denying *any person* within its jurisdiction the equal protection of the laws. *Pulliam v. Allen*, 466 U.S. 522, 541-542 (1984). The Equal Protection Clause guarantees the protection of "*every person* within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents." *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000); Quoting *Sunday Lake Iron Co. v. Township of*

Wakefield, 247 U.S. 350, 352 (1918). The Equal Protection Clause of the Fourteenth Amendment "'requires that all persons ... shall be treated alike, under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed." *Engquist v. Oregon Dept. of Agriculture*, 128 S.Ct. 2146, 2153 (2008); Citing *Hayes v. Missouri*, 120 U.S. 68, 71-72, (1887).

Tricks With the Business Bank Accounts. In the instant case, Opposing Party subpoenaed the statements of three business bank accounts that were closed since 2013. He withheld them, and kept Petitioner in the dark. He mixed and entangled them with the statements of three active accounts. Then he blindsided Petitioner at trial in November 2015 with those mixed statements to make it appear that Petitioner did not disclosed six active bank accounts. App. Vol. 2 at 269-271. Notably, the closing letters for the accounts ending in *6726*, *6739*, and *2979* are in the record. See App. Vol. 1 at 30-32. Opposing Party falsely and baselessly accused Petitioner of misappropriating funds. App. Vol. 2, at 270, Lines 7-8; *Id.* at 271, Lines 19-22; *Infra.* at 277, Lines 16-24; *Infra* at 280, Lines 4-10; *Id.* at 281, Lines 2-7.

Then, opposing party, through his attorney, acknowledged that it should have been a simple divorce, but not for the reasons he enumerated. He was proud of his performance and had a "bing" experience. *Id.* at 281, Lines 19-24. His attorney made a request that he knew was *unusual.* He asked the trial judge

to make a finding that his client and he "have not acted inappropriately." *Infra* at 283, Lines 10-13.

Finding of Fact #60. Within factual finding #60 is this sentence: "The Court found [attorney for the other side] to be professional in all of his appearances in said manner." App. Vol. 2 at 51.

Finding of Fact #15 and #25. Factual finding #25 reads in part: "[Petitioner] has bank accounts in her name or her business names of unknown value." *Supra* at 47. And Factual finding #15 reads in salient part: "[Petitioner] did convert marital funds to her exclusive use and benefit during the latter portion of the marriage." *Supra* at 45.

The Truth. Trial Exhibits #8 and #9 under Exhibit J are the statements of the business bank accounts. Those statements demonstrate very clearly that three of said accounts were under a different name and were closed since 2013. See *Infra* at 100-108. *Id.* at 109-110. In addition, the closing letters are in the record. See App. Vol. 1, at 30-32. And, under the new name are the three active accounts. *Infra* at 111-113. The documentary evidence is in the record.

Hearing Committee. Finding #13. This finding mainly embraces the other side's false allegations relating to the various bank accounts. Pet. App. at 27a. *Infra* at 59a. This conversation between the Single Justice and the Assistant Bar Counsel demonstrates that they know finding number 13 of the hearing

committee has no "substantial support in the record." See App. Vol. 1 at 40, Lines 21-25. *Id.* at 41, Lines 1-7; *Id.* at Lines 12-19; *Id.* at Lines 20-25.

The BBO Prevented Petitioner from Defending Herself. The BBO admitted 33 exhibits into evidence during its March 2021 hearing. Pet. App. at 21a, Last Paragraph. *Infra* at 54a. The BBO availed itself of 31 of those exhibits. *Infra* at 155a. But the BBO allowed Petitioner to present only 2 exhibits from the record in her defense. App. Vol. 1, at 169, Lines 12-22. Shockingly, the BBO availed itself of excerpts from the November 2015 trial (Pet. App. at 155a, #12 and #13), but blocked Petitioner from doing same to defend herself. App. Vol. 1, at 171, Lines 8-20; *Id.* at 172, Lines 10-23.

Shockingly, the Assistant Bar Counsel said during closing argument that all of the evidence "establishes very clearly that all of the charges" against Petitioner "are well substantiated." *Infra* at 176, Lines 1-11. Then, the Assistant Bar Counsel proceeded to villainize, denigrate, and humiliate Petitioner. *Infra* at 182; *Infra* at 188-190; *Id.* at 191-194. The BBO live-streamed this hearing. *Supra* at 185, Lines 13-14.

Notably, the affirmance by the full court below is arbitrary and capricious. The court said it has reviewed the record. *Supra* at 1a, Footnote 1. Yet, the factual background is a summary of "the relevant facts as found by the hearing committee and adopted by the board." *Id.* at 3a, § 2. Subsequently, the court

says it has reviewed the record carefully. (*Infra* at 9a, Middle Paragraph). The court shielded and protected the BBO from having to file a response to Petitioner's Preliminary Memorandum. Pet. App. at 248a, Entries #7 and #13. On December 29, 2022, the court denied Petitioner's motion for a Stay pending the filing and disposition of this cert petition. *Id.* at 248a, Entry #31; *Id.* at 241a;

The BBO is an arm of the court below. "An impartial decision maker is essential." Goldberg v. Kelly, 397 U.S. 254, 271 (1970). The BBO operates under Board of Bar Overseers of the Supreme Judicial Court of Massachusetts. The court below does not seem to be able to reconcile its relationship with the BBO with being able to call the BBO out for certain acts and omissions. The BBO has intentionally and arbitrarily discriminate against Petitioner. The BBO has acted as a *de facto* attorney for the other side in the underlying divorce case. Petitioner's name, and in some instances her photograph, are all over the internet, and associated with this Opinion suspending her law license for fraud, deceit, misrepresentation, and fraud... This opinion has been published in newspapers of wide circulation and on the internet. See Pet. App. at 237a-240a. See also *Id.* at 242a-246a. The court below leaves Petitioner where she has been since June 2020. In the slaughterhouse.

II. Massachusetts Supreme Judicial Court Rule 4:01, § 9 (3) Is Antithetical To The Due Process Clause and the Equal Protection Clause of the Federal Constitution And As Such Should Be Declared Void For Vagueness

"*The Board, members of the Board and its staff, members of hearing committees, special hearing officers, and the bar counsel and members of his or her staff shall be immune from liability for any conduct in the course of their official duties.*" SJC Rule 4:01, § 9 (3). See Pet. Addendum at Add5.

"[n]o State shall ... deprive any person of life, liberty, or property without due process of law." And "[n]o State shall ... deprive any person within its jurisdiction of life, liberty, or property without the equal protection of the laws."
U.S. Const. Amend. XIV, § 1.

"[A rule] which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its [application], violates the first essential of due process of law." *Connally v. General Construction Co.*, 269 U.S. 385, 391 (1926). "Uncertain meanings inevitably lead citizens to 'steer far wider of the unlawful zone' ... than if the boundaries of the forbidden areas were clearly marked.'" *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972). "[A] facial challenge .., must establish that no set of circumstances exists under which the [rule] would be valid." *United States v. Salerno*, 481 U.S. 739, 745 (1987). This Court has warned that a facial challenge is the "most difficult challenge to mount successfully." *Id.* "[A rule] can be impermissibly vague ... if it authorizes or even encourages arbitrary and discriminatory [application]." *Hill v. Colorado*, 530 U.S. 703, 732 (2000).

"Substantive due process 'prevents the government from engaging in conduct that 'shocks the conscience...'" *Id.* at 746. Quoting *Rochin v. California*, 342 U.S. 165, 172 (1952). "Government conduct that violates substantive due

process is 'conduct that shocks the conscience and violates the decencies of civilized conduct.'" *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). Quoting *Rochin v. California*, 342 U.S. 165, 172-173 (1952).

The instant case involves funds that are inextricably intertwined in the equity in the home. See App. Vol. 2, at 119-121 (Sealed Pages). This is Trial Exhibit #2. Opposing party said falsely and without evidence of these funds during his closing argument in November 2015: "[The funds] are still coming in that he knows nothing about. Several things are going on with it." App. Vol. 2, at 276, Lines 6-9. Then, he accused Petitioner of misappropriating a large sum of money. *Infra* at 280, Lines 4-10. He said Petitioner should pay back that money. *Infra* at 281, Lines 2-7. But the record proves otherwise. *First*, the last disbursement occurred since December 2014. See App. Vol. 2 at 121 (Sealed Page). Second, Son was indisputably aware of the funds at least since December 2014. See *Infra* at 125 (Sealed Page).

The BBO's exhibit list includes excerpts from the November 5 and November 6, 2015 trial transcripts in the underlying divorce case. Pet. App. at 155a, #12-#13. But the BBO blocked Petitioner from presenting excerpts from the same trial transcripts to defend herself. App. Vol. 1 at 171, Lines 8-20. *Id.* at 172, Lines 18-23.

Shockingly, the Assistant Bar Counsel said in his closing argument that "all the evidence before the committee, particularly in the exhibits ... establishes very clearly that all of the charges in the Petition for Discipline are well substantiated." *Infra.* at 176, Lines 1-11. Then, he attached Petitioner's character with callous indifference. He villainized, denigrated, and humiliated Petitioner. *Id.* at 182; 188-189; 191-194. The hearing was live-streamed. *Id.* at 185, Lines 13-14. In its amended hearing report, the BBO infers falsely and without evidence that Petitioner suffers from a mental impairment. *Supra* at 76a, ¶78 (c) (iv). Petitioner has never been diagnosed with, and does not have a mental impairment.

The court below affirms the suspension of Petitioner's law license. The bases for this suspension are dishonesty, deceit, misrepresentation, or fraud See (Pet. App. at 1a, Footnote 2), conduct prejudicial to the administration of justice (*Id.* at 2a, at Footnote 3), and filing frivolous claims (*Id.* at Footnote 4). The court below says it has reviewed the record. *Supra* at 1a. Footnote 1. Then, the court says that its factual background is a summary of the "relevant facts as found by the hearing committee and adopted by the board." *Infra* at 3a, at § 2. And right before its conclusion, the court says it has reviewed the record carefully. *Infra* at 9a, 2nd Paragraph.

Both the Order of the Single Justice and the affirmance are published online, including in legal blogs. Lawyers Weekly, a newspaper of wide circulation,

published the Opinion. See Pet. App. at 237a. The Board of Immigration Appeals suspended Petitioner's law license and published its order wide and large. *Infra* at 242a. The BBO posted the Order under bbopublic.blob.core.windows.net. The intimidation, bullying, and oppression is just a lot for one person alone to bear. The BBO wants to strong arm Petitioner to own up to things in the record that are demonstrably false. The BBO wants to crush Petitioner's spirit. The BBO wants to shame Petitioner into oblivion. The State wants to take three things away from Petitioner: her law license, her home, and her dignity. But they are fundamental inalienable rights that are guaranteed by the Constitution. These rights are unassailable. Petitioner should not be put in a position where she has to explain why she deserves human decency. This maltreatment violates the decencies of civilized conduct.

States need to regulate behavior and maintain order for the betterment and general welfare of their residents. One of the many areas where this is accomplished is the bar. And rules to maintain bar discipline are necessary. The issue here is the language of SJC Rule 4:01, § 9 (3). The term "for any conduct" is too vague, it creates uncertainties and obscurity, and it is subject to different interpretations. And when this term resides in the same rule with "shall be immune from liability,"and "in the course of their official duties," they tend to alluringly lead to the unlawful zone. They "authorize and encourage arbitrary and

discriminatory application." Boundaries of the forbidden areas need to be clearly marked. The State police power exists to protect rights, not to take them away in manners that shock the conscience. This case provides an ideal vehicle to settle an issue of national significance.

III. A Rare Issue of National Significance Necessitating this Court's Intervention Has Been Permeating This Case

A. The Circumstances in this Case Have Created a Legal Quagmire

"[n]o State shall ... deprive any person of life, liberty, or property without due process of law." And "[n]o State shall ... deprive any person within its jurisdiction of life, liberty, or property without the equal protection of the laws."
U.S. Const. Amend. XIV, § 1.

This Court has instructed us that under the due process clause, a party must be afforded proceedings that are "adequate to safeguard the right for which the constitutional protection is invoked." *Link v. Wabash R. Co.*, 370 U.S. 626, 632 (1962). The Court has enumerated the minimal requirements for due process, including "the right to an impartial decision maker and the right to have the decision based on rules of law and the evidence presented at the hearing." *Goldberg v. Kelly*, 397 U.S. 254, 267-271 (1970). "The Fourteenth Amendment prohibits a State from denying *any person* within its jurisdiction the equal protection of the laws. *Pulliam v. Allen*, 466 U.S. 522, 541-542 (1984).

Here, Petitioner has been chasing a resolution on the merits since January 2016. Petitioner filed three motions for post judgment relief to no avail. See App.

Vol. 2 of 2, at 114-116. A Rule 60 motion makes no difference. Two rounds of appeals get Petitioner nowhere. A complaint and an appeal in federal courts met the same fate. The case made its way back before the Massachusetts Supreme Judicial Court a third time in 2022. There is one common denominator. The facts and evidence in the record are left waiting for overdue attention and consideration. The Opinion of the court below is not based on rules of law and the evidence in the record. Rather, it is based on on conclusory statements. Lex + Veritas = Justitia. There is no justice if this equation is left unbalanced. Lex and Veritas have been waiting patiently for Justitia.

Petitioner was able to find another case with a similar roadblock to overcome. *AF Moore & Associates, Inc., v. Pappas*, 948 F.3d 889 (7th Cir. 2020). The issue in this case is whether the State court offers a sufficient forum for the plaintiffs to raise their constitutional claims. *Id.* at 891. A group of taxpayers' properties were being assessed at the mandated rates by the city. However, other owners of similarity situated properties were given a tax break. The plaintiffs brought a lawsuit in state court seeking a refund. *Id.* at 891. The case was stuck in state court for over a decade because city regulations made it impossible to overcome discovery issues. *Id.* at 892. Finally, the plaintiffs took the case to the federal courts. The Court of Appeals for the Seventh Circuit said: "We are left to conclude that this is a rare case in which taxpayers lack an adequate

State-court remedy..." *Id.* at 891. The Seventh Circuit reversed and remanded the case to the U. S.District Court. *Infra* at 896.

Here, Petitioner is expected to own up to numerous factual findings that are debunked by documentary evidence in the record. The trial judge made those findings on December 30, 2015. They are scorchingly damaging to Petitioner's reputation, *inter alia*. They remain unamended. There is no further fact finding. Petitioner's inalienable rights under the Constitution are on the line. Petitioner's dignity is on the line. Petitioner's existence is on the line. This Court's intervention is necessitated to free this case from this legal quagmire.

B. The Underlying Judgment of Divorce Lacks Finality and Is Thus Void

" A [judgment] is final ... when it terminates the litigation between the parties on the merits of the case, and leaves nothing to be done but to enforce by execution what has been determined." *St. Louis, I.M. & S. R. Co. v. Southern Express Co.*, 108 U.S. 24, 28 (1983). See also *Catlin v. United States*, 324 U.S. 229, 233 (1945). "A judgment is void under Rule 60(b)(4) ... if the court has acted in a manner inconsistent with due process of law." *V.T.A. Inc., v. Airco, Inc.*, 597 F.2d 220, 224-225 (10th Cir. 1979). If a judgment is void, it is a nullity from the outset and any 60(b)(4) motion for relief is therefore filed within a reasonable time." *Id.* n. 8. "A void judgment does not create any binding obligation." *Ex parte Rowland*, 104 U.S. 604, 617-618 (1981).

In the instant case, powerful evidence has been excluded to date. *Inter alia*, four trial exhibits and additional documents that entered the record with leave of court post trial have remained unconsidered. See Pet. App. at 195a; *Id.* at 200a. See also Appendix volume 1 of 2 and Appendix volume 2 of 2. On January 31, 2018, the trial judge suggested that Petitioner file a Rule 60(b) motion. App. Vol. 2 of 2 at 197, Lines 5-9. On February 12, 2018, Petitioner filed a Rule 60 motion. The trial judge denied this motion. Pet. App. at 85a. The Appeals Court affirmed this decision. App. Vol. 2 at 217. The Massachusetts Supreme Judicial Court denied the application for further appellate review on September 13, 2019. *Infra* at 220. "Courts may determine whether and under what section relief might be granted; the label attached to the [rule 60(b)] motion is not dispositive." *Honer v. Wisniewski,* 48 Mass. App. Ct. 291, 294 (1999).

Rather than making a decision on the merits of the case, the court below affirmed the order of its Single Justice. Pet. App. at 1a-9a. The factual findings of the court below are not made based on evidence in the record. Instead, they derive from the subsidiary findings made by the hearing committee and adopted by the BBO. *Id.* at 1a, Footnote 1 and *Infra* at § 3a, #2. The opinion of the court below does not provide a sound basis to evaluate the true facts in the record. The court echoes the subsidiary findings of the hearing committee throughout its opinion.

The only source to really discern the court's own reasoning is the discussion section of its opinion. However, this section offers nothing of that sort. Rather, the "sufficiency of the evidence" section consists of 10 and a half lines of conclusory statements. *Id.* at 6a, § 3(a). Then, the "sanction" section occupies about three pages of the opinion. This section is an amalgam of conclusory statements based on case law and the subsidiary findings of the hearing committee.

"A cause of action does not consist of facts, but of the unlawful violation of a right which the facts show ...*Baltimore Steamship Co. v. Phillips*, 274 U.S. 316, 321 (1927). The facts are merely the means, and not the end. They do not constitute the cause of action, but they show its existence by making the wrong appear." *Id.* The instant case has morphed into a classic David v. Goliath battle. This case may not be common, but it is not rare. The hope that all of the public vilification, denigration, and humiliation could end needless pain and suffering for so many energizes Petitioner to keep on fighting. The cert petition should be granted to halt this Opinion's dangerous precedential value.

C. Petitioner Will Seek Relief Pursuant to United States Code, 42 U.S.C. § 1983

U.S.C. Section 1983 "is not itself a source of substantive rights, but a method for vindicating federal rights elsewhere conferred by those parts of the United States Constitution and federal statutes that it describes." *Baker v.*

McCollan, 443 U.S. 137, 145 n.3 (1979). To succeed on a claim under Section 1983, a plaintiff must establish (1) that the conduct complained of has been committed under the color of state law, and (2) that this conduct worked a denial of rights secured by the Constitution or laws of the United States." *Barreto-Rivera v. Medina-Vargas*, 168 F.3d 42, 45 (1st Cir. 1999). In the case at bar, the BBO is an arm of the Massachusetts Supreme Judicial Court. The BBO is a State agency. Thus, the BBO has acted under the color of state law. Petitioner has established above that the BBO's actions and omissions have caused her to be deprived of fundamental inalienable rights that are secured by the Constitution of the United States.

In addition, 42 U.S.C. § 1983 "provides a remedy 'where the state remedy, though adequate in theory, was not available in practice.'" *Zinermon v. Burch*, 494 U.S. 113, 124 (1990). "A § 1983 action may be brought for a violation of procedural due process... In procedural due process claims, the deprivation by state action of a constitutionally protected interest in 'life, liberty, or property' is not in itself unconstitutional; what is unconstitutional is the deprivation of such an interest without due process of law." *Zinermon* at 125; Citing *Parratt v. Taylor*, 451 U.S. 525, 537 (1981);"The constitutional violation actionable under § 1983 is not complete when the deprivation occurs; it is not complete unless and until the State fails to provide due process. *Zinernon*, 494 U.S. 113, 126 (1990). In the

instant case, the state remedy is adequate in theory, but it is not available in practice. The BBO's June 17, 2020 letter in response to the murder of George Floyd sums it up. See App. Vol. 1 of 2 at 258-259. The BBO knows what to do in theory. But the issue lies in practice.

CONCLUSION

The petition for a writ of certiorari should be granted.

Dated: February 24, 2023

Respectfully submitted,

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Dated: April 4, 2023

Respectfully Re-submitted

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CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.2(b), I certify that the Petition for a Writ of Certiorari contains 37 pages, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on February 24, 2023

Maude Laroche-St. Fleur, Pro Se

Executed on April 4, 2023 Maude St

RE: TRANSCRIPT OF JANUARY 19, 2023 HEARING

At the request of Petitioner, the Massachusetts Supreme Judicial Court provided to her the audio recording of the January 19, 2023 hearing. Petitioner met some roadblock in obtaining the transcript. A portion of this hearing was a conversation between the Single Justice and Petitioner. Petitioner realized that this audio recording was not meant to be transcribed. This is the reason why there is no transcript of this hearing. But Petitioner stands by the statements she made in her January 28, 2023 motion for a Stay.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on February 24, 2023

Maude Laroche-St. Fleur, Pro Se

Executed April 4, 2023 Maude St

ADDENDUM

Massachusetts Supreme Judicial Court Rule 4:01: Bar Discipline

Section 1. Jurisdiction

(1) Any lawyer or foreign legal consultant admitted to, or engaging in, the practice of law in this Commonwealth shall be subject to this court's exclusive disciplinary jurisdiction and the provisions of this rule as amended from time to time.

Section 4. Types of discipline

Discipline of lawyers may be (a) by disbarment, resignation pursuant to section 15 of this rule, or suspension by this court; (b) by public reprimand by the Board; or (c) by admonition by the bar counsel.

Section 5. The Board of Bar Overseers

(1) This court shall appoint a Board of Bar Overseers (Board) to act, as provided in this Chapter Four, with respect to the conduct and discipline of lawyers and in such matters as may be referred to the Board by any court or by any judge or justice.

(3) The Board of Bar Overseers

(a) may consider and investigate the conduct of any lawyer within this court's jurisdiction either on its own motion or upon complaint by any person;

(b) shall appoint a chief Bar Counsel (the Bar Counsel) who shall, with the concurrence of the Board, hire such assistants to the Bar Counsel as may be required, all to serve at the pleasure of the court, the appointment of the Bar Counsel to be with the approval of the court; and may employ and compensate such other persons as may be required or appropriate in the performance of the Board's duties;

(c) shall appoint one or more hearing committees, each committee to consist of three or more individuals, to perform such functions as may be assigned by the Board with reference to charges of misconduct; provided, however, that each hearing committee shall be chaired by a lawyer and no hearing committee shall consist of more than one non-lawyer;

(d) may appoint a special hearing officer, who shall be a lawyer, to hear charges of misconduct when, in view of the anticipated length of the hearing or for other reasons, the Board determines that a speedy and just disposition would be better accomplished by such appointment than by referring the matter to a hearing committee or panel of the Board;

(e) may, through its Chair, refer charges to an appropriate hearing committee, to a special hearing officer, or to a hearing panel of the Board;

(f) shall review, and may revise, the findings of fact, conclusions of law, and recommendations of hearing committees, special hearing officers, or hearing panels. The Board in its discretion may refer an appeal taken pursuant to section 8(5) of this rule to a panel of its own members for its recommendation;

(g) may issue a public reprimand to lawyers for misconduct, and in any case where disbarment or suspension of a lawyer is to be sought or recommended, or where the Bar Counsel or the Respondent-lawyer appeals pursuant to section 8(6) of this rule, shall file an Information with this court;

Section 6. Hearing Committees

(3) Hearing committees

(a) shall conduct hearings on formal charges of misconduct upon reference by the Board or its chair, and

(b) may recommend that the matter be concluded by dismissal, admonition, public reprimand, suspension, or disbarment.

Section 7. The Bar Counsel

The Bar Counsel

(1) shall investigate all matters involving alleged misconduct by a lawyer coming to his or her attention from any source, except matters involving alleged misconduct by the Bar Counsel, assistant Bar Counsel, or any member of the Board, which shall be forwarded to the Board for investigation and

disposition, provided that Bar Counsel need not entertain any allegation that Bar Counsel in his or her discretion determines to be frivolous, to fall outside the Board's jurisdiction, or to involve conduct that does not warrant further action.

(2) shall dispose of all matters involving alleged misconduct by a lawyer in accordance with this rule and any rules and regulations issued by the Board for his or her guidance which may provide

(a) that Bar Counsel need not pursue or may close a complaint whenever the matter complained of is frivolous, falls outside the jurisdiction of the Board, or involves allegations of misconduct that do not warrant further action,

Section 8. Procedure

(1) Investigation - In accordance with any rules and regulations of the Board, investigations (whether upon complaint or otherwise) shall be conducted by the Bar Counsel, except as otherwise provided by section 7(1) of this rule. Following completion of any investigation, or of a determination pursuant to section 7(1) that an investigation is not warranted, the Bar Counsel shall take further action, which may include, among others,

(a) closing or declining to pursue a complaint and informing the complainant in writing of the reasons for not investigating a complaint or for closing the file and of the complainant's right to request review by a member of the Board;

(b) closing a matter after adjustment, informal conference, or diversion to an alternative educational, remedial, or rehabilitative program;

(c) recommending to the Board that

(i) an admonition of the lawyer be administered;

(ii) formal proceedings be instituted; or

(iii) public discipline be imposed by agreement.

(3) Formal Proceedings

(a) As to matters for which formal proceedings have been approved pursuant to section 8(1) of this rule, disciplinary proceedings shall be instituted by the Bar Counsel's filing a petition for discipline with the Board setting forth specific charges of alleged misconduct.

(d) The hearing committee, special hearing officer, or panel of the Board shall file promptly with the Board a written report containing its findings of fact, conclusions of law, and recommendations, together with a record of the proceedings before it.

(5) Review by the Board

(a) Upon receipt of a hearing committee's, special hearing officer's, or hearing panel's report after formal proceedings, if there is objection by the Respondent-lawyer or by the Bar Counsel to the findings and recommendations, the Board shall set dates for submission of briefs and for any further hearing which the Board in its discretion deems necessary. The Board shall review, and may revise, the findings of fact, conclusions of law and recommendation of the hearing committee, special hearing officer, or hearing panel, paying due respect to the role of the hearing committee, the special hearing officer, or the panel as the sole judge of the credibility of the testimony presented at the hearing.

(b) In the event that the Board determines that the proceedings should be dismissed, it shall so notify the Respondent-lawyer.

(c) In the event that the Board determines that the proceedings should be concluded by admonition or public reprimand, it shall so notify the Respondent-lawyer.

(6) Review by the Supreme Judicial Court

The Board shall file an Information whenever it shall determine that formal proceedings should be concluded by suspension or disbarment... The subsidiary facts found by the Board and contained in its report filed with the Information shall be upheld if supported by substantial evidence, upon consideration of the record, or such portions as may be cited by the parties.

Section 9. Immunity

(3) The Board, members of the Board and its staff, members of hearing committees, special hearing officers, and the bar counsel and members of his or her staff shall be immune from liability for any conduct in the course of their official duties.

Section 11. Matters involving related pending civil, criminal, or administrative proceedings

The investigation or prosecution of complaints involving material allegations which are substantially similar to the material allegations of pending criminal, civil, administrative, or bar disciplinary proceedings in this or another jurisdiction shall not be deferred unless the Board or a single member designated by the Chair, in its discretion, or the court, for good cause shown, shall authorize such deferment, as to which either the court or the Board may impose conditions. The acquittal of the Respondent lawyer on criminal charges, or a verdict, judgment, or ruling in the lawyer's favor in civil, administrative, or bar disciplinary proceedings shall not require abatement of a disciplinary investigation predicated upon the same or substantially similar material allegations.

Section 12A. Lawyer constituting threat of harm to clients

Upon the filing with this court of a petition by the bar counsel alleging facts showing that a lawyer poses a threat of substantial harm to clients or prospective clients, or that the lawyer's whereabouts are unknown, this court shall enter an order to show cause why the lawyer should not be immediately suspended from the practice of law pending final disposition of any disciplinary proceeding commenced by the bar counsel. The court or a justice, after affording the lawyer opportunity to be heard, may make such order of suspension or restriction as protection of the public may make appropriate. In the interest of justice, the court, upon application of the lawyer, may terminate such suspension at any time after affording the bar counsel an opportunity to be heard.

Section 13. Disability inactive status

(1) Involuntary Commitment, Adjudication of Incompetence, or Transfer to Disability Inactive Status

Where a lawyer has been judicially declared incompetent or committed to a mental hospital after a judicial hearing, or where a lawyer has been placed by court order under guardianship or conservatorship, or where a lawyer has been transferred to disability inactive status in another jurisdiction, the court, upon proper proof of the fact, shall enter an order transferring the lawyer to disability inactive status. A copy of such order shall be served, in the manner the court may direct, upon the lawyer, his or her guardian or conservator, and the director of the institution to which the lawyer is committed.

(2) Investigation of Incapacity

The bar counsel shall investigate information that a lawyer's physical or mental condition may adversely affect his or her ability to practice law, except information involving the physical or mental condition of the bar counsel, assistant bar counsel, or any member of the Board, which shall be forwarded to the Board for investigation and disposition. In the event that the lawyer admits that he or she is incapacitated, the court may, upon petition of the bar counsel, enter an order placing the lawyer on disability inactive status, accepting the lawyer's resignation, or temporarily suspending the lawyer from the practice of law. With the approval of the Board chair or a member of the Board designated by the chair, the bar counsel may initiate formal proceedings pursuant to subsection (4) of this section to determine whether the lawyer shall be transferred to disability inactive status.

(3) Inability to Assist in Defense

If during the course of a disciplinary investigation or proceeding under this rule the respondent lawyer alleges an inability to assist in the defense due to mental or physical incapacity, the court, upon petition by the bar counsel or the respondent lawyer, shall immediately transfer the respondent lawyer to disability inactive status until further order of the court. If the bar counsel contests the respondent lawyer's allegation, then

a determination shall be made concerning the incapacity pursuant to subsection (4) of this section.

(4) Proceedings to Determine Incapacity

(a) Proceedings to adjudicate contested allegations of disability or incapacity shall be held before a hearing committee, special hearing officer, or a panel of the Board and shall be commenced upon petition by the bar counsel. The proceedings shall be conducted in the same manner as disciplinary hearings and shall be open to the public as provided in section 20.

(b) The court, Board, hearing committee, special hearing officer, or hearing panel may require the examination of the respondent lawyer by qualified medical experts designated by them.

(c) The court or the Board may appoint a lawyer to represent the respondent lawyer if the lawyer is without adequate representation.

(d) The hearing committee, special hearing officer, or panel of the Board shall report promptly to the Board its findings and recommendations, together with a record of the proceedings before it. The lawyer and the bar counsel shall have the rights of appeal provided for in section 8 of this rule. The Board shall file an Information with the clerk of this court for Suffolk County together with its recommendation and the record of the proceedings before it.

(e) If, after hearing and upon due consideration of the record including the recommendation of the Board as provided in subsection (6) of section 8 of this rule, the court concludes that the respondent is incapacitated from continuing to practice law, it shall enter an order transferring the respondent to disability inactive status until further order of the court.

(f) Disciplinary proceedings shall not be stayed unless the court finds that the respondent lawyer is so incapacitated by reason of mental or physical infirmity that he or she is incapable of assisting in his or her defense as provided in subsection (3) of this section. If the court determines the

respondent lawyer's claim of incapacity to defend to be invalid, the disciplinary investigation or proceedings shall resume, and the court shall immediately temporarily suspend the respondent lawyer from the practice of law pending final disposition of the matter. The court may direct that the expense of the independent examinations be paid by the lawyer.

(5) Public Notice of Transfer to Disability Inactive Status

The Board shall cause a notice of transfer to disability inactive status to be published in the same manner as a disciplinary sanction imposed under section 8 of this rule is published.

Section 14. Appointment of commissioner to protect clients' interests when lawyer disappears or dies, or is placed on disability inactive status

(1) Whenever a lawyer is placed on disability inactive status, or disappears or dies, and no partner, executor, or other responsible party capable of conducting the lawyer's affairs is known to exist, this court, after giving the bar counsel an opportunity to be heard and upon proper proof of the fact, may appoint a lawyer or lawyers as commissioner to make an inventory of the files of the inactive, disappearing, or deceased lawyer and to take appropriate action to protect the interests of clients of the inactive, disappearing, or deceased lawyer, as well as such lawyer's interest.

(2) The commissioner so appointed shall not disclose any information contained in any files listed in such inventory without the consent of the client to whom such file relates except as necessary to carry out the order of this court to make such inventory. The commissioner shall be reimbursed for reasonable expenses and may be awarded fair compensation. The commissioner's expenses and fees shall be paid by the lawyer unless otherwise ordered by the court.

Section 18. Reinstatement

(1) Eligibility for Reinstatement -- Short-term suspensions

(a) A lawyer who has been suspended for six months or less pursuant to disciplinary proceedings shall be reinstated at the end of the period of

suspension by filing with the court and serving upon the Bar Counsel an affidavit stating that the lawyer (i) has fully complied with the requirements of the suspension order, (ii) has paid any required fees and costs, and (iii) has repaid the Clients' Security Board any funds awarded on account of the lawyer's misconduct.

(b) A lawyer who has been suspended for more than six months but not more than one year pursuant to disciplinary proceedings shall be reinstated at the end of the period of suspension by filing with the court and serving upon the Bar Counsel an affidavit stating that the lawyer (i) has fully complied with the requirements of the suspension order, (ii) has taken the Multi-State Professional Responsibility Examination during the period of suspension and received a passing grade as established by the Board of Bar Examiners, (iii) has paid any required fees and costs, and (iv) has repaid the Clients' Security Board any funds awarded on account of the lawyer's misconduct.

(c) Reinstatement under this subsection (1) will be effective automatically ten days after the filing of the affidavit unless the Bar Counsel, prior to the expiration of the ten-day period, files a notice of objections with the court. In such instances, the court shall hold a hearing to determine if the filing of a petition for reinstatement and a reinstatement hearing as provided elsewhere in this section 18 shall be required.

(d) The right to automatic reinstatement under this subsection (1) shall not apply to any lawyer who fails to file the required affidavit within six months after the original term of suspension has expired. In such a case the lawyer must file a petition for reinstatement under paragraph (2) of this section.

(2) Eligibility for Reinstatement -- Disbarment, Resignation, and Long-term Suspensions

(a) Except as the court by order may direct, a lawyer who has been disbarred, or whose resignation has been allowed under section 15 of this rule, may not petition for reinstatement until three months prior to the expiration of at least eight years from the effective date of the order of disbarment or allowance of resignation.

(b) Except as the court by order may direct, a lawyer who has been suspended for an indefinite period may not petition for reinstatement until the expiration of at least three months prior to five years from the effective date of the order of suspension.

(c) Except as the court by order may direct, a lawyer who has been suspended for a specific period of more than one year may not petition for reinstatement until three months prior to the expiration of the period specified in the order of suspension.

(3) Employment as Paralegal

At any time after the expiration of the period of suspension specified in an order of suspension, or after the expiration of four years in a case in which an indefinite suspension has been ordered, or after the expiration of seven years in a case in which disbarment has been ordered or a resignation has been allowed under section 15 of this rule, a lawyer may move for leave to engage in employment as a paralegal. When the term of suspension or disbarment or resignation has been extended pursuant to the provisions of section 17(8) of this rule, the lawyer may not petition to be employed as a paralegal until the expiration of the extended term. The court may allow such motion subject to whatever conditions it deems necessary to protect the public interest, the integrity and standing of the bar, and the administration of justice.

The Office of the General Counsel

The General Counsel's office acts as legal counsel to the Board and provides support to the Hearing Committees and Hearing Panels. The office consists of four attorneys and two administrative staff members. General Counsel's office schedules the disciplinary hearings, appeals and reinstatement hearings. The Assistant General Counsel work primarily with the volunteer Hearing Committee members and Special Hearing Officers on these matters, as well as with Hearing Panels (composed of Board members), who hear cases arising from criminal convictions and who hear reinstatement petitions. Assistant General Counsel also attend pre-hearing conferences and hearings, and draft hearing reports. See massbbo.org

RULE 3.1: MERITORIOUS CLAIMS AND CONTENTIONS

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

RULE 3.3: CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

- **(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;**
- **(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or**
- **(3) offer evidence that the lawyer knows to be false, except as provided in Rule 3.3(e). If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.**

RULE 3.4: FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

(c) knowingly disobey an obligation under the Rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

Massachusetts General Laws Annotated
Supplemental Rules of the Probate and Family Court (Refs & Annos)

MA Prob. and Fam.Ct.Supp., Rule 410
Formerly cited as MA ST PROB CT SUPP Rule 410

Rule 410. Mandatory Self Disclosure

Currentness

(a) Initial Disclosures.

(1) Except as otherwise agreed by the parties or ordered by the court, each party to a divorce action, each party to a complaint for separate support, and each parent who is a party to an action under Chapter 209C that includes a claim for child support where paternity has already been adjudicated or where the parents have completed a notarized voluntary acknowledgment of paternity shall deliver to the other party or parties within 45 days from the date of service of the summons the following documents:

(a) The parties' federal and state income tax returns and schedules for the past three (3) years and any non-public, limited partnership and privately held corporate returns for any entity in which either party has an interest together with all supporting documentation for tax returns, including but not limited to w-2's, 1099's 1098's, K-1, Schedule C and Schedule E.

(b) The four (4) most recent pay stubs from each employer for whom the party worked.

(c) Documentation regarding the cost and nature of available health insurance coverage.

(2) Except as otherwise agreed by the parties or ordered by the court, each party to a divorce action and each party to a complaint for separate support shall also deliver to the other party within 45 days from the date of service of the summons the following documents:

(a) Statements for the past three (3) years for all bank accounts held in the name of either party individually or jointly, or in the name of another person for the benefit of either party, or held by either party for the benefit of the parties' minor child(ren).

(b) Statements for the past three (3) years for any securities, stocks, bonds, notes or obligations, certificates of deposit owned or held by either party or held by either party for the benefit of the parties' minor child(ren), 401K statements, IRA statements, and pension plan statements for all accounts listed on the 401 financial statement.

(c) Copies of any loan or mortgage applications made, prepared or submitted by either party within the last three (3) years prior to the filing of the complaint.

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(d) Copies of any financial statement and/or statement of assets and liabilities prepared by either party within the last three (3) years prior to the filing of the complaint.

(b) Additional Disclosures.

(1) Except as otherwise agreed by the parties or ordered by the court, each party to an action under Chapter 209C that includes a claim for child support where paternity has already been adjudicated or where the parents have completed a notarized voluntary acknowledgment of paternity may serve on a parent who is a party to the action a separate written request entitled "Request for Additional Rule 410 Documents," and the parent served shall, within 45 days from the date of service of the request, deliver to the other party or parties the documents set out in (a)(2)(a)-(d) above.

(2) When a request for child support is first added to an action under Chapter 209C by counterclaim or by amendment of the complaint, a party may serve on a parent who is a party to the action a separate written request entitled "Request for Rule 410 Documents," and the parent served shall, within 45 days from the date of service of the request, deliver to the other; party or parties the documents set out in (a)(1)(a)-(c) above.

(3) The parties shall supplement all disclosures as material changes occur during the progress of the case. No party required to deliver documents under this rule shall be permitted to file any discovery motions prior to making the initial disclosure as described herein, and no party to a divorce or separate support action shall be permitted to file any discovery motions prior to making both the initial and the additional disclosures as described herein.

(c) Unavailability of Documents. In the event that any party required to deliver documents under this rule does not have any of the documents required pursuant to this rule or has not been able to obtain them in a timely fashion, he or she shall state in writing, under the penalties of perjury, the specific documents which are not available, the reasons the documents are not available, and what efforts have been made to obtain the documents. As more information becomes available there is a continuing duty to supplement.

Credits

Adopted October 10, 1997, effective December 1, 1997. Amended June 5, 2003, effective September 2, 2003; amended April 1, 2009, effective May 1, 2009; amended December 14, 2011, effective January 2, 2012.

Prob. and Fam.Ct.Supp., Rule 410, MA PROB AND FAM CT SUPP Rule 410
Current with amendments received through November 1, 2018.

End of Document

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