THIRD CIRCUIT COURT OF APPEALS

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| MEGHAN M. KELLY, Respondent. | § | APPEALS COURT |
| | § | CASE NUMBER: 22:37372 |
| | § | DISTRICT COURT |
| | § | Misc. No. 22-45 |
| v. | § | DISTRICT COURT |
| United States District Court, | § | JUDGE: The Honorable Paul D. |
| Eastern District of Pennsylvania | § | Paul S. Diamond, Judge |

Petitioner Meghan Kelly moves this Court for an extension of time to file her Brief on appeal

I Meghan Kelly, Esq., pursuant to Fed. R. App. P. 2, in the interest of justice I move this Honorable United States Supreme Court for an extension of time to file to appeal the decision of the United States District Court for the Eastern District of Pennsylvania (hereinafter "lower-court") to place my attorney's license to practice law as disbarred due to retirement where I face immediate irreparable injury in terms of loss of my First Amendment rights, and loss of my property interests in my licenses to practice law.

1. I incorporate herein by reference in its entirety, Appellant's motion to vacate Order, dated May 23, 2023, Appellant's Motion to Correct the Motion to vacate to include the rules, Appellant's Corrected Motion, Appellant's Motion for permission to exceed the page limit, Appellant's Motion to correct the Record under Rule 10 (e)(2)(c), and documents referred therein and attached thereto as Exhibits (Third Circuit Docket item (3DI) 3DI-21 through 3DI 41).

2. The opinion of the Third Circuit Court of Appeals dated November 18, 2022, disbarred me, which may cause 6 additional law suits should I not overturn the Order.

3. I require adequate time to meaningfully petition this Court to prevent 6 additional law suits, and to prevent deprivations of my liberties and licenses based on clear error of law, of fact creating manifest injustice. I respectfully request an extension in the amount of 120 days to

appeal the lower court's order placing my license on disbarred as retired but for my religious beliefs, religious political beliefs, and religious political speech contained in my petitions.

4. A Delaware Order placed my license on inactive/disabled, but for my religious-political beliefs, poverty and exercise of First Amendment rights and my right to due process, without disparate treatment.

5. The Delaware Order placing my license on disability inactive has caused additional courts to place my license on inactive disabled, causing multiple law suits. I have been fighting reciprocating courts. I require additional time to plead in other cases to prevent irreparable injury to me in the form of loss of First Amendment rights, not limited to the right to petition, and my property interest in my license.

6. On Tuesday, May 30, 2023, I timely filed an appeal of a PA reciprocal order, and expect PA ODC to bury me in paper to prejudice my other cases as he did in the state court proceeding. I attach hereto and incorporate herein in its entirety as an exhibit my appeal to the PA Order dated February 28, 2022 placing my license on disability inactive.

7. In the attached petition, I asserted my belief the US Supreme Court erred in decisions, and my belief Justice Alito erred and is misguided by sin, lawlessness. I believe I have a duty to uphold the Constitution when I believe the highest Court violates it. I also believe the courts are in danger. The 2030 plan allows central banks to take over governing, to take over resources to control to eliminate the government. I am in tears because I believe the Courts are our hope of a hero. I am trying to find a way to allow the courts to save us in one of my cases, but I know that the justices may not be pleased that a peon like me seeks to guide their misguided beliefs. Money is not freedom. I seek to uphold the Constitutional limits, the law that

limits governments to safeguards free will by government backed private or foreign partners forced will.

8. I have a civil rights case relating to deprivations of Constitutional liberties independent of the disciplinary order, while I also seek to overturn the DE order as void or voidable due to due process violations. I require time to exercise the First Amendment right to petition and appeal this case.

9. I have an eye appointment, health issues I discussed in my pleadings I incorporate herein, a funeral, time I request to mourn and comfort loved ones, and my family is coming next week for a week or two for a family reunion. I have not seen my dad in years.

10. I am scared to exceed 3 pages due to this Court's Order at 3DI 35. I am compelled to forgo legal citations and arguments due to the order. I hope this suffices, but I am scared as I have a lot to lose should it be denied, my Constitutional liberties, harm to life, eternal life, lost time with loved ones, licenses and avoidance of litigation, potentially 6 more law suits .

11. I agree not to file anything during the additional time frame with the exception of a potential motion for a stay, if required to defend liberties, should this Court grant this petition.

Wherefore I pray this Court grants my motion.

Dated June 2, 2023

Respectfully submitted,

/s/Meghan Kelly
Meghan Kelly, Esquire
DE Bar Number 4968
Inactive license
34012 Shawnee Drive
Dagsboro, DE 19939
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(802 words)

# Exhibit B

# 8 predictions for the world in 2030

Facing the future

12 Nov 2016

Ceri Parker
Commissioning Editor, Agenda, World Economic Forum

*For more information, watch sessions on the Global Economic Outlook, the Global Science Outlook and The Future of Consumption from our Annual Meeting 2017.*

As Brexit and Donald Trump's victory show, predicting even the immediate future is no easy feat. When it comes to what our world will look like in the medium-term – how we will organise our cities, where we will get our power from, what we will eat, what it will mean to be a refugee – it gets even trickier. But imagining the societies of tomorrow can give us a fresh perspective on the challenges and opportunities of today.

We asked experts from our Global Future Councils for their take on the world in 2030, and these are the results, from the death of shopping to the resurgence of the nation state.

1. **All products will have become services.** "I don't own anything. I don't own a car. I don't

own a house. I don't own any appliances or any clothes," writes Danish MP Ida Auken. Shopping is a distant memory in the city of 2030, whose inhabitants have cracked clean energy and borrow what they need on demand. It sounds utopian, until she mentions that her every move is tracked and outside the city live swathes of discontents, the ultimate depiction of a society split in two.

**2. There is a global price on carbon.** China took the lead in 2017 with a market for trading the right to emit a tonne of CO2, setting the world on a path towards a single carbon price and a powerful incentive to ditch fossil fuels, predicts Jane Burston, Head of Climate and Environment at the UK's National Physical Laboratory. Europe, meanwhile, found itself at the centre of the trade in cheap, efficient solar panels, as prices for renewables fell sharply.

**3. US dominance is over. We have a handful of global powers.** Nation states will have staged a comeback, writes Robert Muggah, Research Director at the Igarapé Institute. Instead of a single force, a handful of countries – the U.S., Russia, China, Germany, India and Japan chief among them – show semi-imperial tendencies. However, at the same time, the role of the state is threatened by trends including the rise of cities and the spread of online identities,

Image: REUTERS/Francois Lenoir

**4. Farewell hospital, hello home-spital.** Technology will have further disrupted disease, writes Melanie Walker, a medical doctor and World Bank advisor. The hospital as we know it will be on its way out, with fewer accidents thanks to self-driving cars and great strides in preventive and personalised medicine. Scalpels and organ donors are out, tiny robotic tubes and bio-printed organs are in.


**5. We are eating much less meat.** Rather like our grandparents, we will treat meat as a treat rather than a staple, writes Tim Benton, Professor of Population Ecology at the University of Leeds, UK. It won't be big agriculture or little artisan producers that win, but rather a combination of the two, with convenience food redesigned to be healthier and less harmful to the environment.

**6. Today's Syrian refugees, 2030's CEOs.** Highly educated Syrian refugees will have come of age by 2030, making the case for the economic integration of those who have been forced to flee conflict. The world needs to be better prepared for populations on the move, writes Lorna Solis, Founder and CEO of the NGO Blue Rose Compass, as climate change will have displaced 1 billion people.

Image: REUTERS/Muhammad Hamed

**7. The values that built the West will have been tested to breaking point.** We forget the checks and balances that bolster our democracies at our peril, writes Kenneth Roth, Executive Director of Human Rights Watch.

WORLD ECONOMIC FORUM

"Unfettered majoritarianism, and the attacks on our system of checks and balances, is perhaps the greatest danger today to the future of Western democracies."

**KENNETH ROTH**
Executive Director of Human Rights Watch

**8.** **"By the 2030s, we'll be ready to move humans toward the Red Planet."** What's more, once we get there, we'll probably discover evidence of alien life, writes Ellen Stofan, Chief Scientist at NASA. Big science will help us to answer big questions about life on earth, as well as opening up practical applications for space technology.

ENERGY

# U.S. Oil Companies Have Increased Drilling By 60% In One Year

**Robert Rapier** Senior Contributor ⓘ

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Mar 27, 2022, 01:54pm EDT

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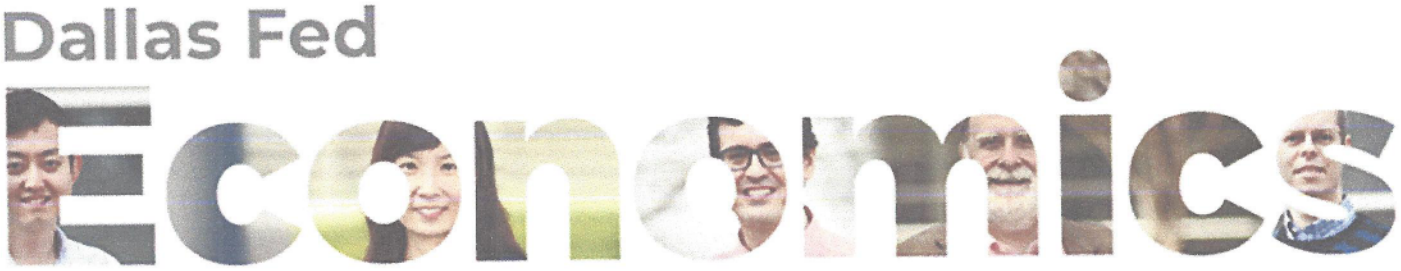
ODESSA, TEXAS - MARCH 13: A statue of a pumpjack and drilling rig sits next to a gas station in a ... [+] GETTY IMAGES

One of the latest lines of attack in the finger-pointing over rising gasoline prices goes like this: U.S. oil companies are sitting on a huge number of permits, content to reap enormous profits while they refuse to drill for oil.




# A Ban on U.S. Crude Oil Exports Would Not Lower Gasoline Prices at the Pump

Garrett Golding and Lutz Kilian

January 04, 2022

High gasoline prices have stimulated interest in what the Biden administration can do to lower the price at the pump. We argue that there is little policymakers can do to address this concern. Calls for a U.S. crude oil export ban, in particular, appear counterproductive.

High U.S. fuel prices in October 2021 prompted the Biden administration to consider a variety of policy measures to reduce the prices at the pump after OPEC+ (consisting of OPEC and its oil-producing allies such as Russia) declined to raise its oil production further. Most prominent among these measures have been calls for a release of oil from the U.S. Strategic Petroleum Reserve (SPR) and for a U.S. crude oil export ban.

In late November 2021, the administration announced that the Department of Energy would release 50 million barrels of medium-grade crude from the SPR in an effort to lower the price of gasoline, hoping that OPEC+ would not offset this release by cutting its production targets.

## How the SPR Release Works

The 2021 SPR release accelerates to early 2022 an 18-million-barrel sale of crude oil authorized by the Bipartisan Budget Act of 2018 for the fiscal years 2022–25. The release also includes a 32-million-barrel SPR exchange that allows refiners to borrow crude oil starting in December 2021. This oil must be returned with "interest"—in the form of additional barrels of oil—over the following three years.

It is unclear what the demand for this oil will be, given that SPR exchanges are designed to deal with temporary supply shortfalls rather than persistent gasoline price increases driven by higher demand. Indeed, there are concerns that oil prices may surge, starting in 2023, when rising demand after the COVID-19 pandemic confronts inelastic supplies following years of underinvestment in oil production.

Hence, evidence for the success of previous SPR releases intended to offset temporary oil supply shortfalls (as discussed in "Does Drawing Down the U.S. Strategic Petroleum Reserve Help Stabilize Oil Prices?" by Lutz Kilian and Xiaoqing Zhou) provides little insight about the effects of the latest SPR release, which was prompted by persistent supply shortfalls.

Another important concern is how much appetite there will be among U.S. refiners for additional sour medium crude of the type made available through the SPR, given that many refineries typically process other types of oil.

While the effectiveness of the recent SPR release on the price of West Texas Intermediate crude oil will continue to be debated, the emergence of the COVID-19 Omicron variant after the SPR release in November 2021 led many forecasters to lower their global demand outlooks for 2022, resulting in a substantial decline in the oil price.

As a result, Secretary of Energy Jennifer Granholm, who had broached the subject of an oil export ban in October 2021—describing it as another possible tool—recently signaled that such a measure was off the table. Although the idea of a U.S. crude oil export ban has been shelved for now, it is useful to reflect on its economic merits because this

# America's dominance is over. By 2030, we'll have a handful of global powers

The sun is setting on the power structures of the twentieth century

Image: REUTERS/Gary Hershorn/Files

11 Nov 2016

**Robert Muggah**
Co-founder, SecDev Group and Co-founder Igarape Institute

This article is part of the Annual Meeting of the Global Future Councils

*Watch the Outlook for the United States session here and a Conversation with John Kerry: Diplomacy in an Era of Disruption here.*

The world's political landscape in 2030 will look considerably different to the present one. Nation states will remain the central players. There will be no single hegemonic force but instead a handful of countries – the U.S., Russia, China, Germany, India and Japan chief among them – exhibiting semi-imperial tendencies. Power will be more widely distributed

across non-state networks, including regressive ones. And vast conurbations of mega-cities and their peripheries will exert ever greater influence. The post-war order that held since the middle of the twentieth century is coming unstuck. Expect uncertainty and instability ahead.

Nation states are making a comeback. The largest ones are busily expanding their global reach even as they shore-up their territorial and digital borders. As the onslaught of reactionary politics around the world amply shows, there are no guarantees that these vast territorial dominions and their satellites will become more liberal or democratic. Instead, relentless climate change, migration, terrorism, inequality and rapid technological change are going to ratchet up anxiety, insecurity and, as is already painfully apparent, populism and authoritarianism. While showing cracks, the four-century reign of the nation state will endure for some decades more.

It was not supposed to be this way. During the 1990s, scholars forecasted the decline and demise of the nation state. Globalization was expected to hasten their irrelevance. With the apparent triumph of liberal democracy, spread of free-market capitalism, and promise of minimal state interference, Francis Fukayama famously predicted the end of history and, by extension, the fading away of anachronistic nation states. A similar claim was made a century earlier: Friedreich Engels predicted the "withering away of the state" in the wake of socialism.

## The end of The End of History

Rumors of the nation state's death were greatly exaggerated. The end of history has not arrived and liberal democracy is not on the ascendant. Misha Glenny contends that "Fukayama and others under-estimated Western hubris and the greed of financial capitalism which contributed in 2008 to one of the most serious political and economic crises since the Great Depression. These shocks – alongside a vicious backlash against globalization – enabled alternative models of governance to reassert themselves ... with China and Russia but also other states in Europe ... and the consolidation of illiberal nation states."

Far from experiencing a decline in hard power, larger nation states are steadily shoring-up their military capabilities. The top ten spenders in 2015 included the U.S., China, Russia, India, Japan and Germany. Some of these countries - along with major purchasers such as

Israel and Saudi Arabia - are clearly preparing for confrontations in the coming decade. They are not alone. Global defense expenditures have increased steadily since the late 1990s, topping $1.6 trillion last year. These trends are set to continue into the next decade.

These same nation states will continue dominating economically. Countries such as the U.S., China, Japan, Germany, India, and to a lesser extent Russia registered among the largest GDPs in 2015. If adjusted for purchasing power parity, China outstrips the U.S. and Russia also slides up the rankings. These countries are also likely to remain the top performers in 2030, alongside Brazil (if it gets its house in order), Canada, France, Italy, Mexico, Indonesia and others. Barring a spectacular collapse of global markets or catastrophic armed conflict (both of which are now more plausible in the wake of Donald Trump´s victory), they will continue laying the rails of international affairs.

Nation states are clearly not the only forms of political and economic organization. They are already ceding sovereignty to alternate configurations of governance, power and influence. The fourth industrial revolution is hastening this shift. As Anne-Marie Slaughter explains, "nation states are the world of the chessboard, of traditional geopolitics ... [but the] web is the world of business, civic, and criminal networks that overlay and complicate the games statesmen play". In her view, stateswomen must learn webcraft in order to mobilize and deploy non-governmental power just as statecraft does with government power.

Vast metropolitan regions are increasingly rivaling nation states in political and economic clout. Take the case of Mexico City which fields roughly 100,000 police - a larger force than the national law enforcement departments of 115 countries. Or consider New York's annual budget of $82 billion, bigger than the national budgets of 160 countries. Meanwhile the populations of mega-cities like Seoul and Tokyo are larger than those of most nation states. Many cities are rapidly forging cross-border partnerships and integrating transportation, telecommunications and energy-related infrastructure. And citi-zens are expressing novel forms of belonging - or city-ness - spanning the digital and physical realms and challenging traditional notions of national identity.

## Four threats to the nation state

Most nation states will endure in the coming decades. There are, however, a number of ways in which they will come under strain.

**First**, the redistribution of power among a handful of nation states is profoundly disrupting the global order. Established twentieth century powers such as the U.S. and EU are ceding importance and influence to faster-growing China and India. Old alliances forged after the Second World War are giving way to new regional coalitions across Latin America, Asia and Africa. While these reconfigurations reflect regional political, economic and demographic shifts, they also increase the risk of volatility, including war. As Parag Khana explains, "large, continental-sized nation states will continue seeking to control supply chains in energy and technology while smaller states will need to band together or suffer the consequences of irrelevance".

**Second**, the de-concentration of power away from nation states is giving rise to parallel layers of governance. Indeed, nation states themselves are busily establishing legal and physical enclaves to contract out core functions to private entities. There are already more than 4,000 registered special economic zones – ranging from free trade and export processing zones to free ports and innovation parks – spread out around the world. Many of the ones established in China, Malaysia, South Korea and the United Arab Emirates are considered to be relatively successful while others – especially zones rapidly set up in Africa and South Asia – have fared more poorly. These para-states deliberately fuse public and private interests and test the purchase of state sovereignty.

**Third**, nation states and para-states will come under pressure from decentralized networks of non-state actors and coalitions, many of them enabled by information communications technologies. Large multinational companies are already heavily involved in shaping national policy. So are constellations of non-governmental organizations, unions, faith-based groups and others. Working constructively with, rather than against, these digitally empowered networks will be one of the key tests for nation states. The spread of new technologies offers up new ways of imagining deliberative democracy - but also tearing it down. Such is the Janus face of the quantified society: it offers extraordinary benefits and opportunities, but also risks ranging from the evisceration of low-skill jobs to terrifying new forms of warfare, terrorism and criminality.

**Fourth**, nation states are seeing power devolved to cities. The relentless pace of urbanization is partly to blame. The number of large and medium-sized cities has increased tenfold since the 1950s. Today there are 29 megacities with 10 million residents or more. And there are another 163 cities with more than 3 million people and at least 538 with at last 1 million inhabitants. Cities are no longer just norm-takers, they are norm-makers. A new generation of mayors and literally hundreds of city coalitions is emerging, busily ensuring that our urban future is embedded in international relations. Not surprisingly, the geography of power is also shifting with cities increasingly competing with each other and nation states, including over water, food and energy.

Saskia Sassen has shown convincingly how the rise of global cities is generated by the growing importance of intermediation. In The Global City she explains how the deregulation and privatization of national economies was a key to the globalization of cities during the 1980s and 1990s. This in turn sharply raised the demand for highly specialized talent and

contributed to hyper-gentrification, as residents of London, New York, Shanghai or Hong Kong know all too well. All of these developments have fundamentally altered the texture of urban living, raising questions of their sustainability.

There are myriad challenges facing nation states in the coming decade and a half. Having survived 368 years, they have proven to be remarkably resilient modes of political, social and bureaucratic organization. But given the scale and severity of global challenges - and the paralysis of our national and multilateral institutions - there are dangers that nation states are becoming anachronistic and hostile to humanity's collective survival.

The potential for the world's most powerful nation states to be held hostage to nativist and protectionist interests are more obvious than ever. On the other hand, cities and civil society networks constitute powerful political and economic nodes of power and influence. The question is whether they will be any better at channeling collective action to address tomorrow´s threats.

** With thanks for input from Anne-Marie Slaughter, Saskia Sassen, Misha Glenny, and Parag Khana.*



**Written by**

Robert Muggah, Co-founder, SecDev Group and Co-founder Igarape Institute

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# Healthcare in 2030: goodbye hospital, hello home-spital

Image: REUTERS/Vincent Kessler

11 Nov 2016

**Melanie Walker**
Senior Adviser to the President, World Bank

This article is part of the Annual Meeting of the Global Future Councils

Nearly 20 years ago, when I graduated from medical school, the world of healthcare was dominated by breakthroughs in the field of biology. But, that is changing quickly because biology is being eaten by robotics and genetics as we evolve deeper into the networked age. What does this shift mean for doctors, patients and even hospitals? As the co-chair of the World Economic Forum's Future Council on neuro-technology and brain science, I was asked to reflect on my experience in this domain.

By the way, you know you are getting old(er) when you are asked to reflect.

Back when I started out in the 1990s, the discovery of protease inhibitors - a class of antiviral drugs - helped change the clinical course for HIV positive patients, while vaccines for conditions like hepatitis C and Lyme disease saved a generation from unnecessary suffering. It was a fertile time too for headline writers: Viagra, a little-known agent used to treat pulmonary arterial hypertension, quickly changed the outlook for erectile dysfunction. And who could forget Dolly the (cloned) sheep? Biology appeared to be ushering in a brave new world, while innovation in medical chemistry and physics lagged behind.

Advances in radiology and laboratory science brought faster and better results from smaller and easier tests, but not many breakthroughs. The biggest leap forward was in almost universal access to hospital-based imaging equipment like X-Rays and CT scans, but the cost and functionality of "newer" technologies like MRI and PET scans were still being debated.

## "Do you need electricity to help you, Dr Walker?"

These two technologies, which respectively use strong magnetic fields and special dyes with radioactive tracers, offer huge amounts of information but at the time their functionalities were not fully understood, and frequently offered too low resolution to provide diagnostic certainty especially in areas like the brain. I remember the chairman of the hospital department where I first worked admonishing me on morning rounds: "Don't you know how to examine your patients, or do you need electricity to help you, Dr. Walker?"

Largely off the clinical radar, a different type of science was emerging that would have a massive impact on the way we think about patient care: communications technology. While many of us quickly embraced the internet, email and 2G mobile phones, there was no immediate link to our medical practice - except bragging rights for owning a clunky flip phone with a 30-minute battery life. We had to hand-write all of our notes in the medical record, carry around a heavy patient chart, call the operating room to figure out scheduling and wear an annoying pager that would beep incessantly. We didn't even use the word "landline" because mostly, no one knew there was another kind of line. Other than the pager, "luxury" gadgets just weren't part of the hospital system. There were very few applications for artificial intelligence and "big" data meant 18-point font spreadsheets.

Fast forward to 2016. I survived all of my training (barely) and now walk the hospital corridors as an attending physician guided by those proverbial four words: first do no harm. That mantra frames my aspiration to respectfully provide my patients and their families

with the most accurate diagnostic information, the least-invasive interventions possible and the safest therapeutics available. I am as excited as my patients are to learn about innovation and wellness - but I provide all that care in a hospital. Telemedicine is gaining ground, but it feels a little more like a communication tool than a doctoring one, at least to those of us whose patients require interventions other than advice. Sure we now have comprehensive electronic medical records and the ability to order a zillion medical tests, but truly personalized care is still a few years away.

And just in case you think doctors are good at change, I would like to point out that we continue to schedule bedside rounds and family meetings around procedure and staffing schedules in pretty much the same way we have done since the early 1900s.

## Medicine 2030: Goodbye hospital, hello home-spital

However, when I look towards the future I see a very different trajectory. Who needs a hospital when you can prevent or treat conditions from the comfort of your home? The global burden of disease is largely vascular, with heart attacks and strokes the biggest cause of death around the world, and therefore preventable with a better understanding of risk factors. Rates of traumatic injury are falling and will continue to decline as we introduce driverless cars and robot workers for risky tasks. And really: 80 is the new 60, with all of the regenerative options on the horizon.

By 2030, the very nature of disease will be further disrupted by technology. So disrupted, in fact, that we might have a whole lot fewer diseases to manage. The fourth industrial revolution will ensure that humans live longer and healthier lives, so that the hospitals of the future will become more like NASCAR pit-stops than inescapable black holes. You will go to hospital to be patched up and put back on track. Some hospital practices might even go away completely, and the need for hospitalization will eventually disappear. Not by 2030, but soon after.

Instead of a ward filled with patients who have one or more organ system in crisis, space will be dedicated to immediate diagnosis and treatment. A single scanning device will offer metabolic, functional and structural detail – combining the physics of spectroscopy, magnetic resonance and radiation. This will mean you only need one scan, and no biopsy.

## An end to organ donors. Surgery from the inside out.

Wearable patient-monitoring devices will continuously feed in data from external second-skin sensors and networked neural sensors meshed into the brain will offer incredibly precise "micro-sampling" to be done in real time. Hello, neural lace.

The days of patients dying while they wait for an organ donor will soon be over too. Organs, tissues and supporting structures like bones or ligaments will be biologically 3D-printed on demand.

Acute and serious pathologies, ranging from clots to tumours, will be addressed from the inside out. No need for surgeons wielding scalpels with a steady hand, when in a few minutes, tiny robotic endovascular catheters will be widespread.

Instead of doctors considering what medication the patient should take and then nurses or pharmacists administering it, your mobile device will receive the necessary information to print a menu of custom pharmaceuticals and probiotics on demand from your own living room or kitchen. All of this will happen within minutes.

If you think this sounds crazy, think again. Most of these technologies are either almost ready for prime time, or in development. Doctors like me are going back into training to master endovascular techniques and those of us with computer science skills are pushing hard to integrate digital tools into our field of practice. 3D printing is yesterday's news. On-demand pharma companies already exist. Neural lace - a brain-machine interface - is about

to be science fact, and not science fiction. Next stop? Not the hospital but the home-spital.

Of course there are still a few things we need to work on to be sure we can stay apace with innovation: an enabling regulatory environment, funding for research that links the moon-shooters with the people who can make their big ideas happen, and more women in science and technology. One thing is certain: the prognosis for the hospital of the future involves radical change - and a lot more electricity. Let's dream a little.

*Melanie Walker MD is the co-chair of the Neurotechnology & Brain Science Future Council and Clinical Associate Professor of Neurology & Neurological Surgery at the University of Washington with an adjunct appoint at Johns Hopkins School of Medicine.*



**Written by**

Melanie Walker, Senior Adviser to the President, World Bank

THE CONVERSATION

Academic rigor, journalistic flair

The impeachment trial of Warren Hastings in 1788. Library of Congress

# Why the British abandoned impeachment – and what the US Congress might do next

Published: February 12, 2021 4:09pm EST •Updated: February 15, 2021 3:45pm EST

**Eliga Gould**

Professor of History, University of New Hampshire

Impeachment was developed in medieval England as a way to discipline the king's ministers and other high officials. The framers of the U.S. Constitution took that idea and applied it to presidents, judges and other federal leaders.

That tool was in use, and in question, during the second impeachment trial of Donald Trump. Republicans raised questions about both the constitutionality and the overall purpose of impeachment proceedings against a person who no longer holds office.

Democrats responded that the framers expected impeachment to be available as a way to deliver consequences to a former official, and that refusing to convict Trump could open the door to future presidential abuses of power.

An impeachment case that was active in Britain while the framers were writing the Constitution in Philadelphia helped inform the new American government structure. But the outcome of that case – and that of another impeachment trial a decade later – signaled the end of impeachment's usefulness in Britain, though the British system of government offered another way to hold officials accountable.

## Impeachment in Britain

During the 17th century, the English Parliament used impeachment repeatedly against the royal favorites of King Charles I. One, Thomas Wentworth, Earl of Strafford, went to the gallows in 1641 for subverting the laws and attempting to raise an Irish army to subdue the king's opponents in England. Although kings couldn't be impeached, Parliament eventually tried King Charles I for treason too, sentencing him to death by public beheading on Jan. 30, 1649.

A century later, impeachment no longer carried a risk of execution, but in 1786 the House of Commons launched what would become the most famous – and longest – impeachment trial in British history.

The lower house of Parliament, the House of Commons, impeached Warren Hastings, who had retired as governor-general of British India and was back in England, for corruption and mismanagement. That action provides a direct answer to one current legal question: The charges were based on what Hastings had done in India, making clear that a former official could be impeached and tried, even though he was no longer in office.

Future U.S. president John Adams, who was in London at the time, predicted in a letter to fellow founder John Jay that although Hastings deserved to be convicted, the proceedings would likely end with his acquittal. Nevertheless, Adams and Jay were among those who supported the new U.S. Constitution, whose drafters in 1787 included impeachment, even though that method of accountability was close to disappearing from Britain.

## Nearing the end of its usefulness

The trial of Hastings, in Parliament's upper house, the House of Lords, didn't actually begin until 1788, and took seven years to conclude. The prosecution included Edmund Burke, one of the most gifted orators of the age. Eventually, though, the House of Lords proved Adams right, acquitting Hastings in 1795.

This stunning loss could have been the death knell for impeachment in Great Britain, but Hastings was not the last British political figure to be impeached. That dubious honor goes to Henry Dundas, Lord Melville, Scottish first lord of the admiralty, who was charged in 1806 with misappropriating public money. Dundas was widely assumed to be guilty, but, as with Hastings, the House of Lords voted to acquit.

These examples showed that impeachment, even when the accused government official had done the things that he was accused of doing, was a blunt, cumbersome weapon. With both Hastings and Dundas, the House of Commons was willing to act, but the House of Lords – which was (and is) not an elected body and therefore less responsive to popular opinion – refused to go along. As a tool for checking the actions of ministers and other political appointees, impeachment no longer worked, and it fell out of use.

## A new method of accountability

The decline of impeachment in Britain coincided with the rise of another, more effective process by which high officials there could be held accountable.

British prime ministers answer to Parliament, doing so literally during the now-weekly question time in the House of Commons. Leaders who for whatever reason lose the support of a simple majority in the lower house, including through a vote of no confidence, can be forced to resign. The last time a British prime minister lost a vote of no confidence was in 1979, when the minority Labour government of James Callaghan was defeated.


A packed House of Commons

The U.K. prime minister's 'question time' is one key method by which the government's leader can be held to account by other lawmakers. U.K. Parliament via Wikimedia Commons, CC BY

If a prime minister receives a vote of no confidence, there is an alternative to resignation: call an election for a new Parliament, which is what Callaghan did, and let the people decide whether the current government gets to stay or has to go. If the prime minister's party loses, he or she is generally out, and the leader of the party with the new majority takes over. In 1979, the defeat of Callaghan and the Labour Party paved the way for the Conservative government of Margaret Thatcher, Britain's first female prime minister.

This provides an immediate course of action for those who oppose a British government for any reason, including allegations of official wrongdoing, and delivers a rapid decision.

[*Like what you've read? Want more?* Sign up for The Conversation's daily newsletter.]

In the United States, by contrast, a president can be accused of corruption or even sedition but face no real consequences, so long as one more than a third of the Senate declines to convict.

Now that Trump has been acquitted, then the Constitution's bulwark against presidential malfeasance could become yet another mechanism of minority government.

## Another path

If impeachment is rendered useless in the U.S., as it was in Britain two centuries ago, the Constitution does offer another remedy: Section 3 of the 14th Amendment.


Rep. Jamie Raskin gestures during the Trump impeachment trial

If Rep. Jamie Raskin and the other House managers of the impeachment case don't prevail, that may not be the end of possible accountability for former President Donald Trump. Senate Television via AP

Originally intended to prevent former Confederates from returning to power after the Civil War, Section 3 bars people who have "engaged in insurrection or rebellion" against the U.S. from serving in state or federal governments, including in Congress or as president or vice president.

The language in the amendment could justify barring Trump from future office – and the resolution to do so may require only a majority vote in both houses of Congress, though enforcement would likely also need a ruling from a judge.

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# EXHIBIT

# 7

# SAVE FREE SPEECH ARTICLE OF IMPEACHMET

United States Code Annotated
Title 18. Crimes and Criminal Procedure (Refs & Annos)
Part I. Crimes (Refs & Annos)
Chapter 11. Bribery, Graft, and Conflicts of Interest (Refs & Annos)

18 U.S.C.A. § 227

# § 227. Wrongfully influencing a private entity's employment decisions by a Member of Congress or an officer or employee of the legislative or executive branch

Effective: April 4, 2012

Currentness

(a) Whoever, being a covered government person, with the intent to influence, solely on the basis of partisan political affiliation, an employment decision or employment practice of any private entity--

(1) takes or withholds, or offers or threatens to take or withhold, an official act, or

(2) influences, or offers or threatens to influence, the official act of another,

shall be fined under this title or imprisoned for not more than 15 years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(b) In this section, the term "covered government person" means--

(1) a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress;

(2) an employee of either House of Congress; or

(3) the President, Vice President, an employee of the United States Postal Service or the Postal Regulatory Commission, or any other executive branch employee (as such term is defined under section 2105 of title 5, United States Code).

CREDIT(S)

  

# IRSD: Bracelets at high school just a joke in 'poor taste'

## *Parents told they shouldn't be concerned*

**By Laura Walter**
Staff Reporter

Indian River School District officials said this week that the blue bracelets making their way around Indian River High School on Sept. 19 were nothing more than a bad joke.

Several students were distributing blue rubber bracelets printed with the words "Kill yourself" and a swastika, according to district officials.

"I think there were three kids who ordered these things — like 200 of them. I think they were trying to be funny," said IRSD Assistant Superintendent Mark Steele.

The students reportedly dispersed bracelets to other classmates. Counselors and administrative staff members then spent several hours collecting the bracelets back. They also met with the students involved and their parents, Steele said.

"We wanted to make sure there was nothing deeper here than just a couple kids making a dumb mistake," he said.

There was "absolutely no meaning to it at all," Steele asserted, noting that the counselors spoke with the teenagers, just to be sure. Most students laughed it off as they turned the bracelets in, Steele said, and the day ended well.

"We don't have anything parents should be concerned about," he added. "They got ahead of it pretty quickly. I would refer to it as a poor-taste joke."

It can be frustrating for schools trying to promote a safe atmosphere, since "schools try to do everything possible, and then you just get companies that'll print anything," Steele said.

However, counselors are there for any student having trouble or feeling depressed.

"If there's anything there, anybody feels the need to talk to a counselor — by all means, talk to a counselor." Parents with questions or concerns are being encouraged to call their student's principal or an assistant principal.

Online resources are available by visiting www.irsd.net/home, selecting the "Parents and Students" tab, and clicking "Bullying and Suicide Prevention Resources."

# DSP Explorers program to hold open house Sept. 27 at Central

The Delaware State Police Explorers program consists of young men and women who have an interest in law enforcement.

The group participates in fingerprinting young children at community events; works the missing children's area at the State Fair; and many more community events. They also offer opportunities for the National Law Enforcement Exploring Conference and the Federal Leadership Academies, as well as the Delaware State Police Cadet Program.

The Explorers program teaches a variety of police procedures, including fingerprinting, evidence collection and patrol procedures.

"We strive to lead them down the right path and stand as positive role models. We also plan to instill leadership, responsibility, integrity and commitment," DSP representatives noted.

Every Explorer Post is overseen and run by Delaware State Police troopers.

Minimum qualifications include a 2.0 grade point average, and Explorers must be mature, clean-cut, as well as clean-shaven, with no criminal convictions. This is not a discipline program. The age range is 14 to 20 and at least in ninth grade. The program consists of high school and college students.

Open houses for the program are planned at DSP troops statewide this month, with the local [illegible] Troop 4 (Georgetown) and Troop 7 (Lewes) at 6 p.m. on Tuesday, Sept. 27, at Sussex Central High School in Georgetown.

All interested students should be prepared to submit a $50 program registration fee at the open house. Checks or cash are accepted. They will also need a copy of last year's grades. For those younger than 18 [illegible]

# Dining

Continued [illegible]

vegetables, and seven [illegible]

# Guest Column

# Kelly: Chilling free speech is not cool

By Meghan Kelly, Candidate
Delaware House of Representatives,
38th District

My name is Meghan Kelly. I am an attorney running for the House of Representatives in the 38th District's Tuesday, Nov. 6, 2018, election.

As I candidate for a state position, I have witnessed people in positions of authority misuse their authority to unconstitutionally chill the freedom of political speech. This is no small matter. An attorney can sue people to correct such chilling of 1st Amendment rights, but what will that do? They can take all of their possessions and money. None of that — not all the money in the world — is worth as much as the freedoms we have here in our nation.

Men fought wars for the freedoms we all hold dear. Mere money cannot buy their lives back. Men did not die for money. The American dream is not about finding a job, buying a home, providing for and raising a family. People all over the world aspire for that.

The American dream is much more than merely making money, providing for your family and surviving. What makes the United States of America the dream of so many is Americans' universal respect of other people's freedoms when they step foot on our land.

What makes America great is the people. What makes America great is Americans' universal respect for the freedoms of speech, assembly, religion and association, regardless of race, religion or place of origin.

When people in positions of authority choose not to behave like Americans by respecting the rights of others (emphasis intended), that is when America becomes less great. And yet, I have hope and faith that the people will courageously and kindly confront such behavior with correction, not with more bad behavior.

I am writing about one instance where my freedom of speech was quashed. I attended a celebration for a town. When I arrived beforehand, someone working the event said they knew who I was and talked politics, demeaning my party. I attempted to respond to the discussions, but the mayor and other agents of the Town requested that I didn't.

I told the mayor his request was unconstitutional, but I complied. I was instructed by those with the blanket of authority not to discuss politics at the party. They mentioned the other candidate could not attend.

A couple hours later, I attended the Town's party at the town hall — open to the public, thereby creating a limited public forum. Solicitors of various groups sat with pamphlets, including a church, at the celebration. I did not ask for a table or a place to sit with those handing out materials. I merely desired to respond to political statements and questions.

Yet, I complied with the mayor's request, making it clear that such request was not constitutional.

The mayor's position of authority made his personal requests to refrain from exercising American freedoms more dangerous than a normal citizen.

We all have limits to our freedom of speech, but people in government, and those with authority, have even more limits in exchange for such power, to preserve the freedoms of those they serve. Otherwise, unconstitutional government restraints may inhibit the freedoms of those they serve, by causing fear of persecution.

The constitutional rights and standards differ relating to the type of

See KELLY page A15

# Kelly

*Continued from page A14*

forum where the speech is limited. Is it a private forum, public or limited public forum? Municipalities may use their police power to draft reasonable regulations for the public safety relating to private property. However, private property that is opened up to the public is converted to a limited public forum, where content based speech is not easily limited.

In 1980, the U.S. Supreme Court held that a large shopping store could not limit the freedom of speech, regardless of how disagreeable the speech was to the owner of the grocery store, under the facts of that case. In that case, a private forum was opened up to the public during certain hours, just like many stores are opened to the public. Thus it became a limited public forum where speech is under greater protection than a private forum.

My speech was quashed on public property, opened up to the public for a public event.

The constitutional standards differ not only with regards to the forum, where the freedom of speech may have been infringed upon, but it also differs concerning whether it was restrained by conduct-based restrictions or content-based restrictions.

Conduct-based speech may be limited in a limited public forum by time, place and manner restrictions under a relatively easier standard than the content-based restrictions. Content-neutral restrictions must advance important interests unrelated to the suppression of speech, and must not burden substantially more speech than necessary to further those interests.

In 2010, our Third Circuit ruled it was unconstitutional for a mall to discriminate against noncommercial speech in favor of commercial speech, as this was content-based not content-neutral speech.

Content-based restrictions are presumptively unconstitutional. The government must prove such restriction is necessary to serve a compelling state interest, and is narrowly drawn to achieve that end. Mere open debate concerning political speech does not meet that standard. The freedom to speak freely about politics and other important issues, such as religion, without persecution of the government, is why many people desire to come to America.

There are limits to our freedom of speech, such as false advertising, defamation and obscenity.

The fact Americans must respect (to an extent) the freedoms of others, and in turn others (even mayors), must do the same by honoring such limits makes us all more free.

I keep thinking to myself, men died for this freedom. No amount of money or power is as precious as those men's lives, and the freedoms they bravely fought for. If men are willing to die and kill for this, I should have the courage to confront and correct people in authority so as to honor those men, and to remind the world that they mattered, and to protect what they fought for, not money, but freedom. You can't buy that. It is priceless.

Thank you for honoring our brave by honoring the freedoms they fought for, including the freedom of speech.

# IRSD: Bracelets at high school just a joke in 'poor taste'

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The students reportedly dispersed bracelets to other classmates. Counselors and administrative staff members then spent several hours collecting the bracelets back. They also met with the students involved and their parents, Steele said.

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"We don't have anything parents should be concerned about," he added. "They got ahead of it pretty quickly. I would refer to it as a poor-taste joke."

It can be frustrating for schools trying to promote a safe atmosphere, since "schools try to do everything possible, and then you just get companies that'll print anything," Steele said.

However, counselors are there for any student having trouble or feeling depressed.

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Every Explorer Post is overseen and run by Delaware State Police troopers.

Minimum qualifications include a 2.0 grade point average, and Explorers must be mature, clean-cut, as well as clean-shaven, with no criminal convictions. This is not a discipline program. The age range is 14 to 20 and at least in ninth grade. The program consists of high school and college students.

Open houses for the program are planned at DSP troops statewide this month, with the local [illegible] Troop 4 (Georgetown) and Troop 7 (Lewes) at 6 p.m. on Tuesday, Sept. 27, at Sussex Central High School in Georgetown.

All interested students should be prepared to submit a $50 program registration fee at the open house. Checks or cash are accepted. They will also need a copy of last year's grades. For those younger than 18, a [illegible]

# Dining

Continued from

vegetables, and seven [illegible]

116 TH CONGRESS

1ST SESSION

Impeaching Donald J. Trump, President of the United States, of high crimes and misdemeanors.

_____, 2019

_____submitted the following resolution; which was referred to the _____

Impeaching Donald J. Trump, President of the United States, of high crimes and misdemeanors.

RESOLUTION

*Resolved,* That Donald J. Trump,

President of the United States, is impeached for high crimes and misdemeanors, and that the following Articles of Impeachment to be exhibited to the Senate:

Articles of Impeachment to be exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Donald J. Trump, President of the United States, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

THE PRESIDENT'S VIOLATION OF CRIMINAL LAW PURSUANT TO TITLE 18 OF THE UNITED STATES CODE, SECTION 227

In his conduct while President of the United States, Donald J. Trump (herein also referred to as "President" or "Trump"), in violation of his constitutional oath to faithfully execute the office of President of the United States and, to the best of his ability, preserve, protect, defend and obey the Constitution of the United States, as well as his constitutional

obligation to preserve, protect, defend and obey the laws of the land, including the Federal Criminal Statute 18 U.S.C.A. § 227.

No one is above the law. No one is below the law.

Not even the President of the United States is free to willfully violate criminal laws without Constitutional justification.

The President by his words and/or deeds violated the criminal law Title 18 of the United States Code, Section 227.

Pursuant to 18 U.S.C.A. § 227,

"(a) Whoever, being a covered government person, with the intent to influence, solely on the basis of partisan political affiliation, an employment decision or employment practice of any private entity--

(1) takes or withholds, or offers or threatens to take or withhold, an official act, or

(2) influences, or offers or threatens to influence, the official act of another,

shall be fined under this title or imprisoned for not more than 15 years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(b) In this section, the term "covered government person" means--

(1) a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress;

(2) an employee of either House of Congress; or

(3) the President, Vice President, an employee of the United States Postal Service or the Postal Regulatory Commission, or any other executive branch employee (as such term is defined under section 2105 of title 5, United States Code)."

The President is specifically listed as a "covered government person" under this criminal law under 18 U.S.C.A. § 227(a), (b)(3).

The President withheld an "official act" to faithfully defend and protect the NFL Players' Constitutional freedom of speech against government persecution, as required under this statute.

The President not only "withheld an official act" to defend, protect and

obey the United States Constitution by defending the NFL Players' protected first amendment freedom, he also violated NFL Players' freedom from government persecution by actively persecuting, ridiculing and, or encouraging the ridicule and firing of the NFL players, and or the boycott of certain teams based solely on the Players' perceived, projected or manufactured political affiliation against Trump and/or Trump's base or alleged American political values. Citing, 18 U.S.C.A. § 227(a)(1).

The President's withholding of such official act and active violation of the same was made with "the intent to influence, solely on the basis of the perceived or projected partisan political affiliation of NFL players derived from their peaceful protest, an employment decision or employment practice of" private entities, NFL teams. Citing, 18 U.S.C.A. § 227 (a).

The President also, "influence(d), or offer(ed) or threaten(ed) to influence, the official acts of," others in his staff, government agents, troops, service men and women, and congressmen and congresswomen, as well as all Americans, when he encouraged others to persecute, ridicule, demean, or boycott the NFL players and teams for exercising their freedom of speech. Citing, 18 U.S.C.A. § 227 (a)(2).

The President's encouragement was made with "the intent to influence, solely on the basis of the perceived, or projected partisan political affiliation, against President Trump and/or his supporters and/or American values, an employment decision or employment practice of" private entities, NFL teams. Citing, 18 U.S.C.A. § 227 (a).

In September 2017 and thereafter, President Trump called for NFL Players, (herein also referred to as "NFL" and "Players"), to be fired for speech exhibited by kneeling during the national anthem before NFL football games to peacefully protest against the government's disparate mistreatment against black Americans in the criminal justice system and the government's use of lethal force against black Americans, including unarmed children (herein also referred to as "protest(s)" or "peaceful protest(s)"). [1]

[1] (See, The Tennessean, part of the USA Today Network, President Trump: NFL teams should fire players who protest national anthem, By Natalie Allison and Joel Ebert, Sept. 22, 2017, https://www.tennessean.com/story/news/2017/09/22/president-trump-nfl-teams-fire-players-protest-national-anthem/695666001/ ; also see, The Washington Post, Roger Goodell responds to Trump's call to fire, By, Jeremy Gottlieb Sept. 22, 2017, https://www.washingtonpost.com/news/early-lead/wp/2017/09/22/donald-trump-profanely-implores-nfl-owners-to-fire-players-protesting-national-anthem/?utm_term=.f6156e8f2075).

Certain NFL Players (also referred to as "Players" or "NFL") kneeled during the National anthem at football games to protest, in part, various individual policemen's shootings, killings and murders of unarmed black Americans, including black American children.

The conduct was not an attack on all police.

The peaceful protest was made, in part, against individual bad choices by individual policemen that cost the families, the community and our country the lives of little American children and Americans.

The peaceful protest was made to prevent future needless deaths of Black Americans and, including innocent children.

Our Constitution protects life, liberty and pursuit of happiness of all people, even little black children.

Trump gained support by those who became fearful, defensive and combative in response to the NFL player's peaceful protest.

Those people failed to recognize the peaceful nature of the protest.

Trump gained support of people who did not recognize the protest was not against police, whites, America, Trump or other people. The protest was made, in part, to show that the black Americans who died were worthy of love and life, and that no black American's life should be wrongfully taken.

The color of the American's skin does not make their deaths less tragic, and yet, there has been a surge of police ~~more~~ black Americans ~~than other Americans killed unlawfully~~ by government agents.

The black lives matter movement was created to show America that those black lives do matter. People of all colors are worthy of love and respect, and are inherently "created equal" in the eyes of our constitution.

Throughout the nation, we have seen attacks against the black lives matters movement with the all lives matter movement, the police lives matters movement, white lives matter movement and other movements, all of which are constitutionally protected.

Nevertheless, the nongovernment attacks against the peaceful protests and black lives matter movement have helped Trump gain support.

The teenagers gave them to Black kids in response to the Black lives matter bracelet.

Trump wants to win.

Trump recognizes he gains more support by attacking the peaceful Constitutionally protected protest of the NFL Players.

Trump's conduct was made solely on the "basis of partisan political affiliation" attributed to the NFL players peaceful protest by Trump and specific part of the base that supports Trump.

In September of 2016, at Indian River High School located in Delaware, teenagers brought in about 200 bracelets with the words "Kill yourself" next to a Nazi symbol. [2]

Such speech is not protected speech.

The use of violence by Neo Nazies, KKK, white supremacists and other people is unprotected.

The authority of a policeman's badge, or a military or national guard position cannot convert such violence into protected activity.

The peaceful protest by the NFL players is a beautiful Constitutionally protected way to protect innocent people against unconstitutional unprotected government speech and violent acts.

The NFL's peaceful protest is Constitutionally protected.

President Trump's speech persecuting, ridiculing the NFL players is not Constitutionally protected speech.

President Trump disobeyed the Constitution in order to garner more political support.

President Trump's behavior was based solely on serving himself by attributing the NFL player's peaceful protest to a partisan political affiliation against America and troops, despite the fact the freedom to peacefully protest is one the freedoms our beloved troops fought so bravely to preserve and defend.

The President not only violated the NFL Players first Amendment right of

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[2] See Coastal Point, IRSD : Bracelets at high school just a joke in poor taste, By Laura Walter, September 23. 2016.

speech, he also violated their perceived or projected freedom of association against the President and or his views.

Americans are more free to speak and share our views without fear of persecution by the government because of the First Amendment.

Americans are more free to speak and share our unique views without fear of persecution by the government.

Americans are free to protest despite their perceived or projected partisan political affiliation against the government.

What makes America great is Americans' universal respect for the freedom of speech, assembly, religion and association regardless of race, religion or place of origin.

The Players' first amendment freedom of speech affords them protection from government persecution for exercising their first amendment right to peacefully protest against government conduct.

Pursuant to the Supreme Court in McDonald v. Smith, 472 U.S. 479, 486–87, 105 S. Ct. 2787, 2791–92, Citing New York Times Co. v. Sullivan, 376 U.S. 254, 270, 84 S. Ct. 710, 721, 11 L. Ed. 2d 686 (1964),

> "The first amendment specifically protects speech against government acts and decisions citizens may disagree with. As with the freedoms of speech and press, exercise of the right to petition "may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials," and the occasionally "erroneous statement is inevitable." New York Times Co. v. Sullivan, supra, 376 U.S., at 270–271, 84 S.Ct., at 720–721. The First Amendment requires that we extend substantial " 'breathing space' " to such expression, because a rule imposing liability whenever a statement was accidently or negligently incorrect would *487 intolerably chill "would-be critics of official conduct ... from voicing their criticism." 376 U.S., at 272, 279, 84 S.Ct., at 721, 725.1"

When Trump accepted a position of government authority, under our Constitution, his Constitutional rights became more limited in order to uphold the Constitutional rights of those he serves, the American people.

The Constitution limits the power of the government in order to safeguard the freedom of those who reside in America.

Trump, as president, may not unconstitutional chill the NFL Players' speech based on perceived, projected political affiliation of the players based on

their protest.

The freedom of speech gives Americans the freedom to voice their disagreement with government actions and ideas, including the right to protest against government violence towards black Americans by government agents, and the right to protest the disparate treatment of black Americans by some specific instances of individual conduct while acting under the cloak of government authority including specific attorney generals, police and judges.

The United States Supreme Court held, "Criticism of (a government official) conduct does not lose its constitutional protection merely because it is effective criticism and hence diminishes their official reputations." New York Times Co. v. Sullivan, 376 U.S. 254, 272–73, 84 S. Ct. 710, 722, 11 L. Ed. 2d 686 (1964).

Trump is the President of the United States.

Trump represents through his deeds and words, the government in the executive branch.

The Government through Trump's deeds and words unconstitutionally persecuted the NFL Players for exercising their first amendment freedom.

Trump violated his oath to uphold the Constitution by actively disobeying the Constitution by persecuting the NFL Players for exercising their Constitutional right to peacefully protest.

Trump intended to cause the threat of economic harm to the NFL teams and against the players who participated in the peaceful protest.

Trump has called for the firing of NFL players for protesting.

Trump encouraged fans to walk out of a game if a player protested during the anthem.

Trump encouraged fans not to purchase NFL tickets when NFL players chose to kneel.

Trump has called for the boycott of the purchase of their teams' NFL tickets.

Trump caused economic damage, including but not limited to cancelled ticket sales, lost profit at concession stands and related NFL affiliated businesses, lost ratings on TV and, or other economic harm.

Trump's words and deeds chilled the NFL Players' protected speech.

Trump said "'Wouldn't you love to see one of these NFL owners, when somebody disrespects our flag, to say, 'Get that son of a b---- off the field right now. Out. He's fired. He's fired!'" Id.

Trump stated "'You know, some owner's going to do that,' Trump continued. 'He's going to say, 'That guy who disrespects our flag, he's fired.'" Id.

Trump stated, "'But you know what's hurting the game more than that?' Trump said. 'When people like yourselves turn on television and you see those people taking the knee when they are playing our great national anthem.'" Id.

Trump stated "'The only thing you could do better is if you see it, even if it's one player, leave the stadium, I guarantee things will stop. Things will stop. Just pick up and leave. Pick up and leave. Not the same game anymore anyway.'" Id.

"'The NFL policy says a club will be fined if team members on the field during the anthem do not stand, and that the commissioner 'will impose appropriate discipline on league personnel who do not stand and show respect for the flag and the anthem.'"[3]

"During Thursday's games, however, a few NFL players knelt during the anthem. Others raised their fists during the song or remained in the locker room." Id.

"The NFL said in a statement ...that it has agreed with the NFL Players Association to delay implementing work rules that could result in players being disciplined while discussions between the league and the union on issues around the anthem continue." Id.

On Aug. 10, 2018, the President tweeted, "'The NFL players are at it again - taking a knee when they should be standing proudly for the National Anthem. Numerous players, from different teams, wanted to show their "outrage" at something that most of them are unable to define. They make a fortune doing what they love.....'" Id.

On August 10, 2018, the President also tweeted, "'.....Be happy, be cool! A football game, that fans are paying soooo much money to watch and enjoy,

[3] (Citing, ABC News,Trump blasts NFL players for kneeling during anthem: 'Stand proudly .... or be suspended without pay, By Kelsey Walsh August 10, 2018, https://abcnews.go.com/Politics/trump-blasts-nfl-players-kneeling-national-anthem-suspended/story?id=57131857 )

is no place to protest. Most of that money goes to the players anyway. Find another way to protest. Stand proudly for your National Anthem or be Suspended Without Pay!'" Id.

The President is misleading the nation as to what makes America great. It is not money and wealth, but freedoms that make America already great.

Men fought wars for the freedoms we all hold dear, including the freedom to peacefully protest. Mere money cannot buy their lives back. Men did not die for money.

The American dream is not about finding a job, buying a home, providing for and raising a family. People all over the world aspire for that.

The American dream is much more than merely making money, providing for your family and surviving. What makes the United States of America the dream of so many is Americans' universal respect of other people's freedoms when they step foot on our land.

What makes America great is the people. What makes America great is Americans' universal respect for the freedoms of speech, assembly, religion and association, regardless of race, religion or place of origin.

The freedom to speak freely about politics and other important issues such as religion, without persecution of the government, is why many people desire to come to America.

When people in positions of government authority choose not to behave like Americans by respecting the *rights of others* (emphasis intended), that is when America becomes less great.

Trump made America less great by chilling the exercise of freedoms of those he serves Americans, including the NFL players,

"After the NFL first announced the new policy in May, Trump told Fox & Friends that players who don't stand during the anthem 'shouldn't be playing' and maybe 'shouldn't be in the country."' Id.

The President's words chilled the NFL Players speech, and possibly other Americans to under the threat of economic persecution.

The lower Federal Courts recognize economic persecution as a form of government persecution. [1]

On May 24, 2018, The President tweeted, ""You have to stand proudly for the National Anthem. You shouldn't be playing, you shouldn't be there.

Maybe they shouldn't be in the country...the NFL owners did the right thing"' Id.

On Oct. 18, 2017, the President Trump tweeted, '"The NFL has decided that it will not force players to stand for the playing of our National Anthem. Total disrespect for our great country!"' [4]

"President Donald Trump praised an NFL policy banning kneeling during the 'The Star-Spangled Banner,' saying that 'maybe you shouldn't be in the country' if you don't stand for the anthem" [5]

In all of this, Donald J. Trump has violated the First Amendment freedom of speech against government persecution by willfully and knowingly persecuting those who exercised their freedom, Donald J.Trump.

In all of this, the President knowingly and willfully spoke and acted in a manner that violated the criminal law Title 18 of the United States Annotated Section 227.

In so doing he has undermined the integrity of his office, by violating federal criminal law and the freedoms under the Constitution, and brought disrepute on the Presidency, and betrayed his trust as President in a manner subversive of constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States.

Wherefore Donald J. Trump, by such conduct, warrants impeachment and trial, and removal from office ~~wherefore~~ Donald J. Trump, ~~by such conduct, warrants~~ impeachment and trial, and removal from office.

---

[4] The cases are limited to immigration cases, but the criminal statute Title 18 of the United States Code Annotated Section 227 extends government persecution by the President of the United States to economic persecution too. I applaud this branch of government for choosing to create a check on themselves and another branch of government.

[5] Citing, Associated Press, Trump suggests NFL players who kneel shouldn't be in US, By May 24, 2018, http://www.msn.com/en-us/sports/nfl/trump-lauds-nfl-policy-banning-kneeling-for-national-anthem/ar-AAxJHSz).

# PREVENT WORLD WAR 3 ARTICLE OF IMPEACHMENT MEG DRAFT A COMPLETE DRAFT

Begin forwarded message:

**From:** Meghan Kelly <electmegkelly@icloud.com>
**Date:** 1/28/2020
**To:** us@justicedemocrats.com
**Subject: Fwd: Impeachment articles and related docs by Meg Kelly**

Please help!

Sent from my iPhone

Begin forwarded message:

**From:** Meghan Kelly <electmegkelly@icloud.com>
**Date:** January 5, 2020 at 8:15:50 PM EST
**To:** Meghan Kelly <electmegkelly@icloud.com>
**Cc:** League of Women Voters of De Of Women Voters Of Delaware <lwvde@comcast.net>, darin.mccann@coastalpoint.com, Jane Hovington <jehovahrohi@aol.com>, Glenn Rolphe <grolfe@newszap.com>, president@duq.edu, mbraden@bakerlaw.com, Mckayla Braden <mckayla.braden@gmail.com>, wchandler@wsgr.com, Stacie.burton@yahoo.com, house.jdems@mail.house.gov, mckayla.braden@gmail.com, arlet.adrahamian@mail.house.gov, michael.pender@mail.house.gov, tyrone.hankerson@mail.house.gov, janice.bashford@mail.house.gov, zoe.orick@mail.house.gov, zoe.orrick@mail.house.gov, carrick.heilferty@mail.house.gov, lieu.staff@mail.house.gov, andrea.anaya@mail.house.gov, sophie.bodlovich@mail.house.gov, brittan.robinson@mail.house.gov, alysa.buckler@mail.house.gov, brian.garcia2@mail.house.gov, Joe Neguse <emma.salas@mail.house.gov>, matthewkosiorek@comcast.net, Lucy Mcbeth <matthew.golden@mail.house.gov>, anneliese.israel@mail.house.gov, Veronica Escober <jaqueline.sanchez@mail.house.gov>, Doug Collins <sebastian.wigley@mail.house.gov>, steve.chabot@mail.house.gov, caralee.conklin@mail.house.gov, ohi0ima@mail.house.gov, brittany.yanick@mail.house.gov, caleb.culver@mail.house.gov, luke.mcknight@mail.house.gov, dawn.mcarble@mail.house.gov, hayden.hayes@mail.house.gov, kate.laborde@mail.house.gov, steve.koncar@house.mail.gov, john.zwaanstra@mail.house.gov, kyle.rush@mail.house.gov, rep.bencline@mail.house.gov, reginald.darby@mail.house.gov
**Subject: Re: Impeachment articles and related docs by Meg Kelly**

Good evening,

Attached, I started drafting another set of articles, but I am making you finish it.

I am disappointed in all of you for placing your interest above your duties, by focusing on your seats instead of serving the country. You must impeach on a second article and

impeach again, as needed. Combat lawlessness with the rule of law. Do not exploit it to serve yourselves.

Also attached, please find a couple of articles relating to war crimes. Get your shit together and serve your country. You have the power to prevent global war. You have the power to reflect humility and respect for the lives and property and intrinsic value of other human beings. This humility and act of peace can reconcile relations and prevent bloodshed.

Do not play games with our brave troops' lives to serve your own vanity. Shame on Trump and shame on you if you fail to act swiftly. Perfection NOT required. True leadership is.

Serve your country, not your seat. Impeach.

I expect no less.

Good night.
Meg Kelly, Esq.

cutting and pasting in case you choose not to open it.

116 TH CONGRESS

1ST SESSION

Impeaching Donald J. Trump, President of the United States, of high crimes and misdemeanors.

_____, 2019

_____submitted the following resolution; which was referred to the _____

Impeaching Donald J. Trump, President of the United States, of high crimes and misdemeanors.

RESOLUTION

*Resolved,* That Donald J. Trump,

President of the United States, is impeached for high crimes and misdemeanors, and that the following Articles of Impeachment to be exhibited to the Senate:

Articles of Impeachment to be exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Donald J. Trump, President of the United States, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

## ARTICLE I

### THE PRESIDENT'S VIOLATION OF OATH OF OFFICE, PERJURY BY FAILING TO UPHOLD THE CONSTITUTION, AND LAWS OF THE LAND, INCLUDING THE ARTICLE II WARS POWERS ACT OF 1973

In his conduct while President of the United States, Donald J. Trump (herein also referred to as "President" or "Trump"), in violation of his constitutional oath to faithfully execute the office of President of the United States and, to the best of his ability, preserve, protect, defend and obey the Constitution of the United States, as well as his constitutional obligation to preserve, protect, defend and obey the laws of the land:

The President swore an oath to uphold the Constitutional laws, Federal laws, and international agreements.

The President has a duty to review, inform himself of such laws, in order to uphold the Constitution,

The President's ignorance is not innocence.

Ignoring the laws is not a defense in the President's violation of his oath of office to uphold the same.

No one is above the law. No one is below the law.

Not even the President of the United States is free to violate the law.

The President committed perjury by violating his oath to uphold the Constitution and Laws of the land by encouraging violation of the same under his policies at the border.

18 U.S.C.A. § 1621 provides:

"Whoever--

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States."

The President, through his policies relating to the strike that killed General Soleiman violated, Federal Law and/or International treaties and Law.

ARTICLE II WARS POWERS ACT OF 1973

On or about January ___, 2019, President trump ordered:

The President failed to give Congress notice within 48 hours of the strike.

A "Requirement of War Powers Resolution that President report to Congress within 48 hours if United States armed forces have been introduced into hostilities or imminent hostilities and that, 60 days after report is submitted or required to be submitted, President shall terminate use of armed forces unless Congress declares war or enacts specific authorization for use of armed forces or extends 60–day period for an additional 30 days does not contemplate court-ordered withdrawal when no report is filed, but rather, leaves open possibility for court to order that report be filed or, alternatively, withdrawal 60 days after report was filed or required to be filed by court or Congress." Citing, Crockett v. Reagan, 558 F. Supp. 893 (D.D.C. 1982), aff'd, 720 F.2d 1355 (D.C. Cir. 1983), War Powers Resolution, §§ 2–9, 50 U.S.C.A. §§ 1541–1548; U.S.C.A. Const. Art. 1, § 8, cl. 11.

## ARTICLE II WARS POWERS ACT OF 1973

## ARTICLE III VIOLATION OF INTERNATIONAL LAW

## BY WAR CRIMES

The Strike destroyed

In all of this, Donald J. Trump has undermined the integrity of his office, by violating federal and international criminal law and the Constitution, and brought disrepute on the Presidency, and betrayed his trust as President in a manner subversive of constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States.

Wherefore Donald J. Trump, by such conduct, warrants impeachment and trial, and removal from office.

On January 5, 2020 at 1:00 PM, Meghan Kelly <electmegkelly@icloud.com> wrote:

Hi folks,
I sent you 4 separate articles of impeachment to swiftly impeach on while the senate tries the first articles.

Please prevent world war 3 and draft another set now to protect our troops from dying for trump's vanity.
Impeach on a new set on the following articles

1. Perjury not upholding his oath
2. Unauthorized use of force
3. International war crimes

Perfection not required. Swift leadership is. Do not be misled by hacked likes, false mob rule. Lead, do not be misled. Serve your country not yourself by focusing on seats.

Save our troops lives before it is too late and they kill and die for Trump's mere fancies.

God help us help them.

Good day.
Meg

Sent from my iPhone

On Aug 7, 2019, at 6:03 PM, Meghan Kelly <electmegkelly@icloud.com> wrote:

Attached, and below, please find an email list of the contact for each of the 41 Reps on the judiciary committee considering impeachment who provided an email contact.

You may be able to contact the members by their contact info on the web site at this link below too

Please work together united as Americans to serve your country.
https://judiciary.house.gov/about/members

Please feel free to give me a call on my cell regardless of your support at 302-727-2079. Thank you. Have a great night.

1. Chair, Hon Rep. Nadler. house.idems@mail.house.gov Char
2. [redacted]. RepMary Gay Scanlan. [Please forward message to her for consideration]
3. Rep. Zoe Lofren arlet.adrahamian@mail.house.gov
4. Rep. Sheila Jackson Lee michael.pender@mail.house.gov
5. [redacted] Rep. Steve Cohen [Please forward message to him for consideration]
6. Rep. Henry C. Johnson tyrone.hankerson@mail.house.gov
7. [redacted] Rep Ted. Deutch [Please forward message to him for consideration]
8. Rep. Karen Bass. janice.bashford@mail.house.gov
9. [redacted] Rep Cedric Richmond [Please forward message to him for consideration]
10. Rep. Hakeem S. Jaffries zoe.orick@mail.house.gov
11. [redacted] Rep Eric Swalwell [Please forward message to him for consideration]
12. Rep. David N Cicilline Carrick.heilferty@mail.house.gov
13. Rep. Red Lieu lieu.staff@mail.house.gov Sophie is the contact
14. Hon Rep Jamie Raskin andrea.anaya@mail.house.gov
15. Hon Rep. Pramila Jayapal sophe.bodlovich@mail.house.gov
16. Hon Rep. Val Butler brittan.robinson@mail.house.gov
17. Hon J. Luis alysa.buckler@mail.house.gov
18. Rep. Sylvia brian.garcia2@mail.house.gov
19. Joe Neguse emma.salas@mail.house.gov
20. Lucy Mcbeth matthew.golden@mail.house.gov
21. Greg Stanton laura.munozlopez@mail.house.gov
22. Rep Madeliene Dean anneliese.israel@mail.house.gov
23. Debbie Mucarsel Jessica.valdes@mail.house.gov
24. Veronica Escober Jaqueline.sanches@mail.house.gov
25. Doug Collins Sebastian.wigley@mail.house.gov
26. [redacted] Rep Sensebrenner
27. Rep.Steve Chabot Steve.chabot@mail.house.gov
28. Rep. Louie Gohmert caralee.conkline@mail
29. Rep. Jim Jordan ohi0ima@mail.house.gov
30. Rep Ken Buck brittany.vanick@mail.house.gov
31. Rep John Ratcliffe caleb.culver@mail.house.gov
32. Rep. Martha Roby luke.mcknight@mail.house.gov

33. Rep Matt Gaetz dawn.mcarble@mail.house.gov
34. Rep Mike Johnson hayden.hayes@mail.house.gov
35. Rep Andy Biggs kate.laborde@mail.house.gov
36. Rep Tom McClintock steve.koncar@mail.house.gov
37. Rep Debbie Lesko john.zwaanstra@mail.house.gov
38. Rep. Guy Reschenthale kyle.rush@mail.house.gov
39. Rep. Ben Cline rep.bencline@mail.house.gov
40. 40. [redacted] Rep. Kelly Armstrong (Please forward message to him for consideration)

Rep Greg Stuebe reginald.darby@mail.house.gov

On August 7, 2019 at 2:52 PM, Meghan Kelly <electmegkelly@icloud.com> wrote:

Good afternoon,

This is Meg Kelly, Esq., an attorney from Delaware.

I am resending the three articles of impeachment, and related documents, I emailed yesterday to 34 of the 41 members on the House judiciary committee since not all members received it.

In addition, attached, please find additional documents relating to kidnapping, false imprisonment and perjury, excluded on the email I sent yesterday.

Per my teleconference:

Game plan:

Impeach on 5 (five) separate articles of impeachment presented separately to protect

1. Freedom of speech, the NFL article of impeachment relating to the attached criminal law, 18 USC section 227
2. Freedom of the press under criminal law, 18 USC section 227
3. Due process violations at the border. While the Supreme Court allows detention during deportation hearings, the conditions at the border are so heinous that they should be considered punishment without procedural due process under the 5th amendment. Argue substantive due process if you want. The border policies of the President also violate the crimes of kidnapping under 28 USCA section 1201 and false imprisonment under federal common law.

4 obstruction of justice. Please continue your work on this

5 porn star impeachment no further investigations needed.

Porn star impeachment crimes

26 USCA 7206

26 USCA 7202

26 USCA 7201

26 USCA 7207

No investigations needed the porn star payoffs and two checks from improper accounts are enough circumstantial evidence to deem the president guilty of these crimes without further records. You can pull the records, but he delays strategically. His sister was a Federal Judge in my circuit, the third circuit. The President knows what he is doing. In addition, the President has much experience with law suits. I looked up 1000 plus cases related to Trump at the law library. He may the law better than an attorney with all his court experience. (had to laugh, better than crying)

The records are not necessary.

You *win* by doing the right thing, upholding the laws that grant us the freedoms we all hold dear. Without them we are not free.

Stand united together as Americans to serve your country not your seat. Impeach.

Lawlessness must be combated with the impartial rule of law via impeachment, not exploited to win elections at the country's expense.

Please act swiftly.

Perfection not required.

Leadership is required.

Different times require different measures. The 400 failed attempt to impeach Clinton will not work against President Trump.

Please serve your country. Do not exploit the President's lawlessness to serve election seats at the expense of the country. We have everything to lose, especially since elections will likely be hacked.

Thank you❤

Please feel free to call me on my cell if you have any questions.

Have a good night.

Thank you and best regards,

Meg Kelly, Esq.

Licensed DE, DC, PA, US Supreme Court

34012 Shawnee Drive

Dagsboro, DE 19939

(302)727-2079

Begin forwarded message:

**From:** Meghan Kelly <electmegkelly@icloud.com>
**Date:** 8/7/2019

**To:** Meghan Kelly <electmegkelly@icloud.com>
**Subject: Impeachment articles and related docs by Meg Kelly**

# SAVE THE PRESS ARTICLE OF IMPEACHMENT

United States Code Annotated
Title 18. Crimes and Criminal Procedure (Refs & Annos)
Part I. Crimes (Refs & Annos)
Chapter 11. Bribery, Graft, and Conflicts of Interest (Refs & Annos)

18 U.S.C.A. § 227

# § 227. Wrongfully influencing a private entity's employment decisions by a Member of Congress or an officer or employee of the legislative or executive branch

Effective: April 4, 2012

Currentness

(a) Whoever, being a covered government person, with the intent to influence, solely on the basis of partisan political affiliation, an employment decision or employment practice of any private entity--

(1) takes or withholds, or offers or threatens to take or withhold, an official act, or

(2) influences, or offers or threatens to influence, the official act of another,

shall be fined under this title or imprisoned for not more than 15 years, or both; and may be disqualified from holding any office of honor, trust, or profit under the United States.

(b) In this section, the term "covered government person" means--

(1) a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress;

(2) an employee of either House of Congress; or

(3) the President, Vice President, an employee of the United States Postal Service or the Postal Regulatory Commission, or any other executive branch employee (as such term is defined under section 2105 of title 5, United States Code).

CREDIT(S)

116 TH CONGRESS

1ST SESSION

Impeaching Donald J. Trump, President of the United States, of high crimes and misdemeanors.

_____, 2019

_____submitted the following resolution; which was referred to the _____

Impeaching Donald J. Trump, President of the United States, of high crimes and misdemeanors.

RESOLUTION

*Resolved*, That Donald J. Trump,

President of the United States, is impeached for high crimes and misdemeanors, and that the following Articles of Impeachment to be exhibited to the Senate:

Articles of Impeachment to be exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Donald J. Trump, President of the United States, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

THE PRESIDENT'S VIOLATION OF CRIMINAL LAW PURSUANT TO TITLE 18 OF THE UNITED STATES CODE, SECTION 227

In his conduct while President of the United States, Donald J. Trump (herein also referred to as "President" or "Trump"), in violation of his constitutional oath to faithfully execute the office of President of the United States and, to the best of his ability, preserve, protect, defend and obey the Constitution of the United States, as well as his constitutional

obligation to preserve, protect, defend and obey the laws of the land, including the Federal Criminal Statute 18 U.S.C.A. § 227.

No one is above the law. No one is below the law.

Not even the President of the United States is free to willfully violate criminal laws without Constitutional justification.

The President by his words and/or deeds violated the criminal law Title 18 of the United States Code, Section 227.

Pursuant to 18 U.S.C.A. § 227,

"(a) Whoever, being a covered government person, with the intent to influence, solely on the basis of partisan political affiliation, an employment decision or employment practice of any private entity--

(1) takes or withholds, or offers or threatens to take or withhold, an official act, or

(2) influences, or offers or threatens to influence, the official act of another,

shall be fined under this title or imprisoned for not more than 15 years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(b) In this section, the term "covered government person" means--

(1) a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress;

(2) an employee of either House of Congress; or

(3) the President, Vice President, an employee of the United States Postal Service or the Postal Regulatory Commission, or any other executive branch employee (as such term is defined under section 2105 of title 5, United States Code)."

The President is specifically listed as a "covered government person" under this criminal law under 18 U.S.C.A. § 227(a), (b)(3).

The President withheld an "official act" to faithfully defend and protect the Press's Constitutional freedom of the press from government persecution, as required under this statute.

The President not only "withheld an official act" to defend, protect and

obey the United States Constitution by failing to defend the Press's protected first amendment freedom, he also violated the Press's freedom from government persecution by actively persecuting, ridiculing and, or encouraging the ridicule and boycott of certain news sources, and or outlets based solely on the news reporter's and/or station or paper's (herein also referred to as the "Press," above and below, collectively or individually) perceived, projected or manufactured political affiliation against Trump and/or Trump's base or alleged American political values. Citing, 18 U.S.C.A. § 227(a)(1).

The President's withholding of such official act and active violation of the same was made with "the intent to influence," solely on the basis of the perceived or projected partisan political affiliation of news reporter(s) and/or station(s) or paper(s), "an employment decision or employment practice of private" entities, news outlet(s) (also referred herein as the "news"). Citing, 18 U.S.C.A. § 227 (a).

The President also, "influence(d), or offer(ed) or threaten(ed) to influence, the official acts of," others in his staff, government agents, troops, service men and women, and congressmen and congresswomen, as well as all Americans, when he encouraged others to persecute, ridicule, demean, and/or boycott the Press for exercising their freedom of the press. Citing, 18 U.S.C.A. § 227 (a)(2).

The President's encouragement was made with "the intent to influence, solely on the basis of the perceived, or projected partisan political affiliation, against President Trump and/or his supporters and/or American values, an employment decision or employment practice of" private entities, the news outlets. Citing, 18 U.S.C.A. § 227 (a).

Trump persuading some Americans to boycott the news based on his comments, including, but not limited comments to, such as "fake news" about the Press.

Trump gained support by those who chose to remain uninformed concerning the news.

Trump offered an excuse some Americans adopted for their decision not to be concerned with the world beyond their own community.

Trump eliminated the guilt of people who chose not to inform themselves by the news.

Trump encouraged ignorance, ignoring news concerning others, and

indifference, an atmosphere of unconcern for people outside of our own.

With the busyness of life, it took away the guilt of many citizens for their decision to remain uninformed.

Trump offered an excuse to feel smart for not watching, reading or listening to the news.

In fact, part of American society began to say those who watched the news and read the papers were foolish or not smart.

Throughout the nation, we have seen an unusual trend of people repeating the President's comment, "fake news."

This trend caused droppings in ratings and ending of subscriptions of the Press based on the President's comments.

This "fake news" trend has helped Trump gain support by those who reject or refuse to listen, read or watch certain news.

Trump wants to win.

Trump recognizes he gains more support by attacking sources part of his base refuse to watch, read or listen to.

Trump's comments were made solely on the "basis of partisan political affiliation" attributed to the Press for exercising their Constitutional freedom of the Press.

The President also intended "to cause an employment decision or employment practice of (a) private entity" by his persecution of the Press

1. to garner more favorable news from the Press,
2. and/or to prevent/chill the news from reporting on certain disfavorable news concerning himself, his policies and information relating to evidence and facts concerning political views, (chilling the Press's freedom of the Press and freedom of speech),
3. and or to diminish the reputation of the news to force them to state information in a light more favorable towards the President.

The President desires more favorable news by the Press to help him win.

The President claims he likes winning.

Winning is not most important. Doing the right thing is more important

than winning.

Violating the rules of law to win is not winning. It is cheating and destroying the laws that safeguard our freedoms that make our country already great.

America is a nation of laws, including Constitutional laws that uphold the freedom of the American citizens against persecution by the government, for lawfully exercising their freedoms.

Lawlessness is the problem. Lawlessness is not the solution. The impartial and fair administration of the rule of law is the solution.

The President's speech persecuting the Press is not protected speech.

The Press is Constitutionally protected.

The Press's freedom of speech is also Constitutionally protected.

President Trump's speech persecuting, threatening and ridiculing the Press for exercising their freedom of the Press and freedom of speech (herein referred to as "speech") is not Constitutionally protected speech.

Trump's speech is lawless violating both Constitutional law and Criminal law.

President Trump disobeyed the Constitution by persecuting, instead of protecting the Press, in order to garner and/or keep political support for the President.

The President violated the criminal law 18 USCA section 227 and the Constitutional laws safeguarding the freedom of the Press, as described herein, in an attempt to "keep winning."[1]

President Trump's behavior was based solely on serving himself by attributing to the Press a partisan political affiliation against America, against Trump and/or against Trump's base.

The President's violations of the first Amendment freedom of the Press created unsafe conditions for members of the Press.

The President did not display any concern about the safety of the Press or the foreseeable violent persecution against them based on some supporters' loyalty towards the President.

[1] CBS News clip found at (https://www.youtube.com/watch?v=ol54UPdNdhE)( Published, Jun 20, 2018).

The President's persecution, ridicule, demeaning and disparaging of the Press has led some supporters of the President to foreseeably, violently persecute and attempt to kill members of the Press in the United States of America, in an apparent defense of the President.

The President's persecution has led some Americans through his misleadership, to persecute the Press by words and deeds, exacerbating the chilling effect, and the mass threat of persecution to members of the Press by words or deeds.

In February 2019, Journalist Andrew Resticcia's article pointed out, "(m)ore than 24 hours after news broke that a Coast Guard officer — an avowed white nationalist — was allegedly plotting to kill Democratic politicians and journalists, Trump has, at least so far, not said a word."[2]

"'It's irresponsible and dangerous,' said Alexandra Ellerbeck, the North America program coordinator at the Committee to Protect Journalists. 'When we talk to journalists, they feel less safe than they used to.'" Id.

"Scarborough and others have noted that news of the alleged plot to kill Democratic politicians and journalists broke just hours after New York Times publisher A.G. Sulzberger chastised Trump for calling the Times the "enemy of the American people" after it published an account of the president's efforts to undercut the investigations encircling him." Id.

"'The phrase 'enemy of the people' is not just false, it's dangerous. It has an ugly history of being wielded by dictators and tyrants who sought to control public information. And it is particularly reckless coming from someone whose office gives him broad powers to fight or imprison the nation's enemies,' Sulzberger wrote. 'As I have repeatedly told President Trump face to face, there are mounting signs that this incendiary rhetoric is encouraging threats and violence against journalists at home and abroad.'" Id.

"Since 2016, Acosta has become one of the press corps' most high-profile (Press) members, regularly sparring with administration officials, such as Sanders and White House senior policy adviser Stephen Miller. For Trump — who repeatedly vents his anger at the press and CNN in particular — Acosta is a convenient foil. But the reporter's bulldog

[2] Politico, Trump stays silent on media-hating Coast Guard office, By Andrew Resticcia, dated February, 21, 2019, https://www.politico.com/story/2019/02/21/trump-coast-guard-officer-1179749. Also see, The Hill, Trump declares New York Times 'enemy of the people', By Brett Samuels, February 20, 2019.

reporting style has made him a household name." [3]

The White House suspended Mr. Acosta's Press credentials. Id.

Mr. Acosta said, "'I probably receive more death threats than I can count,'...'I get them basically once a week.'" Id.

The First Amendment freedom of the Press against government persecution protects the Press from speech by the President, and those who work or serve under the cloak of government authority, from government persecution for their exercise of their first Amendment freedoms.

Government persecution, persecution by the President, mis-leads some Americans as a command to obey and persecute those the President persecutes too.

The President has more limited freedoms in exchange for his position of government authority. He may not misuse his authority by violating the Constitution to voice his opposition and active persecution to any American who thinks differently.

The President is creating a threat of physical danger to the Press.

He has failed to safeguard, uphold, and defend the Press, and their Constitutional freedom.

The President failed to speak up and defend and safeguard the Press when members were attacked and or killed.

A journalist "Khashoggi was murdered on October 2, 2018, sometime after he entered the Saudi consulate in Istanbul, Turkey. A kill squad of Saudi agents carried out the operation, cutting the journalists body into pieces with a bone saw. Saudi leaders initially denied knowing the whereabouts of Khashoggi, but after intense international backlash, finally admitted that he had been killed inside the diplomatic facility." [4]

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[3] Washington Post, How CNN's Jim Acosta became the reporter Trump loves to hate, By Kyle Swenson, Dated November 8, 2018, https://www.washingtonpost.com/nation/2018/11/08/how-cnns-jim-acosta-became-reporter-trump-loves-hate/?noredirect=on&utm_term=.ef2ec2711731

[4] Newsweek, Trump Defends Saudi Arabia's Murder of Journalist Jamal Khashoggi by Saying Iran Kills People Too, By Jason Lemon, Dated June 23, 2019, https://www.newsweek.com/trump-defends-saudi-arabia-jamal-khashoggi-iran-kills-people-1445430

Also see, New York Times, One Killing, Two Accounts: What We Know About Jamal Khashoggi's Death, By Ben Hubbard, Oct. 20, 2018, https://www.nytimes.com/2018/10/20/world/middleeast/khashoggi-turkey-saudi-

"(A) fter intelligence investigations strongly suggested that Saudi Arabia's Crown Prince Mohammed Bin Salman was likely behind the murder of Khashoggi, Trump insisted the kingdom was a 'great ally." He also criticized Iran, saying the U.S. relied on the Saudis to counter the Persian Gulf nation, buy American weapons and keep oil prices low." Id.

In June 28, 2018, a gunman shot and killed five journalists at a newspaper office in Annapolis Maryland, the Capitol. [5]

The threat of violence as a means to force suppression, chill, the Press's publication of unfavorable content is real.

The President encourages such lawlessness by his words and deeds.

The President not only violated the Press's first Amendment freedom of the Press, he also violated their first Amendment freedom of speech.

The Press's first amendment freedoms of the Press and speech affords them protection from government persecution for exercising their first amendment right to speak negatively about government conduct.

Pursuant to the Supreme Court in McDonald v. Smith, 472 U.S. 479, 486–87, 105 S. Ct. 2787, 2791–92, Citing New York Times Co. v. Sullivan, 376 U.S. 254, 270, 84 S. Ct. 710, 721, 11 L. Ed. 2d 686 (1964),

> "The first amendment specifically protects speech against government acts and decisions citizens may disagree with. As with the freedoms of speech and press, exercise of the right to petition "may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials," and the occasionally "erroneous statement is inevitable." New York Times Co. v. Sullivan, supra, 376 U.S., at 270–271, 84 S.Ct., at 720–721. The First Amendment requires that we extend substantial "'breathing space' " to such expression, because a rule imposing liability whenever a statement was accidentally or negligently incorrect would *487 intolerably chill "would-be critics of official conduct ... from voicing their criticism." 376 U.S., at 272, 279, 84 S.Ct., at 721, 725.1"

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narratives.html

[5] Citing, NBC News, Capital Gazette shooting: Suspect charged after 5 killed at Maryland newspaper, By Phil Helsel, Tom Winter and Jonathan Dienst, June 28, 2018, Updated June 29, 2018
https://www.nbcnews.com/news/us-news/multiple-people-reported-shot-maryland-newspaper-office-n887526; BBC, Annapolis journalists killed in 'targeted attack' on Capital Gazette, June 29, 2018
29 June 2018, https://www.bbc.com/news/world-us-canada-44645986

When Trump accepted a position of government authority, under our Constitution, his Constitutional rights became more limited in order to uphold the Constitutional laws that protect the freedoms of those he serves, the American people.

The Constitution laws limit the power of government agents in order to safeguard the freedoms of those who reside in America from persecution under the cloak of government authority.

Trump, as president, may not unconstitutionally chill the Press's speech and their freedom of the Press based on perceived, projected or manufactured political affiliation derived from the Press's exercise of their first amendment freedoms.

The freedom of the Press gives the Press the freedom to voice their disagreement with government actions and ideas, including the right to criticize the President.

The United States Supreme Court held, "Criticism of (a government official) conduct does not lose its constitutional protection merely because it is effective criticism and hence diminishes their official reputations." New York Times Co. v. Sullivan, 376 U.S. 254, 272–73, 84 S. Ct. 710, 722, 11 L. Ed. 2d 686 (1964).

Trump is the President of the United States.

Trump represents through his deeds and words, the government in the executive branch.

The Government through Trump's deeds and words unconstitutionally persecuted the Press for exercising their first amendment freedom.

Trump violated his oath to uphold the Constitution by actively disobeying the Constitution by persecuting the Press for exercising their Constitutional freedom of the Press.

Arguably, the President committed perjury under 18 U.S.C.A. § 1621, for lying under oath to uphold the Constitution and laws by actively knowingly violating the same, and/or refusing to read them in order that he may uphold the same.

Trump intended to cause the threat of economic harm and/or social harm and/or physical harm to the Press and against members of the Press who participated in the exercise of their freedom of the speech and the Press.

Trump has called for the boycott of the Press for exercising their

freedom.

On June 3, 2019, "President Donald Trump, in a tweet Monday morning, encouraged customers of AT&T to boycott the company to force it to make editorial changes at the CNN news network, which it owns." [6]

"The president wrote as he was preparing to meet Queen Elizabeth II at the start of a three-day state visit to the UK." Id.

"He said the only US news network he could find to watch after landing was CNN, which he found too negative in its coverage of the US." Id.

On June 3, 2019, the President tweeted, ""Just arrived in the United Kingdom, ""The only problem is that @CNN is the primary source of news available from the U.S. After watching it for a short while, I turned it off. All negative & so much Fake News, very bad for U.S. Big ratings drop. Why doesn't owner @ATT do something?" Id.

The President tweeted "I believe that if people sto(p)ed using or subscribing to @ATT, they would be forced to make big changes at @CNN, which is dying in the ratings anyway. It is so unfair with such bad, Fake News! Why wouldn't they act. When the World watches @CNN, it gets a false picture of USA. Sad!" Id.

On July 7, 2019 the President Tweeted, "Watching @FoxNews weekend anchors is worse than watching low ratings Fake News @CNN, or Lyin' Brian Williams (remember when he totally fabricated a War Story trying to make himself into a hero, & got fired. A very dishonest journalist!) and the crew of degenerate....." [7]

On July 7, 2019 Trump said Fox "network 'forgot the people who got them there.' He griped Fox News was 'loading up with Democrats' and complained it was citing The New York Times as 'a 'source' of information,' an apparent reference to the newspaper's Sunday article about disease, hunger and overcrowding at a Texas center holding migrant children." Id.

On July 11, 2019, in an article by the Fox news network, LLC, called Trump rails against 'Fake News' in bizarre tirade, warns industry will fold

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[6] Citing, Business Insider, Trump tells people to boycott CNN parent AT&T to force more positive coverage of his administration, By Tim Porter, June 3, 2019. https://www.businessinsider.com/trump-encourages-att-boycott-over-cnn-coverage-2019-6?fbclid=IwAR2aerXjC1P2P9UOXBBfJZx1yl4-c7Vju2_A3OJB2XAYbxuRXscJ1ExyMPo

[7] Newsweek, TRUMP DEFENDS SAUDI ARABIA'S MURDER OF JOURNALIST JAMAL KHASHOGGI BY SAYING IRAN KILLS PEOPLE TOO, By James Lemon, dated June 23, 2019, https://www.newsweek.com/trump-defends-saudi-arabia-jamal-khashoggi-iran-kills-people-1445430

when he leaves office, by Brooke Sigmund states: "President Trump teed off on the news media in a bizarre Twitter rant Thursday morning ahead of a big social media summit at the White House slated for later in the day. [8]

"The string of tweets attacked the news media and claimed the industry would go out of business when he leaves office, even suggesting outlets would be forced to endorse him this cycle for the sake of their own survival." Id.

"He went on to alternately praise himself, lob insults at familiar targets in the 2020 Democratic field and even joke about serving more than two terms." Id.

On January 11, 2017, in a news's conference, President persecuted the Press, diminishing the confidence in their news by stating "this political witch hunt by some in the media is based on some of the most flimsy reporting and is frankly shameful and disgraceful." [9]

On February 17, 2018, Trump tweeted "Funny how the Fake News Media doesn't want to say that the Russian group was formed in 2014, long before my run for President. Maybe they knew I was going to run even though I didn't know!" [10]

"Trump entered the election on June 16, 2015, after the Russian organization was formed — a fact that, contrary to Trump's Twitter musings, was reported by many news organizations." Id.

The President asserted facts that were not true. Id.

Yet, since he encourages Americans not to watch the news by calling it fake news, many believed Trump's false, misleading and deceiving allegations as truth. Id.

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[8] Citing, Fox news network, LLC, Trump rails against 'Fake News' in bizarre tirade, warns industry will fold when he leaves office, By Brooke Sigmund, July 11, 2019. August 10, 2018, https://www.foxnews.com/politics/trump-rails-against-fake-news-in-bizarre-tirade-warns-industry-will-fold-when-he-leaves-office?fbclid=IwAR3um59LQ4S2GxajidPEPoSUdil099OYEhjGVsUu3T1jdb7lq4rtysQj7oY

[9] New York Times, Donald Trump's News Conference: Full Transcript and Video, January 11, 2017, https://www.nytimes.com/2017/01/11/us/politics/trump-press-conference-transcript.html

[10] Citing, USA Today, Trump scolds 'Fake News Media' over reporting of Russian meddling in 2016 election, By Michael Collins, February 17, 2018.

https://www.usatoday.com/story/news/politics/onpolitics/2018/02/17/trump-scolds-fake-news-media-over-reporting-russian-meddling-2016-election/348356002/

On April 1, 2017, April Fool's Day "Mr. Trump fired off two tweets Saturday, first asking when Todd, (a specific newsman) and NBC will stop covering any Russian government ties to the White House, then vilifying NBC as the same network that perpetuated the theory he had "no path to victory" before the election. Mr. Trump dubbed NBC's coverage a 'total scam.' Todd discussed Russia Friday on NBC's 'Nightly News.'" [11]

The President tweeted, "It is the same Fake News Media that said there is "no path to victory for Trump" that is now pushing the phony Russia story. A total scam!" Id.

Trump compromised the Press's integrity by claiming the Press would reward the fruits of unlawful during a news conference in July 2016 when he stated. [12]

"Russia, if you're listening, I hope you're able to find the 30,000 emails that are missing," with regards to Mrs. Clinton's deleted emails. "I think you will probably be rewarded mightily by our press." Id.

On-May 4, 2017, Trump tweeted "The Fake News media is officially out of control. They will do or say anything in order to get attention - never been a time like this!" "[13]

On January 11, 2017 Trump tweeted, "I win an election easily, a great "movement" is verified, and crooked opponents try to belittle our victory with FAKE NEWS. A sorry state!" Id.

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[11] Citing, CBS News, Trump calls "Fake Trump/Russia story" a "total scam" as investigations ramp up, By Kathryn Watson, Dated April 1, 2017,

https://www.cbsnews.com/news/trump-calls-fake-trump-russia-story-a-total-scam-as-investigations-ramp-up/

[12] Citing, New York Times, Donald Trump Calls on Russia to Find Hillary Clinton's Missing Emails, July 27, 2016

https://www.nytimes.com/2016/07/28/us/politics/donald-trump-russia-clinton-emails.html

[13] Citing, Axios, Everything Trump has called "FAKE NEWS", By Haley Britzky, Jul 9, 2017, https://www.axios.com/everything-trump-has-called-fake-news-1513303959-6603329e-46b5-44ea-b6be-70d0b3bdb0ca.html, Citing, President Donald Trump's twitter account (This article contains direct links to President Trump's twitter account.)

"FAKE NEWS media, which makes up stories and "sources," is far more effective than the discredited Democrats - but they are fading fast!"

On Jan 11, 2017 Trump tweeted, "We had a great News Conference at Trump Tower today. A couple of FAKE NEWS organizations were there but the people truly get what's going on" Id.

On January 13, 2017, Trump tweeted, "Totally made up facts by sleazebag political operatives, both Democrats and Republicans - FAKE NEWS! Russia says nothing exists. Probably..." Id.

On February 16, 2017, Trump tweeted, " FAKE NEWS media, which makes up stories and "sources," is far more effective than the discredited Democrats - but they are fading fast!" Id.

On February 24, 2017 Trump tweeted, " FAKE NEWS media knowingly doesn't tell the truth. A great danger to our country. The failing @nytimes has become a joke. Likewise @CNN. Sad!" Id.

On June 6, 2017 Trump tweeted, "Sorry folks, but if I would have relied on the Fake News of CNN, NBC, ABC, CBS, washpost or nytimes, I would have had ZERO chance winning WH" Id.

January 12, 2017, Trump tweeted, ".@CNN is in a total meltdown with their FAKE NEWS because their ratings are tanking since election and their credibility will soon be gone!" Id.

On June 27, 2017, Trump tweeted, "Fake News CNN is looking at big management changes now that they got caught falsely pushing their phony Russian stories. Ratings way down!" Id.

On June 28, 2017, Trump tweeted, "The failing @nytimes writes false story after false story about me. They don't even call to verify the facts of a story. A Fake News Joke!" Id.

On June 28, 2017, Trump tweeted, "The #AmazonWashingtonPost, sometimes referred to as the guardian of Amazon not paying internet taxes (which they should) is FAKE NEWS!" Id.

On June 30, 2017, Trump tweeted, "Watched low rated @Morning_Joe for first time in long time. FAKE NEWS. He called me to stop a National Enquirer article. I said no! Bad show." Id.

In all of this the President underminded the integrity of the Press as an integral part of a free society.

The Freedom of the Press and the Freedom of speech makes America more free. The dissemination of information allows people to see different views, ideas and perspectives instead of the narrow view of the few with money, power and connections who, if allowed, would buy our eyes and ears to

profit off of our ignorance.

The freedom of the Press, and speech must be safeguarded from persecution at the behest of those with power.

The common man is made equal under the law by the laws safeguarding the freedom of the Press and speech. That is quite beautiful. The powerful must give up power. The lowly have laws that lift them higher by granting them more power than those in positions of authority. The common man is somehow more equal with the powerful by the Constitutional laws safeguarding the freedom of the Press and speech.

That humility and respect for the dignity of other people regardless of their station in life mandated by our Constitution is worth fighting against those few with evil, self serving, greedy, gluttonous interests. Those loveless creatures who seek to enslave and to be served as opposed to serve are rooted out by the Constitutional laws that make this country already great.

Trump made America less great by chilling the exercise of freedoms of those he serves Americans, including the members of the Press.

The President's words chilled the freedom of the Press and/or speech, and possibly other Americans' freedoms under the threat of economic persecution.

The lower Federal Courts recognize economic persecution as a form of government persecution. [14]

In all of this, Donald J. Trump has violated the First Amendment freedom of the Press against government persecution by willfully and knowingly persecuting those who exercised their freedom, Donald J.Trump.

In all of this, the President knowingly and willfully spoke and acted in a manner that violated the criminal law Title 18 of the United States Annotated Section 227.

In so doing he has undermined the integrity of his office, by violating federal criminal law and the freedoms under the Constitution, and brought disrepute on the Presidency, and betrayed his trust as President in a manner subversive of constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States.

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[14] The cases are limited to immigration cases, but the criminal statute Title 18 of the United States Code Annotated Section 227 extends government persecution by the President of the United States to economic persecution too. I applaud this branch of government for choosing to create a check on themselves and another branch of government.

Wherefore Donald J. Trump, by such conduct, warrants impeachment and trial, and removal from office.

# SAVE DUE PROCESS AND PREVENT KIDNAPPING BABIES AT THE BORDER

# ARTICLE OF IMPEACHMENT

116 TH CONGRESS

1ST SESSION

Add the 4th charged for the p/12-3 please 2 SU doc

Use Gov. doc as Exhibit to Art. 1 Witness execution BABY.

Impeaching Donald J. Trump, President of the United States, of high crimes and misdemeanors.

_____, 2019

_____ submitted the following resolution; which was referred to the _____

Impeaching Donald J. Trump, President of the United States, of high crimes and misdemeanors.

RESOLUTION

*Resolved*, That Donald J. Trump,

President of the United States, is impeached for high crimes and misdemeanors, and that the following Articles of Impeachment to be exhibited to the Senate:

Articles of Impeachment to be exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Donald J. Trump, President of the United States, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

THE PRESIDENT'S VIOLATION OF OATH OF OFFICE, PERJURY BY FAILING TO UPHOLD THE CONSTITUTION, AND LAWS OF THE LAND, INCLUDING THE 5TH AMENDMENT DUE PROCESS CLAUSE

In his conduct while President of the United States, Donald J. Trump (herein also referred to as "President" or "Trump"), in violation of his constitutional oath to faithfully execute the office of President of the

United States and, to the best of his ability, preserve, protect, defend and obey the Constitution of the United States, as well as his constitutional obligation to preserve, protect, defend and obey the laws of the land:

The President swore an oath to uphold the Constitutional laws.

The President has a duty to review, inform himself of such Constitutional laws, in order to uphold the Constitution,

The President's ignorance is not innocence.

Ignoring the Constitutional laws is not a defense in the President's violation of his oath of office to uphold the same.

No one is above the law. No one is below the law.

Not even the President of the United States is free to ~~willfully~~ violate the Constitution.

The President committed perjury by violating his oath to uphold the Constitution and Laws of the land by encouraging violation of the same under his policies at the border.

18 U.S.C.A. § 1621 provides:

"Whoever–

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States."

The President, through his policies at the Border, has encouraged the punishment of people in this country in violation of the 5th

Amendment due process of law, in total disregard of his oath to uphold the Constition, including the 5th Amendment.

The US Supreme Court held:"Fifth Amendment entitles aliens to due process of law in deportation proceedings, and detention during such proceedings is constitutionally valid aspect of deportation process." U.S.C.A. Const.Amend. 5th Demore v. Kim, 538 U.S. 510, 123 S. Ct. 1708, 155 L. Ed. 2d 724 (2003).[1]

While detention is permitted at detention centers, the conditions at detention centers are so heinous must be considered punishment, not mere detention, without a hearing or trial, in deprivation of the detainees' substantive due process "right to bodily integrity," Citing, Albright v. Oliver,-510 U.S. 266, 114 S. Ct. 807, 127 L. Ed.

"Since pretrial detainees ... are similarly restricted in their ability to fend for themselves, (the Government) owes a duty to both groups that effectively confers upon them a set of constitutional rights that fall under court's rubric of "basic human needs." Hare v. City of Corinth, Miss., 74 F.3d 633 (5th Cir. 1996).

The absence of tooth paste, soap, beds, food, water and other basic needs for detainees at detention centers is unconscionable.

"Detainees described overcrowding so severe that 'it was difficult to move in any direction without jostling and being jostled.' The water provided them was foul, 'of a dark color, and an ordinary glass would collect a thick sediment.' The 'authorities never removed any filth.' A detainee wrote that the 'only shelter from the sun and rain and night dews, was what we could make by stretching over us our coats or scraps of blanket.' As for the food, 'Our ration was in quality a starving one, it being either too foul to be touched or too raw to be digested.'"[2]

"(C)hildren at a facility in Clint, Texas, were sleeping on concrete floors and being denied soap and toothpaste. (Observers) described children as young as 7 and 8, many of them wearing clothes caked with snot and tears ... 'caring for infants they've just met.' A visiting

[1] I. Reno v. Flores, 507 U.S. 292, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993) ("Fifth Amendment entitles aliens to due process of law in deportation proceedings. U.S.C.A. Const.Amend. 5.")

[2] A Crime by Any Name. The Trump administration's commitment to deterring immigration through cruelty has made horrifying conditions in detention facilities inevitable. By Adam Serwer, July 3, 2019, https://www.theatlantic.com/ideas/archive/2019/07/border-facilities/593239/.

Evidence Attach Exhibits Please or Footnotes

Please Add info on payments per day attach & gov docs

doctor called the detention centers 'torture facilities.' At least seven children have died in U.S. custody in the past year, compared with none in the 10 years prior. More than 11,000* children are now being held by the U.S. government on any given day. As if these conditions were insufficiently punitive, the administration has canceled recreational activities..." Id.

"At a processing center in El Paso, Texas, 900 migrants were 'being held at a facility designed for 125. In some cases, cells designed for 35 people were holding 155 people,' Id.

"The New York Times reported. One observer described the facility to Texas Monthly as a 'human dog pound.'" Id.

"The government's own investigators have found detainees in facilities run by Immigration and Customs Enforcement being fed expired food at detention facilities, 'nooses in detainee cells,"' "'inadequate medical care,' and 'unsafe and unhealthy conditions.'Id.

"An early-July inspector-general report found "dangerous overcrowding" in some Border Patrol facilities and included pictures of people crowded together like human cargo." Id.

"Some of the people detained by the U.S. government have entered the United States illegally or overstayed their visas; some are simply seeking to exercise their legal right to asylum." Id.

"Chilling first-hand reports of migrant detention centers highlight smell of 'urine, feces,' overcrowded conditions." [3]

'"Children at three of the five Border Patrol facilities we visited had no access to showers ... [and] limited access to a change of clothes.'" Id.

In all of this, Donald J. Trump has undermined the integrity of his office, by violating federal criminal law and the freedoms under the Constitution, and brought disrepute on the Presidency, and betrayed his trust as President in a manner subversive of constitutional government, to the great prejudice of the cause of law and justice and

[3] Government officials and pediatricians who have toured border facilities give first-hand accounts of conditions. USA TODAY compiled their words. By, James Sergent, Elinor Aspegren, Elizabeth Lawrence and Olivia Sanchez, USA TODAY, Updated 10:32 a.m. EDT July 17, 2019
https://www.usatoday.com/indepth/news/politics/elections/2019/07/16/migrant-detention-centers-described-2019-us-government-accounts/1694638001/

to the manifest injury of the people of the United States.

## ARTICLE II CRIME OF KIDNAPPING

The allegations contained in paragraphs above and are repeated and realleged as though fully set forth herein.

The President encouraged, aided and abetted and, or conspired with the kidnapping of individuals under implementation of his border policies.

18 U.S.C.A. § 1201, the federal kindapping statute provides:

" (a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when--

(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense;

(2) any such act against the person is done within the special maritime and territorial jurisdiction of the United States;

(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 46501 of title 49;

(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or

(5) the person is among those officers and employees described in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties,

shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

(b) With respect to subsection (a)(1), above, the failure to release the victim within **twenty-four hours** after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce. Notwithstanding the

preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

(d) Whoever attempts to violate subsection (a) shall be punished by imprisonment for not more than twenty years.

(e) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49. For purposes of this subsection, the term "national of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(f) In the course of enforcement of subsection (a)(4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a)(4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

(g) Special Rule for Certain Offenses Involving Children.--

(1) To whom applicable.--If--

(A) the victim of an offense under this section has not attained the age of eighteen years; and

(B) the offender--

(i) has attained such age; and

(ii) is not--

(I) a parent;

(II) a grandparent;

(III) a brother;

(IV) a sister;

(V) an aunt;

(VI) an uncle; or

(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall include imprisonment for not less than 20 years.

(h) As used in this section, the term "parent" does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order."

The President encouraged Americans and aliens to be recklessly placed in detention centers without probable cause or legal justification, in utter disregard to the rule of law.

Sorting them out later is unlawful imprisonment in violation of 18 U.S.C.A. § 1201. Due Process requires legal justification, probable cause, before detention.

In all of this, Donald J. Trump has undermined the integrity of his office, by violating federal criminal law and the freedoms under the Constitution, and brought disrepute on the Presidency, and betrayed his trust as President in a manner subversive of constitutional government, to the great prejudice of the cause of law and justice and to the manifest injury of the people of the United States.

Wherefore Donald J. Trump, by such conduct, warrants impeachment and trial, and removal from office.

Save children Please

Do the right thing mother

You are awaine even if you do NOT succeed at first. You win by not Giving up life matters more than $ will still love you. Thanks Mark.

Porn Star

impeachment

I copied and pasted

from the NY AG's

Complaint

You must include the

2 checks

# STORMY DANIELS AND THE MISPAID DOLLARS ARTICLE OF IMPEACHMENT

116 TH CONGRESS

1ST SESSION

Impeaching Donald J. Trump, President of the United States, of high crimes and misdemeanors.

_____, 2019

_____submitted the following resolution; which was referred to the _____

Impeaching Donald J. Trump, President of the United States, of high crimes and misdemeanors.

RESOLUTION

*Resolved,* That Donald J. Trump,

President of the United States, is impeached for high crimes and misdemeanors, and that the following Articles of Impeachment to be exhibited to the Senate:

Articles of Impeachment to be exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Donald J. Trump, President of the United States, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

THE PRESIDENT'S VIOLATION OF CAMPAIGN FINANCE LAW

In his conduct while President of the United States, Donald J. Trump (herein also referred to as "President" or "Trump"), in violation of his constitutional oath to faithfully execute the office of President of the United States and, to the best of his ability, preserve, protect, defend and obey the Constitution of the United States, as well as his constitutional obligation to preserve, protect, defend and obey the laws of the land,

including the Criminal Statutes under the Internal Revenue Code.

## Back Ground

### A Campaign Finance Violations

The Federal Election Campaign Act of 1971, as amended, Title 52, United States Code, Section 30101, et *seq.*, (the "Election Act"), regulates the influence of money on politics. At all times relevant to the Information, the Election Act set forth the following limitations, prohibitions, and reporting requirements, which were applicable to President Donald J. Trump, and his campaign:

(a) Individual contributions to any presidential candidate, including expenditures coordinated with a candidate or his political committee, were limited to $2,700 per election, and presidential candidates and their committees were prohibited from accepting contributions from individuals in excess of this limit.

( b)Corporations were prohibited from making contributions directly to presidential candidates, including expenditures coordinated with candidates or their committees, and candidates were prohibited from accepting corporate contributions.

On or about June 16, 2015, President Donald J. Trump (hereinafter also "Trump") began his presidential campaign.

While MICHAEL COHEN, continued to work at the Company and did not have a formal title with the campaign, he had a campaign email address and, at various times, advised the campaign, including on matters of interest to the press, and made televised and media appearances on behalf of the campaign.

At all times relevant to this Information, Corporation-1 was a media company that owns, among other things, a popular tabloid magazine ("Magazine-1").

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Consistent with the agreement described above, Corporation-1 advised MICHAEL COHEN, the defendant, of negative stories during the course of

the campaign, and COHEN, with the assistance of Corporation-1, was able to arrange for the purchase of two stories so as to suppress them and prevent them from influencing the election.

*First,* in or about June 2016, a model actress and Playboy Playmate Karen McDougal (McDougal) began attempting to sell her story of her alleged extramarital affair with Donald J. Trump that had taken place in 2006 and 2007, knowing the story would be of considerable value because of the election. Woman-1 retained an attorney ("Attorney-1"), who in turn contacted the editor-in-chief of Magazine-1 ("Editor-1"), and offered to sell McDougal's story to Magazine-1. Chairman-1 and Editor-1 informed Cohen, the defendant, of the story. At COHEN's urging and subject to Cohen's promise that Corporation-1 would be reimbursed, Editor-1 ultimately began negotiating for the purchase of the story.

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MICHAEL COHEN, the defendant, did not immediately execute the agreement, nor did he pay Clifford. On the evening of October 25, 2016, with no deal with Clifford finalized, Attorney-1 told Editor-1 that Clifford was close to completing a deal with another outlet to make her story public. Editor-1, in turn, texted

COHEN, the defendant, that "[w]e have to coordinate something on the matter [Attorney-1 is] calling you about or it could look awfully bad for everyone." Chairman-1 and Editor-1 then called COHEN through an encrypted telephone application. COHEN agreed to make the payment, and then called Attorney-1 to finalize the deal.

The next day, on October 26, 2016, MICHAEL COHEN emailed an incorporating service to obtain the corporate formation documents for another shell corporation, Essential Consultants LLC, which COHEN had incorporated a few days prior. Later that afternoon, COHEN drew down $131,000 from a fraudulently obtained HELOC, and requested that it be deposited into a bank account COHEN had just opened in the name of Essential Consultants. The next morning, on October 27, 2016, COHEN went to Bank-3 and wired approximately $130,000 from Essential Consultants to Attorney-1. On the bank form to complete the wire, COHEN falsely indicated that the "purpose of wire being sent" was "retainer." On or about November 1, 2016, COHEN received from Attorney-1 copies of the final, signed confidential settlement agreement and side letter agreement.

Trump through his agent Cohen, caused and made the payments described herein in order to influence the 2016 presidential election. In so doing, he coordinated with one or more members of the campaign, including through meetings and phone calls, about the fact, nature, and timing of the payments.

at the request of Trump

As a result of the payments solicited and made by Cohen, ~~the defendant~~, neither McDougal nor Clifford spoke to the press prior to the election.

In or about January 2017, Cohen, the defendant, in seeking reimbursement for election-related expenses, presented executives of the Company with a copy of a bank statement from the Essential Consultants bank account, which reflected the $130,000 payment Cohen had made to the bank account of Attorney-1 in order to keep Woman-2 silent in advance of the election, plus a $35 wire fee, adding, in handwriting, an additional "$50,000." The $50,000 represented a claimed payment for "tech services," which in fact related to work Cohen had solicited from a technology company during and in connection with the campaign. Cohen added these amounts to a sum of $180,035. After receiving this document, executives of the Company "grossed up" for tax purposes Cohen's requested reimbursement of $180,000 to $360,000, and then added a bonus of $60,000 so that Cohen would be paid $420,000 in total. Executives of the Company also

determined that the $420,000 would be paid to Cohen in monthly amounts of $35,000 over the course of twelve months, and that Cohen should send invoices for these payments.

On or about February 14, 2017, Cohen, the defendant, sent an executive of the Company ("Executive-1") the first of his monthly invoices, requesting "[p]ursuant to [a]retainer agreement,. payment for services rendered for the months of January and February, 2017." The invoice listed $35,000 for each of those two months. Executive-1 forwarded the invoice to another executive of the Company ("Executive-2") the same day by email, and it was approved. Executive-1 forwarded that email to another employee at the Company, stating: "Please pay from the Trust. Post to legal expenses. Put 'retainer for the months of January and February 2017' in the description."

Throughout 2017, Cohen, sent to one or more representatives of the Company monthly invoices, which stated, "Pursuant to the retainer agreement, kindly remit payment for services rendered for" the relevant month in 2017, and sought $35,000 per month.

The Company accounted for these payments as legal expenses. In truth and in fact, there was no such retainer agreement, and the monthly invoices COHEN submitted were not in connection with any legal services he had provided in 2017. During 2017, pursuant to the invoices described above, Cohen, the defendant, received monthly $35,000 reimbursement checks, totaling $420,000. At all times Cohen acted on behalf of, at the request of or under the instruction of President Trump.

In so doing Trump violated campaign finance law.

**B (Causing an Unlawful Corporate Contribution)**

The allegations contained in paragraphs above and below are repeated and realleged as though fully set forth herein.

From in or about June 2016, up to and including in or about October 2016, in the Southern District of New York and elsewhere, Trump through his agent, Cohen, the defendant, knowingly and willfully caused a corporation to make a contribution and expenditure, aggregating $25,000 and more during the 2016 calendar year, to the campaign of a candidate for President of the United States, to wit, Cohen caused Corporation-1 to make and advance a $150,000 payment to Playboy Playmate Karen McDougal, including through the promise of reimbursement, so as to ensure that Playboy Playmate Karen McDougal did not publicize damaging allegations before the 2016 presidential election and thereby influence that election.

**(Excessive Campaign Contribution)**

The allegations contained in paragraphs above and are repeated and realleged as though fully set forth herein.

On or about October 27, 2016, in the Southern District of New York and elsewhere, Cohen, knowingly and willfully made and caused to be made a contribution to Trump, a candidate for Federal office, and his authorized political committee in excess of the limits of the Election Act, which aggregated $25,000 and more in calendar year 2016, and did so by making and causing to be made an expenditure, in cooperation, consultation, and concert with, and at the request and suggestion of one or more members of the campaign, to wit, Cohen made a $130,000 payment to porn star Stormy Daniels, whose real name is Stephanie Clifford to ensure that she did not publicize damaging allegations before the 2016 presidential election and thereby influence that election.

Upon information and belief Pres. Trump directed Cohen to commit a crime by paying two women for the principal purpose of influencing an election.

Cohen's lawyer Lanny Davis told the press, Donald Trump directed Cohen to commit a crime by paying payments to two women for the principal purpose of influencing an election.

Cohen also testified under oath at Capital Hill that Donald Trump directed Cohen to commiy a crime by paying payments to two women for the purpose of influencing an election.

During his testimony on Capital hill in February 2019, President Trump's attorney Michael Cohen submitted copies of checks that Trump, his son Donald Trump Jr. and the COO of the Trump Organization made to him — evidence intended to support Cohen's claim that the president engaged in possible criminal conduct while in office

Cohen provided a copy of a check that he says was personally signed by Trump in 2017 to reimburse him for paying off Stormy Daniels, an adult-film actress who had alleged having an affair with Trump.

Cohen testified, "I am providing a copy of a $35,000 check that President Trump personally signed from his personal bank account on Aug. 1 of 2017 — when he was President of the United States — pursuant to the cover-up, which was the basis of my guilty plea, to reimburse me — the word used by Mr. Trump's TV lawyer — for the illegal hush money I paid on his behalf. This $35,000 check was one of 11 check installments that was paid throughout the year, while he was President," according to Cohen at a House Committee on Oversight and Reform hearing.

Cohen advised, "The President of the United States thus wrote a personal check for the payment of hush money as part of a criminal scheme to violate campaign finance laws. You can find the details of that scheme,

directed by Mr. Trump, in the pleadings in the U.S. District Court for the Southern District of New York."

Cohen also provided a second check ("Trust check") to Congress on Capitol Hill, from the Donald J. Trump- Revocable Trust Account to Cohen in the amount of $35.000 check, dated March 17, 2017.

The Trust Check was signed by Donald Trump Jr. and Trump organization chief operating officer Allen Weisselberg — "to reimburse me for the hush money payments," Cohen told the committee.

In all of this, Donald J. Trump has violated campaign finance law.

**Criminal Violations under the Internal Revenue Code**

The allegations contained in paragraphs above and are repeated and realleged as though fully set forth herein.

In his conduct while President of the United States, Donald J. Trump (herein also referred to as "President" or "Trump"), in violation of his constitutional oath to faithfully execute the office of President of the United States and, to the best of his ability, preserve, protect, defend and obey the Constitution of the United States, as well as his constitutional obligation to preserve, protect, defend and obey the laws of the land, including the Criminal Laws under the Internal Revenue Code.

Upon information and belief, Trump failed to report the payments made to Cohen, referred to above, to the Federal Election Commission.

Upon information and belief Trump directed payment to Cohen from an improper account in an attempt to influence an election.

It is not a lawful permitted purpose of any trust to make an unlawful payment out of a trust account, including the Donald J. Trump - Revocable Account.

Cohen accepted a payment in the amount of $35,000.00 from the Donald J. Trump - Revocable Account.

It is not a lawful, permitted, purpose to make an unlawful payment out of Trump's personal account.

Cohen accepted an unlawful payment from Trump's personal account in the amount of $35,000.00.

Upon information and belief Trump directed his agents to make unlawful payments to McDougal and Clifford in an attempt to influence an election.

Upon information and belief the payments to McDougal, Clifford and Cohen were not paid out of the campaign account required by the Federal Election Commission.

As aforementioned the payments to McDougal and Clifford exceeded lawful campaign limits.

The payments were not accurately reported with the Federal Elections Commission.

Since improper payments were made out of improper accounts, in unlawful amounts, Trump misstated information on tax forms relating to his campaign and possibly other entities.

The tax forms are signed under oath.

In doing so, upon information and belief, Trump violated the following criminal provisions of the internal revenue code.

A.

Pursuant to 26 U.S.C.A. § 7206. relating to fraud and false statements, "Any person who--

> (1) **Declaration under penalties of perjury.**--Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or
>
> (2) **Aid or assistance.**--Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or

3) **Fraudulent bonds, permits, and entries.**--Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or

(4) **Removal or concealment with intent to defraud.**--Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or

(5) **Compromises and closing agreements.**--In connection with any compromise under section 7122, or offer of such compromise, or in connection with any closing agreement under section 7121, or offer to enter into any such agreement, willfully--

(A) **Concealment of property.**--Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or

(B) **Withholding, falsifying, and destroying records.**--Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax; shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution."

B

Pursuant to 26 U.S.C.A. § 7202. § 7202. Willful failure to collect or pay over tax

"Any person required under this title to collect, **account for,** and pay over any tax imposed by this title who willfully fails to collect or **truthfully account for** and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution." (emphasis intended).

Trump did not account for payments out of the campaign account for payments made to influence the election because he allowed, permitted or directed payments to be made out of different accounts.

The intent was in part to conceal the fact the payments exceeded campaign limits permitted since Trump did not want to get into trouble.

Upon information and belief, Trump has access to a former Circuit Court Judge, his sister and other attorneys.

Upon information and belief, Trump knew, or should have known, his conduct was improper, unlawful and or wrong.

C.

Pursuant to 26 U.S.C.A § 7201. Attempt to evade or defeat tax

Any person who willfully attempts in any manner to **evade** or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution. (emphasis intended).

Trump willfully sought to evade reporting improper payments with the Federal Election Commission.

Trump willfully permitted payments out of an improper account with the intent, in part, to influence an election.

D.

Pursuant to 26 U.S.C.A § 7207.Fraudulent returns, statements, or other documents

"Any person who willfully delivers or discloses to the Secretary any list, return, account, statement, or other document, known by him to be **fraudulent** or to be **false** as to any material matter, shall be fined not more than $10,000 ($50,000 in the case of a corporation), or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527 to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $10,000 ($50,000 in the case of a corporation), or imprisoned not more than 1year, or both." (emphasis intended).

Upon information and belief, Trump failed to report all payments made and or accepted with an intent to influence an election on his tax forms.

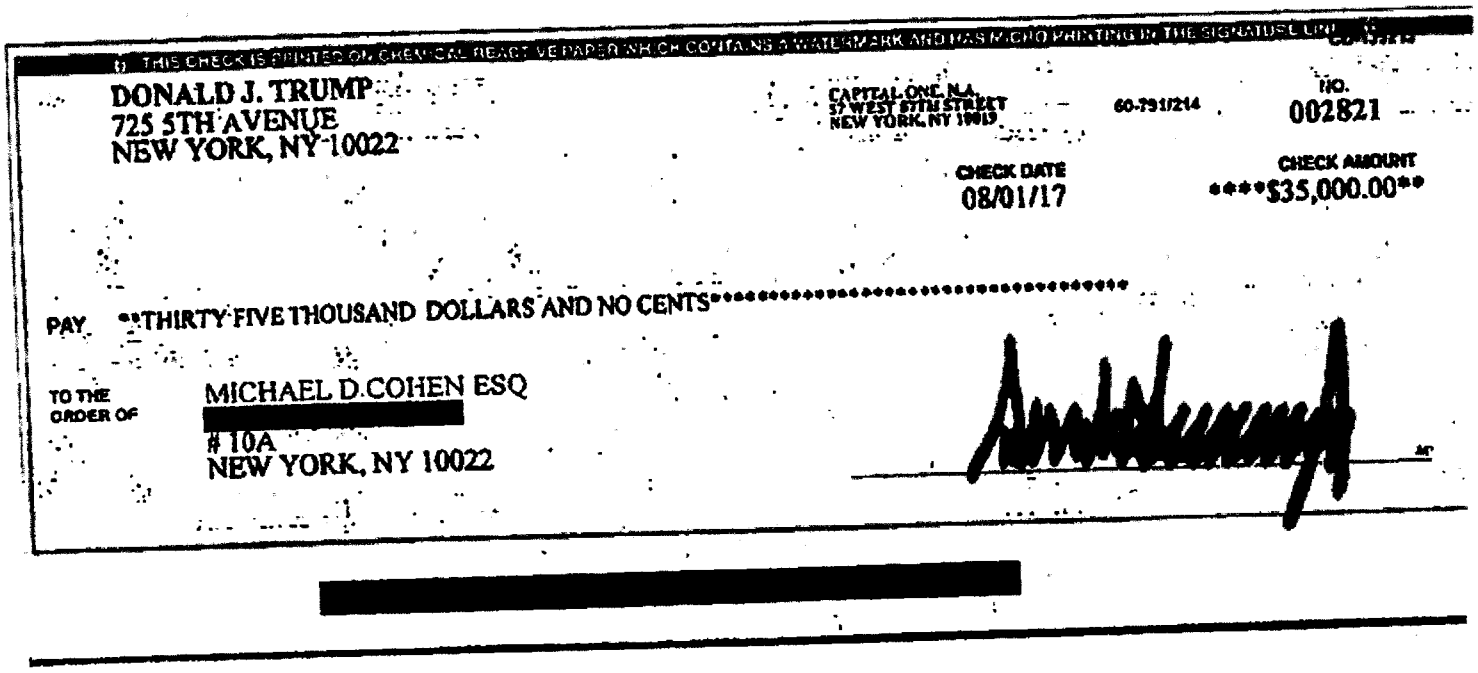
The fact payments were made from improper accounts is circumstantial evidence that Trump failed to report the money in proper accounts as required by the Federal Elections Commission.

In all of this, the President knowingly and willfully spoke and acted in a manner that violated the criminal laws under the Internal Revenue Code.

In so doing he has undermined the integrity of his office, by violating federal criminal law and the Constitution, and brought disrepute on the Presidency, and betrayed his trust as President in a manner subversive of constitutional government, to the great prejudice of the cause of law and

justice and to the manifest injury of the people of the United States.

Wherefore Donald J. Trump, by such conduct, warrants impeachment and trial, and removal from office ~~Wherefore Donald J. Trump, by such conduct, warrants impeachment and trial, and removal from office~~



THIS CHECK IS PRINTED ON CHEMICAL REACTIVE PAPER WHICH CONTAINS A WATERMARK AND HAS MICRO PRINTING IN THE SIGNATURE LINE

DONALD J. TRUMP
725 5TH AVENUE
NEW YORK, NY 10022

CAPITAL ONE, N.A.
57 WEST 57TH STREET
NEW YORK, NY 10019

60-791/214

NO. 002821

CHECK DATE
08/01/17

CHECK AMOUNT
****$35,000.00**

PAY **THIRTY FIVE THOUSAND DOLLARS AND NO CENTS**********

TO THE ORDER OF
MICHAEL D.COHEN ESQ
[redacted]
# 10A
NEW YORK, NY 10022

[redacted]

THIS CHECK IS PRINTED ON CHEMICAL REACTIVE PAPER WHICH CONTAINS A WATERMARK AND HAS MICROPRINTING IN THE SIGNATURE LINE

**DONALD J. TRUMP - REVOCABLE TRUST ACCOUNT**
725 5TH AVENUE
NEW YORK, NY 10022

CAPITAL ONE, N.A.
51 WEST 57TH STREET
NEW YORK, NY 10019

56-791/214

NO 000147

CHECK DATE 03/17/17

CHECK AMOUNT ****$35,000.00**

PAY **THIRTY FIVE THOUSAND DOLLARS AND NO CENTS**********

TWO SIGNATURES NEEDED ON AMTS OVER $10,000.

TO THE ORDER OF MICHAEL D COHEN ESQ
[redacted]
# 10A
NEW YORK, NY 10022

[redacted]

State of Delaware
Secretary of State
Division of Corporations
Delivered 01:14 PM 09/30/2016
FILED 01:14 PM 09/30/2016
SR 20166016733 - File Number 6168356

# STATE *of* DELAWARE
# LIMITED LIABILITY COMPANY
# CERTIFICATE *of* FORMATION

## RESOLUTION CONSULTANTS LLC

**First:** The name of the limited liability company is Resolution Consultants LLC.

**Second:** The address of its registered office in the State of Delaware is 160 Greentree Drive, Suite # 101 in the City of Dover, County of Kent, Zip code 19904. The name of its registered agent at such address is National Registered Agents, Inc.

**In Witness Whereof,** the undersigned has executed this Certificate of Formation this 30th day of September, 2016.

By: /s/ Michael Cohen
Authorized Person

Name: Michael Cohen

State of Delaware
Secretary of State
Division of Corporations
Delivered 10:21 AM 10/17/2016
FILED 10:21 AM 10/17/2016
SR 20166222994 - File Number 6185135

# STATE *of* DELAWARE
# LIMITED LIABILITY COMPANY
# CERTIFICATE *of* FORMATION

## ESSENTIAL CONSULTANTS LLC

**First:** The name of the limited liability company is Essential Consultants LLC.

**Second:** The address of its registered office in the State of Delaware is 160 Greentree Drive, Suite # 101 in the City of Dover, County of Kent, Zip code 19904. The name of its registered agent at such address is National Registered Agents, Inc.

**In Witness Whereof,** the undersigned has executed this Certificate of Formation this 17th day of October, 2016.

By: /s/ Michael Cohen
Authorized Person

Name: Michael Cohen

ORIGINAL

Judge Pauley

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - - - x

UNITED STATES OF AMERICA :

- v. - :

MICHAEL COHEN, :

Defendant. :

- - - - - - - - - - - - - - - - - - - - x

**INFORMATION**

18 Cr. __ (WHP)

18 CRIM 602



The United States Attorney charges:

**Background**

The Defendant

1. From in or about 2007 through in or about January 2017, MICHAEL COHEN, the defendant, was an attorney and employee of a Manhattan-based real estate company (the "Company"). COHEN held the title of "Executive Vice President" and "Special Counsel" to the owner of the Company ("Individual-1").

2. In or about January 2017, COHEN left the Company and began holding himself out as the "personal attorney" to Individual-1, who at that point had become the President of the United States.

addition to working for and earning income from

ll times relevant to this Information, MICHAEL

nt, owned taxi medallions in New York City and

lions of dollars. COHEN owned these taxi

I copied
and pasted
the text from
this AG letter
[illegible]

**Campaign Finance Violations**

The United States Attorney further charges:

24. The Federal Election Campaign Act of 1971, as amended, Title 52, United States Code, Section 30101, *et seq.*, (the "Election Act"), regulates the influence of money on politics. At all times relevant to the Information, the Election Act set forth the following limitations, prohibitions, and reporting requirements, which were applicable to MICHAEL COHEN, the defendant, Individual-1, and his campaign:

a. Individual contributions to any presidential candidate, including expenditures coordinated with a candidate or his political committee, were limited to $2,700 per election, and presidential candidates and their committees were prohibited from accepting contributions from individuals in excess of this limit.

b. Corporations were prohibited from making contributions directly to presidential candidates, including expenditures coordinated with candidates or their committees, and candidates were prohibited from accepting corporate contributions.

25. On or about June 16, 2015, Individual-1 began his presidential campaign. While MICHAEL COHEN, the defendant, continued to work at the Company and did not have a formal title with the campaign, he had a campaign email address and, at various times, advised the campaign, including on matters of interest to

the press, and made televised and media appearances on behalf of the campaign.

26. At all times relevant to this Information, Corporation-1 was a media company that owns, among other things, a popular tabloid magazine ("Magazine-1").

27. In or about August 2015, the Chairman and Chief Executive of Corporation-1 ("Chairman-1"), in coordination with MICHAEL COHEN, the defendant, and one or more members of the campaign, offered to help deal with negative stories about Individual-1's relationships with women by, among other things, assisting the campaign in identifying such stories so they could be purchased and their publication avoided. Chairman-1 agreed to keep COHEN apprised of any such negative stories.

28. Consistent with the agreement described above, Corporation-1 advised MICHAEL COHEN, the defendant, of negative stories during the course of the campaign, and COHEN, with the assistance of Corporation-1, was able to arrange for the purchase of two stories so as to suppress them and prevent them from influencing the election.

29. First, in or about June 2016, a model and actress ("Woman-1") began attempting to sell her story of her alleged extramarital affair with Individual-1 that had taken place in 2006 and 2007, knowing the story would be of considerable value because

of the election. Woman-1 retained an attorney ("Attorney-1"), who in turn contacted the editor-in-chief of Magazine-1 ("Editor-1"), and offered to sell Woman-1's story to Magazine-1. Chairman-1 and Editor-1 informed MICHAEL COHEN, the defendant, of the story. At COHEN's urging and subject to COHEN's promise that Corporation-1 would be reimbursed, Editor-1 ultimately began negotiating for the purchase of the story.

30. On or about August 5, 2016, Corporation-1 entered into an agreement with Woman-1 to acquire her "limited life rights" to the story of her relationship with "any then-married man," in exchange for $150,000 and a commitment to feature her on two magazine covers and publish over one hundred magazine articles authored by her. Despite the cover and article features to the agreement, its principal purpose, as understood by those involved, including MICHAEL COHEN, the defendant, was to suppress Woman-1's story so as to prevent it from influencing the election.

31. Between in or about late August 2016 and September 2016, MICHAEL COHEN, the defendant, agreed with Chairman-1 to assign the rights to the non-disclosure portion of Corporation-1's agreement with Woman-1 to COHEN for $125,000. COHEN incorporated a shell entity called "Resolution Consultants LLC" for use in the transaction. Both Chairman-1 and COHEN ultimately signed the agreement, and a consultant for Corporation-1, using

his own shell entity, provided COHEN with an invoice for the payment of $125,000. However, in or about early October 2016, after the assignment agreement was signed but before COHEN had paid the $125,000, Chairman-1 contacted COHEN and told him, in substance, that the deal was off and that COHEN should tear up the assignment agreement. COHEN did not tear up the agreement, which was later found during a judicially authorized search of his office.

32. *Second*, on or about October 8, 2016, an agent for an adult film actress ("Woman-2") informed Editor-1 that Woman-2 was willing to make public statements and confirm on the record her alleged past affair with Individual-1. Chairman-1 and Editor-1 then contacted MICHAEL COHEN, the defendant, and put him in touch with Attorney-1, who was also representing Woman-2. Over the course of the next few days, COHEN negotiated a $130,000 agreement with Attorney-1 to himself purchase Woman-2's silence, and received a signed confidential settlement agreement and a separate side letter agreement from Attorney-1.

33. MICHAEL COHEN, the defendant, did not immediately execute the agreement, nor did he pay Woman-2. On the evening of October 25, 2016, with no deal with Woman-2 finalized, Attorney-1 told Editor-1 that Woman-2 was close to completing a deal with another outlet to make her story public. Editor-1, in turn, texted

MICHAEL COHEN, the defendant, that "[w]e have to coordinate something on the matter [Attorney-1 is] calling you about or it could look awfully bad for everyone." Chairman-1 and Editor-1 then called COHEN through an encrypted telephone application. COHEN agreed to make the payment, and then called Attorney-1 to finalize the deal.

34. The next day, on October 26, 2016, MICHAEL COHEN, the defendant, emailed an incorporating service to obtain the corporate formation documents for another shell corporation, Essential Consultants LLC, which COHEN had incorporated a few days prior. Later that afternoon, COHEN drew down $131,000 from the fraudulently obtained HELOC, discussed above in paragraphs 19 through 21, and requested that it be deposited into a bank account COHEN had just opened in the name of Essential Consultants. The next morning, on October 27, 2016, COHEN went to Bank-3 and wired approximately $130,000 from Essential Consultants to Attorney-1. On the bank form to complete the wire, COHEN falsely indicated that the "purpose of wire being sent" was "retainer." On or about November 1, 2016, COHEN received from Attorney-1 copies of the final, signed confidential settlement agreement and side letter agreement.

35. MICHAEL COHEN, the defendant, caused and made the payments described herein in order to influence the 2016

presidential election. In so doing, he coordinated with one or more members of the campaign, including through meetings and phone calls, about the fact, nature, and timing of the payments.

36. As a result of the payments solicited and made by MICHAEL COHEN, the defendant, neither Woman-1 nor Woman-2 spoke to the press prior to the election.

37. In or about January 2017, MICHAEL COHEN, the defendant, in seeking reimbursement for election-related expenses, presented executives of the Company with a copy of a bank statement from the Essential Consultants bank account, which reflected the $130,000 payment COHEN had made to the bank account of Attorney-1 in order to keep Woman-2 silent in advance of the election, plus a $35 wire fee, adding, in handwriting, an additional "$50,000." The $50,000 represented a claimed payment for "tech services," which in fact related to work COHEN had solicited from a technology company during and in connection with the campaign. COHEN added these amounts to a sum of $180,035. After receiving this document, executives of the Company "grossed up" for tax purposes COHEN's requested reimbursement of $180,000 to $360,000, and then added a bonus of $60,000 so that COHEN would be paid $420,000 in total. Executives of the Company also determined that the $420,000 would be paid to COHEN in monthly amounts of $35,000 over the course of

twelve months, and that COHEN should send invoices for these payments.

38. On or about February 14, 2017, MICHAEL COHEN, the defendant, sent an executive of the Company ("Executive-1") the first of his monthly invoices, requesting "[p]ursuant to [a] retainer agreement, . . . payment for services rendered for the months of January and February, 2017." The invoice listed $35,000 for each of those two months. Executive-1 forwarded the invoice to another executive of the Company ("Executive-2") the same day by email, and it was approved. Executive-1 forwarded that email to another employee at the Company, stating: "Please pay from the Trust. Post to legal expenses. Put 'retainer for the months of January and February 2017' in the description."

39. Throughout 2017, MICHAEL COHEN, the defendant, sent to one or more representatives of the Company monthly invoices, which stated, "Pursuant to the retainer agreement, kindly remit payment for services rendered for" the relevant month in 2017, and sought $35,000 per month. The Company accounted for these payments as legal expenses. In truth and in fact, there was no such retainer agreement, and the monthly invoices COHEN submitted were not in connection with any legal services he had provided in 2017.

40. During 2017, pursuant to the invoices described above, MICHAEL COHEN, the defendant, received monthly $35,000 reimbursement checks, totaling $420,000.

COUNT 7

(Causing an Unlawful Corporate Contribution)

The United States Attorney further charges:

41. The allegations contained in paragraphs 1 through 3, and 24 through 40 are repeated and realleged as though fully set forth herein.

42. From in or about June 2016, up to and including in or about October 2016, in the Southern District of New York and elsewhere, MICHAEL COHEN, the defendant, knowingly and willfully caused a corporation to make a contribution and expenditure, aggregating $25,000 and more during the 2016 calendar year, to the campaign of a candidate for President of the United States, to wit, COHEN caused Corporation-1 to make and advance a $150,000 payment to Woman-1, including through the promise of reimbursement, so as to ensure that Woman-1 did not publicize damaging allegations before the 2016 presidential election and thereby influence that election.

(Title 52, United States Code, Sections 30118(a) and 30109(d)(1)(A), and Title 18, United States Code, Section 2(b).)

**COUNT 8**
**(Excessive Campaign Contribution)**

The United States Attorney further charges:

43. The allegations contained in paragraphs 1 through 3, and 24 through 40 are repeated and realleged as though fully set forth herein.

44. On or about October 27, 2016, in the Southern District of New York and elsewhere, MICHAEL COHEN, the defendant, knowingly and willfully made and caused to be made a contribution to Individual-1, a candidate for Federal office, and his authorized political committee in excess of the limits of the Election Act, which aggregated $25,000 and more in calendar year 2016, and did so by making and causing to be made an expenditure, in cooperation, consultation, and concert with, and at the request and suggestion of one or more members of the campaign, to wit, COHEN made a $130,000 payment to Woman-2 to ensure that she did not publicize damaging allegations before the 2016 presidential election and thereby influence that election.

(Title 52, United States Code, Sections 30116(a)(1)(A), 30116(a)(7), and 30109(d)(1)(A), and Title 18, United States Code, Section 2(b).)

Begin forwarded message:

**From:** Meghan Kelly <megkellyesq@yahoo.com>
**Date:** 2/21/2020
**To:** Kenneth Mcdowell <kennetha.mcdowell@state.de.us>,Anthony J Albence <anthony.albence@delaware.gov>,erikjschramm@gmail.com,Jesse Chadderdon <jesse@deldems.org>,Meghan Kelly <electmegkelly@icloud.com>,coe_campaignfinance@state.de.us,Meghan Kelly <megkellyesq@yahoo.com>
**Subject: Bo/ is awesome even though this decision is not**

Hi Bo and good morning Mr. Albence, Jesse and Honorable Chairman,

My waiver relates solely on religious reasons.

Even if I had the money, it would still violate my belief in Jesus's teachings since the money may be used to pay people to support or buy support for candidate's giving into the temptation of voting for whoever buys you. " owe nothing to anyone but to love them"

Candidates should not be bought, bartered by those who can afford to pay folks to create the illusion of popularity when in truth it is mere deep pockets.

In addition such money may be used to contribute to Matthew 6 violations leading many to harm and hell by teaching them to worship the mark of the beast.

This is no small matter for me Bo. I actually believe Jesus Christ and understand the Bible as the Holy Spirit was reflected out of certain people who laid down their will, their desires, by choosing God's will, God's purpose, despite the hardships it caused.

Bo, I do not want to attach checks on public record and thus compromise the accounts.

So I think I will include such payments on my pleading. So do not perform unnecessary legal research Attorney generals office or democrats.

I will show the fact that I paid the filing fee in the past and the Democratic contributions in the past, and will explain how I grew to understand this too violates Jesus's teachings.

I do not want to disobey Jesus and serve Satan by violating his teachings thereby misleading others to believe such evil is good. You are not the enemy despite disagreeing on me on the important issue. Injustice is the enemy.

I did not know it was evil. (It is possible that even adults like myself can learn and grow). I learned it was, as I discovered corruption even by our own party, Yipes. I do not want to compromise my soul by contributing to such corruption.

Bo, I might send you an email to confirm I have the dates right. ( Bo is a Saint. He is like an angel sent by God. He patiently helped me with most of all the filings in 2018. This potential

law suit is not a reflection upon his kind efforts. It is a reflection upon the bad choice of those with the power to choose to persecute me based on my faith in Jesus Christ)

I am so happy to look through emails to see how kind you have been to me Bo. ♡ It is not your fault those in power made an unlawful decision Bo.

Thank you♡


# Roger Williams

**Roger Williams** (c. 1603 – March 1683)[1] was an English-born New England Puritan minister, theologian, and author who founded Providence Plantations, which became the Colony of Rhode Island and Providence Plantations and later the State of Rhode Island. He was a staunch advocate for religious freedom, separation of church and state, and fair dealings with the Native Americans.[2]

Williams was expelled by the Puritan leaders from the Massachusetts Bay Colony, and he established Providence Plantations in 1636 as a refuge offering what he termed "liberty of conscience". In 1638, he founded the First Baptist Church in America in Providence.[3][4] Williams studied the language of the New England Native Americans and published the first book-length study of it in English.[5]

## Early life

Roger Williams was born in London, and many historians cite 1603 as the probable year of his birth.[6] His birth records were destroyed when St. Sepulchre church burned during the Great Fire of London,[7] and his entry in *American National Biography* notes that Williams gave contradictory information about his age throughout his life.[8] His father was James Williams (1562–1620), a merchant tailor in Smithfield, and his mother was Alice Pemberton (1564–1635).

At an early age, Williams had a spiritual conversion of which his father disapproved. As an adolescent, he apprenticed under Sir Edward Coke (1552–1634), the famous jurist, and was educated at Charterhouse School under Coke's patronage. Williams later attended Pembroke College, Cambridge, where he received a Bachelor of Arts in 1627.[9] He demonstrated a facility

**Roger Williams**


*Roger Williams* (1872)

**9th President of the Colony of Rhode Island and Providence Plantations**

**In office**
1654–1657

**Preceded by** Nicholas Easton

**Succeeded by** Benedict Arnold

**Chief Officer of Providence and Warwick**

**In office**
1644–1647

**Preceded by** Himself (as Governor)

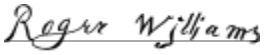
**Succeeded by** John Coggeshall (as President)

**Governor of Providence Plantations**

with languages, acquiring familiarity with Latin, Hebrew, Greek, Dutch, and French at an early age. Years later, he tutored John Milton in Dutch and Native American languages in exchange for refresher lessons in Hebrew and Greek.[10][11]

Williams took holy orders in the Church of England in connection with his studies, but he became a Puritan at Cambridge and thus ruined his chance for preferment in the Anglican church. After graduating from Cambridge, he became the chaplain to Sir William Masham. In April 1629, Williams proposed marriage to Jane Whalley, the niece of Lady Joan (Cromwell) Barrington, but she declined.[12] Later that year, he married Mary Bernard (1609–76), the daughter of Rev. Richard Bernard, a notable Puritan preacher and author; they were married at the Church of High Laver in Epping Forest, a few miles east of London.[13] They had six children, all born in America: Mary, Freeborn, Providence, Mercy, Daniel, and Joseph.

Williams knew that Puritan leaders planned to immigrate to the New World. He did not join the first wave of settlers, but later decided that he could not remain in England under the administration of Archbishop William Laud. Williams regarded the Church of England as corrupt and false, and he had arrived at the Separatist position by 1630; on December 1, he and his wife boarded the Boston-bound *Lyon* in Bristol.[14]

| | |
|---|---|
| **In office** | 1636–1644 |
| **Preceded by** | *position established* |
| **Succeeded by** | Himself (as Chief Officer) |
| **Personal details** | |
| **Born** | c. 1603<br>London, England |
| **Died** | between 21 January and 15 March 1683 (aged 79)<br>Providence Plantations |
| **Spouse** | Mary Bernard |
| **Children** | 6 |
| **Education** | Pembroke College, Cambridge |
| **Occupation** | Minister, statesman, author |
| **Signature** |  |

Williams attended Pembroke College, Cambridge

# First years in America

## Arrival in Boston

On February 5, 1631, the *Lyon* anchored in Nantasket outside of Boston.[15] The church of Boston offered him the opportunity to serve during the vacancy of Rev. John Wilson, who had returned to England to bring his wife back to America.[16] Williams declined the position on grounds that it was "an unseparated church." In addition, he asserted that civil magistrates must not punish any sort of "breach of the first table" of the Ten Commandments such as idolatry, Sabbath-breaking, false

worship, and blasphemy, and that individuals should be free to follow their own convictions in religious matters. These three principles later became central tenets of Williams's teachings and writings.

## Salem and Plymouth

As a Separatist, Williams considered the Church of England irredeemably corrupt and believed that one must completely separate from it to establish a new church for the true and pure worship of God. The Salem church was also inclined to Separatism, and they invited him to become their teacher. In response, leaders in Boston vigorously protested, leading Salem to withdraw its offer. As the summer of 1631 ended, Williams moved to Plymouth Colony where he was welcomed, and informally assisted the minister. At Plymouth, he regularly preached. Plymouth Governor William Bradford wrote that "his teachings were well approved."[18]

The Jonathan Corwin House was long purported to be Williams's residence in Salem[17]

After a time, Williams decided that the Plymouth church was not sufficiently separated from the Church of England. Furthermore, his contact with the Narragansett Native Americans had caused him to question the validity of colonial charters that did not include legitimate purchase of Native American land. Governor Bradford later wrote that Williams fell "into some strange opinions which caused some controversy between the church and him."[19]

In December 1632, Williams wrote a lengthy tract that openly condemned the King's charters and questioned the right of Plymouth to the land without first buying it from the Native Americans. He even charged that King James had uttered a "solemn lie" in claiming that he was the first Christian monarch to have discovered the land. Williams moved back to Salem by the fall of 1633 and was welcomed by Rev. Samuel Skelton as an unofficial assistant.

## Litigation and exile

The Massachusetts Bay authorities were not pleased at Williams's return. In December 1633, they summoned him to appear before the General Court in Boston to defend his tract attacking the King and the charter. The issue was smoothed out, and the tract disappeared forever, probably burned. In August 1634, Williams became acting pastor of the Salem church, the Rev. Skelton having died. In March 1635, he was again ordered to appear before the General Court, and he was summoned yet again for the Court's July term to answer for "erroneous" and "dangerous opinions." The Court finally ordered that he be removed from his church position.

This latest controversy welled up as the town of Salem petitioned the General Court to annex some land on Marblehead Neck. The Court refused to consider the request unless the church in Salem removed Williams. The church felt that this order violated their independence, and sent a letter of protest to the other churches. However, the letter was not read publicly in those churches, and the

General Court refused to seat the delegates from Salem at the next session. Support for Williams began to wane under this pressure, and he withdrew from the church and began meeting with a few of his most ardent followers in his home.

*The Banishment of Roger Williams* (c. 1850) by Peter F. Rothermel

Finally, the General Court tried Williams in October 1635 and convicted him of sedition and heresy. They declared that he was spreading "diverse, new, and dangerous opinions"[20] and ordered that he be banished. The execution of the order was delayed because Williams was ill and winter was approaching, so he was allowed to stay temporarily, provided that he ceased publicly teaching his opinions. He did not comply with this demand, and the sheriff came in January 1636, only to discover that he had slipped away three days earlier during a blizzard. He traveled 55 miles on foot through the deep snow, from Salem to Raynham, Massachusetts, where the local Wampanoags offered him shelter at their winter camp. Sachem Massasoit hosted Williams there for the three months until spring.

## Settlement at Providence

In the spring of 1636, Williams and a number of others from Salem began a new settlement on land which he had bought from Massasoit in Rumford. After settling, however, Plymouth Governor William Bradford sent him a friendly letter which nonetheless warned him that he was still within jurisdiction of Plymouth Colony and concerned that this might antagonize the leaders in Boston.

*The Landing of Roger Williams in 1636* (1857) by Alonzo Chappel depicts Williams crossing the Seekonk River

Accordingly, Williams and Thomas Angell crossed the Seekonk River in search of a new location suitable for settlement. Upon reaching the shore, Williams and Angell were met by Narragansett people who greeted them with the words "What cheer, Netop" (transl. Hello, friend). The settlers then continued eastward along the Providence River, where they encountered a cove and freshwater spring. Finding the area suitable for settlement, Williams acquired the tract from sachems Canonicus and Miantonomi.[21] Here, Williams and his followers established a new, permanent settlement, convinced that divine providence had brought them there. They named it Providence Plantations.[22]

Williams wanted his settlement to be a haven for those "distressed of conscience," and it soon attracted a growing number of families who did not see eye-to-eye with the leaders in Massachusetts Bay. From the beginning, a majority vote of the heads of households governed the new settlement, but

In 1936, on the 300th anniversary of the settlement of Rhode Island in 1636, the U.S. Post Office issued a commemorative stamp, depicting Roger Williams

only in civil things. Newcomers could also be admitted to full citizenship by a majority vote. In August 1637, a new town agreement again restricted the government to civil things. In 1640, 39 freemen (men who had full citizenship and voting rights) signed another agreement that declared their determination "still to hold forth liberty of conscience." Thus, Williams founded the first place in modern history where citizenship and religion were separate, providing religious liberty and separation of church and state. This was combined with the principle of majoritarian democracy.

In November 1637, the General Court of Massachusetts exiled a number of families during the Antinomian Controversy, including Anne Hutchinson and her followers. John Clarke was among them, and he learned from Williams that Aquidneck Island might be purchased from the Narragansetts; Williams helped him to make the purchase, along with William Coddington and others, and they established the settlement of Portsmouth. In spring 1638, some of those settlers split away and founded the nearby settlement of Newport, also situated on Rhode Island (now called Aquidneck).


First Baptist Church in America which Williams co-founded in 1638

In 1638, Williams and about 12 others were baptized and formed a congregation. Today, Williams's congregation is recognized as the First Baptist Church in America.[23]

## Pequot War and relations with Native Americans

In the meantime, the Pequot War had broken out. Massachusetts Bay asked for Williams's help, which he gave despite his exile, and he became the Bay colony's eyes and ears, and also dissuaded the Narragansetts from joining with the Pequots. Instead, the Narragansetts allied themselves with the colonists and helped to defeat the Pequots in 1637–38.

Williams formed firm friendships and developed deep trust among the Native American tribes, especially the Narragansetts. He was able to keep the peace between the Native Americans and the Colony of Rhode Island and Providence Plantations for nearly 40 years by his constant mediation and negotiation. He twice surrendered himself as a hostage to the Native Americans to guarantee the safe

return of a great sachem from a summons to a court: Pessicus in 1645 and Metacom ("King Philip") in 1671. The Native Americans trusted Williams more than any other Colonist, and he proved trustworthy.

## Securing Charters

A mid-19th century depiction of Williams meeting with Narragansett leaders

Williams arrived in London in the midst of the English Civil War. Puritans held power in London, and he was able to obtain a charter through the offices of Sir Henry Vane the Younger despite strenuous opposition from Massachusetts's agents. His book *A Key into the Language of America* proved crucial to the success of his charter, albeit indirectly.[24][25] It was published in 1643 in London and combined a phrase-book with observations about life and culture as an aid to communicate with the Native Americans of New England. It covered everything from salutations to death and burial. Williams also sought to correct the attitudes of superiority displayed by the colonists towards Native Americans:

> Boast not proud English, of thy birth & blood;
>
> Thy brother Indian is by birth as Good. Of one blood God made Him, and Thee and All,
>
> As wise, as fair, as strong, as personal.

Gregory Dexter printed the book, which was the first book-length study of a Native American language. In England, it was well received by readers who were curious about the Native American tribes of the New World.[26]

Williams secured his charter from Parliament for Providence Plantations in July 1644, after which he published his most famous book *The Bloudy Tenent of Persecution for Cause of Conscience*. The publication produced a great uproar; between 1644 and 1649, at least 60 pamphlets were published addressing the work's arguments. Parliament responded to Williams on August 9, 1644, by ordering the public hangman to burn all copies. By this time, however, Williams was already on his way back to New England where he arrived with his charter in September.[26]

It took Williams several years to unify the settlements of Narragansett Bay under a single government, given the opposition of William Coddington. The settlements of Providence, Portsmouth, Newport, and Warwick finally united in 1647 into the Colony of Rhode Island and Providence Plantations. Freedom of conscience was again proclaimed, and the colony became a safe haven for people who were persecuted for their beliefs, including Baptists, Quakers, and Jews. However, Coddington disliked Williams and did not enjoy his position of subordination under the new charter government. He sailed to England and returned to Rhode Island in 1651 with his own patent making him "Governor for Life" over Rhode Island and Conanicut Island.

As a result, Providence, Warwick, and Coddington's opponents on the island dispatched Williams and John Clarke to England, seeking to cancel Coddington's commission. Williams sold his trading post at Cocumscussec (near Wickford, Rhode Island) to pay for his journey even though it had provided his primary source of income. He and Clarke succeeded in rescinding Coddington's patent, with Clarke remaining in England for the following decade to protect the colonists' interests and secure a new charter. Williams returned to America in 1654 and was immediately elected the colony's president. He subsequently served in many offices in town and colonial governments.

Return of Roger Williams from England with the First Charter from Parliament for Providence Plantations in July 1644

## Slavery

Williams did not write extensively about slavery. He consistently expressed disapproval of it, though generally he did not object to the enslavement of captured enemy combatants for a fixed duration, a practice that was the normal course of warfare in that time.[27] Williams struggled with the morality of slavery and raised his concerns in letters to Massachusetts Bay Governor John Winthrop concerning the treatment of the Pequots during the Pequot War (1636–1638).[28][29] In these letters, he requested Winthrop to prevent the enslavement of Pequot women and children, as well as to direct the colonial militia to spare them during the fighting.[30][31][32] In another letter to Winthrop written on July 31, 1637, Williams conceded that the capture and indenture of remaining Pequot women and children would "lawfully" ensure that remaining enemy combatants were "weakned and despoild", but pleaded that their indenture not be permanent.[33][34][35]

Despite his reservations, Williams formed part of the colonial delegation sent to conduct negotiations at the end of the Pequot War, where the fates of the captured Pequots were decided upon between the colonists of New England and their Native American allies the Narragansetts, Mohegans, and Niantics.[36] Williams reported to Winthrop that he and Narragansett sachem Miantonomoh discussed what to do with a group of captured Pequots; initially they discussed the possibility of distributing them as slaves among the four victorious parties, which Miantonomoh "liked well", though at Williams's suggestion, the non-combatants were relocated to an island in Niantic territory "because most of them were families".[37] Miantonomoh later requested an enslaved female Pequot from Winthrop, to which Williams objected, stating that "he had his share sent to him". Instead, Williams suggested that he "buy one or two of some English man".[38]

In July 1637, Winthrop gave Williams a Pequot boy as an indentured servant. The child had been captured by Israel Stoughton in Connecticut.[39] Williams renamed the child "Will."[40]

Some of the Native American allies aided in the export of enslaved Pequots to the West Indies, while others disagreed with the practice, believing that they should have been given land and provisions to contribute to the wellbeing of colonial settlements.[36] Many enslaved Pequots frequently ran away, where they were taken in by surrounding Native American settlements.[38][36] Williams aided colonists in distributing and selling Pequot captives and fielded requests from colonists to track down

and return runaways,[41] using his connections with Miantonomoh, Ayanemo, and other Native leaders to find escapees.[42] Williams recorded experiences of abuse and rape recounted by the Natives he apprehended, and Margaret Ellen Newell speculates that Williams's letters encouraging Winthrop to limit terms of servitude were informed by his acquaintance with escapees.[41]

In 1641, the Massachusetts Bay Colony passed laws sanctioning slavery.[43] In response, under Williams's leadership, Providence Plantations passed a law in 1652 restricting the amount of time for which an individual could be held in servitude and tried to prevent the importation of slaves from Africa.[28] The law established terms for slavery that mirrored that of indentured servitude; enslavement was to be limited in duration and not passed down to children.[27] Upon the unification of the mainland and island settlements, residents of the island refused to accept this law, ensuring that it became dead legislation.[44]

Tensions escalated with the Narragansetts during King Philip's War, despite Williams's efforts to maintain peace, during which his home was burned to the ground.[28] During the war, Williams led the committee responsible for processing and selling Rhode Island's Native American captives into slavery.[45][46] Williams's committee recommended that Providence allow residents to keep Native American slaves in spite of earlier municipal statutes. The committee appraised the prices of various Native American captives and brokered their sale to residents. Williams's son transported additional captives to be sold in Newport. Williams also organized the trial and execution of a captured Native American man who had been a ring leader in the war.[47]

## Relations with the Baptists

Ezekiel Holliman baptized Williams in late 1638. A few years later, Dr. John Clarke established the First Baptist Church in Newport, Rhode Island, and both Roger Williams and John Clarke became the founders of the Baptist faith in America.[48] Williams did not affiliate himself with any church, but he remained interested in the Baptists, agreeing with their rejection of infant baptism and most other matters. Both enemies and admirers sometimes called him a "Seeker," associating him with a heretical movement that accepted Socinianism and Universal Reconciliation, but Williams rejected both of these ideas.[49]

## King Philip's War and death

King Philip's War (1675–1676) pitted the colonists against the Wampanoags, along with some of the Narragansetts with whom Williams had previously maintained good relations. Williams was elected captain of Providence's militia, even though he was in his 70s. On March 29, 1676, Narragansetts led by Canonchet burned Providence; nearly the entire town was destroyed, including Williams's home.[50]

Williams died sometime between January 16 and March 16, 1683[51] and was buried on his own property.[52] Fifty years later, his house collapsed into the cellar and the location of his grave was forgotten.[52]

Providence residents were determined to raise a monument in his honor in 1860; they "dug up the spot where they believed the remains to be, they found only nails, teeth, and bone fragments. They also found an apple tree root," which they thought followed the shape of a human body; the root followed the shape of a spine, split at the hips, bent at the knees, and turned up at the feet.[53]

The Rhode Island Historical Society has cared for this tree root since 1860 as representative of Rhode Island's founder. Since 2007, the root has been displayed at the John Brown House.[54]

The few remains discovered alongside the root were reinterred in Prospect Terrace Park in 1939 at the base of a large stone monument.

Williams's final resting place in Prospect Terrace Park

The "Roger Williams Root"

## Separation of church and state

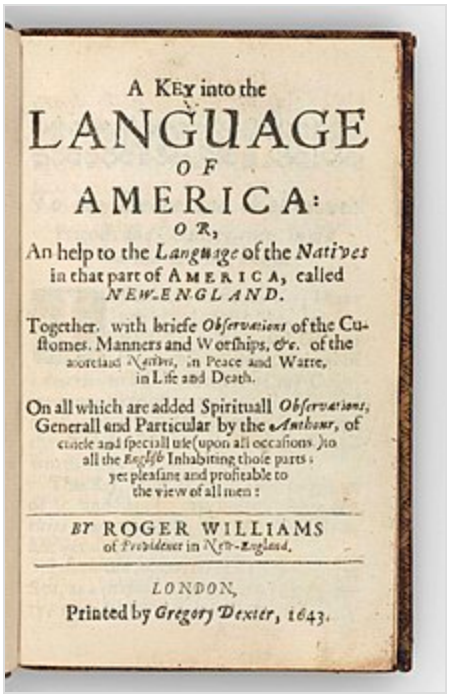
Williams was a staunch advocate of the separation of church and state. He was convinced that civil government had no basis for meddling in matters of religious belief. He declared that the state should concern itself only with matters of civil order, not with religious belief, and he rejected any attempt by civil authorities to enforce the "first Table" of the Ten Commandments, those commandments that deal with an individual's relationship with and belief in God. Williams believed that the state must confine itself to the commandments dealing with the relations between people: murder, theft, adultery, lying, honoring parents, etc.[55] He wrote of a "hedge or wall of Separation between the Garden of the Church and the Wilderness of the world." Thomas Jefferson later used the metaphor in his 1801 *Letter to Danbury Baptists*.[56][57]

Williams considered the state's sponsorship of religious beliefs or practice to be "forced worship", declaring "Forced worship stinks in God's nostrils."[58] He also believed Constantine the Great to be a worse enemy to Christianity than Nero because the subsequent state involvement in religious matters corrupted Christianity and led to the death of the first Christian church and the first Christian communities. He described laws concerning an individual's religious beliefs as "rape of the soul" and spoke of the "oceans of blood" shed as a result of trying to command conformity.[59] The moral principles in the Scriptures ought to guide civil magistrates, he believed, but he observed that well-ordered, just, and civil governments existed even where Christianity was not present. Thus, all governments had to maintain civil order and justice, but Williams decided that none had a warrant to

promote or repress any religious views. Most of his contemporaries criticized his ideas as a prescription for chaos and anarchy, and the vast majority believed that each nation must have its national church and could require that dissenters conform.

## Writings

Williams's career as an author began with *A Key into the Language of America* (London, 1643), written during his first voyage to England. His next publication was *Mr. Cotton's Letter lately Printed, Examined and Answered* (London, 1644; reprinted in *Publications of the Narragansett Club*, vol. ii, along with John Cotton's letter which it answered). His most famous work is *The Bloudy Tenent of Persecution for Cause of Conscience* (published in 1644), considered by some to be one of the best defenses of liberty of conscience.[60]


A KEY into the
LANGUAGE
OF
AMERICA:
OR,
An help to the *Language* of the *Natives* in that part of AMERICA, called *NEW-ENGLAND.*
Together, with briefe *Observations* of the Customes, Manners and Worships, &c. of the aforesaid *Natives*, in Peace and Warre, in Life and Death.
On all which are added Spirituall *Observations*, Generall and Particular by the *Author*, of chiefe and speciall use (upon all occasions) to all the *English* Inhabiting those parts: yet pleasant and profitable to the view of all men:
BY ROGER WILLIAMS
of *Providence* in *New-England.*
LONDON,
Printed by *Gregory Dexter*, 1643.

In 1643, Williams published *A Key into the Language of America*, the first published study of a Native American language.

An anonymous pamphlet was published in London in 1644 entitled *Queries of Highest Consideration Proposed to Mr. Tho. Goodwin, Mr. Phillip Nye, Mr. Wil. Bridges, Mr. Jer. Burroughs, Mr. Sidr. Simpson, all Independents, etc.* which is now ascribed to Williams. These "Independents" were members of the Westminster Assembly; their *Apologetical Narration* sought a way between extreme Separatism and Presbyterianism, and their prescription was to accept the state church model of Massachusetts Bay.

Williams published *The Bloody Tenent yet more Bloudy: by Mr. Cotton's Endeavor to wash it white in the Blood of the Lamb; of whose precious Blood, spilt in the Bloud of his Servants; and of the Blood of Millions spilt in former and later Wars for Conscience sake, that most Bloody Tenent of Persecution for cause of Conscience, upon, a second Tryal is found more apparently and more notoriously guilty, etc.* (London, 1652) during his second visit to England. This work reiterated and amplified the arguments in *Bloudy Tenent*, but it has the advantage of being written in answer to Cotton's *A Reply to Mr. Williams his Examination*.[61]

Other works by Williams include:

- *The Hireling Ministry None of Christ's* (London, 1652)
- *Experiments of Spiritual Life and Health, and their Preservatives* (London, 1652; reprinted Providence, 1863)
- *George Fox Digged out of his Burrowes* (Boston, 1676) (discusses Quakerism with its different belief in the "inner light," which Williams considered heretical)

A volume of his letters is included in the Narragansett Club edition of Williams's *Works* (7 vols., Providence, 1866–74), and a volume was edited by John Russell Bartlett (1882).

- *The Correspondence of Roger Williams,* 2 vols., Rhode Island Historical Society, 1988, edited by Glenn W. LaFantasie

Brown University's John Carter Brown Library has long housed a 234-page volume referred to as the "Roger Williams Mystery Book".[62] The margins of this book are filled with notations in handwritten code, believed to be the work of Roger Williams. In 2012, Brown University undergraduate Lucas Mason-Brown cracked the code and uncovered conclusive historical evidence attributing its authorship to Williams.[63] Translations are revealing transcriptions of a geographical text, a medical text, and 20 pages of original notes addressing the issue of infant baptism.[64] Mason-Brown has since discovered more writings by Williams employing a separate code in the margins of a rare edition of the *Eliot Indian Bible*.[65]

# Legacy

Williams's defense of the Native Americans, his accusations that Puritans had reproduced the "evils" of the Anglican Church, and his insistence that England pay the Native Americans for their land all put him at the center of many political debates during his life. He was considered an important historical figure of religious liberty at the time of American independence, and he was a key influence on the thinking of the Founding Fathers.

**Tributes to Roger Williams**


Roger Williams University in Bristol, Rhode Island

Memorial statue in Roger Williams Park

Roger Williams National Memorial in Providence

Roger Williams Middle School in Providence

## Tributes

Tributes to Williams include:

- The 1936 commemorative Rhode Island Tercentenary half dollar
- Roger Williams National Memorial, a park in downtown Providence established in 1965
- Roger Williams Park, Providence, Rhode Island, and the Roger Williams Park Zoo
- Roger Williams University in Bristol, Rhode Island
- Roger Williams Dining Hall at the University of Rhode Island
- Roger Williams Inn, the main dining hall at the American Baptists' Green Lake Conference Center founded in 1943 in Green Lake, Wisconsin
- Roger Williams Medical Center, a hospital in Providence
- Rhode Island's representative statue in the National Statuary Hall Collection in the United States Capitol, added in 1872
- A depiction of him on the International Monument to the Reformation in Geneva, along with other prominent reformers
- Roger Williams Middle School, a public school in Providence

- Pembroke College in Brown University was named for Williams's alma mater

### Slate Rock

Slate Rock is a prominent boulder on the west shore of the Seekonk River (near the current Gano Park) that was once one of Providence's most important historic landmarks.[66][67][68] It was believed to be the spot where the Narragansetts greeted Williams with the famous phrase "What cheer, netop?" The historic rock was accidentally blown up by city workers in 1877.[66][67] They were attempting to expose a buried portion of the stone, but used too much dynamite and it was "blasted to pieces."[66] A memorial in Roger Williams Square commemorates the location.[66][68][67]

**Slate Rock**

1832 painting of Slate Rock by Edward L. Peckham

Memorial in Roger Williams Square

## See also

- Colony of Rhode Island and Providence Plantations
- List of early settlers of Rhode Island
- John Cotton (puritan)
- John Winthrop
- Joseph Kinnicutt Angell
- Roger Williams National Memorial
- Roger Williams Park

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## External links

- Literature by and about Roger Williams (https://portal.dnb.de/opac.htm?method=simpleSearch&cqlMode=true&query=idn%3D118807471) in the German National Library catalogue
- Works by Roger Williams (https://www.gutenberg.org/ebooks/author/52197) at Project Gutenberg
- "Roger Williams". *Biographisch-Bibliographisches Kirchenlexikon (BBKL)* (http://www.bbkl.de/w/williams_r) (in German).
- Works by or about Roger Williams (https://archive.org/search.php?query=%28%28subject%3A%22Williams%2C%20Roger%22%20OR%20subject%3A%22Roger%20Williams%22%20OR%20creator%3A%22Williams%2C%20Roger%22%20OR%20creator%3A%22Roger%20Williams%22%20OR%20title%3A%22Roger%20Williams%22%20OR%20description%3A%22Williams%2C%20Roger%22%20OR%20description%3A%22Roger%20Williams%22%29%20OR%20%28%221604-1683%22%20AND%20Williams%29%29%20AND%20%28-mediatype:software%29) at the Internet Archive
- Side of the US-American Roger Williams circle of friends (https://web.archive.org/web/20120311223913/http://rogerwilliamsfellowship.squarespace.com/)
- Documentary about Roger Williams life: Roger Williams – Freedom's Forgotten Hero (Part 1 to 7) (https://www.youtube.com/watch?v=Ur8gTAsGETI)

- Lecture by Martha Nussbaum: Equal **Liberty of Conscience**: Roger Williams and the Roots of a Constitutional Tradition (https://web.archive.org/web/20150414211132/http://www.uctv.tv/search-details.asp?showID=11996)
- Roger Williams Hireling Ministry None of Christ's (http://www.sovereignredeemerbooks.com/views/books/book-list.php?author=roger-williams)
- Chronological list of Rhode Island leaders (http://www.quahog.org/factsfolklore/index.php?id=40) Archived (https://web.archive.org/web/20210402010637/http://www.quahog.org/factsfolklore/index.php?id=40) 2 April 2021 at the Wayback Machine
- *A Key into the Language of America* – digitization of a first edition copy held at the John Carter Brown Library

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App 1

UNITED STATES DISTRICT COURT IN THE DISTRICT OF DELAWARE

| | | |
|---|---|---|
| Meghan Kelly<br>Plaintiff,<br>v.<br>Disciplinary Counsel Patricia B. Swartz, et.al<br>Defendants. | )<br>)<br>)<br>)<br>)<br>) | Civil Action No.: 1:21-1490 (CFC) |

PLAINTIFF MEGHAN KELLY'S 208th Affidavit

Comes now Plaintiff Meghan Kelly, I declare and affirm that the foregoing statement is true and correct.

1. In the 207th Affidavit I alerted this Court of my concern relating to a line of questioning by a Supreme Court justice.

2. I clarify by pointing to questions raising red flags in one of the examples.

3. The transcript of Joseph W. Fischer, Petitioner v. US, Respondent No. 23-5572 starting at page 49 provides:

> JUSTICE GORSUCH: If I might, so -- so what -- what does that mean for the breadth of this statute? **Would a sit-in that disrupts a trial or access to a federal courthouse qualify**? Would a heckler in today's audience qualify, or at the state of the union address? Would pulling a fire alarm before a vote qualify for 20 years in federal prison?
>
> GENERAL PRELOGAR: There are multiple elements of the statute that I think might not be satisfied by those hypotheticals, and it relates to the point I was going to make to the Chief Justice about the breadth of this statute. The -- the kind of built-in limitations or the things that I think would potentially suggest that many of those things wouldn't be something the government could charge or prove as 1512(c)(2) beyond a reasonable doubt would include the fact that the actus reus does require obstruction, which we understand to be a meaningful interference. So that means that if you have some minor

disruption or delay or some minimal outburst --
JUSTICE GORSUCH: Okay. So -- so --…
[Page 90} GENERAL PRELOGAR: -- we don't think it falls within the actus reus to begin with.
JUSTICE GORSUCH: -- my -- my **outbursts require the Court to -- to reconvene after -- after the proceeding has been brought back into line, or the --** the pulling of the fire alarm, the vote has to be rescheduled, or **the protest outside of a courthouse makes it inaccessible for a period of time.**
Are those all federal felonies subject to 20 years in prison?
GENERAL PRELOGAR: So, with some of them, it would be necessary to show nexus. So, with respect to the protest --
JUSTICE GORSUCH: Assume -- assume --
GENERAL PRELOGAR: -- outside the courthouse --
JUSTICE GORSUCH: -- I can -- I think -- I think I've shown
GENERAL PRELOGAR: -- we'd have to show that, yes, they were aiming at a proceeding.
JUSTICE GORSUCH: Yeah, they were trying to stop the proceeding.
GENERAL PRELOGAR: Yes. And then we'd intent, and that's a high bar we argue.
JUSTICE GORSUCH: Oh, no, they -- I -- I'm --
GENERAL PRELOGAR: Right.
JUSTICE GORSUCH: They intend to do it, all right.
GENERAL PRELOGAR: Yes. If they intend to obstruct and we're able to show that they knew that was wrongful conduct with consciousness of wrongdoing, then, yes, that's a 1512(c)(2) offense and then we would charge that.
JUSTICE KAVANAUGH: What does "corruptly" add in your view?
GENERAL PRELOGAR: So "corruptly" adds the requirement that the defendant's conduct be wrongful and committed with consciousness of wrongdoing. And this traces to the Court's

decision in Arthur Andersen, where the Court said this is a term with deep historical roots, with a settled meaning, and that it connotes not just knowledge of your actions, which is, you know, the intent to obstruct in this case, but further requires that it be done corruptly.
And just to give you a more concrete……
NERAL PRELOGAR: I think it would be difficult for the government to prove that.
JUSTICE ALITO: Why?
GENERAL PRELOGAR: At the outset, we don't think that 1512(c)(2) picks up minimal, de minimis, minor interferences. We think that the term "obstruct" on its face connotes a meaningful interference with a proceeding that actually blocks --
JUSTICE ALITO: Well, it doesn't say -- I'm sorry. (c)(2) does not refer just to obstruct. It says "obstructs, influences, or impedes." Impedes is something less than obstructs.
GENERAL PRELOGAR: I think that this is a verb phrase where iteration was obviously afoot
JUSTICE ALITO: Well, okay. But the plain meaning --
GENERAL PRELOGAR: And "impedes" is also thought of as --
JUSTICE ALITO: You're -- you're preaching the plain meaning interpretation of this provision. The -- the plain meaning of "impede" in Webster's is "to interfere with or get in the way of the progress of, to hold up." In the OED, it is "to retard in progress or action by putting obstacles in the way." So it doesn't require obstruction. It requires the causing of delay.
GENERAL PRELOGAR: And if this Court
JUSTICE ALITO: So, again, why wouldn't that fall within -- now you can say, well, we're not going to prosecute that. And, indeed, for all the protests that have occurred in this Court, the Justice Department has not charged any serious offenses, and I don't think any one of those protestors has been sentenced

to even one day in prison. But why isn't that a violation of 512 -- of 1512(c)(2)?

4. So, if you listen to the hearing or read the transcripts in this case, Trump v US and the one Justice Kavanaugh referred to regarding the same line of questioning you will see questioning to show where the judges concerns are.

5. Instead of focusing on the lives or liberty of the people they are focused on sustaining their positions by might or threats of criminal prosecution the naughty way instead of with the rule of law, the right way. They are scared. The petition is the better way of protecting the courts. They harm themselves by the separation of powers argument and immunity to eliminate the law as applied to the government.

6. The United States Supreme Court members are tempted to eliminate freedoms and misbehave when they are governed by desires for security by using threats of criminal prosecution to control a no longer free but slave people by chilling the exercise of the post fundamental freedom the petition, coupled with due process, by chilling protestors from speaking too. US Amend I, V.

7. I agree with Justice Alito and Justice Gorsuch at times including with regards to today's decision on Federal Reserve Bank funding as opposed to congressional oversight to an entity Consumer Financial Protections Bureau which will be used to eliminate the government as schemed by empowering the private federal reserve bank and other NGO coiners of money to control to eliminate the government. Other times I disagree. When people with standing have the right to petition it is fairer and just because we may learn from one another.

8. With regards to my concerns about safeguarding the government's power to check its officials within the three branches from violating the law with a license to commit crime I spoke up with my opponents and David Weiss per the attached email.

9. Per the attached email I stated:

"Government pensions written off not to be paid/Banking based on Babylon's sin/templars/ Bank of England the 1964 first central bank
From:Meg Kelly (meghankellyesq@yahoo.com)
To:ryan.costa@delaware.gov; zi-xiang.shen@delaware.gov; david.weiss@usdoj.gov; supremectbriefs@usdoj.gov; rmeek@supremecourt.gov; harriet.brumberg@pacourts.us; meghankellyesq@yahoo.com
Date:Monday, May 13, 2024 at 01:28 PM EDT
Hello,

The banking system is built on a Ponzi scheme. Banks sell what banks do not have to make profit off of debt which cannot be paid back by design. Money is currently coined out of debt, same as the Babylon, Templars and Bank of England the first central bank of 1694.

The interest does not exist by design. It cannot be paid back in fiat money by design to enslave the people to pay interest in violation of Ezekiel 18:13 and US Amend XIII and the expressed intent by the double talking founding father's to protect life and liberty.

We know the global money changer (BIS) Bank of International Settlements said 80 trillion dollar of US debt, predominantly gov pensions and retirements were written off as debt in debt swaps. It may look good on the books but it is not.

We know the baby boomers are set up to fall. Killing them violates the expressed intent of the Constitution. Nevertheless, DE House passed the death with dignity act awaiting the senate after years of fruitless attempts. I oppose it and believe people sin for telling others to harm themselves and die to potentially be doomed to hell. That is not okay.

There is a schemed overthrow after 2050. Can you please think outside of the box and help me save you and the laws that protect liberty despite the US Supreme Court removing them by immunity. Can you think of an argument for a motion for rehearing should the US Supreme court rule in favor of Trump's immunity case.

Maybe we should pull out the history books on them and show we should not follow England who enslaved the people, its own people through broke King William and Queen Mary's creation of the Bank of England in 1694, the first central bank. They gained more private profit the worse the people were in. Our start was by debt enrichment of the royals who taxed to pay themselves as shareholders of the bank of england... Everywhere we see the King or Queen's face on money is enslaved to them Canada and Australia. I do not want to gain power by enslaving people government is charged to serve. I do not want to be like naughty England. 1913 changed the system and allowed taxes. We can coin correctly as Lincoln once did, despite trying to do it the wrong way at first when the USSC said no until the lobbyists who controlled congress passed laws and the 16th Amendment in 1913. We did it correctly before. We can care for without controlling retirees to pay out pensions.

I do not want a republic. I want a democratic republic where the petition and the courts prevent human sacrifice of individuals and individual liberty under the lie of the lawless one the devil the welfare or common good when human slavery and sacrifice is the common bad if not restrained by the just rule of law in the courts.

I disagree with Justice Gorsuch's book a republic if you can keep it. We have something more just and fairer.

You understand how George Washington started the global war, the 7 year war at age 22 enslaving England to debt to enrich the rulers, who taxed us. Misbehaving Alexander Hamilton created a bank to enrich shareholders to pay off England's debt.

Babylon banks, the alleged first bankers incited wars to gain war debt profit sort of like the World Wars to gain debt control over countries who owed them not only the base but interest. They gain not merely profit but power too.

There is a plan to incite debt differently under a new structure as outlined in this previously banned book which discusses the old model of inciting wars to maintain problems to maintain positions, power and profit streams by enslaving the people like devils under the guise job creation in a forced not fair or free market but capitally controlled where evil people looked at humans as human capital to buy and sell not serve and protect their liberty and lives.

It is upsetting that broke King William and Queen Mary created the first central bank by taking out its shares in it to exploit the people to enrich themselves. They gained more profit the worse off the people were in. See the conflict of interest. Same as now.

It makes me so sad the US supreme court looks to misbehaving England as a model of law when they misbehaved by lawless lusts to control a no longer free people.

Money is created this way now. the national debt is designed not to be paid back by the manner money is created and distributed by Congress with the President's backing.

Lobbyists have been talking about ways to cover up the fat the boomers will not be paid what they are owed globally.

I talked about this in Kelly v Trump and alluded to this in my initial complaint.

Ryan is a federalist head. He studied philosophy. I disagree with the founders and Plato. Plato and Hamilton used temptations to control a no longer free people. They were double talking men likened to gangsters. Now my opponent is a federalist and the US members defer to misguided founders. I had a bad grade in college for philosophy. Now I am stuck fighting the theories I hated so much in undergrad with my opponent the Federalist Chair in DE, ewe, and many of the members deferring to the misguided misbehaving founders ewe. This is the worst.

I believe your pensions, positions and this nation will be dissolved if we do not work together to prevent it even if you are my opponents.

Will you please brainstorm ideas on how to save this country and the rule of law that grants you positions.

Thank you,
Meg
The mighty minds of people lawyers and people judges and petitioners is our hope of a hero to save these United States, not mobster like use of might military or money by bribes and extortion like a gangster.

You are the hope of a hero.

I do not feel so well due to a surgery that made me weaker for life as a teenager where I lose 5 pounds of water weight every month. I am sorry for any typos. I would be more sorry if I did nothing when you and the world may be harmed. You and people are the treasure, not the moth and rust. Your criticism makes us smarter and helps us learn from one another. The standardization eliminates liberty by compelled conformity as opposed to improvement by stagnation when courts defer to the standards as opposed to correcting them when they oppress and harm consumers or workers.

Your lives are worth more than all of the money in the world. You are not replaceable by automation that is schemed to be used to eliminate the governments and the laws that make us freer not for sale disposable products in a stakeholder global reign."

10. Fw: WEF's books/Meg's reply/4th Industrial Rev/Great Reset/Great narrative

10. I also sent the attached email which states:

From:Meg Kelly (meghankellyesq@yahoo.com)
To:supremectbriefs@usdoj.gov; ryan.costa@delaware.gov
Cc:meghankellyesq@yahoo.com; david.weiss@usdoj.gov
Date:Tuesday, May 7, 2024 at 08:54 PM EDT

I need to help you understand ways to prevent the overthrow if I am eliminated.

These 3 books allude to some of the lobbyists' agenda.

I may point to pages in the book to help you understand the dangers. I like searching within PDFs with Control F.

Thank you.
Meg

----- Forwarded Message -----
**From:** Meg Kelly <meghankellyesq@yahoo.com>
**To:** jp.davies@roehampton.ac.uk <jp.davies@roehampton.ac.uk>; Meg Kelly <meghankellyesq@yahoo.com>
**Sent:** Monday, August 8, 2022 at 12:35:55 PM EDT
**Subject:** WEF's books/Meg's reply/4th Industrial Rev/Great Reset/Great narrative

Hi James Davies,

I picked up two of your books from the library. I wish I had PDF copies. Have you read the WEF's books the Fourth Industrial Revolution, Covid-19, the Great Reset and the Great Narrative?

The WEF alludes to mental healthcare which will control, not care for people, while drugging them up as they transition the economy into something worse.

This mental healthcare schemed "crisis" is not to care for the schemed unemployed by design but will be used to control them.

Since the state is going after me for my beliefs in Jesus Christ, as an alleged mental disability, per the attached, your evidence may prevent people from being drugged up. Look at the back of the Fourth Industrial Revolution, attached hereto, for some mad science. The way money is coined, rewards wasteful science made to fail.

> Dr. Harrari, a historian allied with the WEF, teaches lies that there is no free will. I believe people go to hell for living based on desires, reward, avoidance of harm, praise and shame, by living conditionally, instead of laying down their desires and the desires of men to think, to discern what is right, to unconditionally love. We all have free will no matter the economic, physical or social burdens that tempt us to conform to the dictates of others, as opposed to God's will.
>
> Obviously, I disagree with BF Skinner, who also taught there was no such thing as unconditional love or free will. You seem to believe differently, in that your eyes are not evil. You seem to choose to care for, as opposed to control people. The fact you exhibit humility, and admit experts make errors, that you are not Gods, gives me hope you have wisdom.
>
> Once the pupil declares himself master, he no longer learns and defeats science the mere study of things, by ending learning. In court lazy judges make scientists and professionals the law, making lawless business greed backed by some studies the law, allowing killing, stealing and destroying humanity for the bottom line. Your humility is beautiful and is needed to correct the experts who harm.
>
> I hope you consider helping me at no cost, or even by sending me free PDFs of your books I may use in court.
>
> Thank you,
> Meg"

11. I do not agree with the founders. The founders premised their theories on partial falsities I believe mislead people to slavery, not freedom, slavery to sin and death in hell. I would mislead the people and this court if I did not seek to cut through misunderstandings and deception to get to the truth.

12. The attached picture of the Fabian window teaches the reflection of lawlessness leading to hell that Alexander Hamilton showed guided his heart, living based on tempting others to control a no longer free people under the lie slavery to sin is freedom. Instead, it entices the people by government backing to do the will of those who reflect the image of the devil by tempting the people by economic, social, and physical pressures to bend their free will to the government backed forced will of the market, which makes the people for sale slaves. It is not good to uphold falsities spewed by Alexander Hamilton. He stated facts not true in Federalist 78, that I believe enslaves the people and misleads the people and government officials to hell under the guise of good.

13. I certainly believe that John Lock was wrong, so wrong he will perish in hell for believing a lie as truth. The people have not contracted their souls under the fiction of a social contract. This country is founded on the law, the Constitution as rule of law, where beautiful humility allows not only checks and balances by and between the government but by the people's check of the petition coupled with fair and full opportunity to be heard on the petition before vitiation of their rights by government or private persons.

14. Pride is sin. Our laws humble the proud. Even the alleged most powerful man on the planet the President is not God. Nor is the US Supreme Court above the Constitution. The court should not be allowed to violate the Constitution by removing not only the people's check, but the governments check too. The petition is a check upon the court too.

15. I was quite concerned about the Honorable US Attorney General Merrick Garland by the mob like threat s of Congress to hold him in contempt for not divulging possibly sensitive information in a fickle biased partial forum as opposed to the more perfect, just forum of the courts which are balanced by the people's check the petition so if mistakes are made, they may be corrected.

16. Today I read the President finally pled executive privilege to protect not only himself but Merrick Garland from abuse of process which this court has not said applies in the other forum. I hope the threats against Garland to bend justice to just partial whims of mobster like men in congress who use money and might subside now. The President pled executive privilege for the evidence Congress threatened to sanction Garland for not turning over.

17. Attacking the petitioners or their agents, including Attorney General Merrick Garland degrades justice and cannot be tolerated.

18. We need the courts to sustain the United States by sustaining the rule of law not by attacking the petitioners disparately like Richard Abbott or myself or even US Attorney Generals.

19. On an aside, I was too late to petition or otherwise interplead in Abbott's case. I saw that. I thought my case manager would cure violations of Due process like she attempted to do when Clerk of Court Robert Meek denied a petition.

20. So, I sent her an email per the attached in hopes she could cure the violation of my 1st Amendment right to petition and my 5th Amendment right to be heard fairly with regards to Richard Abbott.

21. She did not intervene. So, I called her and indicated I must have been wrong to contact her to cure the defect. I think she was not the correct person. I apologized.

22. She indicated indeed not to do so by email. I am grateful she did because I had left a message with her more than a month ago as to whether I should contact her about the PA filing by email. The answer is no, not her email.

23. Per the attached, I was sitting on sending something in my draft folder for over a month until I got an answer. I am glad I got an answer from Lisa Nesbitt not to send it to her.

24. It is unjust and unfair that my application to Alito was decided as a matter of law in error by someone with no authority to examine the contents per the Supreme Court's rules as to material law as opposed to clerical sufficiency.

25. My hope that Lisa Nesbitt would cure violations of the right to petition since she previously cured a defect by Robert Meek were shattered. I am glad I talked to her today though.

26. The last communication I had with Lisa Nesbitt before today March 16, 2024 was April 8 in an email attached hereto stating:

> "application to Alito 23-372/Meg is scared to file a petition for a stay for same reasons believes this was rejected in error/maybe this court may cure its defect if agrees wow it really was a defect thank you
> From:Meg Kelly (meghankellyesq@yahoo.com)
> To:lnesbitt@supremecourt.gov
> Cc:ryan.costa@delaware.gov; zi-xiang.shen@delaware.gov; supremectbriefs@usdoj.gov; meghankellyesq@yahoo.com; david.weiss@usdoj.gov; harriet.brumberg@pacourts.us; anthony.sodroski@pacourts.us; rmeek@supremecourt.gov; jbickell@supremecourt.gov; dbaker@supremecourt.gov

Date:Wednesday, May 8, 2024 at 11:48 AM EDT
Hi Lisa Nesbitt,

Remember when Clerk of Court Robert Meek accidentally sent me a rejection letter, not knowing this US Supreme Court rejected my request for pages. So, you kindly gave me time to cure the defects in term of reduced pages. So, you sent me a letter curing that error to restore my right to petition.

Robert Meek similarly appeared to reject an application for a stay that I argue should have been considered especially since Robert Meek assumed facts were not true on the record when they were.

I really did file a motion for a stay, and I really did try to interplead in Richard Abbott's case in the DE District Court. However, my pleadings to interplead were rejected and removed from the docket.

I did not know what to do, but I thought if I forwarded you the Feb 7, 2024, filing so you may consider curing any defects. The last documents attached hereto is a big PDF which includes postage proof and Robert Meek's rejection letter.

Sometimes I mess up. Sometimes even court staff make mistakes. That is why the right to petition and court correction improves the world by guiding misguided people as opposed to destroying people.

We would not need the courts if people were perfect. None of us are almighty rulers.

The checks and balances in our system of government including the people's check and the governments check upon the government should be preserved as fairer and more just than the new system which is schemed to overthrow our system after 2050 if the courts or my opponents do not stop it.

That is part of what makes you, Lisa Nesbitt, and other people court staff very special and not replaceable under the new economic model which is schemed to deceive people based on the lie that forced digital choice to take it or leave it or go without is freedom when it is not free, nor is it a contract for one's soul under the guise of a stakeholder's interest to gain or sustain the world.

There is harm schemed and our hope of a hero are people judges and people petitioners including their attorney advocates.

Thank you for your kind consideration. I act in good faith and do not want anyone in this court to get into trouble.

I actually seek to protect this court, even when I petition disagreeing with its members not to destroy its members but to correct and guide it from booby traps. US Amend I, V, XIII. I also seek to protect the right to petition and due process fair opportunity to be heard before vitiation of my fundamental rights not merely a property interest in a license. My faith in Jesus is very important to me.

Thank you for your help. I hope you have a good day.
.
Very truly,
Meg
Meghan Kelly
34012 Shawnee Dr.
Dagsboro, DE 19939”

27. I incorporate the attachments hereto which include the returned application. Lisa Nesbitt said she does not respond to emails and not to send her emails unless it is urgent like the driver's license. I was not calling to complain that she did not respond to an April 8, 2024 email. I am grateful to speak with Lisa Nesbitt and for clarity. I merely saw that Richard Abbott's case went forward. So, my email was fruitless. I called to confirm I should not send her emails on the PA missing filing. So, I am very grateful for the answer so I do not send it. Talking to her for two minutes saves a lot of heartache. People staff are necessary to uphold justice.

28. I sent opposing counsel and David Weiss a follow up email noticing the disparate treatments based on point of view by the state which does not conform to lobbyists agenda:

> 21-1490 kelly v swartz/Meg Concerned about targeting candidates for office/No trial de novo non judges judging unlike JP Ct common pleas de novo trial proceedings
> From:Meg Kelly (meghankellyesq@yahoo.com)
> To:ryan.costa@delaware.gov; supremectbriefs@usdoj.gov; david.weiss@usdoj.gov
> Cc:meghankellyesq@yahoo.com; zi-xiang.shen@delaware.gov
> Date:Tuesday, May 7, 2024 at 08:38 PM EDT
> Hi Ryan,
>
> I mailed you the notice for the US Supreme Court appeal. I attach it hereto.
>
> I can't believe Shen did not tell me she was leaving in February.
>
> Attached is one affidavit I have a constitutional question on. I just do not know the answer and think it unfair that attorneys are compelled to waive their right to a person judge. Just because they are heard de novo, doesn't mean they may present evidence de novo like in the JP court which uses nonlawyer judges like my childhood schoolmate Judge Leah Chandler.
>
> I also am concerned about the state apparently selectively prosecuting candidates for office who display independent critical thinking instead of conformed conformity to lobbyists. I see the past lawsuits. The one against Kathleen MGuiness. I understand it was dropped when she ended her campaign and stepped down. She was on the ballot. I voted for her, despite the state or news saying she was removed from the ballot. Thankfully she is running again. It was so strange how upper DE democrats bad mouthed her for independently critically thinking instead of conforming to their controlled agenda.
>
> I saw former Sussex Central Principal Layfield being selectively targeted. He ran for office in Sussex.
>
> I see Richard Abbott ran for office too.

I did too.

One of the books by the WEF discussed demeaning politicians and elected officials alluding to eliminating them down the line.

I need to pull it for you and show you pages because if I am eliminated one of you can prevent the overthrow.

I am really discouraged. I wanted to protect US AG and State AG's power to prosecute elected officials in all three branches of government without unconstitutional immunity arguments violating equal protections of the 5th making the people Trump enticed to misbehave disparately treated whereas he is above the law.

I know you may not be amicable to one of the accused and convicted persons suing for Equal Protections, but it may be one way to argue to maintain your Attorney General power against Presidents, congress people and even judges who allegedly violate criminal laws that enslave or sacrifice people who they are charged to serve and protect. The government should not buy or barter for a license to commit crimes by buying or winning elections with campaign funds.

How do we get the US Supreme Court to safeguard your check in our case. Can we do it?

Please think about it. I need to think about it more.

On an aside, we do have prejudice problems by government officials, but I do not want to destroy people. I want to improve the world by correction.
I cannot imagine Principal Layfield saying anything disgusting as alleged. I went to undergrad with him. I was in his teaching classes. I did my student teaching at Sussex Central High School where Layfield worked. I have known him for more than 20 years. I have seen him and heard him teach. He encourages kids.

Conversely, I was disappointed at Vice President Biden when severe racism occurred in the schools. Albeit not as bad as Maryland. There was spray paint on a bus at Cape Henlopen putting down black kids. At the high school, Indian River High School I attended, white children brought in 200 bracelets that said "kill yourself" with the nazi symbol to be distributed to black children. There was a mascot noose event in Middle DE. That is not okay. None of this is okay. Hence my election signs that jokes about race, religion, place of origin or sex are not funny. When they go beyond words it is no laughing matter. Vice President Biden did not go to the schools to show the kids they are seen, protected, valued and safe.

I understand there is an increase in violence in DE and in other states in schools. We need people to use their words not fear and threats of locking defensive scared kids away, but of safety and protection and correction. It is not okay to selectively target people despite old people and grown up naughtiness.

You understand there is a plan to praise cops to only to eliminate them down the line if left unstopped. We cannot fall into temptation of using threats but correction of misguided kids and old people, even the Jan 6th people. Trump committing a greater sin by misleading people who truly believed in him and believed what he did was constitutional despite being wrong.

If you look at the docket at Kelly v Trump I talked about a potential insurrection, two or so months later Jan 6th happened. Imagine if I was only allowed to serve local counsel. The courts could have potentially prevented the attempted coup.

I apologize for the typo in the Eastern District of PA appeal and patents. The 30 30 agenda uses "science" to sustain nature by making what is natural unnatural to patent it. Hence destroying nature, and getting debt control by making the people pay under the carbon credit debit scheme

> to sustain environmental pain to sustain unjust riches and power of naughty people who feign the hero. There is so much shady stuff. It is complicated.
>
> I guess we can only focus on parts of the foundation that apply in our cases the goal to eliminate people lawyers and people judges.
>
> It doesn't matter you are my opponents. I need to protect your legal authority too. Without the law, there is no legal protections for the liberties and lives of the people.
>
> How do we protect Merrick Garland and the position of US AG? It doesn't matter if I disagree with him on some legal theories. We get smarter when we petition on diverse sides. It matters that I we protect the position of US AG not with naughty might or threats like a mobster or with money we must use the rule of law to preserve the right of the private person, me and the government you to petition when people within the 3 branches misbehave without violation of the equal protections clause by using one to set an example for many. House Republicans plan to move forward with contempt against Attorney General Merrick Garland (msn.com) "

29. The Judge made doctrine "political question" and "separation of powers" are unconstitutionally declared the law by the courts when they make government officials above the law. Petitioners must petition to prevent judges from degrading the Constitutional law that sustains these United States. This country is not founded by the will of the people. Nor is it formed by contract. It is formed by the rule of law with checks and balances that must be preserved instead of dismantled by lawless use of money, mob fickle fads to rule or might. We do not use sword fights or gun duels like naughty Hamilton, we use our words to hear both sides to get to the truth not by barter or exchange allowing the rich to buy rights whereas everyone else are slaves to their will not free.

30. Impartiality by the courts is required not only by the Constitution but by my personal religious beliefs. I believe people judges sin risking hell when they defer to experts, professionals, colleagues and their products, services or science instead of impartially discerning whether the standard of care enslave or harm a no longer free people whose lives and liberties are sacrificed by wolves who eat the fat of their lives and labor.

31. I believe people judges are in danger of hell for making business their chief goal. Business eliminates freedom for practices that are for sale. It violates the Constitution and

rewards sustaining harming the people, to sustain pain to sustain the need to serve business greed not freedom.

32. Every government worker who seeks to raise money serves business greed by eliminating freedom which violates the Constitution. They sadly sin and risk hell for their confusion for blindly doing what they are told to do.

33. Those who rule by temptations reflect the image of the devil the lawless one like Alexander Hamilton. Yet those who give into temptations to save their lives may also lose their eternal soul as they harm others by compromise.

34. The manner money is coined indebts not only the people but enslaves a no longer free or independent government tempting it to violate the Constitutional's purpose to protect lives and liberty by instead sacrificing the people by harming them, to exploit the intentionally caused pain to sustain positions, job creation of enslaved workers, the economy, profit steams and power.

35. The lie of Babylon is pain and slavery must be sustained to sustain profit streams, power and position. There is another way not to commit lawlessness by the unjust way money is created by debt plus interest that cannot be paid back in full by the government by design. The way money is distributed violates Equal Protections and the 13th Amendment by disparately favoring those with means to create more business profit. The is a better to innovate is by beautiful criticism as opposed to dumbed down standardization and wicked research that sustains problems to sustain the profit streams for more and different research to harm consumers into infinity.

36. The new way allows for the overthrow while enslaving and sacrificing the people at a more oppressive level.

37. There is a schemed overthrow. Let us unravel it, now bow down to those who partake in it only to find that we have become the evil by giving into temptation to be harmed in this life and damned to hell for eternity.

Thank you for your time, consideration and understanding.

Dated 5/16/2024

Respectfully submitted,

Meghan M. Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com

Under religious protest as declaring and swearing violates God's teachings in the Bible, I declare, affirm that the foregoing statement is true and correct.

Dated: May 16, 2024

Meghan Kelly (printed)

Meghan Kelly (signed)

# government pensions written off not to be paid/Banking based on Babylon's sin/templars/ Bank of England the 1964 first central bank

From: Meg Kelly (meghankellyesq@yahoo.com)

To: ryan.costa@delaware.gov; zi-xiang.shen@delaware.gov; david.weiss@usdoj.gov; supremectbriefs@usdoj.gov; rmeek@supremecourt.gov; harriet.brumberg@pacourts.us; meghankellyesq@yahoo.com

Date: Monday, May 13, 2024 at 01:28 PM EDT

Hello,

The banking system is built on a Ponzi scheme. Banks sell what banks do not have to make profit off of debt which cannot be paid back by design. Money is currently coined out of debt, same as the Babylon, Templars and Bank of England the first central bank of 1694.

The interest does not exist by design. It cannot be paid back in fiat money by design to enslave the people to pay interest in violation of Ezekiel 18:13 and US Amend XIII and the expressed intent by the double talking founding father's to protect life and liberty.

We know the global money changer (BIS) Bank of International Settlements said 80 trillion dollar of US debt, predominantly gov pensions and retirements were written off as debt in debt swaps. It may look good on the books but it is not.

We know the baby boomers are set up to fall. Killing them violates the expressed intent of the Constitution. Nevertheless, DE House passed the death with dignity act awaiting the senate after years of fruitless attempts. I oppose it and believe people sin for telling others to harm themselves and die to potentially be doomed to hell. That is not okay.

There is a schemed overthrow after 2050. Can you please think outside of the box and help me save you and the laws that protect liberty despite the US Supreme Court removing them by immunity. Can you think of an argument for a motion for rehearing should the US Supreme court rule in favor of Trump's immunity case.

Maybe we should pull out the history books on them and show we should not follow England who enslaved the people, its own people through broke King William and Queen Mary's creation of the Bank of England in 1694, the first central bank. They gained more private profit the worse the people were in. Our start was by debt enrichment of the royals who taxed to pay themselves as shareholders of the bank of england... Everywhere we see the King or Queen's face on money is enslaved to them Canada and Australia. I do not want to gain power by enslaving people government is charged to serve. I do not want to be like naughty England. 1913 changed the system and allowed taxes. We can coin correctly as Lincoln once did, despite trying to do it the wrong way at first when the USSC said no until the lobbyists who controlled congress passed laws and the 16th Amendment in 1913. We did it correctly before. We can care for without controlling retirees to pay out pensions.

I do not want a republic. I want a democratic republic where the petition and the courts prevent human sacrifice of individuals and individual liberty under the lie of the lawless one the devil the welfare or common good when human slavery and sacrifice is the common bad if not restrained by the just rule of law in the courts.

I disagree with Justice Gorsuch's book a republic if you can keep it. We have something more just and fairer.

You understand how George Washington started the global war, the 7 year war at age 22 enslaving England to debt to enrich the rulers, who taxed us. Misbehaving Alexander Hamilton created a bank to enrich shareholders to pay off England's debt.

Babylon banks, the alleged first bankers incited wars to gain war debt profit sort of like the World Wars to gain debt control over countries who owed them not only the base but interest. They gain not merely profit but power too.

There is a plan to incite debt differently under a new structure as outlined in this previously banned book which discusses the old model of inciting wars to maintain problems to maintain positions, power and profit streams by enslaving the people like devils under the guise job creation in a forced not fair or free market but capitally controlled where evil people looked at humans as human capital to buy and sell not serve and protect their liberty and lives.

It is upsetting that broke King William and Queen Mary created the first central bank by taking out its shares in it to exploit the people to enrich themselves. They gained more profit the worse off the people were in. See the conflict of interest. Same as now.

It makes me so sad the US supreme court looks to misbehaving England as a model of law when they misbehaved by lawless lusts to control a no longer free people.

Money is created this way now. the national debt is designed not to be paid back by the manner money is created and distributed by Congress with the President's backing.

Lobbyists have been talking about ways to cover up the fat the boomers will not be paid what they are owed globally.

I talked about this in Kelly v Trump and alluded to this in my initial complaint.

Ryan is a federalist head. He studied philosophy. I disagree with the founders and Plato. Plato and Hamilton used temptations to control a no longer free people. They were double talking men likened to gangsters. Now my opponent is a federalist and the US members defer to misguided founders. I had a bad grade in college for philosophy. Now I am stuck fighting the theories I hated so much in undergrad with my opponent the Federalist Chair in DE, ewe, and many of the members deferring to the misguided misbehaving founders ewe. This is the worst.

I believe your pensions, positions and this nation will be dissolved if we do not work together to prevent it even if you are my opponents.

Will you please brainstorm ideas on how to save this country and the rule of law that grants you positions.

Thank you,
Meg
The mighty minds of people lawyers and people judges and petitioners is our hope of a hero to save these United States, not mobster like use of might military or money by bribes and extortion like a gangster.

You are the hope of a hero.

I do not feel so well due to a surgery that made me weaker for life as a teenager where I lose 5 pounds of water weight every month. I am sorry for any typos. I would be more sorry if I did nothing when you and the world may be harmed. You and people are the treasure, not the moth and rust. Your criticism makes us smarter and helps us learn from one another. The standardization eliminates liberty by compelled conformity as opposed to improvement by stagnation when courts defer to the standards as opposed to correcting them when they oppress and harm consumers or workers.

Your lives are worth more than all of the money in the world. You are not replaceable by automation that is schemed to be used to eliminate the governments and the laws that make us freer not for sale disposable products in a stakeholder global reign.

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6.6MB

DI 126-8 80 trillion in pensions.pdf
7.4MB

# Fw: WEF's books/Meg's reply/4th Industrial Rev/Great Reset/Great narrative

From: Meg Kelly (meghankellyesq@yahoo.com)

To: supremectbriefs@usdoj.gov; ryan.costa@delaware.gov

Cc: meghankellyesq@yahoo.com; david.weiss@usdoj.gov

Date: Tuesday, May 7, 2024 at 08:54 PM EDT

I need to help you understand ways to prevent the overthrow if I am eliminated.

These 3 books allude to some of the lobbyists' agenda.

I may point to pages in the book to help you understand the dangers. I like searching within PDFs with Control F.

Thank you.
Meg

> ----- Forwarded Message -----
> **From:** Meg Kelly <meghankellyesq@yahoo.com>
> **To:** jp.davies@roehampton.ac.uk <jp.davies@roehampton.ac.uk>; Meg Kelly <meghankellyesq@yahoo.com>
> **Sent:** Monday, August 8, 2022 at 12:35:55 PM EDT
> **Subject:** WEF's books/Meg's reply/4th Industrial Rev/Great Reset/Great narrative
>
> Hi James Davies,
>
> I picked up two of your books from the library. I wish I had PDF copies. Have you read the WEF's books the Fourth Industrial Revolution, Covid-19, the Great Reset and the Great Narrative?
>
> The WEF alludes to mental healthcare which will control, not care for people, while drugging them up as they transition the economy into something worse.
>
> This mental healthcare schemed "crisis" is not to care for the schemed unemployed by design but will be used to control them.
>
> Since the state is going after me for my beliefs in Jesus Christ, as an alleged mental disability, per the attached, your evidence may prevent people from being drugged up. Look at the back of the Fourth Industrial Revolution, attached hereto, for some mad science. The way money is coined, rewards wasteful science made to fail.
>
> Dr. Harrari, a historian allied with the WEF, teaches lies that there is no free will. I believe people go to hell for living based on desires, reward, avoidance of harm, praise and shame, by living conditionally, instead of laying down their desires and the desires of men to think, to discern what is right, to unconditionally love. We all have free will no matter the economic, physical or social burdens that tempt us to conform to the dictates of others, as opposed to God's will.

Obviously, I disagree with BF Skinner, who also taught there was no such thing as unconditional love or free will. You seem to believe differently, in that your eyes are not evil. You seem to choose to care for, as opposed to control people. The fact you exhibit humility, and admit experts make errors, that you are not Gods, gives me hope you have wisdom.

Once the pupil declares himself master, he no longer learns and defeats science the mere study of things, by ending learning. In court lazy judges make scientists and professionals the law, making lawless business greed backed by some studies the law, allowing killing, stealing and destroying humanity for the bottom line. Your humility is beautiful and is needed to correct the experts who harm.

I hope you consider helping me at no cost, or even by sending me free PDFs of your books I may use in court.

Thank you,
Meg

2 Meg's Reply to ODC.docx
65.6kB

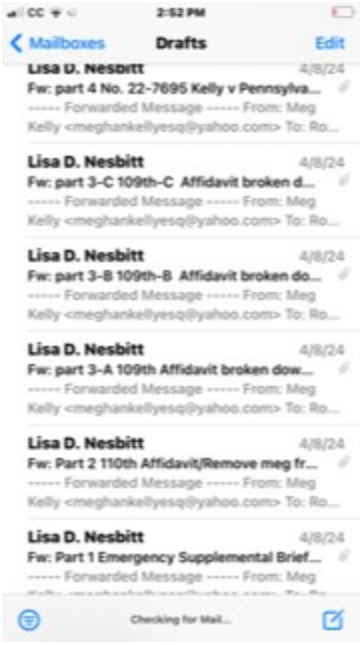
COVID-19_-The-Great-Reset-Klaus-Schwab.pdf
2.3MB

Schwab-The_Fourth_Industrial_Revolution_Klaus_S.pdf
1.6MB

The Great Narrative-Klaus Schwab & Thierry Malleret.pdf
1.1MB


REMOULD IT NEARER TO THE HEARTS DESIRE
PRAY
DEVOUTLY
HAMMER
STOUTLY


REMOULD IT NEARER TO THE HEARTS DESIRE
PRAY DEVOUTLY HAMMER STOUTLY
F. S.
MINORITY REPORT ON THE POOR LAW
INDUSTRIAL DEMOCRACY
HISTORY OF TRADE UNIONISM
ENGLISH LOCAL GOVERNMENT
FABIAN TRACTS AND ESSAYS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Lisa D. Nesbitt 4/8/24
Fw: part 4 No. 22-7695 Kelly v Pennsylva...
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Lisa D. Nesbitt 4/8/24
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# application to Alito 23-372/Meg is scared to file a petition for a stay for same reasons believes this was rejected in error/ maybe this court may cure its defect if agrees wow it really was a defect thank you

From: Meg Kelly (meghankellyesq@yahoo.com)

To: lnesbitt@supremecourt.gov

Cc: ryan.costa@delaware.gov; zi-xiang.shen@delaware.gov; supremectbriefs@usdoj.gov; meghankellyesq@yahoo.com; david.weiss@usdoj.gov; harriet.brumberg@pacourts.us; anthony.sodroski@pacourts.us; rmeek@supremecourt.gov; jbickell@supremecourt.gov; dbaker@supremecourt.gov

Date: Wednesday, May 8, 2024 at 11:48 AM EDT

Hi Lisa Nesbitt,

Remember when Clerk of Court Robert Meek accidentally sent me a rejection letter, not knowing this US Supreme Court rejected my request for pages. So, you kindly gave me time to cure the defects in term of reduced pages. So, you sent me a letter curing that error to restore my right to petition.

Robert Meek similarly appeared to reject an application for a stay that I argue should have been considered especially since Robert Meek assumed facts were not true on the record when they were.

I really did file a motion for a stay, and I really did try to interplead in Richard Abbott's case in the DE District Court. However, my pleadings to interplead were rejected and removed from the docket.

I did not know what to do, but I thought if I forwarded you the Feb 7, 2024, filing so you may consider curing any defects. The last documents attached hereto is a big PDF which includes postage proof and Robert Meek's rejection letter.

Sometimes I mess up. Sometimes even court staff make mistakes. That is why the right to petition and court correction improves the world by guiding misguided people as opposed to destroying people.

We would not need the courts if people were perfect. None of us are almighty rulers.

The checks and balances in our system of government including the people's check and the governments check upon the government should be preserved as fairer and more just than the new system which is schemed to overthrow our system after 2050 if the courts or my opponents do not stop it.

That is part of what makes you, Lisa Nesbitt, and other people court staff very special and not replaceable under the new economic model which is schemed to deceive people based on the lie that forced digital choice to take it or leave it or go without is freedom when it is not free, nor is it a contract for one's soul under the guise of a stakeholder's interest to gain or sustain the world.

There is harm schemed and our hope of a hero are people judges and people petitioners including their attorney advocates.

Thank you for your kind consideration. I act in good faith and do not want anyone in this court to get into trouble.

I actually seek to protect this court, even when I petition disagreeing with its members not to destroy its members but to correct and guide it from booby traps. US Amend I, V, XIII. I also seek to protect the right to petition and due process fair opportunity to be heard before vitiation of my fundamental rights not merely a property interest in a license. My faith in Jesus is very important to me.

Thank you for your help. I hope you have a good day.

.

Very truly,
Meg
Meghan Kelly
34012 Shawnee Dr.
Dagsboro, DE 19939

Returned Stay may be in error.pdf
8.5MB

No. 23-7372

IN THE SUPREME COURT OF THE UNITED STATES

Meghan M. Kelly, Petitioner

v.

Disciplinary Counsel Patricia B. Swartz, Disciplinary Counsel Kathleen M. Vavala; David A. White, Chief Disciplinary Counsel, Office of Disciplinary Counsel, Board on Professional Responsibility of the Supreme Court of the State of Delaware, Preliminary Investigatory Committee, Attorney General Delaware

**Petitioner Meghan Kelly's Emergency Application to the Honorable Justice Samuel A. Alito, Junior to stay or pause the time to appeal the United States Court of Appeals for the Third Circuit 21-3198 to discern whether Richard Abbott may represent me as counsel in the civil rights case**

Petitioner Meghan Kelly pursuant to Rules 22 and 23, 28 U.S.C. § 2101 (f), and/or this Court's equitable power or any other provision of law that may apply Rule respectfully requests the time for this case be paused by a stay to determine whether Richard Abbott may represent her in this civil rights matter.

On January 9, 2024 I asked opposing counsel her stance on a stay pending Richard Abbott's bar status in the Delaware District Court and before this United States Supreme Court. She did not oppose or respond. Richard Abbott appears to be disciplined for exercising his right to petition on behalf of himself and his clients. I too am punished for exercising and not waiving my Constitutional rights. I am petitioning foremost to safeguard my right to 1. Petition 2. to safeguard my right to religious belief, 3. exercise of belief, 4. speech outlining my beliefs in petitions, 5. association, 6. procedural due process, including but not limited to a fair meaningful opportunity to be heard, 7. equal protections without insidious disparate treatment based on viewpoint in speech and favoritism towards the government, as a party of one, 8. 6th and 1st Amendment Right to self-represent in quasi criminal matters based on my religious belief in Jesus, along with other claims. These are 8 Constitutionally protected important rights.

The Delaware Supreme Court unfairly disciplined Richard Abbott apparently for representing a party who previously retained 3 or 4 other attorneys before the Chancery Court relating to neighborhood issues. The Honorable Vice Chancellor Glascock appeared to be annoyed about hearing neighborhood squabbles that remained unresolved. Per newspapers Vice Chancellor Glascock even visited the property and invested years to the unpleasant case. I think

the courts took out their frustration upon Attorney Abbott when the case was not immediately disposed of. The Court appeared to admonish him for not disposing of the case quickly. As a result Abbott appeared to immediately comply with the courts requests by refraining from petitioning further. See the attached appeal by Abbott I incorporate herein.

In DE there is prejudiced based on place of origin and firm size. I drafted a petition concerning this problem I submitted to a DE Supreme Court Justice I attach here and incorporate herein. Abbott recognized big firms and government attorneys who aggressively defend clients in a similar fashion as he was alleged to do are not admonished as he appeared to be.

So, Richard rightly exercised his right to petition to prevent disparate treatment against him. I live in Delaware. Delaware Judicial prejudice and favoritism based on place of origin, wealth, firm origin and firm size status as Richard's alleged small firm size unfortunately exists by the government through its judicial agents in DE. My first case ever, I filled in for another attorney before retired Judge Smalls of the Court of common pleas. The opposing counsel had an attorney filling in too. Yet, Judge Smalls called me a Philadelphia attorney as if that is a bad word, even though I am from DE to admonish me for filling in. The other counsel received no criticism. It was wrong. Judge Slights told me to go back to Pennsylvania after a CLE when I answered a question correctly and appeared to steal his thunder during the CLE. He said that meanly after class and made my former colleague Stephanie Noble have big deer eyes and scurry off.

Richard Abbott and I both were denied the asserted right to perform discovery, call witnesses and cross examine our accusers because the Court fired them in my case and hid that fact, and I had no idea Abbott had 17 or so subpoenas quashed. *In Greene v. McElroy*, 360 U.S. 474, 475 (1959) the US Supreme Court held, "this Court will not hold that a person may be deprived of the right to follow his chosen profession **without full hearings where accusers may be confronted and cross-examined**." Del. Law. R. of Disciplinary Proc. Rule 9 (d) (3) provides Abbott and I the right to call witnesses and cross examine them. We also have a 6th Amendment right to cross examine witnesses and a 1st Amendment right to petition to do so and a 14th

Amendment state right to a fair proceeding. Nevertheless, there is a split in the circuits and states. See, In re Discipline of Harding, 104 P.3d 1220, 1225 (Utah 2004), ("Direct and cross-examination of the witnesses is not required in the quasi-administrative setting"); But see, *Cerame v. Bowler*, Civ. 3:21-cv-1502 (AWT), at *4 (D. Conn. Aug. 29, 2022) (This court grants right to confrontation under the 6th Amendment. "Both the disciplinary counsel and the respondent "shall be entitled to examine or cross-examine witnesses.") I think it imperative for the US Supreme Court to resolve the split(s) so professionals including lawyers and judges are not deprived of Constitutional freedoms.

Since Abbott faced similar deprivations he is more suitable to asserting my claims because he understands my positions. In a lengthy opinion the State averred Abbott's speech in asserting and not waiving his Constitutional rights of procedural due process and Equal Protections was a reason for the discipline. I can't see what he averred in the state disciplinary case. They are sealed and are secret. Nevertheless, the state seemed to impose discipline but for his exercise of petitioning to defend himself. What was more outrageous is the state's improper partiality to itself the government including the courts in contravention of the 1st, and 14th amendment Equal Protections component in the exercise of Abbott's right to petition the courts applicable to the state via the 14th. The State Court lamented Abbott did not apologize for asserting his Constitutionally protected 1st Amendment right to assert Constitutionally protected defenses. Abbott and other attorneys as myself should not be compelled to exchange Constitutional liberties we professed to uphold in exchange for a license to buy and sell. Abbott's speech is protected.

The US Supreme Court appeared to protect speech of another attorney whose discipline this Court reversed for publicly decrying the unfairness of a proceeding against her client. Whereas Abbott defended himself in secret or before forums whose duty is to protect the Constitutional right to petition without condemning and chilling people's exercise of this most important right under which every other right is protected. The US Supreme Court *In re Sawyer*, 360 U.S. 622 (1959) reversed discipline and held,

> "While actively participating as one of the defense counsel in a protracted and highly publicized trial in a Federal District Court in Hawaii of several defendants for conspiracy under the Smith Act, petitioner appeared with one of the defendants at a public meeting and made a speech which led to charges that she had impugned the impartiality and fairness of the presiding judge in conducting the trial and had thus reflected upon his integrity in dispensing justice in the case. These charges were preferred by the Bar Association of Hawaii before the Territorial Supreme Court; that Court referred the charges to the Ethics Committee of the Bar Association, which held a hearing, and found the charges sustained. The Territorial Supreme Court, upon review of the record, also sustained the charges, and ordered that petitioner be suspended from the practice of law for one year. The Court of Appeals for the Ninth Circuit affirmed. Held: The record does not support the charge and the findings growing out of petitioner's speech, and the judgment is reversed. Pp. 623-640, 646-647."

The Court further held:

> "HN[3] Speculation cannot take over where the proof fail. HN[4]Lawyers are free to criticize the state of the law. HN[5]A lawyer's criticism of the rules of evidence does not constitute an improper attack on the judge who enforces such rules and presides at the trial. HN[6]Permissible criticism of the law may be made by a lawyer as well as to a lay audience as to a professional. HN[7]Without impugning the judiciary, a lawyer may criticize the law- enforcement agencies of the government and the prosecution, even to the extent of suggesting wrongdoing on their part. HN[8]The public attribution of honest error to the judiciary is no cause for professional discipline, even though some of the audience may infer improper collusion with the prosecution from a charge of error prejudicing the defense. HN[9]"An attorney is not guilty of professional misconduct by saying that the law is unfair or that judges are in error as a general matter, even if he is counsel of record in a case pending at that time." Id.

Should the Courts reverse Abbott's discipline I would like him to represent me in this matter should it go forward, and he would agree in light of my religious beliefs. I assert my 1st and 6th Amendment rights to self-represent in quasi criminal cases where I am indicted based on my religious beliefs in Jesus and related Constitutionally protected rights. However, this is a civil rights case I brought, and is not a case brought against my person. Jesus said let the holy spirit be my advocate when brought to the court as distinguished from me bringing the case to defend my belief in Jesus.

Abbott is appealing his case before the US Supreme Court and the DE District Court. I have been awaiting a decision by the DE District Court, but I don't think they will act until after this US Supreme Court acts. Per the attached Order, dated January 8, 2024 this court rejected my petition for pages. Per the attached letter this Court requires an appeal be filed by or before March 12, 2024. While there is no guarantee Abbott will accept my case especially since I have

religious objections to debt, I do not have the resources to fairly petition against the Defendants effectively even if I should win on appeal. The Order against me prevents me from working at my former law firm and has left me destitute. I have religious objections to debt slavery. I assert my 1st and 13th amendment rights against involuntary servitude.

While, poverty is not a suspect class my right to meaningful access to the courts despite the inherent burden of poverty, my religious beliefs and strongly held religious exercise relating to my religious belief against indebtedness and other religious beliefs are protected. I believe that you cannot serve God and Money, and object to debt by being compelled to serve Satan by making money savior to eliminate slavery to masters other than God. The government need not adopt my religion as government religion but must protect my religious beliefs under the First Amendment. "Because this case implicates the right of access to the courts," the government's disparate treatment towards me, based on poverty, is still unconstitutional under a strict scrutiny basis test. *Citing, Tennessee v. Lane*, 541 U.S. 509, 533 n.20 (2004). Further, I face substantial threat of loss of the 8 Constitutional rights should this Court not grant a stay pending the DE District Court and this Court's decision in Abbott's case.

There is a fair prospect that a majority of the Court will conclude upon review that the decision below on the merits was erroneous, under the facts of this case. This case relates to affording me an opportunity to buy and sell but for my religious beliefs that will affect other professionals.

This Court has inherent equitable powers over their process to prevent abuse, oppression, and injustice. *Gumbel v. Pitkin*, 124 U.S. 131 (1888); *Covell v. Heyman*, 111 U.S. 176 (1884); *Buck v. Colbath*, 70 U.S. 334 (1865); *Krippendorf v. Hyde*, 110 U.S. 276, 283 (1884). I aver injustice must be prevented by granting me relief. Wherefore I pray this Court grants this application.

Respectfully submitted,

Dated 2/7/2024

/s/Meghan Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
(302) 493-6693
meghankellyesq@yahoo.com
US Supreme Court Bar No. 283696
Pro se

Under Religious objection I declare, affirm that the foregoing statement is true and correct

Dated: 2/7/2024

Meghan Kelly (printed)

Meghan Kelly (signed)

# 21-1490 Kelly v Swartz plus 22-3372 Kelly v Eastern District of PA

From: Meg Kelly (meghankellyesq@yahoo.com)

To: supremectbriefs@usdoj.gov

Cc: meghankellyesq@yahoo.com; david.weiss@usdoj.gov; zi-xiang.shen@delaware.gov

Date: Tuesday, January 9, 2024 at 04:17 PM EST

Good afternoon,

I researched online and at the law library other cases to support my case. I saw Richard's case seemed similar to mine. But I had no idea that he too was denied the asserted right to perform discovery and cross examine witnesses apparently with 17 or so subpoenas quashed per the attached filing available on PACER to the public or through the resource the upper law librarian Galen Wilson has that I told him to buy.

Galen will help out of staters too if you need help by contacting him at galen.wilson@delaware.gov.

I do not feel so well, and am quite dehydrated and need time to sustain my life and health as I have asserted in all cases, due to the bad healthcare performed on me as a child in high school.

I was thinking about asking for a stay contingent on the outcome of Abbott's appeal. He cannot represent me now in the civil rights case, nor has he agreed to, nor has he disclosed any documents or the information contained in the attached to me. I pulled his filings and thought I would want someone who does the right thing like he did to represent me more than anyone else in the world.

It is the mere opportunity not the guarantee in the choice of counsel I seek to protect. He certainly is not my slave and may say no due to my religious beliefs against debt and inability to pay him which is sound.

Thus, I thought I would ask your stance on an interim stay pending the appeal to the USSC for his disbarment as punishment for exercising his 1st Amendment rights to petition for retaliation for exercising discretion in his attorney duties where the court appeared to punish him for the behavior of his client as annoying, retaining 3, 4 or so other attorneys for the same issue, but not apparently breaking the law. I extracted this information from reading the papers where the court noted irritation. Sometimes judges may make bad decisions. Disbarring Richard Abbott is one of them.

Thank you for your kind consideration.

Very truly,
Meg
Meghan Kelly
34012 Shawnee Dr
Dagsboro, DE 19939


4 Richard abbott.pdf
5.4MB

**IN THE UNITED STATE DISTRICT COURT**

**FOR THE DISTRICT OF DELAWARE**

| | | |
|---|---|---|
| IN THE MATTER OF: | : | |
| RICHARD L. ABBOTT, | : | |
| Respondent. | : | NO. 23-mc-524 |



**RESPONSE IN OPPOSITION TO IMPOSITION OF DISCIPLINE**

Respondent Richard L. Abbott, Esquire ("Abbott") hereby responds pursuant to the Order To Show Cause regarding why discipline is unwarranted, based upon the following:

## I. Introduction

It is well-settled that a lawyer is an advocate for clients, whose duty is to zealously represent a client in the subject matter. The United States Supreme Court has noted that the duty of a lawyer is to further the interests of his client by all lawful means, even when those interests conflict with those of the United States or a State. *In re: Griffiths,* 413 U.S. 717, 724 (1973). This is the lawyer's "honored and traditional role as an authorized, but independent agent acting to vindicate the legal rights of a client…" *Id.* With attribution to attorney Brendan Sullivan in the 1987 Iran-Contra hearings before Congress, a lawyer is "not a potted plant."

In this Circuit, a reciprocal disciplinary proceeding initiated by a Federal District Court against a member of its Bar based upon a State disciplinary proceeding outcome "requires Federal Courts to conduct an independent review of the state disciplinary proceeding prior to imposing punishment." *In re: Surrick*, 338 F.3d 224, 231 (3d Cir. 2003). And disbarment by a State does not cause automatic disbarment by a Federal Court. *Id.*, citing *In re: Ruffalo*, 390 U.S. 544, 547 (1968). The Federal Court must examine the State proceeding to insure it is consistent with Due Process requirements, adequately supported by proof, and would not result in a grave injustice. *In re: Surrick* at 231. Here, Abbott was denied fundamental Due Process rights, found in violation

of Rules and Charges that were not supported by adequate proof and do not exist under applicable law, and resulted in the grave injustice of disbarment for what, at most, would constitute minor matters.

A. Proceedings In This Court

On November 16, 2023, Chief Judge Colm F. Connolly issued an Order To Show Cause (the "Federal Order") regarding the Delaware Supreme Court's November 9, 2023 disbarment Order (the "Delaware Order"), which indicated that Abbott file with the Court "within thirty (30) days from the date of this Order, a detailed statement informing this court of any claim by [Abbott], predicated upon grounds set forth in Local Rule of Civil Procedure 83.6(b), that the imposition of identical restrictions [to the Delaware Order] by this Court would be unwarranted." The Federal Order was not received by Abbott through electronic or hard copy means.

Through second-hand information, Abbott became aware that there might have been an order entered by this Court similar to the Federal Order. Abbott's office attempted to search for any such order through the Court's electronic filing system, but access was denied due to Abbott's account being suspended. Abbott communicated with the Clerk's Office, to whom he was referred by the Chief Judge's Chambers, on the afternoon of December 11, 2023. Abbott advised the Clerk that the Federal Order had not been received by him and that he would need thirty (30) days from that date to file an intended response to the Federal Order. The matter was subsequently clarified through an Order entered by this Court on December 15, 2023, which granted Abbott's motion to extend time to respond to the Federal Order until January of 2024.

B. Local Rule 83.6 & At Least 4 Reasons Why No Discipline Against Abbott Is Warranted

Pursuant to Rule 83.6(b)(3)(B) of the Local Rules of Civil Practice and Procedure of the United States District Court for the District of Delaware (the "Local Rules" or "Local Rule"), the

Federal Order was required to direct Abbott to advise: (1) the Court within thirty (30) days after service of the Order To Show Cause of any claim opposing similar discipline to the Delaware Order; and (2) set forth the grounds contained in Local Rule 83.6(b)(5) that supported the position that the same discipline "would be unwarranted."

Because Abbott was denied Constitutional Due Process of Law pursuant to the procedure (or lack thereof) that led to the Delaware Order, Abbott can easily satisfy the requirements of Local Rule 83.6(b)(5)(A). In addition, the paucity of evidence supporting establishment of the essential elements of the charges alleged satisfies the standard contained in Local Rule 83.6(b)(5)(B).[1] Given the multiple violations of Abbott's Constitutional Rights during the 8½ year long period of continual abuse of power and harassment, Abbott can also readily establish the applicability of Local Rule 83.6(b)(5)(C). Finally, Abbott can satisfy the requirements of Local Rule 83.6(b)(5)(D) since the punishment of disbarment is overly punitive, retaliatory, discriminatory, and excessive (*i.e.* a grave injustice).[2]

C. The 3 Foundational Charges & 2 Catch-All Charges Upon Which The Delaware Order Is Based

This is a lawyer disbarment case, which involves a miscarriage of justice based on numerous denials of Abbott's rights under the United States Constitution and the concoction of fabricated facts and fabricated law by the Delaware lawyer discipline system (the "System"). On February 5, 2020, an alleged Petition for Discipline ("Petition") was brought by the Delaware Office of Disciplinary Counsel ("ODC") against Abbott before the Board on Professional

[1] In fact, one violation found against Abbott is based on rule language that does not exist in this Court.

[2] To disbar an attorney because Delaware Judges simply don't like Abbott personally is the epitome of an unjust result. Abbott did not steal his clients' money, commit felony crimes, or engage in any conduct even remotely approaching the level of seriousness typically justifying disbarment.

Responsibility of the Supreme Court of the State of Delaware ("Board").[3] The Petition contained 5 Charges, 3 of which were standalone Charges (the "3 Foundational Charges") and 2 of which were dependent on 1 or more of the 3 Foundational Charges (the "2 Catch-All Charges"). The 3 Foundational Charges were: (1) Count I, alleging a violation of DLRPC Rule 3.4(c); (2) Count III, alleging a violation of DLRPC Rule 8.4(c); and (3) Count IV, alleging a violation of DLRPC Rule 3.5(d).[4] As for the 2 Catch-All Charges: (1) the Count II charge was founded entirely on the Count I charge; and (2) the Count V charge was founded upon the 3 Foundational Charges.

Petition Count I alleged Abbott violated DLRPC Rule 3.4(c) by knowingly disobeying an obligation under the rules of a tribunal. Petition paragraph 36 averred that Abbott advised and assisted his client "to disobey the Consent Order" as the sole predicate act. No Tribunal Rule was alleged or proven to have been disobeyed by Abbott according to the Delaware Order. Abbott merely gave his client advice on how to potentially avoid a Consent Order. Abbott did not disobey any Court rule or rule obligation.[5]

Petition Count III alleged a violation of DLRPC Rule 8.4(c), which proscribes conduct involving dishonesty, fraud, deceit, or misrepresentation of fact. Petition paragraph 40 contains the predicate acts: "Affirmative statements to the Court and opposing counsel, including but not limited to statements contained in [Abbott's] March 16, 2015 Letter, that were contrary to

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[3] To this day, no proof has been provided that any charges against Abbott were ever approved by the Preliminary Review Committee ("PRC") as required by Rule 9(b). Rule 3(c) provides that "[e]each panel of the PRC shall prepare for filing with the Administrative Assistant a disposition sheet recording actions taken by the panel." But no disposition sheet was provided despite numerous requests and subpoenas requiring it to be produced; obviously no charges were ever validly brought against Abbott.

[4] "DLRPC" is shorthand for the Delaware Lawyers' Rules of Professional Conduct.

[5] Notably, Rule 3.4 in Virginia, North Carolina, and Texas expressly provide that a lawyer may not disobey a tribunal "ruling." The predecessor to Rule 3.4(c) in Delaware included "ruling," but a 1985 amendment deleted the term.

['Abbott's'] legal strategy, advice to his client and/or understanding of the facts and law." Abbott's March 16, 2015 Letter (the "Abbott Letter") contained no false "Affirmative statements"; it accurately advised of the transfer of title to 2 Properties (the "Ownership Transfer"). The Delaware Order found no false "Affirmative statements" as alleged; it is founded on 2 alleged omissions (the "2 Alleged Omissions") that were concocted post-trial.

Petition Count IV alleged that Abbott violated DLRPC Rule 3.5(d) by engaging in Undignified Or Discourteous Conduct Degrading To A Tribunal. Paragraph 42 of the Petition contains the predicate acts for the charge, citing to "paragraphs 26-34 hereof." Paragraphs 26 through 28 refer to Abbott's Complaint to the Court on the Judiciary regarding the Misconduct of Vice Chancellor Sam Glasscock (the "Vice Chancellor"). Rule 17 of the Court on the Judiciary Rules provides that all of its records and proceedings are Confidential. Rule 19 of the Court on the Judiciary Rules provides that communications to the Court relating to a Judge's misconduct or disability "shall be absolutely privileged." Nothing contained in paragraphs 26 through 28 of the Petition was admissible or could be used against Abbott (as the complainant).[6]

Paragraphs 29 and 30 of the Petition aver that Abbott attacked the Vice Chancellor in written submissions to the Board, the Delaware State Public Integrity Commission ("PIC"), and the Delaware Supreme Court. No filing was made with the Supreme Court; the filings were submitted to the Board. The PIC filing is strictly Confidential. No one knows about or may rely on submissions to the Board; they are strictly Confidential and Absolutely Privileged.[7]

Paragraph 31 of the Alleged Petition contains 31 written statements by Abbott. Paragraphs 31(a) through (k) and (m) through (ee) (30 of the 31 statements) were all Absolutely Privileged

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[6] These allegations are obviously Unconstitutionally retaliatory in nature. Abbot's truthful report of Judicial Misconduct is a virtue, not a vice.

[7] This was further retaliation against Abbott for unveiling Judicial Misconduct.

and Confidential Board communications. Paragraph 31(l) relies upon a written submission to the PIC, but it contained nothing disparaging ("*ipse dixit* spewed by the Vice Chancellor during the course of a Star Chamber proceeding that was scheduled on an impromptu basis under very strange and unusual circumstances," which is permissible criticism and true). The Petition piled on the Unconstitutional retaliation against Abbott for speaking his mind and telling the truth in Confidential and Absolutely Privileged Communications.

Paragraph 32 of the Petition contains 7 Absolutely Privileged and Confidential submissions to the Board. DLRDP Rule 10 provides that all communications to the Board and the ODC related to lawyer misconduct or disability "shall be absolutely privileged."[8] And DLRDP Rule 13 provides that Board proceedings are Confidential. More Unconstitutional retaliation.

And Petition paragraphs 33 and 34 deal with a submission to the Board, which are Confidential and Absolutely Privileged. They cannot be relied upon to form the basis for a violation of DLRPC Rule 3.5(d). Alleging otherwise was clearly retaliatory.

Policies and procedures applied by the PIC render submissions to it completely Confidential; no one will ever know of the one (1) non-disparaging, truthful statement charged in Petition paragraph 31(l). The confidentiality policy of the PIC was followed pursuant to 29 *Del. C.* § 5810(h)(3)(l). All documents submitted by Abbott were marked "Confidential" and they could not be disclosed or relied on. And none of Abbott's statements were rude, crude, or vulgar, as required to prove a violation.[9] This is the final evidence of retaliation.

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[8] "DLRDP" is shorthand for the Delaware Lawyers' Rules of Disciplinary Procedure.
[9] The statements also fail to rise to the egregious level of threats and profanity normally required to breach Rule 3.5(d). *See e.g. State v. Mumford*, 731 A.2d 831, 833 (Del. Super. 1999).

Failure to prove the 3 Foundational Charges doomed the 2 Catch-All Charges. Since the ODC failed to prove Counts I, III, and IV by Clear and Convincing Evidence, Abbott could not be found to have violated the 2 Catch-All Charges (Counts II and V).

In November of 2021, the charges alleged in the Petition were considered at a hearing (the "Soviet Style Show Trial") conducted by a 3-person panel of the Board (the "Panel"). The Soviet Style Show Trial lasted for seven (7) days. Abbott was denied all relevant trial witnesses he subpoenaed in his defense and his defense case was severely restricted due to the Panel Chair's denial of all relevant discovery Abbott subpoenaed pre-trial.

On July 11, 2022, the Panel issued its report ("Recommendation I") regarding the charges alleged in the Petition. The Panel's sanction recommendation was issued by the Panel on January 23, 2023 ("Recommendation II").

The Delaware Order effectively rubberstamped error-riddled Recommendation I and Recommendation II. No elemental analysis of the 3 Foundational Charges is contained in either Recommendation I or the Delaware Order. Instead, conclusory, unsupported pronouncements are made. That's how Abbott was found guilty of violations he did not commit.

The Delaware Order also largely adopted Recommendation II and its misapplication of guiding principles and faulty analysis of the facts and law. ABA Sanction Standards were applied as if they were mandatory and unbending. Prior discipline decisions of the Supreme Court were ignored. And an excessively punitive and penal Sanction was imposed, all the more establishing the discriminatory and retaliatory foundation of the Delaware Order.

## II. The Rule 3.5(d) Charge Is Not Cognizable In This Court

The Delaware Order's finding of a Rule 3.5(d) violation by Abbott is based upon language which does not exist in the Rule 3.5(d) provision applicable in this Court. As a result, that violation finding has no impact on Abbott's practice as a member of the District Court Bar.

The Delaware Order adopted Recommendation I's suggestion that Abbott violated DLRPC Rule 3.5(d) by engaging in conduct degrading to a tribunal. *In re: Abbott*, 2023 WL 7401529, *21 and *31 (Del., Nov. 9, 2023). The Delaware Supreme Court also confirmed the allegation of "degrading statements" in its summation of the Petition. *Id.* at *11. Thus, it is evident that the Delaware Order's finding of a violation of Rule 3.5(d) by Abbott was predicated upon language that provides "[a] lawyer shall not…engage in undignified or discourteous conduct that is degrading to a tribunal" (the "Degrading Language Rule"). Because the Degrading Language Rule has not been adopted by this Court for purposes of regulating its Bar, however, the Delaware Order's finding of a violation of the Delaware version of Rule 3.5(d) is inapplicable in this Federal Court.

Pursuant to Local Rule 83.6, this Court has adopted provisions that govern the issue of "Attorney Discipline." Local Rule 83.6(d) expressly adopts the "Model Rules of Professional Conduct of the American Bar Association ("Model Rules")" as the governing standards for lawyer conduct of this Court's Bar. In turn, Rule 3.5(d) of the Model Rules only provides that "[a] lawyer shall not…engage in conduct intended to disrupt a tribunal."

The Degrading Language Rule is not contained in the Model Rules. Consequently, the finding made in the Delaware Order against Abbott based upon the Degrading Language Rule has no legal or persuasive force or effect in this Court.

## III. Abbott Has No Prior Disciplinary Record In The Delaware District Court Bar

The Delaware Order relied heavily on a prior disciplinary record in the Delaware State Bar context. *In re: Abbott, supra.*, at *31-33. That prior discipline, however, was based on a State rule that does not exist in this Federal Court: the Degrading Language Rule. *See In re: Abbott*, 925 A.2d 482, 485 (Del. 2007). And the disbarment sanction imposed by the Delaware Order was

based upon a finding of 5 DLRPC rule violations, none of which were established. *In re: Abbott, supra*. at *28-33.

Abbott has no prior disciplinary record in this Federal Court Bar. His discipline under DLRPC Rule 3.5(d), based on supposedly "degrading" statements, was not a violation of the Model Rule corollary applicable in the Delaware District Court. And neither the 3 Foundational Charges nor the 2 Catch-All Charges can be established in this Federal Bar discipline matter. Accordingly, this Court should not defer in any respect to the Delaware Order, thereby establishing that no discipline violations occurred and no sanctions are in order.

A. No Prior Discipline By The U.S. District Court Bar

Abbott has been a member in good standing of the Bar of the United States District Court for the District of Delaware without interruption since he was sworn in as a member in 1991, a total of 32 years. During Abbott's 3+ decades of membership in the Bar of this Court, he has never been charged with or found in violation of any lawyer discipline rule of this Court. Thus, Abbott has no disciplinary record which could be relied upon as a basis for determining any sanction against him. Since the Delaware Order relies to a great degree on a prior discipline in the State of Delaware Bar, however, the Delaware Order is not worthy of deference in the disciplinary process of this Court.

B. The Degrading Language Rule Does Not Apply In The U.S. District Court Bar

Abbott has explained how this Court should not defer to the Delaware Order's finding that he violated DLRPC Rule 3.5(d) by making statements degrading to a tribunal since Model Rule 3.5(d) does not include the Degrading Language Rule. Additionally, Abbott's prior discipline as a member of the Delaware Bar would not have been a violation of this Court's Rules since it was based entirely on the Degrading Language Rule (which is not contained in the Model Rules). Thus,

Abbott cannot be found to have any prior disciplinary record in the 32 years of his membership of the Bar of this Court.

Lastly, the prior Delaware Bar discipline of Abbott should be disregarded by this Court since it was blatantly violative of Abbott's Constitutional right to Due Process of Law. DLRDP Rule 9 afforded Abbott the right to a hearing on Sanctions, but the Supreme Court just summarily issued a Sanction. As a consequence, that decision is Constitutionally infirm.

## IV. Rule 3.4(c) Of The Model Rules Was Not Proven By Clear And Convincing Evidence, Or Any Evidence At All For That Matter, In What Amounted To A Wholesale *Post Hoc* Re-Write; There Was No Abbott Disobedience & No Court Rule

*First*, the Delaware Order is founded on a faulty factual premise, to-wit: the theory that Abbott "advised and assisted [his client] to disobey the Consent Order and March 3, 2015 Bench Rulings by transferring the Properties to his wife for nominal consideration while maintaining his control of the Properties." *In re: Abbott, supra.*, at *17. No Rule or Court Order prohibited Abbott from advising his client on how to potentially avoid a Court Judgment. Nor was there any Court Rule or Court Order that prohibited Abbott's client from transferring title to the Properties to his wife. Nor did Abbott advise his client to disobey any requirement in any Court Rule or Court Order; advising a client on how to potentially avoid a Court Judgment was not even proscribed by any legal provision or ruling. And Abbott had no idea who would "control" the 2 Properties post-transfer, nor did "control" effect legal title ownership.[10] As a result, it is evident that the Delaware Order simply fabricated the facts and law.

*Second*, and more importantly, Rule 3.4(c) of the Model Rules only provides that "[a] lawyer shall not...knowingly disobey an obligation under the rules of a tribunal." And Count I of the Petition, in both its heading and its paragraph 35 and 36 content, alleged that Abbott disobeyed

[10] This is just another litigation construct manufactured to support the pre-ordained conclusion.

an obligation under the rules of a tribunal. But there was no evidence presented that Abbott violated any tribunal rule. The record is completely devoid of citation to any Court of Chancery Rule that was contravened by Abbott, thereby leading to the inexorable conclusion that there was a complete failure of proof on the Rule 3.4(c) charge.

The Delaware Order took narrow DLRPC Rule 3.4(c) language – disobey an obligation under the rules of a tribunal – and expanded it to include an alleged prohibition on a lawyer advising his client on how to potentially avoid a Court Judgment. In this Court, such an *ex post facto* re-write of Rule 3.4(c) is not permitted; the plain and ordinary meaning of the Model Rule 3.4(c) language must be applied under Local Rule 83.6(d). Given that there was a total lack of evidence supporting the charge that Abbott disobeyed an obligation under the Rules of the Court of Chancery, that charge abysmally fails in this Court.

## V. The Delaware Order Cannot Withstand Merit-Based Scrutiny; No Violations Can Be Found In This Court

### A. None Of The 3 Foundational Charges Were Proven By Clear & Convincing Evidence; The 2 Catch-All Charges Fai As A Result

Abbott has well-explained how the record evidence failed to support a finding of any violation of Rule 3.4(c)'s prohibition on a lawyer disobeying "an obligation under the rules of a tribunal"; uncontraverted record evidence showed that no Court of Chancery Rule was contravened by Abbott. Abbott has also readily established that there was a lack of proof that he made any false "Affirmative statements" as Count III of the Petition alleged, thereby foreclosing the possibility that he could have been found in violation of Rule 8.4(c) of the Model Rules; the 2 Alleged Omissions cannot constitute "Affirmative statements" as a matter of law. The 2 Catch-All Charges also suffer from a failure of proof since they are dependent on Clear and Convincing proof of one or more of the 3 Foundational Charges. Accordingly, there is no basis for any

Sanction against Abbott due to the lack of Clear and Convincing Evidence Abbott violated Rules 3.4(c), 3.5(d), 8.4(a), 8.4(c), or 8.4(d) of the Model Rules.[11]

1. The ODC Failed to Prove 4 Of 5 Rule 3.4(c) Elements

At trial, the ODC bore the Burden of Proof to establish the five (5) elements of Rule 3.4(c) by Clear and Convincing Evidence: (1) Lawyer; (2) Knowingly; (3) Disobey; (4) Obligation; (5) Rules of Tribunal and to show the "open refusal" safe harbor did not apply. The ODC failed to prove elements (2) through (5) based upon the assertion that Abbott gave advice to his client, Marshall Jenney ("Jenney"), to transfer title (the "Ownership Transfer") to the 317 and 318 Salisbury Street houses (the "2 Properties") in violation of a Court Judgment. And the ODC failed to establish the "open refusal" safe harbor did not apply.

For starters, there was no proof presented at trial that Abbott Knowingly advised his client to disobey anything. Next, there was no proof that Abbott acted to Disobey anything at any time in the Court of Chancery proceedings. Further, there was a complete failure of proof by the ODC that Abbott had any Obligation of any sort that he could have violated. Lastly, the ODC cited to no Rules of a Tribunal that were purportedly violated by Abbott's advice to Mr. Jenney. Plus the ODC failed to show the "open refusal" safe harbor did not apply.[12] Accordingly, a cursory review of the elements of the 3.4(c) charge, in light of the evidence presented at trial, reveals that the ODC abysmally failed to present any on-point evidence in support of virtually all of the Rule 3.4(c) elements and that therefore Abbott's acquittal on that charge was cemented.

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[11] The Delaware Order was result-oriented; it did not engage in the necessary elemental analysis of the 5 Charges since all essential elements were not proven.

[12] The Delaware Order failed to engage in an analysis of the elements of Rule 3.4(c) and to provide any explanation of what record facts proved their satisfaction by the high burden of Clear and Convincing Evidence. That would have gotten in the way of the Supreme Court's pre-ordained conclusion to kick the disliked Abbott out of the Delaware Bar.

a. No Proof Of A Knowing State Of Mind

The term "knowingly" is defined by DLRPC rule 1.0(f) as "actual knowledge of the fact in question," and that it "may be inferred from the circumstances." But as a threshold matter, the lawyer must be aware of disobedience of Court Rules in order for a violation to be proven. Otherwise, the Knowingly state of mind element of a Rule 3.4(c) charge cannot be established.

In the case at bar, the ODC failed to present any evidence that Abbott was aware of any Court of Chancery Rule, or anything else for that matter, that he could be violating when he validly and permissibly advised and assisted Jenney to potentially avoid a court judgment. And the fact that there was no Court Rule alleged to have been violated by Abbott or that could have been violated by Abbott under the circumstances establishes beyond *peradventure* that the Knowingly element was not established by the ODC by Clear and Convincing Evidence. Tortured constructions of Rule 3.4(c) that are not found in the plain language of the Rule do not inform lawyers and cannot be Knowingly violated.

b. No Proof Of Any Abbott Disobedience Of Anything

Nor did the ODC present any evidence that Abbott acted to Disobey anything during the course of proceedings in the Court of Chancery litigation. Abbott is the one that had to be shown to have been disobedient, not his client. The Consent Order did not apply to Abbott and it did not prohibit Jenney from transferring title to the 2 Properties. In fact nothing prohibitory is contained in the Consent Order; it is all mandatory in nature! So an attempt by Jenney to avoid the Consent Order was not a violation of it; the Court Order did not bar Jenney from transferring title to the 2 Properties. Indeed, it is the epitome of an open refusal to perform, an act expressly permitted by Rule 3.4(c).

c. No Proof Of Any Obligation Abbott Could Have Contravened

The ODC alleged that Jenney had an Obligation that was breached pursuant to the transfer of title to the 2 Properties to his wife. But the ODC never proved at trial that Abbott had any Obligation that was in any way effected by that transfer of title. The Consent Order did not forbid Abbott to advise and assist in a title transfer of the 2 Properties or for Jenney to effectuate such a transfer. Because of the total failure of proof that Abbott had any relevant Obligation that could have been violated, the Rule 3.4(c) charge was not proven.

Additionally, the ODC's attempt to magically convert Jenney's obligations into Abbott's obligations does not pass the straight-face test. Rule 3.4 plainly states that the Obligation must be that of the lawyer, not the client. Abbott was the lawyer in the case, not Jenney. But the Consent Order the ODC relied upon only applied to Jenney, not Abbott.

d. No Proof Of Any Court Of Chancery Rule Violations By Abbott

It is undisputed that the ODC failed to present any evidence at trial in support of the proposition that Abbott violated the Rules of the Court of Chancery in the litigation. Indeed, the ODC conceded that it was not relying upon any Court of Chancery Rules, but was instead attempting to unilaterally rewrite Rule 3.4(c) after-the-fact. The DLRPC changed the pre-1985 Rule (the former ABA Disciplinary Rules or "DR's") that expressly prohibited a lawyer from advising his client on how to avoid a Court ruling, which would have supported the ODC's theory in this case. But the language was modified via Rule 3.4(c) so that it is crystal clear that the only conduct proscribed by the DLRPC is a lawyer failing to abide by the Rules of a Tribunal. Since the plain meaning of the language of Rule 3.4(c) must prevail, the ODC did not prove its case by the high Clear and Convincing Evidence standard.

e. No Proof Abbott Failed To Make An Open Refusal

The ODC also failed to meet its Clear and Convincing Evidence Burden of Proof to establish the inapplicability of the safe harbor clause in Rule 3.4(c), which immunizes "an open refusal based on an assertion that no valid obligation exists." Undisputed trial evidence established that Abbott timely advised the Vice Chancellor of the Ownership Transfer and that, therefore. Jenney was unable to do the Consent Order work since he was no longer the legal title owner of the 2 Properties. Abbott's letter to the Vice Chancellor was "open" and contended that Jenney's obligations were no longer legally in effect. The letter was electronically filed and served, advised that the case was believed to be rendered legally moot, and copies of the 2 Deeds were enclosed. So the ODC failed to meet its high Clear and Convincing Evidence Burden of Proof and Abbott should have been exonerated on the Rule 3.4(c) charge.

2. As The Rule 3.4(c) Charge Falls, So Falls The Rule 8.4(a) Charge

The Rule 8.4(a) charge was based entirely on the allegation that Abbott violated Rule 3.4(c). But no Rule 3.4(c) violation was proven by the ODC. As a result, the 8.4(a) charge failed.

Additionally, Comment [1] to Rule 8.4 provides that "[p]aragraph (a), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take." In the case at bar, Abbott advised Jenney on an act – transfer of title to the 2 Properties – that Jenney was legally able to take. The Consent Order did not bar Jenney from transferring title. So the charge failed on that basis as well.

Finally, the ODC's theory that Abbott attempted to violate a Rule or violated a Rule via the act of Jenney and assistance of Cynthia Hahn (Abbott's secretary) in transferring title is nonsensical. No evidence shows Abbott attempted to do anything other than moot the Chancey case, which he was well within his rights to do and actually had a DLRPC duty to do.

3. A Failure Of Proof On All Elements Of Rule 3.5(d) Occurred

The DLRPC Rule 3.5(d) allegation requires proof of the following elements: (1) Lawyer; (2) Disruptive, Undignified, or Discourteous Conduct; (3) degrading to the subject Tribunal. The ODC failed to prove elements (1) through (3) by Clear and Convincing Evidence; a complete failure of proof.

*First*, the allegations against Abbott were drawn entirely from written filings that Abbott made in proceedings which ensued after the Vice Chancellor's bogus "fishing expedition" Complaint against Abbott to the ODC (which should have never been filed or pursued in the first place).[13] In the ODC's screening, evaluation, and investigation stages of the Star Chamber Proceeding, Abbott was not acting as a Lawyer (*i.e.* engaging in the practice of law) but was instead proceeding in a *Pro Se* capacity (which by definition excludes involvement by a Lawyer). *Second*, Abbott's unrefuted trial evidence and testimony established all 37 statements alleged were protected by Constitutional and Legal Privileges and Rules (Truth and Opinion). *Third*, the conduct prohibited by Rule 3.5(d) must take place before or be perceptible by, the relevant Tribunal; but here the Vice Chancellor and the Supreme Court were unaware of the Confidential and Absolutely Privileged statements made by Abbott.

a. Abbott Did Not Act As A Lawyer, Instead Proceeding Throughout On A *Pro Se* Basis

The ODC conceded that Abbott proceeded *Pro Se*. ODC Memo at 64.[14] It wrongly contended, however, that the mere fact Abbott was a member of the Delaware Bar *ipso jure* caused him to be acting in his capacity as a lawyer at all times and for all purposes. *Id.* Not surprisingly,

[13] The ODC pursued 3 charges against Abbott in 2016 (the "3 Charges") despite the lack of any basis in fact or law therefor. The 3 Charges were later dropped; ODC Chief Counsel Aaronson was fired by the Supreme Court for misconduct.

[14] The "ODC Memo" is its Post-Trial written submission.

the ODC provided no DLRPC provision or interpretive analysis in support of their illogical proposition.

The DLRPC generally considers a lawyer to be one engaging in the practice of law. Abbott never filed an Entry of Appearance in the Star Chamber Proceeding . And Abbott never expressly purported to be acting in any capacity other than *Pro Se*. Abbott never affirmatively declared he was acting as a lawyer, but he did state many times he was *Pro Se*, thereby establishing he acted *Pro Se* and not as a "lawyer."

b. Abbott's Statements Were Proven To Be True And Protected Opinion Via Uncontested Trial Evidence

In order to give rise to a Rule 3.5(d) violation, a statement must be made: 1) in open Court; 2) in written submissions to the Court; 3) in ancillary Court proceedings like a deposition; or 4) in public during the pendency of the Court proceeding. The title of Rule 3.5(d), "Impartiality and Decorum of the Tribunal," combined with Comments [2] through [5] thereto establish that the Rule is intended to insure appropriate lawyer conduct that is within the scope of the Court's purview in litigation. The Rule is not intended to constitute a veritable "gotcha" in order to nail hated lawyers like Abbott with "process crimes" that are drummed up during the course of a Confidential investigation or prosecution.

At trial, Abbott presented a memo on Rule 3.5(d): Trial Exhibit 163. His testimony further elaborated on the grounds to conclude that there was a lack of proof of the necessary elements to establish a violation of Rule 3.5(d). T1918-1974. The expert opinions expressed and explained were not rebutted by the ODC, whether through direct rebuttal evidence or testimony or pursuant to cross-examination of Abbott.

Abbott also presented a memo and testimony at trial regarding the alleged Rule 3.5(d) violation and Abbott's immunity from prosecution for that charge based upon the 1st Amendment

to the United States Constitution, Court Rules, Confidentiality and Absolute Privilege provisions, and the Absolute Litigation Privilege. *See* Ex. 164 and T1918-1974. The statements which formed the basis for the ODC's Rule 3.5(d) allegation qualify as protected speech under the 1st Amendment and are imbued with blanket Confidentiality and Absolute Privilege pursuant to DLRDP Rules 10(a) and 13, Court on the Judiciary Rules 17 and 19(a), 29 *Del. C.* § 5810(h), Rules of the Delaware State Public Integrity Commission, and Abbott's *Pro Se* capacity.

Abbott would not have made any of the statements if he had believed that he was acting as a Lawyer, lacked 1st Amendment Free Speech rights, and would not be accorded the Confidentiality and Absolute Privileges guaranteed to him by law. Abbott was consciously unaware that he could be pounced upon by the ODC via entrapment and concoction of "process crimes."

c. No Tribunal That Was The Subject Of Abbott's Statements Is Aware Of Them; A Message In A Bottle Cannot Cause Degradation

The Delaware Order incorrectly theorized that Rule 3.5(d) applies to conduct that is discourteous or degrading to a Tribunal in the abstract. But in order for the Tribunal to be impacted by conduct it must be perceptible to the Tribunal that is the focus of the statements. Here, Abbott's statements are secreted away: the proverbial "Message In A Bottle." But in this case, the bottle can never be found; legal provisions render them strictly Confidential and Absolutely Privileged. Rule 3.5(d) does not create a "Thought Police" regimen whereby private, confidential statements unknown to the Tribunal can be transmogrified into a violation.

The Supreme Court and Vice Chancellor had no knowledge of any of Abbott's statements. In order for a human being to perceive degradation or discourtesy based on written statements, he or she must utilize their sensory perception and mind – *i.e.* sight and thought – in order to absorb and comprehend the written statements. In the instant action, however, the ODC failed to present

one kernel of evidence to support the proposition that the Supreme Court or Vice Chancellor were consciously aware of any of the statements. That total lack of proof was fatal to the ODC's case, thereby leading to the inexorable conclusion that they utterly failed to meet the high Clear and Convincing Evidence Burden of Proof regarding the DLRPC Rule 3.5(d) allegation against Abbott.

4. No Proof Of Abbott Dishonesty, Fraud, Deceit, Or Misrepresentation In The Chancery Court Case Was Presented

Perhaps the *coup de grace* in the realm of ODC proof failure was its total whiff on submission of any evidence to establish a Rule 8.4(c) violation. The 3 elements of that Rule are: 1) Lawyer; 2) Engage in Conduct; and 3) Involving Dishonesty, Fraud, Deceit, or Misrepresentation. The fact pattern suggested by the ODC – Abbott somehow misled the Court of Chancery to believe something that wasn't true – was not established by one iota of evidence at trial. In direct contradistinction, the evidence showed that Abbott was at all times forthright, forthcoming, honest, and transparent in all dealings with the Vice Chancellor in the case.

It was established at trial that the ODC brought the charge of a Rule 8.4(c) violation in bad faith, without any investigation, *sans* any basis in fact or law, and as a personally retributive measure engaged in by Mette (for Abbott's simple request for a 2-week extension of time to submit a written memorandum to the PRC).[15] T1622-1624 and Trial Exhibits 126-128 and 136. That helps explain the complete paucity of trial evidence supporting the charge. In fact, evidence adduced at trial proved the polar opposite of the Charge: Abbott kept the Vice Chancellor and Weidman apprised of his client's actions quite extensively and promptly. *See e.g.* Trial Exhibits

[15] More proof that Unconstitutional retaliation against Abbott was the motivation for his prosecution.

12-16, 21, 25-27, 30-33, and 35-42. As a consequence, the ODC failed to establish a violation of Rule 8.4(c) by Clear and Convincing Evidence.

5. The Catch-All Charge Under Rule 8.4(d) Fails Due To No Other Rule Violations By Abbott

Similarly, the Rule 8.4(d) allegation fails as a result of the ODC's inability to prove the 3 Foundational Charges. In addition, Comment [4] to Rule 8.4(d) provides that a lawyer may refuse to comply with a legal obligation based "upon a good faith belief that no valid obligation exists" (the "Good Faith Belief"). This is akin to the already established Open Refusal exception in Rule 3.4(c); lawyers have a "safe harbor" to contest legal provisions or rulings. As a result, the Good Faith Belief exception insulates Abbott from any Rule 8.4(d) exposure regardless of whether any of the 3 Foundational Charges were proven.[16]

## VI. The Essential Elements Of The 3 Foundational Charges Alleged Against Abbott Were Not Proven & The 2 Catch-All Charges Fall As A Result

A. The 3 Foundational Charges & 2 Catch-All Charges Were Completely Lacking In Proof; Nothing Even Remotely Rising To The Level Of Clear And Convincing Evidence Was Presented To Support The 5 Charges

The Delaware Order did not conclude that Abbott engaged in conduct intended to disrupt a tribunal, thereby leading to the conclusion that a violation of 3.5(d) of the Model Rules cannot be found by this Court. Comments degrading to a tribunal are not a violation of Model Rule 3.5(d).

Additionally, the unambiguous language of Model Rule 3.4(c) – requiring evidence of lawyer disobedience of an "obligation under the rules of a tribunal" – is not shown to have been proven in the Delaware Order. Instead, the Delaware Order just ignores the "lawyer disobedience" and "rules of a tribunal" elements of Rule 3.4(c) and finds that a "client" attempt to avoid a "Court

[16] The Court could stop here and conclude that the 5 Charges cannot be found to constitute violations under the Model Rules' corollaries. Thus, no discipline of Abbott by this Bar is warranted.

judgment" somehow miraculously satisfies these 2 elements. Such an obviously erroneous application of the clear language of Model Rule 3.4(c) should not be adopted by this Federal Court.

The last of the 3 Foundational Charges – an allegation that Abbott made false "affirmative statements" in violation of Rule 8.4(c) – is unsupported by any record evidence, let alone Clear and Convincing Evidence. The 2 Alleged Omissions cannot constitute "Affirmative statements" as a matter of logic and law. Indeed, basic logical deductive reasoning reveals that stating something which is false is not the same as failing to say something. Consequently, the Delaware Order does not provide any valid grounds to find a violation by Abbott of any of the 3 Foundational Charges under the Model Rules applicable in this Court.

The lack of proof to support a finding that Abbott committed any of the 3 Foundational Charges forecloses the possibility that Abbott could be found in violation of the 2 Catch-All Charges. Count II of the Petition relied entirely on establishment of Count I, which was not proven. And the Count V charge cannot be established since none of the 3 Foundational Charges it was dependent upon can be proven before this Court. As a result, all of the 5 Charges against Abbott were not proven by Clear and Convincing Evidence and this Court should find no violations and impose no discipline.

B. Summary Of Grounds For Lack Of Proof Of 5 Charges

Count I: Alleged Abbott Violated DLRPC Rule 3.4(c) By Knowingly Disobeying An Obligation Under The Rules Of A Tribunal[17]

1. No Proof Abbott Knowingly Disobeyed Anything.

2. No Proof Abbott Violated Any Court Rule.

3. No Proof Abbott not subject to "Open Refusal" Safe Harbor.

[17] Although Recommendation I finds no violation of Rule 3.4(c), it did so for the wrong reasons. Abbott objected to that faulty rationale.

4. Alleged Petition paragraph 36 avers that Abbott advised and assisted his client "to disobey the Consent Order" as the sole predicate act.

5. Frailties in the predicate act include:

   a. Abbott did not advise or assist Jenney in disobeying the Consent Order; he gave his client advice on how to potentially avoid the Settlement Agreement and Consent Order (if it was in force).

   b. There was no obligation Abbott had under the Rules of the Court of Chancery that were disobeyed.

   c. Standard precepts of statutory construction prohibit the attempt to convert the phrase "rules of a tribunal" into the phrase "ruling of a tribunal."[18]

Count III: Alleged A Violation Of DLRPC Rule 8.4(c): Conduct Involving Dishonesty, Fraud, Deceit, Or Misrepresentation Of Fact

1. Petition paragraph 40 contains the predicate acts: "Affirmative statements to the Court and opposing counsel, including but not limited to statements contained in [Abbott's] March 16, 2015 Letter, that were contrary to 'Abbott's' legal strategy, advice to his client and/or understanding of the facts and law."

2. Abbott's March 16, 2015 Letter (the "Abbott Letter") contains no false "Affirmative statements"; it accurately advised transfer of title to the 2 Properties (the "Ownership Transfer").

   a. The Abbott Letter accurately stated that Jenney was no longer legally the owner.

   b. The Abbott Letter legally argued that Jenney was relieved of his *in personam* obligations under the Settlement Agreement.

3. The Board Panel's finding is in error; it is founded on 2 alleged omissions (the "Phantom 6th Charge"), not on "Affirmative statements."

4. The Phantom 6th Charge is Unconstitutional and was based on the specious Law=Fact Theory, the Crystal Ball Theory, and the Hiding In Plain Sight Theory.

[18] Notably, Rule 3.4 in Virginia, North Carolina, and Texas expressly provide that a lawyer may not disobey a "ruling." The predecessor to Rule 3.4(c) in Delaware included "ruling," but a 1985 amendment deleted the term.

a. The Board Panel cannot make up a new charge *post hoc* and *ad hoc*. *See Kosseff v. Bd. of Bar Examiners*, 475 A.2d 349, 352 (Del. 1984)(pre-hearing notice of charges required by Due Process).

b. The Law=Fact Theory erroneously contends that Abbott's 2 affirmative legal arguments can be transmuted into factual omissions.

c. The Crystal Ball Theory inanely posits that Abbott had to predict the future regarding the 2 Properties.

d. The Hiding In Plain Sight Theory absurdly contends that a well-known Consent Order could magically disappear by lack of mention of it.

5. The Abbott Letter contained no "Affirmative statements" that would constitute Dishonesty, Fraud, Deceit, or Misrepresentation.

a. Abbott never affirmatively stated anything factually inaccurate.

Count IV: Alleging That Abbott Violated DLRPC Rule 3.5(d) By Engaging In Undignified Or Discourteous Conduct That Is Degrading To A Tribunal

1. The ODC failed to prove the elements of: 1) Lawyer; 2) Degradation; and 3) Tribunal.

a. Abbott acted *Pro Se*, not in capacity of Lawyer (one engaged in practice of law).

b. No Degradation: statements were legally Confidential and Absolutely Privileged (Message In A Bottle That Can Never Be Found).

c. The Board: not a Tribunal (it cannot render a final judgment; it only recommends).

d. Charge not based on Board as Tribunal anyway.

2. Paragraph 42 of the Alleged Petition contains the predicate acts for the charge, citing to "paragraphs 26-34 hereof."

3. Paragraphs 26 through 28 refer to Abbott's Complaint to the Court on the Judiciary against the Vice Chancellor.

a. Rule 17 of the Court on the Judiciary Rules provides that all records and proceedings are Confidential.

b. Rule 19 of the Court on the Judiciary Rules provides that communications to the Court relating to a Judge's misconduct or disability "shall be absolutely privileged and no suit predicated thereon may be brought against any complainant."

c. Nothing contained in paragraphs 26 through 28 of the Petition was admissible or could be used against Abbott (as the complainant).

4. Paragraphs 29 and 30 of the Alleged Petition aver that Abbott attacked the Vice Chancellor in written submissions to the Board, the Delaware State Public Integrity Commission ("PIC"), and the Delaware Supreme Court.

a. No filing was made with the Supreme Court; the filing was with the Board.

b. The PIC filing is strictly Confidential.

c. No one knows about or may rely on submissions to the Board; they are strictly Confidential and Absolutely Privileged.[19]

5. Paragraph 31 of the Alleged Petition contains 31 written statements by Abbott.

a. Paragraphs 31(a) through (k) and (m) through (ee) (30 of the 31 statements) are all Absolutely Privileged and Protected Board communications.

b. Paragraph 31(l) relies upon a written submission to the PIC, but it contains nothing disparaging.

6. Paragraph 32 of the Petition contains 7 Absolutely Privileged submissions to the Board.

a. Two (2) statements were in a document allegedly filed with the Supreme Court, but which were not submitted to the Clerk or otherwise filed with the Supreme Court; the Motion to Dismiss submission was on its face submitted to the Board

b. ODC alleged the Motion to Dismiss could not be decided by the 5 Justices, establishing it was not submitted to a Tribunal.

c. Both of Abbott's statements were absolutely true, which is an absolute defense.

[19] That includes the Absolute Litigation Privilege and Abbott's 1st Amendment Rights.

d. All statements were made by Abbott in his *Pro Se* capacity, not as a "lawyer" so as to be subject to DLRPC Rule 3.5(d).

e. DLRDP Rule 10 provides that all communications to the Board and the ODC related to lawyer misconduct or disability "shall be absolutely privileged."

f. The Board is not a "tribunal" as that term is defined by DLRPC Rule 1.0(m), so it is not covered by Rule 3.5(d).

g. No degradation of the Vice Chancellor was proven; the Confidential & Absolutely Privileged statements are not known to him, the public, or anyone else.

h. The Comments to DLRPC Rule 3.5 establish that proscribed conduct is limited to proceedings of the Tribunal at issue, which in this case was the Vice Chancellor (not proceedings before the PIC and the Board [which is not a "tribunal"]).

7. Paragraphs 33 and 34 deal with a submission to the Board, which for the reasons stated hereinbefore are not capable of forming the basis for a violation of DLRPC Rule 3.5(d).

a. The submission was inadmissible.

b. Abbott's right to maintain Confidentiality and immunity via the Absolute Privilege and his 1st Amendment rights render his *Pro Se* statements Absolutely Privileged and Protected Speech.

8. Policies and procedures applied by the PIC render submissions to it completely Confidential; no one will ever know of the one (1) non-disparaging, truthful statement.

a. The confidentiality policy of the PIC was followed pursuant to 29 *Del. C.* § 5810(h)(3): "[t]he chairperson of the Commission shall, with the approval of the Commission, establish such procedures as in the chairperson's judgment may be necessary to prevent the disclosure of any record of any proceedings or other information received by the Commission or its staff… ."

b. The purpose of Rule 3.5(d) is to insure that a lawyer appearing before a tribunal does not make verbal or written statements perceptible to the tribunal that are undignified or discourteous (thus the Rule's name: "Impartiality And Decorum Of The Tribunal").[20]

[20] Rule 3.5(d) is not a "Thought Police" provision which allows prosecution of statements made: 1) in private; 2) outside one's capacity as a "lawyer"; or 3) that the tribunal can never be aware of.

c. Nothing Abbott said, wrote, or did in the Court of Chancery proceedings before the Vice Chancellor is alleged to have constituted a violation of Rule 3.5(d).

9. All documents submitted by Abbott were marked "Confidential" and they could not be disclosed or relied on.

a. The ODC did not request or receive permission to use Abbott's Confidential and Absolutely Privileged statements; the statements should not have been admitted into evidence.[21]

10. None of Abbott's statements are rude, crude, or vulgar, as required to prove a violation. [22]

C. The Delaware Order Was Effectively A Rubber Stamp Of The Erroneous Recommendations & The Infirmities Of The Recommendations Establish The Delaware Order Is Utterly Unfounded As A Matter Of Fact & Law

1. Recommendation I Was Erroneous In At Least 38 Specific Respects

1. It failed to discuss how the ODC met its Burden of Proof by Clear And Convincing Evidence to establish the satisfaction of all elements of Counts III and IV.

2. It is based solely upon "*Pro Se* Respondent's Post-Trial Memorandum & Memorandum On Related Subjects" dated April 18, 2022 (the "Post-Trial Memo")[23] without consideration of attachments thereto and App. D, F, G, H, K, M, and O. *See* Recommendation I at 3-5, n.1. All of those documents are hereby incorporated by reference.

3. It overlooked that the Ownership Transfer was not a "sham transaction." *See e.g.* Recommendation I at 5. The 2 Deeds complied with 25 *Del. C.* § 121 – they were not invalid and were never rescinded.[24]

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[21] Abbott incorporates by reference his inadmissibility argument in this regard contained in his Motion *In Limine* filing dated August 31, 2021 and his Reply in support thereof dated October 5, 2021.

[22] The statements also fail to rise to the egregious level of threats and profanity normally required to breach Rule 3.5(d). *See e.g. State v. Mumford*, 731 A.2d 831, 833 (Del. Super. 1999).

[23] *See* App. 5.

[24] The provisions of 6 *Del. C.* Ch. 13 do not permit the unwinding of the Ownership Transfer. Abbott analyzed and confirmed such before completing it.

4. It overlooked that: (1) the 2 Alleged Omissions constituted legal, not factual, points (*in personam* and ownership interest); and (2) even if the legal contentions could be transmogrified into factual assertions they were accurate based upon the contents of 2 Deeds and 1 Settlement Agreement.[25] Recommendation I suggested uncharged omissions, not the charged affirmative statements.[26]

5. It erred on a *supra*-legal "*de facto* ownership" theory. Recommendation I at 97. Abbott was charged with affirmatively misstating that Jenney was no longer the owner of the 2 Properties, but the Abbott Letter enclosed the 2 Deeds and accurately advised of the ownership change.

6. It erred by incorrectly alleging that "legal title was transferred from Jenney to his wife with the understanding that it would be reconveyed to Jenney after the litigation was over." Recommendation I at 7. The undisputed trial evidence established that there was no pre-planned reconveyance to Jenney; he was only advised that it was possible for the 2 Properties to be reconveyed by his wife in the future.[27] And Jenney confirmed Abbott had no knowledge of how the 2 Properties were dealt with post-transfer. T946-949 and T989-992.

7. It overlooked that no "half-truth" was charged in Count III (a half-truth is an omission, not an affirmative statement).

8. It wrongly contended that Abbott intentionally failed to disclose the Consent Order. Recommendation I at 100-101. Abbott presented unrefuted testimony that the Consent Order was

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[25] In addition, Abbott was protected by DLRPC Rule 1.6 regarding any failure to disclose Mr. Jenney's plans (if Abbott knew them) based on the Lawyer-Client Privilege.

[26] At pages 28 and 29, Recommendation I avers that Abbott "did not disclose," "did not inform," and "did not identify," not that Abbott made "affirmative statements" that were false.

[27] It is self-evident that real property may be reconveyed in the future.

not mentioned since it was his legal opinion it was not in effect. T2200-2206 and T2245-2247. *See also* T1158-1160.

9. It overlooked the purpose and intent of DLRPC Rule 3.5(d). The genesis of Rule 3.5(d) was DR 7-106, entitled "Trial Conduct," which provided in subsection (C)(6) that "[i]n appearing in his professional capacity before a tribunal, a lawyer shall not: [e]ngage in undignified or discourteous conduct which is degrading to a tribunal." DLRPC Rule 3.5, entitled "Impartiality And Decorum Of The Tribunal," retained this language. Comment [4] and Comment [5] to Rule 3.5 indicate that subsection (d) applies to conduct before the Tribunal whom the conduct is aimed at. The theory that Rule 3.5(d) can be violated by statements unknown to the Vice Chancellor, the Supreme Court, and the general public is belied by legislative history and the plain meaning of the Rule.

10. It fictitiously suggested that Abbott's statements about the Vice Chancellor and Supreme Court "caused the Board to expend considerable time to wade through the improper statements and reach a decision based on the merits presented by the motions and/or pleadings." Recommendation I at 9. That allegation is without any evidentiary support. More importantly, the Alleged Petition does not aver that Abbott caused any prejudice in proceedings before the Board.

11. It incorrectly concluded that Abbott was the cause of 4+ years of delay. Recommendation I at 10.[28] It also ignored numerous facts in the chronology regarding the ODC's extensive delay of 4½ years. Recommendation I at 41-56. Undisputed evidence established that over 1 year elapsed from the time that the ODC opened a file in the matter until it advised Abbott

[28] Indeed, the Superior Court held that there was no "real inability to go forward" and that ODC elected to hold up "in an abundance of caution." *Abbott v. Delaware State Public Integrity Com'n*, Super. Ct. C.A. No. N16A-09-009, Transcript at p. 46, Wharton, J. (Bench Ruling May 1, 2017).

on 3 separate occasions that it intended to proceed to the PRC with the 3 Charges.[29] Aaronson refused to Stay the proceedings and the Board Chair never entered a Stay. It was not until over 3 years later that Mette proceeded with the brand new 4 Charges against Abbott in December of 2019 (followed by Mette's "piling on" of the vindictive 5th Charge in January of 2020).

12. It failed to note the undisputed fact that the Lawyer/Client Privilege issue did not forestall pursuit of charges before the PRC based on the ODC's own actions post-Petition, to-wit: in Summer of 2021, just months before the November 2021 Trial, the ODC pursued additional Lawyer/Client Privilege documents from Abbott and engaged in Motion to Compel practice.

13. It overlooked the undisputed fact that Abbott was never found in Contempt by the Vice Chancellor or the subject of any contempt hearing.

14. It ignored that: Abbott presented undisputed testimony at Trial that his use of a boilerplate signature block and law letterhead was done unintentionally. Recommendation I at 48, 50, 51, and 54 and *Cf.* T2027-2034 and T2331-2336. Abbott never stated that he was acting as a lawyer in any proceedings; he acted *Pro Se* and specifically stated that fact.

- Abbott never represented himself since he is a single human being. And no *Pro Bono* or compensated Lawyer-Client relationship existed between Abbott and himself.[30]
- Abbott's infrequent use of the standard conventions referring to oneself as "undersigned counsel" and "Esquire" is a legally ineffective form versus substance argument. *See e.g.* Recommendation I at 73, n.267. Abbott was not acting as a "lawyer" since he was not engaged in the practice of law in Board Chair matters.

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[29] The 3 Charges were later abandoned by Jennifer Kate Aaronson ("Aaronson").
[30] ODC queried Abbott at Trial as to whether he was being paid to defend himself in the disciplinary proceedings, to which Abbott answered "No."

15. It failed to acknowledge that Abbott presented uncontested evidence at Trial establishing the truthful and/or opinion-based nature of all of the statements regarding the Vice Chancellor (37 in all).

16. It failed to analyze and decide whether the new, novel rulings contained therein may be applied against Abbott retroactively. Recommendation I rendered multiple interpretations of Rule 3.5(d) that were issues of first impression. Constitutional Due Process requires that a recommendation be rendered on whether those novel legal questions are applicable retrospectively. *See Stoltz Mgt. Co., Inc. v. Consumer Affairs Bd.*, 616 A.2d 1205, 1210 (Del. 1992). "Fair Warning" must be provided regarding what constitutes a legal violation. *See Bouie v. City of Columbia*, 378 U.S. 347, 350-51 (1964). New interpretations of lawyer disciplinary rules applied retroactively, would operate "like an *ex post facto* law, such as Art. I, (s) 10, of the Constitution forbids." *Id.* at 353.[31]

17. It overlooked the fact that Abbott's assertion of the Lawyer/Client Privilege based on his Chancery work had no bearing on whether Abbott was acting as a lawyer in the Star Chamber Proceeding. *See* Recommendation I at 67-68.

18. It ignored undisputed evidence that the ODC has a policy and practice of discriminatory treatment based upon lawyers' associational status. Undisputed evidence established that on 5 separate occasions the ODC completely ignored slam-dunk ethical violations committed by lawyers based upon their associational status (big law firms or government and actions of a Judge). Abbott also established that he was being targeted based on associational status.

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[31] *See also In Re Ruffalo,* 390 U.S. 544, 551 (1968)(lawyer discipline cases are *quasi*-criminal for purposes of Federal Constitutional rights).

19. It incorrectly asserted that the Gag Order enjoined Abbott's action filed in the Court of Chancery. Recommendation I at 87. The Supreme Court has held to the contrary. *Abbott v. Vavala*, 284 A.3d 77 (Del. 2022)(TABLE).

20. It overlooked the fact that DLRDP Rule 7(a) does not support the proposition that a lawyer proceeding *Pro Se* is still acting as a "lawyer." Recommendation I at 109-113. DLRDP Rule 7(a) is a procedural rule, not a substantive ethical rule that impacts the application of the DLRPC. *See* Supreme Court Rules 61 and 62, Order adopting the DLRPC dated September 12, 1985, the Preamble to the DLRPC, and Order dated March 9, 2000 adopting the DLRDP (as Board Rules).

21. It overlooked the fact that the case of *In re: Hurley* held that: (1) Rule 3.5(d) only "concerns decorum when addressing the Court"; and (2) Rule 8.4(d) does not cover written communications which were "private in nature" and did not have "any direct impact on the administration of justice." Abbott's statements were private, not public, and no proof was presented by the ODC that any Board Chair, the PIC, or the Supreme Court were burdened by the statements.

22. It overlooked the fact that other case law decisions it relied upon cannot replace DLRPC language. *See* Recommendation I at 111. Abbott need not have looked past the plain meaning of the language contained in Rule 3.5(d).

23. It overlooked the fact that a Board Chair does not constitute a "Tribunal" under the law. Recommendation I at 115 *et seq*. DLRDP Rule 9(e) provides that the Board, through its Board Chair and Panel, is only empowered to issue a "report and recommendation," not a "binding legal judgment," which is required to qualify as a Tribunal.

24. It improperly relied upon *In re: Vanderslice* on the Tribunal issue. That case was based on DLRPC Rule 3.3(a), which applies to non-Tribunals via Rule 3.3(a).

25. It ignored Abbott's argument that the ODC failed to prove a violation of Rule 3.5(d) since the Rule requires proof that the Tribunal can perceive the alleged degradation. *See* Recommendation I at 120-124. No degradation occurred in the instant action.

26. It failed to acknowledge that the block quote on page 123 shows Rule 3.5(d) does not apply; it is admitted that Rule 3.5(d) only covers "behavior towards the Tribunal."

27. It overlooked the fact that there was no proof that members of the Supreme Court received or read the Motion to Dismiss and that the submission was to the Board. Recommendation I at 124-125. In addition, Recommendation I improperly shifted the Burden of Proof to Abbott on that subject.

28. It applied improper burden-shifting regarding a factual basis for Abbott's statements. Recommendation I at 130-135. Trial evidence established that: (1) the Vice Chancellor gave preferential treatment to Weidman, despite his wildly out of control statements and fraudulent procurement of 2 separate Court Orders; (2) the only vexatious conduct which occurred in the litigation was committed by Weidman; (3) the unplanned gathering called by the Vice Chancellor after previously planned proceedings had concluded was for purposes of making defamatory statements about Abbott; and (4) the Vice Chancellor copiously overlooked such ethical misconduct by Weidman and even covered it up.

29. It restated the invalid theory that the 2 Deeds transferring title from Jenney to his wife were a "sham transaction." *See* Recommendation I at 133. The Deeds are valid, thereby precluding the possibility that they could constitute a "sham" as a matter of law.[32]

30. It ignored evidence tending to prove that: (1) the Supreme Court did nothing despite having full knowledge of the ODC's corrupt pursuit of this Star Chamber Proceeding; (2) agreed with the ODC that its obvious dismissal of the specious Petition for Interim Suspension against Abbott could be called a "withdraw"; and (3) the Delaware Lawyer Discipline System Unconstitutionally discriminates against lawyers based upon their associational status. All of these facts were the basis for Abbott's statements regarding the Supreme Court, and their absolute truth is an absolute defense.

31. It ignored the plain meaning of the language contained in DLRDP Rules 10 and 13. Recommendation I at 136-137. DLRDP Rule 10 provides that communications to the Board "shall be absolutely privileged." Abbott is immune from prosecution.[33] And the Confidential statements were inadmissible.

32. It overlooked the confidential nature of submissions to the PIC. Recommendation at 137-138. 29 *Del. C.* § 5810(h) "prohibits public disclosure of PIC complaints," and the subsection (2) exception does not apply since Abbott was not the respondent and did not take a statutory appeal (he challenged the dismissal of his complaint against Aaronson via common law Writ of *Certiorari*).

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[32] The Board Panel can't seem to get over the fact that the Ownership Transfer was perfectly permissible and legal, the personal, subjective, beliefs of the Board Panel Members to the contrary notwithstanding. Indeed, it is this unfounded notion that drove many of the erroneous findings in Recommendation I. The entirety of Recommendation I is, therefore, founded on a false premise.

[33] The Board Panel Plant relied upon the Absolute Privilege of Rule 10 to deny Abbott discovery and trial witnesses, so his assertion that there is no Rule 10 Absolute Privilege is disingenuous. *See e.g.* T124-125.

33. It ignored the fact that Abbott could not have prejudiced the administration of justice since he made no affirmative misrepresentations to the Vice Chancellor and did not engage in undignified or discourteous conduct which could cause the Vice Chancellor to feel degraded.[34] *See* Recommendation I at 138 *et seq*.

34. It ignored the fact that there was no proof of PRC approval of any charges against Abbott. Recommendation I at 141-142. DLRDP Rule 3(c) requires "a disposition sheet recording the actions taken by the [PRC] panel." And DLRDP Rule 9 renders this entire Star Chamber Proceeding infirm absent proof that the PRC actually approved any charges against Abbott.

35. It overlooked the fact that Abbott's request for the matter to be Stayed was denied by the ODC. Recommendation I at 146-148. *Laches* therefore bars the Rule 8.4(c) charge.

36. It ignored the undisputed record evidence that Abbott received no Due Process regarding the defamatory statements lobbed at him by the Vice Chancellor. *See* Recommendation I at 164. The theory that Abbott "was afforded the same due process rights provided to litigants in the Court of Chancery" is belied by the undisputed facts; Abbott was ambushed at the surprise meeting.

37. It overlooked Abbott's evidence of Vindictive, Selective, and Demagogic Prosecution based upon the bringing of the spurious 5th Charge as a retaliatory attack on Abbott, the increase from 3 Charges to 4 Charges, and the bogus Petition For Interim Suspension.[35] *See* Recommendation I at 170-172. Recommendation I conceded an "upping the ante" retaliatory

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[34] Indeed, Abbott's uncontested Trial testimony established the truth of all of the statements about the Vice Chancellor. *See e.g.* T1885-1917.

[35] The 5th Charge's status as a vindictive measure is all the more clear based upon the fact that it was not pursued until January of 2020, over 4½ years after the Vice Chancellor's complaint was improvidently taken up by the ODC.

exercise is sufficient to establish Vindictive Prosecution. The 5 Charges were brought without reasonable belief that they could be established; they failed to state a claim.

38. It ignored the 1st & 4th Amendment Unconstitutionality of the Corrupt System, the violation of Abbott's 6th Amendment Right to Confront his Accuser, and the 5th/14th Amendment Due Process of law arguments.

2. 47 Additional Defects In Recommendation I Establish that The Delaware Order's Reliance Thereon Was Factually & Legally Without Merit

The Delaware Order should also be disregarded by this Federal Court due to forty-seven (47) defects in Recommendation I, which it adopted virtually *in toto*. Recommendation I's errors include the following:

1. It overlooked the legal reality that the Ownership Transfer by Jenney pursuant to valid, recorded Deeds was not a "sham transaction" as the Recommendation incorrectly contended. *See e.g.* Recommendation I at 5. The 2 Deeds were in the proper form, were fully executed, and conveyed valid legal title to the 2 Properties to Jenney's wife in accordance with 25 *Del. C.* § 121 – they were in no way a "sham." In addition, the Deeds were never rescinded by the Court of Chancery based upon Fraud, the Fraudulent Transfer Statute (6 *Del. C.* Ch. 13), or any other legal or equitable principle.[36]

2. It overlooked the legal and factual reality that: (1) the Abbott Letter did not make any representations of fact; and (2) even if the legal contentions contained therein could be transmogrified into factual assertions they were accurate based upon the unequivocal contents of

[36] The provisions of 6 *Del. C.* Ch. 13 do not permit the unwinding of the Ownership Transfer. Abbott analyzed and confirmed such before completing the Ownership Transfer.

2 Deeds and 1 Settlement Agreement. No DLRPC Rule 8.4(c) violation was proven; Recommendation I found uncharged omissions, not the charged affirmative statements.[37]

3. It erred on a "*de facto* ownership" theory. Recommendation I at 97. Abbott never alleged that Jenney "had no *de jure* nor *de facto* ownership interest in the 2 Properties." The Abbott Letter enclosed the 2 Deeds and clearly and accurately advised the Vice Chancellor that Mr. Jenny was no longer the legal title owner of the 2 Properties.

4. It erred since, despite no evidence admitted at trial, supposedly "legal title was transferred from Jenney to his wife with the understanding that it would be reconveyed to Jenney after the litigation was over." Recommendation I at 7. Instead, Recommendation I should have acknowledged the undisputed trial evidence that no pre-planned reconveyance to Jenney was ever decided upon; Jenney was only advised that it was possible for the 2 Properties to be reconveyed by his wife in the future and Mrs. Jenney only transferred title back into his name for a refinancing in the Fall of 2015.[38]

5. It overlooked the reality that Abbott's statement that the Settlement Agreement only imposed "purely *in personam* obligations" on Jenney was entirely truthful (if it were a factual statement, not a legal argument). In addition, there is no violation of Rule 8.4(c) for an alleged "half-truth," even if Abbott's 100% honest representation could somehow be viewed as only half of the story. Nor was a "half-truth" expressly or impliedly charged in Count III (a half-truth is an omission, not an affirmative statement).

6. It wrongly contended that Abbott intentionally failed to disclose Consent Order paragraph 17. Recommendation I at 100-101. Abbott made no affirmative statements regarding

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[37] At pages 28 and 29, Recommendation I avers that Abbott "did not disclose," "did not inform," and "did not identify," not that Abbott made "affirmative statements" that were false.

[38] It is self-evident that real property many be reconveyed in the future.

the Consent Order and the Consent Order was of public record and on the Court docket. Abbott was not hiding anything (the Hiding In Plain Sight Theory is absurd). Abbott presented unrefuted testimony that the Consent Order was not mentioned since it was his legal opinion it was not in effect. T2200-2206 and T2245-2247. *See also* T1158-1160.

7. It mistook Rule 8.4(c), which constitutes a clear-cut attempt by the Board Panel to ignore legal and factual reality based on personal, subjective, stylistic differences – *i.e.* the Board Panel members think that there was something untoward about the matter, so they erroneously concocted the Phantom 6th Charge.

Count III of the purported Petition alleges that Abbott made "Affirmative statements to the Court and opposing counsel… ." in violation of DLRPC Rule 8.4(c). Recommendation I does not find that Abbott had any obligation to disclose "[Abbott's] legal strategy," "advice to [Abbott's] client," or "[Abbott's] understanding of the facts and law" as alleged in Count III; Abbott was exonerated on the Count III charge. Instead, the Recommendation came up with a newly concocted charge for a violation of Rule 8.4(c) based on Omissions, not Affirmative Statements.[39] The Panel cannot amend the Petition *post hoc*.[40] The ODC failed to prove by Clear And Convincing Evidence that Abbott affirmatively misrepresented; misrepresentations by omission were not charged.

8. It overlooked the law regarding the elements of DLRPC Rule 3.5(d) and the lack of evidence to support a finding that those elements were satisfied. Recommendation I overlooked: (1) Abbott's actions before the Board and PIC were in his *Pro Se* capacity, not as a "lawyer";

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[39] No evidence was submitted at trial that Abbott knew of what would happen with the 2 Properties post-transfer. In fact, Jenney confirmed Abbott had no knowledge of how the 2 Properties were dealt with post-transfer. T946-949 and T989-992

[40] It is clear beyond *peradventure* that Abbott's Constitutional right to Due Process would be violated if the Board Panel were to make up their own charge after-the-fact.

(2) the Board itself (20+ members) and the Board Chair are not a "Tribunal"; (3) the lack of proof that the Vice Chancellor, the Supreme Court, and the public at large were aware of Abbott's statements (preventing anyone from being degraded or feeling treated discourteously); and (4) the Absolutely Privileged and Confidential nature of Abbott's statements cemented by law forbids anyone from ever knowing about the statements (or using them against Abbott).

The term "lawyer" requires that the ODC prove that Abbott was acting in his capacity as a lawyer. The record evidence, however, establishes that Abbott was proceeding *Pro Se* in this litigation. And there is no such thing as representing yourself unless the lawyer affirmatively states that fact (*e.g.* via formal Entry of Appearance).

The Board itself does not constitute a "Tribunal" since it is incapable of rendering a final judgment. And the Board Chair and the Board Panel Chair only make preliminary legal rulings which are subject to *de novo* review by the Supreme Court. Recommendation I and everything which preceded it do not have binding effect.[41]

Recommendation I also failed to address the Statutory Construction arguments presented by Abbott. Most importantly, it overlooked the argument that the Board does not constitute a "Tribunal" since otherwise every Board and Commission in the State of Delaware, whether advisory or otherwise, would fall within the meaning of a "Tribunal." This would offend the Anti-Absurdity Doctrine and the interpretive principle that prohibits legal language from being rendered mere surplusage.

9. It overlooked the purpose and intent of DLRPC Rule 3.5(d). The genesis of Rule 3.5(d) was the disciplinary rules that were in effect in Delaware prior to the 1985 adoption of new

[41] The fact that the title of the Board Panel's document begins with the term "Recommendation" speaks volumes about its purely advisory nature, which forecloses the possibility that it could constitute a "Tribunal."

rules based on the ABA Model Rules. DR 7-106, entitled "Trial Conduct," provided in subsection (C)(6) that "[i]n appearing in his professional capacity before a tribunal, a lawyer shall not: [e]ngage in undignified or discourteous conduct which is degrading to a tribunal." *See* "Supplemental Appendix To *Pro Se* Respondent's Post-Trial Memorandum & Memorandum On Related Subjects" at Exhibit T. That concept was carried forward into DLRPC Rule 3.5, entitled "Impartiality And Decorum Of The Tribunal," which provides that "[a] lawyer shall not: engage in conduct intended to disrupt a Tribunal or engage in undignified or discourteous conduct that is degrading to a Tribunal." So the theory that Rule 3.5(d) can be violated by statements unknown to the Vice Chancellor, the Supreme Court, and the general public is belied by legislative history and the plain meaning of the Rule.

Comment [4] and Comment [5] to Rule 3.5 indicate that subsection (d) applies to conduct before the Tribunal whom the conduct is aimed at. Comment [4] provides that "[a]n advocate can present the cause, protect the record for subsequent review and preserve professional integrity by patient firmness no less effectively then by belligerence or theatrics." And Comment [5] provides that "[t]he duty to refrain from disruptive, undignified, or discourteous conduct applies to any proceeding of a Tribunal, including a deposition." Thus, statements that the subject Tribunal cannot know about fall outside the bounds of the scope of Rule 3.5(d). Rule 3.5(d) does not apply to Abbott's statements.[42]

10. It incorrectly suggested that Abbott's statements about the Vice Chancellor and Supreme Court "caused the Board to expend considerable time to wade through the improper

[42] Indeed, Comment [3] to DLRPC Rule 3.9, which applies before an "administrative agency in a nonadjudicative proceeding," like the Board and the Star Chamber Proceeding (through Recommendation II), indicates Rule 3.9 does not apply even if there is a "lawyer" representing a client in an investigation. Since Abbott's statements were during the investigation stage, Rule 3.9 does not even apply (*i.e.* Rule 3.5(d) cannot apply).

statements and reach a decision based on the merits presented by the motions and/or pleadings." Recommendation I at 9. That bald statement is without any evidentiary support. No Board Chair testimony or evidence supports that proposition.

More importantly, the Alleged Petition does not aver that Abbott caused any prejudice in proceedings before the Board. So this constitutes yet another *post hoc* concoction by the Board Panel which is Constitutionally infirm. And even if it could be interpreted to make such an allegation against Abbott, no evidence was admitted tending to show that the prior Board Chairs ever spent one second on the statements.

11. It incorrectly concluded that Abbott was the cause of 4+ years of delay, which the record undisputedly established was solely caused by ODC inaction. Recommendation I at 10. Record evidence established that over 1 year elapsed from the time that the ODC opened a file in the matter until it advised Abbott that it intended to proceed to the PRC with the 3 Charges, all of which were later abandoned by the disgraced, fired former Chief Disciplinary Counsel, Jennifer Kate Aaronson ("Aaronson"). The evidence also showed that Aaronson then proceeded to do absolutely nothing after equivocating for a few months in 2016 regarding pursuit of charges before the PRC. It was not until over 3 years later that Aaronson's erstwhile replacement, Mette, chose to proceed with the brand new 4 Charges against Abbott in December of 2019 (soon followed by Mette's retributive "piling on" of the vindictive 5th Charge in January of 2020).

The uncontraverted evidence established that the ODC delayed for 4½ years based solely upon its own wasteful actions and inaction. All the while, Abbott was forced to suffer through the need to fight the bogus charges, expend considerable time and resources defending the inappropriate ODC attacks against him, and to undertake a counter-offensive to either obtain

Supreme Court intervention or, in the alternative, to convince the ODC that its quixotic exercise against Abbott should be ended.

The ODC presented no evidence that Abbott was responsible for Aaronson's negligence, which is believed to have in part what led to her termination and dispatch into virtual oblivion by the Supreme Court. The ODC had free reign to proceed, but it failed to timely pursue any action against Abbott, other than the ill-fated, bad faith, unfounded Petition for Interim Suspension.

The ODC's 4½ delay is grounds for a finding of *Laches* to bar prosecution of most of the Charges against Abbott based upon their nearly 5 year old age as of the February 5, 2020 Alleged Petition date.

12. It overlooked the undisputed fact that Abbott was never found in Contempt by the Vice Chancellor. *See* Recommendation I at 35-36 and n.107. The uncontested Trial evidence established that: (1) only Jenney was found in Contempt; and (2) when Abbott pushed back after the Vice Chancellor contended that he had found Abbott in Contempt, the Vice Chancellor immediately back-peddled, recanted his statement, and instead alleged that Abbott's actions were "contemptuous." So too does Recommendation I clearly err when it contends that Abbott was the subject of a Contempt Hearing; the record evidence unequivocally establishes that the Contempt Hearing was regarding Jenney only, not involving Abbott other than in his capacity as Jenney's lawyer conducting the defense.

13. It ignored numerous facts in the chronology regarding the ODC's extensive delay of 4½ years. Recommendation I at 41-56. Missing from the chronology is the fact that Aaronson advised Abbott on three (3) separate occasions in 2016 that she would be proceeding with charges before the PRC, but never actually did so. Nor does the chronology address the undisputed fact that Aaronson refused to Stay the proceedings and the Board Chair never entered a Stay. Lastly,

Recommendation I is devoid of mention of the ensuing 3+ year period of inaction during which Aaronson did nothing to bring charges before the PRC, but instead pursued a frivolous Petition for Interim Suspension.

14. It failed to note that there were at least 2 other disciplinary counsel at the ODC who could have picked up the ball if Aaronson did not want to proceed against Abbott and that Aaronson effectively admitted that she did not need to wait to bring charges since she had announced on 3 separate occasions that she was moving ahead to the PRC without the Lawyer/Client Privilege issue having been decided. As a consequence, the entirety of the 4½ year delay was attributable solely to the ODC's inaction.

15. It failed to note the undisputed fact that the Lawyer/Client Privilege issue did not forestall pursuit of charges before the PRC based on the ODC's own actions post-Petition. It was not until the Summer of 2021, just months before the November 2021 Trial of this action, that the ODC pursued additional Lawyer/Client Privilege documents from Abbott and engaged in Motion to Compel practice. Aaronson simply dropped the ball, left the matter hanging over Abbott's head for nearly 4 years, and had no excuse. And once Mette got involved, he delayed for about 10 months before he finally advised Abbott that he intended to pursue the 4 Charges with the PRC (followed by ODC's retributive 5th Charge). As a result, the ODC was solely responsible for over 4½ years of delay in proceeding with Charges against Abbott.

16. It ignored the fact that Abbott presented undisputed testimony at trial that his use of a boilerplate signature block and law letterhead was done unintentionally. Recommendation I at 48, 50, 51, and 54 and *Cf.* T2027-2034 and T2331-2336. Abbott never stated that he was acting as a lawyer in any of the proceedings before the Board or before the PIC. Abbott acted *Pro Se* and specifically stated that fact.

Abbott never represented himself since that is physically impossible due to his existence as a single human being. No Lawyer-Client relationship existed between Abbott and himself; Abbott was not acting *Pro Bono* or by being paid to represent himself.[43]

Abbott's infrequent use of the standard convention referring to oneself as "undersigned counsel" also proves nothing more than a form-based theory that he was somehow magically representing himself (*e.g.* through some form of cloning). In addition to it being physically impossible for Abbott to actually represent himself since he is only one person, mere standard statements are a matter of form and do not amount to any substance that Abbott was in fact acting as a "lawyer." Abbott was not acting as a "lawyer" since he was not engaged in the practice of law in Board Chair matters.

The use of the term "Esquire" also means nothing as a matter of law since Abbott is being pursued as the Respondent in this action as "Richard L. Abbott, Esquire." *See e.g.* Recommendation I at 73, n.267. Indeed, the term "Esquire" is merely a title of courtesy given to a person who possesses a law degree. It does not signify active engagement in the practice of law in a particular matter.

The substantive facts established that Abbott was *Pro Se* in this matter. So Abbott was not acting as a "lawyer" as a matter of law.

17. It failed to acknowledge that Abbott presented undisputed evidence at Trial establishing the truth of all of the statements regarding the Vice Chancellor. *First*, Abbott presented compelling testimony describing the blatant bias exercised by the Vice Chancellor in

[43] ODC queried Abbott at Trial as to whether he was being paid to defend himself in the disciplinary proceedings by his professional liability insurance carrier, to which Abbott answered "No." The ODC thereby tacitly admitted that one has to either be acting *Pro Bono* or be paid as a lawyer to be acting in the capacity of a "lawyer."

favor of David J. Weidman, Esquire ("Weidman") and against Abbott; the unfounded, defamatory allegations of the Vice Chancellor proved that point. In addition, Abbott conducted a wholesale testimonial explanation of each and every statement (37 in all) alleged to support the ODC's allegation of a DLRPC Rule 3.5(d) violation. Abbott established that all of those statements were true, and no rebuttal of that testimony was ever presented by the ODC in a rebuttal case or in its case-in-chief. As a consequence, those statements were established to have been completely true, absolving Abbott of any possible ethical liability for them.

18. It improperly suggested that non-final rulings of the Board Chair regarding subpoenas and discovery rendered the Board Chairs a Tribunal. The Board Chairs provide nothing more than advisory rulings under the DLRDP; their legal rulings may be rejected by the Supreme Court on *de novo* review and cannot constitute a "binding legal judgment" (as required to constitute a Tribunal).

19. It failed to analyze and decide whether the new, novel rulings contained therein may be applied against Abbott retroactively. Recommendation I's suggested findings of law regarding the meanings of "Tribunal" and "Lawyer," the Phantom 6th Charge, the Law=Fact Theory, the Crystal Ball Theory, the Hiding In Plain Sight Theory, the issue of Actual Knowledge of Degradation, the supposed Half-Truth, and other matters were all legal determinations of first impression. Fundamental principles of Constitutional Due Process require that a recommendation be rendered on whether those novel legal determinations can be applied against Abbott retrospectively.

The 3-part test to determine whether a new legal principle established by a decision may be applied retroactively is: (1) whether the decision establishes a new principle of law by, *inter alia*, deciding an issue of first impression whose resolution was not clearly foreshadowed;

(2) whether based upon prior history of the Rule in question and its purpose and effect a retrospective application would further or retard its operation; and (3) whether the decision could produce substantial inequitable results if applied retroactively. *Stoltz Mgt. Co., Inc. v. Consumer Affairs Bd.*, 616 A.2d 1205, 1210 (Del. 1992). Here, Recommendation I failed to engage in that required analysis, thereby rendering it short of the legally required analytical content. But the 3-part test militates in favor of non-retroactivity, exonerating Abbott.

Rulings rendered in Recommendation I are issues of first impression which could not be foreshadowed based upon the language contained in Rules 3.5(d), 8.4(c), and 8.4(d). It would be contrary to the purpose and intent behind the DLRPC to apply the new rulings suggested by Recommendation I against Abbott; a decision which renders such rulings would put Delaware lawyers on notice for the first time of the new interpretations of those Rules. And retroactive application of the novel rulings regarding the 3 Rules would cause a substantial inequitable result to Abbott since he would be stuck in a veritable "gotcha" situation; Abbott acted in conformance with the plain meaning of the language contained in the Rules, but now new interpretations would be foisted upon him *post hoc*.

Abbott pointed out in Trial Exhibit 163 that United States Supreme Court precedent establishes that "Fair Warning" must be provided regarding what constitutes a legal violation based upon fundamental precepts of Constitutional Due Process. It is well established that a criminal statute must give "fair warning" of the conduct it criminalizes. *Bouie v. City of Columbia*, 378 U.S. 347, 350-51 (1964). A corollary principle is that the deprivation of the Constitutional right of "fair warning" may result from vague statutory language or from an "unforeseeable and retroactive judicial expansion of narrow and precise statutory language." *Id. at 352.* The U.S. Supreme Court also noted that "an unforeseeable judicial enlargement of a criminal statute, applied

retroactively, operates precisely like an *ex post facto* law, such as Art. I, (s) 10, of the Constitution forbids." *Id.* at 353. These principles apply with equal force to attorney disciplinary matters, which were held to constitute quasi-criminal proceedings for purposes of United States Constitutional protections by *In Re Ruffalo,* 390 U.S. 544, 551 (1968).]

20. It overlooked the fact that Abbott's assertion of the Lawyer/Client Privilege on behalf of Jenney has no bearing on whether Abbott was acting as a lawyer during the course of the Star Chamber Proceeding over 7+ years. *See* Recommendation I at 67-68. Abbott was acting as a "lawyer" when he represented Jenney in 2015 and assisted him in the Ownership Transfer. As a result, Abbott was required to ask Jenney if he intended to assert his client privilege regarding the privileged documents subpoenaed by the ODC. The privilege belongs to the client, not the lawyer. So Abbott's actions in objecting to production based on the privilege was purely based on his role as lawyer circa 2015, not as a lawyer in the Star Chamber Proceeding.

21. It ignored voluminous evidence, presented on an undisputed basis, establishing that the ODC has a policy and practice of discriminatory treatment based upon lawyers' associational status and judicial disfavor or favor. Despite the Board Panel Plant denying Abbott all relevant discovery and trial witnesses, which Abbott was entitled to by the DLRDP and Superior Court Civil Rules, Abbott still presented undisputed evidence establishing that on 5 separate occasions the ODC completely ignored slam-dunk ethical violations committed by lawyers based upon their associational status (big law firms or government and actions of a Judge). Abbott also established that in direct contradistinction he was being targeted as a sole practitioner and because he drew the ire (inappropriately) of the Vice Chancellor.

The Unconstitutional discrimination against Abbott based upon violations of his 1st and 14th Amendment rights to Freedom of Association and Equal Protection was compounded by a

finding that the conclusory, unfounded *ipse dixit* of the Vice Chancellor must *ipso facto* be taken as true. Abbott proved that the Vice Chancellor's allegations against him were false. And because the Vice Chancellor was never called to testify at Trial it is undisputed that he had no factual foundation for his harsh allegations against Abbott. The Board Panel may have wanted to believe the Vice Chancellor since he is a Judicial Officer, but no evidence showed the Vice Chancellor's hyperbolic attacks on Abbott had even one grain of truth to them.

22. It is devoid of mention of how Board Chair Barlow attempted to "game the system" so as to be able to decide Motions to Quash Abbott's discovery subpoenas back in 2020 by cajoling the Administrative Assistant into not appointing a Board Panel; the DLRDP provides that the Board Chair decides such motions *sans* the existence of a Board Panel Chair. *See* Recommendation I at 82-84. Instead, Recommendation I just skips over that very important fact, which Abbott established pursuant to unrebutted testimony and documentary evidence at Trial. Barlow did not appear and testify. It is an undisputed fact that there were shenanigans being undertaken improperly by Board Chair Barlow in an effort to continue his unabated denial of every submission Abbott made to him. That fact proved all the more just how corrupt this Star Chamber Proceeding has been.

23. It lacked any discussion of the considerable evidence that the Board Panel Plant was furtively installed as Board Panel Chair pursuant to a conspiracy undertaken by Mette and Johnson. That fact shows without question that the Star Chamber Proceeding has been rigged from the start; Abbott did not receive fair and impartial treatment by the biased Board Panel Plant, who was appointed for the express purpose of tilting the case against Abbott.

24. It incorrectly asserted that the Gag Order enjoined Abbott's action filed in the Court of Chancery. Recommendation I at 87. It did no such thing. And the Supreme Court has so held. *Abbott v. Vavala*, 284 A.3d 77 (Del. 2022)(TABLE).

25. It overlooked the fact that DLRDP Rule 7(a) does not support the proposition that a lawyer proceeding *Pro Se* is still acting as a "lawyer." And Recommendation I failed to address multiple arguments presented by Abbott that he was not acting as "lawyer" in the Star Chamber Proceeding, but was instead acting *Pro Se*. Recommendation I at 109-113.

Exhibit 163 established that the DLRPC considers a "lawyer" to be one engaging in the practice of law and that Abbott was not engaged in the practice of law while defending himself *Pro Se* in the Star Chamber Proceeding. In addition, Abbott noted that he never filed an Entry of Appearance in the Star Chamber Proceeding in order to signify he was acting as a lawyer and he never affirmatively stated that he was acting in any capacity other than *Pro Se*. Instead, Recommendation I merely parroted the weak arguments of the ODC regarding a few examples of Abbott's use of a boilerplate signature block, letterhead, and mistaken references to "undersigned counsel." Recommendation I failed to address the multitude of filings that Abbott submitted which stated he was acting *Pro Se*. A few aberrations fail to establish proof by Clear and Convincing Evidence.

DLRDP Rule 7(a) was clearly misunderstood in Recommendation I. *First*, Rule 7(a) constitutes a procedural rule, not a substantive ethical rule that impacts the application of the DLRPC. *See* Supreme Court Rule 62. *Second*, DLRDP Rule 7(a) merely states the obvious: certain rules in the DLRPC, like those applicable to financial books and records, payment of taxes, and the Annual Registration Statement, apply to lawyers despite the fact that they don't involve actions within the purview of any Lawyer/Client relationship. *Third*, the Supreme Court Order

dated September 12, 1985, Supreme Court Rule 61, and the Preamble to the DLRPC establish that the DLRPC is the sole set of ethical rules governing lawyer conduct; the DLRDP does not modify the DLRPC.

26. It overlooked the fact that the case of *In re: Hurley* was not issued until 2018, well after many of the statements were made. As noted hereinbefore, without a retroactivity analysis and recommendation, retrospective reliance upon *In re: Hurley* is legally proscribed.

In addition, *In re: Hurley*, 183 A.3d 703 (Table)(Del. 2018) held that Rule 3.5(d) "concerns decorum when addressing the Court." Here, Abbott was not addressing the Vice Chancellor. Nor were the statements known to the general public, the Vice Chancellor, or the Supreme Court. Recommendation I erred in failing to properly apply the *In re: Hurley* decision in Abbott's favor.

*In re: Hurley* also held that Rule 8.4(d) regarding prejudice to the administration of justice was not proven based on written communications which were "private in nature" and did not have "any direct impact on the administration of justice." In the instant action, Abbott's statements were private, not public, and no proof was presented by the ODC that any Board Chair, the PIC, or the Supreme Court were burdened by the statements. In fact, evidence adduced at Trial showed the PIC and Board Chairs rendered decisions without regard to the statements and that the Supreme Court was unfazed by the statements because the 5 Members never considered the Motion to Dismiss; they never acknowledged receipt of it or rendered a ruling on it.

In addition, *In re: Hurley* cannot be relied upon since only the language of Rule 3.5(d) is applicable under the circumstances. Recommendation I cites to no legal authority standing for the proposition that one must conduct extensive research prior to taking actions, in order to determine the meaning of a DLRPC Rule. The common and ordinary meaning of the language contained in Rule 3.5(d) may be relied on, which as Abbott explained in his testimony and expert opinions

presented at Trial means, as the dictionary indicates, that a person must be engaged in the active practice of law in order for them to constitute a "lawyer" as a matter of law.

27. It overlooked the fact that other case law decisions it relied upon cannot replace DLRPC language. *See* Recommendation I at 111. Abbott need not have looked past the plain meaning of the language contained in Rule 3.5(d). Tortured constructions of a Rule cannot replace the plain language of a Rule. Abbott relied upon the fact that he was not acting as a lawyer but was instead proceeding *Pro Se*.

28. It overlooked the fact that the Board Chair does not constitute a "Tribunal" under the law. Recommendation I at 115 *et seq*. DLRDP Rule 9(e) provides that the Board, through its Board Chair and Board Panel, is only empowered to issue a "report and recommendation" to the Supreme Court for review. The Panel may only issue an advisory report, not a "binding legal judgment," which is required to qualify as a Tribunal. So the Rule 3.5(d) and 8.4(d) suggestions by the Board Panel were contrary to law.

29. It improperly relied upon *In re: Vanderslice*, which was based upon DLRPC Rule 3.3(a). Thus, the decision is distinguishable since DLRPC Rule 3.9 provides that Rule 3.3(a) applies to non-adjudicative proceedings. The case has no persuasive effect on the question of whether the Board constitutes a "Tribunal"; Rule 3.3 applies to non-tribunal proceedings.

30. It improperly relied upon the prior submission by Abbott regarding former Board Chair Schmidt. Recommendation I at 119. Abbott had not yet conducted a detailed analysis. And Abbott was clearly stating that the Board Chair had an opportunity to render a decision on a pending motion, which would obviously be subject to Supreme Court *de novo* review later on in the Star Chamber Proceeding.

31. It ignored Abbott's argument that the ODC failed to prove a violation of Rule 3.5(d) since the Rule requires proof that the Tribunal can perceive the alleged degradation. *See* Recommendation I at 120-124. Recommendation I skews Abbott's argument regarding the need for proof that there could possibly be a degradation or discourtesy perceived by the Tribunal to mean that it must physically occur before the Tribunal. Recommendation I at 121. Abbott's argument was that the conduct must be perceivable by the Tribunal at issue, meaning that it must be either in the public domain or in a matter before the Tribunal.

The ODC failed to present any evidence at trial to establish that the Vice Chancellor or the Supreme Court were aware of any of the statements. And the statements were not in the public domain. The Tribunals at issue are unaware of the statements. Indeed, there was no degradation caused to the Vice Chancellor and the Supreme Court since there was no proof presented at trial that they were aware of the statements.

32. It improperly relied upon *In re: Shearin*. In that action, the lawyer (who was actually acting as a lawyer in that instance) made statements in a publicly available filing with the Delaware Supreme Court that were derogatory about the Trial Court. In contrast, Abbott's statements are Confidential and Privileged – *i.e.* the veritable "Message In A Bottle That Can Never Be Found." The Vice Chancellor is unaware of the statements.

33. It failed to recognize that the language contained in the block quote on page 123 of Recommendation I cinches the fact that Rule 3.5(d) does not apply under the circumstances. The language indicates that Rule 3.5(d) only covers "behavior towards the Tribunal." No evidence established that the statements relied upon by the Alleged Petition were lobbed "towards the Tribunal." Indeed, no one even knows about these statements that can ever disclose them; the Vice Chancellor and the Supreme Court cannot feel disparaged or subject to discourtesy via

unknown, secret comments. The theory that statements unknown to the world could somehow degrade or be perceived as degrading or discourteous by the human beings that they refer to is in error.

34. It overlooked the fact that there was no proof that members of the Supreme Court received or read the Motion to Dismiss and that the submission was to the Board and not to the Supreme Court. Recommendation I at 124-125. In addition, Recommendation I improperly shifted the Burden of Proof to Abbott, despite the fact that the DLRDP provides that the ODC bears the Burden of Proof by Clear And Convincing Evidence – *i.e.* free from serious doubt – that the 5 Justices read the Motion to Dismiss so that they could potentially be degraded or feel discourteously treated. *Id.* The record is devoid of any evidence establishing that the Motion to Dismiss was received by any of the 5 Justices or was ever opened or read by them. Recommendation I's surmise that it may have happened is far short of the high bar of Clear And Convincing Evidence needed for the ODC to establish that fact.

35. It applied an improper burden-shifting exercise: Recommendation I asserts that Abbott failed to prove a factual basis for his statements regarding the Vice Chancellor, in spite of the fact that DLRDP provides that it is the burden of the ODC to prove that such statements were false. Recommendation I at 130-135. The undisputed Trial evidence established that: (1) the Vice Chancellor gave preferential treatment to Weidman, despite his wildly out of control statements and fraudulent procurement of 2 separate Court Orders; (2) the only vexatious conduct which occurred in the litigation was committed by Weidman; and (3) the unplanned gathering called by the Vice Chancellor after previously planned proceedings had concluded was solely for purposes of making defamatory statements about Abbott.

36. It purveyed the unsupported theory that the 2 Deeds transferring title from Jenney to his wife were a "sham transaction." The title transfer was legally permissible and valid. *See* Recommendation I at 133. A sham means invalid, while the Deeds are valid, thereby precluding the possibility that they could constitute a "sham" as a matter of law.[44]

37. It failed to acknowledge that the surprise, unexpected gathering called by the Vice Chancellor occurred after all matters had already been concluded pursuant to the previously planned site visit. It was clearly held by the Vice Chancellor solely for purposes of trumping up a record of negative statements about Abbott to buttress the Vice Chancellor's planned complaint to the ODC. As Abbott established without rebuttal by the ODC at Trial, there was no "sham transfer," "vexatious" litigation conduct, or any other conduct consistent with the hyperbolic terminology launched by the Vice Chancellor at Abbott at the hastily called meeting in May of 2015.

38. It ignored the reality that the vexatious litigation conduct engaged in throughout the course of proceedings in 2015 was committed by Weidman and that the Vice Chancellor copiously overlooked such ethical misconduct by Weidman and even went so far as to cover it up by alleging that there was nothing wrong with it (*i.e.* blatant favoritism).

39. It improperly framed the issue and shifted the Burden of Proof, which rests solely on the ODC, to Abbott. At page 135, it asserts that Abbott had to "establish a factual basis showing judicial misconduct by the Delaware Supreme Court." Abbott never alleged that the Supreme Court committed judicial misconduct. And the burden to prove that Abbott's statements were false

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[44] The Panel can't seem to get over the fact that the Ownership Transfer was perfectly permissible and legal, the personal, subjective, beliefs of the Board Panel Members to the contrary notwithstanding. Indeed, it is this unfounded notion that drove many of the erroneous findings in Recommendation I. The entirety of Recommendation I is, therefore, founded on a false premise.

rested on the ODC, which burden was not met by Clear and Convincing Evidence since the ODC failed to present any facts supporting the proposition that Abbott's statements were not accurate. Regardless, Recommendation I ignored evidence tending to prove that: (1) the Supreme Court did nothing despite having full knowledge of the ODC's corrupt pursuit of this Star Chamber Proceeding; (2) agreed with the ODC that its obvious dismissal (under Rule 41 of the Superior Court Civil Rules) of the specious Petition for Interim Suspension against Abbott could be characterized as a "withdraw"; and (3) the Delaware Lawyer Discipline System Unconstitutionally discriminates against lawyers based upon their associational status and whether they draw the ire or favor of a judge. All of these facts were the basis for Abbott's statements regarding the Supreme Court, and their absolute truth is an absolute defense to the Rule 3.5(d) charge against Abbott.

40. It ignored the plain meaning of the language contained in DLRDP Rules 10 and 13, instead attempting to rewrite that language by claiming that its meaning would conflict with their subjective belief of how the Delaware Lawyer Discipline System should function. Recommendation I at 136-137. DLRDP Rule 10 is not limited to providing immunity from civil suit. Rule 10 states that communications to the Board "shall be absolutely privileged," which is the end of a clause in the first sentence of the Rule. The next succeeding clause of the first sentence contained in Rule 10 provides that "and no civil suit predicated on those proceedings may be instituted against any complainant, witness or lawyer." The second clause of that sentence is preceded by a comma, establishing that the "absolutely privileged" nature of communications by Abbott to the Board stands alone and provides him with a blanket form of immunity from being prosecuted for statements submitted to the Board.[45]

[45] The Board Panel Plant relied upon the Absolute Privilege of Rule 10 to deny Abbott discovery and trial witnesses, so his assertion that there is no Rule 10 Absolute Privilege is disingenuous. *See e.g.* T124-125.

41. DLRDP Rule 13(a) establishes that prior to submission of a final report to the Supreme Court "the official record in such matters are confidential." The Rule of Confidentiality prohibited Abbott from being charged based on his statements. The cloak of Confidentiality and Absolute Privilege also barred Abbott's statements from being admitted at Trial.

42. It overlooked the confidential nature of submissions to the PIC. Recommendation at 137-138. Despite acknowledging that 29 *Del. C.* § 5810(h) "prohibits public disclosure of PIC complaints," the Recommendation suggests that subsection (2) of § 5810(h) renders Abbott's complaint to the PIC open to public inspection since Abbott challenged the dismissal of his complaint in the Superior Court. But subsection (2) is only triggered by an appeal by right under § 5810A, which only applies to an appeal by the respondent. Abbott was not the respondent and did not take such an appeal to the Superior Court. Instead, Abbott was the complainant and he challenged the dismissal of his complaint against Aaronson via common law Writ of *Certiorari* (not statutory right of appeal), thereby precluding the possibility that subsection (2) could apply to permit public disclosure of Abbott's PIC complaint.

43. It ignored the fact that Abbott could not have prejudiced the administration of justice since he made no affirmative misrepresentations to the Vice Chancellor and did not engage in undignified or discourteous conduct which was degrading to the Vice Chancellor.[46] *See* Recommendation I at 138 *et seq*. The Abbott Letter: (1) made legal contentions, not factual representations regarding transfer of ownership in the 2 Properties and purely personal obligations of Jenney under the Settlement Agreement; and (2) the Board Chairs were not prejudiced in any way by Abbott's statements since there was zero (0) testimony presented at Trial by Ms. Schmidt

[46] Indeed, Abbott's uncontested Trial testimony established the truth of all of the statements about the Vice Chancellor. *See e.g.* T1885-1917.

or Mr. Barlow that would support the theory that "they were…forced to wade through the improper undignified, discourteous and degrading statements before reaching a decision on the merits." The Board Chairs did not state in their decisions or any other writing that they perceived there to be any problems with Abbott's statements in submissions to them, which only they could attest to. The mere surmise and guesswork undertaken by the Board Panel that there might have been such a circumstance falls far short of the requisite Clear and Convincing Evidence standard – *i.e.* no evidence at all cannot meet the standard.

44. It ignored the fact that there was no proof of PRC approval of any charges against Abbott, which is a prerequisite for Abbott to be pursued by the ODC. Recommendation I at 141-142. It is uncontested that no evidence has ever been provided by the ODC or submitted into evidence at Trial establishing that anyone other than the ODC purported to bring the 5 Charges against Abbott. DLRDP Rule 9 renders this entire Star Chamber Proceeding infirm absent proof that the PRC actually approved any charges against Abbott. And DLRDP Rule 3(c) requires that the PRC panel that supposedly found there to be probable cause to charge Abbott must file with the Administrative Assistant "a disposition sheet recording the actions taken by the panel." But since the Johnson, the ODC, and Board Panel Plant fought mightily to prevent Abbott from getting that document, it must be presumed that the PRC did not ever approve any charges against Abbott and this action should be dismissed.

45. It overlooked the fact that Abbott's request for the matter to be Stayed was denied by the ODC, which instead had every right, ability, and duty to proceed with the matter sooner than 3+ years after 2016. Recommendation I at 146-148. The record evidence establishes that while Abbott requested a Stay of the Star Chamber Proceeding, no Stay of the Star Chamber Proceeding was ever agreed to by Aaronson or Ordered by the Board Chair. As noted hereinbefore,

that puts the ODC on the hook for over 4½ years of unreasonable delay (which caused Abbott great prejudice in the form of stress, expense, time, and lost evidence [*e.g.* Weidman's faulty memory at Trial]). *Laches* therefore bars the Rule 8.4(c) charge.

46. It ignored the undisputed record evidence that Abbott received no Due Process regarding the defamatory statements lobbed at him by the Vice Chancellor. *See* Recommendation I at 164. The theory that Abbott "was afforded the same due process rights provided to litigants in the Court of Chancery" is belied by the undisputed facts, which establish that Abbott was ambushed by the Vice Chancellor at the surprise meeting and that Abbott had no notice or opportunity to be fully heard on the allegation that his conduct was somehow "contemptuous." If the Vice Chancellor believed that to be true and wanted to honor his obligations under the Delaware and United States Constitutions to afford Abbott Due Process, then he would have timely asserted allegations against Abbott and conducted a subsequent hearing to determine whether Abbott did anything wrong. The Vice Chancellor denied Abbott even a minimum modicum of Due Process by launching personal attacks at him without any legitimate opportunity for Abbott to defend himself. Accordingly, the Vice Chancellor's allegations launched at Abbott at the surprise meeting regarding "vexatious," "contemptuous," "sham," and "akin to a fraudulent transfer" were all unsupported in fact.

47. It overlooked Abbott's evidence of Vindictive Prosecution based upon the bringing of the spurious 5th Charge as a retaliatory attack on Abbott, the increase from 3 Charges to 4 Charges, and the bogus Petition For Interim Suspension. *See* Recommendation I at 170-172. As Recommendation I notes, an "upping the ante" retaliatory exercise is sufficient to establish Vindictive Prosecution. Here, Abbott established that the 4 Charges and the 5th Charge were tacked on in retaliation for his steadfast defense over a 5+ year period from the ODC's bogus

pursuit of him in the Star Chamber Proceeding. And the frivolous Petition for Interim Suspension in and of itself establishes Vindictive Prosecution; it had no good faith basis in law or fact. But the 5th Charge, which falsely alleged that Abbott made false "affirmative statements" to the Court had no valid basis and was solely brought as a punitive measure in an attempt to pursue a "kill shot" against Abbott.[47] It was a mere lawyer construct brought as a vengeful measure against Abbott.

For the same reasons, Abbott met his burdens on Selective Prosecution, Demagogic Prosecution, Bad Faith, and Unclean Hands. Abbott violated no DLRPC Rules, thereby establishing that the 5 Charges were brought without reasonable belief that they could be established. The Petition was based on personal animus, not a good faith basis in fact or law. The elements of the 5 Charges were invalid on their face; they could not be proven and were not proven.

3. Recommendation II Ignored The Applicable Legal Standard & Undisputed Evidence[48]

a. Erroneous Attempt To Conflate The Abbott Letter With The Ownership Transfer & Falsely Contend That Subsequent Litigation Was Based On The 2 Alleged Omissions

The Panel repeatedly and erroneously attempted to transmogrify the Ownership Transfer with the Abbott Letter/2 Alleged Omissions. *See* Recommendation II at 3, 8, 21, 41, 57, 59, 89, 90, and 114. The Panel Majority rightly concluded that the Ownership Transfer was completely valid and permissible. Recommendation II at 103. But the Panel Majority cannot let go of its fixation on the Ownership Transfer, implying that there was somehow something untoward about it; they unfoundedly allege that the Ownership Transfer was tainted with "dishonest motive" and

[47] The 5th Charge's status as a vindictive measure is all the more clear based upon the fact that it was not pursued until January of 2020, over 4½ years after the Vice Chancellor's complaint was improvidently taken up by the ODC.

[48] Further Arguments regarding Objections to Recommendation II are contained in App. 9, which is incorporated herein.

for the purpose of "circumventing a Court Order." *Id* at 103-104. The Panel uses semantics and *ipse dixit* to paint a false picture in order to make it appear Abbott did something wrong in the Court of Chancery proceedings; that is why they concocted the Phantom 6th Charge, which is legally, logically, factually, and procedurally invalid. The record establishes that the 2 Alleged Omissions generated no issues in the litigation; the Ownership Transfer did.

b. Recommendation II Treated The ABA Standards As Mandatory Versus Suggestive, Concocted A New Step 4 & Ignored Prior Delaware Lawyer Sanctions[49]

Recommendation II rotely applied the ABA Standards' inapplicable presumptive sanction provisions without consideration of where that leads them; it fails to follow the 4-Step Analysis the Supreme Court has held to apply. Indeed, recommending a 2-year Suspension or Disbarment of Abbott for minor infractions evidences just how off-track the Board Panel got in its hyper-reliance on, and misapplication of, the ABA Standards. In addition, prior lawyer discipline cases establish that the appropriate Sanction was a Private Admonition or Public Probation in this matter.

One of the fundamental defects in the ABA Standards is the fact that they exclude the possible Sanction of Public Probation, despite the fact that Public Probation is one of the Sanctions that must be considered under DLRDP Rule 8. Thus, the Board Panel's misguided analysis and over-reliance on the ABA Standards rendered their suggested Sanctions without legal merit.

Uncontroverted record evidence established that the Ownership Transfer was what drove further Court litigation; the 2 omissions alleged to exist in the Abbott Letter (the "2 Alleged Omissions") played no role in the litigation. And the statements were a secret "Message In A Bottle That Can Never Be Found." So to suggest that a 34 year member of this Bar who is recognized as a skilled litigator and has made significant Community, Bar, and Public Service

[49] References herein to the "ABA Standards" are to the American Bar Association Standards For Imposing Lawyer Sanctions.

contributions during his long and storied career should be effectively kicked out of the Bar for circumstances that no one in the world knows about or could be harmed by, including anyone in the public, the Bar, or the Bench, was the height of absurdity. Recommendation II constituted an impermissible penal and punitive sanction suggestion, which should be rejected by this Court.

c. The Board Panel's Attempt To Belatedly Justify Its Erroneous Assertion That Abbott Could Be Found In Violation Of The Phantom 6th Charge Based Upon A *Post Hoc* Attempt To Call "Omissions" In The Abbott Letter "Affirmative Statements" Should Be Rejected

In what amounts to an after-the fact attempt to avoid the obvious invalidity of the Board Panel's concoction of the Phantom 6th Charge, they falsely asserted that the 2 Alleged Omissions were actually "affirmative statements." Recommendation II at 16-17, 20-21, 22, 23, 26, and 41. The Board Panel admitted, however, that 1 of the 2 Alleged Omissions was indeed based on an alleged omission, as opposed to an affirmative statement ("Respondent…engaged in a half-truth by referencing the Settlement Agreement but *failing to disclose the Consent Order.*"). Recommendation II at 55. And the Board Panel originally found in Recommendation I that the Abbott Letter failed to disclose – *i.e.* omissions, rather than affirmative statements. The attempt to label the 2 Alleged Omissions as Affirmative Statements fails.

Recommendation II also concocted a new theory for the Phantom 6th Charge – that Jenney maintained some "equitable" interest in the 2 Properties –establishing all the more that the Board Panel concocted the Phantom 6th Charge. Recommendation II at 16, 21-22, and 41.[50] The

[50] The Board Panel even went so far as to cite new decisional authority in an obvious attempt at a *post hoc* rationalization for its unfounded theory that Abbott's truthful statement that ownership of the 2 Properties had been transferred to Mrs. Jenney could somehow miraculously be contorted into a falsehood. Recommendation II at 22-24. The Board Panel cited to the inapposite decision in *Levin v. Smith*, 513 A.2d, 1292 (Del. 1992) for the proposition that Jenney may have held "equitable ownership," despite the fact that the decision cited stands solely for the proposition that a father's promise to create a trust regarding real estate in favor of his kin could override the existence of legal title ownership in the name of one child. That holding is unrelated to the question

desperate lengths that the Board Panel went to justify the extra-legal Phantom 6th Charge is pitiful. Count III should have been dismissed.

d. The "Message In A Bottle That Can Never Be Found" Cannot Be Degrading; No Rule Violation Could Exist, But Regardless There Was No Potential Or Actual Injury Since Everything Is Confidential And/Or Absolutely Privileged

Recommendation II was based upon the faulty premise that statements made by Abbott that were filed solely with the Board and, in one instance, with the PIC, could cause degradation injury (in spite of the fact that those statements are cloaked with Confidentiality and Absolute Privilege). Recommendation II at 10-12, 76, 93-95. And Recommendation II failed to address Abbott's argument that he proceeded under the reasonable, well-founded belief that his Non-Lawyer (*Pro Se*), Confidential, Absolutely Privileged statements could not be used against him. *See e.g.* Recommendation II at 141-142. No actual or potential Injury was proven by the ODC.

e. The Panel Majority Erroneously Relied On The *Shearin* Case

The Panel Majority concluded that this matter was equivalent and no more egregious than the facts in *In re: Shearin*. Recommendation II at 176. But the far more egregious facts in that decision are highly distinguishable from those at bar since Ms. Shearin: 1) was acting as a "lawyer"; 2) directly disobeyed a Court Order that forbade her from effecting title to property; and 3) publicly disparaged then Vice Chancellor Steele with allegations that she presented no proof of.

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of whether Abbott accurately stated that Jenney was divested of an ownership interest in the 2 Properties pursuant to the 2 Deeds. Obviously, the Board Panel has a guilty conscience - "thou dost protest too much."

f. Recommendation II Is Erroneously Founded On The Fixation With Using Hyperbole & Misrepresentations About Abbott's Perfectly Legal, Permissible Act Of Advising A Client On How To Potentially Avoid A Court Judgment

The Panel continued to delusionally focus their attention on their subjective belief that an attorney cannot advise a client on how to potentially avoid a Court Judgment. Recommendation II used false and exaggerated terminology to trump-up a faux theory that such actions by Abbott were somehow wrong. Recommendation II at 3, 21, 22, 37, 41, 42, 69, 74, 92, and 114-115. Personal, stylistic differences with the way that one approaches litigation does not a violation or heightened sanction make. The Panel allowed their non-legal beliefs to make a mountain out of a molehill in this matter.[51]

Abbott counseled his client on the pros and cons of different potential approaches to the litigation (just like Chief Justice Seitz did in *Acierno v. New Castle County*). Such advice was provided only after it became evident to both Jenney and Abbott that Weidman was wildly out of control and acting in a fraudulent and unethical fashion and that the Vice Chancellor was unwilling to do anything to stop it. The litigation would not likely have ended absent Abbott's Good Lawyering.

g. Recommendation II Erroneously Relied Upon A New Theory About Mrs. Jenney; Recommendation I Was The Only Bite At The Apple On Liability That The Board Panel Gets - It Cannot Attempt To Justify Its Unjustified Phantom 6th Charge & Multitudinous Errors In Recommendation I

The Panel also attempted to modify Recommendation I in Recommendation II, presenting the brand new theory that Abbott had some duty to advise Mrs. Jenney (despite the fact that all she

[51] That is also why the Board Panel unfoundedly alleged that the Abbott Letter was the basis for further litigation and caused or could have potentially caused any injury. They simply cannot get over the fact that Abbott acted in a perfectly permissible fashion as a matter of fact and law, so they simply made up the Phantom 6th Charge based on their personal predilections. The Ownership Transfer drove further litigation, not the 2 Alleged Omissions.

had to do was agree to receive transfer of title and Abbott obtained that consent). Recommendation II at 45-57. Because this issue was never raised in the Liability phase of the case, the entire content of those 13 pages of Recommendation II should be stricken and disregarded.

If Abbott had had a full and fair opportunity to respond to those unfounded allegations, however, he would have been able to testify that: 1) he confirmed with Jenney that he had advised his wife of precisely what was going on in the case and why the transfer of title to the 2 Properties to her was being effectuated; and 2) Jenney advised that there were no circumstances that would cause a transfer of title to his wife to be a problem based upon any prenuptial agreement, trust, or otherwise.[52]

The inability of the Panel to get past the fact that the Ownership Transfer was valid and permissible so terminally tainted their ability to reason rationally that their conclusions were fatally flawed.

h. Recommendation II Erred In Its "Duty" Analysis; The Public, Profession & Court Do Not & Cannot Know Of The Phantom 6th Charge Or The Statements

The 2 Alleged Omissions could not violate any duty to the public or the legal system. *See* Recommendation II at 35. And the statements did not breach duties to the legal system or the legal profession. *Id.* at 36. The public, the legal system, and the legal profession do not, and cannot ever, know of the Phantom 6th Charge or the statements.

The Phantom 6th Charge was pure make believe; Abbott was charged with making Affirmative Statements, not based on the 2 Alleged Omissions. And the statements are the "Message In A Bottle That Can Never Be Found." Zero (0) duties were breached under the unrefuted factual record.

[52] Evidence presented at Trial essentially established these facts. T938-940 and T1759-1760.

With no Duty shown to have been at risk, there can be no potential or actual Injury. So even assuming *arguendo* that DLRPC Rule violations were proven, the circumstances did not warrant anything beyond a minor Sanction (like an Admonition or Probation).

i. The Panel Confused The Mitigating Factor Of Full & Free Disclosure **Or** Cooperative Attitude & Ignored The Significant Evidence Of Abbott's Good Character And Reputation

Recommendation II confused Abbott's vigorous defense and exercise of his Constitutional rights to Due Process and to pursue Redress of Grievances through appropriate litigation with lack of cooperation and full disclosure. Recommendation II at 153-159. In an obvious admission of bias in favor of the ODC, the Board Panel accuses Abbott of being tough on the ODC in the Star Chamber Proceeding. *Id.* at 159. The ODC is the one on a mission to destroy Abbott's legal career.

– Full & Free Disclosure Was Shown

Abbott abided by rulings, met deadlines (some of which were unreasonable), responded to questions, and did what he was legally required to do in the Star Chamber Proceeding. There was no evidence that Abbott disobeyed any rulings of the Board or Panel, failed to meet any deadlines, or did anything other than act within the bounds of the law. Abbott established Full & Free Disclosure. Consequently, Abbott easily satisfied that mitigating factor.

– Good Reputation & Character Were Shown

Abbott also readily established his Good Reputation and Good Character. The Board Panel failed to address Abbott's resume which was submitted as Trial Exhibit 165. Recommendation II at 160-164. It established Abbott's multi-decade contributions of public service, community service, and service to the Bar. Abbott spent considerable time donating his time to public office, legal education seminars, civic associations, and the publication of scholarly articles.

Abbott also presented the testimony of 3 long-term clients, who all attested to Abbott's good character and reputation. The Board Panel's theory that their testimony should be given little weight since they were not aware that Abbott was being pursued in this Star Chamber Proceeding is pure folly. The factor looks to overall character and reputation of Abbott (which is excellent under the undisputed record).

j. Recommendation II Whiffed On Pattern Of Misconduct, Delay In Proceedings, Remoteness Of Prior Offenses, Vice Chancellor Standard & Psychological Abuse Factors

– No Pattern Of Misconduct Was Shown

Recommendation II suggested that Abbott's statements in numerous filings with the Board (and one with the PIC) in 2016 and 2019 establish a Pattern of Misconduct. Recommendation II at 131-133. Notably missing from the analysis, however, was the fact that there was a 3-year gap between statements from 2016 and those in 2019. The mere fact that there were numerous statements does not constitute a "pattern." Indeed, virtually all of the comments were regarding the Vice Chancellor, which in every instance are 100% true and/or constituted Abbott's explanations of his litigation strategy. No "pattern" was established.

– The Panel Ignored The Facts & Created More Fictions; The ODC Delayed Over 4½ Years

In what amounts to a repetitive ignorance of reality, the Panel continues to assert that Abbott somehow miraculously caused the ODC to sit on its hands and do nothing for the 4½ years that it delayed in pursuing charges against Abbott. Recommendation II at 165. The fact that Abbott requested Stays of Proceedings is irrelevant. All such Stays were vigorously opposed by the ODC and no Stay was ever entered by a Board Chair. Meanwhile, 4½ years went by due to ODC inaction and the bogus Petition for Interim Suspension.

– 11 Years Is Remote; The Panel Mis-Cited Abbott's Offense

In yet another error, the Panel alleged that Abbott's prior offenses occurred in 2007, despite the fact that the decision in *In Re Abbott* establishes that they occurred in 2005. Recommendation II at 174. So there was 11 to 14 years between that prior offense and the allegation that Abbott violated Rule 3.5(d) in 2016 and 2019. 11 and 14 years is certainly remote in time.

– The Panel Completely Ignored The "Vice Chancellor Standard" Which Abbott Asserted As A Mitigating Factor

Nowhere in Recommendation II did the Panel discuss Abbott's argument that the virtual immunity granted to Weidman for his extremely disruptive and unethical actions established a standard that entitled Abbott to no Sanction. Weidman fraudulently procured 2 Court Orders, caused extensive waste of party and judicial resources, threw the entire litigation in the Court of Chancery into total chaos, and conducted himself in a highly unprofessional and uncivil fashion. Despite Weidman's serious misconduct, the Vice Chancellor disregarded it and covered it up. Thus, the Vice Chancellor's standard – total immunity for lawyers that appear before him – must likewise be accorded to Abbott; the Vice Chancellor set the standard. The Vice Chancellor's standard establishes that no Sanctions should have been imposed upon Abbott since he did nothing that remotely resembled the ethical misdeeds of Weidman.

– The Panel Failed To Properly Acknowledge Abbott's Establishment Of The Special Circumstances Mitigating Factor Of Psychological Abuse

The Panel poo-pooed Abbott's extensive, undisputed evidence that 8+ years of psychological abuse caused him great harm and mental distress, despite there being no legitimate basis for the ODC to ever open a file in the matter. Recommendation II at 165-173.

In sum, the evidence of record establishes that: 1) the Vice Chancellor cited to no basis for filing a complaint against Abbott with the ODC in June of 2015; 2) the ODC did not move the matter forward for 1 year; 3) the ODC concocted the 3 Charges in 2016, which they ultimately dropped; 4) Aaronson vindictively pursued the specious Petition for Interim Suspension in 2018, which was dropped in 2019 after she was fired; and 5) the 4 Charges were asserted in December 2019, but were swiftly supplemented by the retributive 5th Charge in January of 2020.[53] Abbott's uncontested Trial evidence established that he had lost thousands of hours of sleep, thousands of hours of time, thousands of dollars in costs and expenses, lost family time, and near constant stress and strain which negatively impacted both his professional and personal life for over 7 years. Such literal torture by the ODC, in a matter that should have been rejected as unfounded from the get-go, established beyond *peradventure* that Abbott has suffered psychological abuse to support a Mitigating Factor.

k. The Panel Erred On The Mental State Analysis; Less Than Negligent Conduct Is All That Was Shown & No Suggestion On Rule 3.5(d) Was Made

The Panel also committed legal error in suggesting, on the 2 Alleged Omissions, that Abbott acted Knowingly and Intentionally. Recommendation at 41-57. But they did not address the Mental State regarding the Rule 3.5(d) charge. *Id.*

Abbott was under the reasonable belief that: 1) his conduct in the Star Chamber Proceeding was being undertaken in a *Pro Se* capacity, not as a Lawyer; 2) the Board was not a Tribunal; 3) his submissions to the Board and to the PIC were Confidential; and 4) filings with the Board were subject to Absolute Privilege. In addition, based upon the legislative history of, and express

[53] Abbott also noted that he is being abused by the Panel pursuant to their concocted Phantom 6th Charge and by the Board Panel Plant due to his fatal tainting of the Star Chamber Proceeding in order to slant it to achieve his pre-ordained conclusion to Disbar Abbott.

language in, DLRPC Rule 3.5, the Rule was reasonably read to only cover conduct that could be known to the Vice Chancellor and the Supreme Court; the statements could not be "degrading" to them since they were wholly unaware of them. Thus, it could not have been reasonably anticipated that Rule 3.5(d) applied, so that a finding of even a Negligent Mental State on that charge could not be made.

The *post hoc* Phantom 6th Charge, based on the erroneous Law=Fact Theory, Crystal Ball Theory, and Hiding In Plain Sight Theory, also failed to warrant a finding that Abbott was even Negligent. Abbott advised the Court that title had been transferred, which was 100% truthful. And because the Consent Order was not in effect and was well-known to all, there was no evidence of any Intentional or Knowing deception in failing to mention it. So even assuming *arguendo* that the Crystal Ball Theory and the Hiding In Plain Sight Theory had any legal or logical validity, which they do not, the evidence established less than a Negligent Mental State.[54]

4. Recommendation II Should Be Disregarded In Its Entirety; It Is Not Based On A Proper 4-Part Analytical Approach & It Is Excessive

Not surprisingly, the Board Panel Plant dissented from the Panel Majority's Sanctions suggestion, showing that he indeed reached a pre-determined conclusion from the outset of this proceeding to seek Abbott's expulsion from the Bar. And the ODC's over-the-top recommendation of a 3 year suspension and the absurd disbarment recommendation of the Board

[54] Notably, "[m]ere knowing conduct does not constitute a violation of Rule 8.4(c)." *In re Lyle*, 74 A.3d 654 (Del. 2013)(TABLE). Instead, proof of Intentional conduct in accordance with a 5-part test is required: "(1) a false representation of material fact; (2) the knowledge or belief that the representation was false, or made with reckless indifference for the truth; (3) the intent to induce another part or refrain from acting; (4) the action or inaction taken was in justifiable reliance on the representation; and (5) damage to the other party as a result of the representation." *Id.* Most, if not all, of the elements required to be proven and proof of an Intentional Mental State were not established by Clear And Convincing Evidence by the ODC. Therefore, the erroneous Crystal Ball Theory and Hiding In Plain Sight Theory, which are the bases for the Phantom 6th Charge, gave rise to no Sanction whatsoever.

Panel Plant are obviously what drove the other 2 members of the Panel to come back with a blatantly unfounded suggestion of a 2-year Suspension. Recommendation II was fatally tainted by Board Panel Plant bias and prejudice.

Additionally, the Panel erred as a matter of law by applying a 5-Step Sanction analysis, rather than the legally established 4-Step Analysis. The 4th (and final) Step is Aggravating vs. Mitigating Factors. But the Panel added a new 4th Step – Presumptive Sanction – before concluding its analysis with the 5th Step of Aggravating v. Mitigating. In deviating from the legal standard, the Panel fatally erred.

*First*, the only component of the ABA Standards that the Court has adopted in the past is the 4-part framework: (1) the ethical duty violated; (2) the lawyer's mental state; (3) the extent of actual or potential injury caused by the lawyer's misconduct; and (4) aggravating and mitigating factors. *In re: Lankenau*, 138 A.3d 1151, 1156 (Del. 2016).[55] Instead of following the well-settled standards for analyzing an appropriate sanction, however, the Board Panel Plant and the other 2 Panel members erred in wedding their analysis to the presumptive sanction provisions of the ABA Standards.[56] Consequently, Recommendation II misapplied the law and should be disregarded. Recommendation II at 96-125 (4th Step – Presumptive Sanction) and at 126-174 (5th Step – Aggravating vs. Mitigating Factors).

*Second*, it is well-settled that lawyer discipline is not designed to be either punitive or penal in nature. *In re: Lankenau* at 1159. Yet the Panel made Recommendations that were wildly excessive based on the minor infractions suggested. No harm was, or could have been, caused to

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[55] The lack of any discussion or suggestion regarding the Mental State Factor *vis-à-vis* the Rule 3.5(d) charge is fatal to the validity of the Sanction suggested for that charge.

[56] One can readily see how the Board Panel Plant engaged in exaggerations, overblown fiction, and wholesale speculation in order to reach his pre-ordained conclusion of Disbarment.

anyone, whether it be the Public, the Courts, the Bar, or the Client. Suggesting that Abbott's legal career should be destroyed pursuant to a 2 year Suspension or, as the Board Panel Plant inanely proposed, a total Disbarment was beyond over-the-top.[57] The unwarranted sanction suggestions contained in Recommendation II establish that it was founded solely on a desire to punish Abbott and act in a penal fashion; it should be rejected *in toto*.

*Third*, this Court should utilize the "wide latitude in determining the form of discipline" to "ensure that it is appropriate, fair, and consistent with…prior disciplinary decisions." *In re: Lankenau* at 1159. Here, a disbarment is widely variant from past decisions, which under even more egregious circumstances have resulted in Probation, Public Reprimand, or a Short Suspension. Lengthy Suspensions are reserved for serious criminal conduct and cases involving a great numerosity of violations that harm clients (who are the number 1 duty for lawyers). Indeed, in *In re: Lankenau* the lawyer was only suspended for 18 months despite his commission of 8 separate violations that included criminal offenses and theft of client funds. The minor infractions at issue in this case, which caused no actual or potential harm and no one will ever know about, cannot conceivably warrant any suspension let alone a 2-year suspension that would destroy Abbott's legal practice.

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[57] The Rule 3.5(d) charge is the proverbial "Message In A Bottle That Can Never Be Found," since no one in the world would ever be able to know about circumstances raised in the Star Chamber Proceeding, thereby foreclosing the possibility that there could be any harm. And the Rule 8.4(c) charge was unproven, but even the Phantom 6th Charge had no potential adverse effect; future acts *vis-à-vis* the 2 Properties and failure to mention the well-known Consent Order are the height of hyper-technical violations that are *Damnum Absque Injuria*.

## VII. Finding A Lawyer In Violation Of Charges And Additional Counts Not Alleged Pre-Trial Violates The Due Process Clause

### A. The Delaware Order Violates The Due Process Clause's Fair Warning Requirement

#### 1. The Legal Standard: Fair Warning

The United States Supreme Court has long recognized that criminal provisions must give fair warning of the conduct that is proscribed. *Bouie v. City of Columbia*, 378 U.S. 347, 350-51 (1964). Further, the Supreme Court has recognized "that a deprivation of the right of fair warning can result not only from vague statutory language, but also from an unforeseeable and retroactive judicial expansion of narrow and precise statutory language." *Id.* at 352. Since this disbarment action is *quasi*-criminal in nature, the Due Process Clause's Fair Warning requirement applies with equal force.

In *Bouie*, the Court also noted that "an unforeseeable judicial enlargement of the criminal statute, applied retroactively, operates precisely like an *ex post facto* law, such as Art. I, § 10 of the Constitution forbids." *Id.* at 353. Indeed, the Court concluded that if the judicial construction was unexpected by reference to the law in affect at the time the conduct occurred, it may not be given retroactive effect. *Id.* at 354. Here, the Delaware Order's transmogification of the terms lawyer disobedience and "rules of a tribunal" in Rule 3.4(c) to lawyer advice to client and "Court Order" was heretofore unknown to Delaware lawyers. Thus, the Delaware Order's tortured, first-time construction of DLRPC Rule 3.4(c) violated Abbott's Constitutional right to Fair Warning of the applicable standards of lawyer conduct.

#### 2. The Delaware Order Ran Afoul Of Due Process Fair Warning Protections Regarding Rule 3.4(c) & Rule 3.5(d)

As the Supreme Court held in *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1048-49 (1991) (Rule failed to provide fair notice to those it was directed at), DLRPC Rules 3.4(c) and

3.5(d) failed to provide fair notice of conduct that was proscribed. Rule 3.4(c) provides that a lawyer shall not "knowingly disobey an obligation under the rules of a tribunal," not, as the Delaware Order applied to Abbott, that a lawyer shall not advise a client on how to potentially avoid a Court Judgment. And Rule 3.5(d) prohibits "undignified or discourteous conduct that is degrading to a tribunal," not to statements in Confidential, Absolutely Privileged proceedings that the tribunal will not and cannot ever find out about.

The Court well-explained in *Gentile* that:

> The prohibition against vague regulations of speech is based in part on the need to eliminate the impermissible risk of discriminatory enforcement, for history shows that speech is suppressed when either the speaker or the message is critical of those who enforce the law. *Gentile* at 1051 (citations omitted).

Abbott's statements were critical of the Vice Chancellor and the Supreme Court. So the concern expressed in *Gentile* is omnipresent here.

Rule 3.4(c) only prohibits a lawyer from disobeying obligations imposed by Court Rules; no language even remotely forbids a lawyer from advising a client on how to possibly avoid a Court Judgment. And the tribunals that were the subject of Abbott's Confidential statements at issue in the Rule 3.5(d) charge could never know of them, so that the statements could not have degraded them. Consequently, it is evident that Abbott was not given "fair warning" in order to conform his conduct with the supra-legal principles the Delaware Order was based on.

The Delaware Order effectively rewrote Rules 3.4(c) and 3.5(d) to fit the circumstances – *i.e.* a pre-determined outcome. While the Delaware Supreme Court possesses the legal authority to rewrite the DLRPC, it may not do so after-the-fact. But that is precisely what the Delaware Supreme Court did, rendering the Delaware Order Constitutionally invalid.

B. Constitutional Due Process Principles Require Adequate Advance Notice And Some Form of Hearing Before An Attorney May Be Disciplined; Two Late-Concocted Charges Ran Afoul Of These Bedrock Principles

It is well established that attorney disciplinary proceedings are *quasi*-criminal in nature, and that as such they trigger certain Due Process requirements. *In re Ruffalo*, 390 U.S. 544, 551 (1968). It is axiomatic that Due Process requires, at a bare minimum, that a party be provided with notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Matthews v. Eldridge*, 424 U.S. 319, 333 (1976).

A lawyer that is subject to a disbarment proceeding is "entitled to procedural due process, which includes fair notice of the charge." *In re: Ruffalo* at 550 ("The charge must be known before the proceedings commence."). And the 6th Amendment entitles an accused like Abbott to be "informed of the nature and cause of the accusation."

Rule 9(d) of the DLRDP requires that the charges alleged against a lawyer be those brought in a petition approved by a panel of the Preliminary Review Committee, to which a Respondent has an opportunity to answer and thereafter defend against. But the Delaware Order was based on one *post hoc* charge (omissions vs. affirmative statements) and one *post hoc* rule interpretation (lawyer disobedience of Court Rules is the same as client avoidance of a Court Order). Accordingly, the Delaware Order's findings regarding the Rule 3.4(c) and 8.4(c) charges is Constitutionally infirm.

## VIII. The Delaware Order Was Unconstitutionally Retaliatory; It Violated Abbott's 1st Amendment Petition Rights

The Delaware Order evinces an intent to punish Abbott for having pursued legal action against the Delaware Supreme Court in Federal and State Courts based upon State and Federal Racketeering laws and challenges to the Constitutionality of the System and the Star Chamber Proceeding due to ODC discriminatory policies and practices. Specifically, the Delaware Order

recounted a long list of irrelevant filings made by Abbott and asserted, for the first time, that they included "inappropriate attacks" and "submitted materials…that attacked the Vice Chancellor and this Court." *In re: Abbott*, *supra.* at *7-13. The Delaware Order introduces its discussion of Abbott's well-founded efforts to obtain fair treatment by alleging that "some of [Abbott's] statements in…other proceedings gave rise to additional disciplinary violations." That allegation is false, but it evidences the Delaware Order's disdain for Abbott based solely on his exercise of his 1st Amendment Right to Petition for Redress of Grievances.

The Petition only alleged Abbott violated DLRPC Rule 3.5(d) by making one (non-degrading) statement in one "other proceeding." But the Delaware Order admitted that it was based on other uncharged, Constitutionally protected Petitions filed by Abbot, stating that "[a]fter the filing of the disciplinary petition, Abbott…continued to assert claims relating to the disciplinary proceeding in other venues."[58] The Delaware Order thereby tacitly admitted that it was in retaliation for Abbott's exercise of his 1st Amendment right to Petition the Government for Redress of Grievances.

The 1st Amendment right to Petition the Government for Redress of Grievances includes the right to pursue litigation in the Courts. *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972)("The right of access to the courts is indeed but one aspect of the right of petition."). The Supreme Court has protected the 1st Amendment right to petition the government for redress of grievances by establishing *Noerr-Pennington* immunity, which has been extended to administrative and judicial actions. *California Motor Transport Co., supra.* As a consequence,

[58] This comment obviously refers to additional litigation Abbott pursued to stop the rigged Star Chamber Proceeding from continuing. *See Abbott v. Vavala*, 2022 WL 453609 (Del. Ch., Feb. 15, 2022), aff'd, 2022 WL 6342947 (Del. Aug. 22, 2022).

the Delaware Order's retaliation for Abbott's prosecution of lawsuits against the Delaware Supreme Court and ODC prosecutors violates Abbott's 1st Amendment Petition rights.

The severe, career-ending punishment imposed against Abbott by the Delaware Order was based on retaliatory intent, to-wit: to punish Abbott for his filing of lawsuits against the Delaware Supreme Court and ODC and vigorously defending himself in the Star Chamber Proceeding. The *Noerr-Pennington* Doctrine protects Abbott's petitioning of the Courts for legal redress. As a result, the Delaware Order should be reversed.

## IX. The 6th Amendment Right To Confront One's Accuser & The 14th Amendment Right To Due Process Were Violated; Abbott Was Denied His Right To Confront His Judicial Accusers

Due Process has been held to allow a law license applicant to confront and cross-examine persons whose word is used against him. *Willner v. Committee on Character And Fitness*, 373 U.S. 96, 103-04 (1963). A law license holder like Abbott is, by extension, entitled to the same Due Process right to confront Judicial Officers who were the complainant and the alleged victims that gave rise to charges against him. The Vice Chancellor's conduct *vis-à-vis* Abbott was relied upon to support charges against him. And a presumption that the Supreme Court was aware of a few critical statements made about them by Abbott was applied. But Abbott was denied all relevant discovery and trial witnesses to defend himself from such hearsay and presumptions.

The Supreme Court has also held that the 6th Amendment Confrontation Clause guarantees an accused the right to confront his accuser, and that reliance upon out of Court statements against the accused violates the Constitution. *Crawford v. Washington*, 541 U.S. 36, 68-69 (2004). But it has been noted that "Courts are divided over the applicability of the right to confrontation in disciplinary proceedings." *In re: Harper*, 725 F.3d 1253, 1260 (10th Cir. 2013). Since disbarment proceedings are *quasi*-criminal in nature under *In re Ruffalo*, however, it stands to reason that

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Abbott had a 6th Amendment confrontation right and that the denial of that right renders the Delaware Order Unconstitutional.

Abbott subpoenaed the complainant judicial officer and the other judicial officers who were allegedly degraded by Abbott's statements, despite the fact that they were Confidential and Absolutely Privileged (so that none of the judicial officers could have ever known about them). Abbott also subpoenaed chairpersons of the Board, who the Panel alleged to have been inconvenienced by certain of Abbott's statements contained in pleadings they reviewed and rendered decisions on. Abbott's statements were alleged to be untrue, despite the fact that no proof was presented at trial as to their falsity. And Abbott, as the sole witness that testified on the subject, established the truth of all of all fact-based statements and explained the opinion-based nature of all non-factual statements.

Abbott's deposition subpoenas and trial subpoenas for relevant discovery and trial witnesses were all quashed. Abbott had a right and entitlement to take such discovery and call such witnesses based upon the applicable DLRDP Rules and Civil Procedural Rules incorporated by reference therein. Abbott's rights to Confrontation, Compulsory Process, and Due Process were therefore denied in contravention of the 6th and 14th Amendments.[59]

## X. Additional Fundamental Due Process Violations Abound

### A. The Delaware Order Denied Abbott Due Process Of Law

It is well-settled that the Due Process Clause of the United States Constitution requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). The question of what process is due is determined based

[59] Abbott also asserted the requirement for discovery and trial witness subpoenas to be allowed in accordance with the DLRDP Rule 15 and Superior Court Civil Rule provisions incorporated by reference therein.

upon a 3-part standard: (1) the private interests affected by the official action; (2) the risk of erroneous deprivation of such interests and value of procedural safeguards; and (3) the government interest, including the function involved and the fiscal and administrative burdens additional procedures would involve. *Id.*

The private interest – Abbott's license to practice law – is of great importance. The denial of all relevant discovery and trial witnesses establishes the great risk at stake. And the minimal burden to provide adequate procedural safeguards to insure Abbott received a full and fair hearing establishes that Abbott was denied fundamental Due Process Rights.

B. The Delaware Order Failed To Decide Abbott's Federal And State RICO Claims, As This Court And The 3rd Circuit Held It Would

The Delaware Order failed to include any discussion and decision regarding Abbott's claims against the members of the Delaware Supreme Court and ODC counsel under Federal and State Racketeering Influenced and Corrupt Organizations laws. *See In re: Abbott*, *supra.* at *1-33. In *Abbott v. Mette*, 2021 WL 1168958, *1-2, Andrews, J. (D. Del., Mar. 26, 2021), this Court dismissed Abbott's Federal and State RICO Complaint against ODC and Supreme Court members based upon the theory that Abbott would have an opportunity to present those arguments in the Star Chamber Proceeding. The 3rd Circuit agreed, holding that there was "an adequate opportunity in the Delaware disciplinary proceedings for Abbott to raise his Federal claims." *Abbott v. Mette*, 2021 WL 5906146, *2 (3d Cir., Dec. 14, 2021).

1. The Supreme Court's Waiver Claim Was A Self-Fulfilling Prophecy; They Illegally Constricted The Length Of Abbott's Submission To Deny Him The Opportunity To Be Heard

Abbott presented his State and Federal RICO claims in the Star Chamber Proceeding. But the Delaware Order failed to decide those RICO claims, instead pretending that they were not before it. More specifically, the Delaware Supreme Court attempted to sidestep the State and

Federal RICO claims presented by Abbott in the Star Chamber Proceeding by falsely claiming that he somehow waived them. *In re: Abbott* at *16, n.57.

The faulty premise that the Delaware Order's waiver claim is based upon, however, cannot withstand judicial scrutiny since Abbott had no choice but to incorporate pleadings and exhibits by reference. The Delaware Supreme Court improperly constricted Abbott's ability to present those claims in the body of his written submission by establishing *supra*-legal, unrealistic word count limits on his submission. DLRDP Rule 9 contains no page or word limit. But the Delaware Supreme Court arbitrarily imposed a 15,000 word limit. In light of the numerosity of issues and complexity of the Star Chamber Proceeding, it was impossible for Abbott to cover all claims and defenses in the body of his submission.

DLRDP Rule 9(e) provides that Abbott had a right to file objections to the Recommendation, without any page or word limitation. The Star Chamber Proceeding involved 8 days of hearings, thousands of pages of hearing transcripts, hundreds of pages of pre-trial and post-trial submissions, dozens of legal issues, and a Recommendation I spanning 186 pages and a Recommendation II of 191 pages. In contrast, Abbott was limited to a mere 72 pages (the length based on the overly restrictive word count limit imposed). So Abbott waived nothing; the extra-legal and unrealistic word limit forced Abbott to focus his arguments on other matters.[60]

Abbott was twice denied the opportunity to pursue his State and Federal RICO claims to bar his prosecution pursuant to the Star Chamber Proceeding and the System. The Federal Courts pointed Abbott to the Star Chamber Proceeding as a means for him to present such claims, but the Delaware Supreme Court then denied Abbott his day in Court on those claims. Since the Federal

[60] On February 13, 2023, Abbott moved for reargument of the unilaterally imposed 15,000 word count limit, but the Delaware Supreme Court summarily denied it. That provides all the more proof that Abbott's Due Process rights were denied.

Courts have previously held that Abbott had the right and entitlement to have his Federal and State RICO claims decided in the Star Chamber Proceeding, the Delaware Order should not be given any deference since it failed to comply with the decisions of this Court and the 3rd Circuit Court of Appeals that called upon the Delaware Supreme Court to render a determination of Abbott's claims.

The complete denial of an opportunity to be heard on his State and Federal RICO claims establishes that Abbott has been denied fundamental Due Process rights. It is well-settled that Due Process requires that a party be provided with notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Zero opportunity to have claims presented and decided is the very antithesis of a meaningful opportunity to be heard, establishing a clear-cut Due Process violation by the Delaware Order. Accordingly, the Court should conclude that Due Process was lacking and therefore reject the Delaware Order and decline to impose any discipline against Abbott.

Abbott presented his State and Federal RICO claims, along with a claim under 42 U.S.C. § 1983, in his March 15, 2023 submission entitled "*Pro Se* Respondent/Third Party Petitioner's Objections To Proceedings, Recommendations & Misconduct Of ODC Counsel And Board Panel Chair." But Abbott had to incorporate his RICO Complaints due to the unlawful and unrealistic length limitation imposed. So although Abbott did include some exposition on the reasons why the entire System and the Star Chamber Proceeding were invalid due to Federal and State Racketeering and Constitutional law, it incorporated by reference Appendix Exhibits A and B: the operative complaints filed by Abbott in Federal and State Courts containing extensive facts and allegations (with the State Court filing being under oath). *Id.* Abbott noted that these allegations

must be accepted as true since they were undisputed by the ODC when such claims were presented to the Panel. The Supreme Court ignored them.

2. The Panel Declined To Consider Abbott's State & Federal RICO Claims, The False Allegations Of The Supreme Court To The Contrary Notwithstanding

Additionally, Abbott previously presented his RICO claims to the Panel in "*Pro Se* Respondent's Post-Trial Memorandum & Memorandum On Related Subjects" dated April 18, 2022 at pages 46-48. The Delaware Supreme Court falsely alleged that the Panel considered Abbott's RICO claims "and concluded that Abbott had not shown any professional or judicial misconduct or constitutional violations." *In re: Abbott, supra.*, at n.57.

In the "Recommendation Of Panel Of Board On Professional Responsibility On The Discipline Of Richard L. Abbott, Esquire" dated July 11, 2022, however, the Panel merely made conclusory, unsupported statements about the RICO claims. And in footnote 713 on page 184 thereof, the Panel expressly declined to consider Abbott's arguments: "the Panel disagrees [that it must make a recommendation on Abbott's Federal and State Racketeering violation and Federal Civil Rights Act violation claims]; it is not required to make this type of recommendation." This constitutes further evidence that the Star Chamber Proceeding violated Abbott's right to Due Process.

3. Denial Of All Relevant Discovery & Trial Evidence Subpoenaed Denied Abbott The Right To Fully & Fairly Present His RICO Claims

Finally, Abbott was denied all relevant discovery and all relevant trial witnesses and documents in the Star Chamber Proceeding and at the Soviet Style Show Trial. Thus, he never had a full and fair opportunity to develop and present his RICO claims under Federal and State law. So it is clear beyond *peradventure* that Abbott's Federal and State RICO claims have never been considered and decided – yet another Due Process violation.

This establishes all the more how Abbott's Due Process rights under the 14th Amendment to the United States Constitution were trampled upon throughout the Star Chamber Proceeding. At every turn, decisions were rendered, time and time again, adverse to Abbott and in contravention of the relevant procedural rules and fundamental Due Process principles. Abbott was subjected to the veritable "Catch-22": denial of the ability and right to develop additional proof of claims, only to later be told that he didn't present enough evidence (because he was denied his legal right to discovery and trial witness testimony).

C. The *Accardi* Doctrine Required Compliance With Appliable Rules & Contravention Of Such Rules Violated Due Process

The Delaware Order found that Abbott committed one violation which was not alleged in the Petition. Abbott was charged with making false "affirmative statements." But after trial he was alleged to have misled via 2 alleged omissions. And the Delaware Order also found another violation based on conduct which was not expressly proscribed by unambiguous rule language. DLRPC Rule 3.4(c) only forbids a lawyer from disobeying "an obligation under the rules of a tribunal," but the Delaware Order unexpectedly interpreted the Rule to forbid Abbott from advising his client on how to potentially avoid a court judgment.

1. The Delaware Order's *Ex Post Facto* Change Of One Charge & One Rule Contravenes *Accardi*

The Delaware Supreme Court has adopted the *Accardi* Doctrine to State agency conduct regarding the protection of individual rights and Due Process safeguards. *Dugan v. Delaware Harness Racing Com'n*, 752 A.2d 529, 531 (Del. 2000)(en Banc). The Court adopted 2 principles of *Accardi*: (1) where individual rights are impacted, a government agency must follow their own procedural rules; and (2) if a rule affords Due Process, then any action that results from a violation of that rule is invalid. *Id.*, citing *United States v. Caceres*, 440 U.S. 741, 749-50 (1979) and *United*

*States ex rel Accardi v. Shaughnessy*, 347 U.S. 260 (1954).[61] But the Delaware Order ignored the language contained in the Rule 8.4(c) charge and in Rule 3.4(c), instead effectively engaging in a *post hoc* re-write of rule and charge language. Accordingly, the Delaware Order violated Abbott's Due Process rights.

The Petition alleged that Abbott made false "Affirmative statements," not that he misrepresented based upon the 2 Alleged Omissions. The post-trial attempt to bring a new charge based on the 2 Alleged Omissions is therefore Unconstitutional based on its violation of Abbott's procedural Due Process rights.

The applicable rules also limited prosecution of Abbott to the specific Rule 3.4(c) language as alleged in the Petition, to-wit: disobeying rules of a tribunal, not advising a client on how to potentially avoid a Court Judgment. The Delaware Supreme Court therefore violated Abbott's Due Process right by changing 2 of the 3 Foundational Charges after trial. Creating a new Rule 8.4(c) Charge and re-writing the language of Rule 3.4(c) after Trial violated the 6th & 14th Amendments.

2. The Wholesale Denial Of All Relevant Discovery & Trial Witnesses Ran Afoul Of *Accardi*

DLRDP Rule 15(b) provides that the Superior Court Civil Rules generally apply to lawyer discipline cases, except that "discovery procedures shall not be expanded beyond those provided in Rule 12 hereof, and there shall be no proceedings for Summary Judgment." In turn, DLRDP Rule 12(a)(2) provides that "[a]fter the filing of a petition for discipline, the ODC or the respondent may compel by subpoena the testimony of witnesses, or the production of pertinent records, books, papers, and documents, at a deposition or hearing under these Rules." In addition, Rule 12(e)

[61] The *Accardi* Doctrine unquestionably applies in this Federal proceeding regardless of whether it applied in the prior State proceedings.

permits a respondent to "take the deposition of a witness…by subpoena as set forth in Rule 12(a)(2) above." So although only depositions *duces tecum* and *ad testificandum* are permitted as "discovery procedures," the Superior Court Civil Rule 26 provisions regarding discovery and its breadth apply to the scope of such document and testimonial depositions. The same would hold true for witnesses that may be subpoenaed to testify at trial.

Abbott made filings regarding all discovery (which were all quashed) on November 30, 2020, March 1, 2021, June 30, 2021, July 22, 2021, and August 12, 2021. Abbott made filings regarding all trial witnesses (whose subpoenas were all quashed) via filings dated October 28, 2021, November 5, 2021, and August 22, 2022.

It is beyond question that Abbott is guaranteed the right to Due Process of Law under the 5th and 14th Amendments to the United States Constitution. Procedural Due Process requires, among other things, conformance with applicable Rules and legal provisions. Abbott's rights under applicable law were woefully denied in multiple respects, thereby requiring dismissal of all charges due to the Constitutional frailties.

*First*, Abbott was denied all relevant discovery. This was in direct contravention of his right to receive discovery pursuant to DLRDP Rule 15, which incorporates by reference, *inter alia*, the Rules allowing Abbott to take written and deposition discovery: Superior Court Civil Rules 26-36.

*Second*, Abbott was denied his Constitutional Due Process right to present a full and fair defense at trial pursuant to the improper quashing of every single subpoena (17 total) compelling the trial testimony of all relevant witnesses. Included in the list of witnesses were Johnson, who could have discussed the collusion that she engaged in with the Board Chair, the ODC, and/or the Board Panel Plant in the Star Chamber Proceeding. Abbott was also denied the right to call the

Vice Chancellor and other witnesses that possessed relevant knowledge. Abbott was also denied the fundamental right to production of documents and Sanction Hearing witnesses, which was based on the Board Panel Plant's biased denial of each and every trial subpoena issued.[62]

*Third,* Abbott was denied the right to a fair trial based upon the involvement of the Board Panel Plant in the Star Chamber Proceeding. The Board Panel Plant was installed in this action as a plant with the express aim by Mette that he would assist the ODC in railroading Abbott. Throughout the trial, the Board Panel Plant posed questions and made rulings that were slavishly favorable to the ODC and harmful to Abbott (without justification). He and Vavala were even seen giving one another head nodding signals during the course of trial in a fashion that evidenced collusion between him and the ODC to rig the case against Abbott.

D. Denial Of All Relevant Discovery And Trial Witnesses Contravene Applicable Rules And Concomitantly Violate Constitutional Due Process Rights

1. The Scope Of Discovery Is Broad And Wide; If Evidence Is Relevant, Then It May Be Discovered Without Interference

a. "Any Possibility Of Relevance" Is The Standard, Not The Board Panel Plant's "Hide The Ball Approach"

The Superior Court has well explicated the extensive parameters of discovery permitted by its Rules. It has held that "the scope of permissible discovery is broad to promote the disinterested search for the truth." *Hunter v. Bogia*, 2015 WL 5050648, *5, Wallace, J. (Del. Super., July 29, 2015)(emphasis added). Conversely, the Superior Court has held that "deliberately withholding discoverable information is inconsistent with the nature of our discovery rules." *Id.*

[62] By the time of trial, the Board Panel Plant had ruled against Abbott 40 out of 40 times. During trial, he ruled 17 out of 17 times against Abbott on necessary witnesses and documents subpoenaed. It is inconceivable that Abbott could be wrong 57 consecutive times; the Board Panel Plant was on "Team ODC."

Additionally, the Court in *Hunter v. Bogia* explained why discovery is permissible based solely on the minimal threshold of establishing relevance:

> Delaware Superior Court Rule of Civil Procedure 26(b)(1) states '[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action... .' In Delaware, it is now well-recognized that a broad and liberal discovery process has been designed and adopted to avoid surprises during civil litigation. In turn, the eschewing of litigation maneuvers tending toward a 'sporting theory of justice' has been the Delaware norm for quite some time. It began in 1948, when the Delaware courts adopted new rules governing civil procedure. One of the most significant procedural developments was in the area of discovery. The new discovery practice, adopted in the Delaware Rules, 'helps us to ascertain the truth.' To that end, Delaware courts place great value on an up-front discovery process that exposes all of the available evidence. And so evidence pertaining to relevant factual issues in a case is discoverable. (emphasis added).

The Delaware Supreme Court has confirmed the long-standing principle that discovery is intended "to advance issue formulation, to assist in fact revelation, and to reduce the element of surprise at trial." *Levy v. Stern*, 1996 WL 742818, *2, Walsh, J.J. (Del., Dec. 20, 1996)(Order). In that action, the Supreme Court also held that "[t]o facilitate these ends, pretrial discovery rules are to be afforded broad and liberal treatment." *Id.* (emphasis added).

The Delaware Courts have established a liberal scope of discovery. In *In Re Oxbow Carbon LLC Unitholder Litigation*, 2017 WL 959396, Laster, V.C. (Del. Ch., Mar. 13, 2017), the Court held:

1. The scope of discovery is broad and far-reaching.
2. Rule 26(b) requires "all relevant information, however remote, to be brought out for inspection not only (for) the opposing party but also for the benefit of the Court." (emphasis added).

3. Relevance must be viewed liberally, and discovery into relevant matters should be permitted if there is any possibility that the discovery will lead to relevant evidence. (the "Any Possibility Of Relevance Standard").

4. "Discovery is called that for a reason. It is not called 'hide the ball.'" (the "Hide The Ball Approach").

5. The burden regarding disputed discovery is on the party objecting to show why and in what way the information requested is privileged or not properly requested.

In the context of evidentiary privileges, it is important to consider the intent behind the Delaware Uniform Rules of Evidence ("DRE"). Specifically, DRE Rule 102, entitled "PURPOSE AND CONSTRUCTION," provides:

> These Rules shall be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination. (emphasis added).

Thus, even evidentiary privileges must be applied in a fashion that does not cover up the truth and deny justice.

Movants that sought to quash Abbott's discovery subpoenas therefore had to meet a heavy burden of proof to show why the information and documents sought by Abbott did not meet the "Any Possibility Of Relevance" Standard or were Privileged and not subject to any exception. The mere possibility of finding relevant evidence was sufficient for Abbott to be entitled to the discovery subpoenaed.

In direct contradistinction to the applicable law and legal standards, the Board Panel Plant relied upon the improper Hide The Ball Approach to deny Abbott the discovery that he was entitled

to pursuant to the DLRDP and the Superior Court Civil Rules. As a consequence, Abbott was denied a fair trial and the Delaware Order should not be followed.

b. Abbott's Right To Discovery Is Guaranteed By Constitutional Rights To Due Process & To Confront Accusers

In the lawyer discipline context, it has been held that the United States Constitutional right to Due Process includes an attorney's right to present a theory of defense. *Matter of Crandall*, 430 P.3d 902, 914 (Kan. 2018). The only restraint on an attorney's Constitutional right in that regard is that the evidence must be relevant. *Id.* So the denial of discovery to Abbott correspondingly denied his Constitutional Due Process right to develop his defenses.

In the criminal context, the prosecution has a 14th Amendment Due Process duty to disclose exculpatory evidence. *People v. Gutierrez*, 153 Cal. Rptr. 3d 832, 835 (Cal. App. 2013). And suppressing material evidence bearing on the credibility of a key prosecution witness constitutes a violation of Due Process *per se*. *Id.* at 835-36. Since this action constitutes a *quasi*-criminal proceeding for Federal Constitutional purposes,[63] Abbott's right to obtain discovery sought in the numerous deposition subpoenas is Constitutionally guaranteed.

It has also been held that the physician-patient privilege may be overcome by the paramount right of a criminal defendant to receive records that are essential to the presentation of a defendant's theory of the case or are necessary for impeachment of a witness relevant to the defense theory. *State ex Rel. Romley v. Superior Court In And For County Of Maricopa*, 836 P.2d 445, 452 (Ariz. App. 1992). The Court also held that if records are needed at the pretrial stage so that they may be reviewed for purposes of impeachment of a witness at trial, the 6th Amendment right to confront witnesses is implicated since the United States Constitution's Confrontation

[63] *In Re Ruffalo*, 390 U.S. 544, 551 (1968).

Clause also has a "main and essential purpose" of supporting the ability to effectively cross-examine witnesses.[64] *Id.*, citing *Delaware v. Van Arsdall*, 475 U.S. 678 (1986). The Court also held that the right to cross-examine witnesses is essential to basic notions of Due Process and a fair trial. *Id.*, citing *Chambers v. Mississippi*, 410 U.S. 284 (1973). Again, the *quasi*-criminal nature of this proceeding for purposes of Federal Constitutional protections provided Abbott with the same rights, thereby establishing that denial of all discovery and all trial witnesses rendered the Star Chamber Proceeding Constitutionally invalid.

2. The Factual Discovery Sought By Abbott Should Have Been Allowed

a. Questions Posed To The ODC Were Relevant & Proper

Starting out with the subpoena to the ODC, it is clear that Abbott's deposition questions asking the ODC to explain the bases for the 5 Charges went directly to the heart of this action. Each of the questions asked the ODC to identify and describe facts. In addition, the questions were all focused on the 5 Charges contained in the Petition. Abbott's discovery requests were "Civil Procedure 101" – *i.e.* the type of discovery inquiry that is readily available pursuant to the broad and liberal discovery allowed under the Superior Court Civil Rule 26 *et seq*. Indeed, it was inconceivable that the ODC could avoid having to respond to such questions, as they directly sought an explanation of the factual foundation for the largely conclusory 5 Charges asserted against Abbott.

The purpose of discovery is to refine the issues and enable a party to prepare a case for trial. Without the ODC explaining the facts that supported their serious allegations against Abbott,

[64] Article I § 7 of the Delaware Constitution affords Abbott the same confrontation right. *McGriff v. State*, 781 A.2d 534, 538 (Del. 2001)(en Banc).

he was left guessing and was denied his Constitutional Due Process right to have an opportunity to prepare his defense. Accordingly, the Court should disregard the Delaware Order.

As for the subpoena issued to the ODC seeking general information and data regarding lawyer ethics complaints, referrals, or matters, such information was relevant to Abbott's defenses challenging the entire System as being Unconstitutional based upon the Equal Protection and Due Process Clauses of the United States Constitution, as well as his defenses that he was targeted due to his associational status (as a sole practitioner and a lawyer disliked by a judge), to name a few. Information regarding the types of lawyers that the ODC pursues or gives virtual immunity to would have furthered Abbott's evidence of discriminatory practices based upon a lawyer's associational status (*i.e.* giving preference to big firm lawyers and government attorneys, along with attorneys who are either favored by a judge or draw no judicial ire). No confidential investigatory files or information was sought; only general facts and figures were requested.

b. Aaronson's 5 Questions Needed To Be Answered

The 5 questions directed to Aaronson sought factual information that was directly relevant to Abbott's defenses, including Vindictive Prosecution, Selective Prosecution, Prosecutorial Misconduct, and the like. Abbott well-pled defenses that alleged Aaronson originally proceeded with the unfounded complaint of the Vice Chancellor based upon personal vindictiveness and a desire to advance her judicial career aspirations, allowing the process to move forward against Abbott despite the clear-cut evidence of personal animus and lack of any foundational support for the Vice Chancellor's complaint against Abbott. Abbott also explained how Aaronson was likely fired in part due to her misconduct *vis-à-vis* him, which is evidenced by her specious 2018 Interim Suspension Petition against Abbott (which was later dismissed by her successor). Indeed, the mere fact that Aaronson pursued an unsupported Suspension Petition speaks volumes about her willingness to abuse the System, which taints the legitimacy of the Star Chamber Proceeding.

Additionally, circumstantial evidence that Aaronson even went so far as to attempt to illegally influence a Superior Court Judge in order to advance her personal vendetta against Abbott shows just how Unconstitutional the System is. As a result, the narrowly tailored factual information sought by Abbott from Aaronson was relevant and denial of its production denied Due Process.

c. The 5 Members Would Have Needed Only 5 Minutes To Answer 5 Questions

The subpoenas to the 5 Members asked them 5 simple questions, none of which are intrusive or inappropriate. The Petition alleges that Abbott made a submission to the 5 Members which, in part, formed the basis for numerous charges alleged against him. The questions went directly to the issue of whether the 5 Members ever even saw the comments that were alleged to constitute ethical violations by Abbott.

The DLRPC rule relied upon for all of the related charges against Abbott requires that the tribunal supposedly degraded can actually know about the statements. It is self-evident that if a person is unaware of a derogatory comment then they cannot be degraded; it is as if the comment was never made. The subpoena sought 5 factual responses, not any mental processes. The relevant discovery sought by Abbott from the 5 Members was improperly denied, constituting a Due Process violation.

d. Johnson Had Relevant Information Needed For Abbott's Defense

The subpoena to Johnson sought information about rigging the process to harm Abbott. It also sought information regarding whether and how the Preliminary Review Committee ("PRC") returned charges against Abbott. The questions also sought highly important information about

the composition of the 3-person PRC panel, so that Abbott could determine if any of them were disqualified pursuant to Abbott's Motion for Recusal.[65]

The 7 questions posed to Johnson could have been easily and quickly answered, so that Abbott would receive the relevant factual discovery that he was entitled to in order to present his defenses in this action. Constitutional Due Process necessitated Johnson's responses, in order for Abbott to fully and fairly present his defense case in this action.

e. The ODC's Star Witness – The Vice Chancellor – Possessed Discoverable Information Necessary To Abbott's Defense

The 7 questions posed to the Vice Chancellor all sought facts. The Vice Chancellor is Abbott's accuser, who Abbott is entitled to confront pursuant to the 6th and 14th Amendments to the United States Constitution. The 7 questions could be relatively easily answered by the Vice Chancellor. And the questions went directly to the disparaging remarks that he concocted and included in a doctored-up record with the express intent to harm Abbott by asking the ODC to engage in a "fishing expedition" based upon his personal animus toward Abbott.

Put to his proof, the Vice Chancellor would need to explain himself, and if he could not then Abbott would be exonerated from his false allegations. In addition, the allegations in the Petition contend that Abbott improperly referred to the Vice Chancellor, but if he failed to state any foundational support for his defamatory statements about Abbott it would have been established that Abbott's truthful and opinion-based comments were protected by the 1st Amendment to the United States Constitution. As a result, the information sought from the Vice Chancellor was discoverable. Abbott was denied his fundamental Constitutional right to Due Process.

[65] Abbott also would have delved into the way the Board Panel Plant was installed by Johnson as Board Panel Chair via Mette's improper influence.

3. The ODC's Objections To The Subpoena Were Without Merit

The ODC objected to the subpoenas propounded upon them based upon unsupported statements that they sought privileged, protected, and confidential disciplinary files regarding other lawyers and were unduly burdensome. But the ODC's mere *ipse dixit* was not adequate to deny Abbott his relevant factual discovery.

Abbott sought facts supporting the charges alleged against him. The factual information sought went to the very heart of this entire case: the Petition and the 5 Charges contained therein. If the ODC had facts that support the 5 Charges brought against Abbott, then it was time for it to disclose such facts so that Abbott could rebut them at trial. Otherwise, the ODC would be allowed to conduct a "trial by ambush" in violation of Constitutional Due Process principles.

As for the subpoena to the ODC that sought information regarding lawyer ethics complaints, referrals or matters, the ODC needed to only refer to its already available documents that compiled the numbers on an annualized basis. Notably, the ODC did not assert that it did not have annual reports that such data could be readily culled from in order to respond to the questions. Instead, the ODC alleged a veritable "parade of horribles," asserting, *inter alia*, that it would have to spend hundreds of hours responding to the questions posed.[66] If the ODC did not keep certain data in a format that would enable them to readily provide Abbott with answers, then it could object to those questions with specific explanations of what the ODC did not have. Since the ODC failed to do so, however, it must be presumed that they already had the information sought at their fingertips but simply wanted to cover-up the facts and handcuff Abbott from being able to defend himself against the 5 Charges.

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[66] Note the ODC's pure hypocrisy in that statement: it does not want to have to spend any more time than necessary to provide Abbott with a full and fair opportunity to defend himself, but it will make Abbott waste thousands of hours over a period of over 7 years in a quixotic and ill-founded personal retribution and harassment campaign.

4. Aaronson Was Not Opposing Counsel (She Got Fired) & Misconduct Is Not Privileged

Aaronson also attempted to dodge her discovery obligations in this matter by asserting that she was the opposing counsel to Abbott in this action and therefore had a privilege from having to disclose her misconduct. Not true.

For starters, it is obvious that Aaronson was not the opposing counsel in this action. She was terminated from employment on a sudden and unannounced basis. She had engaged in her retributive campaign against Abbott by abusing her powers, which appear to have included her highly inappropriate and unethical attempt to influence a judge to render a decision to advance her personal campaign to attack Abbott. It is highly probable that this, at least in part, was grounds for her dismissal as Chief Disciplinary Counsel. The attempt by Aaronson to deny the relevance of such information, which is blockbuster "scandal sheet" evidence, belies logic and the law.

The standard for relevance is that the information will make it more or less likely that something is true. Aaronson's misconduct *vis-à-vis* Abbott would show the personally vindictive nature of the ODC's pursuit of charges against Abbott, which formed the basis for multiple defenses asserted by Abbott. And all of the information Aaronson provided could be subject to a Confidentiality Order, insuring non-disclosure if it should not end up being supportive of any of Abbott's Defenses.

No privilege applies to abuse of office and unethical conduct. Aaronson cited to no legal authority that a privilege to hide misconduct existed.

Next, Aaronson bore the burden of identifying what information would be subject to any work product or lawyer-client privilege. Instead, Aaronson threw out the terms work product and attorney-client privilege in the abstract, without any information to determine if her assertions of privilege had any validity. It is well settled that: 1) the person objecting to discovery bears the

burden of establishing the privilege exists; and 2) stating a proper claim of privilege requires specific designation and description of the allegedly privileged discovery and precise and certain reasons for preserving the confidentiality. *Deutsch v. Cogan*, 580 A.2d 100, 107 (Del. Ch. 1990). Aaronson did not even present a *prima facie* case for any privilege, let alone meet her burden to prove it applied. Regardless, the Attorney-Client Privilege must yield to the interests of justice. *Hoescht Celanese Corp. v. Nat'l Union Fire Ins. Co. of Pittsburgh, Pa.*, 623 A.2d 1118, 1123 (Del. Super. 1992)(also holding that "a party may always be compelled to disclose relevant information even when the information was received through a communication which is itself privileged." at 1122). Accordingly, Aaronson's claims of privilege failed.

Further, Aaronson mis-cited *Hickman v. Taylor*, 329 U.S. 495, 513 and 516 (1947) as support for privilege arguments. That case actually held that the attorney-client privilege did not bar discovery of similar documents and information. *Hickman v. Taylor* at 508. And Aaronson's reliance upon *Daugherty v. Highland Mgt.*, 2019 WL 1642498 (Del. Ch., April 10, 2019) was misplaced since: 1) it is not a Court decision, it is a party filing; and 2) it may have involved discovery from the opposing counsel that would be conducting the trial, which Aaronson will not be. No privilege was shown to bar Abbott's discovery requests to Aaronson.

Aaronson's conduct constituted one of the major defenses that Abbott asserted in this action. Defenses of Selective Prosecution, Selective Enforcement, violations of the DLRDP and DLRPC, Bad Faith and Harassment, and more were all pinned on conduct undertaken by Aaronson in this action. Abbott was entitled to determine if Aaronson's firing by the Supreme Court was based in part or whole on actions she took in this matter, which circumstantial evidence and reasonable inferences arising therefrom point toward being the case. So too was Abbott entitled to take discovery to support his defenses regarding Aaronson's Prosecutorial Misconduct, slavish

and sycophantic pursuit of this matter solely because a judicial officer was the complainant, and other important defenses Abbott had to the charges alleged against him. Abbott had a paramount right to present a full and fair defense to the allegations against him, which was denied and violated his right to Due Process.

Finally, no governmental or prosecutorial privilege shielded Aaronson from being deposed about her conduct in this matter and whether she attempted to influence Judge Eric M. Davis (resulting in her subsequent discharge from employment by the Supreme Court). Nor does it protect Aaronson's conduct, which was unethical and in contravention of the DLRDP. It is understandable that Aaronson would want to hide from the truth when it is so damaging to her reputation. But given Abbott's multiple defenses alleging that the ODC and Aaronson targeted him, harassed him, proceeded without any valid legal or factual foundation, etc., Aaronson was a key witness in Abbott's defense and was subject to discovery regarding facts relevant to Abbott's defense case.

Aaronson conceded that her claim of governmental and prosecutorial privilege was "not absolute." Under the circumstances, any such privilege available to Aaronson should not have been applied to block Abbott's search for the truth. Abbott's interests in defending a case Aaronson improvidently started outweighed Aaronson's interests. And her privacy concerns were readily resolved by an appropriate confidentiality order. The Delaware Order is not worth of any deference.

5. The Vice Chancellor's Attempt To Prevent Abbott From Confronting Him Based On The Defamatory Statements He Made & His Ill-Founded Complaint Against Abbott Is The Epitome Of "Hiding The Ball"

The Vice Chancellor started this whole mess. And the charges against Abbott were laced with allegations that depended on the Vice Chancellor and alleged that Abbott made improper

statements regarding the Vice Chancellor (which are true and 1st Amendment protected speech and opinion). There is zero evidence to support any of the hyperbolic remarks lobbed at Abbott by the Vice Chancellor, thus making him the key witness in the case.

The Vice Chancellor relied upon the assertion that obtaining discovery from a judge should be discouraged. Under the extraordinary circumstances of this action, however, mere discouragement fell to the wayside in order to allow Abbott the relevant factual discovery that he sought and was entitled to.

The Vice Chancellor waived any right to object to the limited, relevant discovery sought by Abbott in this instance. The Vice Chancellor is the one that initiated the entire unfounded process against Abbott, and he could not be heard to complain about the *de minimis* inconvenience of having to respond to Abbott's relevant questions.

The Vice Chancellor also wrongly alleged that Abbott sought his mental processes. A quick review of the questions posed by Abbott to the Vice Chancellor, however, reveals that Abbott sought no information about the mental decision-making process of the Vice Chancellor. Instead, Abbott sought factual explanations of the defamatory statements made by the Vice Chancellor, which not only disparaged Abbott inappropriately but gave birth to the entire Star Chamber Proceeding. The Vice Chancellor is the one that started the matter, and he had no right to deny Abbott his 6th and 14th U.S. Constitutional rights to confront his accuser.

6. Johnson's Assertion That The 7 Questions Propounded To Her Are Not Relevant, Are Privileged, And Would Require Extensive Data Compilation All Missed The Mark

Abbott has presented circumstantial evidence tending to prove that Johnson was directed to not appoint a Board Panel so that the Board Chair would be able to decide Abbott's Motions to Quash. If proven, such conspiracy to rig the Corrupt System would be damning to the legitimacy of this Star Chamber Proceeding. It would provide yet another example of its illegitimacy.

Additionally, Abbott's questions regarding the PRC went directly to the issues of whether: 1) a PRC panel was actually ever convened as required by the DLRDP; and 2) the PRC panel included any persons that should have recused themselves pursuant to Abbott's well-founded Motion for Recusal (of attorneys that regularly practice before the Court of Chancery). Improprieties in the Star Chamber Proceeding constituted evidence supporting Abbott's defenses, which generally alleged Abbott could not obtain a fair trial. Relevance was established.

None of Johnson's answers to the questions asked to her would be privileged. No questions sought confidential communications with the PRC. And directives to not do her job from the Board Chair could not be privileged since they violate the DLRDP.

Lastly, Abbott did not seek extensive research from Johnson. She did not claim the data and figures sought by Abbott must be compiled from scratch. In fact, the associational information regarding members of the Delaware Bar was already compiled on an annual basis. And if any questions posed by Abbott did necessitate extensive research, then Johnson could have said so and then Abbott would have either accepted her explanation or sought a chance to perform the research himself.

7. Reliance Upon Two Decisions Regarding Discouragement Of Allowing Discovery From Judicial Officers Are Off The Mark

Many of the Motions to Quash Abbott's subpoenas relied upon *Brooks v. Johnson*, 560 A.2d 1001 (Del. 1989) and *McCool v. Gehret*, 657 A.2d 269 (Del. 1995) for the propositions that discovery from Judicial Officers was discouraged and rarely appropriate. Both of those cases, however, were distinguishable. As a consequence, reliance upon those decisions was misplaced.

In *Brooks v. Johnson*, 560 A.2d 1001, 1004 (Del. 1989), the Supreme Court held that "persons performing adjudicatory functions have no cognizable personal interest before a higher tribunal in seeking to have their rulings sustained." The Court also held that it was "most irregular

to subject adjudicatory officials to pre-trial or trial interrogation regarding their mental or decisional processes in the proper performance of their official duties." *Id.* But the latter proposition was founded on the fact that there was an opportunity during the process for the party seeking discovery to fully vet issues and present an opposing case. *Id.* at 1003. Here, Abbott had no such opportunity with respect to proceedings before the Vice Chancellor, in which he summarily disparaged Abbott with false and defamatory remarks aimed at ginning up a record to send to the ODC for purposes of his personal animus campaign against Abbott. And Abbott has no idea whether the 5 Members ever read the 2 statements, rendering the facts in *Brooks v. Johnson* inapposite. As a consequence, none of the holdings in *Brooks v. Johnson* have any applicability in the case at bar.

In *McCool v. Gehret*, 657 A.2d 269, 281 (Del. 1995), the Supreme Court held that Rule 605 of the Delaware Uniform Rules of Evidence acted as a bar to the trial testimony of "the judge specially assigned to preside at this entire proceeding." In that action, a judge that had presided over a prior proceeding testified as an expert witness in support of one of the parties in a subsequent trial. *Id.* at 280. Abbott did not request that any Judicial Officer appear as an expert witness, but instead sought factual information relevant to the presentation of his defenses. Consequently, *McCool v. Gehret* was not on all fours and the Board Panel Plant's reliance on it warrants case dismissal.

### E. The Erroneous Denial Of Abbott's Argument Regarding Free Speech Immunity Under the *Noerr-Pennington* Doctrine Also Violated Abbott's Right To Due Process

The Delaware Order acknowledged that the *Noerr-Pennington* Doctrine provides "broad immunity from liability to those who petition the government, including administrative agencies and courts, for redress of their grievances." *In re: Abbott* at *25. But it wrongly alleges that the Doctrine does not apply "[b]ecause this is not a civil proceeding and Abbott is not being held liable

for his statements... ." *Id.* It is well-settled that the *Noerr-Pennington* Doctrine "governs the approach of citizens or groups of them to administrative agencies and to courts." *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972).

Abbott's *Pro Se* submissions to the Board and the PIC are protected speech under the *Noerr-Pennington* Doctrine since both of those bodies constitute an administrative agency (and the PIC is a *quasi*-judicial body). The PIC is a State Board created by Title 29, Chapter 58 of the Delaware Code. The Board is an administrative agency serving the Supreme Court, which is created pursuant to Supreme Court Rules. The Board is akin to regulatory boards and commissions that govern professional licensure in the Executive Department of Delaware government. *See* Title 24, Delaware Code.

Given Abbott's broad-based *Noerr-Pennington* immunity for his submissions to the Board and the PIC, he cannot be punished for the statements; he is absolutely immune from prosecution therefor by the Doctrine. The Delaware Order's theory that *Noerr-Pennington* immunity cannot apply to Abbott under the circumstances is in error. Indeed, it is the height of absurdity for the Delaware Supreme Court to assert that "Abbott is not being held liable for his statements," since Abbott has been disbarred, at least in part, as a result of those statements ( a very serious form of liability).

### F. Denial Of A Fair & Impartial Process; The Board Panel Plant, Conspiracy & Cover-Up[67]

Board Panel Chair Randolph K. Herndon, Esquire (the "Board Panel Plant") was installed based upon a conspiracy between 2 or more of him, Luke W. Mette, Esquire ("Mette"), Kathleen M. Vavala, Esquire ("Vavala"), and/or Karlis Johnson ("Johnson"). He was planted in the position

[67] Further points regarding this subject are contained hereinafter and at Trial Exhibits 161 and 171. Citation to "Trial Exhibit _" herein refers to the exhibits introduced at the November 2021 Trial.

with the express purpose of railroading Abbott, covering up Judicial Misconduct and the corruption that brought about the 5 Charges against Abbott, and abusing his position of power for purposes of denying Abbott a fair trial. Indeed, the Board Panel Plant had previously expressed his opinions of dislike regarding Abbott and his desire to have Abbott ushered out of the Delaware Bar (he "advocated to get Abbott thrown out of the Bar," was "assigned...as a tool to rig the outcome," and "spearheaded a campaign to have...Abbott...purged from the Bar").[68]

1. Board Panel Plant Denial Of Virtually All Due Process, Other Than The Soviet Style Show Trial

Throughout the course of the Star Chamber Proceeding, from the very first teleconference through the angry and disturbing Recommendation II content spewed by the Board Panel Plant, he denied Abbott all fair treatment, all discovery, all trial witnesses, a fair and impartial Board Panel, and a full and fair hearing.[69] Abbott hereby incorporates by reference every filing that he has made regarding the Board Panel Plant and his rulings as proof positive that the Board Panel Plant has never acted in a fashion that would accord Abbott even a minimum modicum of fundamental fairness and Due Process.[70] The record establishes that the Board Panel Plant consistently ruled

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[68] *See* "*Pro Se* Respondent's Sanction Hearing Exhibits" dated August 24, 2022 at Exhibits E and F.

[69] Abbott incorporates by reference: 1) Motion For Reargument Of Initial Case Scheduling Order dated October 12, 2020;
2) Respondent's Reply In Support Of His Motion For Reargument Of Initial Case Scheduling Order dated October 15, 2020; 3) Letter to Board Panel Plant dated November 11, 2020; and 4) Letter to Board Panel Plant dated November 17, 2020. *See also* T2348-2349 (Trial Transcript from November 2021). These documents show Board Panel Plant bias from the outset.

[70] *See* Abbott's filings, all of which are hereby incorporated by reference regarding:
(1) Motions denying Abbott all written and deposition discovery dated November 30, 2020, March 1, 2021, June 30, 2021, July 22, 2021, and August 12, 2021; (2) filings regarding denial of all Abbott Trial Witnesses dated October 28, 2021, November 5, 2021, and August 22, 2022;
(3) the Complaint to the Court on the Judiciary against the Board Panel Plant dated May 18, 2021, *See* Trial Exhibit 161;
(4) "Trial Transcript Evidence of Herndon Bias Against Abbott & In Favor Of The ODC" at Exhibit N to the "Appendix To *Pro Se* Respondent's Post-Trial Memorandum" dated April 18, 2022;

contrary to the law with the sole aim of carrying out the pre-planned cover-up to protect the corrupt actions that he undertook in concert with one or more of Mette, Vavala, and Johnson. The Board Panel Plant carefully guarded the secret conspiracies and schemes which were undertaken by, *inter alia*, Mette to insure that Abbott: 1) did not receive anything beyond lip-service in terms of Due Process; and 2) would be denied the ability to prove his defenses, including the fact that the Star Chamber Proceeding was rigged from the get-go.

In the Summer of 2020, Mette hand-picked the Board Panel Plant. Pursuant to an unlawful conspiracy, Mette was able to have Johnson appoint the Board Panel Plant, with the express aim of ushering Abbott out of the Bar.[71] Mette was acquainted with the Board Panel Plant and also insured his installation as Board Panel Chair in proceedings before the Board of Bar Examiners ("BBE") involving a prospective Bar Member by the name of Brooks Witzke.

It is readily apparent that the Board Panel Plant was not selected by coincidence or randomly; it is literally impossible that the same individual could be appointed to be the Chair of a Panel overseeing both the most controversial BBE proceeding in the history of the Delaware Bar and the most controversial Board proceeding in the Delaware Bar's history.[72]

The evidence establishes that the Board Panel Plant, Mette and/or Johnson and Vavala engaged in a conspiracy to get the Board Panel Plant in place so as to carry out a "hatchet-man"

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(5)"Respondent's Opening Brief In Support Of His Motion *In Limine* To Exclude Certain Non-Expert Evidence" dated August 31, 2021; and
(6) "Respondent's Reply In Support Of His Motion *In Limine* Regarding Non-Expert Evidence" dated October 5, 2021.

[71] Mette even implied that the Supreme Court "ushered lawyers out of the Bar" at the first teleconference on October 5, 2020.

[72] With approximately 3,000 members of the Delaware Bar, the prospect that the same lawyer could be appointed as the Chair of 2 different Supreme Court Panels to serve at the same time is a "one in a million" longshot. Yet the Board Panel Plant ended up on both the BBE and the Board and was a Board Panel Chair for both simultaneously.

role. Mette was aware the Board Panel Plant shared his personal disdain for Abbott.[73] Abbott refers to the explanations contained in App. Exs. G and H for a detailed description of all of the bases for the Board Panel Plant being biased and prejudiced, the contents of which are hereby incorporated by reference.[74]

The Board Panel Plant has also shown his prejudice against Abbott pursuant to: 1) making numerous inappropriate comments critical of Abbott during trial, posing loaded and ODC-favorable questions aimed at harming Abbott[75]; and (2) rendering trial rulings which were mostly adverse to Abbott, only making a few Abbott-favorable rulings so as to make it appear that he was being fair (to fool the other Board Panel members). The Board Panel Plant insured that in this Star Chamber Proceeding Abbott received only a Soviet-Style Show Trial.

Finally, the Board Panel Plant's: 1) Inquisition Theory; 2) Perfection Theory; and 3) Always Wrong Theory - showed his persistent bias against Abbott.[76] Under his three novel, illogical posits: (1) only evidence regarding Abbott's conduct was relevant and should be allowed and considered, foreclosing the extensive evidence of Judicial Misconduct by the Vice Chancellor, Lawyer Misconduct by Weidman, and Prosecutorial Misconduct by the ODC; (2) Abbott had to be 100% right on every matter or else he would be castigated, while ODC errors were always

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[73] Mette referred to Delaware Bar Applicant Brooks Witzke as "Richard Abbott, Jr.," and stated that his entry into our Bar should not occur since he would be just as much "trouble" as "mule kick" Abbott was. The Board Panel Plant agreed with Mette's use of Abbott as a derogatory adjective, which shows bias against Abbott was one of the reasons he was appointed as the Board Panel Chair.

[74] Citations herein to "App. Ex. _" are to the lettered exhibits contained in the "Appendix To *Pro Se* Respondent's Post-Trial Memorandum & Memorandum On Related Subjects" dated April 18, 2022.

[75] App. Ex. N contains a list of 22 non- exclusive examples with transcript page citations.

[76] The Board Panel Plant also concocted numerous absurd legal theories for deciding matters against Abbott – *e.g.* bizarre claims that the Delaware Freedom of Information Act created a judicial privilege against discovery and that he was a Judge.

overlooked; and (3) virtually every Abbott legal argument – totaling 100 or more – were denied. Indeed, evidence of the misconduct of others in this case was key to Abbott's defenses regarding, *inter alia*: 1) the lack of any legitimate basis for the ODC to have charged Abbott; (2) the fact that the entire prosecution of Abbott is based upon the improper Motives of the Vice Chancellor, Weidman, and the ODC; 3) all of Abbott's statements are entirely true and therefore cannot be degrading, discourteous, or disruptive since they merely recount the facts (which are unrebutted and therefore must be taken as true).

2. The Board Panel Plant: Uncontested Proof Of A Fixed, Rigged Process – He's Was On Team ODC From The Start – A Blatant Denial Of Due Process

Abbott presented uncontraverted evidence that the Board Panel Plant was "recruited [by ODC] to come in here to destroy [Abbott], we know that." Trans. II at 117.[77] There was a "conspiracy by Mr. Mette to recruit Mr. Herndon, who he became familiar with as a result of Mr. Herndon's service at the same time as Board Panel Chair on the Board of Bar Examiners for an applicant, Brooks Witzke" and "[t]hat's probably the most controversial Board of Bar Examiners matter ever." Trans. II at 118. Abbott went on to uncontestedly explain "[t]he ODC has gamed the system, they have gotten a Board Panel Plant in this case knowing that that Board Panel Plant at least according to Mr. Witzke's allegations has previously expressed bias and hatred for me and that Mr. Mette brought [Mr. Herndon] in." Trans. II at 121.

Abbott's wife testified at the Hearing about the "palpable" evidence of The Board Panel Plant's bias in favor of the ODC and against Abbott. Trans. II at 74. During the course of the Trial of this action in November of 2021, Jill "was immediately struck with the agitation and dismissive and annoying tone and posture towards [Abbott]" exhibited by the Board Panel Plant.

[77] Citations to "Trans. II at _" are to the pages of the August, 2022 Sanction Hearing Transcript.

Trans. II at 72. She observed that the Board Panel Plant and ODC counsel were nodding heads to one another and making eye contact, which made her believe "it was very palpable that there was validation and that there was a sense of that." Trans. II at 73.

Additionally, Abbott introduced Exhibits E and F and testimony based thereon, which established that the Board Panel Plant was handpicked by Mette since he was a known Abbott-hater and would therefore do the bidding of the ODC to destroy Abbott. Mette was familiar with the Board Panel Plant since he served as Board Panel Chair in the matter of Mr. Witzke, an applicant to become a member of the Delaware Bar. Trans. II at 117-18. Abbott pointed out that this type of inappropriate conspiratorial activity to fix this Star Chamber Proceeding was another example of the Psychological Abuse that has been caused to him for over 7 years. Trans. II at 121 and 124-25. Abbott then went on to present numerous undisputed statements about the Board Panel Plant's bias against Abbott, noting that they were extremely disturbing to Abbott.[78] Trans. II at 133, 134, 138-39, 140-41, and 145.

Abbott was denied his Constitutional Due Process right to present a full and fair defense at trial pursuant to the improper quashing of every single subpoena (17 total) regarding relevant witnesses. Included in the list of witnesses were the Johnson, who could have discussed the collusion that she engaged in with the Board Chair, the ODC, and/or the Board Panel Plant in the Star Chamber Proceeding. Abbott was also denied the right to call the Vice Chancellor and other witnesses that possessed relevant knowledge. Abbott was also denied the fundamental right to

[78] Herndon had a chance to rebut the evidence; he was called as a witness by Abbott to be questioned about his Board Panel Plant status. Trans. II at 280-285. But Herndon hid behind the mirage of being a Judge subject to DRE Rule 605, even though he is clearly not a Judge. *Id.*

production of document and Sanction Hearing witnesses, which was based on the Board Panel Plant's biased denial of each and every trial subpoena issued.[79]

Additionally, Abbott was denied the right to a fair trial based upon the involvement of the Board Panel Plant in the Star Chamber Proceeding. The Board Panel Plant was installed in this action as a plant with the express aim by Mette that he would assist the ODC in railroading Abbott. Throughout the trial, the Board Panel Plant posed questions and made rulings that were slavishly favorable to the ODC and harmful to Abbott (without justification). *See e.g.* App. Ex. N.

## XI. Abbott Was Improperly Denied Discovery & Trial Witnesses That Had Relevant Evidence In Support Of His Defenses[80] ; Due Process Was Lacking

### A. Relevant Defenses Asserted By Abbott

Among Abbott's 96 Affirmative Defenses contained in his Answer are the following general categories of defense:

1. The Legal Bar to ODC reliance on virtually all of the allegations contained in the Petition for Discipline ("Petition"), including the legally Confidential and Privileged nature of statements.

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[79] By the time of trial, the Board Panel Plant had ruled against Abbott 40 out of 40 times. During trial, he ruled 17 out of 17 times against Abbott on necessary witnesses and documents subpoenaed. It is inconceivable that Abbott could be wrong 57 consecutive times; the Board Panel Plant was on "Team ODC."

[80] Abbott hereby incorporates by reference all filings regarding this subject contained in his filings on this subject, as follows: 1) Respondent's Brief In Opposition To Motions To Quash Deposition Subpoenas And In Support Of His Motions To Compel dated November 30, 2020; 2) Motion For Reargument Of Decision & Order On Motions To Quash And Motions to Compel dated March 1, 2021; 3) Respondent's Omnibus Responses In Opposition To Motions To Quash dated June 30, 2021; 4) Motion For Reargument Of Decision & Order On Recipients' Motions To Quash Interrogatory Subpoenas dated July 22, 2022; 5) Respondent's Response In Opposition To Supreme Court Motion To Quash dated August 12, 2021; 6) Emergency Petition For Enforcement Of Subpoenas dated October 28, 2021; 7) Respondent's Response In Opposition To Motion To Quash Subpoenas dated November 5, 2021; and 8) *Pro Se* Respondent's Response In Opposition To Motions To Quash Subpoenas dated August 22, 2022.

2. The failure of the charges to plead predicate acts sufficient to support a violation of specific Rules of the Delaware Lawyers' Rules of Professional Conduct ("DLRPC") relied upon in the Petition.

3. Improper actions against Abbott over the past 7 years, including Prosecutorial Misconduct, Selective Prosecution, *Laches*, Statute Of Limitations, Unclean Hands, Failure to Prosecute, Bad Faith, Breach of the Lawyer-Client Privilege, and Judicial Misconduct of the Vice Chancellor.

4. In Abbott's Ninety-Fourth through Ninety-Sixth Affirmative Defenses, he challenged the Constitutionality of the entire Delaware Lawyer Discipline System based upon the 1st Amendment's Freedom of Association Clause and the Equal Protection Clause of the 14th Amendment.[81]

5. Constitutional defenses based upon the State and Federal Constitutional Right to Free Speech, Freedom of Association, right to be free from Disparate Treatment and Invidious Discrimination, the right to Due Process of law, and the right to Petition Government for Redress of Grievances.

6. Abbott's defenses are also based on the fact that statements he is being attacked for making were: 1) given in his *Pro Se* capacity, not as a "lawyer"; and 2) not submitted to any "tribunal."

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[81] Abbott's defenses alleged that the System treats sole practitioners based upon *supra*-legal standards and immunizes law firm and government attorneys from their clear-cut ethical violations. It was also alleged that the System is Unconstitutional on the grounds that it disregards the DLRPC and instead acts based on whether or not a judge in the relevant litigation made a comment or was silent (making the judicial associational status of a lawyer brought before the ODC a determining factor on whether they proceed with charges).

7. Lastly, Abbott's defenses include the improper attempt by the ODC to transmogrify non-binding concepts into legal duties against Abbott, including the Principles Of Professionalism For Delaware Lawyers, the concept of "Political Correctness," and the good ole' "Delaware Way."

Front and center in Abbott's Defenses is the inadmissibility of all of the documents that the ODC relied upon for quoted statements attributed to Abbott, based upon the fact that they are Confidential and/or Absolutely Privileged by law. In addition, all statements attributed to Abbott in the Petition were made by him *Pro Se*, not as a "lawyer" so as to subject Abbott to the requirements of the DLRPC. As noted hereinbefore, the ODC even fabricated a new 5th Charge against Abbott, which was theretofore never investigated.

Additionally, Abbott's Defenses are based upon the ODC's violation of his rights under the 1st and 14th Amendments to the United States Constitution and his Free Speech and Freedom of Association rights. Indeed, Abbott's Defenses seek a determination that the Corrupt System is Unconstitutional based upon: 1) its historic targeting of sole practitioner lawyers and lawyers that are disfavored by judges; and 2) the comparative immunity granted by the ODC to law firm lawyers, government lawyers, and lawyers that are favored or not disfavored by judges.

The System cannot withstand Constitutional scrutiny. Abbott was entitled to discover information from the ODC to further exhibit the ODC's rampant discriminatory practices in violation of Constitutional Equal Protection and Freedom of Association rights of sole practitioner lawyers and/or lawyers who may draw the subjective ire of a judge. The Star Chamber Proceeding is an example of ODC Unconstitutional practices; targeting a sole practitioner and lawyer personally disliked by a Judge. Abbott provided six (6) examples of the ODC's Unconstitutional,

discriminatory conduct to establish a solid foundation to delve deeper into ODC policies and practices in support of his defenses.

B. Reliance Upon Petition Allegations Brought Judicial Officers Within The Purview Of Available Discovery Based Upon A High Degree Of Relevance

1. The Petition Was Laced With Excerpts That Rely Upon Allegations Made By The Vice Chancellor

Right out of the box, the Vice Chancellor is mentioned in paragraph 2 of the Petition, (referring to the Vice Chancellor as "the Court of Chancery" and including a Civil Action Number with his initials - "VCG"). The Vice Chancellor is then either directly or indirectly referred to in 13 additional Petition paragraphs: 5, 8, 16, 19, 23-27, 29-31, and 34. Indeed, paragraph 31 mentions the Vice Chancellor thirty-one (31) separate times, for a grand total of 45 Petition excerpts that rely on the Vice Chancellor.

Virtually the entire case put forth by the ODC was based upon the false allegations and inappropriate personal attacks lobbed at Abbott by the Vice Chancellor. Consequently, discovery from the Vice Chancellor sought evidence relevant to the heart of the case and Abbott's defenses.

2. The Petition Allegations Brought The 5 Members Into This Action

At paragraph 32 of the Petition, the ODC listed 2 excerpts (the "2 Excerpts") from the Confidential Star Chamber Proceeding regarding the 5 Members of the Supreme Court (the "5 Members"). No allegation was made that any of the 2 Excerpts have ever been seen by any of the 5 Members or that the documents the 2 Excerpts were drawn from were ever before any "Tribunal." That means the ODC failed to prove the charge as a matter of law.

More importantly, it was established that the ODC had interjected the 5 Members into this action as necessary witnesses. Therefore, limited discovery from such witnesses was relevant.

C. The Administrative Assistant Discovery Was Also Highly Relevant And Discoverable

Due to COVID-19 Emergency Orders issued by the Supreme Court and some short, preliminary extensions of time by the ODC, Abbott's Answer to the Alleged Petition ("Answer") was not filed until July 1, 2020. At that time, however, rather than proceeding to appoint a Board Panel to consider the matter as called for under DLRDP Rule 9(d), Johnson did nothing. *See* Trial Exhibit 141.

Johnson initially claimed she had not seen the Answer when Abbott spoke to her on August 7, 2020. Johnson later recanted, admitting she was aware of the Answer at the time. Abbott then communicated with Johnson via letter to request that a Board Panel be appointed (and that scheduling be deferred due to probable discovery disputes). *See* Trial Exhibits 142 and 143.

Quite unusually, Johnson had her lawyer send a curt letter which forbade Abbott from communicating with Johnson. Trial Exhibit 144. Abbott responded by letter dated August 18, 2020, noting, *inter alia*, the odd use of legal counsel by a Court clerk.

Johnson failed to timely appoint a Board Panel in this action since she colluded with the Board Chair to delay such appointment so as to intentionally permit the Board Chair (a proven ally of the ODC) to decide the Motions to Quash Abbott's multiple discovery subpoenas. A Motion for Recusal of the Board Chair from any further involvement in this action had been pending approximately 6 months before he attempted to get his claws into critical motion practice. Trial Exhibits 135 and 137. But the Board Chair never decided the Motion for Recusal despite his affirmative duty to do so under DLRDP Rule 2(d).

In order to dispense with the improper collusion between the Administrative Assistant and the Board Chair, Abbott withdrew his subpoenas. Trial Exhibit 147. Johnson then finally appointed the Board Panel in this action, thereby eliminating the possibility that the Board Chair

would have any involvement in a determination of Motions to Quash Abbott's discovery subpoenas (to be re-issued at a later date).

On October 20, 2019, Abbott re-issued his subpoenas for discovery depositions. *See* Trial Exhibits 150 and 151. This time, however, Abbott issued an additional subpoena to take the deposition of Johnson in order to, *inter alia,* unveil the improper collusion between her and the Board Chair (further proof positive of corruption in the Star Chamber Proceeding). *Id.*

D. Information Regarding Aaronson's Misconduct & Firing Shows The Corrupt Nature Of This Proceeding & Supports A Number Of Abbott's Defenses

Despite having done little in dealing with the Vice Chancellor's "fishing expedition" complaint against Abbott for nearly 3 years after its initiation in 2015, Aaronson suddenly decided to open a second front in her personally motivated war against Abbott. In one of the most blatant abuses of power in System history, Aaronson decided to try to annihilate Abbott's law practice and livelihood by filing a spurious Petition for Interim Suspension on March 12, 2018 (the "Suspension Petition"). Trial Exhibit 113.

In the Suspension Petition, Aaronson alleged that Abbott had filed multiple pleadings containing claims that were: 1) frivolous; 2) degrading to a tribunal; 3) intended to embarrass or delay; 4) impugning the integrity of a judge; 5) misrepresentations; and 6) prejudicial to the administration of justice. The fundamental foundation of the Suspension Petition was the theory that Abbott had filed frivolous motions and pleadings. And without citation to even one decision finding that Abbott had submitted any such "frivolous" filings, Aaronson sought the virtual "death penalty" of interim suspension against Abbott.[82] Not surprisingly, Aaronson cited to no decisional

[82] Once suspended, a sole practitioner like Abbott would lose his law practice and livelihood without any discovery, trial or proof. But Aaronson wanted to destroy Abbott to reap her personal revenge, a total abuse of power.

law authority supporting the proposition that alleged "frivolous" filings could support the highly punitive penalty of an interim suspension.

Thankfully, the Supreme Court issued a prompt Stay of the Suspension Petition on April 13, 2018. Trial Exhibit 114. The Supreme Court obviously recognized that the interim suspension of lawyers is typically limited to extreme and egregious circumstances such as felony criminal charges, theft of client funds, or refusal to cooperate and/or non-response to legitimate inquiries regarding a lawyer's law practice. And no such circumstances supported the Suspension Petition.

Five (5) days later, on April 24, 2018, Abbott filed a Motion for Partial Relief from Stay and to Dismiss (regarding the Petition for Interim Suspension). Trial Exhibit 115. Disappointingly, the Delaware Supreme Court never bothered to even acknowledge that it had received Abbott's filing, instead ignoring it and failing to take any action on it. It was not until a year later, on April 11, 2019, that the ODC filed a Motion To Withdraw Verified Petition For Interim Suspension. Trial Exhibit 117.

Not surprisingly, the ODC could not bring itself to admit that it was wrong in filing the Suspension Petition.[83] Instead of using the correct Rule 41 term "dismissal," however, the ODC used the legally non-existent term "withdrawal." So Abbott filed a limited objection to the ODC's Motion, merely requesting that the Supreme Court recognize that pursuant to the DLRDP and Superior Court Civil Rule 41 the proper phraseology for the ODC's request to drop its bogus Suspension Petition was instead a "dismissal." Trial Exhibit 118. Amazingly, the Delaware Supreme Court refused to acknowledge that legal reality, instead agreeing with the ODC's request

[83] Abbott received no apology from the ODC for its attempt to ruin Abbott's legal career out of pure personal spite.

for "withdraw" despite Abbott's legally meritorious establishment that it was properly framed as a "dismissal." *See* Trial Exhibit 119.

The reason that the Supreme Court Stayed the groundless Suspension Petition and the ODC ultimately dismissed it is because in point of fact Abbott did not file any "frivolous" pleadings or motions. Indeed, it was borne out in subsequent litigation that Abbott's claims were meritorious, despite the fact that he did not ultimately prevail in those actions.

Approximately 6 months after the Delaware Supreme Court put Aaronson's bad faith Suspension Petition against Abbott on hold, she was fired from her job by the Supreme Court. No thank you's, acknowledgement of service to the Court, or any other mention of her sudden departure from her 6 year tenure as Chief Disciplinary Counsel of the ODC ever occurred. Instead, Aaronson slipped out in the dead of night, under highly suspicious circumstances. Obviously, Aaronson was ousted by the Supreme Court for misconduct, or else she would have been provided some type of public "thank you" and recognition for her service.

## XII. The 8½ Year Attack Campaign Pursued Against Abbott By The Corrupt Disciplinary Authority And Overlooked By The Delaware Supreme Court Constituted A Grave Injustice To Abbott And His State Property Right (His Law License)

It is well-settled that a professional license constitutes a State of Delaware recognized property right. *Walton v. Board of Examiners of Psychologists*, 1991 WL 35716, * 4, Barron, J. (Del. Super., Febr. 21, 1991). *See also Nardo v. State Bd. Of Plumbing Examiners*, 2001 WL 845663, *5, Herlihy, J. (Del. Super., April 17, 2001)("licensed plumbers have an existing property right in their professional license… ."). "A professional license is property within the Fourteenth Amendment to the United States Constitution and thus is afforded due process protection." *Villabona v. Bd. Of Medical Practice of State*, 2004 WL 2827918, *6, Witham, J. (Del. Super.,

April 28, 2004). Since a disbarment takes away that property right, the requirements of the Due Process Clause must be stringently followed.

As set forth hereinbefore, Abbott's 14th Amendment Due Process rights were trampled upon with impunity throughout the Star Chamber Proceeding. And the System is Unconstitutional under the 1st and 14th Amendments' Freedom of Association and Equal Protection clauses. Thus, the Delaware Order is not worthy of any deference by this Federal District Court.

## XIII. The Draconian And Unjustified Penalty Of Disbarment Was Not Warranted Under The Circumstances & The Sanction Was Based On Faulty Premises

### A. Hypertechnical & Nonsensical Violation Findings & Prior Case Precedents Cannot Justify Disbarment

The Delaware Order disbarred Abbott for: (1) his alleged failure to state the obvious in the Abbott Letter; (2) advising his client on how to potentially avoid a Court Judgment; (3) making highly critical statements about the Vice Chancellor and the Supreme Court, which were either truthful, an expression of opinion, or a statement of legal strategy and which were Confidential and/or Absolutely Privileged. The absurdity of disbarring an excellent, 34-year Delaware lawyer for such picayune matters and legal constructs is glaring. Disbarment is normally reserved for Delaware lawyers who: (1) steal client money; (2) are convicted of felony crimes; or (3) fail to keep proper books and records and/or pay taxes, and lie about it. Abbott did none of those things. Indeed, a merit-based evaluation of the properly framed offenses alleged against Abbott reveals they are hypertechnical at most. No suspension is warranted under the circumstances, let alone a disbarment.

It is self-evident that real estate may be conveyed by an owner. And the Consent Order was well-known to all in the Chancery case. Lawyers advise clients on how to possibly avoid

Court Judgments all the time. And a "Message In A Bottle That Can Never Be Found" harms no one.[84]

Additionally, nine (9) examples of other Delaware lawyer disciplinary sanctions reveals that disbarment of Abbott was unwarranted, unprecedented, and unjustified. Decisions supporting the sanction of an Admonition or Public Probation against Abbott include:

- In *In re: Howard*, 765 A.2d 39 (Del. 2000), this Court imposed a 3-year Suspension based on highly publicized drug convictions (*i.e.* serious criminal conduct).
- A 3-year Suspension was imposed in *In re: Steiner*, 817 A.2d 793 (Del. 2003) for criminal convictions for 2 counts of vehicular assault and 1 count of driving under the influence.
- A 1-year Suspension was imposed where an attorney pilfered funds from multiple client trust accounts (*i.e.* criminal offenses of theft). *In re: Vanderslice*, 55 A.3d 322 (Del. 2012).
- An attorney received a 1-year Suspension for committing 10 acts of misconduct which harmed clients, the disciplinary process, and made false Court filings. *In re: Tos*, 576 A.2d 607 (Del. 1990).
- A 1-year Suspension was also imposed for about 10 or more acts of misconduct harming clients and Courts, a conflict of interest, and false submissions to the Court. *In re: McCann*, 669 A.2d 49 (Del. 1995).

[84] Ironically, the Delaware Order's publication of Abbott's Statements is the first time any harm could be caused; they had previously been secreted away under legal "lock and key." So the Supreme Court's publication of Abbott's statements is the sole cause of any harm; Abbott kept them Confidential and Private.

- Only a 1-year Suspension was imposed in *In re: Shearin*, 721 A.2d 157 (Del. 1998) for violations committed in: (1) making false statements to a Court; (2) public disrupting or degrading comments towards a tribunal; (3) counseling a client to engage in conduct which was known to be criminal or fraudulent; (4) bringing non-meritorious claims before Courts; (5) failing to make reasonable efforts to expedite litigation; and (6) offering falsified evidence.[85]
- In *In re: Poliquin*, 49 A.3d 1115 (Del. 2010), a Suspension of 6 months and 1 day was imposed based on serious violations regarding misrepresentations to the Court and missed client deadlines, despite the fact that the lawyer had been previously disciplined via: (1) a private admonition; (2) a 1-year suspension; and (3) a public reprimand and 2-year probation.
- A 3-month Suspension was imposed in *In re: Pankowski*, 947 A.2d 1122 (TABLE)(Del. 2007) for an attorney's failure to consult with the client about pleading content, failure to respond to the client, failure to inform the client of Court Orders, forgery of a client's signature and falsely notarizing the signature, failure to conduct an adequate investigation and prepare and file a motion for a criminal client, charging that client an excessive fee, and breaching the client's trust by taking money without authorization.[86]

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[85] If a 1-year suspension for those serious, multitudinous offenses committed by the lawyer only warrant a 1-year suspension, it is evident that a zero (0) year suspension is in order under the circumstances here present.

[86] If those serious violations of the public trust, the client trust, duty to the Courts, and duty to the Bar merit only a 3 month suspension, it is clear that the circumstances in this case do not justify any suspension (let alone a disbarment).

- A 30-day Suspension and an 18 month period of Probation with conditions was imposed where an attorney engaged in representation where he had a conflict of interest, took a $1,500 retainer fee before it was earned, failed to enter into a written engagement agreement, and failed to return the retainer fee when representation was terminated; despite 2 prior Public Reprimands of the lawyer. *In re: O'Brien*, 26 A.3d 203 (Del. 2011).

These cases establish that Abbott's minor infractions, which could cause no one any harm since no one would ever find out about them, do not even warrant a suspension; Public Probation or Admonition would be consistent with past discipline decisions.

B. The Delaware Order's Sanction Rationale Is Infirm; Recommendation II's 15 Faulty Premises Render It Meritless

The Delaware Order relied on the fatally flawed Recommendation II (issued by the Panel). For at least fifteen (15) reasons, Recommendation II was unwarranted:

1. First Faulty Premise – Letter = Transfer By 2 Deeds - **NO**

a. Abbott Letter Cannot Be Conjoined With Transfer

No one relied upon the 2 Alleged Omissions to their detriment. Further litigation involved the Ownership Transfer. The Abbott Letter caused zero (0) actual or potential harm. The Consent Order was known to all and what Mrs. Jenney did with the 2 Properties in the future was unknown to all.

b. 2 Alleged Omissions ≠ Ownership Transfer – So No Harm

The Ownership Transfer was accomplished pursuant to the 2 Deeds; the 2 Alleged Omissions were not an issue in the litigation. The validity of the 2 Deeds was not questioned. Title was transferred in a legally operative fashion; use of the term "sham" was contrary to the facts and law.

2. Second Faulty Premise – Presumptive Sanctions Must Be Applied As A New Step 4 of 5 In The Sanctions Analysis - **NO**

a. Precedent: Presumptive Sanctions Are Not Part of 4-Step Analysis

Contrary to the Board Panel's erroneous position that Presumptive Sanctions must be applied as a brand new 4th Step in the Sanction analytical process, Delaware Supreme Court precedent establishes a different approach. The first 3 factors of the 4-factor test – Rule Violation, Duty, Injury - are initially analyzed, after which the 4th factor – any Aggravating and Mitigating circumstances - is applied to determine whether a greater or lesser sanction is called for. *In Re: Figliola*, 652 A.2d 1071, 1076 (Del. 1995). Recommendation II erroneously applied presumptive Sanction provisions in the ABA Standards that do not apply and are mere suggestions and then considered Aggravating and Mitigating factors, rendering the Board Panel's suggested Sanctions without any legal merit.

b. 5.0, 6.0 And 8.0 Of ABA Standards Are Inapplicable

The Board Panel heavily relied on ABA Standards 5.0, 6.0, and 8.0. Recommendation II at 96-125. But ABA Standards 5.0, 6.0, and 8.0 state that they only apply: 1) "[a]bsent aggravating or mitigating circumstances"; and 2) after "application of the factors set out in Standard 3.0." (the 4-Step analysis). In addition, 5.0, 6.0, and 8.0 are only "generally appropriate," not mandatory

If Aggravating and Mitigating factors are present, as they are here, then Presumptive Sanctions in ABA Standards 5.0, 6.0 and 8.0 do not apply. Regardless, 5.0, 6.0, and 8.0 are mere suggestions and they do not take the Sanction of Probation into account. Consequently, the presumptive sanctions do not apply and Recommendation II is legally erroneous in its entirety.

3. Third Faulty Premise – Hyberbolic Statements & Plauditory Statements = Proof Of Abbott Serious Misconduct - **NO**

a. Facts & Circumstances Here Do Not Show Anything Serious

Statements that are a Message In A Bottle That Can Never Be Found and hairsplitting omission allegations which no one ever could or did detrimentally rely upon are the height of hypertechnical in nature. At most, they could be violations in the abstract. But in the real world they ultimately make no difference since they caused no one any harm (nor could they have). Indeed, the minor infractions are the essence of the Latin term *Damnum Absque Injuria* (a wrongful act which occasions no legal remedy).

b. The Panel Concocted The Phantom 6th Charge & Applied Illogical Law=Fact, Crystal Ball & Hiding In Plain Sight Theories

The Board Panel had to literally make up the Phantom 6th Charge to find anything wrong with Abbott's conduct during the course of the Chancery proceedings, which establishes that the ODC failed to meet its Burden of Proof to establish Alleged Petition Count III since it charged affirmative statements by Abbott (not omissions as the Board Panel created out of thin air).

c. Abbott Secret Statements Are Unknown to World

– Insider Baseball & Never Be Known to Bar, Courts & Public - Message In A Bottle That Can Never Be Found

One cannot be degraded if they do not have any knowledge of supposedly degrading statements. The term "degrading" has a causation element – *i.e.* it must be possible for degradation to occur. The Vice Chancellor is unaware of the statements, no proof exists that the Supreme Court is aware of them, the public is certainly not aware, members of the Bar are unaware, and the legal system cannot ever be exposed to them - they are completely Confidential and Absolutely Privileged.

4. Fourth Faulty Premise – Chicken Little Hysteria Warranted - **NO**

a. Use of Inapplicable Terms

In an effort to escalate this minor matter into a big deal, Recommendation II used overblown adjectives and marched out a veritable "parade of horribles" in an attempt to make the proverbial "mountain out of a molehill." But it is undisputed and indisputable that Abbott did not breach any duties to the 2 most important audiences per the ABA Standards: the Client and the Public. And neither the Legal Profession nor the Legal System are aware of Abbott's secret statements and the Phantom 6th Charge.

So no harm to any of the 4 audiences that the ABA Standards are aimed at protecting occurred; no Duty was breached. The violations recommended were of a minor nature; Recommendation II's attempt to over-inflate the level of seriousness fell flat.

5. Fifth Faulty Premise – Intentional Or Knowing Mental State & Injury - **NO**

a. Evidence Shows Minor Infraction At Worst

Uncontested Sanction Hearing evidence presented by Abbott shows that his Mental State was less then Negligent and there was no actual or potential Injury to anyone. Only a minor Sanction was justified under the circumstances here present.

6. Sixth Faulty Premise - Rule 3.5(d) – Mere Recitation & Conclusory Statements Make It So - **NO**

a. Wrong – Need to Provide Examples of Harm

Recommendation II relied on mere *ipse dixit* for the proposition that there was Injury or potential Injury to the public, the legal system, and the legal profession. The public is blissfully ignorant of Abbott's statements and the 2 Alleged Omissions. And the legal system and the legal profession are also without any knowledge thereof. Since no factual examples of how Injury was or could be caused to any of those 3 audiences, it is apparent that Injury was not established.

7. Seventh Faulty Premise (Rule 8.4(c)) – Sham & 2 Alleged Omissions Caused Serious Harm - **NO**

   a. Wrong Again – Panel Concocted Law=Fact, Crystal Ball & Hiding In Plain Sight Theories – Vice Chancellor, Public, Bar & Legal System Know Nothing About Omissions Or Statements

   b. Ownership Transfer – Perfectly Legal & Permissible

   c. Ownership Transfer Spurred Case Activity, Not Alleged Omissions: No Injury From 2 Alleged Omissions

The mere fact that other persons have subjective, stylistic differences with Abbott's litigation approach is nothing more than personal opinion; no Injury or Potential Injury was proven by the ODC.

8. Eighth Faulty Premise – No Mitigating Factors - **NO**

   a. Abbott – Established 7 Weighty Mitigating Factors

As Abbott summarized in his argument at the conclusion of the Sanction Hearing, seven (7) significant Mitigating Circumstances were proven by him:

(1) No Dishonest Or Selfish Motive;
(2) Full Disclosure To The Board;
(3) Abbott's Character and Reputation as an Excellent Lawyer;
(4) 4½ Years of Delay in Disciplinary Proceedings Due To ODC;
(5) Remoteness of the Prior Offense: 15 Years Ago;
(6) The ODC Double Standards & The Vice Chancellor's Standards: Lawyers Like Weidman Who Commit Very Serious Offenses Are Let Off Scot-Free; and
(7) Special Circumstances of Psychological Abuse of Abbott for 7½ Years by Weidman, The Vice Chancellor, The ODC, and The Board Panel Plant.[87]

Perhaps the most significant Mitigating Factor is the extreme Psychological Abuse Abbott has endured pursuant to 8½ years of *ad hominem* attacks, harassment and haranguing by Weidman, the Vice Chancellor, and, mostly, the ODC. Abbott has certainly suffered more than any other

[87] Trans. II at 285-308.

lawyer in Delaware Bar history based on false and derogatory attacks by Weidman, the Vice Chancellor, and the ill-motivated ODC counsel.

Abbott had no dishonest or selfish motive since any infraction was an honest mistake. Abbott also complied with all disclosure requirements involving the Board. And Abbott easily established his excellent character and reputation as a Delaware lawyer and that 4½ years of inexcusable delay in the Star Chamber Proceeding were the sole fault of the ODC. Abbott's prior offense was over 15 years ago. And the well-established Double Standards applied by the ODC based upon lawyer associational status and by the Vice Chancellor (based on his blatant favoritism and immunization of the unethical Weidman versus his castigation of Abbott for doing nothing wrong) was proven without contest.

The ODC told Abbott for numerous months in 2016 that 3 Charges would be brought against him, and then they were dropped. The ODC next filed a frivolous Petition for Interim Suspension against Abbott, which it held over his head for more than a year before it too was dropped. Then the ODC brought a Bad Faith 5th Charge against Abbott for his mere request for the professional courtesy of a 2 week extension to file a lengthy submission to the PRC due to family holiday vacation plans and other client commitments in the 2 weeks he was allowed by the ODC's abrupt scheduling announcement. To top it all off, the Board Panel then adopted a Phantom 6th Charge against Abbott, which is Unconstitutional under Due Process protections of the Delaware and United States Constitutions, 7+ years later. Abbott had suffered enough, and a Sanction of a minor nature, if any at all, was in order under the circumstances.

9. Ninth Faulty Premise – Dishonest Or Selfish Motive - **NO**

   a. *Lyle* Denial - Precludes Violation of Rule 8.4(c)

   b. Mistake At Most

   c. Consent Order Not In Effect

d. Abbott – No Planned Re-Conveyance Or Knowledge Of Future Control Of 2 Properties

e. If Forgot to Use Term "Title" Before "Ownership" – Not Any Intentional Or Knowing Act

No record evidence supports the theory that Abbott acted to benefit himself or that Abbott was motivated to be dishonest. In the 7 years after the date of the Abbott Letter, no one was ever able to establish any inaccuracy in it. It took the Board Panel's concoction of the Phantom 6th Charge based on supposed omissions (not Affirmative Statements as charged) for there to even be a Rule 8.4(c) discussion necessary at the Sanctions stage.

The 2 Alleged Omissions constitute a minor oversight at the most. Abbott has explained that he did not include reference to the Consent Order because it was his reasoned legal opinion that it was no longer in play since it had elapsed due to the failure of Jenney to meet the October 2014 deadline to complete work at the 2 Properties, leaving the Settlement Agreement as the sole remaining operative legal document. And the uncontraverted Trial evidence established that Abbott had no idea what might happen in the future with respect to Mrs. Jenney's ownership and use of the 2 Properties, nor that Abbott had any knowledge of what actually occurred after title to the 2 Properties was transferred via the 2 Deeds.

Abbott acted within the bounds of the law to zealously represent his client based upon the client's decision on which options to select in litigation. That was Good Lawyering, not a fault.

10. Tenth Faulty Premise – Multiple Offenses All Judged Same - **NO**

a. 2 Alleged Omissions Not Serious
b. No Harm From Statements – Secret Forever
c. Catchall Charge – No Independent Foundation (8.4(d) not a standalone charge)
d. Really Just 2 Minor Infractions - Setting Aside Histrionics & Insatiable Desire to Destroy Abbott

The suggestion of 3 violations by Abbott does not mean that all 3 Charges should be given heavy weight since:

(1) the Rule 8.4(d) Catchall Charge is just a tack-on that goes with virtually every case that is ever brought by the ODC (little weight);

(2) the hypertechnical Phantom 6th Charge is deserving of low weight in light of its multiple legal infirmities and lack of injury or potential injury to anyone; and

(3) the Rule 3.5(d) Charge is likewise of low weight due to the fact that there is and could be no injury since the statements constitute a Message In A Bottle That Can Never Be Found.

11. Eleventh Faulty Premise – Obstruction Of Disciplinary Proceeding - **NO**

a. Abbott Not Obstructed Anything
b. No Violation of Procedural Rules
c. Abbott Has Exercised 1st Amendment Rights to Free Speech And Petition Government & Filed Well-Pled Submissions
d. Aaronson Delayed & Got Fired – Incompetent
   - No action 6/15 to 6/16
   - No action 9/16 to 3/18
   - Filed Frivolous Petition for Interim Suspension – no action 3/18 to 5/19
e. Asserted Lawyer-Client Privilege Per Client
f. Filed Well-Founded Motions for Recusal
   - Appearance of Impropriety Standard = Very Low
g. Lawsuits – Irrelevant to Board Proceedings
h. Abbott Professional & Cooperative – Justifiably Fought Bogus 7+ Year Campaign of ODC Harassment & Haranguing
   - ODC Should Not Have Ever Started Matter
   - Just ODC Anger – For Abbott Fighting ODC Corruption

The attempt to punish Abbott for vigorously and zealously defending himself in this Star Chamber Proceeding was without merit.

12. Twelfth Faulty Premise – ODC Not Engage In "Deceptive Practices" In Disciplinary Process - **NO**

a. Abbott Did Not Misrepresent Extension Request

- Exhibit D & Trial Exhibit 126
- Asked for 2 weeks due to insufficient time to prepare lengthy PRC submission
- After 4½ year delay – ODC advised 12/17/19 of 1/8/20 PRC
- Abbott Vacation 12/21/19 to 12/29/19 + 1/1/20
- Only 2 Days to Meet 12/31 Deadline (12/20 & 31)
- Trial Monday 12/30
- Tied Up 12/18
- Brief Due in Chancery 12/20
- Time Needed to Clear Up Client Matters by 12/20
- Response was filed & was lengthy & comprehensive – Trial Exhibit 136
  - ➢ Another *Eg.* Of ODC Lying & Cheating

b. Abbott Not Deceptive re: Complaints v. Unethical Attorneys

- ODC: No Cite for Block Quote on p.21
- Abbott Clearly Stated 2 Bases for Complaints at Transcript pp. 1716-1721
- ODC Taking 2-Page Testimony Out Of Context
- 5 Page Transcript Excerpt Leaves No Doubt – 2 Reasons for Complaint v. Unethical Attorneys

c. ODC Is One Guilty of Deceptive Conduct

- *See egs.* Post-Trial Submission at Proposed Findings – paras. 8, 9, 13, 31, 35-39, 92-93, 106-109, 150, 303, 307, 309 (19 ODC Lies)
- *See also* – White Opening Statement Laced with Privileged, Inadmissible Prejudicial Statements of Abbott

13. Thirteenth Faulty Premise –Lack Of Admission Conduct Wrongful: **Not Worth Much Weight**

a. Factor Deserving of Little Weight
b. Every Attorney Denying DLRPC Violations Denies Charges & Most Attorneys Caught Red-Handed & Must Be Contrite
c. 8.4(c) Not Violated Per Count III Charge
   - No Affirmative Misrepresentation & No Proof Detrimental Reliance on 2 Alleged Omissions
d. Abbott Believed *Pro Se*, 1st Amendment, No One Consciously Degraded, Non-Tribunal, Confidential & Absolute Privilege Protected Speech
e. Can't Punish for Zealous Defense Against Weak Charges Alleged

Why would Abbott admit that he did anything wrong when he did not? At most, Recommendation I asserted minor violations which caused no Injury and were less than Negligent in nature. Abbott believed in good faith that he had the right to criticize the Vice Chancellor for his Judicial Misconduct in light of the various forms of Absolute Privilege, Confidentiality, and Constitutional Protection that he was entitled to (particularly given his *Pro Se*, non-lawyer status). And Abbott certainly will not admit a wrong for the Phantom 6th Charge; it was concocted *post hoc* by the Board Panel and is not what was alleged in Petition Count III. Given the weak nature of the Recommendation I findings of Rule violations as a matter of fact and law, this supposed aggravating factor was worthy of very little weight.

14. Fourteenth Faulty Premise – Experience As Lawyer - **Worth Little Or No Weight**

a. American University Law Review, Vol. 48, Issue 1 (1998) at p. 50 Makes Point:
   - "Justifications for treating substantial experience in the practice of law as an aggravating factor are weak in many cases."
   - Use of the factor is "in many cases essentially retributive."
   - An attorneys' potentially greater knowledge and experience does not justify routinely enhancing the sanction.
   - The Factor and the ABA Standards' lack of explanation on how & when to use it "invites unfair and inconsistent results."

b. Factor Should Be Given Little Weight

The issue of Experience need not rotely be applied as an Aggravating Factor. It is worthy of minor weight. No reasonable lawyer would find that the Abbott Letter contains anything but 100% truthful statements and the issues of first impression *vis-à-vis* the statements could not have been reasonably expected.

15. Fifteenth Faulty Premise – This Case Is Remotely Similar to *Shearin* - **NO**

a. *Shearin* Directly Disobeyed Court Order Forbidding Her From Transferring Title to Church Property
b. *Shearin* **PUBLICLY** Disparaged Then Vice Chancellor Steele
c. *Shearin* filed Lawsuit Held Frivolous
d. *Shearin* Had Zero (0) Basis for Her Allegations
e. Abbott – Not Do a., b., c., or d.
   - The System is Unconstitutional & Corrupt – Herndon has done ODC bidding to prevent Abbott from showing extent of corruption
   - But Abbott presented significant, undisputed evidence of a broken System – where decisions are made based on associational status, not merits
   - And Abbott is a far better attorney & solid member of Bar + *Shearin* Had No Mitigating Factors

The *piece de resistance* in the personal attack campaign against Abbott was the attempt to morph Abbott into K. Kay Shearin. *First*, Abbott's conduct bore no resemblance at all Shearin's direct disobedience of Court Orders and wildly unfounded public allegations regarding then Vice Chancellor Steele. *Second*, Abbott did not engage in frivolous filings in the Court of Chancery action. The shameful attempt to smear Abbott with the likes of Ms. Shearin was all the more evidence of the insulting, offensive, personally disparaging motive of the ODC and the Board Panel Plant, who had an insatiable appetite to destroy Abbott's legal career based purely on personal animus and vengefulness.

16. Conclusion; 4 Weak Aggravating Factors vs. 7 Weighty Mitigating Factors – Only A Minor Sanction Is Justified

The ODC failed to establish 5 of 9 alleged Aggravating Factors. The ODC could only show low weight factors of Experience, Prior Discipline, Lack of Wrongful Conduct Admission, and Multiple Offenses. Indeed, due to the Catchall Charge under Rule 8.4(d) – Prejudice To Administration of Justice – virtually every disciplinary case has Multiple Offenses. And Abbott

admitted no wrong since he did no wrong – *i.e.* no lawyer who has numerous valid defenses admits a wrong.

Additionally, Abbott's Experience as an excellent attorney and model citizen should count in his favor, not against him. And the Prior Discipline is a factually unfounded and legally invalid decision: 1) the deferential Substantial Evidence standard was not applied to the Board Panel's Recommendation in Abbott's favor; 2) new, misleading, out-of-context fact-finding was undertaken; and 3) Abbott was denied Due Process via lack of any Sanctions process as required by law.

## XIV. The Delaware Order Applied The Wrong Legal Standard For Abbott's 14th Amendment Equal Protection Claim

The Delaware Order concluded that Abbott's challenge to the entire System on Equal Protection grounds was not well stated under the theory that Abbott did not fall into a protected class. *In re Abbott* at *28. But the law did not require establishment by Abbott of membership in a protected class. And even if it did, there was no rational basis or compelling State interest in the record to support the discriminatory treatment of Abbott based upon his associational status – *i.e.* his sole practitioner association and his association as someone disliked by the Vice Chancellor (versus big firm attorneys and government lawyers, and lawyers who were either favored by a judicial officer or were not disfavored).

Abbott presented five (5) examples of ODC refusal to prosecute lawyers that clearly violated DLRPC Rules based on an ODC policy and practice to favor those lawyers due to their associational status (*e.g.* the lawyers worked for big law firms or government and they were favored by the Judicial Officer). That established a *prima facie* case of an Unconstitutional System in violation of the 14th Amendment Equal Protection Clause, which proof was undisputed by the ODC and therefore conclusively established the Constitutional infirmity of the entire System.

"The First Amendment protects the right of an individual to speak freely, to advocate ideas, to associate with others, and to petition the government for redress of grievances." *Smith v. Arkansas State Highway Employees, Local 1315,* 441 U.S. 463, 464 (1979). Government may not infringe these guarantees pursuant to a bar against certain types of advocacy or by sanctioning the "expression of particular views it opposes." *Id.* Here, the System, the Star Chamber Proceeding, and all of the government actors who have been involved violated Abbott's 1st Amendment rights. Because the fundamental rights to Freedom of Association and Freedom of Speech were violated, the discriminatory policies and practices of the System are Unconstitutional and the charges against Abbott and the entire System have no legal validity.

It is well-established that strict scrutiny of a classification is applied in an Equal Protection case when it interferes with a fundamental right, which includes rights guaranteed by the 1st Amendment. *Massachusetts Bd. Of Retirement v. Murgia*, 427 U.S. 307, 312 and n.3 (1976). Freedom of Association is protected by the 1st Amendment and such freedom is entitled to protection from infringement by the States under the 14th Amendment to the U.S. Constitution. *Williams v. Rhodes*, 393 U.S. 23, 30 (1968). And it is undisputed that the 1st Amendment likewise protects the right to Freedom of Speech. Freedom of Association includes the right not to associate – *e.g.* the right to operate as a sole practice lawyer and to not be chums with Judicial Officers.

Abbott well-proved that his 1st Amendment rights to Freedom of Speech and to Freedom of Association were violated based upon the discriminatory policies and practices regularly applied by the ODC to operate the System. Thus, Abbott's claim that the System was Unconstitutional should have been granted and, concomitantly, the entire Star Chamber Proceeding dismissed. The Delaware Order is Constitutionally invalid.

## XV. Conclusion: The Delaware Order Is Unsupported As A Matter Of Fact & Law; This Court Should Not Impose Any Discipline Against Abbott

Based upon the foregoing, the Delaware Order should not be relied upon by this United States District Court for purposes of Abbott's membership in its Bar. Abbott's Due Process rights under the 14th Amendment to the U.S. Constitution were roundly denied throughout the course of the 8½ year long Star Chamber Proceeding. Just as importantly, one of the charges alleged against Abbott is not cognizable in this Court and Abbott has no prior disciplinary record in this Court's Bar. In addition, a "bottom up" analysis of the essential elements of the 3 Foundational Charges reveals that none of them were established by Clear and Convincing Evidence, despite the Delaware Order's conclusory and unfounded theory to the contrary.

Zero (0) evidence was submitted to establish that Abbott made any false Affirmative statements in the Abbott Letter or in the Court of Chancery litigation at issue in violation of Rule 8.4(c). Instead, 2 inane theories were adopted post-trial: the 2 Alleged Omissions (a/k/a the "Phantom 6th Charge"), which were based on the Crystal Ball Theory and the Hiding In Plain Sight Theory. It is self-evident that an omission cannot be an affirmative statement; affirmative statements and omissions are two separate and distinct animals.

Nor was there any proof presented that Abbott disobeyed an obligation under the Rules of the Court of Chancery, which Model Rule 3.4(c) clearly and unambiguously covers (and nothing more). The theory that Abbott's advice to his client on how to potentially avoid a Court Judgment could be magically transmogrified into an Abbott disobedience of a Court of Chancery Rule is unsupported by logic and law.

Model Rule 3.5(d) does not proscribe the statements that Abbott was punished for in the Delaware Order, thereby precluding a violation finding by this Court. In the District Court Bar, the Model Rules prevail and Rule 3.5(d) does not address conduct "degrading to a tribunal".

Consequently, none of the 3 Foundational Charges that the Delaware Order was founded upon can conceivably be established so as to impact Abbott's membership in the Bar of this Court.

The 2 Catch-All Charges fall to the wayside based upon the lack of any proof of the 3 Foundational Charges. The 2 Catch-All Charges are dependent upon one or more of the 3 Foundational Charges. Thus, the 2 Catch-All Charges cannot be proven.

It is evident that the Delaware Order is worthy of no deference by this United States District Court so as to impact Abbott's membership in its Bar. The Constitutional violations alone would be adequate grounds for this Court to disregard the Delaware Order. But given the difference in the Model Rules versus the DLRPC and Abbott's pristine record in this Court's Bar, no grounds exist to impose any discipline on Abbott. The Court can skip most of this submission; it can disregard the Delaware Order after considering only the first few dozen pages (which establish Abbott did not violate the Model Rules).

Abbott cannot be found to have committed any violations of Model Rules 3.4(c), 3.5(d), 8.4(a), 8.4.(c), or 8.4(d) based upon the charges alleged and the record evidence submitted at the Soviet Style Show Trial. Accordingly, the Court should conclude that no grounds exist for pursuing any charges against Abbott or imposing any type of discipline against him as a member of the Bar of the United States District Court for the District of Delaware.

Numerous denials of Due Process violated Abbott's Constitutional rights under the 14th Amendment to the United States Constitution. The denials fatally taint the legitimacy of the Delaware Order. Abbott received nothing but a Star Chamber Proceeding and a Soviet Style Show Trial, followed by the Delaware Order's fabricated facts and fabricated law.

Abbott was denied all relevant discovery and all relevant trial witnesses, despite being guaranteed the right to take such discovery and call such trial witnesses under the operative legal

rules contained in the DLRDP and the Superior Court Civil Rules incorporated by reference therein. The right to take relevant discovery is broad and wide, but the Delaware Order was founded upon a process that improperly shifted the burden to Abbott to show that he could satisfy *supra*-legal criteria to simply confront his accusers and fully and fairly develop his Constitutional defenses under the 1st, 6th, and 14th Amendments to the U.S. Constitution.

The *Accardi* Doctrine, which the Delaware Supreme Court has adopted for purposes of agency proceedings akin to the Star Chamber Proceeding, establishes that the failure of Abbott to be accorded his Due Process rights in accordance with the applicable Rules renders the entire Delaware Order invalid. Abbott was hogtied, bound and gagged, and fundamentally prevented from being able to present his legitimate, full blown challenge to the entire System and to the legitimacy of the Star Chamber Proceeding. Consequently, there is zero Constitutional validity to the Delaware Order, and it should be rejected by this Court.

So too was Abbott denied his 1st Amendment rights to Freedom of Speech, Freedom of Association, and the right to Petition the Government for Redress of Grievances; the Delaware Order is Retaliatory and Discriminatory, in violation of Abbott's 1st and 14th Amendment rights. Abbott was punished for his critical speech, which he had a 1st Amendment right to express. Abbott was also punished for bringing numerous complaints and litigations to undertake both defensive and offensive attempts to obtain fair and equal treatment under the law in the Star Chamber Proceeding (which should have never been initiated in the first place).

Abbott was also denied his right to *Noerr-Pennington* Immunity for his statements since the Delaware Order contended that such immunity does not apply in matters such as the case *sub judice*. *Noerr-Pennington* Immunity has been broadly expanded in both Federal and Delaware

*jurisprudence* to the point where it clearly protects Abbott's statements from being punished based upon that 1st Amendment-based doctrine.

The unbelievably over-the-top, punitive sanction of disbarment imposed against Abbott by the Delaware Order also cannot withstand legitimate scrutiny. The Delaware Order just rubberstamped Recommendation I and Recommendation II, which were driven largely by the Board Panel Plant that Unconstitutionally served (despite his bias and prejudice against Abbott). Typical sanctions for matters of the minor nature alleged against Abbott would at most be a relatively short suspension, not even a multi-year suspension and certainly not the "death penalty" of disbarment.

By conclusory findings, lack of proper application of the "suggestive" ABA Standards, and disregard of Abbott's significant evidence of mitigating factors, the pre-ordained conclusion of disbarment was facially supported. But no rote application of the ABA Standards is required and a holistic view of an appropriate sanction under the circumstances is the well-settled standard that the Delaware Supreme Court typically relies upon. If such an overall evaluation of the appropriateness of the sanction had been undertaken, as the Delaware Supreme Court precedent has held is necessary and appropriate, then it would have been obvious that disbarment is far too severe, punitive, and penal in nature in light of Abbott's significant 34-year legal career. Here, there is a lack of any extreme circumstances typical of disbarment (*e.g.* theft of client funds, felony conviction, lying on submissions regarding taxes or books and records to the Supreme Court). Consequently, the Delaware Order is not worthy of any deference by this Federal Court.

Richard L. Abbott, Esquire
5632 Kennett Pike
Wilmington, DE 19807
(302) 605-4253

Dated: January 5, 2024

MEGHAN MARIE KELLY, ESQUIRE
34012 Shawnee Drive
Dagsboro, DE 19939
(302) 537-1089

The Honorable Henry DuPont Ridgely
Supreme Court of Delaware
502 South State Street
Dover, DE 19901

**RE: INFORMAL COMMENTS ON CLE**

October 1, 2012

Dear Justice Ridgely:

Thank you for participating in the CLE. I enjoyed it immensely. However, I had some concerns.

I was concerned by the appearance of some of the speakers' partiality towards Delaware attorneys. Every attorney that comes before a Delaware Court should be treated the same regardless of where they are from. The Court should not take a Delaware attorneys word over an out of state attorneys word solely on the illogical basis that the Delaware attorney is from Delaware.

I was also concerned about the comment that a judge let an out of state attorney practice pro hac vice because they were from a "respectable firm." I think all attorneys should be held by the same standard regardless of the size or reputation of the firm. They should be looked at as individual attorneys who will potentially have influence within the courts in this state.

On the other hand, I was very impressed by your graceful demeanor. You did not show partiality, nor did you support the above referenced remarks. Instead you sat back silently like a wisdom filled father observing all behavior. Thank you for being a good model for judges and attorneys.

Unfortunately, I have seen partiality towards Delaware attorneys in my practice. In fact during my first appearance in this state a judge accused me of being a "Philadelphia lawyer," as if this was a bad word.

I also worked with Delaware lawyers who grew up in other states, and I was surprised that some lawyers treated me differently because I grew up here. They would treat me with respect, lend me forms offer to meet me for lunch etc...Conversely, I recall how some Delaware attorneys mistreated my former non-native colleague by condescendingly describing "how things are done in Delaware" and "the Delaware way." I recall with disappointment that some Delaware lawyers even used bad language to discuss the Delaware way. I think such language and partiality makes Delaware attorneys look bad. Although it's nice to be given preferential treatment because of where I grew up it does not make it right.

On a personal note, one of the reasons why I became a lawyer was my faith, Christianity. Under my faith, Jesus Christ was executed for no lawful purpose. Instead he died as a result of the passion of the people instead of logic and reason under the law. That is wrong. The judicial system should remain impartial, and individuals should not face such irrational persecution. Nonetheless, this is not the case in our world. That is why I went to law school. And that is why I think it's important to bring my concerns relating to partiality before this Honorable Court to you.

You are the law and all attorneys including myself will strive to adhere to this Honorable Courts wishes. Further, you are the law for all of the lower courts as well. Accordingly, all judges will also strive to adhere to your wishes. Will you please consider discussing the importance of being impartial to your peers?

Thank you for being a good role model and for making a positive impact on Delaware attorneys and Delaware Courts, and thank you for considering my comments.

Have a good week.

Very truly,

/s/Meg Kelly
Meghan M. Kelly
34012 Shawnee Drive
Dagsboro, DE 19939
(302) 537-1089
DE #4968

4

# Supreme Court of the United States
## Office of the Clerk
## Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

January 8, 2024

Ms. Meghan Marie Kelly
Attorney at Law
34012 Shawnee Drive
Dagsboro, DE 19939

Re: Meghan Kelly
v. Disciplinary Counsel Patricia B. Swartz, et al.
No. 23A361

Dear Ms. Kelly:

The Court today entered the following order in the above-entitled case:

The application to file a petition for a writ of certiorari in excess of page limits addressed to Justice Gorsuch and referred to the Court is denied.

Sincerely,

Scott S. Harris

**Scott S. Harris**, Clerk

5

**SUPREME COURT OF THE UNITED STATES**
**OFFICE OF THE CLERK**
**WASHINGTON, DC 20543-0001**

January 12, 2024

Meghan Kelly
34012 Shawnee Drive
Dagsboro, DE 19939

RE: Kelly v. Swartz, et al.
(23A361)
No: 23A100

Dear Ms. Kelly:

The above-entitled petition for writ of certiorari was received October 18, 2023. The papers are returned for the following reason(s):

The petition exceeds the limit of 40 pages allowed. Rule 33.2(b).

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 60 days of the date of this letter, the petition will not be filed. Rule 14.5.

A copy of the corrected petition must be served on opposing counsel.

When making the required corrections to a petition, no change to the substance of the petition may be made.

Sincerely,
Scott S. Harris, Clerk
By:

Lisa Nesbitt
(202) 479-3038

Enclosures

No 23A361
Related Application No. 23A100
IN THE SUPREME COURT OF THE UNITED STATES
Meghan M. Kelly, Petitioner
v.
Disciplinary Counsel Patricia B. Swartz, Disciplinary Counsel Kathleen M. Vavala; David A. White, Chief Disciplinary Counsel, Office of Disciplinary Counsel, Board on Professional Responsibility of the Supreme Court of the State of Delaware, Preliminary Investigatory Committee, Attorney General Delaware

**Certificate of Service of**
**Petitioner Meghan Kelly's Emergency Application to the Honorable Justice Samuel A. Alito, Junior to stay or pause the time to appeal the United States Court of Appeals for the Third Circuit 21-3198 to discern whether Richard Abbott may represent me as counsel in the civil rights case**

I, Appellant Plaintiff Meghan M. Kelly, Esquire, hereby certify that on 2/7/2024, I had a true and correct copy of the above referenced document sent to all Defendants through their attorney,

Zi-Xiang Shen
Delaware Department of Justice
Carvel State Building 820 N. French St. 6th Floor
Wilmington, DE 19801

Dated 2/7/2024

Respectfully submitted,
/s/Meghan Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
(302) 493-6693
meghankellyesq@yahoo.com
US Supreme Court Bar No. 283696

Under Religious objection I declare, affirm that the foregoing statement is true and correct

Dated: 2/7/2024

Meghan Kelly (printed)

(signed)

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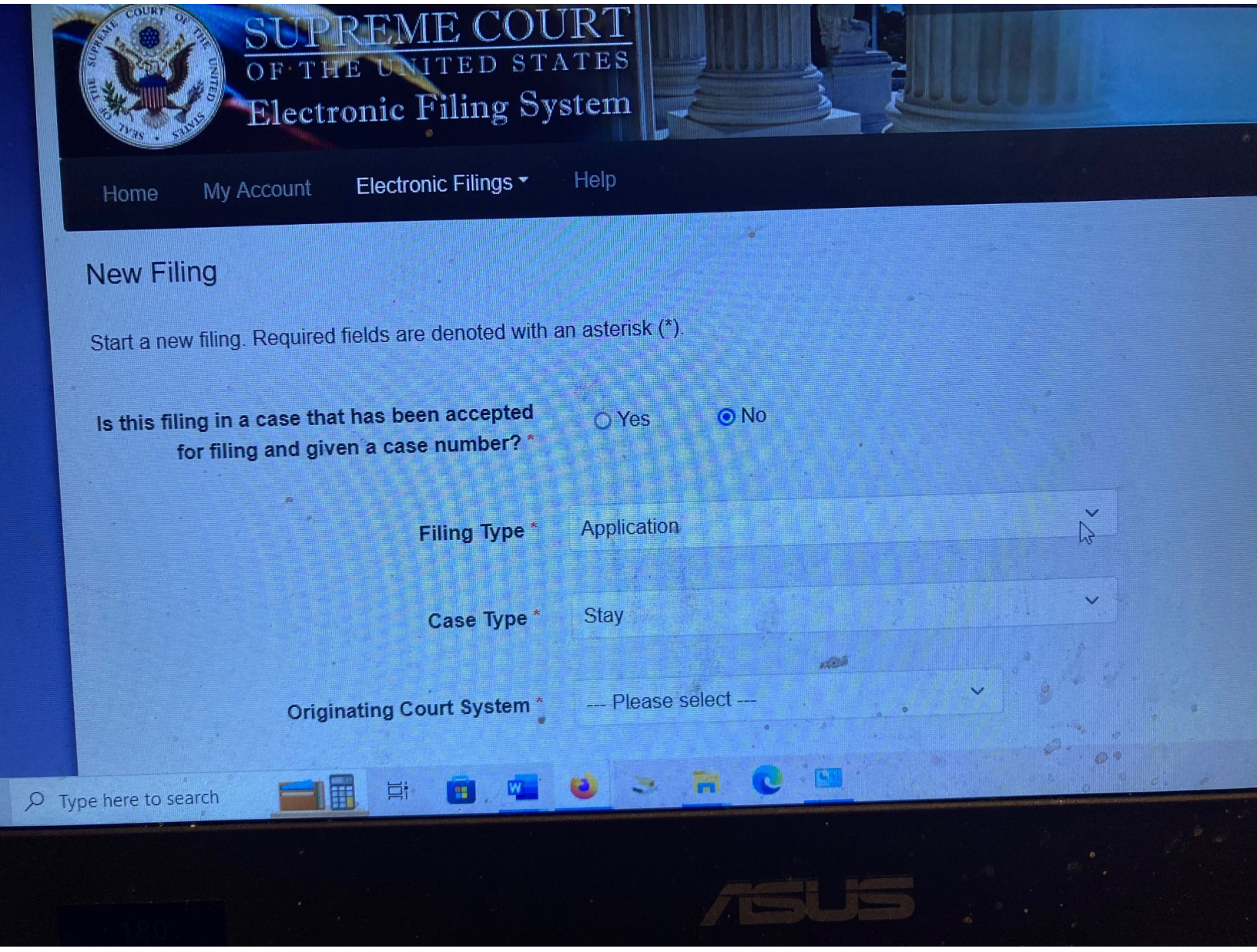
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## Summary

Please carefully review your submission. Once you have submitted your electronic filing request, you will not be able to edit the request.

**Stay - Federal**

Petitioner:
Kelly, Meghan
Respondent:
Disciplinary Counsel Patricia B. Swartz, Disciplinary Counsel Kathleen M. Vavala; David A. White, Chief Disciplinary Counsel, Office of Disciplinary Counsel, Board on Professional Responsibility of the Supreme Court of the State of Delaware
, et al.

U.S. Court of Appeals:
United States Court of Appeals for the Third Circuit
Case Number(s):
21-3198
Court of Appeals Decision Date:
4/20/2023
Did the Court of Appeals deny a timely petition for rehearing?
Yes
Rehearing Denied Date:
6/20/2023

U.S. District Court:
United States District Court for the District of Delaware

Is this a Capital Case?
No

**Attorney**
Meghan Marie Kelly (Counsel of Record)
Party Name:
Meghan Kelly
Firm:
Attorney at Law
Address:
34012 Shawnee Drive, Dagsboro, DE 19939
Phone #:
302-278-2975
Email:
meghankellyesq@yahoo.com

**Notifications**
None

**Documents**

Main Document - Emergency Application to the Honorable Justice Samuel A. Alito Junior to stay or pause the time to appeal.pdf
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Proof of Service - Cert of service with tracking Application to Alito Kelly v Swartz.pdf
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**Supreme Court of the United States**

2



## Summary

* Your Electronic Filing was submitted on 2/7/2024 3:28 PM.

**Stay - Federal**

Petitioner:
Kelly, Meghan
Respondent:
Disciplinary Counsel Patricia B. Swartz, Disciplinary Counsel Kathleen M. Vavala; David A. White, Chief Disciplinary Counsel, Office of Disciplinary Counsel, Board on Professional Responsibility of the Supreme Court of the State of Delaware
, et al.

U.S. Court of Appeals:
United States Court of Appeals for the Third Circuit
Case Number(s):
21-3198
Court of Appeals Decision Date:
4/20/2023
Did the Court of Appeals deny a timely petition for rehearing?
Yes
Rehearing Denied Date:
6/20/2023
U.S. District Court:
United States District Court for the District of Delaware

Is this a Capital Case?
No

**Attorney**

Meghan Marie Kelly (Counsel of Record)
Party Name:
Meghan Kelly
Firm:
Attorney at Law
Address:
34012 Shawnee Drive, Dagsboro, DE 19939
Phone #:
302-278-2975
Email:
meghankellyesq@yahoo.com

**Notifications**
meghankellyesq@yahoo.com

**Documents**

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**Supreme Court of the United States**

3

# Kelly, Meghan v. Disciplinary Counsel Patricia B. Swartz, Disciplinary Counsel Kathleen M. Vavala; David A. White, Chief Disciplinary Counsel, Office of Disciplinary Counsel, Board on Professional Responsibility of the Supreme Court of the State of Delaware, et al.Fw: Your Electronic Filing record has been submitted.

From: Meg Kelly (meghankellyesq@yahoo.com)

To: rmeek@supremecourt.gov

Cc: zi-xiang.shen@delaware.gov; meghankellyesq@yahoo.com

Date: Wednesday, February 7, 2024 at 03:38 PM EST

Hi Robert Meek,

My apologies for the delay. I had time adding the electronic notification. I forgot to hit save and merely hit next.

Attached please find Petitioner Meghan Kelly's Emergency Application to the Honorable Justice Samuel A. Alito, Junior to stay or pause the time to appeal the United States Court of Appeals for the Third Circuit 21-3198 to discern whether Richard Abbott may represent me as counsel in the civil rights case, mailed 2/7/2024 with no number.

The first 5 pages is the application, with the averment and exhibits thereto.

Good luck tomorrow on a very important US Supreme Court hearing. I pray to God the Court maintains the courts' both federal and state's authority to say what the Constitution applied to the law is without giving it away to partial forums who may need review.

Very truly,
Meg
Meghan Kelly
34012 Shawnee Dr
Dagsboro, DE 19939
meghankellyesq@yahoo.com

----- Forwarded Message -----
**From:** "no-reply@sc-us.gov" <no-reply@sc-us.gov>
**To:** "meghankellyesq@yahoo.com" <meghankellyesq@yahoo.com>
**Sent:** Wednesday, February 7, 2024 at 03:28:27 PM EST
**Subject:** Your Electronic Filing record has been submitted.

Your Application for a Stay has been submitted. It will be reviewed once the hard copy is received. If you are not expecting this email, please contact the Supreme Court Electronic Filing Support Group at eFilingSupport@supremecourt.gov.

Emergency Application to the Honorable Justice Samuel A. Alito Junior to stay or pause the time to appeal.pdf
6MB

Cert of service with tracking Application to Alito Kelly v Swartz.pdf
713.7kB

submitted - Electronic Filing System External.pdf
164.4kB

# RE: Thank you/efiling questions/2 matters 1. Kelly v Eastern District of PA 23A596 or other Number and Kelly v Swartz No number

From: Richard Abbott (rich@richabbottlawfirm.com)

To: meghankellyesq@yahoo.com

Date: Tuesday, February 13, 2024 at 05:29 PM EST

ok

Richard L. Abbott, Esq.
Abbott Consulting Services
5632 Kennett Pike
Wilmington, DE 19807
302-605-4253

**From:** Meg Kelly <meghankellyesq@yahoo.com>
**Sent:** Tuesday, February 13, 2024 5:09 PM
**To:** Richard Abbott <rich@richabbottlawfirm.com>
**Cc:** Meg Kelly <meghankellyesq@yahoo.com>
**Subject:** Fw: Thank you/efiling questions/2 matters 1. Kelly v Eastern District of PA 23A596 or other Number and Kelly v Swartz No number

FYI, they did not docket the application for a stay.

Even if you would consider representing me, it doesn't look like the US Supreme Court is giving you a chance.

Thanks,

Meg

----- Forwarded Message -----

**From:** Meg Kelly <meghankellyesq@yahoo.com>

**To:** EFilingSupport <efilingsupport@supremecourt.gov>; Robert Meek <rmeek@supremecourt.gov>

**Cc:** Meg Kelly <meghankellyesq@yahoo.com>; supremectbriefs@usdoj.gov <supremectbriefs@usdoj.gov>; Shen Zi-Xiang (DOJ) <zi-xiang.shen@delaware.gov>; Naylor Margaret (Courts) <margaret.naylor@delaware.gov>

**Sent:** Tuesday, February 13, 2024 at 12:43:44 PM EST

**Subject:** Thank you/efiling questions/2 matters 1. Kelly v Eastern District of PA 23A596 or other Number and Kelly v Swartz No number

Dear Efiling and Robert Meek,

Thank you for talking with me last Friday Efiling.

My *Emergency applications submitted January 23, 2024, received via tracking January 25, 2024 for petition to please cure defect in inadvertently mailing back papers Chief Justice Roberts and the Court requires to fairly, fully and publicly determine petitions in this proceeding. US Amend I, V, VI* by applicant Meghan Kelly does not appear to be filed or rejected in conformity of the rules to date in the Eastern District Court of PA appeal, under new application number through Alito or 23A596 .

If it has, I have not been able to confirm with a representative of the US Supreme Court. The docket shows submitted per Exhibit 1, but the electronic side says filed. Exhibit 2. This happened before for other documents that were rejected, yet noted filed on electronic filing side. So, I am not confident that my right to petition, fully and fairly in a public forum are protected.

Could you please confirm this is electronically filed for Kelly v Eastern District Court of PA, unknown application with Justice Alito or Application No. 23A596.
I also wanted to thank you for correcting the court's error in changing the docket for No. 23A596 by removing and duplicating the Emergency Application per Exhibits 3 and 4.

*I logged onto my electronic filing today, February 13, 2024 and saw Petitioner Meghan Kelly's Emergency Application to the Honorable Justice Samuel A. Alito, Junior to stay or pause the time to appeal the United States Court of Appeals for the Third Circuit 21-3198 to discern whether Richard Abbott may represent me as counsel in the civil rights case for Kelly v Swartz et al*. was not docketed. It was noted as rejected on the electronic filing side per Exhibit 5.This matter, Kelly v Swartz is not set for conference. I have not drafted or filed another petition for writ of certiorari yet. Applications appear to be the appropriate means for relief since appeal is pending.

Per Exhibit 6, the US Supreme Court physically received this on Friday.

Is this an Efiling problem? Were the two matters confused? Was the rejection on the electronic side a mistake?

I left a message with Danny Bickle today February 13, 2024, and indicated I did not leave messages with anyone else. Given the dire circumstances and immediate need of redressability in order not to vitiate my Constitutional rights I later left a message for my case manager indicating I desire to know the reason the submission was not docketed. So I may cure any defects. I note there is no conference for Kelly v Swartz, nor have I even filed a petition for writ of Cert that has been accepted for docketing yet.

I am starting to draft another application to potentially cure any alleged defects. I am not sure what to do though as I do not desire to waste paper.

Could you please let me know whether the Court rejected this submission or whether it is in error. That way I will not have to work on potentially file something else immediately to prevent deprivation of my rights.

I am scared since no one at the court is telling me what happened to my Nov 6, 2023 filings, and I received another persons papers in error and my own papers that were under review for the Conference this Friday. How can the court review what it does not have. Did the court docket the Application in order to cure the

defect by reviewing it by email or on the docket?

If it is filed, that would be good to hear since 2/16/24 the conference date is upon us.

Thank you.

Have a good day.

Very truly,

Meg

Meghan Kelly

34012 Shawnee Dr

Dagsboro, DE 19939

(302)278-2975

**SUPREME COURT OF THE UNITED STATES**
**OFFICE OF THE CLERK**
**WASHINGTON, DC 20543-0001**

February 12, 2024

Meghan Kelly
34012 Shawnee Drive
Dagsboro, DE 19939

RE: Kelly v. Swartz
CA3 21-3198

Dear Ms. Kelly:

Your application "to stay or pause the time to appeal" received February 12, 2024 is herewith returned for the following reason(s):

It is unclear what you are seeking to file. If you are seeking a stay of lower court proceedings (CA3 case no. 21-3198), Justice Alito previously denied your stay application on February 22, 2023 (22A747).

If you are seeking an extension of time to file a petition for a writ of certiorari, Justice Alito previously granted on August 8, 2023, an extension of time until October 20, 2023 (23A100).

If you are seeking other relief, please see the paragraph below.

You failed to comply with Rule 23.3 of the Rules of this Court which requires that you first seek the same relief in the appropriate lower courts and attach copies of the orders from the lower courts to your application filed in this Court.

Sincerely,
Scott S. Harris, Clerk
By:

Robert Meek
(202) 479-3027

Enclosures

# Kelly v Swartz denied application Petitioner Meghan Kelly's Emergency Application to the Honorable Justice Samuel A. Alito, Junior to stay or pause the time to appeal the United States Court of Appeals for the Third Circuit 21-3198 to discern whether Richard Abbott may represent me as counsel in the civil rights case/OTHER CASE No. 23A596/emergency application for tomorrow's conference

From: Meg Kelly (meghankellyesq@yahoo.com)

To: rmeek@supremecourt.gov

Cc: meghankellyesq@yahoo.com; zi-xiang.shen@delaware.gov; supremectbriefs@usdoj.gov; david.weiss@usdoj.gov

Date: Thursday, February 15, 2024 at 04:30 PM EST

Hi Robert Meek,

I am in receipt of your letter and sadly the returned documents where you indicate you are unclear of the relief I seek.

You indicated it was unclear of what I am seeking to file. The title to my document offers clarity.

**Petitioner Meghan Kelly's Emergency Application to the Honorable Justice Samuel A. Alito, Junior to stay or pause the time to appeal the United States Court of Appeals for the Third Circuit 21-3198 to discern whether Richard Abbott may represent me as counsel in the civil rights case**

It is not from a lower court I seek relief from but from the United State Supreme Court's own order dated January 8, 2024 and letter dated January 12, 2024 which I attached to the application to assert my 1st Amendment right to petition, given poverty has created a substantial burden upon my access to the courts.

In the application I explained I sought to avoid irreparable injury and requested:
"
"Should the Courts reverse Abbott's discipline I would like him to represent me in this matter should it go forward, and he would agree in light of my religious beliefs. I assert my 1st and 6th Amendment rights to self-represent in quasi criminal cases where I am indicted based on my religious beliefs in Jesus and related Constitutionally protected rights. However, this is a civil rights case I brought, and is not a case brought against my person. Jesus said let the holy spirit be my advocate when brought to the court as distinguished from me bringing the case to defend my belief in Jesus.

Abbott is appealing his case before the US Supreme Court and the DE District Court. I have been awaiting a decision by the DE District Court, but I don't think they will act until after this US Supreme Court acts. Per the attached Order, dated January 8, 2024 this court rejected my petition for pages. Per the attached letter this Court requires an appeal be filed by or before March 12, 2024. While there is no guarantee Abbott will accept my case especially since I have religious objections to debt, I do not have the resources to fairly petition against the Defendants effectively even if I should win on appeal. The Order against me prevents me from working at my former law firm and has left me destitute. I have religious objections to debt slavery. I assert my 1st and 13th amendment rights against involuntary servitude.

While, poverty is not a suspect class my right to meaningful access to the courts despite the inherent burden of poverty, my religious beliefs and strongly held religious exercise relating to my religious belief against indebtedness and other religious beliefs are protected. I believe that you cannot serve God and Money, and object to debt by being compelled to serve Satan by making money savior to eliminate slavery to masters other than God. The government need not adopt my religion as government religion but must protect my religious beliefs under the First Amendment. "Because this case implicates the right of access to the courts," the government's disparate treatment towards me, based on poverty, is still unconstitutional under a strict scrutiny basis test. Citing, Tennessee v. Lane, 541 U.S. 509, 533 n.20 (2004). Further, I face substantial threat of loss of the 8 Constitutional rights should this

Court not grant a stay pending the DE District Court and this Court's decision in Abbott's case.

There is a fair prospect that a majority of the Court will conclude upon review that the decision below on the merits was erroneous, under the facts of this case. This case relates to affording me an opportunity to buy and sell but for my religious beliefs that will affect other professionals.

This Court has inherent equitable powers over their process to prevent abuse, oppression, and injustice. Gumbel v. Pitkin, 124 U.S. 131 (1888); Covell v. Heyman, 111 U.S. 176 (1884); Buck v. Colbath, 70 U.S. 334 (1865); Krippendorf v. Hyde, 110 U.S. 276, 283 (1884). "

You indicated the rule 23.3 "requires you first seek the same relief in the appropriate courts and attach the orders from the lower courts"

I did file affidavits concerning my interest in Richard Abbott for representation. I also tried to inter-plead in his case but was rejected.

Nevertheless, the relief I seek is not arising from the lower courts but my assertion of fair access to the courts by asserting my desire in Richard Abbott as counsel pending his disability is removed and his agreement in light of my religious beliefs against debt.

I indicated extraordinary need given poverty substantially burdening my access to the courts and irreparable loss in terms of vitiation of fundamental rights. So, even if this court requires an order below, Rule 23.3 Justice Alito may have determined the extraordinary need exception under Rule 23.3 applies.

'I am petitioning foremost to safeguard my right to 1. Petition 2. to safeguard my right to religious belief, 3. exercise of belief, 4. speech outlining my beliefs in petitions, 5. association, 6. procedural due process, including but not limited to a fair meaningful opportunity to be heard, 7. equal protections without insidious disparate treatment based on viewpoint in speech and favoritism towards the government, as a party of one, 8. 6th and 1st Amendment Right to self-represent in quasi criminal matters based on my religious belief in Jesus, along with other claims. These are 8 Constitutionally protected important rights."

Rule 23. Stays provides:

1. A stay may be granted by a Justice as permitted by law. 2. A party to a judgment sought to be reviewed may pre sent to a Justice an application to stay the enforcement of that judgment. See 28 U. S. C. § 2101(f). 3. An application for a stay shall set out with particularity why the relief sought is not available from any other court or judge. Except in the most extraordinary circumstances, an application for a stay will not be entertained unless the relief requested was first sought in the appropriate court or courts below or from a judge or judges thereof. An application for a stay shall identify the judgment sought to be reviewed and have appended thereto a copy of the order and opinion, if any, and a copy of the order, if any, of the court or judge below denying the relief sought, and shall set out specific reasons why a stay is justified. The form and content of an application for a stay are governed by Rules 22 and 33.2."

I believe this application should have been submitted to Justice Alito for a legal determination of whether extraordinary relief existed instead of rendering a legal judgment and analysis under the rules. I think the judge may have understand the relief requested and it is for the judge to judge.

Regardless, thank you for promptly providing the rejection.

I am not in receipt of anything regarding my January 23, 2024 filing needed for a fair determination of my other matter. Robert Meek I pray to God the Court grants that request for more pages to potentially prevent 6 new lawsuits, even if this Court grants the relief that makes me cry as I type this.

The last relief I requested which I don't want, but I note I do not have the means even if I have the will to assert my rights.

"XXIV If this court seeks to discipline Kelly in response to her request for help whether they

should place her license on inactive disabled in the Eastern District of PA Court to prevent its own court from initiating a law suit against Kelly, and prevent the initiation of 6 more needless lawsuits based on the bad faith of Appellant to render an order to get out of correcting over 2,000 pages of misfiled documents showing relevant information of Delaware or other reciprocating Court's mistreatment or condoning mistreatment of Kelly based on the her religious beliefs, place of origin, or exercise of Constitutional protected rights, including another pro se claimants medical exhibits, to prevent her from not having enough stamps, paper to continue this appeal, the appeal and hopefully remand in the civil rights case, and the appeal in Kelly v PA ODC so as to deprive her of 5th Amendment fair access to the courts to exercise her First Amendment right to petition to prevent the vitiation of her constitutional rights and other claims forever."

To clarify I sought a stay pending a determination on Richard Abbott's disciplinary cases before both the Delaware District Court and the United States supreme Court to discern whether he may represent me in the civil rights case, not the quasi criminal cases where I have religious objections to representation as I outlined in the application.

There were other reasons why Richard Abbott would be the only counsel I would choose, but I did not want to exceed the 5 page limit.

If this should change your mind on rejecting the documents as written, please feel free to upload them as filed. Otherwise, I will stop working on a revised application because it will likely be rejected for the same reasons should my clarification not alleviate any concern of defects. I am giving up or waiving my rights freely.

Please think about the other Emergency application in Kelly v Swartz.Petition to cure defects to prevent deprivation of my asserted 1st, 5th, 6th Amendments rights/Request to cure US Supreme Court errorring mailing me back documents under consideration of this court/Meghan Kelly, Applicant v. United States District Court Eastern District of Pennsylvania Application No. 23A596 I have been notified of a filed or rejected yet, and that was sent 23 days ago, more than 3 weeks ago.

I copy all counsel. I want to stress the importance of people staff to help imperfect people like me. Thank you Robert Meek.

Thank you,
Meg
Meghan Kelly
34012 Shawnee Dr
Dagsboro, DE 19939


Letter Feb 12 No Feb 7 app for stay pending representation determination to prevent vitiation rights.pdf
142.1kB

# 21-1490 kelly v swartz/Meg Concerned about targeting candidates for office/No trial de novo non judges judging unlike JP Ct common pleas de novo trial proceedings

From: Meg Kelly (meghankellyesq@yahoo.com)

To: ryan.costa@delaware.gov; supremectbriefs@usdoj.gov; david.weiss@usdoj.gov

Cc: meghankellyesq@yahoo.com; zi-xiang.shen@delaware.gov

Date: Tuesday, May 7, 2024 at 08:38 PM EDT

Hi Ryan,

I mailed you the notice for the US Supreme Court appeal. I attach it hereto.

I can't believe Shen did not tell me she was leaving in February.

Attached is one affidavit I have a constitutional question on. I just do not know the answer and think it unfair that attorneys are compelled to waive their right to a person judge. Just because they are heard de novo, doesn't mean they may present evidence de novo like in the JP court which uses nonlawyer judges like my childhood schoolmate Judge Leah Chandler.

I also am concerned about the state apparently selectively prosecuting candidates for office who display independent critical thinking instead of conformed conformity to lobbyists. I see the past lawsuits. The one against Kathleen MGuiness. I understand it was dropped when she ended her campaign and stepped down. She was on the ballot. I voted for her, despite the state or news saying she was removed from the ballot. Thankfully she is running again. It was so strange how upper DE democrats bad mouthed her for independently critically thinking instead of conforming to their controlled agenda.

I saw former Sussex Central Principal Layfield being selectively targeted. He ran for office in Sussex.

I see Richard Abbott ran for office too.

I did too.

One of the books by the WEF discussed demeaning politicians and elected officials alluding to eliminating them down the line.

I need to pull it for you and show you pages because if I am eliminated one of you can prevent the overthrow.

I am really discouraged. I wanted to protect US AG and State AG's power to prosecute elected officials in all three branches of government without unconstitutional immunity arguments violating equal protections of the 5th making the people Trump enticed to misbehave disparately treated whereas he is above the law.

I know you may not be amicable to one of the accused and convicted persons suing for Equal Protections, but it may be one way to argue to maintain your Attorney General power against Presidents, congress people and even judges who allegedly violate criminal laws that enslave or sacrifice people who they are charged to serve and protect. The government should not buy or barter for a license to commit crimes by buying or winning elections with campaign

funds.

How do we get the US Supreme Court to safeguard your check in our case. Can we do it?

Please think about it. I need to think about it more.

On an aside, we do have prejudice problems by government officials, but I do not want to destroy people. I want to improve the world by correction. I cannot imagine Principal Layfield saying anything disgusting as alleged. I went to undergrad with him. I was in his teaching classes. I did my student teaching at Sussex Central High School where Layfield worked. I have known him for more than 20 years. I have seen him and heard him teach. He encourages kids.

Conversely, I was disappointed at Vice President Biden when severe racism occurred in the schools. Albeit not as bad as Maryland. There was spray paint on a bus at Cape Henlopen putting down black kids. At the high school, Indian River High School I attended, white children brought in 200 bracelets that said "kill yourself" with the nazi symbol to be distributed to black children. There was a mascot noose event in Middle DE. That is not okay. None of this is okay. Hence my election signs that jokes about race, religion, place of origin or sex are not funny. When they go beyond words it is no laughing matter. Vice President Biden did not go to the schools to show the kids they are seen, protected, valued and safe.

I understand there is an increase in violence in DE and in other states in schools. We need people to use their words not fear and threats of locking defensive scared kids away, but of safety and protection and correction. It is not okay to selectively target people despite old people and grown up naughtiness.

You understand there is a plan to praise cops to only to eliminate them down the line if left unstopped. We cannot fall into temptation of using threats but correction of misguided kids and old people, even the Jan 6th people. Trump committing a greater sin by misleading people who truly believed in him and believed what he did was constitutional despite being wrong.

If you look at the docket at Kelly v Trump I talked about a potential insurrection, two or so months later Jan 6th happened. Imagine if I was only allowed to serve local counsel. The courts could have potentially prevented the attempted coup.

I apologize for the typo in the Eastern District of PA appeal and patents. The 30 30 agenda uses "science" to sustain nature by making what is natural unnatural to patent it. Hence destroying nature, and getting debt control by making the people pay under the carbon credit debit scheme to sustain environmental pain to sustain unjust riches and power of naughty people who feign the hero. There is so much shady stuff. It is complicated.

I guess we can only focus on parts of the foundation that apply in our cases the goal to eliminate people lawyers and people judges.

It doesn't matter you are my opponents. I need to protect your legal authority too. Without the law, there is no legal protections for the liberties and lives of the people.

How do we protect Merrick Garland and the position of US AG? It doesn't matter if I disagree with him on some legal theories. We get smarter when we petition on diverse sides. It matters that I we protect the position of US AG not with naughty might or threats like a mobster or with money we must use the rule of law to preserve the right of the private person, me and the government you to petition when people within the 3 branches misbehave without violation of the equal protections clause by using one to set an example for many. House Republicans plan to move forward with contempt against Attorney General Merrick Garland (msn.com)

**MSN**

Your pensions are schemed not to be paid too. That is why I argue ways to fully fund it instead of allowing a worse ponzi scheme by digital coining. I need to show you, you are in trouble too. If I cannot prevent it, maybe you can.

Thank you,
Meg

Meg has constitutional question not as important as other issues wants USSC guisance does not know Richard2.pdf
6.9MB

Richard Abbott1.pdf
380.8kB

notice mailed to opposing counsel.pdf
1.8MB

APP 2

UNITED STATES DISTRICT COURT IN THE DISTRICT OF DELAWARE

| | | |
|---|---|---|
| Meghan Kelly<br>Plaintiff,<br>v.<br>Disciplinary Counsel Patricia B. Swartz, et.al<br>Defendants. | )<br>)<br>)<br>)<br>)<br>) | Civil Action No.: 1:21-1490 (CFC) |

PLAINTIFF MEGHAN KELLY'S 120th AFFIDAVIT UPDATE

Comes now Plaintiff Meghan Kelly, I declare and affirm that the foregoing statement is true and correct.

1. I incorporate the attached article. The more I read about Richard Abbott, the more I understand it is the client with whom Vice Chancellor Glascock was displeased with not their paid advocate.

2. The case was brought over and over and over again by more than one attorney by the defendant a super wealthy millionaire and allegedly one of the most prominent families in Sussex County per the Upper Delaware newspaper. Although I am from Sussex County, and never heard of the Jennys before. Wealth doesn't make one important, prominent or memorable in my eyes. Love does. Doing the right thing is special.

3. I understand why Vice Chancellor Glascock was frustrated with Richard Abbott's client, but Richard Abbott did not appear to do anything wrong. The rule against perpetuities would really make the order unenforceable. It is not fair that lawyers get into trouble because their clients annoy the court b coming again and again and again with 4 or 5 different lawyers.

4. Richard Abbott was unfairly punished and it is wrong an injustice when a judge acts passed on emotion instead of sound reason no matter how frustrated he is with the client even driving to the property with court reporters.

5. I care when injustice happens. It is part of being a Christian. I care about Richard Abbott's life and do not want it to be thrown away to appease the courts or for their convenience. That is injustice. I am so sad. I went to law school to improve the world not to create injustice for the convenience of those who do not choose to judge based on the laws as applied to the cases even if they are annoyed with claimants, alleged outsiders, or disagree with their genuinely held religious beliefs or exercise of liberties.

6. People keep telling me I do not matter. My efforts do not matter. No one reads my stuff. I will be forgotten.

7. You know who matters is this Court. It may uphold the law not allow violations of the law by the government in any of the three branches. With a strike of a pen more powerful than lightening you can heal wounds and protect people and their rights with kind court correction. That is powerful like love. Justice heals and improves the world. That is special and very powerful. Yet it takes great courage to care. I hope the court cares about Richard L. Abbott. I cry as I type this. He is priceless not a throw away price tag commodity.

Respectfully submitted,

Dated 11/17//23

Meghan M. Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com

Under Religious objection I declare, affirm that the foregoing statement is true and correct

Dated: Nov. 17, 2023

Meghan Kelly
(printed)

Meghan Kelly
(signed)

delaware online

NEWS

# Judge: Rehoboth Bay beach property fight one of 'nastiest'

**Maureen Milford** The News Journal

Published 4:20 p.m. ET June 26, 2015 | **Updated 5:16 p.m. ET June 26, 2015**

A neighborhood dispute over the trimming of shrubs blocking water views at a Rehoboth Bay community has escalated into such an ugly legal battle that a Sussex County judge called it "one of the nastiest and most unpleasant litigations it has ever been my misfortune to sit in front of."

The dispute pits the homeowners' association in the Seabreeze community against Marshall Townsend Jenney, 37, a member of one of Sussex County's most prominent families. Jenney's great-grandfather was the late former Gov. John G. Townsend Jr., a legendary statesman and entrepreneur credited with building the Delaware poultry industry.

Jenney, who has owned two houses in the community west of Dewey Beach, including a more than $1 million dollar property on Rehoboth Bay, has been battling his neighbors for five years over the height of trees and shrubs on his properties that the association says violate a deed restriction related to obstructing clear views of the water.

Although the feud began in 2010, it ratcheted up this year after Jenney hired the fifth attorney to represent him in the case in Delaware Chancery Court. Since Jenney hired lawyer Richard Abbott of Hockessin in late 2014, the case has devolved into name-calling, an alleged "sham" real estate transfer from Jenney to his wife, veiled comments about the "litigation approach" of Sussex County lawyers and a contempt finding.

The case has so raised the hackles of Vice Chancellor Sam Glasscock III, he has called on the Office of Disciplinary Counsel to look into the Abbott's conduct. Earlier this month, Glasscock sent all the transcripts and docket entries to the disciplinary counsel, which is an arm of the Delaware Supreme Court.

"It has been a colossal waste of resources ..." Glasscock said at a May hearing on a contempt motion against Jenney and his wife, Erin Conaty Jenney, that dealt with a transfer of

property from Jenney to his wife.

Neither Jenney nor representatives of the homeowners' association commented about the dispute.

Even Abbott characterized the case as "a Hatfield and McCoy situation." Abbott blames Seabreeze's attorney, David Weidman, for initiating the uncivil proceedings.

"He is a bomb thrower. How do resolve something with someone who yells at you over the phone?" Abbott said. "Weidman started it and the vice chancellor decided to pile on."

The way Abbott sees it Glasscock turned "a blind eye to (Weidman's) tactics."

"The villains in this saga are Weidman and his band of angry association board members," Abbott said. "My client tried to put an end to it. And I acted in full conformance with the law and zealously represented my client."

Abbott, who was publicly reprimanded in 2007 by the Delaware Supreme Court for undignified, discourteous and degrading statements in opening and reply briefs, said he's not concerned about Glasscock's referral to the disciplinary counsel because he "didn't do anything wrong."

"Lawyers should be free to tell the truth and do their jobs," said Abbott.

"Not sure what else I can say other than I am still flabbergasted by all of the personal attacks being lobbed at me for: 1) telling the truth, and 2) doing my job. One cannot be faulted for that," he said in an email.

Weidman says "it's unfortunate that Mr. Abbott feels the way he does about my involvement in the case. My client simply wanted Mr. Jenney to honor his prior written agreements to trim the trees."

In court testimony, Weidman said the case has cost the homeowners' association "a small fortune" to litigate the case. Abbott said Jenney could have "had the work done for a lot less than he paid me."

For his part, Glasscock just wants it finished, based on court testimony.

"Notwithstanding the rather limited nature of this case, it has become the most actively litigated on my docket," Glasscock wrote in a June decision.

In an attempt to "kill" the case, Glasscock went so far as to tour the property with Jenney, his wife, the lawyers, homeowners' association representatives and a landscaper to mark that trees at the property that need to be cut. A court reporter was on the scene to document the discussion for the record.

"... One way or the other, it's going to be done," Glasscock said.

**A Sussex pedigree**

Jenney says he loves Seabreeze.

In a February email to a homeowners' association representative, Jenney says, "I was born in Seabreeze and hope to die there as well! I have a great love and affection for Seabreeze."

Certainly, Jenney has proud roots in Sussex County as a member of the Townsend family.

The family patriarch, John G. Townsend Jr. was a towering figure in Delaware during the 20th century, serving as both governor, U.S. senator and delegate to the United Nations. A transplant from Maryland, Townsend, who called Selbyville his home, became the "Chicken King" after building the hugely successful Townsends Inc.

"Endowed with a real 'Midas touch,' he was able, almost single-handed, to found an economy for Sussex County," reads an editorial in The News Journal at the time of his 1964 death.

In addition, he was considered the "Strawberry King" of America, once raising more strawberries than anyone in the world, according to reports in The News Journal. "He became noted for his fruit orchards. He became noted for his vast fields of vegetables," reads a 1957 editorial.

At one time, Townsend owned 20,000 acres in Sussex County, according to his grandson, P. Coleman Townsend, whose sister, Meredith, is Jenney's mother. The family was also involved in real estate development, according to Coleman Townsend, a trustee of the University of Delaware.

Coleman Townsend and Meredith Jenney's father, Preston Coleman Townsend, headed the family business, which grew to be one of the nation's largest broiler chicken firms. Preston Townsend also served as a trustee of the University of Delaware.

The assets of Townsends poultry in Millsboro were bought by Mountaire Farms in 2000. The deal included four grain elevators located in Delaware and Maryland and a processing plant,

hatchery, feed mill and 2,000 acres near Millsboro, according to the Mountaire website. This company was renamed Mountaire Farms of Delaware Inc.

Townsends, which retained operations in Arkansas and North Carolina, declared Chapter 11 bankruptcy in 2010, citing rising costs and a soft economy. By that time, 53 of the company's 3,500 employees were based in Delaware.

Jenney graduated from Ohio Wesleyan University in 2001. While in college he served as an intern to the late U.S. Sen. Bill Roth. He is a real estate agent for Ocean Atlantic Sotheby's International Realty in Rehoboth Beach, where he specializes in multi-million dollar estate properties and site acquisition for development projects, according to the company's website. In September, he married Erin Conaty.

In 2003, Jenney got the waterfront property at 318 Salisbury St. in Seabreeze from his father, John K. Jenney Jr., according to court records. The home had been in his family since the 1960s so "it's the familial home," Jenney said in court testimony.

Seabreeze, a community of about 120 single-family homes, was originally a 40-acre farm purchased about 1949 from Ann Dodge by Carlton Draper, according to the homeowners' association website. Draper laid out the streets and canals were dug and the bulkheads built in 1956. The Drapers were among the first residents.

In 2007, Jenney also bought the house across the street at 317 Salisbury St. as a rental property.

**Trouble erupts**

As long-time residents of Seabreeze, Jenney and his family were friends for many years with the neighbors and several of the board members of the homeowners' association.

But in 2010, trouble erupted over Jenney's vegetation that the homeowners' association said was in violation of the restrictions that say "no trees will be planted on any lot that will block the surrounding lot owner or owners from a clear view of the waterway without the written consent" of the homeowners' association.

Several letters were sent to Jenney requesting he trim the vegetation, but Jenney ignored them, according to court papers. The homeowners' association sued in 2011 to force Jenney to cut the trees and shrubs.

Jenney settled it the next year by agreeing to trim the vegetation, but failed to do the work. The homeowners' association filed another action in 2013 to enforce the settlement agreement.

Jenney settled that compliance action in July 2014 with a consent order, but by December all the vegetation had not been trimmed.

By then he had hired Abbott. On Dec. 4, Abbott sent Weidman an email and made reference to the "quality of representation" Jenney had received so far. Jenney's four previous lawyers were Brian Farnan, Craig A. Karsnitz, Michael D. Carr and Sam J. Frabizzio.

"Given what I have seen so far, I would beg to differ with you on the quality of representation (Jenney) had received so far," Abbott wrote.

"Sam is a character, but not renown as a great legal mind. And no offense, but I have observed over the years that Sussex County lawyers are not usually like you and your partner Mr. Sergovic in terms of litigation approach (I mean that as a compliment to you and John.)"

Farnan declined to comment, as did Karsnitz. Carr could not be reached for comment. Frabizzio said he "totally" disagrees with Abbott's characterization.

Abbott said he does not recall the email.

"I would not say anything negative about any Sussex County lawyer specifically or them in general, as I hold them in high regard — that is other than Weidman. I was aware of Weidman's reputation for being overly aggressive and difficult to deal with, however, so I may have been politely saying that I knew he was different," Abbott said Thursday.

Abbott said Frabizzio "may have counseled Mr. Jenney to sign a consent order which granted the association more rights than it had under the settlement agreement. And he did not advise Mr. Jenney of his options to fight the very bad settlement agreement he was misled into entering into. Not good lawyering."

In January, Abbott sent an email to Weidman saying Jenney had been delayed in doing the landscape work. The issue was also brought up about confusion over the scope of the work.

In court testimony, Jenney said that the language in the settlement agreement regarding the trimming was ambiguous "and very difficult to understand."

"I mean, one doesn't know where to start and where to stop," he said.

But when Weidman asked Jenney if he had any intention of complying with the 2014 agreement, Jenney replied: "Well, I was so upset with my neighbors and the way I was treated, considering I was born and raised in this neighborhood, that you know, I figured and I still might sell the property."

In February, Jenney attempted to settle the matter himself. Jenney wrote to a homeowners' association representative saying it was time for the association to drop the lawsuit and "work toward the common goal of improving and upgrading our beloved Seabreeze Community."

"I also want to make an investment in our great community of up to ten thousand dollars. I would like your input on how that money should be deployed. I was thinking a new entrance to the community or upgrading our boat ramp, but I value your opinion on what you think it the highest priority," Jenney wrote to the homeowners' association officer Ann Simpler.

When that didn't happen, Jenney appealed in more severe tones to his neighbors. He sent an email directly on March 4 calling on his neighbors to terminate Weidman and the lawsuit. Jenney told his neighbors he had retained an attorney "to investigate the conduct" of Weidman.

"I lament the fact that my attorney may have uncovered misrepresentation and fraudulent conduct that will be disconcerting to members of the Seabreeze Home Owners Association," Jenney said. "It is my intention to have Mr. Abbott pursue this matter until its conclusion, and to seek financial recovery to the fullest extent of the law."

Weidman said "thankfully, such allegations against a colleague in Delaware are very uncommon, and are considered unprofessional."

"In this case, the Vice Chancellor reviewed the conduct of both me and my client, and the court rejected Mr. Abbott's claims," Weidman said.

In the email, Jenney characterized the homeowners associations' push to have the vegetation trimmed as "malicious and frivolous" and he regretted the "situation has deteriorated to this present stage."

But he said he was willing to "bring this situation to an amicable and economical resolution via the dismissal of the law suit."

**Judge shocked**

The case took another turn in March when Jenney transferred the properties to his new wife.

Jenney testified he discussed with Abbott transferring the property to Erin so he could sell it and not have the settlement agreement encumbering the sale.

"So it was either I take the properties to market and sell them to circumvent, or, you know, my attorney said, 'If you want to retain it, stay in the neighborhood and keep your family home, you can transfer it to your wife,'" Jenney testified.

Abbott then sent a letter to the court that no further proceedings in the case would be necessary because the action was "legally moot" as a result of the transfers.

The homeowners' association filed a contempt motion saying Abbott facilitated a transfer of the properties from Jenney to his wife "for the express purpose of evading the consent order issued by the court." The filing called it a "fraudulent and sham transaction."

"Most disturbing about this scheme, however, is that an officer of the court, Richard L. Abbott, a licensed Delaware attorney, has purposefully thwarted and undermined these proceedings by manufacturing a transfer of his client's title interest in the subject properties, thereby explicitly orchestrating (Jenney's) contempt of a court order for the express purpose of defying and disobeying that order," the motion reads.

The motion calls Abbott's interference with the court's enforcement of a consent order intentionally designed to evade an order of this court "undignified, disobedient, and discourteous conduct degrading the tribunal."

"Through legal legerdemain, Mr. Abbott has thumbed his nose at the court's authority and the proceedings," and violated the Delaware Professional Rules of Conduct, the contempt motions says.

Abbott defended the transfer, saying Jenney had a legal right to convey the property. What's more, Abbott said he had an obligation to represent his client and provide him with available options.

At an April hearing, Weidman told Glasscock that Abbott's conduct in the case had been "deplorable."

"I have practiced almost 20 years and I've never had anything come close to the way Mr. Abbott has litigated this case and has made accusations against me and my character, the way he has historically done against other counsel in Delaware," Weidman said.

For his part, Abbott accused Weidman of making personal attacks that were disgraceful.

A month later, Abbott said "it really astounds me that Mr. Weidman comes before this court with a straight face and talks about civility when he attacked me mercilessly in his filings without any cause. We are trying our best to move this matter forward."

Glasscock found the Jenneys in contempt from the bench in May.

The judge also said he found Abbott's behavior "contemptuous." Glasscock called the transfer a "blatant, blatant example of vexatious litigation to undergo a sham transfer of the property solely to avoid enforcement of a court order."

He ordered a copy of all transcripts and docket entries be transferred to the Office of Disciplinary Counsel "for review on behalf of Mr. Richard Abbott's conduct."

"Despite having done many, many, many homeowners cases, I have never had a defendant in one of those cases sit in a witness chair and tell me he didn't intend to comply with his agreement because he was upset with this neighbors and he might want to sell the property," Glasscock said. "Nor have I ever had anybody sit in a witness chair and tell me that on advice of counsel, he had entered into a sham transaction to frustrate the specific performance of an agreement. It is shocking to me. It is unacceptable. It is unacceptable behavior for a litigant in this court. It is unacceptable behavior for an attorney in this court."

Glasscock has ordered the tree and shrub trimming work to be completed by Tuesday.

At the last hearing in May, Glasscock encouraged the Jenneys and the other homeowners to get along.

"They've got to live together in the real world," Glasscock said. "It is going to be an ongoing running sore in that community unless the people on both sides can find a way to work together.

"Because this is going to be a running misery for everyone involved, including the court, unless these people can find a way to live together as neighbors in a neighborhood. And I saw no evidence this morning from either side that that was likely to occur."

Contact Maureen Milford at (302) 324-2881 or mmilford@delawareonline.com.

UNITED STATES DISTRICT COURT IN THE DISTRICT OF DELAWARE

| | | |
|---|---|---|
| Meghan Kelly<br><br>Plaintiff,<br>v.<br>Disciplinary Counsel Patricia B. Swartz, et.al<br>Defendants. | )<br>)<br>)<br>)<br>)<br>)<br>) | Civil Action No.: 1:21-1490<br>(CFC) |

CERTIFICATE OF SERVICE OF
PLAINTIFF MEGHAN KELLY'S 120th Affidavit

I, Meghan M. Kelly, Esquire, hereby certify on Nov. 17 2023, I had a true and correct copy of the above referenced document, served to Defendants, through their counsel through email electronically:

Zi-Xiang Shen
Delaware Department of Justice
820 North French Street
6th Floor
Wilmington, DE 19801

Dated Nov. 17, 2023

Respectfully submitted,

Meghan M. Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com

Under religious protest as declaring and swearing violates God's teachings in the Bible, I declare, affirm that the foregoing statement is true and correct.

Dated: Nov. 17, 2023

Meghan Kelly (printed)

Meghan Kelly (signed)

# Supreme Court of the United States

Meghan Kelly
(Petitioner)

v. No. 23-7372

Disciplinary Counsel Patricia B. Swartz, et al.
(Respondent)

To Kathleen Jennings, DE Attorney General c/o Ryan Costa Counsel for Respondent:

**NOTICE IS HEREBY GIVEN** pursuant to Rule 12.3 that a petition for a writ of certiorari in the above-entitled case was filed in the Supreme Court of the United States on October 18, 2023, and placed on the docket May 2, 2024. Pursuant to Rule 15.3, the due date for a brief in opposition is Monday, June 3, 2024. If the due date is a Saturday, Sunday, or federal legal holiday, the brief is due on the next day that is not a Saturday, Sunday or federal legal holiday.

Beginning November 13, 2017, parties represented by counsel must submit filings through the Supreme Court's electronic filing system. Paper remains the official form of filing, and electronic filing is in addition to the existing paper submission requirement. Attorneys must register for the system in advance, and the registration process may take several days. Further information about the system can be found at https://www.supremecourt.gov/filingandrules/electronicfiling.aspx.

Unless the Solicitor General of the United States represents the respondent, a waiver form is enclosed and should be sent to the Clerk only in the event you do not intend to file a response to the petition.

Only counsel of record will receive notification of the Court's action in this case. Counsel of record must be a member of the Bar of this Court.

/s/ Meghan Kelly

Ms. Meghan Marie Kelly
Attorney at Law
34012 Shawnee Drive
Dagsboro, DE 19939
302-278-2975

NOTE: This notice is for notification purposes only, and neither the original nor a copy should be filed in the Supreme Court.

# Supreme Court of the United States
## Office of the Clerk
## Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

May 2, 2024

Ms. Meghan Marie Kelly
Attorney at Law
34012 Shawnee Drive
Dagsboro, DE 19939

Re: Meghan Kelly
v. Disciplinary Counsel Patricia B. Swartz, et al.
No. 23-7372

Dear Ms. Kelly:

The petition for a writ of certiorari in the above entitled case was filed on October 18, 2023 and placed on the docket May 2, 2024 as No. 23-7372.

A form is enclosed for notifying opposing counsel that the case was docketed.

Sincerely,

Scott S. Harris, Clerk

by

Lisa Nesbitt
Case Analyst

Enclosures

# WAIVER

## Supreme Court of the United States

No. 23-7372

Meghan Kelly (Petitioner) v. Disciplinary Counsel Patricia B. Swartz, et al. (Respondents)

**I DO NOT INTEND TO FILE A RESPONSE** to the petition for a writ of certiorari unless one is requested by the Court.

**Please check the appropriate box:**

- ☐ I am filing this waiver on behalf of all respondents.
- ☐ I only represent some respondents. I am filing this waiver on behalf of the following respondent(s):

_____

_____

**Please check the appropriate box:**

- ☐ I am a member of the Bar of the Supreme Court of the United States. (Filing Instructions: File a signed Waiver in the Supreme Court Electronic Filing System. The system will prompt you to enter your appearance first.)
- ☐ I am not presently a member of the Bar of this Court. Should a response be requested, the response will be filed by a Bar member. (Filing Instructions: Mail the original signed form to: Supreme Court, Attn: Clerk's Office, 1 First Street, NE, Washington, D.C. 20543).

Signature _____

Date: _____

(Type or print) Name _____

☐ Mr. ☐ Ms. ☐ Mrs. ☐ Miss

Firm _____

Address _____

City & State _____ Zip _____

Phone _____ Email _____

A COPY OF THIS FORM MUST BE SENT TO PETITIONER'S COUNSEL OR TO PETITIONER IF *PRO SE*. PLEASE INDICATE BELOW THE NAME(S) OF THE RECIPIENT(S) OF A COPY OF THIS FORM. NO ADDITIONAL CERTIFICATE OF SERVICE OR COVER LETTER IS REQUIRED.

cc:

34012 Shawnee Dr.
Dagsboro, DE 19939


Kathleen Jennings, Delaware Attorney General
c/o Ryan Costa
820 North French Street
6th Floor
Wilmington, DE 19801

UNITED STATES DISTRICT COURT IN THE DISTRICT OF DELAWARE

| | | |
|---|---|---|
| Meghan Kelly<br><br>Plaintiff,<br>v.<br>Disciplinary Counsel Patricia B. Swartz, et.al<br>Defendants. | ) | Civil Action No.: 1:21-1490 (CFC) |

CERTIFICATE OF SERVICE OF 209th Affidavit

I, Meghan M. Kelly, Esquire, hereby certify on May 16, 2024 had a true and correct copy of the above referenced document served to Defendants, through their counsel served electronically by email at zi-xiang.shen@delaware.gov and ryan.costa@delaware.gov.

The physical address c/o Ryan Costa

Kathleen Jennings, Delaware Attorney General
Delaware Department of Justice
820 North French Street
6th Floor
Wilmington, DE 19801

I served Defendants' counsel electronically by E-mail only.

Thank you.

Respectfully submitted,

Dated May 16, 2024

Meghan M. Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com

Under religious protest as declaring and swearing violates God's teachings in the Bible, I declare, affirm that the foregoing statement is true and correct.

Dated: May 16, 2024

Meghan Kelly (printed)

Meghan Kelly (signed)