

**No. 24-411**

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# **IN THE UNITED STATES SUPREME COURT**

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**JEFFREY G. THOMAS,**

*Petitioner,*

*v.*

**STATE BAR OF NEVADA**

*Respondent.*

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On Appeal from the Order of Disbarment and Denial of Motion  
to Reopen Disbarment  
Supreme Court of the State of Nevada  
Case No. 87346

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## **PETITION FOR REHEARING OF DENIED PETITION FOR WRIT OF CERTIORARI**

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*Petitioner In Propria Persona*

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## **I. The Court Missed a Unique Opportunity to Review and Establish a National Minimum Standard of Due Process of the Laws in Attorney Discipline Cases**

Under the flexible standard of due process of the laws of *Mathews v. Eldridge* (1976) 424 U.S. 319 under *Amendment Fourteen of the Constitution* Petitioner's rights to due process of the laws were violated by both the California disbarment and this Nevada disbarment allegedly based on *collateral estoppel* or *res judicata* of the former. *Mathews* requires identification of the private or individual interests in due process of the laws, the government interest in due process of the laws, and the balance of the weight of the opposing interests in favor of the actor with the greater risk of loss.

However, the California State Bar Court decision (it hearing officer in 2021 and its Review Department in 2022) considered a pretext of the government interest of administration of justice as did the Nevada Supreme Court. The real interest involved was the private interest of the attorneys who were defendants (in the federal case, and plaintiffs or defendants in the state cases) opposing Petitioner's clients in the lawsuits allegedly requiring judicial sanctions.

And the judicial sanctions of the complaining attorneys were punitive and penal in effect, and the excessive amounts were not required to compensate the complaining attorneys opposing Petitioner's clients.

In denying review of the State Bar Court's decision(s), the California Supreme Court failed to invoke the inherent judicial power to define the quasi-criminal standard of the due process of the laws that applies, and of course the California State Bar Court as an administrative agency does not have inherent power.

The California State Bar Court merely recited some language of its prior opinions generally approving its peculiar procedural rules in general, without considering Petitioner's specific arguments and objections to the lack of due process of the laws. *See Van Sloten v. State Bar CA (1989) 48 Cal. 3d 921*. The state supreme court affirmed without an opinion.

It was a California violation of minimum national standards of due process of laws in attorney discipline, and the Nevada Supreme Court repeated the California violation and also violated the *Full and Credit Clause of the U.S. Constitution*.

In *Kremer v. Chemical Construction Co. (1982) 456 U.S. 461*, this court ruled that a full and fair opportunity to litigate the employment discrimination claim in the state administrative agency, followed by the appeal from the agency in the state court, was a full and fair opportunity to litigate that satisfied the *Full Faith and Credit Clause*, and thus barred the identical federal claim in federal court.

The California state bar court is clearly an administrator. The California state bar court hearing officers are not judges elected by residents (without voter id required). The hearing officers hear a single narrow category of disputes, they are civil service employees and salaried and terminable, and are not bound by judicial canons of ethics.

The CA state bar court has its own unique administrative procedural rules. *Article VI Section 3.5 of the California state constitution* relieves state administrative agencies of the duty to apply constitutional law, and indeed the administrative agency ignored Petitioner's specific constitutional law defenses and objections to procedure.

The California hearing officer discredited all of Petitioner's (respondent therein) evidence, lumping it all together in an undifferentiated mass in a blanket statement to that effect and not deigning to discuss specific evidence and testimony. The hearing officer lumped all of the State Bar's evidence together, and labeled it credible in the aggregate manner, *ipso facto* violating Mathews, *supra*. The hearing officer lumped together all of Petitioner's factual and legal contentions and dismissed them summary, another *ipso facto* violation of due process of the laws. *See Goldberg v. Kelly* (1990) 397 U.S. 254.

That the California state bar court considered alleged harm to the complaining and opposing (as parties thereto) California attorneys at law as equivalent to harm to the legal system under is unconstitutional arbitrary bias of the fact finder. *Caperton v. A.T. Massey Coal Co.* (2009) 556 U.S. 868.

This Court's recent decision in *Williams v. Reed* (2025) 604 U.S. \_\_\_, 2025 U.S. Lexis 550, established that the *Civil Rights Act of 1871*, 42 U.S.C. Section 1983 is preemptive of exhaustion of remedies requirements in civil rights cases in both state court and federal court. The same conclusion must be applied to preempt the unconstitutional procedures of the California administrator and Nevada court, to comply with a minimum national standard of due process in attorney discipline cases. *See Selling v. Radford* (1917) 243 U.S. 46.

Under *Migra v. Warren* (1984) 465 U.S. 765, *res judicata* and *collateral estoppel* in civil rights cases are determined by state law. Thus if Petitioner does not raise these issues and have a hearing in this court, the

lower federal courts will deny his subsequent specifically pleaded and meritable civil rights action.

A brief review of the violations of due process of the laws is as follows:

1. Petitioner argued in state bar court (at both levels) and before every reviewing court that the State Bar of California inadequately proved willfulness (which is required for disbarment) of the alleged “*unjust action or defense*,” and “*willful disobedience of a court order*.”
2. The professional code of ethics obligates attorneys at law to argue the representation of the client with all appropriate zeal and representation of the client. And clearly it is unworkable for disbarment to be solely based on accusations by opposing attorneys at law of intentional harm to their interests, as it was here.
3. The charge of “*unjust action or defense*” in CA is void for vagueness under Amendments One and Fourteen of the Constitution, especially as it was applied with the State Bar Court’s unprecedented insertion of an undefined pattern of misconduct not involving moral turpitude. *See Gentile v. State Bar of Nevada (1991) 501 U.S. 1030.*
4. The California state bar court merely cited Petitioner’s nonpayment of money as a “*willful violations of a court order(s)*,” for disbarment. It provided no evidence of willful harm to the administration of justice.
5. The charges of the State Bar of California in the California State Bar Court inadequately alleged any harm to government interests under *Mathews v. Eldridge, supra*. The California State Bar alleged as the only significant harm in its ethical complaint in California

(demanded by the opposing party attorneys) was to the attorneys opposing Petitioner who made the complaint in both states.

6. The expansive due process of the laws analysis of alleged captive and biased decisionmakers in *Caperton v. A.T. Massey Coal Co. (2009) 556 U.S. 868* is applicable here, for the California state bar court is biased and captive of the interests of the complaining (and opposing party) attorneys at law.

## **II. The Court Missed a Unique Opportunity to Solve the “Renvoi” Quandary in Reciprocal Attorney Discipline Cases**

The California State Bar Court is an administrative body, and has no inherent judicial powers. In denying review of the State Bar Court, the California Supreme Court failed to invoke its inherent judicial power to define the quasi-criminal standard of the due process of the laws in attorney discipline cases.

The California State Bar Court, as an administrative agency and the California Supreme Court as “*top down*” court, ignored Petitioner’s ignored Petitioner’s specific objections to unconstitutionality of the procedures and the mistreatment of his free speech and freedom of association rights, under *Amendment One of the U.S. Constitution*.

In *Kremer v. Chemical Construction Co. (1982) 456 U.S. 461*, this Court this court ruled that a full and fair opportunity to litigate the employment discrimination claim in the state administrative agency, followed by the appeal from the agency in the state court, was a full and fair opportunity to litigate that satisfied the *Full Faith and Credit Clause*, and thus barred the identical federal claim in federal court.

The Nevada Supreme Court ignored Petitioner's argument that *Full Faith and Credit Clause of Art. IV, Section One* required an adversarial hearing to contest the alleged grounds for disbarment in the California State Bar Court and Supreme Court.

In *Selling v. Radford* (1917) 243 U.S. 46 this Court held that due process of the laws required the attorney at law to have the opportunity to challenge the lack of due process of the laws in reciprocal disbarment, but the court has never defined a minimum national standards of reciprocal disbarment. In the light of *Supreme Court of Virginia v. Friedman* (1988) 487 U.S. 59 which established the right to practice law in a state as a fundamental privilege or immunity of citizenship (U.S. Const. Art. IV, Sect. 2) and similar decisions, see *eg. M.L.B. v. S.L.J.* (1996) (1996) 519 U.S. 102, due process of the laws in reciprocal disbarment must require satisfaction of *Full Faith and Credit Clause of Art. IV, Section One*.

As a result the Petitioner has suffered from a *renvoi* of the Nevada Supreme Court (and the California federal court) referring back to a flagrantly unconstitutional disbarment in California and applying the same unconstitutional disbarment to very different jurisdictions involving different sovereigns.

The California federal court disbarment and the Nevada disbarment are truly "*fruit(s) of the poisoned tree*" of the unconstitutional California disbarment.

The Nevada Supreme Court's most recent precedent on reciprocal disbarment was *Copren v. State Bar* (1947) 64 Nev. 364 (77 years ago)! In defining its state law of collateral estoppel to compel disbarment in Nevada, the Nevada Supreme Court (and likewise, the

California federal court) erred in failing to distinguish the different issues and sovereigns involved.

In *Kremer v. Chemical Construction Co. (1982) 456 U.S. 461*, this Court this court ruled that a full and fair opportunity to litigate the employment discrimination claim in the state administrative agency, followed by the appeal from the agency in the state court, was a full and fair opportunity to litigate that satisfied the *Full Faith and Credit Clause*. This court relied on availability of appeal of the administrative procedure to a court, and expressly held that constitutional *Full Faith and Credit* applies to judicial decisions between sovereigns.

But in this case the so-called petition for review by the California Supreme Court was discretionary, not mandatory as is an appeal of right.

The *Kremer*'s court's definition of *Full Faith and Credit*, like this court's definition of *42 U.S.C. Section 1983* in *Williams v. Reed, supra*, is or should be preemptive of the Nevada Supreme Court's definition of *Full Faith and Credit* based on state law (and the California federal court, see no. 23-603), and not the federal constitution.

The State Bar of Nevada asserted that if Petitioner establishes an office for practice in the state of Nevada under *Nev. Supreme Court Rule 41.2*, he can practice law in Nevada from outside of the state. Respondent fails to comprehend the effect of this argument to save his right to travel. *Shapiro v. Thompson (1969) 394 U.S. 618*.

The requirement of establishment of an office to practice law in Nevada imposes a significant financial penalty on his practice of law there, of his right to travel. Nevada's argument is not a solution to the *renvoi*

problem of the never ending impact of the California State Bar Disbarment on Nevada or any other state.

### **III. The Supreme Court of Nevada Unconstitutionally Compelled the Enforcement of the Compelled Speech in the California Disbarment**

Disbarment proceedings are governed by the quasi-criminal due procedures of law. *In re Ruffalo* (1968) 390 U.S. 544. And quasi-criminal due process is based on a court's inherent powers. *Giddens v. State Bar Ass'n. (CA)* (1981) 28 Cal. 3d 730.

There is no precedent of a court in either Nevada or California that defines the quasi-criminal procedures in this context. No court in either state has ever exercised its inherent powers to define quasi-criminal due process in attorney discipline.

The State Bars of both states have violated the “prosecutor’s” duties of honesty and integrity to the law, because they represented to the agencies and Supreme Courts of California and Nevada that the quasi-criminal procedures of due process of the law were followed by the California State Bar Court. *See Berger v. United States* (1935) 295 U.S. 78. But the California hearing officer denied to Petitioner meaningful rights of cross-examination of complaining (and opposing party) attorneys at law, and refused to meaningfully consider Petitioner’s legal and factual and constitutional law contentions in defense and rebuttal.

This Court decided *Compelled Government Speech* (“CGS”) cases in commercial advertising in *Glickman v. Wileman Brothers and Elliott Inc.* (1997) 521 U.S. 457 and *United States v. United Foods, Inc.* (2001) 533 U. S. 405. In *Glickman*, an agricultural anti-

trust exempt cooperative compelled collective advertising of “*tree fruits*” to the public.

In *United Foods*, the producer’s payment for advertising the products of a mushroom marketing order, was compelled by law. This Court struck the mandatory requirement under strict scrutiny.

Here, the California State Bar Court stripped the Petitioner of fundamentally important constitutional procedures of personal and subject matter jurisdiction in the so-called emergency application for restraining order under due process of the laws (*see petition for writ of certiorari in this Court in no. 21-1406, Thomas v. State Bar of California*) and free speech and expressive association in the so-called adversarial hearings in 2021 and 2022 under the Constitution. *See petition for the writ of certiorari in no. 22-1056, Thomas v. State Bar of California, and no. 23-603, Thomas v. Department of Justice of State of California.*

The California and Nevada bar associations (“state bars”) are mandatory and compliance with bar discipline is mandatory. But the bar associations cannot, coerce its members to give up and sacrifice important rights of free speech and freedom of association that the attorneys themselves must assert in adversarial proceedings for the clients to have zealous representation. And by manipulating the charges and allowing biased decision-makers siding 100% with the opposing attorneys at law to “*hear*” the charges, that is precisely what these bar associations did here.

*NIFLA v. Becerra (NIFLA) (2018) 585 U.S. 755*, state law imposed mandatory restrictions on the free speech of a family planning service in the form of legally required notices countering the pro-family purpose of the clinic were struck down under strict scrutiny. The

Court reasoned that “*the notice [compelled by the law] in no way relates to the services that licensed clinics provide. Instead, it requires these clinics to disclose information about state-sponsored services—including abortion, anything but an ‘uncontroversial’ topic.*” 585 U.S. at 769.

Here, the notices of disbarment served on the Petitioner by the California State Bar and the Nevada State Bar and the hearing procedures were extraordinarily biased and violated the prosecutors’ duties under *Berger, supra*. The total disregard of appropriate quasi-criminal procedures including the standard of proof of clear and convincing evidence compelled the result as compelled government speech void under strict scrutiny in the United States Constitution

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#### **IV. Conclusion**

The California and Nevada disbarments (or disbarments) were woefully inadequate as measured by any appropriate national standard of due process.

The Nevada Supreme Court violated Petitioner’s fundamental constitutional rights to travel and to earn a living practicing a licensed profession, and perpetuated a *renvoi* of multiplicative disbarment procedures. The Nevada Supreme Court violated the Full Faith and Credit Clause of the U.S. Constitution.

The petition for the writ must be reheard and granted.

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Dated: March 10, 2025      JEFFREY G. THOMAS

/s/ Jeffrey G. Thomas  
Jeffrey G. Thomas

## CERTIFICATION

This Court's recent decision in *Williams v. Reed*, which establishes that the *Civil Rights Act of 1871, 42 U.S.C. Section 1983* is preemptive of exhaustion of remedies requirements in civil rights cases in both state court and federal court, is a substantial intervening circumstance.

Because it is clear that any civil rights case under this law raising due process of the law issues would be routinely dismissed on collateral estoppel and res judicata grounds, this court must intervene in this petition to establish a minimum national standard of due process of the laws in attorney discipline cases to afford Petitioner substantial grounds for overturning the disbarment proceeding in Nevada (and also in California federal court with reference to the prior petitions in this court challenging these California rulings, notably *no. 23-603 et al.*).

Dated: March 10, 2025      JEFFREY G. THOMAS

/s/ Jeffrey G. Thomas  
Jeffrey G. Thomas  
Petitioner