No. _____

UNITED STATES SUPREME COURT

JEFFREY G. THOMAS,

Petitioner,

v.

DEPT. OF JUSTICE OF THE STATE OF CALIFORNIA, et al.

Respondents.

PETITION FOR WRIT OF CERTIORARI TO UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT (CASE NO. 21-55655)

(INCLUDING APPENDIX BEHIND THE PETITION)

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Petitioner In Propria Persona

QUESTIONS PRESENTED

I.

Does *Rooker-Feldman* cutoff Petitioner's attack on Defendants-Respondents' fraudulent inducement to the state courts to enter fraudulent orders of sanctions against him, based on fraudulent collateral estoppel of fraudulent judgments induced by fraud on the Petitioner's clients, the courts and the state's attorney general and in violation of rights secured by federal taxation and bankruptcy law to his clients?

II.

Does *Rooker-Feldman* cutoff Petitioner's attack on the denial of his constitutional rights of free speech, petitioning and expressive association by state courts, and rights secured under federal taxation law and bankruptcy law, in an appeal of a disbarment decision instigated by opposing counselors at law and parties to a civil action against his clients?

III.

Is there a federal common law standard that the federal courts may use to judge punitive state judicial sanctions that conflict with federal civil rights law?

IV.

Was the federal court of appeals required to judicially notice pleadings and briefs to supplement the record in the federal district court?

LIST OF PARTIES

True Harmony – Plaintiff-Appellant

Jeffrey G. Thomas – Petitioner and Plaintiff-Appellant

1130 South Hope Street Investment Associates LLC – Plaintiff-Appellant

State Bar Association (California) – interested party

State Bar Court (California) – interested party

Estate of Rosario Perry (deceased) – Defendant-Respondent

Xavier Becerra – Defendant-Respondent

Hugh John Gibson Esq. – Defendant-Respondent

Norman Solomon Esq. – Defendant-Respondent

1130 Hope Street Investment Associates LLC – Defendant-Respondent

Hope Park Lofts 2001-02910056 LLC – Defendant - Respondent

Dept. of Justice of the State of California – Defendant-Respondent

Ray Haiem – Plaintiff-Appellant

True Harmony – Plaintiff-Appellant

Jeffrey G. Thomas – Petitioner and Plaintiff-Appellant

1130 South Hope Street Investment Associates LLC – Plaintiff-Appellant

CORPORATE DISCLOSURE STATEMENT

1130 South Hope Street Investment Associates LLC – Plaintiff-Appellant, is owned by the members of True Harmony, a California public benefit corporation and Internal Revenue Code public charity. True Harmony has a letter from the Franchise Tax Board of California stating that 1130 South Hope Street Investment Associates LLC is organized for nonprofit purposes and is entitled to the tax exemptions of True Harmony.

LIST OF RELATED ACTIONS
(PRIOR PETITIONS IN THIS COURT)

No. 18-1113 - Thomas v. Zelon

No. 20-1506 - Thomas v. State Bar Association

No. 22-1056 – Thomas v. State Bar Association

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PETITION

Jeffrey G. Thomas submits this petition for a writ of certiorari to review the decision(s) of the United States Court of Appeals for the Ninth Circuit below.

CITATIONS OF DECISIONS

Memorandum of 9th Circuit unofficially reported at 2023 WL 3883663.

THE BASIS FOR JURISDICTION

This petition seeks review of the Memorandum Decision of the Ninth Federal Circuit dated June 8, 2023, and the order denying his petition for rehearing, and motion dated June 23, 2023.

Jurisdiction in this court is by *28 U.S.C. Section 1254(1).* In the district court by *28 U.S.C. Section 1331.*

Petitioner also seeks review under the court's supervisory power of the order of the court of appeals disqualifying Petitioner in 21-55655, dated September 20, 2021 (cm/ecf #21), and the order dismissing the Petitioner's clients' appeal, dated November 5, 2021 (cm/ecf #38).

CONSTITUTIONS AND STATUTES ETC.

Cal. state 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;

. . .

Local Rule 83, Cent. Dist. Cal.

[omitted, because of word limits]

Cal. State Bar Ass'n. Formal Opinion 1983-73

(construing former *rule of professional conduct 7-104*)

. . . .

"Despite counsels' best intentions, there is a definite risk that a mere communication to an opponent

stating that administrative or disciplinary charges will be brought by the client can be interpreted as an implied threat. It would be advisable to simply file such charges without making any threats or even advising the client's opponent of such action. However, as discussed below, the safest course of conduct may be to wait until the civil dispute is resolved. [footnote omitted]."

. . . .

State Bar Act (Business and Professions Code)

Section 6068(c)

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 (Business and Professions Code)

Section 6103

"A willful 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."

STATEMENT OF THE CASE

Defendants-Respondents cited the interlocutory involuntary inactive enrollment of the state bar court dated August 20, 2020 (subject of the denied petition to this court in no. 22-1506) to the federal courts for reciprocal disbarment of Petitioner. The district court acknowledged that it was interlocutory, but observed that Petitioner would "inevitably" be disbarred by the state, and federally disbarred Petitioner on April 1, 2021, causing his clients' action to be dismissed to be dismissed.

The federal court of appeals failed to investigate, and dismissed Petitioner's attack on the lack of due process in the federal disbarment in 2023 in no, 21-55655 (CA9).

The state bar court violated Petitioner's rights to due process of the laws. It denied his rights to confront witnesses against him regarding the

Defendants-Respondents' fraud that caused the judgments that the state courts sanctioned him for attacking. The state bar *"court"* intentionally spoliated his evidence of fraud and violations of rights of free speech, petitioning and expressive association because it refused to allow him to read the evidence of Defendants-Respondents' fraud into the record from the pleadings in this action.

The federal court of appeals dismissed Petitioner's appeal under *Rooker-Feldman [Rooker v. Fidelity Trust Co. (1923) 263 U.S. 413; District of Columbia Court of Appeals v. Feldman (1983) 460 U.S. 462]*. This court prohibits *collateral estoppel* or *res judicata* disguised as *Rooker-Feldman*. *Exxon Mobil Corp. v. Saudi Basic Industries Corp. (2005) 544 U.S. 280*. The state bar court applied *collateral estoppel* incorrectly, because it is biased in favor of the state bar association which is a part of the same

branch of government, and the state bar association is captive to Defendants-Respondents. This is an ideal case for this Court to resolve the circuit *"splits"* on the fraud and corruption exceptions to *Rooker-Feldman*.

The petition also raises the issue of the need of a uniform federal common law standard for to judge punitive disbarments by a biased state bar agency or court.

This court should restore Petitioner's bar privileges in the federal court and state courts, and reverse the dismissal of his clients' appeal in Circuit Nine, under the supervisory power.

The facts concerning fraud of the Defendants/Respondents and abuses of due process are as follows:

1. The district court dismissed this action on a *F.R.Civ.P. 12(b)(6)* motion and therefore the factual

allegations set forth in the pleading (Second Amended Complaint) are true, and the court must draw all reasonable inferences in its favor. *See Ashcroft v. Iqbal (2009) 556 U.S. 662, 678*.

2. The state bar "*court"* lacked jurisdiction over the person of Petitioner and over the subject matter in the default decision of involuntary inactive enrollment dated August 20, 2020, and the state bar court denied Petitioner's motion for collateral relief therefrom. Despite that *State Bar Act Section 6088* requires the state bar *"court"* to relieve the Petitioner of consequences of involuntary admission of facts because of a procedural default of Petitioner. The state supreme court denied review in S266566.

3. The federal courts below relied solely on this interlocutory order of inactive enrollment as the basis of federal *"disbarment,"* and federal disqualification of Petitioner in this action and

termination of the client's appeals. The federal court of appeals ignored Defendants-Respondents' requests for judicial notice of the denial of review by the state supreme court (see petition for the writ in *no. 22-1506*) and

4. This court held in *Rotary Club v. City of Duarte (1987) 481 U.S. 537,* that a defendant violates a non-profit person's right of expressive association to cause it to abandon its charity, which is the harm that Defendants-Respondents caused to Petitioner's clients.

5. The state bar association failed to plead this action as an instance of willfully unjust action under *State Bar Act Section 6068(c)* in the discipline case, and it violated Petitioner's constitutional rights of expressive association or free speech to discipline him for exercising these rights for himself and his clients. *See Kowalski v. Tesmer (2004) 543 U.S. 125*.

6. The *ABA Model Rules of Professional Conduct* are adopted in this state. The ABA Rules treat frivolity (or filing of a pleading that no reasonable attorney should file) as mere negligence, not intentional harm. *ABA Model Rule 3.1; In re Egbune, supra.*

7. The state bar *"court"* spoliated the admitted evidence of the pleadings in this action for Defendants-Respondents' fraud and Petitioner's lack of willful misconduct and lack of willful harm to the administration of justice, and of Petitioner's exercise of expressive association, petitioning and free speech (as amplified heren) because it prohibited Petitioner to read from the verified Second Amended Complaint into the record and denied rights to confront witnesses against him.

8. The state bar *"court"* violated Petitioner's constitutional right to confront witnesses against

him by prohibiting his cross-examination of Defendants-Respondents with regard to the allegations of the Second Amended Complaint herein (and as amplified herein). *Maryland v. Craig (1990) (Amendment Eight) 497 U.S. 836; compare Goldberg v. Kelly (1970) 397 U.S. 254 (Amendment Fourteen); see State Bar Act Section 6085.*

9. The sanctions were compensation for perceived attorneys' fees incurred by Defendants-Respondents because Petitioner was perceived as *"frivolous"* (except for $8500 payable to compensate the state second district court of appeals). No sanctions order of the Los Angeles cited a significant harm to administration of justice.

10. State Bar Association introduced no evidence in State Bar *"court"* of a pattern or common scheme of willful disobedience of court orders of sanctions, accepting evidence of nonpayment of sanctions as

such instead. The state bar *"court"* spoliated the evidence of Petitioner's issues with the disbarment-suspension alleged in the Second Amended Complaint, including the Defendants-Respondents' stranglehold on discovery and their abuse of process.

11. The Los Angeles court clerk was unable to locate a paper or electronic version of the case file, or the docket in BC244718, and could not identify a person employed by the clerk who could find the case file or docket in BC244718 . The Defendants-Respondents blocked Petitioner's discovery with the abuse of process of frivolous anti-slapp motions, *Cal. Code Civ. Proc. Section 425.16*, and frivolous motions for protective orders. Petitioner's clients did not possess some of these documents.

12. Petitioner is the only attorney at law in published state bar court decisions disbarred solely

for failure to pay money to the opposing parties. *King v. State Bar Ass'n. (1990) 52 Cal. 3d 307.*

13. The Review Committee of the state bar court ordered Respondent to pay response costs of Twenty-five Thousand Dollars ($25,000). The restitution impacts his rights to be free of *Excessive Fines* under *Amendment Eight of the Constitution. Timbs v. Indiana (2019) 139 S.Ct. 682. Timbs* cautioned that *"economic sanctions [should] be proportioned to the wrong offense and not be so large to deprive [an offender] wrongdoer of his livelihood." 139 S.Ct. at 688.*

14. Because he has been deprived of earned income by the harm to reputation because of the sanctions and the disbarment, Petitioner possesses solely the expectation of a public law practice, if the clients' case is reactivated. He has standing to complain of Defendants-Respondents' violations of

free speech and expressive association in these cases. *In re Primus (1978) 436 U.S. 412; see New York Club Ass'n. v. City of New York (1988) 487 U.S. 1.*

15. In the pleadings in this action, Petitioner pleaded that the Defendants-Respondents intentionally *"switched"* the settlement agreement approved by the state courts (including a *"nonbinding"* arbitration clause) with an agreement including a *"binding"* arbitration clause never presented to, or reviewed by, the state court, in all instances in which they presented the agreement to the arbitrator and the courts after the judgments in BC244718. Defendants-Respondents induced the bankruptcy court to lift the automatic stay with a motion relying on this *"twice-faked"* agreement (faked once as to the clients' signature to it and a second time as to the alleged binding arbitration),

and they attached it to another motion for arbitration in BC385560.

16. Petitioner pleaded the Defendants-Respondents' misrepresentation to everyone that the state's attorney general approved the settlement agreement. And furthermore, that Defendants-Respondents (and apparently too, the state's attorney general) concealed the existence of the cease and desist order against Defendants-Respondents' sale of the property to related parties in 2011 and the state's service on them, in all instances.

17. Petitioner pleaded in this action that Defendants-Respondents concealed their duty to disclose the conflict of interest of a business deal with clients, and to obtain written consent to the business deal with Petitioner's clients involved in Rosario Perry as manager of the limited liability company to

which the settlement agreement transferred ownership of their property.

18. Defendants/Respondents misrepresented to the state court of appeals in B183928 that True Harmony did not meet the operational and organizational tests for an *Internal Revenue Code Section 501(c)(3)* charity, when it was not an issue in the appeal.

19. State law entitles defendants who lose title to property because of a default judgment, to an evidentiary hearing in a quiet title lawsuit. This rule of state law prohibited the state court in BC546574 from relying on the judgment in the cancellation of title lawsuit in BC385560 as a basis for collateral estoppel in BC546574 and in this federal action to the extent that it states a cause of action for quiet title or can be amended to state it. *Deutsche*

National Bank & Trust v. Pyle (2017) 13 Cal. App. 5th 513.

20. In *Quest International Inc. v. Icode Corp. (2004) 122 Cal. App. 4th 745*, the court of appeals characterized the tricky nature of appellate jurisdiction in the state courts. These monetary sanctions on Petitioner that were the sole evidence of misconduct for disbarment were obtained by Defendants-Respondents who intended thereby to bankrupt Petitioner and to stymie the Petitioner's clients, as mere private damages, and there was not more than a scintilla of evidence of perceived harm to administrative of justice.

21. Petitioner requested the Review Committee of state bar *"court"* to apply *falsus in uno falsus in omnibus* to Defendants-Respondents' false testimonies in the February *"zoom"* of the hearing department, including the *"harassment"* of obtaining

control of title to property worth millions of dollars without expenditures, and Norman Solomon's claim that Petitioner caused $700,000 of damages to him.

REASONS FOR GRANTING THE WRIT

I. PROCEDURAL POSTURE

A. THE DISBARMENT DECISION OF THE FEDERAL COURT OF APPEALS IS NOT MOOT

This appeal from the decision of disbarment in the federal courts is not moot, despite the order of California state supreme court dated January 25, 2023 in case *no. S276773*, *in re Jeffrey Gray Thomas*, which denied review of the state bar *"court"* decision dated May 25, 2021, which this court declined to review by petition for the writ in *no. 22-1056*, because:

> (1) under the local rules of the federal district court, Petitioner must be reinstated by a state court to rejoin the federal court bar association. The issues raised in this petition were not considered with due process of the laws

below in the federal court because the federal courts plainly erred in deferring to the *"disbarment"* of the state bar *"court."*

(2) The petition in *no. 22-1056* in this Court requesting review of the state bar *"court"* order of *"disbarment"* cited prolifically to excerpts of the condensed transcript of the state bar court. However the Petitioner could not file the transcript as an 8 ½" x 11" document (although he filed excerpts *"electron-cally"*), because "the clerk does not accept documents on 8 ½ inch by 11 inch paper for filing." Petitioner filed the transcript as an appendix in the concurrent Nevada Supreme Court case of 87346, and he

will move this court for judicial notice of the Nevada pleadings.

(3) the state bar *"court's"* so-called emergency order of involuntary enrollment dated August 20, 2020 that was the basis of the district court's and court of appeals's disqualification of Petitioner which caused the dismissal of his clients' appeals in the federal appeals court, was not a final judgment and not subject to *Rooker Feldman* therefore. *Exxon-Mobil Corp. v. Saudi Basic Industries Corp. (2005) 544 U.S. 280.* This interlocutory order is the sole order of the state bar court ("state actor") state relied upon by the district and federal court of appeals in the so-called disbarment (cm/ecf #45) and

disqualification. The federal court of appeals did not grant the Defendants-Respondents' requests for judicial notice of the orders of the state supreme court and this supreme court. Cm/Ecf ##83, 88.

(4) Because of this court's supervisory power, this court can review the evidence in the Second Amended Complaint in this action, as amplified by and expanded on in the arguments in this petition, for finding that the fraud of Defendants-Respondents on Petitioner's clients, beginning in 2003 and extending up to and including the present, caused the fraudulent orders and judgments concealing their fraud on his clients, the state's attorney general and the public,

that were treated as collateral estoppel by subsequent courts defeating Petitioner's arguments for his clients to recover title and possession to their real property and as the basis for fraudulent sanctions against Petitioner.

Furthermore, that the state actors of the association and bar court were partisan and biased under the same branch of state government, the state law prohibited the consideration of constitutional rights, and they aided and abetted the prosecution of Defendants-Respondents' ethics complaint against Petitioner herein.

B. THE ORDER OF THE COURT OF APPEALS DISQUALIFYING PETITIONER TO REPRESENT HIS CLIENTS HEREIN WAS ANALOGOUS TO ABSTENTION AND PLAINLY ERRONEOUS

Selling v. Radford (1917) 243 U.S. 46 requires the federal courts to perform an independent investigation of state proceedings, in reciprocal disbarment.

Despite that *State Bar Act Section 6088* provides that the State Bar *"Board"* must provide a fair opportunity for the attorney at law to be relieved of facts admitted because of failure to appear at a hearing, the State Bar Association opposed the Petitioner's motion for relief from the default emergency order of involuntary enrollment on the grounds of lack of subject matter jurisdiction and

jurisdiction of the person. *Peralta v. Heights Medical Center (1988) 485 U.S. 80.*

The federal district and appeals courts failed to investigate the reliance of the state actors on the interlocutory order in the discipline case, because under state law there is only one judicial order of disbarment in a discipline case, which is the denial of review by the state supreme court. *In re Rose (2000) 22 Cal. 4th 430.*

State Bar Association and state bar *"court"* caused the disqualification of Petitioner in the federal court of appeals because of the interlocutory order of involuntary enrollment, before the civil case and appeal were terminated. The state bar association's ethical standards which recommend filing ethical complaints after the civil case is concluded. *Cal. State Bar Association's Formal Opinion No. 1983-73.*

In the *"zoom"* hearing held by state actors in February of 2021, the state bar *"court"* prohibited Petitioner to read from the Second Amended Complaint or use it to cross-examine Defendants/Respondents. The state bar "Court" ignored it in its decision dated May 25, 2021, and thus spoliated the *admitted* evidence within pertaining to Petitioner's rebuttal of the charges of willful misconduct and rights of expressive association, free speech and petitioning. State bar *"court"* denied his right to confront Defendant-Respondents as witnesses against him under *Amendment Six* of the Constitution, *Amendment Fourteen* of the Constitution, and *State Bar Act Section 6085*.

The federal courts do not have authority to abstain or defer to state bar discipline that omits or ignores these essential constitutional rights of the

respondent to defend disbarment. *Partington v. Gedan (I) (9th Cir. 1989) 880 F. 2d 116, gvr Cooter & Gell v. Hartmarx (1990) 496 U.S. 384, mod. (9th Cir. 1990) 914 F. 2d 1349 (per curiam); compare Partington v. Gedan (II) (9th Cir. 1992) 961 F. 2d 852.*

This Court rejected a similar request of abstention to a parallel state administrative action in *Gibson v. Berryhill (1973) 411 U.S. 564* (not involving bar licensing, however). The state bar *"court"* is administrative, and its discipline case did not substantially overlap with the subject matter of this action, because the state bar association did not allege that this action was an unjust action under *State Bar Act Section 6068(c).*

Petitioner challenged the basis for disbarment in this federal court action. State Bar Association did not allege this action to be a part of the willful misconduct and did not attack it as an "unjust

action;" nonetheless the Defendants/Respondents argued to the federal courts that his involuntary inactive enrollment encompassed this action.

The federal courts were mistaken that the interlocutory order of inactive enrollment dated August 20, 2020 included this action because only a final order of the state supreme court is disbarment authority. Thus the federal court's disqualification of Petitioner and the federal district court's disbarment of Petitioner erred as a matter of law.

Furthermore the state bar court's decision recommending disbarment dated May 25, 2021 infringed upon his free speech, expressive association and petitioning rights under the constitution that he is exercising in this action, and it is invalid under strict scrutiny. *National Institute of Family and Life Advocates v. Becerra (2018) 585 U.S. --- [138 S.Ct.*

2361]; Willey v. Harris County District Attorney (5th Cir. 2022) 27 F. 4th 1125.

In *Wu v. State Bar (C.D.Cal. 1997) 953 F. Supp. 315,* the court upheld abstention to state bar discipline because the discipline case started before the civil rights action in federal court attacking it. Here, state bar proceedings attacking this action as "aggravation" started after Petitioner filed it. *See Miller v. Washington State Bar Ass'n. (9th Cir. 1982) 679 F. 2d 1313.*

Younger v. Harris (1971) 401 U.S. 37 exempts from abstention "*state bar proceedings that do not provide an adequate opportunity to litigate federal claims."* The state bar *"court"* provided no opportunity to argue the merits of the Petitioner's violations of his civil rights alleged in the Second Amended Complaint.

As the plurality of this court stated concerning abstention in *Pennzoil Co. v. Texaco Inc. (1987) 481 U.S. 1*, *"the burden on this point rests on the federal plaintiff to show "that state procedural law barred presentation of [its] claims." [citation omitted].* In *Younger v. Harris (1971) 401 U.S. 37, at 45*, this court remarked that:

> "*The accused should first set up and rely upon his defense in the state courts, even though this involves a challenge of the validity of some statute, unless it plainly appears that this course would not afford adequate protection." [citation omitted].*

The Petitioner defended against the discipline case in the state administrative agency asserting that this federal action asserted rights of free speech, petitioning and expressive association, and he

concurrently brought this civil rights action to protect his constitutional rights of access to the courts and free speech, petitioning and expressive association. The Second Amended Complaint in this action specifically alleges the Defendants-Respondents' fraudulent inducement to his clients, to the state's attorney general, to the courts and the public, in seeking a fraudulent settlement agreement, supported by continuous violations of mandatory standards of ethical conduct for clients from 2003 through the present, and violations of due process of laws, violated Petitioner's clients civil rights and his civil rights secured by federal laws and the federal constitution.

Defendants-Respondents, including the state's attorney general and blocked all access to discovery and to public documents needed as evidence for the case. Petitioner found it impossible to obtain

discovery of public documents. The Los Angeles sanctions court clerk *"lost"* an essential entire case file and associated docket for no. BC244718, and could not identify paper or electronic evidence of the case file or the docket or individual pleadings filed therrein.

Furthermore the Defendants-Respondents blocked all access to the state courts to remedy these violations of federal civil rights by misusing the defense of collateral estoppel and persuading the sanctions courts to treat it as a jurisdictional requirement. The state court of appeals in *B183928 (True Harmony v. Hope Park Lofts LLC)* opined in *obiter dicta* that Petitioner's clients did not qualify for the federal tax exemption of a federal public charity (not even an issue in the appeal, and Defendants/Respondents cited the judgment of the court of appeals in support of their many motions in

several tribunals to defeat Petitioner and his clients with collateral estoppel.

II. THE DISBARMENT ORDERS IN STATE TRIBUNALS AND FEDERAL COURTS RESULTED FROM OUTRAGEOUS VIOLATIONS OF PROCEDURAL DUE PROCESS

The petition presents a failure of justice on three levels – the state level of discipline, the federal level of discipline and the federal level of the civil rights action. And the grossly negligent and intentional violations of Petitioner's and his clients' federal civil rights are appropriate for injunctions against the state actors and the state's attorney general here. *Ex Parte Young (1908) 209 U.S. 123*,

As argued in the next section, infra, *Rooker-Feldman* is an insufficient ground to uphold the actions of the state actors (and the state's attorney

general) here. The policy reasons against *Rooker-Feldman* of Petitioner's case and his clients' cases are as follows.

The state actors were directly involved in closing the doors of the state courts to Petitioner and his clients. And in this final chapter of this drama, the state's attorney general has turned on and deserted his duty to represent and to promote the causes of Petitioner and his clients. The state court of appeals did rule that True Harmony forfeited in federal public tax exemption because it failed to satisfy the *"organizational and operational"* tests. And the denial of federal charity status by a state court seems to have deprived True Harmony of the means of fund raising from charitable donors to finance the legal fees to fight the dispute with the Defendants-Respondents. And it deserves an *Ex Parte Young* injunction against the state actors.

The state bar court's procedures and law are erratic, unstable and unpredictable results, leading to massive violations of due process of laws caused by prosecutor and decisionmaker serving in the same branch of government. The result for Petitioner is a judicial taking of property, including his clients' case and his license to practice law. *See Stop the Beach Renourishment v. Fla. Dept. of Environmental Protection (2010) 560 U.S. 702.* Alternatively he has been deprived of the substantive due process right to practice law without a fair, unbiased, and proper adjudicative hearing. *See Conn v. Gabbert, supra.*

This disbarment was obviously intended to stop a valid federal civil rights secured by federal law, which is protected by the constitutional rights of expressive association, free speech and petitioning, which triumphs over a vague notion of frivolity which the federal courts have compared to obscenity which

is also protected by the constitution unless it incites public displays of sexual conduct. *WSM, Inc. v. Tennessee Sales Co. (6th Cir. 1983) 709 F. 2d 1084.*

This discipline case was instigated by Defendants-Respondents' complaint to facilitate their defense, and the state bar association and state bar court suspended normal rules of the adversarial process such as the *"litigation privilege"* of *Cal. Civil Code Section 47.* The result was predetermined that Petitioner's exercise of the rights of expressive association, free speech and petitioning of a non-profit charity as recognized by this court in *Rotary Club v. City of Duarte, supra* would be destroyed along with his law license. The deceased Mr. Perry and his co-conspirators had ulterior motives in instigating this bar discipline to destroy Petitioner's law practice because they were attorneys

in this action and defendants, too, and Mr. Perry's estate profited.

The state actors, chiefly the biased and prejudged state bar authorities and the biased and prejudged state bar court and state's attorney general) included a state court of appeals which declared a federally qualified public charity to be unqualified under federal law. It was not even an issue in appellate case no. B183928. But the state actors supported this ruling and approved Defendants-Respondents fortification of their false claim to Petitioner's title to property with concealing jurisdiction-like defenses of collateral estoppel, when they were supposed to be protecting the nonprofit entity's public assets. *Compare Cal. Penal Code Section 799.*

The federal court in the Central *California* district denied its unflagging responsibility to

assume jurisdiction of this valid federal civil rights case, under the vague, ill-fitting and inappropriate *Rooker-Feldman* rule, and turned a blind eye to Petitioner's attempt to defend against the destruction of public rights of expressive association and public assets. Clearly the federal system has a completely different view of frivolity and sanctions of frivolity that the state court system turned on its head to destroy public rights of expressive association and public assets.

Solely a frivolous civil rights action entitles the victorious defendants to attorneys' fees awards under *42 U.S.C. Section 1988*; *Hughes v. Rowe (1980) 449 U.S. 5 (per curiam).* None of these defendants-respondents applied for attorneys' fees, and this negates their credibility as to the meaning of *"frivolity"* and an "unjust" action under the void for vagueness statute of *Section 6068(c) of the State Bar*

Act? In this conflict between federal and state law that the state actors have created for Defendants-Respondent's benefit, federal law must prevail because it is supreme under the Constitution.

Under the federal Constitution, collateral estoppel (or issue preclusion) requires a full and fair opportunity to present arguments and evidence with notice and opportunity in rebuttal – and it is not jurisdictional. *Kremer v. Chemical Const. Co. (1982) 456 U.S. 561.* Petitioner did not have a full and fair opportunity to present arguments and evidence in rebuttal to the elements of willful misconduct and real harm to administration of justice required for disbarment under *State Bar Act Section 6103.*

To wit: the interlocutory decision of inactive enrollment under state law is not a final, judicial order and is not authority for disbarment. *In re Rose (2000) 22 Cal. 4th 430.* The state bar court rejected a

motion for relief from this default decision dated August 20, 2020 based on lack of jurisdiction over the person and subject matter jurisdiction, despite that State Bar Act required it to set aside the deemed admission in a default order when a motion is brought within thirty days under *State Bar Act Section 6088.*

The state actors deflected Petitioner's attack on inadequate due process of the laws with citations to precedent embracing compliance with the state bar *"court's"* formal rules. *See eg., Hirsh v. Justices of the Supreme state court (9th Cir. 1995) 67 F. 3d 708 (per curiam).* This *Hirsh* decision construes *state const. art. III section 3.5*, but Mr. Hirsh's attack was facial and Petitioner attacked the poorly procedures are applied. The actual denial of the right to confront witnesses in discipline who are complaining attorneys at law opposing the attorney in court is

certainly applied. Spoliation of the written evidence of exercise of constitutional rights in the Second Amended Complaint, as amplified and explained herein, is as applied.

The state actors sole *"evidence"* cited for disbarment because of willfulness was supposed willful nonpayment (ignoring this action, of course) and a willful pattern of nonpayment. But if the state is not permitted to permanently deny a driver's license for nonpayment of public penalties and these were private penalties payable to private attorneys at law (except for $8500), it cannot disbar attorneys permanently for nonpayment of contested sanctions. *See Fowler v. Benson (6th Cir. 2019) 924 F. 3d 247.*

The State Bar *"court"* failed to analyze the willfulness required for disbarment as it relates to the alleged misconduct that was judicially sanctioned. But the ABA Model Rules require this

analysis (and this state adopted the Model Rules). *See ABA Model Rules of Professional Conduct 3.1; see also In re Egbune (Colo. 1999) 971 P. 2d 1065*.

The State Bar *"court"* disregarded that its own precedent that a willful pattern of misconduct requires a finding of moral turpitude, to a clear and convincing evidence standard. *Maltaman v. State Bar Ass'n. (1987) 43 Cal. 2d 924; In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498; cf. People v. Ewoldt (1994) 7 Cal. 4th 380.* No deference is permitted to the state bar *"court's"* irrational and arbitrary disregard of its precedent. *Cf. Barrera-Lima v. Sessions (9th Cir. 2018) 901 F. 3d 1108* (*Chevron U.S.A.* deference in immigration law refused).

The Los Angeles sanctions courts did not apply the "*clear and convincing proof"* standard of burden of proof to the alleged willful pattern. *J.B.B.*

Investment Partners Ltd. v. Fair (2017) 37 Cal. App. 5th 1; Kleveland v. Sigel Wolensky LLP (2013) 215 Cal. App. 4th 534. The state bar court applied collateral estoppel to these sanctions courts' rulings and failed to apply the *"clear and convincing evidence"* standard. The state supreme court, is required to evaluate disbarment under the *"clear and convincing evidence"* standard, and since it denied review of the state bar *"court"* it failed to make the required *"clear and convincing evidence"* finding. *Conservatorship of O.B. (2020) 9 Cal. 5th 989.* This is not harmless error because the so-called precedents cited by state bar *"court"* for disbarment all involved moral turpitude.

The federal courts in this Ninth Circuit territory decide punitive sanctions (under the inherent power) with a jury trial and proof beyond a reasonable doubt. *Eg., Knupfler v. Lindblade (In re*

Dyer) (9th Cir 2003) 322 F. 3d 1178. It is more precise than the state's motion practice, but it cannot be ignored and the state must acknowledge it.

The state courts and state bar *"court"* have two choices. They may apply the federal standard of *Knupfler, supra*, or they may apply the state standard of prohibiting punitive sanctions as a federal common law rule under the *Full Faith and Credit Clause* under the Constitution. *Huntington v. Attrill (1892) 146 U.S. 657; see People v. Laino (2004) 32 Cal. 4th 878; see also City of Oakland v. Desert Advertising (2011) 127 Nev. Adv. Ops. 46.*

The federal courts apply state law standards of *collateral estoppel* under *28 U.S.C. Section 1738* and the *Full Faith and Credit Clause of the Constitution*. *Kremer v. Chemical Construction Co., supra.* It is apparent that the state sanctions courts, the state bar *"court"* and the state supreme court denied due

process of the laws to Petitioner in disregarding the *"clear and convincing evidence"* standard. Thus where the sanctions conflict with the federal civil rights law, as they do here, the federal courts may apply the state law of non-enforcement of punitive judicial sanctions including the *ABA Model Rules* and *In re Egbune, supra*, to stay or enjoin the suspension or disbarment because of the vague and punitive sanctions orders in state courts as compared to *Amendment One of the Constitution*.

And of course, the state bar *"court"* disregarded Petitioner's arguments to explain that the alleged misconduct was not willfully intended to harm, which is his right in disbarment or discipline cases. For example, the Los Angeles sanctions court in BC546574 cited *Ramon v. Aerospace Corp. (1996) 50 Cal. App. 4th 1235* for a rule that a judgment entered before a motion for reconsideration is decided

deprives the court of jurisdiction of the motion, and it sanctioned Petitioner for exceeding jurisdiction.

But the court of appeals in *Ramon* did not sanction the moving party. And in fact, the trial court did grant reconsideration there, it simply did not alter its first ruling on the reconsidered motion.

Petitioner cited *Cal. Code Civ. Proc. Section 581(f)(1)* and *Berri v. Superior Court (1955) 43 Cal. 2d 856* for the rule stated in the *Berri* opinion that a motion to enter judgment is necessary for the court facing a pending motion for reconsideration of a demurrer to enter judgment.

As for the sanctions in B254143 because of the untimeliness of the motion under *Cal. Code Civ. Proc. Section 473* filed six months, five days (and a rollover day from a Sunday), there seems to be no published precedent for sanctions of this jurisdictional *bete noire*. The court of appeals could

have considered it as a different kind of motion subject to equitable tolling, and a longer statute of limitations. *See Rappleyea v. Campbell (1994) 8 Cal. 4th 975.* Petitioner included evidence of his personal emergency the day before that necessarily caused him to be absent from court on November 8, 2012 and November 9, 2012 is when the court's housekeeping motion for filing the proof of service came on the calendar for hearing and Petitioner did not attend because the clerk could not be contacted on November 8 and Rosario Perry told him that the court's motion for November 9, 2012 was off calendar.

The state bar *"court"* failed to consider Petitioner's written and testimonial evidence that the nonexistent limited liability company plaintiff voluntarily dismissed the action before a trial. *Cook v. Stewart McKee (1945) 68 Cal. App. 2d 758*; s*ee*

Oliver v. Swiss Club Tell (1963) 222 Cal. App. 2d 528 (voidable jurisdiction in personam). And Defendants-Respondents concealed the existence of the cease and desist order served by the state's attorney general in 2011 on them, from Petitioner, which caused void *in rem* jurisdiction of the unlawful fund in court.

The state bar court ignored evidence that Defendants-Respondents reserved and refiled their sanctions motion in BC466413 under *Calif. Code Civ. Proc. Section 128.7* after the appeal in B287017, which they amended to allege the sanctions in the appellate court, which deprived Petitioner of a safe harbor period under that code section to withdraw the renewed motion.

III. DISCUSSION OF THE ROOKER FELDMAN CUT-OFF

A. INTRODUCTION

In its memorandum decision dated June 8, 2023, the federal court of appeals stated simply that *Rooker-Feldman* justified the denial of the appeal.

Rooker-Feldman applies only to final judgments of a state court according to the language of *Exxon Mobil Corp., supra*, and precedents in most federal court of appeals. *Mothershed v. Justices of the Court (9th Cir. 2005) 410 F. 3d 602; see Parker v. Lyons (7th Cir. 2014) 757 F. 3d 701; but see RLR Inv. v. City of PIGEON FORGE (6th Cir. 2021) 4 F. 4th 380, 391.* The court of appeals ignored Petitioner's argument that the district court's and court of appeals's orders of federal disbarment were void because they relied on an interlocutory order of the state bar *"court." See In re Rose, supra.*

The U.S. Constitution and *Selling v. Radford, 243 U.S. at 48,* required the federal courts to conduct at least a summary investigation and hearing on

Petitioner's defenses and pleadings to the state bar *"court's"* decision.

B. THE FRAUD EXCEPTION

Rooker-Feldman cuts off jurisdiction of *"de facto"* appeals and actions which are *"inextricably intertwined"* with an attack on a judgment of a court. The Ninth Federal Circuit ruled that if a state court is not a defendant in a civil rights lawsuit, it is not a *de facto* appeal. *Manufactured Home Communities Inc. v. City of San Jose (9th Cir. 2005) 420 F. 3d 1022.*

A federal action may be inextricably intertwined with prior state court actions involving a judgment of the court, if the plaintiff in the federal action is a state court *"loser,"* the pleading is attacking the harm caused by a *"judgment,"* and it invites reversal of the conclusions of the state court

and its judgments. *Exxon-Mobil Corp. v. Saudi Basic Industries Corp. (2005) 544 U.S. 280.*

This action was filed in court before a final *"judgment"* of disbarment. The Ninth Federal Circuit Court of Appeals does not apply *Rooker-Feldman* to interlocutory orders, although the Sixth Federal Circuit Court of Appeals does. *RLR Inv. v. City of PIGEON FORGE, supra.* The Memorandum of the Ninth Federal Circuit ignored Defendants-Respondents' request for judicial notice of the *"final"* orders of the state supreme court and this court in *no. 22-1056* in the discipline case. It is not sufficient for Rooker-Feldman in the regional court of appeals. *Mothershed, supra.*

Petitioner is a plaintiff in this action, but he not a party to the state court suits involving the alleged state court judgments which the Los Angeles sanctions courts treated as collateral estoppel on the

issue of his disbarment. And *Bennett v. Yoshina (9th Cir. 1998) 140 F. 3d 1218* prohibits use of *Rooker-Feldman* against non-parties, and Petitioner was denied the benefit of this rule.

Defendants-Respondents conspired to defraud Petitioner's clients when they were still Defendants-Respondents' attorneys at law in a quiet title lawsuit in Los Angeles court in 2003, as described in the Second Amended Complaint. Defendants-Respondents then, and later breached continuing ethical duties (under the *former Rules of Prof. Conduct* (primarily *rule 3-300*) of the state bar association) to disclose the conflicts of interest and to obtain written consent arising out of a continuing business transaction with Petitioner's clients.

Defendants-Respondents breached ethical duties to maintain Petitioner's clients' attorney-client privilege, and not to testify against the client. They

breached ethical duties to obtain written consent to a continued business deal with the client after the representation concluded, a business deal which will conclude only after the dispute over title to property is finally resolved.

The Defendants/Respondents misrepresented to the Petitioner's clients and to the public, at all times herein, that the state's attorney's general had approved the fake settlement agreement transferring ownership of True Harmony's property in Los Angeles to the Associates' LLC (California) entity controlled by Defendants/Respondents.

The court of appeals's erroneous decision that True Harmony was not qualified for a federal tax exemption under *Internal Revenue Code Section 501(c)(3)*, induced by the fraud of Defendants-Respondents, violated Petitioner's clients' civil rights, because Defendants-Respondents cited this

fraudulent court of appeals decision in all subsequent motions and disputes to add fuel to their arguments for collateral estoppel. Defendants-Respondents cited the court of appeals' mistake to the arbitrator, they cited it to the court for *collateral estoppel* in BC466413 and again in BC546574. This mistaken ruling is either preempted by federal law, *see Treas. Reg. No. 1.501(c)(3)-(1)(b)(5),* or subject to primary federal jurisdiction.

As one of the Defendants-Respondents' biggest frauds, the disqualification ruling in appeal case no. B183928 had a continuing *"waterfall, ripple effect"* through every phase of the dispute, by reinforcing and cementing the concealment of the arbitration fraud by collateral estoppel of the *"fake"* confirmed judgments treated as jurisdiction in state courts. It is fraud in perpetual motion.

And due to the misuse of the litigation process and court's jurisdiction to conceal the fraud, the *Section 501(c)(3)* charity was deprived of the services of the attorneys at law whom True Harmony could occasionally afford to defend this endless cycle of sham arbitration *"hearings"* and sham confirmed judgments in multiple actions by Defendants-Defendants respondents. It seems to have injured True Harmony's ability to obtain funds by donation.

True Harmony and the Delaware LLC 1130 South Hope Street Investment Associates LLC, brought a "new" attorney to court for the trial in BC385560, on March 15, 2010. His request for a continuance to allow him to prepare for trial was denied, and the result was that the superior court automatically and robotically entered his clients' default, on March 15, 2010 and granted the

Defendants-Respondents judgment of title on the cause of action for cancellation of instruments.

But in 2017, after the demurrer was sustained in BC546574, the state court of appeals held that a default judgment of cancellation of instruments cannot be collateral estoppel against a subsequent quiet title cause of action attacking the default judgment, *Deutsche Bank National Trust v. Pyle (2017) 13 Cal. App. 5th 513,* and the Los Angeles sanctions courts erred in denying the motion for reconsideration in BC546574 and erred in holding that entry of judgment between the filing of the motion and the decision on the motion deprived the court of jurisdiction. Because, as discussed supra, in the main decision cited for lack of jurisdiction, the trial court mistakenly relied on *Ramon v. Aerospace Corp., supra*, for the sanctions of the motion.

The Second Amended Complaint, as it exists or as it may be amended with leave of court, pleads these continuing extrinsic type of frauds as a basis of the civil rights causes of action. These frauds are as extrinsic to the action as was the witness tampering in *Kougasian v. TMSL Corp. (9th Cir. 2003) 359 F. 3d 1136,* and *Benavidez v. County of San Diego (9th Cir. 2021) 993 F. 3d 1134,* that qualified for the fraud exception.

The district court in its order dismissing the case (APPX. #8) conceded that the pleading of the violation of the cease and desist order under *Section 5913 of the Cal. (Nonprofit Corporations Code)* and the *Uniform Supervision of Charitable Trusts Act* (*Cal. Gov't. Code Section 12580 et. seq., see, eg.* COA#3 in the Second Amended Complaint) is extrinsic fraud and escaped the claws of *Rooker-Feldman*. Given that *Section 5142 of the Cal.*

(Nonprofit) Corporations Code conferred standing on True Harmony and its officers and affiliates (and its donor Haiem, *see LB. Res. & Ed. Found. v. UCLA Foundation (2005) 130 Cal. App. 4th 171)*, to bring a fraud action against Defendants-Respondents when the state's attorney general refuse it, and it is subject to the public interest exception to *collateral estoppel* and *res judicata, see Bates v. Jones (9th Cir. 1997) 131 F. 3d 843*, why did the district court dismiss this cause of action that is a state law cause of action arising under federal question jurisdiction? *Grable & Sons Metal Products v. Darue Engineering Co. v. Mfg., Inc. (2005) 545 U.S. 308.*

Furthermore, if the client's appeal is reinstated, and it is deemed necessary to qualify for the fraud exception, the Petitioner will amend the Second Amended Complaint to conform it to the facts

of *Deutsche National Bank & Trust Ass'n. v. Pyle, supra,* as amplified herein.

C. BIAS AND CORRUPTION

The federal circuit courts of appeal appear to interchange the corruption and fraud exceptions to *Rooker-Feldman*. *Benavidez v. County of San Diego, supra; Johnson v. Pushpin Holdings, LLC, 748 F. 3d 769, 773 (7th Cir. 2014); In re Sun Valley Foods (6th Cir. 1986) 801 F. 2d 186.*

As argued *supra* at *III*, the state bar *"court"* ignored Petitioner's attempts to read the evidence of violation of his rights of expressive association, petitioning and fraud in the Second Amended Complaint. And the state bar *"court"* ignored the written documents that Petitioner submitted to the state bar "court" in support of the allegations of the Second Amended Complaint of violations of civil rights. And as noted previously herein, the state bar

"court" refused permission to the Petitioner to cross-examine the Defendants-Respondents on these fraud issues, which if the State Bar Association had opened an investigation, might have subjected the Defendants-Respondents to their disbarment case based on their moral turpitude and frauds on the court.

The short circuiting of Petitioner's defenses to the discipline case and the refusal to investigate Defendants-Respondents "fraud" is a corruption of principles of state bar discipline, which deprived Petitioner of due process of the laws. The precedents establish that it is plain error for a federal court to defer or abstain to a corrupt state bar association and bar *"court." See discussion supra at II*. And there is no precedent for abstaining to a state proceeding involving a state law which is void for

vagueness, ie. *State Bar Act Section 6068(c). Younger v. Harris, supra.*

The state bar association introduced no proof of a willful pattern of disobedience of court orders, which requires proof of moral turpitude under the state bar *"court"* precedent. Even if the tribunal could defer to some vague expertise on *"willful pattern,"* there is no deference owed to a tribunal that ignores its own precedent on proof of a pattern based on moral turpitude.

The state bar *"court"* plainly erred in finding Petitioner's testimony to be incredible, when Petitioner brought this federal action alleging that disbarment of suspension of the federal action was unjustified by nonpayment of money sanctions. And it erred in refusing to apply *falsus in uno falsus in omnibus* to Defendants-Respondents' testimony.

Petitioner seems to be the only attorney at law suspended or disbarred for mere nonpayment of money sanctions. The state bar "court" cited a decision for disbarment involving payment of sanctions, but that respondent clearly was guilty of moral turpitude. *In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179.*

Petitioner has a good civil rights claim for *Violation of Equal Protection of the Laws, Class of One. Willowbrook v. Olech (2000) 528 U.S. 562; Geinosky v. City of Chicago (7th Cir. 2012) 675 F. 3d 743.* It is that the State Bar Association will not prosecute OCTC attorneys (its employees) for a conspiracy to violate the law prohibited by *State Bar Act Section 6128.*

The state bar court intentionally restricted the content of the speech and petitioning in Petitioner's civil rights complaint with respect to Petitioner and

with respect to his clients by depriving the clients of legal representation. *NIFLA v. Becerra, supra*. The state bar court's decisions do not survive the strict scrutiny that must be applied to them under the constitution, and they are void. *Willey v. Harris County District Attorney (5th Cir. 2022) 27 F. 4th 1125*.

The interference of the state bar *"court"* and the state bar association with this federal action was partisan, and biased against Petitioner. It violated the separation of powers under the Constitution, and the due process of the laws, because the decisionmaker and the supposed "prosecutor" are employed by the same branch of state government, under a common budget.

The discussion of Judges Kirsch and St. Eve in the dissent from the denial of the petition for rehearing en banc in *Hadzi-Tanovic v. Johnson (7th*

Cir. 2022) 62 F. 4th 394 is convincing that the corruption exception to *"Rooker-Feldman"* is viable in all of the regional federal circuit courts of appeals except Circuit Seven. *See, eg. Dorce v. City of New York (2d Cir. 2021) 2 F. 4th 82, 107–08; Great W. Mining & Mineral Co. v. Fox Rothschild LLP (3d Cir. 2010), 615 F. 3d 159, at 171–73; Hulsey v. Cisa (4th Cir. 2020) 947 F. 3d 246, 250–52; Truong v. Bank of Am., N.A. (5th Cir. 2013) 717 F. 3d 377, 383; McCormick v. Braverman (6th Cir. 2006) 451 F. 3d 382, 392; MSK EyEs Ltd. v. Wells Fargo Bank, N.A. (8th Cir. 2008) 546 F. 3d 533, 539; Mayotte v. U.S. Bank N.A. (10th Cir. 2018) 880 F. 3d 1169, 1174–75; Behr v. Campbell (11th Cir. 2021) 8 F. 4th 1206, 1209.*

In the *Great Western Mining* decision, *supra*, the plaintiff pleaded a conspiracy of attorneys at law and arbitrators and judges who attacked the

plaintiffs and uniformly violated conflict of interest rules of partisanship and bias. This case is very similar, in that it is moral turpitude and greed punishable by disbarment for Defendants-Respondents to work their frauds on their clients deceiving them as to theft of title to their property, and to conceal the frauds and keep on defrauding and concealing them through various legal maneuvers. And in the process, and be aided and abetted by the corrupt state bar association and state bar "court" who ignored the Defendants-Respondents' profound and evil ethics violations.

In *Skinner v. Switzer (2011) 562 U.S. 521*, in this Court, the plaintiff *"[did] not challenge . . . the decisions reached by the [state court] in applying [the state statute] to his motions"* for DNA testing and challenged only the constitutionality of the statute

"as construed" by the state court. It is the so-called general constitutional attack on statutes exception.

The general constitutional law exception could apply to the kind of corruption and bias in this case, in which the state bar association and state bar "court" have attacked and disbarred the attorney at law who opposes the attorneys guilty of moral turpitude and deserving of disbarment. *Compare Dubinka v. Judges of the Superior Court (9th Cir. 1994) 23 F. 3d 218; with Razatos v. Colorado Supreme Court (10th Cir. 1984) 746 F. 2d 1429, 1433, cert. denied (1985) 471 U.S. 1016, 105 S. Ct. 2019.*

The malevolent bias and destructive interference of the Cal. state bar court and the Cal. state bar association with Petitioner's fundamental constitutional rights, is open and obvious. This case falls into its own category of a general constitutional

law challenge to biased and partisan disbarment decisionmakers who ignored all of Petitioner's evidence and defenses and disbarred the wrong attorney at law.

VI. THE DISBARMENT FOR NONPAYMENT OF PENALTIES WAS PUNITIVE, AND VIOLATED DUE PROCESS OF THE LAWS AND PETITIONER'S FUNDAMENTAL RIGHTS

This state bar discipline is an extraordinary means of collecting a debt and it entitles Petitioner to enhanced due process protections. *See James v. Strange (1972) 407 U.S. 128; Fowler v. Benson (6th Cir. 2019) 924 F. 3d 247.*

Instead of enhanced due process of the laws, the content of Petitioner's free speech, petitioning and expressive association was violated, in a way that cannot survive strict scrutiny. The procedure followed in the disbarment "zoom" procedure *per se*

regulated the content of Petitioner's speech. The decision of disbarment, depended on the state bar *"court's"* judicial notice of more than one hundred of Petitioner's pleadings in actions involving his clients versus the Defendants/Respondents.

The sole basis of relevance cited for bulk judicial notice of these pleadings was that the pleadings were unsuccessful for the clients. This is a regulation of the content of speech and a destruction of his constitutional rights of petitioning and expressive association, and it is *per se* irreparable injury. *Elrod v. Burns (1976) 427 U.S. 347; see O'Brien v. U.S. (1968) 391 U.S. 367.* The only exceptions to strict scrutiny of speech required of professionals such as attorneys are (1) factual, noncontroversial speech in commercial advertisements and (2) regulation of conduct that incidentally involves speech. In *National Institute of*

Family and Life Advocates (NIFLA) v. Becerra (2018) 585 U.S. --- , 138 S.Ct. 2361.

Even if the state could impose a suspension on Petitioner for the nonpayment of sanctions, he cannot be permanently disbarred for the alleged misconduct and forfeit a fundamental right to practice law. *See Conn v. Gabbert (1999) 526 U.S. 286; see Edwards v. District of Columbia (D.C. Cir. 2014) 755 F. 3d 996.*

V. SUPPLEMENTATION OF THE RECORD

The public documents that the Petitioner sought to have judicially noticed with the petition for rehearing in the court of appeals are: (1) The petition for the writ of certiorari in *22-1056, Thomas v. State Bar Ass'n. of California*, is a public record of this Court. It is a parallel concurrent proceeding. *Phillips Med. Sys. Int'l. v. Bruetman (7th Cir. 1992) 982 F. 2d 211.* (2) The transcript of the state bar

court is a public record and it was filed with the supreme court of the state. *White v. Gaetz (7th Cir. 2009) 585 F. 3d 1135.* It is self-authenticating because of the attestation of the court reporter. (3) The third public record is the Petitioner's membership record of the state bar of Nevada.

The appellate court has the authority *"to take judicial notice of new developments not considered by the lower court." Landy v. FDIC (3d Cir. 1973) 486 F. 2d 139, 151.* The Plaintiff-Appellant ordered the transcript in 2021, which was finally corrected and delivered to the state bar *"court"* in December of 2021.

Without supplementation of the record with these documents, the investigation by the courts of Petitioner's objections to lack of due process in the state and federal disbarments may be stymied.

VI. CONCLUSION

This court must grant the petition to resolve the uncertainties of the *Rooker-Feldman* cutoff, and its misapplication to allegations of fraud and moral turpitude, violations of fundamental individual rights and procedural due process of the laws.

November ___, 2023 Jeffrey G. Thomas

/s/Jeffrey G. Thomas

Atty. at law *in pro. Per.*

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JEFFREY G. THOMAS

v.

DEPT. OF JUSTICE OF STATE OF CALIFORNIA

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1. Order of U.S. Court of Appeals (6.23.23)

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JEFFREY GRAY THOMAS, Plaintiff-Appellant, v. CALIFORNIA DEPARTMENT OF JUSTICE; XAVIER BECERRA; ROSARIO PERRY; NORMAN SOLOMON; HUGH JOHN GIBSON; BIMHF LLC; HOPE PARK LOFTS 2001-02910056 LLC; 1130 HOPE STREET INVESTMENT ASSOCIATES, LLC, a California limited liability company; DOES, 1 through 10 inclusive, Defendants-Appellees.

No. 21-55655 D.C. No. 8:20-cv-00170-JAK-ADS

Central District of California, Santa Ana

ORDER

Before: WALLACE, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Appellant Jeffrey Gray Thomas's petition for panel rehearing (Docket Entry No. 92) is denied. Appellant Thomas's motion to take judicial notice (Docket Entry No. 93) is denied.

2. Petition for Rehearing (6.19.23)

I. INTRODUCTION – PROCEDURAL POSTURE OF THIS APPEAL, AND THE REASONS FOR REQUESTING A REHEARING

The Memorandum Order requested to be reheard is attached as Exhibit 1.

The court of appeals consolidated the two appeals by Plaintiff-Appellant Thomas, his appeal in the True Harmony case and the disciplinary appeal in no. 21-80143.

The court of appeals in 21-55655 by order dated November 5, 2021 dismissed the appeals in the first appeal action no. 21-55655 by the three plaintiffs Haiem, 1130 South Hope Street Investment Associates LLC (Delaware) and True Harmony, based on its prior order of disqualification of September 20, 2021 because Plaintiffs-Appellants, the clients, could not find substitute counselors at

law for Plaintiff-Appellant Thomas, the fraudulent Los Angeles sanctions orders intimidated and coerced the clients and alternate attorneys at law.

Plaintiff-Appellant argued the issues in his brief herein with reference to the arguments made by all Plaintiffs against Defendants-Appellees, because Defendants-Appellees frauds on the court starting in 2004 and their breaches of ethics starting with 2003 are common issues for both Thomas and his clients (the two "groups" of Plaintiffs-appellants).

The draconian appellate and trial court sanctions were very questionable as to conclusion of lack of merit and they were unsupported by the case law of "frivolity" under *Cal. Code Civ. Proc. Sections 128.7 and 909. See, eg. Quest Int'l. Inc. v. Icode Corp. (2004) 122 Cal. App. 4th 745, 750.* Defendants-Appellees sought and received fraudulent sanctions from state courts to frustrate Plaintiffs-Appellants'

defense of BC466413 and their prosecution of BC546574 with the ultimate goal of cutting off Plaintiff-Appellant's representation and any attorney at law's representation of his clients, and they achieved it aided and abetted by the State Bar Association, and assisted by the State Bar Court.

The State Bar Association unethically and to aid and abet Defendants-Appellees standing to them to complain for disbarment of Thomas for the purpose of stopping this action and appeal because of a motion to disqualify him. *See Formal Opinion of State Bar Association, no. 1983-73.* State Bar Association violated the Plaintiffs - Appellants constitutional rights under Amendment One of the Constitution. *See generally Second Amended Complaint, in APPX. 65 - 145.* And they achieved it despite that the State Bar Ass'n. never pleaded or proved this action or appeal as *"unjust"* under *State*

Bar Act Section 6068(c) in the disciplinary case, or in the emergency application for the August 20, 2020 order that State Bar Court arbitrarily designated a *"separate case"* (but it is not a separate case in this court of appeals is it?). See generally Transcript, as item no. 2 of the Request for Judicial Notice.

The district court in its minute order (attachment no. 2) did note that Plaintiff-Appellant Thomas disputed the lack of due process in the disciplinary case in AD-20-0779 (on appeal here) in its order dated April 1, 2021. *Minute Order ("M.O." exhibit 2) p. 8.* But the district court erroneously deemed that Plaintiff-Appellant did not make specific allegations of lack of due process of laws, because Plaintiff-Appellant very specifically described the lack of the jurisdiction of the person and jurisdiction of the subject matter in the Opposition to show Cause filed in January of 2021 as item no. 4 in the

docket (to be judicially noticed herein as item no. 5 herewith), and in his multiple oppositions (cm/ecf ##4,6,7,9).

The district court issued three distinct orders to show cause for the same suspension or disbarment in 20-AD-00779, it was confusing because one order to show cause was for suspension and the other for disbarment and the district court's order to show cause related to a nonfinal order of the state bar court. *In re Rose (2000) 22 Cal. 4th 430*. But Plaintiff-Appellant is entitled under *Local Rule 83* and *Selling v. Radford (1917) 243 U.S. 46* of investigation of the issues raised in each and every opposition pleading.

The Notice of Objections referred to in the *Minute order (attachment no. 2)* on page 5 was a request to postpone the hearing on the Application because Plaintiff-Appellant was not served in a

timely and proper manner with it and had insufficient notice of a hearing date, had no time to prepare for a hearing, or to read thousands of pages of exhibits on a thumb drive, and the improper method of late service violated his constitutional due process of the laws. See generally Petition for Review (item no. 5 in request for judicial notice). It was not a response to the Application, and it was not a motion to vacate the Application because Plaintiff-Appellant did not have the time to prepare such a motion for the request to postpone as the Notice of Objections.

Plaintiff-Appellant seeks to correct his inadvertent failure to include in the excerpts of record the Opposition to the Order to Show Cause (# 4 in 20AD-00779, no. 4 to be judicially noticed) and the petition for review in the state supreme court (item no. 5 in the request for judicial notice) of the

state bar court's denial of motions to vacate the order dated August 20, 2020. And because he informed the district court of his objections to the unconstitutional service of process in his oppositions hereinbelow, the district court failed to perform its duty under *Selling v. Radford (1917) 243 U.S. 46, 48, 51*, the constitutional due process of laws, and the *local rule 83* of the district court to investigate the lack of due process, infirm proof of disbarment, and grave and serious injustice of *"disbarment."*

Moving on to the second order of the state bar court dated May 25, 2021 and thereafter, in response to Defendant-Appellee Gibson the briefs that Plaintiff-Appellant filed in this appeal on or about December 7, 2021 were not full briefs. Plaintiff-Appellant had not fully briefed the case nor had he filed an appendix for documents, pleadings and orders of the state bar administrator challenging the

order dated May 25, 2021 that had not yet been created on December 7, 2021. Defendant-Appellee H. J. Gibson may have represented to the clerk of this court by in his letter dated June 5, 2023, that he had fully briefed the case, but Plaintiff-Appellant had not.

The second order of the state bar court administrator dated May 25, 2021 was not final in the state administrative and court system, while Plaintiff-Appellant was pursuing administrative appeals and review to the state's high court, which occurred in 2022 and 2023. And Plaintiff-Appellant is entitled to supplement the record with later documents created after December 7, 2021. See motion filed concurrently.

Plaintiff-Appellant's purpose for requesting judicial notice, which was denied on June 8, 2023, was to supplement the brief and the record herein

with regard to later created documents, pleadings and briefs not in existence on December 7, 2021 when he filed his brief and excerpts of records herein.

Defendants-Appellees's attempt to have reciprocal discipline apply to Plaintiff-Appellant as an irrebuttable presumption of disbarment from state administrative proceedings, because of judicial notice. *Cleveland Board of Education v. LaFleur (1974) 414 U.S.* 632. This is the same obsessive-compulsive knee-jerk judicial notice going to contents of public documents that Defendants-Appellees (and the District Judge herein too) have employed consistently for collateral estoppel and foreclosure of all of Plaintiffs-Appellants' arguments in state courts and in the federal courts without regard to merits of pleadings (see. eg., cm/ecf ## 9, 25, 27, 33, 45, 62, 83, 88), and it violates Plaintiff-Appellant's fundamental individual constitutional right to practice the law,

Conn v. Gabbert (1999) 526 U.S. 286, and serves their wicked pattern of violation of his clients' civil rights. *See generally Second Amended Complaint, APPX. pp. A65 - A145.*

The first assignment of error in this petition is the errors of fact and law in the district court in its order April 1, 2021, as described hereinabove, which this court of appeals's Memorandum affirmed without the required investigation of the allegations of defective state administrative orders.

The second assignment of error in this petition is failure of this court of appeals to investigate the violations of constitutional due process of laws of Plaintiff-Appellant (and the other Appellants in the True Harmony case) and the violations of Plaintiff-Appellant's constitutional rights of petitioning and expressive association in the compound errors of the state bar court in its orders

dated May 25, 2021, August 26, 2022, September 28, 2022 and the order of the Supreme Court of California dated January 25, 2023, which occurred or were created after the brief and the excerpts of record were filed herein.

In his opposition to the Defendant-Appellees' request to take judicial notice of the supreme court of California's denial of the administrative bar court's orders, back in February of 2023, Plaintiff-Appellant promised this court to file the petition for writ of certiorari in *no. 22-1056* in this appeal.

This petition strongly supported by two recently decided opinions in the Supreme Court of U.S. and a pending petition for the writ of certiorari that will almost certainly be granted. *Tyler v. Hennepin County (S.Ct. #21-166, May 25, 2023) 598 U.S. ___; Axon Enterprises v. FTC (2023) 598 U.S. 175* (*Thunder Basin* factors) (from this court of

appeals); *see Tingley v. Ferguson (pending U.S.S.Ct. no. 22-942)* The *Tyler* and *Axon* decisions support Plaintiff-Appellant's argument that the administrator State Bar Court violated his due process rights and petitioning and expressive association rights, and are relevant to both charged violations for disbarment of *State Bar Act Section 6103* and *Section 6068(c). NIFLA v. Becerra (2018) 138 S. Ct. 2361* will probably be upheld and *Tingley* will be reversed, mooting the discipline imposed under *State Bar Act Section 6068(c).*

II. THE REQUEST FOR JUDICIAL NOTICE IS RENEWED PLUS MORE

As discussed *supra*, Plaintiff-Appellant renews his request to take judicial notice of certain documents, briefs and pleadings, and additionally requests judicial notice of two new documents: (1) the petition for review in the state supreme court in

S266566 and (2) his opposition to the Order to Show Cause in the district court (#4 in 20AD00779). This court of appeals is referred to the concurrent motion for judicial notice and for supplementing the record and the brief under *F.R.E. 201(d)* and *F.R.App.P. 10(e)*.

Plaintiff-Appellant notes that with respect to the arguments in the petition for writ of certiorari in *no. 22-1056* for lack of due process in the quasi-criminal state bar court, he has cited authorities on criminal procedure. However, if the quasi-criminal context is deemed not to be predominant, many of the procedures that were denied to him apply to civil cases involving fundamental rights at stake. *See Goldberg v. Kelly (1970) 397 U.S. 254*.

The state bar court rejected the argument of the quasi-criminal rights asserted under *Standing Committee on Discipline v. Yagman (9th Cir. 1995) 55*

F.3d 1430 and its progeny, but these rights should be conferred on Plaintiff-Appellant as explained *infra at IV*.

III. THE DISTRICT COURT DENIED DUE PROCESS OF THE LAWS TO PLAINTIFF-APPELLANT

Because he informed the district court of his objections to the unconstitutional service of process of the Application in 2020, and the district court denied this knowledge, the district court failed to perform its duty to investigate the lack of due process, infirm proof of disbarment, and grave and serious injustice in state bar court under *Selling v. Radford (1917) 243 U.S. 46, 48, 51*, the constitutional due process of laws, and the *local rule 83* of the district court. The merits of his arguments are obvious and compelling, that state bar association

and state bar court violated his constitutional rights to jurisdiction over the person and of the subject matter in the emergency application and order of involuntary enrollment dated August 20, 2020. *See Petition, item no. 5 in the Request for Judicial Notice* and *Opposition to Order to Show Cause, item no. 4 in the Request for Judicial Notice.*

This court of appeals also violated his and his clients' constitutional rights of access to courts as pleaded in the Second Amended Complaint *(APPX 65 – 145).* See *In re Primus (1978) 436 U.S. 412; see also Fox v. Vice (2011) 586 U.S. 826.*

In *Quest International Inc. v. Icode Corp. (2004) 122 Cal. App. 4th 745, 750* the court of appeals commented:

> *"We say "reluctantly" dismiss, because,*
> *as anyone who reads this opinion*
> *through to the end is about to learn,*

California's law of appellate jurisdiction is full of fiendishly fine distinctions worthy of the most legalistic of medieval clergy. We have turned this case around like a prism hoping to find the light that might save this appeal."

In *Cal. Business Council v. Superior Court (2000) 52 Cal. App. 4th 1100*, the court of appeals held that the five days extension of time in Cal. *Code Civ. Proc. Section 1013* to file motion for relief from a court order applies to court order on the court's motion served by the clerk on parties. In *Berri v. Superior Court (1955) 53 Cal. 2d 856* the state supreme court held judgment cannot be entered without a noticed motion while a noticed motion for reconsideration is pending.

The appeals were not frivolous, and the motion for reconsideration of the demurrer in BC546574 and

the motion for relief from dismissal of the cross-complaint was not frivolous. *See generally the discussion of the Petition for Writ of Certiorari.* The appeals were not frivolous.

The State Bar Association did not establish the standing of Defendants-appellees, LICENSED ATTORNEYS AT LAW, to complain for disbarment of Plaintiff-appellant under vague disciplinary statutes to terminate the action below and the appeals herein. And Defendants-Appellees did not establish that they are real parties in interest to move to terminate the appeals herein.

IV. THE ROOKER-FELDMAN TRAP DOES NOT APPLY TO THE SECOND AMENDED COMPLAINT NOW OR AS AMENDED

Plaintiffs-Appellants pleaded facts sufficient for the entanglement of private and public functions

of the Defendants-Appellees to establish that they are state actors under *Brentwood Academy v. Tennessee Secondary School Ass'n. (2001) 531 U.S. 288.*

The Second Amended Complaint (and any allowed amendment) does not qualify as a *"de facto appeal"* in *Rooker-Feldman* as a matter of law, because no court or judge was sued as a defendant. *Manufactured Home Communities Inc. v. City of San Jose (9th Cir. 2005) 420 F. 3d 1022.* This conclusion of the Memorandum Order is erroneous as a matter of law.

The *"inextricably intertwined"* branch of the *Rooker Feldman* trapdoor does not apply for the following reasons.

Defendants-Appellees' defrauded the state courts by substituting an unauthorized and unconsented settlement agreement to fraudulent

"binding" arbitrations in all forums involving the parties dispute, and the Plaintiffs-Appellants did not consent to the conflict of interest in the continuing business relationship of Rosario Perry and his co-conspirators, and they solicited the court's approval of Rosario Perry's testimony against Plaintiffs-Appellants with a coerced waiver of attorney-client privilege.

Defendants-Appellees defrauded the courts with the judicial deception that the California attorney general approved of the settlement agreement depriving the clients of *parens patriae* representation, they depleted Plaintiff-Appellant's assets and thus Plaintiffs-Appellants could not associate private counselors at law to represent them in disputes, and they defrauded the court of appeals to hold that Plaintiff-Appellant did not qualify for the charity exemption, intimidating charitable donors,

and they caused the fraudulent sanctions against Plaintiff-Appellant which wound up in disbarment for Plaintiff-Appellant Thomas. *See Benavidez v. County of San Diego (9th Cir. 2021) 993 F. 3d 1134.*

The Defendants-Appellees assertion of the *"binding"* arbitration clause was unconscionable because it was fraudulent on the courts and unconsented to, and it resulted in fees awards in excess of one million dollars in BC385560 despite no contractural or *quantum meruit* basis for fees because of the conflicts of interest. *Fair v. Bakthiari (2011) 195 Cal. App. 4th 1135.*

Their fraud included abusive anti-slapp and protective order motions and refusal to voluntarily respond to discovery requests. *Philippine Export & Foreign Loan Guarantee Corp. v. Chuidian (1990) 218 Cal. App. 3d 1058.* In BC244718 in the Los Angeles trial court, the clerk failed to make the

pleadings or the docket in that action publicly available and failed to identify a person who even knew of the whereabouts of the pleadings or docket. This *de facto* sealing of the pleadings, case file and docket documents, whether or not caused by Defendants-Appellees, was known to Defendants-Appellees and denied constitutional rights under Amendment One to Plaintiffs-Appellants. *In re Avandia Marketing, Sales Practices and Products Liability (3d Cir. 2019) 924 F. 3d 662.*

The *"scorched earth"* fraud and anti-free speech and petitioning campaign of Defendants-Appellees against Plaintiffs-Appellants is extrinsic fraud which is not subject to *Rooker-Feldman* in *Kougasian v. TMSL (9th Cir. 2003) 359 F. 3d 1136.*

In *Nesses v. Shepherd (7th Cir. 1994) 68 F. 3d 1003*, the federal circuit court of appeals held that parties who frustrated the plaintiffs' 'attempts to

procure legal representation with questionable sanctions against the attorneys at law representing the plaintiffs were not protected by *Rooker-Feldman*.

The ruling of the state court of appeals in *True Harmony v. Hope Park Lofts LLC (B183928, March 21, 2007)* that True Harmony forfeited its charity status because it failed to satisfy the operational and organizational tests of *Section 501(c)(3) Internal Revenue Code* is erroneous. The erroneous conclusion of the state court of appeals is either preempted by *Treas. Reg. 1-501(c)(3) -(1)(b)(5)* or it is subject to primary jurisdiction in the Internal Revenue Commissioner. The bias of the state court of appeals against True Harmony, and the bias of the State Bar Association and State Bar Court against Plaintiff-Appellant Thomas is not subject to *Rooker-Feldman. Bianchi v. Rylersdaam (9th Cir. 2003) 334 F. 3d 895 (Fletcher, J. concurring).*

The right of Plaintiffs-Appellees to an evidentiary hearing in a default judgment of quiet title is established by *Cal. Code Civ. Proc. Section 764.010* and *Harbour Vista LLC v. HSBC Mortgage Co. (2011) 201 Cal. App. 4th 1496.* In *Deutsche Nat. Bank and Trust v. Pyle (2017) 13 Cal. App. 5th 513 (decided July 13, 2017)* the state court refused collateral estoppel of a default judgment of cancellation of instruments against a claim of quiet title, because the defendant did not have an evidentiary hearing for the default judgment. This right to quiet title which applies to this action as compared to the collateral estoppel wrongfully applied to BC385560 in BC546574 is an independent right of action and is not subject to *Rooker-Feldman*. *Exxon Mobil Corp. v. Saudi Basic Industries Inc. (2005) 544 U.S. 280* and *Fontana Empire v. City of Fontana (9th Cir. 2003) 307 F. 3d 987.*

The judgments in BC385560 dated June 3, 2009 and December 24, 2009 violated the automatic stay in bankruptcy because the individual defendants were alter egos with True Harmony and 1130 South Hope Street Investment Associates LLC (Delaware) and the alter ego concerned a fraudulent transfer. *See Ahcom Ltd. v. Smeding (9th Cir. 2010) 623 F. 3d 1248.* The superior court denied a continuance of the trial in BC385560 on March 15, 20i0 to Plaintiffs-Appellants' for the newly associated counselor at law to prepare for an effective defense at trial, which arguably violated the *Cal. Code of Civil Procedure Section 764.010* and the constitutional due process of the laws under Amendment Fourteen of the Constitution. *See, eg., Vann v. Shilleh (1975) 54 Cal. App. 3d* 192.

Collateral estoppel does not apply to actions which are brought in the public interest. *Bates v.*

Jones (9th Cir. 1997) 131 F. 3d 843. This action is brought in the public interest because the California Attorney General ordered Defendants-Appellees to cease and desist from sale of the property under *Corp. Code Section 5913.* And the state attorney general who denies his responsibility to represent Plaintiffs-Appellants as *parens patriae* violates his duty to delegate authority to Plaintiffs-Appellants to bring the action under *Cal. Corp. Code Section 5142.*

There is federal question jurisdiction of the fraud cause of action (no. 3) claim under the Uniform Supervision of Charitable Trusts Act because it substantially involves violations of the Bankruptcy Act and the Internal Revenue Code. *Grable & Sons Metal Products Inc. v. Darue Engineering & Mfg. (2005) 545 U.S. 308.*

V. DENIAL OF STANDING TO PLAINTIFF-APPELLANT IS A MISTAKE OF LAW AND IS ARBITRARY AND CAPRICIOUS

The Memorandum (attachment no. 1) states that Plaintiff-Appellant Thomas does not have standing under *Spokeo Inc. v. Robins (2016) 578 U.S. 330*. But his claims of fraud and denial of constitutional right of access to courts are redressable, and there is causation and injury in fact, and *Rooker-Feldman* is inapplicable.

True Harmony, Ray Haiem and 1130 South Hope Street Investment Associates LLC (Delaware) have standing to bring the claims in COA #3, under *Cal. Corp. Code Section 5142* and common law. *L.B. Research and Ed. Foundation v. UCLA Foundation (2005) 130 Cal. App. 4th 171.*

The administrative state bar court at every turn denied the relevance of the punitive purposes of the Los Angeles sanctions to the discipline, and the protection of criminal due process of the laws that this court of appeals applies to punitive sanctions. *See eg., Standing Committee on Discipline v. Yagman (9th Cir. 1995) 55 F. 3d 1430; see also Knupfler v. Lindblade (In re Dyer, 9th Cir. 2003) 322 F. 2d 1178.*

Plaintiff-Appellant argued that *state const. art. III section 3.5* which prohibits state administrators from deciding constitutional law issues denied him due process of the laws, especially in regard to the procedures to protect from punitive sanctions. *See generally Petitions, ##1, 5 (Request for Judicial Notice).* The state bar court insisted that its procedural rules accommodate defenses and due process of the laws under the constitution, but did not deign to consider the merits of Thomas's

constitutional law defenses. *Ibid*. This court of appeals has accepted state bar court's defense of its boilerplate procedural rules in the past. *See Hirsh v. Justices of the court (9th Cir. 1995) 67 F. 3d 708.*

But because this court of appeals accepts the boilerplate procedural rules as sufficient due process of the laws in every case, the procedural rules are structural obstacles to constitutional due process of the laws, and under the *Thunder Basin* factors, the Plaintiff-Appellant may bypass the state bar court and have a trial of the specific objections to boilerplate procedural rules in federal court. *Axon Enterprise, Inc. v. Federal Trade Commission (2023) 143 S. Ct. 890.* The refusal to consider these specific due process of the law objections and acceptance of the boilerplate state bar court rules is an unconstitutional irrebuttable presumption of due

process of the laws. *Cleveland Board of Education v. LaFleur (1974) 414 U.S. 632.*

Under *Axon Enterprises, Inc., supra (applying "Thunder Basin" factors)*, this court, or the district court, must consider whether the sanctions were punitive and plaintiff-appellant is entitled to criminal procedures in this quasi-criminal case. This court, or the district court, has a duty to consider the indiscriminate obsessive-compulsive use of judicial notice by both State Bar Association (including thousands of pages of documents, pleadings and briefs in the sanctions courts) and the Defendants-Appellees, are an unconstitutional irrebuttable presumption of disbarment of Plaintiff-Appellant Thomas and termination of the client's appeals because of boilerplate collateral estoppel and boilerplate Rooker-Feldman. *Cleveland Board of Education, supra.*

In 2019, the Supreme Court of the U.S. confirmed that the *Excessive Fines* clause of *Amendment Eight* applies to the states in *Timbs v. Indiana (2019) 139 S.Ct. 682.* And because of Tyler v. Hennepin County (May 25, 2023) the U. S. Supreme court declared that states must refund tax sales proceeds in excess of the taxes paid by the tax sale, as unconscionable and unreasonable. Furthermore, state and federal courts must restrict fee awards under the *Civil Rights Act of 1871, 42 U.S.C. §1983* and *§1988* to fees that compensate for the work done on the issue that was frivolous and successful. *Fox v. Vice (2011) 563 U.S. 826*, which supports Plaintiff-Appellant's arguments that the sanctions are punitive (*State Bar Act Section 6103*).

The pending reversal of the *Tingley* decision is significant. It requires a close examination of the conclusion that Plaintiff-Appellant violated *State Bar*

Act Section 6068(c) by *"maintaining"* an *"apparently"* unjust action.

State Bar Ass'n. never pleaded this action or appeal herein as *"unjust"* under *State Bar Act Section 6068(c)*, and it is overbroad to apply it to stop Plaintiffs-Appellants' rights to continue this action or appeal. It violates Plaintiffs-Appellants' constitutional rights as applied, and on its face. *NIFLA v. Becerra (2018) 138 S. Ct. 2361; see Screws v. United States (1945) 325 U.S. 91.*

The real party in interest under *F.R.Civ.P. 17* in this appeal is the biased State Bar Association, not Defendants-Appellees. *See Formal Opinion of State Bar Association, no. 1983-73.* Where does the formerly high and mighty State Bar Association stand on the issues, why don't they speak here?

VI. CONCLUSION

Reciprocal discipline is not justified, is unjust and gravely unfair and violates constitutional due process of the laws for Plaintiff-Appellant Thomas, and it must be denied. And Plaintiff-Appellants' clients must be allowed to amend their complaint for violations of civil rights and to proceed.

Dated: June 21, 2023 Jeffrey G. Thomas

/s/ Jeffrey G. Thomas

Attorney at law in propria persona

CERTIFICATE OF WORD COUNT

I, Jeffrey G. Thomas, the author of this petition for rehearing hereby certify that the Microsoft Word® software program measures the length of this opening brief at 4,200 words.

June 19, 2023 /s/ Jeffrey G. Thomas

(ATTACHMENTS ##1 and 2 OMITTED)

3. Memorandum Decision of U.S. Court of Appeals

(6.8.23)

NOT FOR PUBLICATION

FILED 6.8.23 MOLLY C. DWYER, CLERK

UNITED STATES COURT OF APPEALS

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JEFFREY GRAY THOMAS,

Plaintiff-Appellant,

v.

CALIFORNIA DEPARTMENT OF JUSTICE; XAVIER BECERRA; ROSARIO PERRY; NORMAN SOLOMON; HUGH JOHN GIBSON; BIMHF LLC; HOPE PARK LOFTS 2001-02910056 LLC; 1130 HOPE STREET INVESTMENT ASSOCIATES, LLC, a California limited liability company; DOES, 1 through 10 inclusive,

Defendants-Appellees.

No. 21-55655, D.C. No. 8:20-cv-00170-JAK-ADS

(Appeal from the United States District Court for the Central District of California John A. Kronstadt, District Judge, Presiding)

MEMORANDUM*

Submitted June 7, 2023** San Francisco, California)

Before: WALLACE, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Before: WALLACE, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Jeffrey G. Thomas appeals pro se from the district court's order dismissing his complaint with prejudice. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. See *Meland v. WEBER*, 2 F.4th 838, 843 (9th Cir. 2021) (dismissal for lack of standing); *Noel v. Hall*, 341 F.3d 1148, 1154 (9th Cir. 2003) (dismissal under the Rooker-Feldman doctrine). We affirm.

The district court properly dismissed, under the Rooker-Feldman doctrine, Thomas's federal court challenge to the allegedly erroneous state court sanction judgments. A de facto appeal of a state court ruling is not cognizable in federal court. See Bell v. City of Boise, 709 F.3d 890, 897 (9th Cir. 2013).

The district court properly dismissed Thomas's taxpayer claims because Thomas's generalized grievances were insufficient to confer standing. See

Western Min. Council v. Watt, 643 F.2d 618, 632 (9th Cir. 1981) (quoting Warth v. Seldin, 422 U.S. 490, 499 (1975)).

We decline to reconsider our order disbarring Thomas, because he has not shown that he has been restored as a member in good standing of the State Bar of California. See In re Jeffrey Gray Thomas, Case No. 20-80143, Docket Entry No. 13.

The motions for judicial notice (Docket Entry Nos. 62, 76, 83, 85, 88) are denied. Thomas's objections to the supplemental excerpts of record filed by the Solomon appellees (Docket Entry No. 78) are overruled. AFFIRMED.

4. Order Dismissing Clients' Appeal (11.5.21)

NOT FOR PUBLICATION FILED NOV 5 2021

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

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; et al.,

Plaintiffs-Appellants,

v.

CALIFORNIA DEPARTMENT OF JUSTICE; et al.,

Defendants-Appellees.

ORDER

Pursuant to the court's September 20, 2021 order, this appeal is dismissed as to appellants True Harmony; 1130 South Hope Investment Associates, LLC; and Roy Haiem for failure to prosecute. *See* 9th Cir. R. 42-1.

Appellant Jeffrey Gray Thomas's opening brief is due December 7, 2021. Appellees' answering brief is due January 7, 2022. Appellant's optional reply brief is due within 21 days of service of the answering brief.

FOR THE COURT:

MOLLY C. DWYER CLERK OF COURT

Kendall W. Hannon Deputy Clerk Ninth Circuit Rule 27-7

KWH/MOATT

5. Order Disqualifying Petitioner to Represent

Clients – 9.5.21

NOT FOR PUBLICATION FILED

SEPT 20, 2021

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JEFFREY GRAY THOMAS,

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; et al.,

Plaintiffs-Appellants,

v.

CALIFORNIA DEPARTMENT OF

JUSTICE; et al.,

Defendants-Appellees.

Before: PAEZ, NGUYEN, and OWENS, Circuit Judges.

Appellants' counsel of record, Jeffrey G. Thomas, is no longer eligible to practice law in this court. *See* Case No. 20-80143. The Clerk will therefore remove Thomas as counsel in this matter and update the docket to reflect that Thomas is now appearing only as a pro se appellant.

Within 28 days of this order, appellant Ray Haiem is directed to either have new counsel file a notice of appearance or state in writing that he intends to prosecute this appeal pro se.

6. Decision of State Bar Court - 5.25.21

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 stricken. Notwithstanding

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6 Solomon was the principal officer of HPL.

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.

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 motion10 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 Law12

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.

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 Mitigation16

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

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

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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

7. Decision of District Court
(20-AD-0779) (cm./ecf #10) 4.1.21

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

MINUTE ORDER

APRIL 1, 2021

Proceedings (In Chambers): Order of Disbarment

Effective August 22, 2020, the California State Bar Court ordered that Respondent Jeffrey Gray Thomas be enrolled as an involuntarily inactive attorney of the State Bar of California. As a result, the Court ordered Respondent to show cause why he should be not be disbarred from the practice of law before this Court pursuant to Local Rules. *See* Dkts. # 3, 5. Respondent filed multiple oppositions. *See* Dkts. # 4, 6, 7, 8. Having considered Respondent's oppositions and conducted an independent review of the State Bar Court record, the Court finds that Respondent

should be **DISBARRED** from practicing law in this Court.

I. Background

A. Procedural Background of this Reciprocal Disciplinary Proceeding

On November 6, 2020, this Court issued Respondent an Order to Show Cause why he should not be suspended from practice before this Court. Dkt. # 1. In response, Respondent requested a stay of the proceedings pending the disposition of his request for the Review Department of the California State Bar Court to review the denial of his motion to vacate the involuntary inactive enrollment order. *See* Dkt. # 2. The Review Department denied Respondent's

request to review the order. *See* Dkt. # 3. As a result, on December 16, 2020, the Court denied Respondent's request for a stay. *Id*. at 1.

In the December 16, 2020 Order, the Court noted that the November 6, 2020 Order to Show Cause erroneously noted that Respondent had been suspended from the practice of law by the State Bar Court, as opposed to being enrolled involuntarily as an inactive member of the State Bar of California, and concerned only suspension and not disbarment. *Id*. As a result, because Respondent had been enrolled involuntarily as an inactive member of the State Bar of California and was counsel of record in a case pending in this Court, the Court ordered that Respondent show cause, in writing, why he should not be disbarred from the practice of law before this

Court, pursuant to Rule 83-3.3 of the Local Rules for the Central District of California. Id. at 1–2. Respondent filed a timely, but inadequate, response to the December 16, 2020 Order on January 14, 2021. See Dkt. # 4. The Court provided Respondent with one final opportunity to respond to the order to show cause. See Dkt. # 5. Respondent subsequently filed multiple oppositions, the subsequent oppositions amending the prior ones. See Dkts. # 6–8. The opposition filed on March 7, 2021 appears to be Respondent's final and operative opposition. See Dkt. # 8 ("Opp."). On March 20, 2021, Respondent filed a request that the Court take judicial notice of Respondent's closing argument that was filed with the State Bar Court. See Dkt. # 9.1 B. State Bar Court Case Number SBC-20-TE-30411-CV Despite being instructed to do so (see Dkts. # 1, 3,

5), Respondent has not submitted the complete record of his State Bar Court proceedings. The Central District's Local Rules require an attorney contesting the imposition of reciprocal discipline to, "at the time the response is filed, . . . produce a certified copy of the entire record from the other jurisdiction or bear the burden of persuading the Court that less than the entire record will suffice." Local Rule 83- 3.2.3. Due to Respondent's failure, the Court is limited to reviewing the portion of Respondent's State Bar Court proceedings made publicly available on the State Bar's website. See Smart Search, The State Bar of California, https://apps.statebarcourt.ca.gov/dockets.aspx (search "Thomas, Jeffrey Gray") (last visited April 1, 2021). Additionally, the factual findings of the State Bar Court in imposing discipline are

entitled to a "presumption of correctness." In re Rosenthal, 854 F.2d 1187, 1188 (9th Cir. 1988). Because Respondent's opposition reveals no basis for rebutting that

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1 Under Federal Rule of Evidence 201, courts "may take judicial notice of undisputed matters of public record, including documents on file in federal or state courts." Harris v. County of Orange, 682 F.3d 1126, 1132 (9th Cir. 2012) (internal citation omitted). "The truth of the content, and the inferences properly drawn from them, however, is not a proper subject of judicial notice under Rule 201." Patel v. Parnes, 253 F.R.D. 531, 546 (C.D. Cal. 2008). Accordingly, Respondent's request for judicial notice is GRANTED. Respondent's closing argument is considered only for the purpose of determining

what statements the document contains, not to prove the truth of its contents.

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presumption, the Court will rely largely on those findings in summarizing the factual and procedural background of his state disciplinary proceedings. i. Factual Background On June 26, 2020, the Office of Chief Trial Counsel of the State Bar of California (OCTC) filed an application for an order enrolling Respondent as an inactive attorney of the State Bar of California. Decision and Order Granting Application for Involuntary Inactive Enrollment (Aug. 19, 2020), No. SBC-20-TE-30411-CV, 2.2 The OCTC's application for an order enrolling Respondent as an inactive attorney of the State Bar of California was based on the following facts concerning Respondent's litigation over property

located at 1130 South Hope Street. Id. at 5–6. In support of its application, the OCTC included, among other things, declarations of Norman Solomon (Solomon) and Rosario Perry (Perry), declarations of opposing counsel, and numerous court documents and records. Id. at 6. Hope Street Interpleader. On July 28, 2011, 1130 Hope Street Investments Associates, LLC (Hope Street) filed an interpleader complaint in the Los Angeles Superior Court against Hope Park Hope Park Lofts, LLC (Hope Park), Solomon, True Harmony, Inc. (True Harmony), Ray Haiem (Haiem), and Perry, among others. Id. at 6. The purpose was to provide a forum for claimants to resolve competing claims to the $1.6 million proceeds resulting from the sale of property located at 1130 South Hope Street. Id. In 2012, Respondent substituted into the case on Haiem's

behalf. Id. Respondent then subsequently failed to appear at a hearing and filed motions to amend a stricken cross-complaint. Id. In February 2013, Hope Street dismissed Haiem from the interpleader action. Id. at 7. Following the dismissal, Respondent filed an untimely motion to vacate the order striking the cross-complaint and then filed an appeal on Haiem's behalf. Id. Court of Appeal Sanction Order Regarding the Hope Street Interpleader. In April 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. Id. The Court of Appeal noted

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2 The OCTC's application is based on Respondent's alleged misconduct that is the subject of the disciplinary charges pending

against Respondent under State Bar Court case numbers 15-O14870 and SBC-20-O-00029, which have been consolidated, in addition to evidence of other misconduct. Id. at 5. From a review of the docket, it appears that a trial on the disciplinary charges in these cases was held in February 2021, the OCTC and Respondent have submitted their closing argument briefs, and the State Bar Court has yet to rule.

Respondent's "unprofessional and at times outrageous conduct toward counsel for Hope Park." Id. (quoting the Court of Appeal Order). The Court of Appeal denied Respondent's appeal, finding that it was meritless and for the improper motive to harass Hope Park. Id. The Court of Appeal imposed sanctions in the amount of $58,650 on Respondent. Id. Respondent then filed an

application for rehearing with the Court of Appeal that was denied. Id. Respondent also filed petitions to the California and United States Supreme Courts that were also denied. Id. at 7–8. The sanctions have not been paid. Id. at 8. Los Angeles Superior Court Sanction Order in the True Harmony Matter. In May 2014, Respondent filed a lawsuit in the Los Angeles Superior Court—True Harmony and Haiem v. Perry, Hope Park, and Solomon (the True Harmony matter). Id. This lawsuit was largely based on the same issues in the prior litigation. Id. at 9. The court ultimately dismissed the complaint in 2017 because Respondent's first cause of action failed to state a claim and the other causes of action were barred by res judicata. Id. Respondent sought reconsideration. Id. The motion was denied because it had no basis in the law and sanctions of

$23,350 were ordered against Respondent. Id. The sanctions have not been paid. Id. 2016 Letter to Opposing Counsel in the True Harmony Matter. In August 2016, Respondent sent a letter to Perry's attorney in the True Harmony matter after Perry filed an antiSLAPP motion and joined in a demurrer. Id. at 11. In the letter, Respondent made accusations of criminal activity and threatened criminal prosecution, stating: "Please be advised that YOU are guilty of mail fraud in violation of 18 U.S.C. §1341 . . ." and "Please be advised that YOU will be indicted, found guilty and sentenced to five years in the federal penitentiary for the mail if YOU do not correct YOUR violations of the Code of Civil Procedure." Id. (quoting the letter). Both Perry's anti-SLAPP motion and demurrer were successful. Id. Court of Appeal Sanction in the True Harmony Matter. In

December 2017, Respondent filed two notices of appeal in the True Harmony matter, one on behalf of True Harmony and one on behalf of himself. Id. at 9. The appeal on behalf of True Harmony was dismissed as untimely. Id. As to the appeal on behalf of Respondent, the Court of Appeal of the Second District of the State of California affirmed the sanctions order, finding 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. Id. The Court of Appeal expressly noted that it was evident Respondent's improper appeal was frivolous and "intended to harass Solomon." Id. at 10 (quoting Court of Appeal Order). The Court of Appeal ordered sanctions of $65,480.64 against Respondent. Id. The sanctions have not been paid. Id. Thomas v.

Zelon Matter. In 2016, Respondent filed a lawsuit in this Court—Thomas v. Zelon, et al. Id. In this lawsuit, Respondent sued two of the Court of Appeal justices that heard Respondent's Hope Street interpleader appeal, Solomon, Perry, Hope Park, and others. Id. The lawsuit involved the same issued previously litigated in the prior cases. Id. The lawsuit was dismissed, and Respondent appealed to the Ninth Circuit. Id. The Ninth Circuit affirmed the dismissal, and Respondent filed a petition for writ of certiorari with the United States Supreme Court that was denied. Id. Respondent's 2020 Lawsuit Against Hope Street, Solomon and Others. In January 2020, Respondent filed another lawsuit in this Court— CV20-00170 JAK(ADSx), True Harmony, et al. v. The Department of Justice of the State of California, et al.—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. Id. at 11. In this lawsuit, Respondent again seeks to relitigate claims regarding the property located at 1130 South Hope Street. Id. ii. Procedural Background The OCTC's application for an order enrolling Respondent as an inactive attorney of the State Bar of California was properly served on Respondent. Id. at 2. Respondent did not file a response to the application within the permitted timeframe and the matter was taken under submission on July 20, 2020. Id. On July 23, 2020, Respondent filed a notice of objection and a motion to reconsider unabatement. Id. at 2–3. Although these filings were procedurally flawed and filed under the wrong case numbers, the court permitted Respondent's notice of objection and motion to

reconsider unabatement to be filed. Id. at 3. The motion to reconsider unabatement was denied because it was inapplicable as the matter was never abated. Id. As to the claims raised in Respondent's notice of objection, the court found that none of the assertions were credible or compelling, and since it was not a motion, no action was required by the court. Id. at 4–5. On August 19, 2020, the court granted the OCTC's application and ordered that Respondent be enrolled as an inactive attorney of the State Bar of California. Id. at 15. The court concluded that Respondent has and is continuing to cause harm to the public and there is a reasonable probability that the OCTC will prevail as to the disciplinary charges against Respondent at trial and that Respondent will be disbarred. Id. The disciplinary charges against Respondent include failure to

comply with the court orders to pay sanctions, threatening criminal charges against Perry's attorneys to gain a civil advantage, and maintaining unjust actions, proceedings or defenses. Id. at 12. In support of the conclusion that Respondent's misconduct caused substantial harm to the public, the court found that Solomon and Perry have both endured significant emotional and financial stress as a result of Respondent's repeated lawsuits concerning the same issues. Id. at 13–14. Further, the court found that the numerous sanctions ordered against Respondent are clear evidence that there was harm to the administration of justice, which causes harm to the public. Id. at 14–15. Additionally, the court held that "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." Id. at 15. After the court's decision and order granting the OCTC's application was issued, Respondent filed an email with multiple exhibits attached. In the email, Respondent wrote, among other things, that the "order is therefore fake news" and that he felt "compelled to apply to the American Bar Association to revoke the credentials of the southern states California State bar Association if this is not fixed." Miscellaneous: Email Document (April 21, 2020), No. SBC-20-TE-30411-CV. The court ordered that the email and attachments be rescinded, finding that the email was "generally unintelligible and does not adhere to numerous filing format requirements of the State Bar Court." Order Rescinding Respondent's August 21, 2020 Filing (Aug. 26, 2020), No. SBC-20-TE-30411-CV. Subsequently, in August and September 2020,

Respondent filed multiple motions that included requests to vacate and reconsider the order enrolling him as involuntarily inactive. See Order Regarding: (1) Motion to Vacate; (2) Motion to Compel; (3) Request for Judicial Notice; and (4) Motion for Reconsideration (Oct. 1, 2020), No. SBC-20-TE-30411-CV, 1. The court denied all the motions. Id. at 3. The court found that the motions were procedurally and substantively flawed, contained "nearly incomprehensible claims," and failed to establish good cause. Id. at 3–7. Respondent then filed an appeal to the Review Department regarding the denial of his request to vacate the involuntary inactive enrollment, which was deemed a petition for interlocutory review. Review Department Order (Dec. 4, 2020), No. SBC-20-TE-30411-CV, 1. The Review Department denied Respondent's request for review, finding

that the hearing judge properly found substantial evidence to support Respondent's involuntary inactive enrollment. Id. Respondent then filed an appeal to the Review Department, which was deemed a motion for reconsideration. Review Department Order (Feb. 5, 2021), No. SBC-20-TE-30411-CV. The motion for reconsideration was denied as untimely and because Respondent failed to present new facts, circumstances, or law to support his request. Id. Respondent also petitioned the Supreme Court of California for writ of review, application for stay, and request for judicial notice. Thomas v. Review Dep't of the State Bar of Cal. (Feb. 17, 2021), No. S266566 (No. SBC-20-TE-30411-CV). All were denied. Id. II. Legal Standard "Any attorney previously admitted to the Bar of this Court who no longer is enrolled as an active member of the Bar, Supreme Court, or other

governing authority of any State, territory or possession, or the District of Columbia, shall not practice before this Court." L.R. 83-3.3. Upon receipt of reliable information that such an attorney is practicing before the Court, Local Rules suggest that disbarment from this Court is appropriate. See L.R. 83-3.2.1, 83-3.2.3, 83-3.3. Being involuntarily enrolled as inactive by a state bar is a sufficient basis for initiating reciprocal disciplinary proceedings. See Gadda v. Ashcroft, 377 F.3d 934, 942 (9th Cir. 2004). Yet, "a state court's disciplinary action is not conclusively binding on federal courts." In re Kramer, 282 F.3d 721, 723 (9th Cir. 2002) (quoting In re Kramer ("Kramer II"), 193 F.3d 1131, 1132 (9th Cir. 1999)). "[A] federal court's imposition of reciprocal discipline on a member of its bar based on a state's disciplinary adjudication is proper unless an

independent review of the record reveals: (1) a deprivation of due process; (2) insufficient proof of misconduct; or (3) grave injustice which would result from the imposition of such discipline." Id. at 724. Accordingly, pursuant to Local Rules, to avoid reciprocal discipline in the Central District, an attorney must set forth facts establishing at least one of four enumerated exceptions: (a) the procedure in the other court was "so lacking in notice or opportunity to be heard as to constitute a deprivation of due process"; (b) "there was such an infirmity of proof establishing the misconduct as to give rise to a clear conviction that the Court should not accept as final the other jurisdiction's conclusion(s)" regarding Respondent's misconduct; (c) "imposition of like discipline would result in a grave injustice"; or (d) "other substantial reasons exist so as to justify not accepting the other

jurisdiction's conclusion(s)." L.R. 83-3.2.3. Federal courts extend "great deference to the state court's determination" unless independent review reveals that one of the enumerated conditions exist. Gadda, 377 F.3d at 943. "[A] court seeking to impose reciprocal discipline engages in a function far different from a court seeking to impose discipline in the first instance." In re Kramer, 282 F.3d at 725. The attorney has the burden to show by clear and convincing evidence that reciprocal discipline should not be instituted. Id. at 724–25. III. Discussion Respondent has failed to carry his burden. Respondent has not established by clear and convincing evidence that any of the exceptions precluding the imposition of reciprocal discipline apply to his case. See In re Kramer, 282 F.3d at 724; L.R. 83-3.2.3. The findings of the State Bar Court sufficiently support the decision to disbar

Respondent, who has failed to demonstrate that the presumption of correctness afforded to those findings should not be applied. See Rosenthal, 854 F.2d at 1188. First, Respondent has not established a deprivation of due process. L.R. 83-3.2.3(a). Respondent asserts that the State Bar Court and Supreme Court of California violated his due process rights. Opp. 1, 15–17, 19. Although difficult to discern, Respondent's arguments appear to largely focus on the trial in State Bar Court case numbers 15-O-14870 and SBC-20-O00029. See id. Respondent does not make any specific allegations concerning a deprivation of due process in the State Bar Court case number SBC-20-TE-30411-CV that forms the basis of this Court's imposition of reciprocal discipline. Moreover, as detailed above, Respondent was provided with notice and ample opportunity to be

heard concerning the involuntary inactive enrollment order. Further, Respondent argues that his due process rights were violated because he was not provided with a trial by jury and not afforded the beyond a reasonable doubt standard of proof. Id. at 19. Yet, Respondent offers no authority to suggest that he is entitled to either a trial by jury or the reasonable doubt standard of proof in a disbarment proceeding. See id. Accordingly, that Respondent was not provided a jury trial or the reasonable doubt standard of proof in the State Bar Court does not amount to due process violations. Cf. Rosenthal v. Justices of the Supreme Court of Cal., 910 F.2d 561, 564–65 (9th Cir. 1990) (finding California's attorney discipline scheme provided "more than constitutionally sufficient procedural due process" because, among other things, it included notice and an opportunity

to be heard). Additionally, any suggestion that Respondent is entitled to a trial by jury or the reasonable doubt standard of proof in this reciprocal disciplinary proceeding is contrary to the caselaw. See In re Kay, 481 F. App'x 407 (9th Cir. 2012) (unpub.) (rejecting respondent's "contention that the district court violated his due process rights when it did not conduct an evidentiary hearing is unpersuasive because the district court proceedings met due process requirements."); In re Kramer, 282 F.3d at 725 (holding that the applicable standard of proof is by clear and convincing evidence). An attorney's due process rights in a reciprocal disciplinary proceeding are satisfied when the federal court issues an order to show cause and reviews the state record, as the Court has done here. See Kramer II, 193 F.3d at 1133. Second, Respondent

has not demonstrated that there was "infirmity of proof establishing the misconduct." L.R. 83-3.2.3(b). Respondent argues that he introduced credible evidence concerning the misconduct allegations against him during his recent State Bar Court trial. Opp. 8–13. Yet, Respondent also seems to argue that he was not permitted to introduce this evidence during the trial. See id. at 12–14. Regardless, Respondent only offers argument as to the misconduct allegations he challenges, not evidence. Argument alone is not enough to meet Respondent's clear and convincing burden. See, e.g., In re Hagemeyer, No. 2:19-CV-01363- MMD, 2019 WL 4576260, at *2 (D. Nev. Sept. 20, 2019) (noting that the attorney subject to reciprocal discipline could not "meet his clear and convincing burden because he presented no evidence to support his Response."). Moreover,

Respondent's arguments fail to suggest, let alone demonstrate, an infirmity of proof establishing misconduct, especially in light of the persuasive findings of the State Bar Court. Third, Respondent has not shown that "imposition of like discipline would result in a grave injustice." Local Rule 83-3.2.3(c). Respondent asserts that he "is a pauper, and the punishment of disbarment or suspension for nonpayment of the money sanctions deprives him of his livelihood." Opp. 19. Additionally, Respondent asserts that this reciprocal disciplinary proceeding "deprives Respondent and his clients of the constitutional rights of access to courts." Id. Yet, Respondent's disbarment from this Court does not preclude him from engaging in other paid employment and it does not preclude his clients from obtaining alternative counsel. Thus, neither of these reasons amounts to a grave

injustice. Finally, Respondent has not provided the Court with any other "substantial reasons" to reject the State Bar Court's conclusions. L.R. 83.3.2.3(d). See generally Opp. Thus, Respondent has not met his burden of showing by clear and convincing evidence that one of the exceptions precluding the imposition of reciprocal discipline is present in his case. See In re Kramer, 282 F.3d at 724; L.R. 83-3.2.3. Accordingly, Respondent has failed to show good cause why he should not be disbarred from the Bar of this Court as a result of his being enrolled as an involuntarily inactive attorney of the State Bar of California by the State Bar Court.

IV. Conclusion

For these reasons, it is ordered that Jeffrey Gray Thomas be DISBARRED from the Bar of this Court pursuant to Local Rules 83-3.2.1, 83-3.2.3,

and 83-3.3. Respondent may be reinstated to the Bar of this Court upon submission of proof that he has been reinstated as an active member in good standing of the State Bar of California. See L.R. 83-3.2.4. An attorney registered to use this Court's Electronic Case Filing System (ECF) who is disbarred by this Court shall not have access to file documents electronically until the attorney has been reinstated to the Bar of this Court. IT IS SO ORDERED.

8. Order of District Court 4.13.21

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

MINUTE ORDER

APRIL 13, 2021

Proceedings (In Chambers): Hon. J. Kronstadt Motion to Dismiss

On January 27, 2020, True Harmony, Ray Haiem and Jeffrey G. Thomas brought this action against the following parties: the "Department of Justice of the State of California"[1]; Xavier Becerra, both personally and in his official capacity[2]; Rosario Perry; Norman Solomon; Hugh John Gibson; BIMHF LLC; Hope Park Lofts 2001-02910056 LLC; 1130 Hope Street Investment Associates, LLC; and 50 unnamed Defendants. Dkt. 1. On May 31, 2020, True Harmony, Haiem, and Thomas filed a Second Amended Complaint,

which added 1130 South Hope Street Investment Associates, LLC as a Plaintiff.

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1 Plaintiffs treat this agency as distinct from the California Attorney General, notwithstanding the Attorney General's supervision and control of the Department of Justice. See Cal. Govt. Code § 15000 ("There is in the State Government a Department of Justice. The department is under the direction and control of the Attorney General.").

2 Becerra subsequently resigned as Attorney General to become the United States Secretary of Health and Human Services. Governor Newsom subsequently appointed Rob Bonta as the Attorney General. https://www.gov.ca.gov/2021/03/24/governor-newsom-to-submit-assemblymember-rob-bontas-

nomination-for- attorney-general-to-the-state-legislature/.

Dkt. 69 (the "SAC"). The SAC was accepted as the operative filing. Dkt. 75.

On June 19, 2020, Defendant BIMHF LLC filed a Motion to Dismiss Second Amended Complaint (the "BIMHF Motion" Dkt. 82)). On the same date, Norman Solomon, Hope Park Lofts 2001-02910056 LLC and 1130 Hope Street Investment Associates LLC filed a Motion to Dismiss Pursuant to Fed. R. Civ. Proc. 12(b)(1) and (6) (the "Solomon Motion" (Dkt. 85)). On June 22, 2020, California Attorney General Xavier Becerra's Motion to Dismiss the Fourth and Fifth Causes of Action in Plaintiffs' Second Amended Complaint was filed (the "California Motion" (Dkt. 88)). On June 22, 2020, Defendant Rosario Perry

filed a motion to dismiss the Second Amended Complaint. Dkt. 90. Perry filed a corrected motion to dismiss on August 3, 2020 (the "Perry Motion" (Dkt. 110)).

Plaintiffs filed an opposition to the California Motion on July 29, 2020 (the "California Opposition" (Dkt. 106)). On August 17, 2020, Plaintiffs filed oppositions to the BIMHF Motion and the Perry Motion ("BIMHF Opposition" (Dkt. 112)) ("Perry Opposition" (Dkt. 113)). On the same day, all Plaintiffs except Thomas filed an opposition to the Solomon Motion, and Thomas filed a separate opposition to thatMotion (the "Solomon Oppositions" (Dkt. 114; Dkt. 115)).

The moving parties filed replies in support of the Motions ("Solomon Replies" (Dkts. 123-24)), ("BIMHF Reply" (Dkt. 127)); ("Perry Reply" (Dkt. 132)); ("California Reply" (Dkt. 136)).

Pursuant to L.R. 7-15, it was determined that the issues presented by the Motions could be decided without a hearing, and the Motions were taken under submission. Dkt. 137. For the reasons stated in this Order, the Motions are **GRANTED**, and the SAC is **DISMISSED WITH PREJUDICE**.

I. Factual Background

A. The Parties

True Harmony is alleged to be a nonprofit public benefit corporation organized under the laws of the state of California. SAC ¶ 1. Ray Haiem is alleged to be a citizen of California, who pays federal and state income taxes, and the largest donor to True Harmony. *Id.* ¶ 2. 1130 South Hope Street Investment Associates LLC (the "Delaware LLC") is alleged to be a Delaware

limited liability company organized by the officers of True Harmony in 2008. *Id.* ¶ 3.

Jeffrey Thomas is alleged to be a citizen of California, who is an attorney, and who pays federal and state income taxes. *Id.* ¶ 4.

The "Department of Justice of the State of California" is alleged to be the law enforcement agency of the state. *Id.* ¶ 5. Xavier Becerra is alleged to have been the Attorney General of the State of California. *Id.* ¶ 6. Because the rationale for suing the Attorney General and the Department of Justice as separate entities is not clear, these parties are referred to as the "Government Defendants" throughout this Order.

Rosario Perry is alleged to be a citizen of California who is an attorney. *Id.* ¶ 7.

Hope Park Lofts 2001-02910056, LLC ("Hope Park") is alleged to be a California limited

liability company. *Id.* ¶ 8. Hope Street Investment Associates LLC (the "California LLC") is also alleged to be a California limited liability company. *Id.* ¶ 9.

Norman Solomon is alleged to be a citizen of California who is an attorney and a real estate broker. *Id.* ¶ 12.

BIMHF, LLC is alleged to be a California limited liability company. *Id.* ¶ 13.

Hugh John Gibson is alleged to be a citizen of California who is an attorney. *Id.* ¶ 14.

A. Allegations in the SAC

The SAC alleges fraud and legal error that occurred during state court proceedings concerning the real property located at 1130 South Hope Street, Los Angeles, California (the "Property").

1. The Quiet Title Action (Case No.

BC247718, Appeal No. B183928)

It is alleged that in 2001, Solomon caused an entity that he controls to bring a quiet title action against True Harmony. Dkt. 69 at 3. Perry allegedly represented True Harmony in that action. *Id.* It is alleged that True Harmony prevailed at trial, but that Perry produced "out of thin air" a "fake" settlement agreement. *Id.* The settlement agreement, a copy of which is attached to the SAC, attributed ownership of the property to the California LLC, as a joint venture between Hope Park and True Harmony. *Id.* It is alleged that this settlement only provided for nonbinding arbitration, because the typed word "binding" had been crossed out and initialed by Perry and Rick Edwards. *Id.*[3] It is also alleged that Perry had "conflicts of interests as True Harmony's attorney at law and as a witness testifying against True Harmony

involuntarily waiving its attorney-client privilege." *Id.* ¶ 27. It is then alleged that there was a "conspiracy for a continuous business transaction with Defendant Perry as self-appointed manager of [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." *Id.* ¶ 28.

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3 Edwards is not identified in the SAC. However, documents submitted by the parties reflect that Rick Edwards was counsel for True Harmony in the appeal of the Quiet Title Action.

It is alleged that True Harmony filed an appeal in which it challenged the validity of the settlement agreement. *Id.* at 7. It is alleged that True Harmony did not brief "the issue of Cal. Corp. Code § 5913, or the CAL AG's approval," or "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 [A]ttorney [G]eneral." *Id.* It is alleged that Justice Mosk wrote the opinion on the appeal in which it was determined that these issues had been waived, and that this opinion was erroneously labeled as that of a majority of the panel. *Id.* at 7-8.[4] It is alleged that this decision by the California Court of Appel violated the Fourteenth Amendment, failed to defer to federal law and federal common law, and exceeded the jurisdiction of the court. *Id.* ¶¶ 57-58.

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4 The opinion was not published, but is available on Westlaw. *Hope Park Lofts, LLC v. True Harmony, Inc.*, No. B183928, 2007 WL 841770 (Cal. Ct. App. Mar. 21, 2007).

It is then alleged that an arbitration

was held before retired Judge William Schoettler ("Schoettler"), who is alleged to be a "chum" of Defendants. *Id.* at 8. Schoettler allegedly made an arbitration award that ordered True Harmony to transfer title to the California LLC. *Id.* It is further alleged that this award was confirmed in the Quiet Title Action, but that this was a "fake *'non-binding'* post-appeal judgment." *Id.* at 8-9 (emphasis in original).

1. The Arbitration Action (Case No. BC385560)

It is alleged that True Harmony cancelled the articles of Hope Park and the California LLC, formed the Delaware LLC, and transferred title to the Delaware LLC. *Id.* at 9. It is alleged that Defendants then filed a petition with the Superior Court to compel arbitration (Case No. BC385560 (the "Arbitration Action")), using a false copy of the

Settlement Agreement which provided for "binding" arbitration. *Id.* at 10.

Although True Harmony allegedly raised this objection to the Superior Court, it nevertheless issued an order compelling arbitration. *Id.*

It is then alleged that an arbitration was held in January 2009, notwithstanding True Harmony's objection that it did not have sufficient time to prepare. *Id.* It is alleged that the arbitration proceeded without True Harmony appearing, and that Schoettler awarded title of the Property to the California LLC, and awarded $1 million in damages and attorney's fees against True Harmony (the "February 2009 Award"). *Id.* at 10.

It is then alleged that True Harmony caused the Delaware LLC to file for bankruptcy on May 6, 2009. *Id* (the "Bankruptcy Proceedings"). On June

3, 2009, the Superior Court allegedly entered a judgment confirming the February 2009 Award against True Harmony. *Id.* (the "June 3, 2009 Judgment"). It is alleged that this action was in violation of the automatic stay that applied due to the bankruptcy. *Id.* at 10-11.

It is next alleged that in December 2009, the Superior Court considered a motion for summary judgment on a cause of action for declaratory judgment against True Harmony in the Arbitration Action. *Id.* at 11. It is alleged that this cause of action affected the Delaware LLC's title to the Property. *Id.* It is alleged that the Superior Court granted the motion, but stayed its effectiveness, and that this was another violation of the automatic stay. *Id* (the "Summary Judgment Order").

It is then alleged that the Bankruptcy Court granted the California LLC prospective relief from

the automatic stay. *Id.* at 11. It is alleged that the Superior Court then proceeded to trial on March 15, 2010, despite True Harmony's request for a continuance. *Id.* It is alleged that True Harmony and the Delaware LLC were not represented at trial, and that the denial of a reasonable continuance constituted a third violation of the automatic stay. *Id.*

It is then alleged that, on March 15, 2010, the Summary Judgment Order was entered against the Delaware LLC. *Id.* at 12. It is alleged that this was also a violation of the automatic stay. *Id.* Finally, it is alleged that the entry of judgment after trial in favor of Defendants violated the automatic stay. *Id.*

2. The Sale of the Property

It is alleged that in July 2011, Defendants relied on the "moot" judgments in the Arbitration

Action to sell the Property. *Id.* It is alleged that this was despite an April 2011 letter from the Government Defendants, which is attached to the SAC. *Id.*; *id.* at 76 (the "Cease and Desist Letter"). The Cease and Desist Letter is addressed to several Plaintiffs and Defendants, including True Harmony, Haiem, the California LLC, Perry, Solomon, and Hope Park. *Id.* It states that:

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 substantial financial interest in 1130 South Hope Street. Further, this Office has learned that the charitable 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 written 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 has given a written waiver of this section as to the proposed transaction." The Attorney General has not received any such written notice and has given no waiver of notice and intends to review this transaction.

Accordingly, with regards to 1130 South Hope Street, you are hereby notified to immediately cease all activity with regard to the sale, lease, conveyance, exchange, transfer, and any other activity that would affect title to the property until the requirements of Corporation Code section

5913 have been met.

Id. at 77-78 (bold in original).

It is alleged that the Cease and Desist Letter has never been withdrawn or rescinded. *Id.* at 13.

4. The Interpleader Action (Case No. BC466413, Appeal No. BC254143)

It is alleged that, following the sale of the Property, Defendants brought an interpleader action to facilitate the distribution of funds from the sale. *Id.* at 13 (the "Interpleader Action"). It is alleged that the Superior Court lacked both *in rem* jurisdiction over the funds and *in personam* jurisdiction over the Defendants. *Id.* It is further alleged that the violation of the Cease and Desist Order was concealed from the Superior Court and Plaintiffs. *Id.*

It is alleged that Thomas represented Haiem in this action, that the Superior Court

dismissed Haiem's cross-complaint, and that Thomas filed a motion for relief from the dismissal. *Id.* at 13-14. It is then alleged that, after the motion for relief was denied, Thomas appealed, and that Defendants sought sanctions against him, on the ground that the appeal was frivolous. *Id*. It is alleged that the Court of Appeal granted the sanctions motion and imposed sanctions of $58,650 against Thomas. *Id.* at 14.[5]

5. The Recovery Action and Appeal (Case No. BC546574, Appeal No. B287017)

It is alleged that True Harmony, while represented by Thomas, brought another action in Los Angeles Superior Court to recover title to the Property. *Id.* at 14 (the "Recovery Action"). Defendants allegedly misused motions under the anti-SLAPP statute and overbroad protective orders

to limit discovery. *Id.* at 15. Defendants allegedly filed a demurrer to the Second Amended Complaint on the grounds of collateral estoppel and res judicata. *Id.* at 15. Although True Harmony allegedly argued that the prior judgments were not *res judicata* because they violated the automatic stay, the Superior Court granted the demurrer and dismissed the action. *Id.* at 15-16. It is alleged that the minute order and judgment were entered *ex parte* on April 7, 2017, but were not available in public records. *Id.* at 16. True Harmony allegedly moved for reconsideration on April 17, 2017, but the Defendants allegedly caused the judgment to be entered *ex parte* on May 1, 2017 and May 19, 2017. *Id.*

On October 17, 2017, the Superior Court allegedly denied the motion for reconsideration for lack of jurisdiction. *Id.* It is alleged that Defendants moved for sanctions claiming that the motion was

frivolous. Sanctions were assessed against Plaintiffs on November 30, 2017. *Id.*

It is then alleged that True Harmony filed an appeal from the decision, including the award of sanctions. *Id.* The Court of Appeal allegedly dismissed the appeal as untimely, and affirmed the award of sanctions. *Id.* at 16-17. It is alleged that Solomon then moved for sanctions for bringing a frivolous appeal, which the Court of Appeal granted. *Id.*[6]

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6 The opinion was not published by the California courts, but is available on Westlaw. *Thomas v. Solomon*, No. B287017, 2018 WL 6566003 (Cal. Ct. App. Dec. 13, 2008).

[7] Plaintiffs submitted the same declaration and exhibits in connection with each of the four Oppositions. For efficiency, all citations to the declarations and exhibits are to those filed with the BIMHF Opposition, *i.e.*, Dkt. 112.

It is alleged that the Executive Director of the National Association of Attorneys General wrote a letter to Becerra regarding the Recovery Action and the appeal. *Id.* at 17.

I. Evidence Submitted by the Parties

On a motion to dismiss, a court may consider the complaint as well as documents attached to, or incorporated by reference into the complaint, if the latter are matters that are subject to judicial notice. *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003). "Even if a document is not attached to a complaint, it may be incorporated by reference into a complaint if the plaintiff refers extensively to the document or the document forms the basis of the plaintiff's claim." *Id*. "The defendant may offer such a document, and the district court may treat such a

document as part of the complaint, and thus may a ssume that its contents are true for purposes of a motion to dismiss under Rule 12(b)(6)." *Id.* "A document is not 'outside' the complaint if the complaint specifically refers to the document and if its authenticity is not questioned." *Branch v. Tunnell*, 14 F.3d 449, 453 (9th Cir. 1994) (quoting *Townsend v. Colum. Operations*, 667 F.2d 844, 848-49 (9th Cir. 1982)).

BIMHF, Solomon, Hope Park and the Delaware submitted Requests for Judicial Notice. *See* Dkt. 83 (the "BIMHF RFN"); Dkt 86 (the "First Solomon RFN"); Dkt. 125 (the "Second Solomon RFN").

Plaintiff did not submit a formal request for judicial notice, but submitted a binder of exhibits, together with a Declaration of Jeffrey G. Thomas. Dkt. 112 at 31.[7]

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7 Plaintiffs submitted the same declaration and exhibits in connection with each of the four Oppositions. For efficiency, all citations to the declarations and exhibits are to those filed with the BIMHF Opposition, *i.e.*, Dkt. 112.

A. The BIMHF and Solomon RFNs

BIMHF seeks judicial notice of the grant deed by which BIMHF purchased the Property, copies of filings made in the various court proceedings at issue, and copies of judgments entered by the courts in those matters. Dkt. 83. Solomon seeks judicial notice of additional court documents. Dkts. 86, 125.

"[P]leadings filed and orders issued in related litigation are proper subjects of judicial notice under Rule 201." *McVey v. McVey*, 26 F. Supp. 3d 980, 984 (C.D. Cal. 2014). Therefore, the BIMHF RFN, the first Solomon RFN and the Second Solomon RFN are **GRANTED** as to the

court documents, i.e., BIMHF's Exhibits B, C, D, E, F, G and H, and Solomon's Exhibits 1-10. The BIMHF RFN is **MOOT** as to the grant deed, because this document is not dispositive of the issues presented by the Motions.

BIMHF, Solomon, Hope Park and the Delaware LLC also seek judicial notice of the pleadings and judgments in *Jeffrey G. Thomas v. Laurie Zelon*, Case No. 2:16-cv-06544-JAK-AJW ("*Thomas v. Zelon*"). Thomas was the Plaintiff in this action and brought claims against several of the Defendants in this matter, including Gibson, Hope Park, Perry and Solomon. To the extent the BIMHF RFN and the Second Solomon RFN seek judicial notice of those documents, they are **MOOT**. The pleadings are not dispositive of the issues presented by the Motion, and the publicly available decisions in these matters will be

considered if it is necessary and appropriate to do so.

A. Evidence Submitted by Plaintiffs

Plaintiff submitted 22 exhibits, which are described in the Declaration of Jeffrey G. Thomas. Because the Declaration does not comply with 28 U.S.C. § 1746, and Thomas did not submit a corrected declaration after Solomon, Hope Park and the California LLC objected on that ground, Dkt. 122, the Declaration is construed as a request for judicial notice.

The first three exhibits are documents about the valuation of the Property and its sale to BIMHF. Thesematerials are not subject of judicial notice because their source is not clear. Accordingly, they are not "sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). Nor are they incorporated by reference into

the SAC.

The remaining exhibits are documents entered in the court proceedings. Except for Exhibit 9, judicial notice is taken of these documents. However, judicial notice is not taken of the underlying facts presented in them. Rather, judicial notice is taken of the fact that an order was entered or that a court took a certain action. To the extent that Plaintiffs seek judicial notice of official court transcripts or briefs, this request is granted to determine whether certain issues were litigated in the prior proceedings. *See Reyn's Pasta Bella, LLC v. Visa USA, In*c., 442 F.3d 741, 746 n.6 (9th Cir. 2006) ("To determine what issues were actually litigated in the *Wal–Mart* courts, we take judicial notice of Plaintiffs' briefs in those courts and the transcript of the *Wal–Mart* fairness hearing."); *Holder v. Holder*, 305 F.3d 854, 866 (9th Cir. 2002)

("We take judicial notice of the California Court of Appeal opinion and the briefs filed in that proceeding and in the trial court and we determine that the waiver issue was not actually litigated and necessarily decided here[.]").

Exhibit 9 is a brief identified as one filed in the Quiet Title Action, but Thomas states that certain documents attached to this brief were not attached when it was filed there. Dkt. 114 at 36-37. Given this apparent discrepancy, the request for judicial notice is denied.

For the foregoing reasons, Plaintiff's Request for Judicial Notice is **GRANTED-IN-PART** and **DENIED- IN-PART**.

A. Sua Sponte Judicial Notice

`` A court may take judicial notice on its own motion. Fed. R. Evid. 201(c)(1). Because several parties have requested judicial notice of documents

about the Bankruptcy Proceedings, judicial notice is taken of the docket in the Bankruptcy Action. *See In re 1130 South Hope Street Investment Associates, LLC*, 2:09-bk-20914-RN (Bankr. C.D. Cal.). Citations to the Bankruptcy Court docket appear in the form "B.R. Dkt. [#]."

II. Positions of the Parties

A. The Motions

BIMHF, Solomon, Hope Park, the Delaware LLC and Perry argue that the claims in the SAC fail because they seeks review of state court judgments, and that the district court lacks jurisdiction under the *Rooker-Feldman* doctrine. In the alternative, they argue that these causes of action are barred by *res judicata*, because they impermissibly seek to relitigate matters decided definitively in prior proceedings. Finally, they argue that no viable civil rights claims are

pleaded, because all Defendants are private parties.

Solomon, Hope Park, the Delaware LLC and Perry argue that the Delaware LLC, Haiem and Thomas lack standing to advance causes of actions based on injuries to True Harmony. They also argue that the *Noerr-Pennington* doctrine and California's litigation privilege bar claims based on the prior litigation. BIMHF separately argues that the Third Cause of Action does not state a claim for fraud or fraudulent conveyance.

The Government Defendants argue that the Attorney General is immune from any liability under the Eleventh Amendment. They also argue that the Attorney General cannot be sued in his personal capacity because the SAC seeks injunctive relief. They next argue that the Court lacks subject matter jurisdiction over the Fourth and Fifth Causes of

Action for two reasons: (i) Plaintiffs lack standing to advance these claims; and (ii) the *Rooker-Feldman* doctrine bars these claims.

B. The Oppositions

Plaintiffs oppose each Motion. As to *Rooker-Feldman*, Plaintiffs generally argue that the claims are not barred for the following reasons: (i) they challenge orders entered in violation of the Bankruptcy Court's automatic stay; (ii) they challenge illegal policies of the state courts; (iii) they allege a broad conspiracy; and (iv) some of them are brought against persons who were not parties in the state proceedings or are premised on conduct that was not at issue in those proceedings. Similarly, they argue that because proceedings in violation of the automatic stay are void, the state court judgments have no *res judicata* effect. In the alternative, they argue that *res judicata* should not be applied if the

Government Defendants intervene to support Plaintiffs.

Relying on *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982), Plaintiffs argue that the SAC states proper civil rights claims. They also argue that BIMHF incorrectly assumes that the Third Cause of Action is brought pursuant to the Uniform Voidable Transfers Act. Plaintiffs argue that it is a common law fraudulent conveyance claim.

Finally, Plaintiffs argue that sovereign immunity could be waived, or that the violations of the automatic stay in bankruptcy mean that sovereign immunity does not apply. They also argue that taxpayerstanding has been established.

I. Analysis

A. Motion to Dismiss under Fed. R. Civ. P. 12(b)(1)

A challenge to subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1) may be brought as a

facial challenge to the pleadings or based on proffered evidence. See *White v. Lee,* 227 F.3d 1214, 1242 (9th Cir. 2000) ("Rule 12(b)(1) jurisdictional attacks can be either facial or factual."). In the former, the moving party asserts that the allegations of a complaint are insufficient to establish federal jurisdiction. *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). Courts must accept the allegations of the complaint as true in considering such a challenge, *i.e.*, facial attacks are reviewed under the same standard as a motion to dismiss under Fed. R. Civ. P. 12(b)(6). *See Leite v. Crane Co*., 749 F.3d 1117, 1121 (9th Cir. 2014). "By contrast, in a factual attack, the challenger disputes the truth of the allegations that, by themselves, would otherwise invoke federal jurisdiction." *Safe Air*, 373 F.3d at 1039. If a factual challenge is made, the district court may "review evidence beyond the complaint without

converting the motion to dismiss into a motion for summary judgment." *Id.*

B. Application

1. Standing

(a) Legal Standards

Because federal courts are ones of limited jurisdiction, "[a] federal court is presumed to lack jurisdiction in a particular case unless the contrary affirmatively appears." *Stock W., Inc. v. Confederated Tribes*, 873 F.2d 1221, 1225 (9th Cir. 1989) (citing *California ex rel. Younger v. Andrus*, 608 F.2d 1247, 1249 (9th Cir. 1979)). "Article III of the Constitution confines the federal courts to adjudication of actual 'Cases' and 'Controversies.'" *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 590 (1992). "[T]he core component of standing is an essential and unchanging part of the case-or-controversy requirement of Article III." *Id.* at 560 (citation

omitted). If a plaintiff lacks standing under Article III, an action must be dismissed for lack of subject matter jurisdiction. *See Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 109-10 (1998); *accord Maya v. Centex Corp.*, 658 F.3d 1060, 1067 (9th Cir. 2011).

"[T]o satisfy Article III's standing requirements, a plaintiff must show (1) it has suffered an 'injury in fact' that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed tomerely speculative, that the injury will be redressed by a favorable decision." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81 (2000) (citing *Lujan*, 504 U.S. at 560-61).

When a plaintiff seeks injunctive relief, establishing standing under Article III also requires a showing of

"real or immediate threat that the plaintiff will be wronged again -- a 'likelihood of substantial and immediate irreparable injury.'" *City of L.A. v. Lyons*, 461 U.S. 95, 111 (1983) (quoting *O'Shea v. Littleton*, 414 U.S. 488, 502 (1974)).

Standing is not "dispensed in gross." *Oregon Prescription Drug Monitoring Program v. U.S. Drug Enforcement Admin.*, 860 F.3d 1228, 1233 (9th Cir. 2017) (quoting *Davis v. Fed. Election Comm'n*, 554 U.S. 724, 734 (2008)). Article III requires "a plaintiff to demonstrate standing for each claim he seeks to press and for each form of relief that is sought." *Id.*

(a) Analysis

(1) Whether Parties Other than True Harmony Have Standing to Advance the First Three Causes of Action

The SAC sufficiently alleges that True Harmony and the Delaware LLC owned or had an

interest in the Property, and that Defendants' actions deprived them of the right to hold that interest. This type of injury is redressable by a favorable court decision, *i.e.*, by damages or reconveyance of the Property.

Defendants' argument that True Harmony was not unlawfully deprived of the Property, Dkt. 85 at 24, goes to the merits of the cause of action, not standing.

Haiem's standing has not been sufficiently alleged. The SAC alleges that "the injuries to PLAINTIFFS TRUE HARMONY and HAIEM were joint and indivisible," and that any violations of True Harmony and the Delaware LLC's rights were also violations of Haiem's civil rights. SAC ¶ 67. This conclusory statement does not establish standing. It is also alleged that Haiem was deprived "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." *Id.* ¶ 68. That a person donated to a charity, is not a sufficient basis to establish that person's standing to sue for any alleged harms suffered by that charity.

Plaintiffs do not address these arguments. Rather, they state that Haiem has standing to sue under the Fourth Cause of Action, because he is a taxpayer. As noted above, standing must be established for each form of relief a plaintiff seeks. *Oregon Prescription Drug Monitoring Program*, 860 F.3d at 1233. That Haiem may have standing to advance the Fourth Cause of Action does not establish his standing to advance others.

Plaintiffs also argue that *Holt v. College of Osteopathic Surgeons*, 61 Cal. 2d 750 (1964) and *L.B.*

Research and Educ. Found. v. UCLA Found., 130 Cal. App. 4th 171 (2005) both confirm that Haiem has standing. This argument is unpersuasive. *Holt* held that minority trustees may sue to enforce the obligations of a charitable corporation. 61 Cal. 2d at 756-57. It is not alleged that Haiem is a minority trustee. *L.B. Research* held that a donor to the University of California, Los Angeles had not created a charitable trust, but a contract subject to a condition subsequent, which could be enforced by a civil action. 130 Cal. App. 4th at 175. Again, there is no allegation that Haiem's donation created a contract. *Cf. Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016) (plaintiffs must "clearly allege facts demonstrating each element of standing") (internal citation omitted). Finally, both decisions address the capacity to sue under California law, not whether a given injury is sufficient to establish for Article III standing.

As to Thomas, the SAC alleges that the alleged conspiracy to violate the civil rights of True Harmony and the Delaware LLC directly and proximately caused the sanctions imposed on Thomas. SAC ¶ 85. Although these sanctions can be deemed an injury in fact, this conclusory allegation does not establish causation. Rather, it appears from the judicially noticed documents that the Superior Court imposed sanctions as a result of Thomas's misconduct. *See Thomas*, 2018 WL 6566003, at *7 ("Despite our order striking True Harmony's appeal, Thomas filed an opening brief on behalf of both True Harmony and himself. The appeal addressed the merits of the underlying case and demurrer, and was not limited to the sanctions order. Solomon again corresponded with Thomas asking him to withdraw his improper brief. Thomas refused. Solomon then incurred further costs bringing a successful motion to strike the opening brief. Even

after we ordered Thomas to limit his brief to the sanctions order, Thomas still argued the underlying judgment and matters unrelated to sanctions in the new opening brief."); *1130 South Hope Street Investment Associates, LLC*, 2015 WL 1897822, at *8 ("Thomas's approach toward this appeal and his unprofessional and at times outrageous conduct toward counsel for Hope Park Lofts show not only that this appeal was frivolous but that it was intended to harass Hope Park Lofts and to drive up its litigation costs."). *Cf. Wash. Env't Council v. Bellon*, 732 F. 3d 1131, 1141-42 (9th Cir. 2013) ("Plaintiffs must show that the injury is causally linked or 'fairly traceable' to the [Defendants'] alleged misconduct, and not the result of misconduct of some third party not before the court.").

* * *

For the foregoing reasons, neither Haiem nor Thomas has standing to advance the first three causes of action, except to the extent the Second Cause of Action seeks review of the sanctions entered against Thomas.

(1) Whether Plaintiffs Have Standing to Advance the Fourth Cause of Action

The SAC alleges that Thomas, Haiem and members of True Harmony all pay federal and state income taxes. Based on this, it alleges that they have standing to contest the unlawful "exaction" of taxes. SAC ¶ 113.

Although the nature of the "unlawful exactions of taxes" is not made clear in the SAC, Plaintiffs' theory appears to be that their state taxes increased as a result of the allegedly unlawful sale of property. SAC ¶ 117 ("[C]haritable 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."); Dkt. 106 at 12 ("It caused increased state taxes to pay for the welfare entitlements to compensate for the loss of charitable assets.").

This theory of injury fails for two reasons. *First*, "a litigant may not assume a particular disposition of government funds in establishing standing[.]" *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 348 (2006). Plaintiff's theory of harm assumes that California necessarily spends additional money on welfare to make up for any money lost by charitable organizations. But it is not alleged nor otherwise suggested that *any* loss of charitable property necessarily results in an increase in welfare spending by the state.

Second, if the alleged loss of charitable funds in fact caused California to increase welfare spending, this

would not necessarily require, or result in, the imposition of higher taxes. Instead, the state may choose to reduce other spending. Thus, Plaintiff's theory of injury "requires speculating that elected officials will increase a taxpayer-plaintiff's tax bill to make up a deficit." *Id.* at 344. This type of speculation does not "suffice[] to support standing." *Id.* (citing *ASARCO Inc. v. Kadish*, 490 U.S. 605, 614 (1989) (plurality opinion) and *Warth v. Seldin*, 422 U.S. 490, 509 (1975).

Plaintiffs argue that the test for municipal taxpayer standing is less stringent. However, the SAC does not allege that any Plaintiff is a municipal taxpayer, nor does it identify any municipal expenditures that harmed Plaintiffs. Because this SAC is not the first opportunity for Plaintiffs to allege facts that could support a theory of municipal taxpayer standing, on a pragmatic level, it is too late to do so.

(3) Whether Plaintiffs Have Standing to Advance the Fifth Cause of Action

The SAC alleges that 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." SAC ¶ 127. *See also* Dkt. 106 at 13 ("As residents of the state PLAINTIFFS have standing to sue the government DEFENDANTS under state and federal common law to compel them to reasonably exercise their *parens patriae* powers to conserve and protect public charitable assets.").

Plaintiffs' theory appears to be that any resident of the state of California has standing to compel the Attorney General to enforce the Uniform Supervision of Trustees Act, *i.e.*, that any resident of the State suffers an injury when this Act is not enforced. This

generalized grievance in the proper enforcement of law does not support standing. *See Hein v. Freedom from Religion Found.*, 551 U.S. 587, 601 and n.2 (2007) (collecting cases); *see also Carney v. Adams*, 141 S. Ct. 493, 498 (2020) ("[A]n abstract and generalized harm to a citizen's interest in the proper application of the law does not count as an 'injury in fact.'").[8]

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[8] In the California Opposition, Plaintiffs again assert new theories of standing not alleged in the SAC. Dkt. 106 at 12 ("PLAINTIFFS may assert that the failure of the STATE DEPARTMENT OF JUSTICE and XAVIER BECERRA to allege a cause of action similar COA #3 in their own complaint to the court facilitates a taking of public property as charitable assets without just compensation therefore."). Assuming without deciding that these theories could establish standing, the outcome would not change. The Eleventh Amendment bars injunctive relief against state officers premised on violations of state law. *See Pennhurst State School & Hosp. v. Haldeman*, 465 U.S. 89, 106 (1984). Plaintiff's vague references to "federal common law" do not change the fact that Plaintiffs challenge the

"nonenforcement of the cease and desist order," which was issued pursuant to California law. Dkt. 106 at 10. Indeed, Plaintiffs acknowledge that these causes of action could be, and likely are barred by the Eleventh Amendment. *Id.* at 7 ("The GOVERNMENT DEFENDANTS could waive sovereign immunity for the purpose of this one action.").

* * *

For the foregoing reasons, Plaintiffs do not have standing to advance the Fourth and Fifth Causes of Action. Because there has been an adequate opportunity to assert these claims, and any further amendment would almost certainly be futile, these causes of action are **DISMISSED WITH PREJUDICE**.[9]

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[9] Although dismissal for lack of jurisdiction is ordinarily without prejudice, dismissal with prejudice is appropriate in this action. See Section V, *infra*.

2. The *Rooker-Feldman* Doctrine

(a) Legal Standards

Pursuant to the *Rooker-Feldman* doctrine, district courts do not have jurisdiction of actions that seek to review state court judgments. Appellate jurisdiction over those judgments is exclusive to the Supreme Court. *See* 28 U.S.C. § 1257. The doctrine "is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments. *Rooker-Feldman* does not otherwise override or supplant preclusion doctrine or augment the circumscribed doctrines that allow federal courts to stay or dismiss proceedings in deference to state-court actions." *Exxon-Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S.

280, 284 (2005).

"To determine whether the *Rooker-Feldman* bar is applicable, a district court must first determine whether the action contains a forbidden de facto appeal of a state court decision." *Bell v. City of Boise*, 709 F.3d 890, 897 (9th Cir. 2013). A de facto appeal exists when "a federal plaintiff asserts as a legal wrong an allegedly erroneous decision by a state court, and seeks relief from a state court judgment based on that decision." *Id.* The Ninth Circuit has stated that "even if a plaintiff seeks relief from a state court judgment, such a suit is a forbidden de facto appeal only if the plaintiff *also* alleges a legal error by the state court." *Id.* If it is determined that, through a federal proceeding, a plaintiff seeks to bring a "forbidden de facto appeal . . . that federal plaintiff may not seek to litigate an issue that is 'inextricably

intertwined' with the state court judicial decision from which the forbidden de facto appeal is brought." *Id.* The "'inextricably intertwined' language from *Feldman* is not a test to determine whether a claim is a de facto appeal, but is rather a second and distinct step in the *Rooker-Feldman* analysis. Should the action *not* contain a forbidden de facto appeal, the *Rooker-Feldman* inquiry ends." *Id.* (italics in original).

To determine whether an action constitutes a de facto appeal, district courts "pay close attention to the *relief* sought by the federal-court plaintiff." *Cooper v. Ramos*, 704 F.3d 772, 777-78 (9th Cir. 2012) (internal citation omitted) (emphasis in original).

(b) Application

(1) Whether the First Cause of Action Is Barred by *Rooker-Feldman*

The first cause of action is brought pursuant to

42 U.S.C. § 1983. It seeks three broad forms of relief on the grounds that Defendants' actions violated the Bankruptcy Clause of the U.S. Constitution, the Supremacy Clause of the U.S. Constitution, the Due Process Clause of the U.S. Constitution, the Bankruptcy Act, the Internal Revenue Code, and federal common law. *First,* the First Cause of Action seeks a declaratory judgment that the transfer of the property to the California LLC violated the civil rights of True Harmony, the Delaware LLC, and Haiem, and that remedial injunctive relief is warranted. *i.e.*, an order compelling 1130 Hope Street Investment Associates LLC to reconvey title to True Harmony and the Delaware LLC.

Plaintiffs acknowledge that this relief requires review of state court judgments, including those entered in the Arbitration Action. Dkt. 114 at 13. Thus, this cause of action contains a forbidden de facto

appeal.

Second, this cause of action seeks a declaratory judgment that the sale of the property to BIMHF violated the civil rights of True Harmony and the Delaware LLC. Consequently, Plaintiffs argue that a corresponding injunction is warranted that would require BIMHF to reconvey title to 1130 South Hope Street Investment Associates, LLC, so that it can be reconveyed to True Harmony. It is alleged that the sale was illegal because it was part of the "constitutionally sham and moot invalid judgments in [the Arbitration Action]." SAC ¶ 65. Thus, granting this relief is also contingent on a finding error by the state court in connection with the Arbitration Action. Thus, this claim also seeks a forbidden de facto appeal.

It is also alleged that the sale was illegal because it violated the Cease-and-Desist Order. *Id.* This allegation does not raise a *Rooker-Feldman* issue.

The alleged wrong is not a state court judgment, but an "allegedly illegal act[] committed by a party against whom [Plaintiffs] ha[ve] previously litigated." *Noel Hall*, 341 F.3d 1148, 1166 (9th Cir. 2003). This type of claim may be barred by issue or claim preclusion.

Third, this cause of action seeks a declaratory judgment that the Interpleader Action was moot and all orders made by the court in that proceeding violated the civil rights of True Harmony, the Delaware LLC, and Haiem. These arguments seek relief from a state court judgment and allege that the orders entered by the state court were in error. This is another forbidden de facto appeal.

Plaintiffs offer three reasons why *Rooker-Feldman* is not applicable to the portions of the First Cause of Action that involve a de facto appeal. None is persuasive.

(a) Bankruptcy Exception to *Rooker-Feldman*

Plaintiffs argue that, because the orders entered in the Arbitration Action violated the automatic stay, they are *void ab initio* and are not subject to the *Rooker-Feldman* doctrine. State court orders in violation of the automatic stay may be challenged in a federal court, notwithstanding *Rooker-Feldman*. *See In re Gruntz*, 202 F.3d 1074, 1083 (9th Cir. 2000) ("[T]he federal courts have the final authority to determine the scope and applicability of the automatic stay…Thus, the *Rooker-Feldman* doctrine is not implicated by collateral challenges to the automatic stay in bankruptcy."). Plaintiffs identify five alleged violations of the automatic stay:

First, on June 3, 2009, the Superior Court confirmed an arbitration award against True Harmony and Haiem. *See* Dkt. 112-2 at 136 (the "June 2009 Judgment"). The June 2009 Judgment states that the attempted cancellation of the California LLC was not

effective, that True Harmony has not held "any interest in the Property that could be transferred or encumbered since October 9, 2003," and that any attempt by True Harmony to transfer an interest in the Property subsequent to October 9, 2003 was void as a matter of law. Plaintiffs argue that the June 2009 Judgment violated the automatic stay because it affected True Harmony's effort to transfer the Property to the Delaware LLC.

The basis for this argument appears to be that the Property was "property of the estate" under 11 U.S.C. § 541, and was protected by the automatic stay pursuant to 11 U.S.C. § 362(a)(3). This argument fails, because the underlying arbitration award issued by Schoettler had already afforded the same relief, thereby depriving the Delaware LLC of any interest in the Property. *See* Cal. Civ. Proc. Code § 1287.6 ("An award that has not been confirmed or vacated has the

same force and effect as a contract in writing between the parties to the arbitration."). Accordingly, as of February 2009, the Delaware LLC had no interest in the Property that could be protected by the automatic stay.[10] Also unpersuasive is Plaintiffs' suggestion that the June 3, 2009 Judgment violated the automatic stay because it would later be used against the Delaware LLC. As the Second Circuit has explained, an automatic stay cannot be reasonably construed to extend so broadly:

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[10] Plaintiffs also make a vague argument that the "judgment dated July 8, 2008" could have been challenged as a preferential transfer pursuant to 11 U.S.C. § 547, and that the settlement agreement obtained in the Quiet Title Action could have been rejected as an executory contract pursuant to 11 U.S.C. § 365. These issues were not litigated in the Bankruptcy Proceedings, which concluded more than ten years ago. *See* B.R. Dkt. 47 (Order Dismissing Case) (Sep. 15, 2010). Speculating as to what the Bankruptcy Court might have done if these hypothetical motions had been brought is not

sufficient to show that the Delaware LLC had an interest in the Property and, consequently, that the Property was protected by the automatic stay.

We have not located any decision applying the [automatic] stay to a non-debtor solely because of an apprehended later use against the debtor of offensive collateral estoppel or the precedential effect of an adverse decision. If such apprehension could support application of the stay, there would be vast and unwarranted interference with creditors' enforcement of their rights against non-debtor co-defendants. *Queenie, Ltd. v. Nygard Int'l*, 321 F.3d 282, 288 (2d Cir. 2003).

Plaintiffs also argue that the automatic stay protected True Harmony, because it was an alter ego of the Delaware LLC. Dkt. 69 at 12. No allegations are made to support this legal conclusion, and the SAC elsewhere alleges that True Harmony and the Delaware LLC were separate corporate entities. SAC

¶¶ 1, 3. Furthermore, the Ninth Circuit has "consistently held that the automatic stay does not apply to suits against non-debtors." *In re Excel Innovations, Inc.*, 502 F.3d 1086, 1095 (9th Cir. 2007) (citing *In re Chugach Forest Prods., Inc.*, 23 F.3d 241, 246 (9th Cir. 1994)). Instead, non-debtors must seek protection through the Bankruptcy Court's general equity powers. *See* 11 U.S.C. § 105. "[S]uch extensions, although referred to as extensions of the automatic stay, are in fact injunctions issued by the bankruptcy court after hearing and the establishment of unusual need to take this action to protect the administration of the bankruptcy estate." *Boucher v. Shaw*, 572 F.3d 1087, 1093 n.3 (9th Cir. 2009) (internal citations and quotation marks omitted). Thus, for True Harmony to have obtained the benefit of the automatic stay, it had to seek relief in the Bankruptcy Court during those proceedings. Having failed to do so, it cannot litigate

the issue in an "entirely retrospective" proceeding in a new forum. *In re Chugach Forest Prods.*, 23 F.3d at 247 n.3 (extension of the automatic stay was "particularly inappropriate" when litigant sought a retroactive extension, rather than prospective relief to protect the debtor's estate). *See also Boucher*, 572 F.3d at 1093 n.3 (request for dismissal of a claim in the district court "is not analogous to a prospective request for an injunction from the bankruptcy court").

The conclusion that the June 2009 Judgment did not violate the automatic stay is also consistent with a review of the actions by the Bankruptcy Court. A copy of the June 2009 Judgment was attached to the initial motion for relief from the bankruptcy stay. B.R. Dkt. 32 at 36. The Delaware LLC argued at the time that this action had been taken in error and was in violation of the automatic stay. B.R. Dkt. 35 at 3. The Bankruptcy Court did not accept that argument and

instead lifted the stay as to the Arbitration Action. B.R. Dkt. 37. Although this is not conclusive, it is significant that the Bankruptcy Court, which had the jurisdiction to issue a further injunction if necessary, 11 U.S.C. § 105, did not do so.

Second, the Superior Court granted summary judgment on the fifth cause of action against True Harmony and its officers. Dkt. 112-2 at 189. Plaintiffs allege that this decision violated the automatic stay because it affected the Delaware LLC's purported interest in the Property. Because, as noted above, the arbitration award had already deprived the Delaware LLC of any such interest, this argument also fails.

Third, after the automatic stay was lifted on February 24, 2010, B.R. Dkt. 37, the Superior Court commenced a trial on March 15, 2010, despite Plaintiffs' request for a continuance. Dkt. 112-2 at 146. Plaintiffs argue that this violated the automatic stay

because the request for a continuance was reasonable. In the Oppositions, Plaintiffs also argue that this violated 11 U.S.C. § 108(c)(2), which they interpret as imposing a 30-day grace period after a stay is lifted. Neither argument is persuasive. The reasonableness of the request for a continuance has no relevance to whether the automatic stay was violated. Whether to allow a continuance is within the discretion of a trial court. Further, 11 U.S.C. § 108(c)(2) provides rules for the calculation of statutes of limitations after an automatic stay ends or is lifted. It does not require that a litigant be given a certain amount of time after a stay is lifted to proceed.

Fourth, the Superior Court entered judgment on the fifth cause of action against the Delaware LLC on March 15, 2010. Dkt. 112-2 at 189. Plaintiffs argue that this violated the automatic stay because the grant of summary judgment had itself violated

the automatic stay. Because, as discussed above, there was no underlying violation, this argument fails.

Finally, the Superior Court entered judgment after trial on April 22, 2010. Dkt. 112-2 at 195. Plaintiffs appear to argue that because Defendants filed a second request to lift the automatic stay in the Bankruptcy Court, this means that the stay still applied to the Arbitration Action. SAC at 12. This misstates the relief sought in the Bankruptcy Proceedings. The Order lifting the stay provided that a judgment could be obtained against the Delaware LLC, but that the stay would still apply to any effort to enforce that judgment. B.R. Dkt. 37 at 1. Defendants filed the second request to lift the stay to permit such enforcement. B.R. Dkt. 40. This request was made unnecessary by the dismissal of the Bankruptcy Proceedings. B.R. Dkts. 44, 47. Because

the initial order lifting the stay permitted Defendants to obtain a judgment against the Delaware LLC, the April 2010 Judgment did not violate the automatic stay.

* * *

For the foregoing reasons, Plaintiffs have not shown that any orders entered, or other actions in the Arbitration Action violated the automatic stay.

(b) State Court Policy

Plaintiffs next argue that the allegedly unlawful acts constituted a policy of the state courts, that these acts violated the Supremacy Clause and the Bankruptcy Clause, and that these policies can be reviewed. This argument relies on *Dubinka v. Judges of Superior Court of Cal. for Cnty of L.A.*, 23 F.3d 218 (9th Cir. 1994). In that case, defendants in pending criminal prosecutions filed a federal action challenging the constitutionality of California's

Proposition 115, which amended pretrial discovery rules. 23 F.3d at 220-21. Because the district court could "easily analyze" their general constitutional challenges to Proposition 115 "without resorting to the state trial courts' discovery orders in... [their] pending cases," the *Rooker-Feldman* doctrine did not apply. *Id*. at 222.

Dubinka is distinguishable. Plaintiffs have not identified any extrinsic policy of the state courts. Indeed, Plaintiffs allege that a "single act" of a judge is enough to prove a "policy or custom." SAC ¶ 26. In effect, Plaintiffs argue that the underlying state court judgments are the policies they seek to review.

Thus, there is no way to analyze the purportedly unconstitutional policies without reviewing "a final state court judgment in a particular case." *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 486 (1983).

Accordingly, Plaintiffs' challenge is "inextricably intertwined" with the underlying state court decisions, and thus barred by *Rooker-Feldman*.

(c) Conspiracy

Finally, Plaintiffs argue that state court judges, clerks, and other officials aided and abetted a "conspiracy" among the Defendants. This conclusory argument is not supported by any allegations in the SAC. Under these circumstances, "[t]he alleged conspiracy is a fig leaf for taking aim at the state court's own alleged errors." *Cooper*, 704 F.3d at 782. Thus, this argument fails to show that *Rooker-Feldman* is inapplicable.

(d) Other Deficiencies

As noted, the First Cause of Action is not barred by *Rooker-Feldman* to the extent it alleged that the sale was illegal because it violated the Cease and Desist Order. However, as a general rule, "a

violation of state law does not lead to liability under § 1983." *Campbell v. Burt*, 141 F.3d 927, 930 (9th Cir. 1998) (citing *Davis v. Scherer*, 468 U.S. 183, 194 (1984)); *see also Flagg Bros., Inc. v. Brooks*, 436 U.S. 149, 155 (1978) (Section 1983 plaintiffs are "bound to show that they have been deprived of a right 'secured by the Constitution and the laws' of the United States"). Plaintiffs allege a violation of a Cease and Desist Order, which only references provisions of state law. SAC at 77-78 (citing Cal. Corp. Code § 5913). Plaintiffs do not explain how any violation of these provisions would cause or lead to a violation of a federally secured right, only alleging that the Internal Revenue Code and "federal common law" are at issue. SAC at 42. Even if federal and state law on taxation have some common elements, it does not follow that the violation of a California statute necessarily violates that law. Accordingly, although

this portion of the First Cause of Action is not barred by *Rooker-Feldman*, it fails on the merits.

Second, although the SAC is not a model of clarity, it appears to present allegations of fraud in the Interpleader Action. "A plaintiff alleging extrinsic fraud on a state court is not alleging a legal error by the state court; rather, he or she is alleging a wrongful act by the adverse party." *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1140-41 (9th Cir. 2004). However, such a cause of action would fail on the merits, because these precise arguments were made in *Thomas v. Zelon*, another federal action brought by Thomas. The Magistrate Judge in that action thoroughly considered the allegations of fraud in connection with the Interpleader Action and determined that they did not state a claim for extrinsic fraud. The Report and Recommendation was accepted, and that decision was affirmed by the

Ninth Circuit. *Thomas v. Zelon*, No. CV 16-6544 JAK (AJW), 2017 WL 6017345 (C.D. Cal. Feb. 23, 2017), *aff'd*, 715 F. App'x 780 (9th Cir. 2018). Although the dismissal of the complaint in that case was without prejudice, and did not operate as a ruling on the merits, the analysis of the Magistrate Judge that was adopted is instructive:

To the extent that the "extrinsic fraud" alleged by plaintiff consists of the discrepancy in the name under which the interpleader action was filed, it fails. Plaintiff seems to complain that the plaintiff in the interpleader action was named as "1130 Hope Street LLC" but at the time it filed the action (July, 28, 2011), 1130 Hope Street LLC had changed its name to 1130 South Hope Street LLC. It is not evident that any such discrepancy would invalidate the interpleader action or deprive the state court of jurisdiction. Furthermore, on September 16, 2013—

prior to the Superior Court's December 4, 2013 order in the interpleader action and prior to plaintiff' filing the frivolous appeal (January 31, 2014)—1130 South Hope Street LLC changed its name back to 1130 Hope Street LLC. [Dkt. 55-3]. This action would have retroactive effect under California law.

To the extent that plaintiff's claim of "extrinsic fraud" is based upon the 2008 cancellation of the 1130 South Hope Street LLC, it fares no better. As plaintiff concedes, the Superior Court found that the 2008 cancellation was fraudulent, and on August 28, 2013 judgment was entered reinstating both 1130 South Hope Street LLC and Hope Park Lofts LLC. [Complaint, Ex. 4 (Los Angeles Superior Court Case No. BS140530)]. Moreover, in a separate action, the Los Angeles Superior Court entered judgment finding that 1130 South Hope

Street LLC remained a valid existing LLC, and that its LLC had not been cancelled. [Dkt. 55-2 at 5 (Los Angeles Superior Court Case No. BC385560)]. Further, the court found that True Harmony and its associates or representatives, including plaintiff's client Ray Haiem, had caused the fraudulent cancellation of 1130 South Hope Street LLC. In fact, the judgment permanently enjoined True Harmony, "and all individuals and entities acting on it [sic] behalf" from "taking any actions or filing any documents which ... represent that [1130 South Hope Street LLC] is not a valid and existing entity" or "doing anything to suggest or to create any record that [1130 South Hope Street LLC] is cancelled or dissolved or anything other than in good standing." [Dkt. 55-2 at 9]. On April 22, 2010, the Superior Court in the same case entered a further judgment reaffirming that 1130 South Hope Street, LLC

"remained an existing California LLC," that any document purporting to cancel the LLC is "deemed void." [Dkt. 55-3 at 2-6]. Thus, plaintiff's allegations of fraud are contradicted by the record[.]…

Even if there was some error in the name under which the interpleader action was brought, it did not constitute extrinsic fraud because it was not conduct which prevents a party from presenting his claim in court.

Thomas v. Zelon, No. CV 16-6544 JAK (AJW), Dkt. No. 103 (Jan. 17, 2017) (Magistrate Judge's Report and Recommendation). This reasoning persuasively explains why Plaintiffs' allegations do not show any extrinsic fraud.

* * *

For the foregoing reasons, the First Cause of Action is barred by *Rooker-Feldman*, or fails to state a

claim. Although this cause of action also seeks compensatory damages and attorney's fees in connection with certain forms of injunctive relief, these can only succeed to the extent that the underlying state court orders are overturned. *Cf. Homola v. McNamara*, 59 F.3d 647, 651 (7th Cir. 1995) ("[I]f a suit seeking damages for the execution of a judicial order is just a way to contest the order itself, then the *Rooker-Feldman* doctrine is in play.").

(2) Whether The Second Cause of Action is Barred by *Rooker-Feldman*

The Second Cause of Action generally seeks the same substantive relief as the first cause of action, but on the grounds that various transactions violated Plaintiffs' constitutional right of access to the courts. It is also brought pursuant to Section 1983. Based on the allegations in the SAC, it appears to allege that the judgments were obtained by extrinsic fraud.

Accordingly, *Rooker-Feldman* does not bar subject matter jurisdiction to the extent this cause of action seeks to set aside the judgments on this ground.

The Second Cause of Action also seeks review of sanctions that were imposed against Thomas. Thomas argues that the sanctions imposed in both the Interpleader Action and the Recovery Action were illegal. In support of this position he claims that, because the sanctions were punitive, a decision to impose them required heightened due process safeguards. He also argues that the trial court did not have jurisdiction to modify the sanctions amount following the appeal. Thomas also contends that Defendants abused the discovery process, and there was insufficient evidence of frivolity at the trial and appellate levels. This claim is barred by *Rooker-Feldman*, because Thomas is seeking review of state court judgments and alleges legal error in connection

with their entry.

Plaintiffs also allege that Defendants are liable for "caus[ing] the courts to impose" the wrongful sanctions. SAC ¶ 87. This constitutes an argument that the sanctions were wrongfully imposed. Because this claim "succeeds only to the extent that the state court wrongly decided the issues before it," it is barred by *Rooker-Feldman*. *Cooper*, 704 F.3d at 779 (quoting *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 25 (1987)).

Thomas responds as to why the claims are not barred. He contends that he is entitled to review because the judgments in the 2014 action and appeal were based on prior rulings that violated the automatic stay. Dkt. 115 at 11. As noted above, Plaintiffs have not identified any violation of the automatic stay. Thus, the *Rooker-Feldman* doctrine bars this claim. Thomas admits that he "seeks review" of these state court judgments, and alleges a legal error

by that court -- the failure to "assume the truth of the allegation[]" that the past judgments violated the automatic stay. *Id.*

Thomas also argues that he is challenging "the [state court's] policy of ignoring the federal requirements of procedural due process for punitive sanctions." Dkt. 115 at 12. He argues that this claim is not "inextricably intertwined" with the state court judgments because the state courts ignored the argument when it was presented there. *Id.* This argument fails. As Thomas concedes, he raised these arguments in state court, and he seeks review of the decisions denying the relief he sought. "The silence of the California courts does not indicate that they failed to consider the constitutional claims presented to them." *Bianchi v. Rylaarsdam*, 334 F.3d 895, 900 (9th Cir. 2003). "To conclude otherwise would require [the court] to assume that the 'state judges [were] not ...

faithful to their constitutional responsibilities.'" *Id.* (quoting *Huffman v. Pursue, Ltd.*, 420 U.S. 592, 611 (1975)).

* * *

For the foregoing reasons, the Second Cause of Action is barred by the *Rooker-Feldman* doctrine to the extent it seeks to review sanctions imposed against Thomas. Because these sanctions have allegedly caused state bar authorities to seek a suspension of Thomas's bar licenses, these orders are also alleged to violate the constitutional rights of the remaining Plaintiffs.[11] *See* SAC ¶¶ 87, 90. These claims are also

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11 On August 19, 2020, Thomas was involuntarily suspended from the active practice of law pursuant to Cal. Bus. & Prof. Code § 6007(c)(2). See Smart Search, The State Bar of California, https://apps.statebarcourt.ca.gov/dockets.aspx (search "Thomas, Jeffrey Gray") (last visited April 12, 2021). On April 1, 2021, Thomas was disbarred from the Bar of the Central District of California. *In re Jeffrey*

Gray Thomas, No. AD20-00779, Dkt. 10 (April 1, 2021).

barred by *Rooker-Feldman*, because reaching the question of whether the remaining Plaintiffs' constitutional rights were violated would require the same inquiry detailed above, *i.e.*, whether or not the state court erred in assessing sanctions against Thomas.

3. Whether the Third Cause of Action Is Barred by *Rooker-Feldman*

The Third Cause of Action seeks the same substantive relief as the First Cause of Action, but on the grounds that the sale of the Property breached the public trust in charity. SAC at 68. This cause of action is for "damages, injunction, and declaratory judgment and other equitable relief against fraud under Cal. Govt. Code § 12596(b)." SAC at 56. As noted, the sale of the Property was not a state court judgment, but an

"allegedly illegal act[] committed by a party against whom [Plaintiffs] ha[ve] previously litigated." *Noel*, 341 F.3d at 1166. Accordingly, *Rooker-Feldman* does not bar this cause of action.

a. Motion to Dismiss Under Fed. R. Civ. P. 12(b)(6)

Fed. R. Civ. P. 8(a) provides that a "pleading that states a claim for relief must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief." The pleading that states a claim must state facts sufficient to show that a claim for relief is plausible on its face. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The complaint need not include detailed factual allegations but must provide more than a "formulaic recitation of the elements of a cause of action." *Id.* at 555. "The plausibility standard is not akin to a 'probability

requirement,' but it asks for more than a sheer possibility that a defendant has acted unlawfully. Where a complaint pleads facts that are 'merely consistent with' a defendant's liability, it stops short of the line between possibility and plausibility of entitlement to relief." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks and citations omitted).

Pursuant to Fed. R. Civ. P. 12(b)(6), a party may bring a motion to dismiss a cause of action that fails to state a claim. It is appropriate to grant such a motion only where the complaint lacks a cognizable legal theory or sufficient facts to support one. *See Mendiondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008). In considering a motion to dismiss, the allegations in the challenged complaint are deemed true and must be construed in the light most favorable to the non-moving party. *See Cahill v. Liberty Mut. Ins.*

Co., 80 F.3d 336, 337-38 (9th Cir. 1996). However, a court need not "accept as true allegations that contradict matters properly subject to judicial notice or by exhibit. Nor is the court required to accept as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences." *In re Gilead Sciences Sec. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008) (citing *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001)).

b. Analysis

i. Whether the Second Cause of Action is Barred by Res Judicata

1. Legal Standards

Res judicata presents two issues: claim preclusion and issue preclusion. *DKN Holdings LLC v. Faerber*, 61 Cal. 4th 813, 823 (2015). Claim preclusion, "acts to bar claims that were, or should have been, advanced in a previous suit involving the same

parties." *Id.* at 824. Issue preclusion, or collateral estoppel, bars "relitigating issues that were argued and decided in the first suit." *Id.* Issue preclusion applies even when a subsequent lawsuit raises a new cause of action. It can also be asserted by a litigant who is not a party or in privity with one in the first suit. *Id.* at 824-25. However, in accordance with due process, it can only be advanced against a party to the first suit, or an entity in privity with such a party. *Id.* at 824.

The threshold requirements for issue preclusion are: "(1) the issue is identical to that decided in the former proceeding, (2) the issue was actually litigated in the former proceeding, (3) the issue was necessarily decided in the former proceeding, (4) the decision in the former proceeding is final and on the merits, and (5) preclusion is sought against a person who was a party or in privity with a party to the former proceeding." *Hensel Phelps*

Constr. Co. v. Dep't of Corrs. & Rehab., 45 Cal. App. 5th 679, 695 (2020).

1. Application

As noted, the Second Cause of Action seeks to set aside state court judgments on the ground of extrinsic fraud. The acts alleged to constitute fraud are Perry's alleged breaches of professional ethics in the Quiet Title Action, his alleged breach of the "federal common law of adverse conflicts of interest" by setting up the joint venture, his waiver of attorney-client privilege, and his alleged misrepresentations as to the approval by the California Attorney General. SAC ¶¶ 79-81.

These allegations were also made in the Recovery Action. True Harmony expressly raised Perry's alleged violations of Rule of Professional Conduct 3-300 in that action as a reason to set aside the various judgments in the Quiet Title Action. *See*

Dkt 112-1 at 55, Second Amended Complaint, ¶¶ 64, True Harmony also raised the alleged conflict of interest created by Perry's role in the joint venture, as well as the alleged issues regarding the approval by the California Attorney General. *Id.* ¶ 43; *id.* ¶ 48; *Id.* ¶ 64; *id.* ¶ 100 (allegations that Perry violated Rule of Professional Conduct 3-310, regarding adverse interests). The Superior Court granted a demurrer as to the complaint in the Recovery Action, holding that these allegations did not state a claim for extrinsic fraud and, therefore, provided no basis for setting aside the judgment. *See* Dkt. 112-1 at 154.

Based on the foregoing, the threshold requirements for the application of issue preclusion are met. Although the SAC is not a model of clarity, it is premised on the same facts at issue in the Recovery Action. The various Oppositions do not identify any new facts. Further, the issue was

actually litigated in the Recovery Action. The same allegations made here were raised as examples of extrinsic fraud. The Superior Court considered and rejected them. It has also been shown that the issue was necessarily decided in the Recovery Action. The Superior Court expressly held that these allegations were not sufficient to state a claim of extrinsic fraud. The Superior Court decision was final. Under California law, a demurrer which is sustained without leave to amend for failure of the facts alleged to establish a cause of action is a judgment on the merits that is entitled to preclusive effect. *Kanarek v. Bugliosi*, 108 Cal. App. 3d 327, 334 (1980).

Finally, preclusion applies to True Harmony, which was a party to the Recovery Action, and the Delaware LLC, which is in privity with True Harmony. "'Privity' as used in the context of res judicata or collateral estoppel, does not embrace

relationships between persons or entities, but rather it deals with a person's relationship to the subject matter of the litigation." *Cal Sierra Development, Inc. v. George Reed, Inc.*, 14 Cal. App. 5th 663, 674 (2017) (internal citation omitted). The Delaware LLC is alleged to have been created by True Harmony and to act as its agent. SAC ¶ 3. It is also alleged that the Delaware LLC was formed to hold the Property. *Id.* The issue in that litigation was the ownership of the Property, and whether it had been unlawfully taken from True Harmony. The Delaware LLC had no independent interest in the Property; its only claim to the Property arises from True Harmony's alleged transfer. Under these circumstances, the Delaware LLC was in privity with True Harmony. If it were permitted to relitigate these issues, it would not be asserting any independent rights, but only those of True Harmony.

For these reasons, issue preclusion applies. Thus, "the propriety of preclusion depends upon whether application will further the public policies of 'preservation of the integrity of the judicial system, promotion of judicial economy, and protection of litigants from harassment by vexatious litigation." *Hensel Phelps*, 45 Cal. App. 5th at 695. Given the long history of this dispute and the many, cumulative actions that True Harmony has filed, preclusion is appropriate. Accordingly, the Second Cause of Action is barred by issue preclusion.

2. Whether the Second Cause of Action Alleges a Civil Rights Claim

(a) Legal Standards

Section 1983 provides a cause of action for a person who is deprived of constitutional rights. It can only be violated by "conduct that may be fairly characterized as 'state action.'" *Lugar*, 457 U.S. at

924. *See also Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 50 (1999) (Section 1983 does not reach "merely private conduct, no matter how discriminatory or wrongful") (internal citation omitted).

To assess when "governmental involvement in private action" rises to this level, *Lugar* set out a two-prong framework. *Ohno v. Yasuma*, 723 F.3d 984, 994 (9th Cir. 2013). "The first prong asks whether the claimed constitutional deprivation resulted from "the exercise of some right or privilege created by the State or by a rule of conduct imposed by the state or by a person for whom the State is responsible. The second prong determines whether the party charged with the deprivation could be described in all fairness as a state actor." *Id.* (citing *Lugar*, 457 U.S. at 937). A state actor is an actor "for whom a domestic

governmental entity is in some sense responsible." *Id.* at 995.

(a) Application

As to the first Lugar prong, the SAC alleges that Plaintiffs' constitutional rights were deprived through misconduct by Defendants. It is alleged that that: Defendants made "misrepresentations to the courts," SAC ¶ 84; filed "sham petitions for sanctions," *id.* ¶ 85; brought "groundless and frivolous actions," *id.* ¶ 88; and "abused the state law [A]nti-[S]lapp statute." *Id.* ¶ 89. It does not allege that the state procedures were constitutionally defective. Because "private misuse of a state statute does not describe conduct that can be attributed to the state," these allegations do not provide a basis for the claim alleged. *Lugar*, 457 U.S. at 941; *See also Collins v. Womancare*, 878 F.2d 1145, 1152-53 (9th Cir. 1989) (collecting cases).

Similarly, Plaintiffs have not alleged any facts relevant to the second prong of *Lugar*, *i.e.*, whether the party charged with the deprivation can be described as a state actor. Plaintiffs rely on the "joint action" test and the "nexus" test. Dkt. 114 at 19. Under the joint action test, "courts examine whether state officials and private parties have acted in concert in effecting a particular deprivation of constitutional rights." *Franklin v. Fox*, 312 F.3d 423, 445 (9th Cir. 2002) (citing *Gallagher v. Neil Young Freedom Concert*, 49 F.3d 1442, 1453 (10th Cir. 1995)). The SAC does not include any such allegations. To the contrary, it alleges that state court judges were misled by Defendants. *See, e.g.*, SAC ¶¶ 84, 87.

Allegations that Defendants defrauded a court are not sufficient to show joint action. Instead, the allegations must be ones that, if established, would

show that both the private defendant and the public entity shared the goal of "violating a plaintiff's constitutional rights." *Franklin*, 312 F.3d at 445. Plaintiffs argue that the SAC alleges a conspiracy involving Defendants and state officials. However, none is actually alleged in the SAC. Because the Ninth Circuit has been "careful to require a substantial degree of cooperation before imposing civil liability for actions by private individuals that impinge on civil rights," conclusory charges of conspiracy in a brief cannot suffice to establish liability. *Id.* The allegations in the SAC also fail to state that there is a sufficiently "close nexus between the state and the challenged action." *Villegas v. Gilroy Garlic Festival Ass'n*, 541 F.3d 950, 955 (9th Cir. 2008) (quoting *Brentwood Academy v. Tenn. Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 295 (2001)).

For the foregoing reasons, the Second Cause of Action does not state a claim under Section 1983.

2. Whether the Third Cause of Action States a Claim

(a) Legal Standards

Plaintiffs argue that this cause of action alleges fraud and common law fraudulent transfer. Dkt. 112 at 18. Under California law, a plaintiff alleging fraud must show "(a) misrepresentation (false representation, concealment, or nondisclosure); (b) knowledge of falsity (or 'scienter'); (c) intent to defraud, i.e., to induce reliance; (d) justifiable reliance; and (e) resulting damage." *Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1126 (9th Cir. 2009) (quoting *Engalla v. Permanente Med. Group, Inc.*, 15 Cal. 4th 951, 974 (1997)).

The elements for a common law fraudulent transfer claim are the same as those in Cal. Civ. Code §3439. *Kelleher v. Kelleher*, No. 13–cv–05450–MEJ,

2014 WL 94197, at *6 (N.D. Cal. Jan. 9, 2014) (citing *Arluk Med. Ctr. Indus. Group, Inc. v. Dobler*, 116 Cal. App. 4th 1324, 1340 (2004)). A transfer is fraudulent if it is made with actual intent to hinder, delay, or defraud a creditor, or if it is made without receiving a reasonably equivalent value and certain other conditions are met. Cal. Civ. Code § 3439.04(a).

(a) Application

(1) Fraud

Plaintiffs identified 25 examples of conduct by the Defendants that allegedly constituted fraud. SAC ¶24. These allegations do not distinguish among conduct by the different Defendants. Accordingly, the SAC does not comply with Fed. R. Civ. P. 9(b), which requires allegations of fraud to be pleaded with particularity.

Even if these allegations were more clearly pleaded, they would not support a viable cause of

action for fraud. Many of these alleged acts of fraud are protected by the California litigation privilege. *See* Cal. Civ. Code § 47(b). "The breadth of the litigation privilege cannot be understated. It immunizes defendants from virtually any tort liability (including claims for fraud), with the sole exception of causes of action for malicious prosecution." *Olsen v. Harbison*, 191 Cal. App. 4th 325, 333 (2010) (quoting *Silberg v. Anderson*, 50 Cal. 3d 205, 215-16 (1990)). The privilege applies to "any communication (1) made in judicial and quasi-judicial proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of the litigation; and (4) that have some connection or logical relation to the action." *Rusheen v. Cohen*, 37 Cal. 4th 1048, 1057 (2006).

At least 20 of the alleged fraudulent actions refer specifically to communicative acts taken during

litigation. These include specific arguments to a judge, or acts taken to effect the judgments obtained through those actions.[12] *See Rusheen*, 37 Cal. 4th at 1061-62 (noncommunicative act such as collecting on a judgment is privileged if based on privileged conduct).

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12 *See* SAC ¶ 24(b) (Perry's testimony in the Quiet Title Action after being relieved as counsel for True Harmony); ¶ 24(c) (same); *id.* ¶ 24(f) (confirmation of "sham arbitration hearings"); *id.* ¶ 24(g) ("frivolous and sham civil actions"); *id.* ¶ 24(h) ("sham argument to the state court of appeals"); *id.* ¶ 24(i) ("sham argument to the state court of appeals in 2007"); *id.* ¶ 24(k) (obtaining order to arbitrate in superior court); *id.* ¶ 24(l) (alleged violations of the automatic stay); *id.* ¶ 24(m) (allegation that sale of the Property related to judgments that violated the automatic stay); *id.* ¶¶ 24(p)-(s) (actions taken to carry out the Interpleader Action); *id.* ¶ 24(t) ("moving the state courts for and obtaining the monetary sanctions against Plaintiff THOMAS"); *id.* ¶ 24(u) ("bringing moot and sham anti-slapp motions and a sham motion for protective order"); *id.* ¶ 24(v) ("the continued sham violation of the automatic stay in bankruptcy"); *id.* ¶ 24(w) ("sham application of collateral estoppel"); *id.* ¶ 24(x) ("causing the entry of

sham judgments"); *id.* ¶ 24(y) (obtaining clerk's deeds to the Property after judgment); *id.* ¶ 24(z) (continuing to claim title to the Property).

Plaintiffs argue that the litigation privilege does not apply because the fraud claim is a "hybrid arising under federal law." Dkt. 114 at 23. However, Plaintiffs do not identify what federal law is at issue, or would support these claims.[13]

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13 Thomas separately argues that the litigation privilege is never applied to causes of action under Section 1983, Dkt. 115 at 18, but the Third Cause of Action is not brought under that statute.

The remaining allegations of fraudulent conduct include that Perry made certain misrepresentations to True Harmony when he acted as counsel in the Quiet Title Action. These alleged acts took place between October 2003 and April 2005.

Hope Park Lofts, 2007 WL 841770, at *2-8. The allegedly fraudulent nature of these acts was evident to Plaintiffs by the time of the appeal in the Quiet Title Action, in which they raised them. *Id.* at *21-22. Because an action for fraud against an attorney is subject to a three-year statute of limitations, Cal. Code Civ. Proc. § 338(d), these claims are time-barred. *See Foxen v. Carpenter*, 6 Cal. App. 5th 284, 295 (2016).

Plaintiffs also allege that the sale of the Property to BIMHF was fraudulent both because it violated the Cease and Desist Letter and was substantially below market value. SAC ¶¶ 24(m)-(o). They do not allege that any representations or omissions in connection with these events were false or misleading. Plaintiffs argue that no administrative hearing was held on the alleged violation identified in the Cease and Desist Letter. Why this is relevant is

not made clear. Plaintiffs also argue that the cease-and-desist letters are equivalent to those the Ninth Circuit examined in *Porter v. Bowen*, 496 F.3d 1009 (9th Cir. 2007). Again, it is not clear why this matters in this action. *Porter* involved a First Amendment claim arising from cease-and-desist orders sent to a website that published statements on political issues. *Id.* at 1012-13. It did not concern claims of fraud, and its discussion of cease-and-desist orders is very general. *Id.* at 1022 ("California's police power plainly authorizes state officials to send cease-and- desist letters to websites that are believed to be in violation of an otherwise valid statute, and to prosecute the websites' owners for their offenses.").

(2) Common Law Fraudulent Transfer

The SAC also lacks sufficient allegations to state a claim for fraudulent transfer. The SAC does not adequately allege that these transactions were

made with fraudulent intent. Although it is alleged that the sale was unlawful because of the violation of the Cease and Desist Letter, this does not establish that the sale was effected to impair the rights of any creditor. Although the SAC alleges that the Property was sold for less than its actual value, SAC ¶ 24(o), it does not allege that the seller was left with "unreasonably small capital" or was unable to pay debts as any came due.

Plaintiff argues that the Uniform Voidable Transactions Act is inapplicable and that the fraudulent conveyance element is one part of an ongoing fraud. This is not sufficient to state a claim for fraudulent transfer.

* * *

For the foregoing reasons, the Third Cause of Action does not state a claim for fraud or common law fraudulent conveyance. Accordingly, the Motion is

GRANTED as to the Third Cause of Action, and it is **DISMISSED WITH PREJUDICE**.

B. Whether Dismissal Should be With Prejudice

As noted, there is no subject matter jurisdiction over certain of Plaintiffs' causes of action because either Plaintiffs lack standing or the cause of action is barred by the *Rooker-Feldman* doctrine. The general rule is that a dismissal for lack of jurisdiction is without prejudice. *Missouri ex rel. Koster v. Harris*, 847 F.3d 646, 656 (9th Cir. 2017); *see also Kelly v. Fleetwood Enters., Inc.*, 377 F.3d 1034, 1036 (9th Cir. 2004) ("[B]ecause the district court lacked subject matter jurisdiction, the claims should have been dismissed without prejudice.").

A dismissal without prejudice permits a plaintiff to "reassert his claims in a competent court." *Frigard v. United States*, 862 F.2d 201, 204 (9th Cir. 1988). The lengthy history of this litigation, which

involves several cumulative actions advancing similar claims, supports a finding that Thomas has acted in response to such dismissals by seeking to re-litigate matters. After the *Thomas v. Zelon* action was dismissed, Plaintiffs brought nearly identical claims in this action. They have argued that the *Thomas v. Zelon* dismissal is "simply irrelevant" because it was for lack of jurisdiction and thus without prejudice. Dkt. 126 at 2.

A dismissal without prejudice for lack of jurisdiction does not entitle parties to bring the same claims in a federal forum. A contrary rule would impose undue costs on the adverse parties who would be required to re-litigate the same issues. Accordingly, dismissal with prejudice is proper here. *Cf. Phoceene Sous- Marine, S.A. v. U.S. Phosmarine, Inc.*, 682 F.2d 802, 806 (9th Cir. 1982) ("It is firmly established that the courts have inherent power to

dismiss an action or enter a default judgment to ensure the orderly administration of justice and the integrity of their orders."); *O'Brien v. Sinatra*, 315 F.2d 637, 642 (9th Cir. 1963) ("It becomes the obligation of the Court to determine at what point plaintiff would be foreclosed from further harassing defendants with confused and confounding complaints.").

B. **Conclusion**

For the foregoing reasons, the Motions are **GRANTED**. The SAC is **DISMISSED WITH PREJUDICE** in its entirety. The Ex Parte Application To Require Suspended Attorney Jeffrey G. Thomas Esq. To Provide Addresses And Phone Numbers For Each Of His Former Clients is **MOOT**.

On or before April 20, 2021, Thomas shall serve the IMO on Haiem, True Harmony, and the

Delaware LLC and advise them of his inability to further represent them in this matter. The effect of this Order is stayed until May 4, 2021 to provide those Plaintiffs with time to retain new counsel. On or before May 11, 2021 after conferring with after meeting and conferring with counsel for Plaintiffs, Defendants shall lodge a proposed judgment and state whether Plaintiffs have agreed to its form. If the parties have not agreed to the form of the judgment, within seven days after the proposed judgment is lodged by Defendants, Plaintiffs shall file any objection(s) in accordance with the Local Rules.

IT IS SO ORDERED.

9. Second Amended Complaint
(20-cv-00170) (cm./ecf #69) 5/31/21

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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, 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.

Case No.: 20-cv-00170 DOC-ADS

VERIFIED SECOND AMENDED COMPLAINT FOR INJUNCTION AND DECLARATORY JUDGMENT,

MONEY DAMAGES AND OTHER EQUITABLE RELIEF AGAINST (1) VIOLATIONS OF CIVIL RIGHTS SECURED BY THE FEDERAL CONSTITUTION AND FEDERAL LAWS, INCLUDING THE BANKRUPTCY ACT AND THE INTERNAL REVENUE CODE, (2) VIOLATIONS OF CIVIL RIGHTS BECAUSE OF DENIAL OF THE RIGHT OF ACCESS TO THE COURTS, IN VIOLATION OF THE FEDERAL LAWS AND FEDERAL CONSTITUTION, (3) FRAUD UNDER THE UNIFORM SUPERVISION OF CHARITABLE 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 CHARITIES REGISTERED UNDER THE INTERNAL 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.

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 an 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.

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.

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 113o 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.

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).

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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 (SETTLEMENT AGREEMENT)

The parties stipulate to judgment (HW – "judgment" struck through and interlineated with flying HW words "settlement and 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 Harmony's (HW – "True Harmony" is struck through and it is interlineated with a flying "Rosario Perry's" and initialed by Rick Edwards and Rosario Perry) permission. The listing price shall reduce to $1.3m if the property is not under a contract of sale within 30 days from listing (HW – "listing" is struck through and it is interlineated by a flying "entry of judgment" and initialed by Rick Edwards and Rosario Perry), 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 Anschutz 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 (HW – interlineated by a flying "50% interest" and apparently and initialed by Rick Edwards and Rosario Perry) and Hope Park Lofts, LLC (HW at end "50% interest" and and initialed by Rick Edwards and Rosario Perry).

The proceeds of sale shall be (HW – interlineated by a flying "paid &" and and initialed by Rick Edwards and Rosario Perry) divided as follows, and in the following order.

1. Payment of real estate commissions and all closing costs;

(HW – new line "2. Payment of HMH and Koke $65,000) and initialed by Rick Edwards and Rosario Perry).

2. (HW – "2. Is struck through and interlineated by 3" and initialed by Rick Edwards and Rosario Perry) 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.

3. (HW – The "3" is struck through and interlineated with "4" and initialed by Rick Edwards and Rosario Perry) The next 800k to True Harmony.

4, (HW – The "4" is struck through and interlineated with "5" and initialed by Rick Edwards and Rosario Perry)The next 75k to Hope.

5. (HW – The "5" is struck through and interlineated with "6" and initialed by Rick Edwards and Rosario Perry) The next 25k to True.

6. (HW – The "3" is struck through and interlineated with "7" and initialed by Rick Edwards and Rosario Perry). Any funds remaining shall be divided 50/50.

Any disputes hereunder shall be first mediated and then arbitrated, bindingly (HW – "bindingly" struck through and initiated by Rosario Perry and Rick

Edwards), by Retired Judge William Schoettler and if he is not available, by Retired Judge (HW – flying interlineation of "Richard" and initialed by Rick Edwards and Rosario Perry) 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. (HW – interlineated "from gross sales proceeds, after payment of escrow costs" and initialed by Rick Edwards and Rosario Perry).

At Hope Park Loft's election, ownership to the LLC shall transfer to Hope after escrow closes (HW – interlineation "and proceeds have been distributed" and initialed by Rick Edwards and Rosario Perry).

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.

(HW – Dated 10/09/03)

(All signatures follow in HW)

x Norman Solomon (HW)

Hope Park Lofts LLC and all plaintiffs (HW)

x Jonathan Marzet (HW)

True Harmony and Turner's Technical Institute (HW)

x Rosario Perry (HW)

Rosario Perry attorney for True Harmony and Turner's Technical Institute (HW)

x Rick Edwards (HW)

Attorney for plaintiffs (HW)

EXHIBIT "B" (CEASE AND DESIST ORDER)

Kamala D. Harris
Attorney General

State of California
Department of
Justice

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

Norman Solomon

c/o Metro Resources, Inc. 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 to 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 the 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 substantial financial interest in 1130 South Hope Street. Further, this Office has learned that the charitable 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 written 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 has given a written waiver of this section as to the proposed transaction." The Attorney General

has not received any such written notice and has given no waiver of notice and intends to review this transaction.

Accordingly, with regard to 1130 South Hope Street, you are hereby notified to immediately cease all activity with regard to the sale, lease, conveyance, exchange, transfer, and any other activity that would affect title to the property until the requirements of Corporation Code section 5913 have been met.

If you have questions, you may contact Deputy Attorney General Sonja K. Berndt at 213-897-2179.

Sincerely,

Sonja K. Berndt, Deputy Attorney General

For Kamala D. Harris, Attorney General

SKB: meh

EXHIBIT C (EMAIL AUTHORED BY SHEPPARD MULLIN, RICHTER & HAMPTON 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 StreeU/Update

Attachments: 403415258_ 1 1130 South Hope Street - California Attorney General Letter dated April 1 2011.PDF

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

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*