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APPENDIX A — ORDER OF THE STATE OF NEW YORK COURT OF APPEALS, FILED MAY 16, 2024

STATE OF NEW YORK
COURT OF APPEALS

Decided and Entered on the
sixteenth day of May, 2024

Present, Hon. Rowan D. Wilson, *Chief Judge*, ***presiding***.

SSD 11
In the Matter of Jack R.T. Jordan, &c.

ATTORNEY GRIEVANCE COMMITTEE FOR THE FIRST JUDICIAL DEPARTMENT,

Respondent,

JACK R. T. JORDAN,

Appellant.

Appellant having appealed to the Court of Appeals in the above title;

Upon the papers filed and due deliberation, it is

ORDERED, that the appeal is dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

/s/ Lisa LeCours
Lisa LeCours
Clerk of the Court

APPENDIX B — ORDER OF THE SUPREME COURT OF THE STATE OF NEW YORK APPELLATE DIVISION, FIRST JUDICIAL DEPARTMENT, FILED OCTOBER 17, 2023

SUPREME COURT OF THE STATE OF
NEW YORK APPELLATE DIVISION,
FIRST JUDICIAL DEPARTMENT

Present – Hon. Dianne T. Renwick, Justice Presiding,
Cynthia S. Kern
Lizbeth González
Manuel J. Mendez
Bahaati E. Pitt-Burke, Justices.

In the Matter of Jack R.T. Jordan a disbarred attorney:

Motion No. 2023-03201
Case No. 2023-01872

ATTORNEY GRIEVANCE COMMITTEE FOR
THE FIRST JUDICIAL DEPARTMENT,

Petitioner,

JACK R.T. JORDAN
(OCA Atty. Reg. No. 2882777),

Respondent.

An order of this Court, having been entered on July 6, 2023, granting the motion by the Attorney Grievance Committee for reciprocal discipline pursuant to 22 NYCRR 1240.13, predicated upon similar discipline

imposed by the Supreme Court of Kansas, and disbarring respondent (who was admitted to practice as an attorney and counselor- at-law in the State of New York at a Term of the Appellate Division of the Supreme Court for the First Judicial Department on March 2, 1998) and striking his name from the roll of attorneys in the State of New York (Motion No. 2023-01757),

And respondent, pro se, having moved this Court on August 21, 2023, for an order pursuant to CPLR 2221 reconsidering and vacating the aforesaid order of disbarment,

And the Attorney Grievance Committee, by Jorge Dopico, its Chief Attorney (Raymond Vallejo, of counsel) having submitted an affirmation dated August 10, 2023, in opposition to respondent's motion,

And respondent having submitted papers in reply, dated August 16, 2023,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is unanimously,

Ordered that the motion is denied.

Entered: October 17, 2023

/s/ Susanna Molina Rojas
Susanna Molina Rojas
Clerk of the Court

APPENDIX C — ORDER OF THE SUPREME COURT OF THE STATE OF NEW YORK APPELLATE DIVISION, FIRST JUDICIAL DEPARTMENT, FILED JULY 6, 2023

SUPREME COURT OF THE STATE OF
NEW YORK APPELLATE DIVISION,
FIRST JUDICIAL DEPARTMENT

Present – Hon. Dianne T. Renwick, Presiding Justice,
Cynthia S. Kern
Lizbeth González
Manuel J. Mendez
Bahaati E. Pitt-Burke, Justices.

Motion No. 2023-01757
Case No. 2023-01872

In the Matter of
JACK R.T. JORDAN,
An attorney and counselor-at-law:

ATTORNEY GRIEVANCE COMMITTEE FOR
THE FIRST JUDICIAL DEPARTMENT,

Petitioner,

JACK R.T. JORDAN
(OCA ATTY. REG. NO. 2882777),

Respondent.

Disciplinary proceedings instituted by the Attorney Grievance Committee for the First Judicial Department.

Appendix C

Respondent, Jack R.T. Jordan, was admitted to the Bar of the State of New York at a Term of the Appellate Division of the Supreme Court for the First Judicial Department on March 2, 1998.

Jorge Dopico, Chief Attorney,
Attorney Grievance Committee, New York
(Raymond Vallejo, of counsel), for petitioner.

Respondent pro se.

Motion No. 2023-01757 – May 15, 2023

**IN THE MATTER OF JACK R.T. JORDAN.
AN ATTORNEY**

PER CURIAM

Respondent Jack R. T. Jordan was admitted to the practice of law in the State of New York by the First Judicial Department on March 2, 1998. Respondent maintains a registered business address in Missouri. As the admitting Judicial Department, this Court retains continuing jurisdiction over respondent (Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.7[a][2]).

By order entered October 21, 2022, the Supreme Court of Kansas disbarred respondent for submitting multiple federal court filings in litigation initiated to obtain access to an email under the Freedom of Information Act (FOIA) in which he repeatedly and baselessly accused federal judges of lying about the email's contents, lying about

the law, and committing crimes, which included allegedly conspiring with others to conceal the email at issue.

The Attorney Grievance Committee (AGC) seeks an order, pursuant to Judiciary Law § 90(2), 22 NYCRR 1240.13, and the doctrine of reciprocal discipline, finding that respondent has been disciplined by a foreign jurisdiction, directing him to demonstrate why discipline should not be imposed in New York for the misconduct underlying his discipline in Kansas, and disbarring him, or, in the alternative, imposing such sanction as this Court deems appropriate. Respondent opposes the motion.

Respondent's wife was injured at the U.S. Consulate in Iraq and respondent brought an action on her behalf under the Defense Base Act. In connection with the action, respondent made a request for an email from the U.S. Department of Labor (DOL). However, an Administrative Law Judge denied production of an unredacted version of the email after determining that the email contained information protected by the attorney-client privilege. Thereafter, respondent made a FOIA request to the DOL for certain documents, including an unredacted version of the email. However, respondent's FOIA request was denied. Respondent then brought an action against the DOL in the U.S. District Court for the District of Columbia seeking production of an unredacted version of the email. That court ruled that the email was protected by attorney-client privilege and its decision was affirmed on appeal.

In August 2018, respondent, prose, filed a lawsuit against the DOL in the U.S. District Court for the Western

District of Missouri, again challenging the denial of his FOIA request, which was assigned to Judge Ortrie Smith. Judge Smith granted the DOL's motion to dismiss the portion of respondent's complaint relating to the email and the U.S. Court of Appeals for the Eighth Circuit affirmed. At the same time, respondent also represented two individuals who brought actions seeking the release of the email. These cases were also assigned to Judge Smith, who stayed both matters pending the adjudication of respondent's ultimately unsuccessful appeal to the Eighth Circuit.

In November 2019, respondent filed a motion to lift the stay in which he baselessly alleged that Judge Smith had knowingly and willfully violated federal law, was helping government counsel to commit crimes, and that Judge Smith must be disqualified if he failed to promptly remedy his illegal conduct. By January 8, 2020 orders, Judge Smith denied respondent's motion and directed him and his client to show cause as to why they should not be held in contempt and directed that the contempt proceeding be randomly assigned to another judge.

The contempt proceeding was assigned to Chief Judge Beth Phillips, who directed respondent and his client to show cause as to why they should not be held in contempt or sanctioned for making baseless accusations against Judge Smith. In his responses to Chief Judge Phillips, respondent reiterated his accusations against Judge Smith and also alleged that Chief Judge Phillips had knowingly engaged in criminal conduct. By March 4, 2020 order, Chief Judge Phillips sanctioned respondent $1,000 and

referred him to disciplinary authorities. Respondent refused to pay the sanctions and submitted additional filings in which he sought reconsideration of the sanctions order, continuing to level accusations of unethical and illegal conduct against the two judges.

By June 30, 2020 order, Judge Smith denied respondent's motion for reconsideration and warned him that continued frivolous and scurrilous motion practice on his part would result in additional sanctions and disciplinary referrals. Undeterred, respondent continued to submit filings impugning Judge Smith, who by July 6, 2020 order enjoined respondent and his client from submitting further filings without the prior approval of the court. In response, respondent filed a motion for leave to appeal to the Eighth Circuit in which he continued to allege unethical and criminal conduct on the part of Judge Smith. By July 20, 2020 order, Judge Smith permitted the filing of the notice of appeal, sanctioned respondent $500, forbade any further filings by respondent or his client, and referred respondent to disciplinary authorities.

In his appellate filings, respondent continued to make accusations of unethical and illegal conduct against Judge Smith and other federal judges. On July 30, 2021, the Eighth Circuit affirmed the sanctions. In August 2021, respondent submitted filings to the Eighth Circuit requesting a published opinion and attacking the competency and ethics of the judges on the court, stating, inter alia, that they were "essentially con men perpetrating a con," had "lied repeatedly" and "show[n] blatant disrespect for clearly controlling authority," and

had acted "[i]n a truly evil and utterly loathsome manner." By August 6 and 9, 2021 orders, the Eighth Circuit denied respondent's motions, ruled that no further filings would be accepted from him except for a proper petition for rehearing, referred him to disciplinary authorities, and ordered him to show cause as to why he should not be suspended or disbarred from practice before the Eighth Circuit.

Respondent continued his attacks against Judge Smith and Chief Judge Phillips in his submissions in the Eighth Circuit disciplinary proceeding. By November 2, 2021 order, the Eighth Circuit disbarred respondent, denied his subsequent motion to vacate the disbarment order and enjoined him from making any further filings, including filings related to his disbarment.

In August 2021, the Deputy Disciplinary Administrator for the Kansas Board for Discipline of Attorneys filed a formal complaint charging respondent with litigation related misconduct before two federal courts.

In January 2022, a one-day hearing was held before a three-member Hearing Panel at which respondent maintained that his ad hominem attacks against Judge Smith and Chief Judge Phillips were justified. By March 16, 2022 report, the Hearing Panel unanimously found by clear and convincing evidence that respondent's actions constituted professional misconduct in violation of the Kansas Rules of Professional Conduct rules 3.1 (frivolous claims and contentions), 3.4(c) (knowingly disobey an obligation under the rules of a tribunal except for an open

refusal based on an assertion that no valid obligation exists), 8.2(a) (making false or reckless statements regarding qualifications or integrity of a judge), 8.4(d) (conduct prejudicial to the administration of justice) and 8.4(g) (other conduct that adversely reflects on the lawyer's fitness to practice law).

The Hearing Panel further found that respondent had intentionally violated his duty to the legal system and to the legal profession and had caused injury to both. It also found that his misconduct was aggravated by his disbarment by the Eighth Circuit, his obstruction of the disciplinary process by asserting his Fifth Amendment privilege in bad faith, his misrepresentations to the Hearing Panel concerning opposing counsel's pre-hearing conduct, his substantial experience in the practice of law (over 20 years) and his refusal to acknowledge the wrongful nature of his conduct.

While the Hearing Panel noted that the imposition of other penalties or sanctions on respondent were recognized in mitigation, it also noted that respondent had not presented any evidence that he had paid the $1,500 in court-imposed sanctions. Based on this record, the Hearing Panel unanimously recommended disbarment.

Respondent filed exceptions to the Hearing Panel's report in the Kansas Supreme Court and argued that discipline could not be imposed because his statements were protected by the First Amendment and that his allegations against both judges had not been proven false. As noted, by order and decision of October 21, 2022, the

Kansas Supreme Court rejected respondent's arguments, affirmed the Hearing Panel's misconduct findings and sanction recommendation, and disbarred him.[1]

In a proceeding seeking reciprocal discipline pursuant to 22 NYCRR 1240.13, respondent may raise the following defenses: (1) lack of notice or opportunity to be heard in the foreign jurisdiction constituting a depravation of due process, (2) an infirmity of proof establishing the misconduct, or (3) that the misconduct for which the attorney was disciplined in the foreign jurisdiction does not constitute misconduct in this state (*see Matter of Milara*, 194 AD3d 108, 110 [1st Dept 2021]).

The AGC argues that none of the enumerated defenses apply because the record establishes that respondent was served with a copy of the formal complaint, presented and argued multiple motions and responses to motions wherein he thoroughly briefed his arguments and was provided the opportunity to present evidence on his own behalf. The AGC further argues that the conduct for which he was disciplined in Kansas constitutes violations of parallel disciplinary provisions in New York. Finally, the AGC argues that the order issued by the Supreme Court of Kansas disbarring respondent does not deviate materially from precedent of this Court involving arguably comparable misconduct.

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1. By order of April 24, 2023, the United States Supreme Court suspended respondent from the practice of law, predicated on his disbarment by the Supreme Court of Kansas. By order of June 5, 2023, the United States Supreme Court disbarred respondent.

Appendix C

By affidavit and memorandum, respondent opposes the imposition of reciprocal discipline and asserts all three enumerated defenses thereto. Respondent argues that his due process rights under Kansas's statutes and the First, Fifth, and Fourteenth Amendments were violated because his statements concerning the federal judges were entitled to a heightened degree of freedom of speech protection and could only be punished if proven false, which he maintains was not the case. As to the infirmity of proof defense, he argues that the written findings made by the federal judges concerning his conduct were based on hearsay evidence which should not have been admitted against him in the Kansas disciplinary proceeding. Additionally, he argues that given the claimed lack of proven falsity of his statements regarding the judges, they cannot be found violative of the Kansas and New York Rules of Professional Conduct. Respondent made very similar, if not the same, arguments in the Kansas disciplinary proceeding, all of which were rejected.

In reply, the AGC maintains that, notwithstanding respondent's arguments, none of the enumerated defenses to reciprocal discipline apply herein.

The AGC's motion should be granted because none of the enumerated defenses to reciprocal discipline apply herein. Respondent received notice of the charges and mounted a full and vigorous defense, the record fully supports the Kansas Supreme Court's misconduct findings and the misconduct for which he was disciplined in Kansas constitutes misconduct in New York in violation of the Rules of Professional Conduct (22 NYCRR 1200.00) rules 3.1. 3-4(c), 8.2(a), 8.4(d), and 8.4(h).

Appendix C

With respect to the appropriate sanction to be imposed, as a general rule this Court defers to the sanction imposed by the jurisdiction in which the charges were originally brought because the foreign jurisdiction has the greatest interest in fashioning sanctions for misconduct (*see Matter of Milara*, 194 AD3d at 111; *Matter of Tabacco*, 171 AD3d 163 [1st Dept 2019]; *Matter of Blumenthal*, 165 AD3d 85 [1st Dept 2018]). Only rarely does this Court depart from the general rule (*see Matter of Karambelas*, 203 AD3d 75 [1st Dept 2022]; *Matter of McHallam*, 160 AD3d 89 [1st Dept 2018]).

Therefore, disbarment is the appropriate sanction herein as it is commensurate with the discipline imposed in Kansas and is in general accord with precedent involving arguably comparable misconduct (*see Matter of Zappin*, 160 AD3d 1 [1st Dept 2018], *appeal dismissed* 32 NY3d 946 [2018], *lv denied* 32 NY3d 915 [2019]; *Matter of Fagan*, 58 AD3d 260 [1st Dept 2008], *lv dismissed* 12 NY3d 813 [2009]; *Matter of Heller*, 9 AD3d 221 [1st Dept 2004], *lv denied* 3 NY3d 607 [2004]).

Accordingly, the AGC's motion for an order disbarring respondent pursuant to Judiciary Law § 90(2), 22 NYCRR 1240.13, and the doctrine of reciprocal discipline should be granted and respondent is hereby disbarred and his name stricken from the roll of attorneys and counselors-at-law in the State of New York. All concur.

It is Ordered that the Attorney Grievance Committee's motion for reciprocal discipline pursuant to 22 NYCRR 1240.13, predicated upon similar discipline imposed by

the Supreme Court of Kansas, is granted, and respondent Jack R. T. Jordan is disbarred and his name stricken from the roll of attorneys in the State of New York, effective immediately, and until further order of this Court, and

It is further Ordered that pursuant to Judiciary Law § 90, respondent Jack R.T. Jordan is (1) commanded to desist and refrain from the practice of law in any form, either as principal or agent, clerk or employee of another, or from holding himself out in any way as an attorney and counselor-at-law; (2) forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board or commission or other public authority; (3) forbidden to give another an opinion as to the law or its application or advice in relation thereto, and (4) forbidden from holding himself out in any way as an attorney and counselor-at-law; and

It is further Ordered that respondent Jack R.T. Jordan is directed to fully comply with the rules governing the conduct of disbarred or suspended attorneys (see 22 NYCRR 1240.15), which are made a part hereof; and

It is further Ordered that if respondent has been issued a secure pass by the Office of Court Administration, it shall be returned forthwith.

Entered: July 6, 2023

/s/ Susanna Molina Rojas
Susanna Molina Rojas
Clerk of the Court

APPENDIX D — JURISDICTIONAL RESPONSE TO THE NEW YORK STATE COURT OF APPEALS, FILED DECEMBER 26, 2023

Jack Jordan
3102 Howell Street
North Kansas City, MO 64116
816-853-1142
courts@amicuslaw.us

December 26, 2023

Clerk of the Court
New York State Court of Appeals
20 Eagle Street
Albany, NY 12207

Subject: APL-2023-00189 (*Matter of Jack R.T. Jordan*); Jurisdictional Response

Dear Sir or Ma'am:

By letter (Jurisdictional Inquiry) dated December 11, 2023, this Court instructed Respondent, Jack Jordan, to file "comments in letter format justifying the retention of subject matter jurisdiction" by showing that "a substantial constitutional question is directly involved" so Jordan may "appeal as of right." Jordan respectfully submits that the following facts and controlling legal authorities clearly and overwhelmingly establish the foregoing.

Jordan repeatedly worked diligently to apprise the Attorney Grievance Committee ("AGC") and the New York Supreme Court judges below of controlling legal

authority and the facts that were material thereunder. In opposition to the AGC Notice of Motion Jordan filed a Response (Memorandum) and an Affidavit, each dated 5/5/2023. No one disputed or refuted any fact stated in Jordan's Affidavit or anything Jordan stated therein about any Kansas statute, Kansas Supreme Court precedent, or the Kansas Constitution (presented below). Jordan also filed with the Appellate Division a Motion to Reconsider dated 7/14/2023 and a Reply dated 8/16/2023 to the AGC's Response.

New York and Kansas judges clearly violated at least three clauses of the Fourteenth Amendment as construed in copious U.S. Supreme Court precedent. "No State" employee has any power to "*make* or *enforce* any" purported "law" that "abridge[s any] privileges or immunities of [U.S.] citizens," or any power to deprive "any person" of any "liberty" or "property" by denying him "due process of *law*" or "equal protection of the *laws*." U.S. Const. Amend. XIV (emphasis added). New York and Kansas judges presumed or pretended to have the power to violate Jordan's rights secured by the Privileges and Immunities Clause, the Due Process Clause and the Equal Protection Clause.

The question (in the minds of the New York judges below (and the Kansas and federal judges that they joined) is—when an American attorney (a U.S. citizen) uses statements in written court filings in federal court to petition for redress of grievances flowing from judges' alleged commission of federal offenses (including 18 U.S.C. §§ 241, 242, 1001, 1519, *infra*) during federal

court proceedings (including criminally misrepresenting and concealing particular content of evidence viewed *in camera* and criminally violating rights secured by the U.S. Constitution and federal law)—whether the U.S. Constitution permitted state judges to exercise any power to injure such attorney because of the *viewpoint* of his speech/petitions or because of the *content* of his speech/petitions by violating New York law and the Fourteenth Amendment and without complying with U.S. Supreme Court precedent construing "the freedom of speech" and "press" or "the right of the people" to "petition the Government" (U.S. Const. Amend. I) or determining "due process of law" for restriction or repression of speech/petitions containing such content (Amend. XIV).

I. New York, Kansas and Federal Judges Clearly Unconstitutionally Disbarred or Fined Jordan Solely and Expressly Because of the Content (and Even the Viewpoint) of Jordan's Speech and Petitions.

"Any [purported] discipline imposed" was "premised on" Jordan's written "assertion" of "factual issues" in court filings "while litigating" federal "FOIA cases in federal court." *In re Jordan*, 518 P.3d 1203, slip op. at 63 (Kan. 2022) (the "Kansas Order" or "KS Order"). "All [purported] misconduct here" consisted solely of Jordan's "assertions made in court filings or from the fact of the filings themselves." *Id.* at 64.

Kansas judges disbarred Jordan because in "various pleadings" (court filings) Jordan "accused multiple federal

judges of lying about [evidence viewed *in camera*]" and "the law" and "committing crimes." *Id.* at 1. Kansas judges disbarred Jordan because he included "[i]n" federal court "filings" "allegations" about federal judges that were "derogatory," *i.e.*, "allegations of criminal activity." *Id.* at 46 (Kansas attorneys' Final Hearing Report ("FHR") ¶220). *Accord id.* at 48 (FHR ¶228) ("derogatory statements" in court "filings about judges;" *id.* at 50 (FHR ¶239) ("statements about" judges were "derogatory"). Kansas judges disbarred Jordan because (they contended) Jordan's "assertions" did not "fall within the realm of legitimate criticism." *Id.* at 74.

Kansas judges and attorneys plainly flouted copious U.S. Supreme Court precedent that Jordan presented. *Cf. e.g.*, *id.* at 63, 65 citing *Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990); *Garrison v. Louisiana*, 379 U.S. 64 (1964); *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964); *id.* at 41-42 (FHR ¶200) citing *Garrison*; *New York Times*; *In re Primus*, 436 U.S. 412 (1978); *NAACP v. Button*, 371 U.S. 415 (1963); *Pickering v. Board of Ed.*, 391 U.S. 563 (1968) (each of which also is addressed below).

Kansas judges absurdly flouted such U.S. Supreme Court precedent based on mere conclusory contentions (obvious falsehoods) by state or lower federal court judges, including that "a lawyer's in-court advocacy," which purportedly "includes advocacy in motions," simply "is not [in any way] protected speech under the First Amendment," in part, because a "courtroom is a nonpublic forum." KS Order at 64.

Appendix D

The First Amendment expressly and specifically protects "the freedom of speech" and "press" and even more specifically the particular "right of the people peaceably" to "petition the Government" for "redress of" any "grievances." U.S. Const. Amend. I. Copious U.S. Supreme Court precedent repeatedly has emphasized the obvious: "the First Amendment" necessarily "protects vigorous advocacy" in court proceedings "against governmental intrusion." *Button*, 371 U.S. at 429 (collecting cases).

"The Petition Clause" was "inspired by the same ideals of liberty and democracy that gave us the freedoms to speak, publish, and assemble." *McDonald v. Smith*, 472 U.S. 479, 485 (1985) (collecting cases). In most respects "[t]he right to petition is cut from the same cloth as the other guarantees of" the First "Amendment, and is an assurance of a particular freedom of expression." *Id.* at 482

Clearly, the "right to petition" is "one of the most precious of the liberties safeguarded by the Bill of Rights." *BE&K Constr. Co. v. NLRB*, 536 U.S. 516, 524 (2002) *quoting United Mine Workers v. Illinois Bar Ass'n*, 389 U.S. 217, 222 (1967) (cleaned up). Such "right is implied" by "the very idea of a government, republican in form." *Id.* at 524-25. Every federal employee is responsible for helping "guarantee" a "Republican Form of Government." U.S. Const. Art. IV. Absolutely "all" state and federal legislators and "executive and judicial Officers" are "bound" to "support" the "Constitution." Art. VI. So "the right to petition extends to all departments of the Government," and it clearly includes "the right of access

to the courts." *Id.* at 525. It clearly includes petitions (including motions) for redress of grievances regarding judges' violations of the Constitution.

Clearly, a courtroom is, *de facto* and *de jure*, a "limited public forum" of the government's "creation." *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995). *Accord Shurtleff v. City of Bos.*, 142 S. Ct. 1583, 1587 (2022). Courtrooms and court filings are limited in that courts "may legally preserve" them "for the [decidedly-public] use to which" courts are "dedicated." *Rosenberger* at 829. Courts may limit the public's ability to submit court filings to "certain groups" (*e.g.*, litigants, intervenors and *amici*) and "for the discussion of certain topics" (*e.g.*, appropriate for motions to recuse judges or reconsider judicial conduct). *Id.* But all judges "must respect the lawful boundaries" that the Constitution, Congress and the U.S. Supreme Court have "set." *Id.* Judges "may not exclude speech" unless they *prove how* it is not "reasonable in light of the purpose served by the forum." *Id.* "The government" may only "set reasonable subject-matter limitations." KS Order at 64. Limitations cannot be reasonable if they contravene the U.S. Constitution (as construed by the U.S. Supreme Court).

Kansas judges even more absurdly misrepresented that Kansas "hearing panel [attorneys somehow] determined" that Kansas "was not required to prove [any of] Jordan's statements were false." KS Order at 73. No attorney or judge actually did (or could lawfully) "determine" any such thing because the U.S. Constitution and copious U.S. Supreme Court precedent construing the

Constitution clearly and emphatically "determined" the opposite. The Kansas attorneys, in fact, merely absurdly "disagree[d] with" every direct "assertion" by the U.S. Supreme Court and Kansas Supreme Court that Kansas "must prove that" Jordan "made a false statement." *Id.* at 44 (FHR ¶210).

New York judges knew that "Respondent filed exceptions to [the FHR]," in which he proved "that discipline could not be imposed because his statements were protected by the First Amendment," including "that his allegations against [any] judges [must be but] had not been proven false." NY Order at 6. New York judges knowingly violated the U.S. Constitution and flouted U.S. Supreme Court precedent by conceding that Kansas judges "disbarred" Jordan because they merely "rejected respondent's" U.S. Supreme Court and Kansas Supreme Court precedent and "affirmed the [FHR's]" so-called "misconduct findings." *Id.*

New York judges repeatedly clearly mischaracterized (and unconstitutionally placed undue emphasis on) so-called "misconduct findings" by Kansas. NY Order at 6, 8. Further relevant to Jordan's "infirmity of proof defense," New York judges misrepresented (in multiple respects) that Jordan merely "argues" that so-called "written findings" by "federal judges [merely characterizing Jordan's] conduct were *based* on hearsay evidence which [merely] *should* not have been admitted." *Id.* at 7 (emphasis added). They also emphasized that Kansas judges merely "rejected" the controlling provisions of Kansas statutes and the Kansas and U.S. Constitution that "Respondent"

presented "in the Kansas disciplinary proceeding." *Id.* at 7-8.

Jordan clearly did not contend that "federal judges [characterizations of Jordan's] conduct were *based* on hearsay evidence" or that they merely "*should* not have been admitted." *Id.* at 7 (emphasis added). Jordan showed that such judges' characterizations *were* hearsay that *was not* actually admitted, and *could not* lawfully (constitutionally) be admitted, in Kansas or New York proceedings as *evidence* that any such hearsay was *true* (*i.e.*, as evidence that Jordan engaged in any conduct, much less as evidence that Jordan's speech/petitions violated any rule of conduct). *See* pages 13-16, below, *quoting* Jordan Affidavit ¶¶4, 5, 21-29.

Moreover, Kansas and federal judges simply failed to find many *facts* that were material to their conclusions. Kansas clearly did not even characterize its conclusory contentions as "findings." *Cf.* KS Order at 28-54 (FHR ¶¶141-251) (labeled "Conclusions of Law"); *id.* at 55-58 (FHR ¶¶254-269) (labeled "Discussion"). The so-called "misconduct findings" on which New York judges expressly relied (NY Order at 7, 8) were (*de facto* and *de jure*) mere conclusory and exceedingly vague characterizations.

Moreover, *Kansas* attorneys (none of whom presented any evidence (or even contended) that they ever were admitted to or did practice in federal court) in their purported "Conclusions of Law" merely characterized Jordan's speech/petitions (about facts that were material under *federal* law in *federal* court filings) as "frivolous."

KS Order at 30, 32, 33 (FHR ¶¶154-158, 160, 162). They did so solely and expressly because federal judges merely asserted exceedingly vague conclusory hearsay characterizing Jordan's statements.

Judge Phillips merely characterized as "baseless" Jordan's "allegations" about Judge Smith. *Id.* at 45 (FHR ¶213). Judge Smith merely exceedingly vaguely characterized "numerous [entire] motions" by Jordan as somehow "largely frivolous, unprofessional, and scurrilous," and *maybe* "defamatory, in tone and content." *Id.* at 16, 18, 19, 38-39 (FHR ¶¶99, 103, 104, 185, 191).

"Accordingly," *Kansas* attorneys "conclude[d]" about Jordan's *federal* court "filings" [on *only*] July 1, 2020" that "clear and convincing evidence [proved that] such federal "filings" included "claims that [somehow] were frivolous" under *federal* criminal statutes, the *federal* Freedom of Information Act ("FOIA") and *federal* rules of procedure and evidence. *Id.* at 41 (FHR ¶198).

Kansas attorneys repeatedly merely contended that Jordan's speech/petitions were both "prejudicial to the administration of justice" and "adversely reflects on his fitness to practice law" merely because Jordan "filed" *federal* court filings (applying *federal* criminal statutes, the *federal* FOIA and *federal* rules of procedure and evidence) and merely because *Kansas* attorneys merely contended that such filings (applying *federal* law) somehow were "frivolous" or "served no legitimate purpose." *Id.* at 48-49 (FHR ¶¶232, 233, 234).

Kansas attorneys asserted such contentions about *only* four "motions" on May 5, 6 and 13 and June 29, 2020 merely because they contained "allegations about judges and [federal agency] attorneys" and merely because *Kansas* attorneys merely contended such "allegations" (applying *federal* law) were "frivolous." *Id.* at 48 (FHR ¶232). They asserted such contentions about *only* two motions on July 1 and 6, 2020 because they contained "allegations about judges and [federal agency] attorneys" and merely because *Kansas* attorneys merely contended such filings (applying *federal* law) were "frivolous." *Id.* at 49 (FHR ¶233). They asserted such contentions about *only* two motions and a Supplemental Memorandum (on August 1, 2 and 8, 2020) (applying *federal* law) because *Kansas* attorneys merely contended such filings "served no legitimate purpose in the [*federal*] appeal." *Id.* at 49 (FHR ¶234).

With the following statements, *inter alia*, New York judges repeatedly emphasized that they disbarred Jordan expressly and solely because of the *content* and *viewpoint* of Jordan's *speech* and *petitions* in federal court to redress misconduct by federal judges and attorneys that federal law made criminal and because Kansas judges disbarred Jordan for the same reasons.

New York judges disbarred Jordan solely and specifically because "Kansas" judges "disbarred" Jordan solely and specifically (and merely) "for submitting" written "federal court filings in litigation" in which Jordan "accused federal judges of lying about" the "contents" of Powers' email, "lying about the law, and committing

crimes," including "conspiring with others to" illegally "conceal" such "email." NY Order at 2.

New York judges disbarred Jordan because Jordan "filed a motion" (petition) in which he "alleged that Judge Smith had knowingly and willfully violated federal law, was helping government counsel to commit crimes, and that Judge Smith must be disqualified if he failed to promptly remedy his illegal conduct." *Id.* at 3. They disbarred Jordan because Judge Phillips fined Jordan "$1,000" for purported "contempt" and "referred" Jordan to Kansas "disciplinary authorities" solely "for making" such "accusations" in a petition to redress grievances "against Judge Smith." *Id.* at 4. They disbarred Jordan because Jordan petitioned for "reconsideration of the sanctions order, continuing to" accuse those "two judges" (Judges Phillips and Smith) of "unethical and illegal conduct." *Id.*

New York judges disbarred Jordan because Jordan "submit[ted]" additional "filings" in federal court "impugning Judge Smith," including "a motion for leave to appeal to the Eighth Circuit in which" Jordan "allege[d] unethical and criminal conduct" by "Judge Smith." *Id.* New York judges disbarred Jordan because Judge Smith fined Jordan $500 and "referred" Jordan to New York "disciplinary authorities" solely (and merely) for such speech/petitions. *Id.*

New York judges disbarred Jordan because "[i]n his appellate filings" (petitions) Jordan included "accusations of unethical and illegal conduct against Judge Smith and

other federal judges." *Id.* New York judges disbarred Jordan because of his "attacks against Judge Smith and Chief Judge Phillips in" additional written "submissions" to "the Eighth Circuit." *Id.* at 5.

New York judges disbarred Jordan because Jordan "submitted filings to the Eighth Circuit [] attacking the competency and ethics of" Eighth Circuit "judges" by "stating, *inter alia*, that they were 'essentially con men perpetrating a con,' had 'lied repeatedly' and 'show[n] blatant disrespect for clearly controlling authority,' and had acted '[i]n a truly evil and utterly loathsome manner.'" *Id.* at 4-5. They disbarred Jordan because "Eighth Circuit" judges "disbarred" Jordan (without identifying themselves or any supporting fact, evidence or legal authority). *Id.* at 5. Eighth Circuit judges did not even try to justify their crimes (or attempt to show they did not commit crimes) with their disbarment order.

II. Four Federal Criminal Statutes Are Especially Relevant.

Each Jordan statement at issue (for which Jordan was fined and disbarred) expressly pertained to conduct by so-called public servants that was so harmful to the public that (to protect the public) Congress made it criminal. *See* Jordan Affidavit (5/5/2023) ¶¶17, 18:

> 17. None of my speech [at issue] occurred in any courtroom or during any in-person proceeding, *e.g.*, a trial or hearing, so it did not interfere with or obstruct any proceeding. In written

> court filings presented to the Federal Judges *in their courts while they presided* over case[s] or appeals I stated that the Federal Judges and government attorneys lied or committed the crimes in 18 U.S.C. §§ 241, 242, 371, 1001, 1512(b), 1341, 1343, 1349 or 1519. Every relevant judge or attorney had ample opportunity and cause to show that something I wrote was false, but they never did even try to do so. . . .
>
> 18. All my statements about any judge or government attorney (state or federal) lying or committing crimes remain undisputed. To date, no judge or attorney (state or federal) in any proceeding involving me ever even contended that anything I wrote in any court filing about any lie or any crime of any judge or government attorney (state or federal) was factually false or misleading. No one ever stated any fact or attempted to prove any fact that could establish that any such statement [by me] was false or misleading. No one ever even attempted to refute or dispute any fact, evidence or legal authority that I presented in any such filing.

The Fourteenth Amendment was written and ratified in the late 1860's specifically to re-emphasize what was already strongly emphasized in Article VI, *infra*, *i.e.*, that "[n]o State" employee (and especially no judge) had any power to "make or enforce any" purported "law" that "abridge[s any] privileges or immunities of [U.S.] citizens," or any power to deprive "any person" of any "liberty" or

"property" by denying him "due process of law" or "equal protection of the laws." U.S. Const. Amend. XIV.

As part of the same process that resulted in the Fourteenth Amendment, Congress also considered and enacted related legislation. *See, e.g., United States v. Price*, 383 U.S. 787, 769-807 (1966) (discussing application of 18 U.S.C. §§ 241, 242, *infra*, to state officials and tracing their history back to the Civil Rights Act of 1866 and the Enforcement Act of 1870). Despite all the foregoing (the People and Congress repeatedly emphasizing that the judicial conduct at issue here violated the Constitution and was criminal), federal judges deliberately abused New York and Kansas judges—and such state judges presumed or pretended to have the power—to engage in the precise conduct proscribed by the Constitution and federal law. *Cf.* 18 U.S.C. §§ 241, 242, *infra*.

Sections 241 and 242, *infra*, apply to every state or federal judge or government attorney who was responsible for fining or disbarring Jordan because of his speech/petitions exposing and opposing judges committing such crimes. "Even judges" clearly "can be punished criminally" under Sections 241 or 242 "for willful deprivations of constitutional rights." *Imbler v. Pachtman*, 424 U.S. 409, 429 (1976). "The language" of Sections 241 and 242 is "plain and unlimited" and it "embraces all of the rights and privileges secured to citizens by all of the Constitution and all" federal "laws." *Price*, 383 U.S. at 800. The "qualification" regarding "alienage, color and race" in Section 242 does not apply "to deprivations of any rights or privileges." *United States v. Classic*, 313 U.S. 299, 326 (1941).

Appendix D

"Whoever" (including any judge) acts "under *color* of *any* law, statute, ordinance, regulation, or custom" to "willfully" deprive Jordan "of *any* rights, privileges, or immunities secured or protected by" *any* provision of the U.S. "Constitution" or federal "laws" commits a crime. 18 U.S.C. § 242 (emphasis added). No judicial "custom" or action "under color of any law" is exempt. *Id.* There is no exemption for judicial customs of "deference," *e.g.*, comity, reciprocity, *res judicata* or pretenses that judicial hearsay is evidence or entitled to any presumption that such hearsay is true. No government employee whatsoever has the power to *knowingly* violate any right of any person secured by the U.S. Constitution.

Any "two or more persons" (including any judge) who "*conspire* to *injure*, *oppress*, *threaten*, or *intimidate*" Jordan "in the *free* exercise" of "*any right* or *privilege* secured" by *any* provision of the U.S. "Constitution" or federal "laws," or "because" Jordan "exercised" "*any*" such "*right* or *privilege*" commits a crime. 18 U.S.C. § 241 (emphasis added).

It also is a crime for any federal judge to "knowingly and willfully" (1) use any "trick, scheme, or device" to falsify or even merely to conceal or cover-up any "fact" that was "material" to any federal court or federal agency proceeding, or (2) make "any materially false, fictitious, or fraudulent statement or representation" or even to (3) make or use "any false writing or document" while "knowing" that such writing or document "contain[s] any materially false, fictitious, or fraudulent statement or entry." 18 U.S.C. § 1001(a). Section 1001 clearly applies

to judges. It expressly applies to "any matter within the jurisdiction" of the executive" or "judicial branch." *Id.* It expressly exempts only "a party to a judicial proceeding, or that party's counsel." 18 U.S.C. § 1001(b).

Any judge or government attorney who "knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record" or "document" (including Powers' email) with "the intent to impede, obstruct, or influence" the "proper administration of any matter within the jurisdiction of any" federal "agency" or even "in relation to or contemplation of any such matter" commits a crime. 18 U.S.C. § 1519.

Jordan's speech/petitions (for which federal and state judges disbarred, and federal judges fined, Jordan) exposed and opposed the lies and crimes of federal judges who were helping federal agency attorneys conceal evidence that federal judges and attorneys lied about the content of an email ("Powers' email") to criminally influence the process and result of federal agency and federal court proceedings. They lied about the email containing a particular privilege notation ((purportedly) *quoted* sometimes as "Subject to Attorney Client Privilege" and sometimes as "subject to attorney-client privilege") and an *express* request for a particular attorney's "legal advice" or "input and review" (which necessarily would include non-commercial words such as "please advise regarding" or "please review and provide input").

Regarding the foregoing, Jordan again very recently repeatedly stated and proved that federal judges and

federal agency attorneys lied about the content and nature of Powers' email. On November 15, 2023, Jordan sent a petition for certiorari to the U.S. Supreme Court and (by email) to the U.S. Solicitor General. *See* https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/ html/public/23-533.html.

In the same November 15 email (and previously), Jordan repeatedly reminded the Solicitor General's office of its duties under U.S. Supreme Court Rule 15.2 (emphasis added): "the brief in opposition *should address any perceived misstatement* of *fact* or *law* in the petition that bears on what issues properly would be before the Court if certiorari were granted. *Counsel* are admonished that they have an *obligation* to the Court to point out in the brief in opposition [] *any perceived misstatement* made in the petition."

Despite the foregoing, after more than a month, the U.S. Solicitor General expressly declined to even attempt to show that any Jordan statement of any fact or about any legal authority was false. *See id.* Waiver filed 12/19/2023. The Solicitor General refused to even contend (much less attempt to prove) that any federal judge or agency attorney did not lie or commit crimes as Jordan stated.

III. New York Judges Proved Irrefutably that they Knowingly Violated New York Law and the U.S. Constitution.

The New York judges and attorneys below provided irrefutable proof that they did (and were determined to)

knowingly violate New York law and each of the three clauses of the Fourteenth Amendment, above. They knew that "22 NYCRR 1240.13" precluded Jordan's disbarment if Kansas failed to present "proof establishing the [purported] misconduct" or if whatever Kansas actually proved did "not constitute misconduct in this state." NY Order at 6-7. So New York judges lied and knowingly violated New York law and the U.S. Constitution.

New York judges vaguely *knowingly* misrepresented that something somewhere in "the [Kansas] record fully supports" what New York judges vaguely characterized as Kansas "misconduct findings." *Id.* at 8. Thus, they *knowingly* misrepresented that the Kansas record contains *evidence* that was legally *admissible* under Kansas law and actually *admitted* at the Kansas hearing to clearly and convincingly *prove how* Jordan's speech/petitions violated each Kansas rule.

They further *knowingly* misrepresented that Jordan's speech/petitions "constitute[d] misconduct in New York in violation" of Rules 3.1 and 8.2(a) of New York's "Rules of Professional Conduct (22 NYCRR 1200.00)."

The judges below knew that New York law (and therefore the Fourteenth Amendment) required New York to identify *proof* (evidence that was admissible, admitted, and clear and convincing) of *facts* establishing that Jordan's statements were *false*. *Cf.*, *e.g.*, Resp. Reply (8/16/2023) re: Mot. to Recon. at 3:

> the AGC must (but did not and cannot) state and prove each *fact* material to proving *how* a *particular* Jordan "statement" was factually "false." 22 NYCRR 1200.00 NY R. Prof. C. 8.2(a). The AGC did not (and cannot) prove any Jordan statement was factually frivolous without proof of each *fact* material to proving *how* a *particular* "factual statement[]" that Jordan "assert[ed]" was "false." *Id.* Rule 3.1(b)(3).

Moreover, the New York (and Kansas) judges and attorneys also knew that the Kansas Supreme Court also construed Kansas Rule 8.2(a) to preclude *any* discipline without evidence (that was admissible, admitted and clearly and convincingly proved facts) proving *how* Jordan's statements were factually *false*. *See, e.g.*, Jordan Affidavit (5/5/2023) ¶¶31, 32:

> 31. Kansas judges also lied [] about seeing "clear and convincing evidence" that "establishes a KRPC 8.2(a) violation." Kansas Order at 73. They knew their so-called evidence of my purported recklessness contravened their own precedent and Rule 8.2. *Id.* at 73 citing *In re Pyle*, 156 P.3d 1231 (Kan. 2007). They knew (because I briefed repeatedly) that *Pyle* confirmed the meaning of Rule 8.2(a) in a way that established Kansas Rule 8.2 clearly did not permit punishing me for speech that was not proved to be false. Kansas "Rule 8.2(a) enables" only "carefully circumscribed control

> over lawyer speech by prohibiting *only false* statements," *i.e.*, only "*factual* allegations that are *false*." *Pyle* at 1243 (emphasis added). *Kansas* was required (but failed) to prove falsity of material *facts* with *clear and convincing evidence.* Kansas failed to even attempt to do so.
>
> 32. The Kansas Supreme Court in *Pyle* (quoting the U.S. Court of Appeals for the Seventh Circuit (in Chicago)) and the American Bar Association (ABA) also emphasized the reason for the rule. "*Some judges are dishonest*" and "their *identification* and removal is" a "*high priority* in order to *promote* a *justified* public *confidence* in the judicial system." *Pyle* at 1247 (emphasis added). "*Expressing* honest" attorney "opinions on such matters contributes to *improving* the administration of *justice*;" so only "*false* statements" can "*unfairly* undermine public confidence in the administration of *justice*." *Id.* at 1243 (emphasis added). *Accord* Comment to ABA Model R. Prof. C. 8.2(a).

New York judges below knew that in the Kansas proceedings "Respondent filed exceptions to the Hearing Panel's report" and he also presented U.S. Supreme Court and Kansas Supreme Court precedent (*Pyle*) establishing "that discipline could not be imposed because his statements were protected by the First Amendment," including "that his allegations against [federal] judges [must be but] had not been proven false." NY Order at

6. The judges below also knew that throughout the New York proceedings Jordan stated and proved "that his due process rights under Kansas's statutes and the First" and "Fourteenth Amendments were violated because his statements concerning the federal judges . . . could only be punished if proven false" and "given the claimed lack of proven falsity of his statements regarding the judges, they cannot be found violative of the Kansas and New York Rules of Professional Conduct." *Id.* at 7.

New York (and Kansas and federal) judges and attorneys especially clearly failed even to identify any fact (much less any evidence of any fact) establishing *how* any Jordan statement was false. They did not do so and they could not do so. They clearly failed to identify any *evidence* of any *fact* establishing *how* any Jordan speech/petition violated any rule. But their knowing violations of the Fourteenth Amendment did not end there.

New York judges merely contended that Kansas judges or attorneys "found" assertions, which the New York judges knew were mere conclusions, not findings of fact. *See* NY Order at 5, 6. New York judges vaguely alluded to Kansas "misconduct findings." *Id.* at 6, 8. They also vaguely alluded to "findings made by the federal judges." *Id.* at 7. But a judge merely mischaracterizing a conclusory contention as a "finding" or "evidence" or "proof" does not and cannot make it so.

No judicial contention merely summarily characterizing any contention by any judge or by Jordan constituted "evidence," "proof" or even a "finding of fact"

of anything adverse to Jordan. "Finding of fact" in Kansas meant a "determination from proof or judicial notice of the existence of a fact." Kan. Stat. Ann. § 60-401(h). "Evidence" meant "the means from which inferences may be drawn as a basis of proof," including "testimony." *Id.* 60-401(a). "Proof" meant "all of the evidence [that was admitted and] relevant to a fact in issue," *i.e.* "tend[ing] to prove the existence or non-existence of such fact." *Id.* 60-401(c). "Burden of proof" meant Kansas's "obligation" to "meet the requirements of a rule of law that the fact be proven" by "clear and convincing evidence." *Id.* 60-401(d).

Moreover, the New York (and Kansas) judges and attorneys knew that Kansas judges clearly misrepresented the purpose for which evidence was admitted at the hearing. They also knew the Kansas judges clearly and irrefutably violated Kansas law and the Kansas and U.S. Constitutions (the Fourteenth Amendment). Kansas judges knowingly misrepresented (and pretended) that the hearsay of federal judges was admitted as evidence that such hearsay was *true*, *i.e.*, that the hearing panel actually did "admit" such hearsay as "evidence" that clearly and convincingly proved the *truth* of federal judges' contentions about Jordan's purported "misconduct." KS Order at 66.

In fact, the Kansas attorneys who conducted the hearing, themselves, repeatedly correctly emphasized that any "certified court records" were "admitted" only for "establishing *what* was *stated* in the documents" by a judge "and not for the *truth*" of "any of the statements" by such judge or about any other judge or about Jordan

"contained" therein. FHR ¶17 (emphasis added). The Kansas attorneys correctly emphasized the foregoing fact because, as they further emphasized, Kansas statutes clearly precluded admitting any judges' hearsay as *evidence* that such hearsay was *true*, *i.e.*, that *any* judge's contention that *Jordan* committed misconduct (or even engaged in *any* conduct) was *true*. *See* Jordan Affidavit (5/5/2023) ¶¶4, 5, 21-29:

> 4. Kansas statutes define "finding of fact," "evidence" and "proof." Kan. Stat. Ann. 60-401(a)-(d), (h). The Kansas Order simply failed to include *any* such "finding of fact" or identify *any* "evidence" or "proof" of any *fact* that was material to establishing *how* any of my speech/petitions actually violated any rule of conduct.
>
> 5. Only the Kansas legislature possesses the "legislative power of" such "state." Kan. Const. Art. 2, § 1. "All laws of a general nature shall have a uniform operation throughout the state." Kan. Const. Art. 2, § 17. Kansas statutes herein governing findings of fact, evidence, proof, testimony and hearsay clearly are such laws. The Kansas Supreme Court had no power to make or enforce *any* rule or ruling to contradict, change or violate any Kansas statute at issue. Moreover, the Kansas Supreme Court had no power make or enforce *any* rule or ruling to create or modify any testimonial privilege to allow anyone (whose hearsay

Kansas used against me) to avoid testifying and being subject to cross-examination. "No special privileges" for, *e.g.*, judges, "shall be exercised by" any "tribunal" except to the extent expressly "granted by the" Kansas "legislature." Kan. Const. B. of R. § 2. There is no evidence that the Kansas legislature granted any privilege for judges to avoid testifying under oath regarding any hearsay used against me.

21. Kansas judges knew that any purported "misconduct must be established by *clear and convincing evidence*," *i.e.*, "evidence" that "causes" the Kansas judges "to *believe* it is *highly probable* that" actual "*facts*" that actually were "*asserted* are *true*." Kansas Order at 60-61 (emphasis added) (citing Kansas decisions). So Kansas judges knew Kansas was required, first, to actually *assert* actual *facts*, and, second, to *prove* each *fact* was *true* to prove *how* my speech/petitions violated any rule of conduct. Kansas judges and attorneys failed to do any of the above to prove that any of my speech/petitions violated any rule of conduct in compliance with Kansas statutes and the Kansas and U.S. Constitutions.

23. Kansas judges lied about the evidence that the Kansas hearing panel actually admitted (which it clearly did not admit). The judges knowingly misrepresented that the hearsay of

the Federal Judges was admitted as evidence that such hearsay was true. Kansas judges knowingly misrepresented that the hearing panel actually did "admit" such hearsay as "evidence of" my "misconduct." Kansas Order at 66. Clearly, the hearing panel did not do so.

24. The Kansas disciplinary administrator *repeatedly asked* to have the Federal Judges' hearsay admitted "to prove the truth of" statements "asserted" therein about me. Kansas Order at 57. But the hearing panel expressly and repeatedly refused to admit such hearsay as evidence to "prove the truth" of any "matter asserted" by Federal Judges about me. *Id.* at 58 citing Kan. Stat. Ann. 60-460(o). *See also id.* at 57 (court "records were not admitted through KS.A. 60-460(o) to prove the truth of" any "matter asserted in any statements made" therein [by any judge]). Such hearsay was "admitted" only "to prove the content of" court "record[s]," *i.e.*, merely to prove only what the *issuing judge* wrote and did (*not* what *I* (or anyone else) wrote or did) "and the panel considers" such hearsay "*only* for that purpose." Kansas Order at 58 (emphasis added).

25. The hearing panel also emphasized the reason that the Federal Judges' hearsay about me could not (lawfully or constitutionally) be admitted to prove such hearsay was true. Kansas "did not call any witnesses or provide

any further evidentiary foundation during the formal hearing to support admitting these exhibits for any" such "purpose." Kansas Order at 57.

26. No hearsay by the Federal Judges that Kansas judges used against me was admissible against me because the "person who" made the "statement" was not both "present at the hearing" and "available for cross-examination" regarding "the statement and its subject matter." Kan. Stat. Ann. 60-460(a). No Federal Judge or federal attorney (or anyone with personal knowledge of any fact material to any federal court proceeding) was present or testified at the hearing.

27. Any "witness' testimony must be taken in open court." Kan. Stat. Ann. 60-243(a). Any "witness may be contradicted and impeached by" me and "may be cross-examined" on any "subject matter of the witness' direct examination." *Id.* 60-243(b). But Kansas did not present any witness for cross-examination to establish the truth of any hearsay about my conduct in any federal court proceeding.

28. For the crucial "purpose of impairing" the "credibility of" a judge as "witness," I must be permitted to "examine" any "witness" against me "and introduce extrinsic evidence concerning any conduct by him or her and

any other matter relevant upon the issues of credibility." Kan. Stat. Ann. 60-420. "As a prerequisite for the testimony of" any judge as "a witness on a relevant or material matter, there must be evidence" (admitted in the case) "that he or she has personal knowledge thereof." Kan. Stat. Ann. 60-419.

29. Kansas judges and attorneys also lied about seeing evidence that I showed reckless disregard for the truth or falsity of my statements. Such evidence clearly did not exist. Kansas judges knew Kansas attorneys lied (repeatedly) about presenting "clear and convincing evidence that" I "violated KRPC 8.2(a)." Kansas Order at 47. They lied about presenting "evidence" that I "had not read an unredacted version of Powers' email." *Id.* at 37, 41, 46-47. They lied about presenting "evidence" of my "knowledge that" I "lacked evidence of what Powers' email actually said." *Id.* at 37. *See also id.* at 13 ("had not read" "what was contained in Powers' email"). They pretended that they "concluded" that I "violated KRPC 8.2(a)" only "because" I purportedly "never read an unredacted version of the Powers e-mail." *Id.* at 73. Kansas judges pretended that the foregoing conclusory contentions and lies constituted clear and convincing evidence that my "assertions" that 'judges lied about Powers' email, concealed evidence, and committed crimes" clearly "had to have been made with

> reckless disregard to their truth or falsity." *Id.* Kansas judges and attorneys lied about such evidence and they failed to identify any such evidence.

Simply put, a federal "presiding judge may not" actually or implicitly "testify as a witness." FED.R.EVID. 605. "Against" Jordan's "objection," any Kansas "judge presiding" clearly "may not" actually or implicitly "testify" as "a witness." Kan. Stat. Ann. § 60-442. Presiding judges "may not" in any way purport to "assume the role of a witness," so they "may not either distort" any "evidence" or "add to it," including with their own inadmissible hearsay. *Quercia v. United States*, 289 U.S. 466, 470 (1933).

IV. Attorneys Facing Disbarment for Speech Criticizing Judges Must Be Afforded the Process of Law that is Due in Defamation or Libel Cases.

The "consequences for" Jordan of this matter compel at least the process due in "the ordinary run of civil cases." *Konigsberg v. State Bar of Cal*, 353 U.S. 252, 257 (1957). The "action" of Kansas and New York judges "prevents" Jordan from "earning a living by practicing law [before many courts]. This deprivation has grave consequences for a man who has spent years of study and a great deal of money in preparing [for lifetime employment as] a lawyer." *Id.* at 257-258. "Disbarment" clearly is "a punishment." *In re Ruffalo*, 390 U.S. 544, 550 (1968). It is at least "quasi-criminal" in "nature." *Id.* at 551. So, to disbar Jordan, no judge may resort to any "procedural violation of due process" that "would never pass muster in any normal civil or criminal litigation." *Id.* at 552.

Appendix D

Jordan must be afforded at least the process of law that is due to defendants in defamation or libel cases. Jordan is being injured by judges because of the content and viewpoint of his speech/petitions that are potentially defamatory or libelous, *i.e.*, exposing and opposing the lies and crimes of judges. Certainly, if Jordan's "statements amount to defamation, a judge has such remedy in damages for libel as do [all] other public servants." *New York Times*, 376 U.S. at 268 *quoting Pennekamp v. Florida*, 328 U.S. 331, 348-349 (1946).

"Attorneys who make statements impugning the integrity of a judge" clearly and irrefutably are "entitled" to "First Amendment protections applicable in the defamation context." *Standing Comm. on Discipline of the United States Dist. Court v. Yagman*, 55 F.3d 1430, 1438 (9th Cir. 1995). The First Amendment requires all courts to afford particular due process of law to all speech criticizing judges. First, "attorneys may be sanctioned for impugning the integrity of a judge or the court only if" the government has proved that "their statements" actually "are false." *Id. citing Garrison, infra.* Second, each "disciplinary body" always "bears the burden of proving falsity." *Id. citing* U.S. Supreme Court precedent. Third, the "truth" of Jordan's statements "is an absolute defense." *Id. citing Garrison.*

Even more reason exists to afford Jordan due process of law for libel cases. Here, judges usurped the power to punish (without due process of law) an exceedingly unconstitutional former so-called "crime," *i.e.*, *common-law* "seditious libel." "[I]n cases of [so-called seditious]

libel," a "trial by jury" was "precious to the nation" because juries were "the guardian[s] of liberty and life, against the power of the court, the vindictive persecution of the prosecutor, and the oppression of the government." *People v. Croswell* (3 Johns. Cas. 337, 375 [NY Sup. Ct. 1804]).

Significantly, Croswell was represented by none other than Alexander Hamilton, who with James Madison and John Jay repeatedly helped create and construe the U.S. Constitution (and the New York Constitution). *See, e.g.*, Resp. Reply (8/16/2023) re: Mot. to Recon. at 18, 28, 34, 42, 59-62 (repeatedly invoking Hamilton, Madison and Jay for support).

Our peers on juries were considered precious guardians, in part, because "the jury have a right to judge" the "truth of the" purported libel. *Croswell* at 376-377. After all, "what can be a more important circumstance than the truth of the" purported libel "to determine" whether it was malicious. *Id.* at 377. "To shut out wholly the inquiry into the truth of the accusation, is to abridge essentially the means of defense. It is" to "convict" the purported libeler "by means of a [mere] presumption which he might easily destroy by proof." *Id.* So "falsehood is a material ingredient" that the government must prove regarding any "public libel." *Id.* at 379.

Worse still, judges are retaliating against Jordan for *petitions* (written court filings) *because* they seek redress of grievances regarding judges' *criminal* misconduct. However, it cannot "be a libel to publish generally a true

account of the character and conduct of public rulers, because it is of vast importance that their character and actions should be accurately understood, and especially by the public, to whom," ultimately, all public servants "are responsible." *Id.* at 380.

"The [long-discredited] doctrine that the truth of the matter" *supported* "public prosecution for a libel, came from the [much hated and despised] Court of Star Chamber." *Id.* Star Chamber proceedings "establishe[d] two very important facts; [first, the] Star Chamber established [such defunct common-law] doctrine" for the prosecution of the so-called crime of seditious libel, *i.e.*, criticism of public officials (which now is clearly unconstitutional), and second, despite such common-law doctrine, "it was still the public sentiment" that "the truth" is "a defense to a libel." *Id.* at 381. Such public sentiment prevailed and permeated the U.S., New York and Kansas Constitutions.

V. Precedent Protecting the Freedom of Speech, the Freedom of the Press or the Right to Petition Protects Jordan's Speech/Petitions.

As copious U.S. Supreme Court precedent below confirms, the "privileges" and "immunities of [U.S.] citizens," as well as "due process of law" and "equal protection of the laws," include the First Amendment. U.S. Const. Amend. XIV. "No State" employee has any power to "*make* or *enforce* any law" (*id.* (emphasis added)) that abridges "the freedom of speech, or of the press" to expose and oppose any judicial misconduct or "the right

of the people peaceably" to "petition the Government" to "redress" any "grievances" regarding judicial misconduct (Amend. I). New York and Kansas judges (merely) presumed or pretended to have the power to do all the above.

Some judges presume or imply that the due process protections in precedent pertaining to "the press" apply to the press as a (modern) institution and do not protect individuals. But that position is clearly erroneous and clearly unconstitutional. The Constitution's plain text confirms that "*the* freedom" at issue is the same regardless of whether "the freedom" is characterized as being "of speech" or "of the press." *Id.* (emphasis added). Copious U.S. Supreme Court precedent confirms the same.

In all relevant respects, "a reporter's constitutional rights are no greater than those of any other member of the public." *Nixon v. Warner Commc'ns*, 435 U.S. 589, 609 (1978) (collecting cases). *Accord First Nat'l Bank v. Bellotti*, 435 U.S. 765 (1978). Judges and courts are "constitutionally disqualified from dictating" (in the manner they did) "the subjects about which" attorneys "may speak" and they are "constitutionally disqualified from dictating" which "speakers [] may address a public issue." *Id.* at 784-785. That ruling applied specifically to state-created corporations; *a fortiori*, it applies even more clearly to state-licensed attorneys. *See also id.* at 790-802 (Burger, C.J., concurring) (discussing additional precedent and history regarding the freedom of speech and press).

VI. In All Relevant Respects, Jordan's Freedom of Speech and Right to Petition Are No Less than Any other American's.

New York, Kansas and federal judges pretended or implied that the due process protections in precedent pertaining to every other American do not protect attorneys merely because they are officers of the court. But that position is clearly erroneous and clearly unconstitutional, as the plain text of the Constitution and copious U.S. Supreme Court precedent confirm.

The "citizenry is the final judge of the proper conduct of public business." *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 495 (1975). The speech of attorneys and judges about public business clearly is protected by the First Amendment. That was the precise point of *Republican Party v. White*, 536 U.S. 765 (2002). Courts purported to have the power to regulate the content of speech merely because it was by judges and lawyers. *See id.* at 768. Any court that would punish or prohibit the content of such speech must prove that the court "determine[d] the constitutionality of" each "restriction" (or punishment) with "strict scrutiny." *Id.* at 774-775. To survive "strict-scrutiny," the government must bear "the burden to prove that" its regulation/punishment of speech "is (1) narrowly tailored, to serve (2) a compelling state interest," and "to show that" regulation/punishment "is narrowly tailored," the government "must demonstrate" that it does not "unnecessarily circumscribe protected expression." *Id.*

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Additional U.S. Supreme Court precedent emphasized the same, including in an opinion by Chief Justice Roberts, joined in by every Justice on the Court (including Justices Thomas, Sotomayor, Kagan) except Justice Alito. The Court defended the freedom to speak and the right to assemble near (and on the day of) the funeral of a soldier killed in combat to proclaim or imply that "God kills American soldiers as punishment" for America's "tolerance of homosexuality." *Snyder v. Phelps*, 562 U.S. 443, 447-448 (2011). The protected speech included signs stating "Thank God for Dead Soldiers" and "God Hates the USA/Thank God for 9/11" because "God Hates Fags." *Id.* at 448.

Snyder (and its invocation of *Connick* and *Garrison*, *infra*), are especially relevant here, in part, because the relevant statements were asserted in *Connick* and *Garrison* specifically to protect attorneys who were not merely licensed but also were employed by the government. Specifically, to protect such attorneys, the Court repeatedly emphasized that government "cannot condition" even actual "public employment" (much less mere licensing) "on a basis that infringes [any] employee's" (or any attorney's) "constitutionally protected interest in freedom of expression." *Garcetti v. Ceballos*, 547 U.S. 410, 413 (2006) (joined in by Roberts, C.J., and Thomas, Alito, JJ.) *quoting Connick v. Myers*, 461 U.S. 138, 142 (1983).

"[A] citizen who works for the government is nonetheless a citizen. The First Amendment limits the ability of [the government even as an] employer to leverage [even an] employment relationship to restrict,

incidentally or intentionally, the liberties" *all* Americans, including government "employees enjoy in their capacities as private citizens." *Garcetti*, 547 U.S. at 419. Even when the government restricts or punishes attorneys who are actual "employees" for "speaking as citizens about matters of public concern," the government must *prove* it imposed "only" such "speech restrictions" as were "necessary for" the government "to operate efficiently and effectively." *Id.*

In *Snyder*, the Court re-emphasized the following (which it specifically asserted previously to protect attorneys licensed and employed by the government against punishment by government employers or by judges) for their speech criticizing or opposing government employers or judges. Although Justice Alito dissented from *Snyder*, he did not do so regarding any of the following. Indeed, in *Mahanoy Area Sch. Dist. v. B.L.*, 141 S. Ct. 2038 (2021), Justices Alito and Gorsuch concurred to re-emphasize or supplement the same.

The Court unanimously re-emphasized that "speech on public issues" by an attorney who is licensed and even employed by the government "occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection." *Snyder* at 452 *quoting Connick*, 461 U.S. at 145 (cleaned up). *Accord Mahanoy* at 2055 (Alito, Gorsuch JJ., concurring) (quoting same). *See also Snyder* at 453 (discussing when "[s]peech deals with matters of public concern").

The Court unanimously further re-emphasized that "speech concerning public affairs" by an attorney who

is licensed and even employed by the government is "the *essence* of *self*-government." *Snyder* at 452 *quoting Garrison*, 379 U.S. at 74-75 (emphasis added). *Accord Mahanoy* at 2055 (Alito, Gorsuch JJ., concurring) ("Speech" on "sensitive subjects like politics" clearly "lies at the heart of the First Amendment's protection." "[A] dvocacy of a politically controversial viewpoint" even is "the essence of First Amendment expression"). Garrison's speech was protected by the First Amendment even though he publicly stated or implied that eight judges were egregiously lazy or inefficient or just plain criminally corrupt. *See id.* at 66.

The Court unanimously further re-emphasized our "profound national commitment to the principle that debate on public issues *should* be uninhibited, robust, and wide-open" (*Snyder* at 452 *quoting New York Times*, 376 U.S. at 270 (emphasis added)), and such debate may include "vehement, caustic," and "unpleasan[t]" statements (*Snyder* at 458). *Accord FEC v. Ted Cruz for Senate*, 142 S. Ct. 1638, 1650 (2022) (opinion by Roberts, C.J., in which Thomas, Alito, Gorsuch, Kavanaugh, and Barrett, JJ., joined).

Specifically regarding such speech by attorneys licensed and employed by the government about judges who are officers of the same court, the U.S. Supreme Court emphasized such "speech concerning public affairs" is "the essence of self- government" and "debate on [such] issues should be uninhibited, robust, and wide-open," and it may "include vehement, caustic," and "unpleasantly sharp attacks on government and public officials." *Garrison*, 379

U.S. at 74-75 (1964). *Accord Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966). *See also id.* (emphasis added):

> [The public has] a *strong interest* in *debate* on *public* issues [including] *about* those *persons* who are *in a position significantly to influence the resolution of those issues. Criticism of government* is at *the very center of the constitutionally protected area of free discussion. Criticism of those responsible for government operations must be free*, lest criticism of government itself be penalized.

The "public interest in a free flow of information to the people concerning public officials, their servants" is "paramount," so "anything which" even "might touch on an official's fitness for office is relevant," including judges' "dishonesty, malfeasance, or improper motivation." *Garrison*, 379 U.S. at 77.

Moreover, judges and "courts depend" on an "independent bar" for "the proper performance of [judges' and courts' constitutional] duties and responsibilities. Restricting" Jordan from "presenting" his "arguments and analyses to the courts distorts the legal system by altering the traditional" and *constitutional* "role" of "attorneys" (and *courts*). *Legal Services Corp. v. Velazquez*, 531 U.S. 533, 544 (2001). "An informed, independent judiciary presumes" (depends upon) "an informed, independent bar." *Id.* at 545. Courts clearly cannot "prohibit[] speech and expression upon which courts must depend for the proper exercise" of "judicial power." *Id.* Judges cannot "exclude

from litigation those arguments and theories" (*e.g.*, that judges lied and committed crimes) merely because judges deem them "unacceptable but which by their nature are within the province of the courts to consider." *Id.* at 546.

> [T]he important role [of] lawyers [] in our society [makes it] imperative that they not be discriminated against with regard to the basic freedoms that are designed to protect the individual against the tyrannical exertion of governmental power. For [] the great purposes underlying [such] freedoms [include affording] independence to those who must discharge important public responsibilities. [Lawyers], with responsibilities as great as those placed upon any group in our society, must have that independence.

Cohen v. Hurley, 366 U.S. 117, 137 (1961) (Black, Douglas, JJ., Warren, C.J., dissenting). The *Cohen* dissent's "views" were implicit, *i.e.*, "need not be elaborated again" when the egregiously-flawed *Cohen* majority opinion was reversed in *Spevack v. Klein*, 385 U.S. 511, 514 (1967).

The "Fifth Amendment has been absorbed in the Fourteenth," and each clearly "extends its protection to lawyers," and neither may "be watered down" by judges to facilitate "disbarment and the" unconstitutional "deprivation of a [lawyer's] livelihood." *Id.* There is "no room in" any Due Process or Equal Protection Clause to discriminate based on mere "classifications of people so as to deny it to some and extend it to others. Lawyers

are not excepted from the words 'No person' [in the Fifth Amendment]," (or "citizen" or "any person" in the Fourteenth Amendment) and judges "can imply no exception." *Id.* at 516. "The special responsibilities that [a lawyer] assumes as licensee of the State and officer of the court do not" (and cannot) "carry with them [any] diminution, however limited, of his Fifth Amendment rights." *Id.* at 520 (Fortas, J., concurring).

VII. New York (and Kansas) Judges Clearly Engaged in Clearly Unconstitutional Viewpoint Discrimination.

"The test for viewpoint discrimination is whether—within the relevant subject category—the government has singled out a subset of messages for disfavor based on the views expressed. Here," New York, Kansas and federal judges targeted Jordan specifically because his statements about judges were "derogatory." *Matal v. Tam*, 582 U.S. 218, 221 (2017). Their conduct clearly "reflects the Government's disapproval of a subset of messages it finds offensive," which is "the essence of" unconstitutional "viewpoint discrimination." *Id.*

"[I]n speech cases," including "in time, place, or manner cases," any court clearly would violate the Constitution when its "regulation of speech" is "because of disagreement with the message it conveys." *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). New York, Kansas and federal judges repeatedly expressly emphasized mere "disagreement with the message" of Jordan (and federal criminal statutes, U.S. Supreme Court precedent and the U.S. Constitution). *Id.*

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"When the government encourages diverse expression," *e.g.*, "by creating a forum for debate" (including in courts regarding legal issues), "the First Amendment prevents it from discriminating against speakers based on their viewpoint." *Shurtleff*, 142 S. Ct. at 1587. Courts "may not exclude speech" in Jordan's court filings merely to repress the "viewpoint" that judges titles do not entitled them to lie and commit crimes to influence litigation and attack and undermine the Constitution. *Id.* at 1593. Such repression clearly is "impermissible viewpoint discrimination." *Id.*

The New York, Kansas and federal judges expressly and openly "target[ed]" those "particular views," so their "violation of the First Amendment" was "blatant" and "egregious." *Rosenberger*, 515 U.S. at 829. Such "viewpoint discrimination" is unconstitutional "even" in a "limited public forum" of the government's "own creation." *Id.* Courts cannot ever "discriminate against speech on the basis of its viewpoint." *Id.* Any "viewpoint discrimination" is "presumed impermissible [unconstitutional] when directed against speech otherwise within the forum's limitations." *Id.* at 830. So New York and Kansas were required to prove *how* Jordan's speech and petitions exceeded the limitations applicable to Jordan's court filings.

Clearly, "the Government may not" merely (directly or indirectly) "aim at the suppression of" Jordan's "ideas," but that is what every judge responsible for fining or disbarring Jordan did. *Nat'l Endowment for the Arts v. Finley*, 524 U.S. 569, 587 (1998). Court rules and rulings

cannot be (but were) "manipulated" to have a "coercive effect" on lawyers' viewpoints about judges' criminal misconduct. *Id.* Any "[d]ifferential" treatment "of First Amendment speakers is constitutionally suspect when it" even merely "threatens to suppress the expression of particular ideas or viewpoints." *Id.*

Judges cannot engage in conduct "result[ing] in the imposition of" even "a disproportionate burden calculated to drive" Jordan's "ideas or viewpoints from the marketplace." *Id.* New York, Kansas and federal court rules and rulings were "applied" specifically for "suppression" of "viewpoints" merely because they were "disfavored" by New York, Kansas and federal judges. *Id.*

VIII. Judges' Contentions about Jordan's Purported Misconduct Determined the Process of Law that Was and Is Due.

State and federal judges merely pretended or presumed (without any support) that some legal authority gave them the power to fine or disbar an attorney for speech and petitions that are very highly protected by all the provisions of the U.S. Constitution herein and copious U.S. Supreme Court precedent construing the Speech, Press and Petition Clauses and the Due Process or Equal Protection Clauses. Such judges merely presumed or pretended that they had the power to fine or disbar one court officer (an attorney) expressly, solely and merely because his speech and petitions (written court filings) exposed and opposed the commission of federal offenses by other court officers (judges).

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The presumptions or pretenses of judges at issue here clearly and egregiously contravened multiple provisions of the U.S. Constitution and copious emphatic U.S. Supreme Court precedent. The Constitution and such precedent, in turn, were founded on many decades of Americans' strong historical tradition of protecting speech such as Jordan's from punishment from judges (including in multiple New York legal actions and in the New York Constitution). *See, e.g.*, Resp. Reply (8/16/2023) re: Mot. to Recon. at 22-62. Much of the Constitution says what it says precisely to prevent judges from doing what they did (to Jordan and many others).

Wise people "always" have "widely understood" that the First Amendment "codified" multiple "pre-existing right[s]," that clearly were not "granted by the Constitution" or "in any manner dependent upon" the Constitution for their "existence." *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008). "Constitutional rights are enshrined with the scope they were understood" (by the people) "to have *when the people* adopted them, whether or not future *legislatures*" or "*judges* think that scope too broad." *Id.* at 634-35 (emphasis added). "Constitutional rights are enshrined with the scope they were understood" (*by the people*) "to have *when the people adopted them.*" *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111, 2136 (2022) (emphasis in *Bruen*).

The First Amendment "is the very *product* of" a *long* history of "an interest balancing by the people," themselves, and it clearly "elevates above all other interests the right of law-abiding, responsible citizens"

to use speech and petitions "for self-defense" against abusive officials. *Bruen*, 142 S. Ct. at 2131 *quoting Heller* at 635. "It is this balance—struck by the traditions of the American people—that demands" the "unqualified deference" of all public servants, including judges. *Id.*

It is profoundly significant that "the People," themselves, constituted the federal government by "establish[ing]" the terms of our "Constitution." U.S. Const. Preamble. "[T]he People" designed the Constitution for particular purposes, including "establish[ing] Justice" and "secur[ing] the Blessings of Liberty" to "the People." *Id.* They designed the Constitution to secure "all Privileges and Immunities of Citizens" to all "Citizens," including by "guarantee[ing]" a "Republican Form of Government." Art. IV.

The People established that the "Constitution" and federal "Laws" that were "made in Pursuance" of the Constitution are "the supreme Law of the Land" governing all state and federal proceedings pertaining to Jordan. Art. VI. The People further emphasized that all "Judges in every State shall be bound" by the Constitution despite "any Thing" anyone anywhere writes "to the Contrary." *Id.* Moreover, absolutely "all" federal and state "executive and judicial Officers" (and legislators) are "bound" (and promised) to "support" the "Constitution." *Id.*

Within 80 years, so many purported public servants had so egregiously violated the Constitution that the People again repeatedly emphasized that no public servant whatsoever had any such power. "No State" employee may

"*make* or *enforce* any" purported "law" that "abridge[s any] privileges or immunities of [U.S.] citizens," every state employee must protect the "liberty" and "property" of every "person" by affording him "due process of law" and "equal protection of the laws." Amend. XIV (emphasis added). *See also* pages 8-9, above, discussing 18 U.S.C. §§ 241, 242 and its predecessors. Citizens' privileges and immunities clearly include those in the First Amendment, and controlling law clearly includes U.S., New York and Kansas Constitutions and statutes.

James Madison (a.k.a. the Father of the Constitution) repeatedly explained the meaning and emphasized the importance of a republican form of government. "It is of great importance in a republic" to "guard the society against the oppression of its rulers." The Federalist No. 51 (https://guides.loc.gov/federalist-papers/full-text). In a "Republican Government," general "censorial power is in the people over the Government, and not in the Government over the people." *New York Times*, 376 U.S. at 275 (quoting Madison as a congressman explaining the First Amendment to Congress).

The freedom of speech and press clearly includes "a freedom in canvassing the merits and measures of public men, of every description, which has not been confined to the strict limits of the common law" (*e.g.*, the hideous former abuse of judicial power called the common-law "crime" of "seditious libel"). *Id.* quoting Madison's Report of 1800 regarding the Sedition Act of 1798. "The right of free public discussion of the stewardship of public officials was thus, in Madison's view, a fundamental principle of

the American form of government." *Id.* The People, in general, as well as the Founders, in particular, and many U.S. Supreme Courts for about the past 100 years agreed with Madison.

Precedent repeatedly has quoted the illustrious members of the First Continental Congress in 1774 to emphasize the very heart and soul of "the freedom of speech" and "press." U.S. Const. Amend. I. They declared that "the freedom of the press" was one of our "great rights" especially because it serves the "advancement of truth" about public affairs and the "diffusion of liberal sentiments on the administration of Government" so that "oppressive officers" can be "shamed or intimidated, into more honourable and just modes of conducting [public] affairs." *Near v. Minn.*, 283 U.S. 697, 717 (1931); *Roth v. United States*, 354 U.S. 476, 484 (1957); *Herbert v. Lando*, 441 U.S. 153, 186 (1979) (Brennan, J., dissenting). *Accord Thornhill v. Alabama*, 310 U.S. 88, 102 (1940) (substituting "ashamed" for "shamed"); *People v. Croswell*, *supra*, at 391.

> The general proposition that freedom of expression upon *public questions* is secured by the First Amendment has long been settled by our decisions. The constitutional safeguard, we have said, 'was fashioned to assure *unfettered interchange of ideas* for the bringing about of *political and social changes* desired by *the people*.' *Roth v. United States* [*supra*]. 'The maintenance of the opportunity for *free political discussion* to the end that *government*

> may be *responsive to the will of the people* and that *changes may be obtained* by lawful means, an opportunity *essential to the security of the Republic*, is a *fundamental principle of our constitutional system.' Stromberg v. California*, 283 U.S. 359, 369 [(1931)]. '(I)t is a prized *American privilege to speak one's mind*, [even if] not always with perfect good taste, on *all public institutions,' Bridges v. California*, [*infra*], and *this opportunity is to be afforded for 'vigorous advocacy'* no less than 'abstract discussion.' *N.A.A.C.P. v. Button* [*infra*].

New York Times, 376 U.S. at 269 (emphasis added).

All courts must protect all Americans' "privilege for criticism of official conduct." *New York Times*, 376 U.S. at 282. All courts must "support" the "privilege for the citizen-critic of government" (*id.*) because "such a privilege is required by the First and Fourteenth Amendments" (*id.* at 283). Courts cannot "give public servants an unjustified preference over the public they serve" by affording "critics of official conduct" less than "a fair equivalent of the immunity granted to the officials themselves." *Id.* at 282-83.

In every proceeding to punish or penalize any statement about any public servant's public service the "Privileges and Immunities of Citizens," including the "guarantee" of "a Republican Form of Government," determine due process of law. U.S. Const. Art. IV.

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Any judge in any proceeding who wishes to punish or penalize any attorney because of the content of his speech/petitions exposing or opposing judicial misconduct must apply established rules of evidence to evidence that was lawfully admissible and actually admitted to prove clearly and convincingly that the attorney actually or constructively knew the statement was false.

Any purported "proof presented to show" each material fact must have "the convincing clarity which the constitutional standard demands." *New York Times* at 285-86. The "First Amendment mandates a 'clear and convincing' standard" of proof of each material fact, and the government must bear such burden in every proceeding. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252 (1986).

Such "standard of proof" is "embodied in the Due Process Clause" to establish "the degree of confidence" each court must "have in the correctness" of its own "factual conclusions." *Addington v. Texas*, 441 U.S. 418, 423 (1979). It "allocate[s] the risk of error" to each court repressing Jordan's speech/petitions, and "indicate[s] the" great "importance attached to the ultimate decision." *Id.* It "reflects the" great "value society places" on each "liberty" at stake. *Id.* at 425.

The "clear" and "convincing" standard "reduce[s] the risk to" Jordan "of having his reputation tarnished erroneously by increasing" each court's "burden of proof." *Id.* at 424. Such "level of certainty" is "necessary

to preserve fundamental fairness" in "government-initiated proceedings that threaten" an "individual" with a "significant deprivation of liberty" or "stigma." *Santosky v. Kramer*, 455 U.S. 745, 756 (1982).

The U.S. Supreme Court repeatedly has emphasized that the privileges and immunities of citizens construed in *New York Times* were not limited to the context of defamation or libel. Shortly before and well after *New York Times*, the Court repeatedly emphasized that the First Amendment (necessarily) protects attorneys exercising First Amendment rights and freedoms. *See, e.g., Primus*, 436 U.S. at 431 (1978). Such attorney conduct irrefutably and necessarily is within "core First Amendment rights," and any court "action in punishing" it "must withstand" the "exacting scrutiny applicable" to repression of "core First Amendment rights." *Id.* at 432. *Primus* re-emphasized much from *Button* about due process of law *before* any court may take *any* action to punish Jordan's speech/petitions.

Courts clearly and irrefutably "may not prohibit" any "modes of expression and association protected by the First and Fourteenth Amendments" by merely invoking the mere general "power to regulate the legal profession." *Button*, 371 U.S. at 428-29 (1963). "[I]t is no answer to" any of Jordan's "constitutional claims" that "the purpose of" any "regulations" (court rules or rulings) "was merely to insure high professional standards." *Id.* at 438-39. Judges clearly "may not, under the [mere] guise of prohibiting professional misconduct, ignore" (knowingly violate)

"constitutional rights" (as state and federal judges did). *Id.* at 439.

Judges and courts "cannot foreclose the exercise of constitutional rights by mere labels" (including "judge," "attorney," "reciprocal" or "discipline"). *Id.* at 429. No "regulatory measures" (including any court rule or ruling), "no matter how sophisticated," can "be employed in purpose or in effect to stifle, penalize, or curb" Jordan's "exercise of First Amendment rights." *Id.* at 439. *Accord New York Times*, 376 U.S. at 269 (dispensing with all "mere labels" that judges or legislators abuse in various "formulae for the repression of expression"). "The test is not the [mere] form in which [government] power has been applied but, whatever the form, whether such power" was "exercised" in violation of the *Constitution. Id.* at 265.

After *New York Times*, the Court repeatedly emphasized that the principles, authorities and standards addressed therein applied, specifically to protect attorneys, including even attorneys and other speakers who were actually employed (not merely licensed by) governments. *See Garrison*, *infra*; *Pickering*, 391 U.S. at 574 (precluding discharge of government employee).

The pernicious pretense that judges may punish or penalize speech/petitions that expose and oppose judicial misconduct (at best) merely "reflect[s] the obsolete doctrine that the governed must not criticize their governors." *New York Times*, 376 U.S. at 272 quoting *Sweeney v. Patterson*, 76 U.S.App.D.C. 23, 24, 128 F.2d 457, 458 (1942). But such former "doctrine" is not merely "obsolete." *Id.* It is

a "custom" and purported action "under color" of "law" that judges are following to "willfully" deprive Jordan of "rights, privileges, or immunities" that such judges know is "secured or protected by" the U.S. "Constitution." 18 U.S.C. § 242.

IX. Each Court that Would Disbar Jordan for His Speech/Petitions Must Bear Particular Burdens of Proof.

All "adjudication is subject to the requirement of reasoned decisionmaking" and Jordan's New York and Kansas judges committed a "violent breach of that requirement" when they pretended to apply "a rule" governing their "conduct," but what they did "is in fact different from the rule or standard formally announced. And the consistent repetition of [such a violent] breach can hardly mend it." *Allentown Mack Sales and Service, Inc. v. NLRB*, 522 U.S. 359, 374 (1998). That clearly applies to any "standard of proof" stated by such judges or stated herein. *Id.* A judge who *knowingly* "applies a standard other than" the standards "enunciate[d]" in controlling legal authority to pretend to justify robbing an attorney of his liberty and license to practice law is "evil." *Id.* at 375.

The First "Amendment's plain text covers" Jordan's "conduct" so "the Constitution presumptively protects" it. *Bruen*, 142 S. Ct. at 2126. So *each* court must "justify" any "regulation" thereof; *each* court "must demonstrate" that its restrictions were "consistent with this Nation's historical tradition" of protecting such speech/petitions. *Id. Each* court "must affirmatively prove that" its

restrictions are within this Nation's "historical tradition" of protecting speech and petitions within "the outer bounds" of such "right[s]." *Id.* at 2127.

Two primary points of *Pennekamp*, above, are controlling here. First, judges cannot evade constitutional protections for speech and petitions by evading the due process of law that the U.S. Supreme Court construed the First, Fifth and Fourteenth Amendments to require of all public officials who would injure or intimidate their critics. Second, "before [any statement about any judge] can be punished" for its *content*, each court must *prove how* "[t]he evil consequence of" such content was "extremely serious" and that "the degree of imminence" of the danger of such evil was "extremely high." *Pennekamp*, 328 U.S. at 334 quoting *Bridges*, 314 U.S. at 263.

The "freedom of the press" (or of speech) "must be allowed in the broadest scope compatible with the supremacy of order." *Pennekamp*, 328 U.S. at 334. "[*Bridges*] fixed [the] limits [of] the power of courts to punish newspapers and [any] others for [any content of] comments upon or criticism of pending litigation." *Id.* Punishment must be preceded by proof of *how* such "comments" or "criticism" tangibly interfered with the "orderly operation of courts," which is "the primary and dominant requirement in the administration of justice." *Id.* citing *Bridges*. "This" is the "rule." *Id.* For example, someone must *prove how* Jordan's commentary actually undermined "fair judicial" proceedings with "coercion or intimidation" or caused actual "interferences" or "obstructions" of proceedings. *Bridges*, 314 U.S. at 259.

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Each Court must (but failed to) identify evidence that Jordan's "criticism" did "involve features that would place it outside the First Amendment's ordinary protection." *Mahanoy*, 141 S. Ct. at 2046. They failed, for example, to prove how any Jordan speech or petition "materially disrupt[ed]" any government work or caused "substantial disorder or invasion of the rights of others" so that it could be deprived of "the constitutional guarantee of freedom of speech." *Id.* at 2044, 2045. Each court that would injure Jordan for the content of his speech/petitions must "show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint." *Id.* at 2048.

Each court must prove it "determine[d] the constitutionality of" each "restriction" (or punishment) with "strict scrutiny." *White*, 536 U.S. at 774-775; *Accord Reed v. Town of Gilbert*, 576 U.S. 155, 163-164 (2015). Moreover, punishing "political expression" for its "content" always "must" be "subject" to "the most exacting scrutiny." *Texas v. Johnson*, 491 U.S. 397, 412 (1989).

Whenever "the constitutional right to speak is sought to be deterred by" invoking any "general" rule (as it was here), "due process demands that the speech be unencumbered until the" government presents "sufficient proof to justify its inhibition." *Speiser v. Randall*, 357 U.S. 513, 528-529 (1958). No court did (or can) bear any burden of proof established by any state's law or controlling U.S. Supreme Court precedent construing the U.S. Constitution.

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"When First Amendment compliance is the point to be proved, the risk of non-persuasion" always "must rest with the Government, not with the citizen." *United States v. Playboy Entertainment Group, Inc.*, 529 U.S. 803, 818 (2000). "When" any "Government restricts [any] speech, the Government" always "bears the burden of proving the constitutionality of its actions." *Id.* at 816. "When the Government seeks to restrict [any] speech based on its content," any potential "presumption of constitutionality" must be "reversed. Content-based regulations" (including any court rule or ruling) "are presumptively invalid, and the Government bears the burden to rebut that presumption." *Id.* at 817 (cleaned up).

"Content-based laws" (including any court rule or ruling) are "presumptively unconstitutional." *Reed*, 576 U.S. at 163. Disbarment based on the conduct and contentions of Kansas judges and attorneys clearly repressed Jordan's First Amendment rights and freedoms solely because of the content (and viewpoint) of Jordan's speech/petitions. *Cf. id.* at 163-64 (identifying types of "content-based" restrictions). Content-based repression must "be justified only" by *each* court "prov[ing] that" such repression was "narrowly tailored to serve" public "interests" that are "compelling." *Id.* at 163.

Copious precedent also "make[s] clear" that courts "may impose" only "reasonable restrictions on the time, place, or manner of protected speech." *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (collecting cases). If disbarment *can* be "justified without reference to the content of the regulated speech," it *must* be "justified"

with *proof* that disbarment is "narrowly tailored to serve" a specifically-identified "significant governmental interest, and that" disbarment "leave[s] open ample alternative channels for communication of" Jordan's "information" in court proceedings. *Id.*

X. No State Judge or Judicial Proceeding Is Exempt from the Constitution or the First or Fourteenth Amendments.

The New York and Kansas judges presumed or pretended that the due process protections flowing from the First Amendment do not apply to judges or to some judicial proceedings, *e.g.*, "disciplinary" or "reciprocal" proceedings. Either position is clearly erroneous and clearly unconstitutional, as the plain text of the Constitution and copious U.S. Supreme Court precedent confirm.

The New York judges knowingly violated (failed to address any language of) the U.S. Constitution or U.S Supreme Court precedent that Jordan presented. First, they acknowledged some issues raised by Jordan. *See* NY Order at 7. But then they merely summarily contended that "the record" somehow "fully supports" some purported and unidentified Kansas "misconduct findings," and Jordan's speech/petitions somehow "constitute[] misconduct in New York in violation of the Rules of Professional Conduct (22 NYCRR 1200.00) rules 3.1. 3.4(c), 8.2(a), 8.4(d), and 8.4(h)." *Id.* at 8.

Clearly, however, all "public men, are, as it were, public property," and "discussion cannot be denied and the right, as well as the duty, of criticism must not be stifled." *New York Times*, 376 U.S. at 268 *quoting Beauharnais v. Illinois*, 343 U.S. 250, 263-64 (1952). Clearly, "the law" (including the First, Fifth and Fourteenth Amendments) "gives judges as persons, or courts as institutions" absolutely "no greater immunity from criticism" (or the Constitution) "than other persons or institutions." *Landmark Commc'ns, Inc. v. Virginia*, 435 U.S. 829, 839 (1978) (cleaned up) *quoting Bridges v. California*, 314 U.S. 252, 289 (1941) (Frankfurter, J., dissenting).

"The operations of the courts and the judicial conduct of judges are matters of utmost public concern." *Id.* Providing "information about" court proceedings crucially "guards against the miscarriage of justice by subjecting" judges and "judicial processes to extensive public scrutiny and criticism." *Id.* at 839. So such "speech cannot be punished" merely "to protect the court as a mystical entity" or "judges as individuals or as anointed priests set apart from the community and spared the criticism to which" all "other public servants are exposed." *Id.* at 842. Mere "injury to [any judge's] official reputation is an insufficient reason for "repressing speech that would otherwise be free," and "protect[ing]" the "institutional reputation of the courts, is entitled to no greater weight in the constitutional scales." *Id.* at 841-842 (citing *Bridges*; *New York Times*; *Garrison*).

No government may merely contend or imply that "proof was not required" of "actual facts" because

somebody else supposedly "had made the requisite finding" (as New York and Kansas judges and attorneys essentially did). *Landmark*, 435 U.S. at 843. "Deference to" any such purported "finding cannot limit judicial inquiry when First Amendment rights are at stake." *Id.*

To prove compliance with the Constitution, each court is "compelled to examine for [itself] the statements in issue and the circumstances under which they were made to see whether or not they do carry a threat of clear and present danger to the impartiality and good order of the courts or whether they are of a character which the principles of the First Amendment, as adopted by the Due Process Clause of the Fourteenth Amendment, protect." *Landmark* at 843 *quoting Pennekamp*, 328 U.S. at 335. "It was thus incumbent upon the Supreme Court of" New York "to go behind" prior judges' purported "determination and examine for itself" the "particular [utterance] here in question and the circumstances of [its] publication to determine to what extent the substantive evil of unfair administration of justice was a likely consequence, and whether the degree of likelihood was sufficient to justify [subsequent] punishment." *Id.* at 844 *quoting Bridges* at 271.

"It is imperative that, when the effective exercise of" First Amendment "rights is claimed to be abridged," all "courts" must "weigh the circumstances" and "appraise the substantiality of the reasons advanced" by Kansas "in support of the challenged" punishment. *Thornhill*, 310 U.S. at 96. "[W]hen it is claimed that" First Amendment "liberties have been abridged," this Court "cannot allow

a" mere "presumption of validity of the exercise of" other judges' "power to interfere with" this Court's own "close examination of the substantive [constitutional] claim presented." *Wood v. Georgia*, 370 U.S. 375, 386 (1962).

Due process of law means much more than the mere empty "enunciation of a constitutionally acceptable standard" by judges merely purportedly "describing the effect of" judges' or Jordan's "conduct." *Id.* Moreover, any other judge's mere conclusion or characterization "may not preclude" (or in any way diminish) this Court's "responsibility to examine" all relevant "evidence to see whether" admissible evidence "furnishes a rational basis for the characterization" that New York, Kansas or federal judges previously "put on it." *Id.* at 386.

XI. Mere *Dicta* in *Gentile* (or in other Judicial Opinions) in No Way Mitigated Anything in Any Controlling Precedent Jordan Presented.

Like many judges who have unconstitutionally injured attorneys because they criticized the official conduct of judges, Kansas judges sought shelter behind irrelevant and cursory *obiter dicta* in *Gentile v. State Bar of Nev.*, 501 U.S. 1030 (1991). *See* KS Order at 43-44 (FHR ¶207). Such *dicta* clearly applied as much to judges as to attorneys for the same reasons invoked by judges in and citing *Gentile*. "It is unquestionable that in the courtroom itself, during a judicial proceeding, whatever right" *anyone* has to "free speech" is "extremely circumscribed." *Id. quoting dicta* in *Gentile*. That principle clearly and necessarily applies (at least) as strongly to judges, jurors and witnesses

(and the gallery) as to attorneys. Fair (impartial and independent) proceedings governed by due process of law, not outbursts dictated by passions or prejudice, are the duty of, *especially*, every judge and jury to afford every litigant and lawyer.

The *Gentile* Court clearly "reversed" the "Supreme Court of Nevada." *Id.* at 1058. The Court clearly did so because the Nevada rule was "void for vagueness." *Id.* at 1048. The *obiter dictum* above clearly was not necessary to such decision, and it clearly is irrelevant as purported support for Jordan's disbarments.

Additional *dicta* in *Gentile* clearly was limited by the facts that the Court considered. Crucially, the attorney in *Gentile* had not made any statement criticizing any judge or public servant. So the Court was not addressing the *content* of speech that the Court often has described as core First Amendment protected speech. Moreover, the state did not target the attorney's *viewpoint.*

Gentile "was disciplined for making statements to the press about a pending case in which he represented a criminal defendant." *Id.* at 1062. In *that* context, the Court (in *dicta*) announced that in a *future* case it likely would rule "that the 'substantial likelihood of material prejudice' standard [] satisfies the First Amendment." *Id.* at 1063. The context is crucial.

The *Gentile* Court specifically was addressing statements made by an attorney involved in criminal litigation. That fact was highly material because the

statements were made in a manner that had the potential to affect the jury pool or even affect actual jurors. Those facts and the following were crucial. Gentile's statements were made about matters regarding which "lawyers' statements are *likely* to be received as *especially authoritative*" *because* the attorney had "*special access* to information through *discovery* and *client communications*." *Id.* at 1074 (emphasis added). The majority opinion specifically justified the conclusion in their *dicta* in those terms. No such circumstances even purportedly existed in Jordan's cases.

The parts of *Gentile* that were relevant to Jordan's disbarments reiterated precedent that precluded disbarment by any court. Jordan's speech/petitions clearly and irrefutably "neither in law nor in fact created any threat of real prejudice to" any administration of *justice. Id.* at 1033. Jordan exposed and opposed the lies and crimes of judges that judges designed to viciously attack and dangerously undermine our systems of law, justice and government.

"The judicial system" plays "a vital part in a democratic state, and the public has a legitimate interest in their operations." *Id.* at 1035 (opinion of Kennedy, Marshall, Blackmun, Stevens, JJ.). Indeed, "*public comment* about *pending cases*" crucially "*guards* against the *miscarriage of justice* by subjecting" public "judicial processes to extensive public scrutiny and criticism." *Id. quoting Sheppard v. Maxwell*, 384 U.S. 333, 350 (1966) (emphasis added).

"Public vigilance" regarding judicial conduct "serves" America "well" (it is essential) because "[w]ithout publicity, all other checks are insufficient: in comparison of publicity, all other checks are of small account." *Id. quoting In re Oliver*, 333 U.S. 257, 271 (1948). Public criticism of judges and judicial proceedings "has always been recognized as a" *vital* "safeguard against any attempt to employ our courts as instruments of persecution. [Judicial] knowledge that" judicial conduct is "subject to contemporaneous review in the forum of public opinion" is *intended* be "an effective restraint" on "abuse of judicial power." *Oliver*, 333 U.S. at 270.

XII. Each Court Must Prove or Identify Proof of Facts Establishing that Jordan's Statements Were False.

Kansas judges emphasized that "Judge Phillips" purportedly "found Jordan made frivolous factual assertions with no reasonable basis in fact about Judge Smith in his filings." KS Order at 68. Slightly less vaguely, the Kansas judges contended that "Judge Phillips' contempt order [purportedly] found Jordan failed to establish a factual basis for [his] claims or a likelihood that such basis could be developed" and purportedly "found the accusations lacked a reasonable basis in fact. These [so-called] findings [which actually were mere unsupported conclusions, purportedly somehow] established [Jordan's] contentions were frivolous, and Jordan failed to adduce evidence" at the "hearing to rebut" a non- existent "presumption." *Id.* at 69.

So, without any evidentiary support, Kansas judges contended that "the record shows" that Jordan's

"assertions of dishonest and criminal conduct" by "judges and opposing counsel" were "frivolous" and "each frivolous pleading contained statements impugning the integrity" of federal "judges." *Id.* at 71. They also contended that "the First Amendment does not shield Jordan from discipline for" having "asserted frivolous factual claims." *Id.* at 66.

Without any evidentiary support, Kansas judges further merely characterized Jordan's statements/petitions as "baseless assertion of frivolous factual issues while litigating his FOIA cases in federal court." *Id.* at 63. Their sole purported support was what they variously characterized as "Judge Phillips' [purported] finding" that Jordan's "allegations" were "baseless" or "Judge Phillips' ruling that the claims were baseless." *Id.* at 73.

Kansas judges further knowingly misrepresented "that clear and convincing evidence establishes a KRPC 8.2(a) violation" merely because "Jordan did not offer evidence tending to show any factual basis for his allegations" and "Jordan refuses to even confirm or deny that he has ever seen the e-mail." *Id.* at 73.

New York judges, in the most vague, conclusory fashion, merely characterized Jordan's speech/petitions as "baseless" or made "baselessly." NY Order at 2-4. Their contentions were entirely unsupported (and could not be supported) by any fact, evidence or legal authority showing *how* any Jordan speech/petitions could be considered baseless. No judge anywhere ever even denied that he or she lied or committed any crime as Jordan stated.

New York attorneys (who never even contended, much less provided evidence that they were admitted to, or ever did, practice in *federal* court) also emphasized that Jordan's purported misconduct consisted specifically and solely of Jordan's speech/petitions, *i.e.*, "assertions" of "factual issues while litigating his FOIA cases in federal court" and "fil[ing] motions" containing "assertions of dishonest and criminal conduct" by "judges and" government "counsel." AGC Affirmation dated 4/17/2023 ¶13. In the most conclusory fashion, New York attorneys merely characterized Jordan's speech/petitions as "baseless" or "frivolous." *Id.* They failed to even state *any fact*, much less identify *any evidence* (that was admissible or actually admitted) of *any fact*, that could establish *how* any Jordan speech/petition under any *federal* law was "baseless" or "frivolous." *Id.*

The AGC specifically addressed its "review of the record" and failed to address *any evidence* (or even *any fact*) that could established *how* any Jordan speech/petition violated *any* rule. *Id.* ¶15. Eventually, the AGC merely vaguely misrepresented that the FHR and the Kansas "disbarment order" somewhere "sets forth in detail" all "the evidence that" somehow "established" that Jordan's speech/petitions constituted "misconduct." Reply Affirmation dated 5/12/2023 ¶4.

Each court that would punish Jordan for any speech/petition must identify facts and proof thereof (evidence that was legally admissible, actually admitted, and clear and convincing) proving that such speech/petition stated or implied factual falsehoods. No court can (as New York,

Kansas and federal judges did) shift the burden of proof to Jordan by compelling Jordan to prove any statement was true.

"The constitutional protection" for Jordan's speech/petitions simply "does not turn upon" the "truth, popularity, or social utility of the ideas and beliefs which are offered." *New York Times*, 376 U.S. *quoting Button*, 371 U.S. at 445. Moreover, the government cannot merely contend that "allegations of [judicial] misconduct" are merely "unfounded" (as the New York, Kansas and federal judges essentially did). *Landmark*, 435 U.S. at 840.

Any "rule compelling the critic of official conduct to guarantee the truth of all his factual assertions' would deter protected speech." *Milkovich*, 497 U.S. at 14. Any "placement by state law of the burden of proving truth upon" any speaker for any "speech of public concern deters such speech because of the fear that liability will unjustifiably result." *Id.* at 16. "[T]he First Amendment guarantees" do not "recognize an exception for any test of truth—whether administered by judges, juries, or administrative officials—and especially one that puts the burden of proving truth on the speaker." *New York Times*, 376 U.S. at 271.

The "constitutional guarantees" in the First, Fifth and Fourteenth Amendments "require" a nationwide "rule that prohibits" any "public official from" precluding, penalizing or punishing any criticism for content "relating to" any "official conduct" except a "falsehood" asserted with "actual malice," *i.e.*, a lie or reckless falsehood. *Id.* at 279-80.

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Each court must identify evidence (that was legally admissible and actually admitted) *proving* a *fact* that clearly and convincingly *proves* that Jordan's speech/ petitions stated or implied a "falsehood relating to" a judge's "official conduct." *Milkovich*, 497 U.S. at 14. Any Jordan "statement" "relating to matters of public concern which" was not proved to state a false fact or "contain" a "false factual connotation will receive full constitutional protection." *Id.* at 20. It must at least "imply a false assertion of fact." *Id.* at 19. *See also* pages 11-12, 17-18, above, *quoting* 22 NYCRR 1200.00 NY R. Prof. C. 8.2(a), 3.1(b)(3); *Pyle; People v. Croswell.*

"Truth may not be the subject of" *any* type of content-based "sanctions" "where discussion of public affairs is concerned," so "only" proven "false statements" may be punished (for their content) with "either civil or criminal sanctions." *Id.* at 74. The Constitution "absolutely prohibits" *any* type of content- based "punishment of truthful criticism" of *any* public *servant's* official conduct. *Garrison*, 379 U.S. at 78. *Accord Pickering v. Board of Ed.*, 391 U.S. 563, 574 (1968) (precluding government employee's discharge for the same reason).

"Those who won our independence had confidence" (*not* in *unsupervised* public servants, but) "in the power of free and fearless reasoning and communication of ideas" among the public and public servants "to discover and spread" the "truth." *Wood*, 370 U.S. at 388 *quoting Thornhill*, 310 U.S. at 95. The "First Amendment" exists especially to "protect" and "insure the ascertainment and publication of the truth about public affairs." *St. Amant v. Thompson*, 390 U.S. 727, 732 (1968).

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XIII. There Is No Evidence that Jordan Admitted Anything Adverse to Him.

Jordan did not (*de facto* or *de jure*) admit the FHR's purported findings or conclusions. The government did judicially admit that "Jordan filed exceptions to the [FHR] and argue[d]," *inter alia*, that "discipline cannot be imposed because the First Amendment to the United States Constitution protects his statements." KS Order at 2.

The government also judicially admitted that Jordan filed exceptions to [FHR ¶¶] 17; 42; 51; 63-65; 70-71; 73-86; 88-97; 99-101; 103-104; 106-107; 112; 122-128; 130-141; 143-170; 172-185; 188-191; 194-225; 227-236; 238-240; 242-247; 249-250; 252-253; 256-258; 261-265; and 270." *Id.* at 61. Jordan's "exceptions" stated and showed that the FHR was "so lacking in findings of actual facts and conclusions of actual law as to be worthless except as evidence that Panel attorneys lied and committed crimes." *Id.*

XIV. No Court Can Abuse Jordan's Refusal to Testify to Injure Jordan.

Kansas judges clearly and knowingly violated the U.S. Constitution by expressly implying that the evidence against Jordan included that he "refuses to even confirm or deny that he has ever seen [any text redacted from Powers'] e- mail." Page 35, above, *quoting* KS Order at 73.

Jordan could not "be compelled" to testify "against himself" regarding purported contempt (or seditious libel)

or disbarment. U.S. Const. Amend. V. "No State" may "make or enforce any law" that "abridge[s any] privileges or immunities of [U.S.] citizens." Amend. XIV, §1. Jordan had (and exercised) the right to refuse to testify, and such refusal cannot be used against Respondent *in any way* in *any* disciplinary proceeding. *See Spevack*, 385 U.S. at 514-15; *State v. Russell*, 610 P.2d 1122, 1130 (Kan. 1980). The Constitution "forbids" even "comment by the" government on Jordan's "silence." *Spevack* at 515.

Jordan's invocation of his right not to testify is especially appropriate because federal judges already had purported to prosecute Jordan for criminal contempt. Federal judges have the "power to punish by fine" only "such contempt" as (*i.e.*, "none other" than) "[d]isobedience or resistance" to any "lawful" court "order, rule, decree, or command." 18 U.S.C. § 401. Respondent's "fine" could not "exceed" $1,000. 18 U.S.C. § 402.

Federal judges (illegally) prosecuted Jordan for criminal contempt by knowingly violating virtually all process of law due in criminal contempt proceedings. Jordan could not be "punished" in any way for any "contempt" until "after prosecution" after adequate "notice." FED.R.CRIM.PROC. 42(a). Such "notice must," provide "time and place" for "trial," explicitly "describe" the offense as "criminal contempt," and "state" each of "the essential facts constituting the charged criminal contempt." FED.R.CRIM.PROC. 42(a)(1)(A), (C). "The court" was required to "request that the contempt be prosecuted by an attorney for the government," and if "the government declines" the "court must appoint another

attorney." FED.R.CRIM.PROC. 42(a)(2). "If the criminal contempt" even so much as "involves" mere "criticism of a judge, that judge is disqualified from presiding at the contempt trial or hearing unless the defendant" (Jordan) "consents." FED.R.CRIM.PROC. 42(a)(3). Judges Smith and Phillips (and Eighth Circuit judges) knowingly violated *all* the foregoing law for the purpose of knowingly (criminally) "depriv[ing]" Jordan of "property" without "due process of law." U.S. Const. Amend. V.

Without even identifying any potentially relevant legal authority, "Judge Phillips" contended that Jordan's "conduct qualifies under the [mere] dictionary- definition" of "contempt," and "Judge Phillips" merely "concluded that" Jordan "demonstrate[d] his contempt for the Court" inasmuch as "multiple statements and accusations" purportedly had "no reasonable basis in fact," so "Judge Phillips" fined Jordan "$1,000.00." KS Order at 14, 15, 30, 35 (FHR ¶¶86, 87, 148, 149, 170). *See also, e.g., id.* at 68 ("contempt proceedings before Chief Judge Phillips"); *id.* at 8, 9, 48 (FHR ¶¶68, 71, 73, 230) ("held in contempt").

Without even identifying any potentially relevant legal authority, "Judge Smith" fined Jordan "$500.00" for purported "repeated violations of" his "Orders." *Id.* at 19, 38 (FHR ¶¶108, 186). Judge Smith and Kansas attorneys knowingly misrepresented that Jordan "violated Judge Smith's June 30, 2020, order" which "resulted in" Jordan being fined "$500.00 by Judge Smith." *Id.* at 48 (FHR ¶229). As they all knew, Jordan did not do anything that Judge Smith ordered Jordan not to do on June 30. As the federal and Kansas governments judicially admitted

(and proved) they all knew that on June 30 Judge Smith, in fact, did not order, he merely "warns" Jordan with "[t] his warning." *Id.* at 16, 39 (FHR ¶¶99, 191).

XV. New York Law Established Jordan's Right to Appeal.

On July 6, 2023, the New York State Supreme Court, Appellate Division, issued an order disbarring Respondent. In August 2023, Respondent timely served and filed both a Notice of Appeal and a Motion to Reconsider. On October 17, 2023, the Appellate Division ruled on Respondent's Motion by "making the same or substantially the same determination as is made in the order appealed from." NY CLS CPLR § 5517. In November 2023, Respondent again timely served and filed a Notice of Appeal.

"An appeal may be taken to the court of appeals as of right" from any "order of the appellate division which finally determines an action where there is directly involved the construction of the constitution of the state or of the United States." NY CLS CPLR § 5601(b)(1). The instant letter (and copious U.S. Supreme Court precedent presented herein) established that the "appellate division" order disbarring Jordan "directly involved the construction of the" U.S. "constitution." *Id.*

Any "aggrieved party" may "appeal from any appealable judgment or order except one entered upon the default of the aggrieved party." NY CLS CPLR § 5511. "[A]n appeal seeking review of an appellate determination shall be taken from the order entered in the office of the

clerk of the court whose order is sought to be reviewed." NY CLS CPLR § 5512. "The court of appeals shall review questions of law." NY CLS CPLR § 5501(b).

For the foregoing reasons, including the plain language of the Fourteenth Amendment, above, Jordan respectfully submits that this Court must adjudicate Jordan's appeal and confirm that Jordan's speech/petitions were protected by the U.S. Constitution (due process of law and equal protection of laws) as Jordan stated and showed above.

Sincerely,

s/ Jack Jordan