24-6252

case#_____ **IN THE SUPREME COURT OF**

THE UNITED STATES OF AMERICA

REBECCA WU, PETITIONER

v.

GINA CARREON AND

PETER RITTING et..all

Respondent;

California Supreme Court
Case **S285376** (Answer also filed)
Denied Petition for Review
7-31-2024

ORder by US SUPREME COURT
ALLOWING EXTENSION to Dec. 31

Order of Third Court of Appeal
Denying Rehearing 5-22-2024

Order Opinion in Third Court of Appeal **4-29-2024 Sustaining Trial Court order**

Wu vs Carreon et..al Super. Ct. No.34-2019-00261122-CU-PO-GD
Superior Court of Sacramento
Judge: Christopher Krueger

Dismissal with Prejudice and No Leave to Amend

Gina Carreon Dismissal on 2/02/21
Peter Rittling Dismissal on 6/20/21

On Petition for Writ of Certiorari to the United States Court of Appeals for the Third Court of Appeals, California.
After a Decision by the Court of Appeal, California Third Appellate District, ***Rebecca Wu v. Carreon*, No. C093905 (Cal. Ct. App. Apr. 29, 2024) 4-29-2024** Sustaining Trail court order Dismissal with Prejudice and No Leave to Amend.

Rebecca Wu PO BOX 543, APPLEGATE CA 95703 916-308-2190
Rebeccadawnwu@yahoo.com

To: Clerk, Supreme Court of the United States, One First Street, NE, Washington, D. C. 20543

Constitutional Issues

QUESTIONS FOR REVIEW

1. Can a state require under CCP 1714.10 a Pre-Filing in Conspiracy to sue an Attorney under 42 USC 1983 or is it a violation of the Preemption or Supremacy law or 14th Amendment preempt the Pre-filing requirement in parallel to the current standing for the same reasons that a Gov Tort Claims Act does not apply? Is the **state law California Code of Procedures 1714.10 not applicable to a section 1983?**

2. **Can California reverse precedent and determine that a Government Tort Act is Required to be filed for a 42 USC Section 1983 personal suit**?

3. Does a Plaintiff have a right to Tolling or estoppel on Decision Maker Plaintiffs of several filed claims under California Government Claims Tort acts which some included names on the Gov tort act claims for on many causes of action including a 42 US Section 1983 and a CCP 1714.10 when there are writ of Mandate case and Public Employment Relation Board Retaliation cases were against the Employer for the same issues? **[Opinion p. 12]**

4. Do the several filed Government Tort Claims act allow tolling or estoppel for other cases running on employer or is it Required to file within six months the tort claims on defendants regardless if other cases are running?

5. Can a Ruling be made that the decision maker **Employee** of Employer is not liable because they cannot conspire with themselves or the employer in a 42 US section 1983 for conspiring in a claimed cause of preventing due process and intent to harm for a harassing letter?

6. Should the court be Required to explain in details why her causes do not meet a minimum standard for causes on Degendent Carreon and Rittling under CCP 1714.10 and or pleading standards for causes in state court on Rittling and or at least Section 1983 and thus would deny plaintiff the right to due process and trial?

7. Can there be a Benefit under the Exception to the pre-filing Motion for conspiracy requirement under CCP 1714.10 to sue an attorney **including 1.** having the benefit of the responsibility of guiding and conspiring with the Employer for years before and during a writ of mandate suit for a misclassification suit that the plaintiff was determined to be misclassified and 2.approving of a harassing letter that was intended to harm plaintiff 3. Sending the Plaintiff letters not part of the underlying misclassification case but a response to the whistleblowing of civil rights of students?

8. Are there exceptions to a filing requirement under CCP 1714.10 on an attorney who was guiding the Decision Maker employee and Employer for causes of actions, of a formal written responses to plaintiff's Whistleblowing complaints, that are claimed are not Part of the underlying case, and where plaintiff claims are intended to conceal, intentionally fraudulent, and emotionally harm plaintiff with a intentionally harassing letter?

9. For actions in #8 above, should they be claimed to be causes for an attempt to contact or compromise a claim or can they Stand on their own or additionally stand on their own as separate claims that are claimed not to be from an attempt to contest claims by Wu for a Response Letters to Whistleblowing of civil rights, Harassing Letters to other coworkers and Wu, and a Letter Wu claims was ment to harm Wu thus Can they fall under CCP ***1714.10.a ? CCP*** *(a) No cause of action against an attorney*

for a civil conspiracy with his or her client arising from any attempt to contest or compromise a claim or dispute..

10. Should Wu's Motion for a CCP 1714.10 be granted based on a threshold of "reasonable" to show probable cause in Petitioner/Plaintiff causes of action and would that be for all causes of action? Are Wu's claims of facts and events enough to meet reasonable causes of action in a CCP 1714.10? Under CCP 1714.10 (a) .... *reasonable probability that the party will prevail in the action*

11. Can rights to sue for Whistleblowing of government corruption under California Education Code 44110-44114 be ignored and or denied at all levels of courts?

12. Is there an overall corruption in California from Agencies to courts not allowing this case because of the connection to the courts, Carreon worked in the Superior court, she was head of HR in 2015 and Director from 2013 in HR and the Board president worked at the AG office. Is the overall corruption in California preventing Wu from the Section 1983 and other causes of actions, and courts do not go against a precedent case law for decades?

13. [opinion p. 9]Should CCP 1714.10 requirement of a pre-filing apply to Government attorneys or contracted out ones? Should it never be applied for a claim of Government corruption, violations of 1st and 14 Amendment were claimed in the interest of the public and be another exception?

14. [opinion p.9 citation to Hung] Should the California ruling in Hung v. Wang (1992) 8 Cal.App.4th 908,914- 915 be OVERTURNED by this court? Should it instead be held that that section CCP 1714.10 does infringe on a party's constitutional rights to due process, a jury trial, or equal protection.?

15. Should This court Determine that WHISTLEBLOWING OF REPORTING OF GOVERNMENT WASTE AND WRONGDOING NOT REQUIRE ANY PRE FILING in CCP 1714.10 OR GOV TORT ACT to File for a Section 1983

16. Should this court determine CCP 1714.10 is a violation of a federal constitution of equal protection of the laws under the 14th Amendment and 1st Amendment for ANY cause of action in State Court if the right to file on a person for a cause of action by an individual for a 1983?

17. WAS there POTENTIALLY BIAS in ignoring the ex parte request , and the Overall rulings for Wu when asked a year before and then Counsel admitted CARREON WORKED IN THE SUPERIOR COURT

18. BASED ON THE ORDER IN TRIAL COURT ON 6-9-2020 —IF WU WAS NEVER AWARE OF WHAT ISSUES NEEDED TO BE AMENDED AND NOT ALLOWED FOR NEW CAUSES AND IF THERE IS NO CLARIFICATION IN TRIAL THEN SHOULD IT BE ALLOWED TO BE WITHOUT PREJUDICE AND OR MUST IT HAVE THAT CLARIFICATION?

LIST OF PARTIES

All parties and attorneys appear here

Rebecca Wu PLAINTIFF Petitioner in this Writ of Certiorari

PO Box 543

Applegate, Ca 95703 Rebeccadawnwu@yahoo.co

916-308-2190

Gina Carreon -DEFENDANT Respondent
Domenic D. Spinelli and Jeffrey Arnold [Attorneys for Defendant Carreon]
Previously Fay Sachaeo
Spinelli | Donald | Nott Law Firm
300 University Avenue, Suite 100
Sacramento, CA 95825
(916) 448-7888
jeffreya@sdnlaw.com
domenics@sdnlaw.com

Peter Rittling - DEFENDANT Respondent
Sue Ann Salmon Evans [Attorney representing Defendant]
DANNIS WOLIVER KELLEY Law Firm
444 W. Ocean Blvd., Suite 1070
Long Beach, CA 90802
TEL 562.366.8500
sevans@DWKesq.com
www.DWKesq.com

RELATED CASES

US Supreme Court case 23-5242(*Wu v. Twin Rivers Unified Sch. Dist., supra,* C088570.

Related cases in Public Employment Relations Board, Not determined yet but briefs in Fall 2024.

Rebecca Wu vs Twin Rivers Unified School District 2687 E for not hiring and retaliation in 2016 and 2888E for termination in 2017

CORPORATE DISCLOSURE STATEMENT

There is no parent or publicly held company owning 10% or more of a corporation's stock the disclosure of which is required under Rule 29.6. I do not own any stock or any company or in part.

TABLE OF CONTENTS

30.Reasons for Granting Petition or ARguments

Incorporating statement of case .....p. 6

STATUTES AND CASE AUTHORITY

1st and 14th Amendment US Constitution

42 USC 1983

CCP California Code of Procedures 1714.10

California Government Tort Claims Act

United States Constitution Fourteenth Amendment

EDC 44110-44113, Cal Gov Code 822.2

14th AMENDMENT Due process rights (Purdy v. Teachers' Retirement Board (1980) 113 Cal. App. 3d 942, 949 [170 Cal. Rptr. 360]

28 U.S. Code § 2403 (b) Intervention by United States or a State; constitutional question Of a state action or law.

United STates Constitution First Amendment *to petition the Government for a redress of grievance*

EDC 26700 Vested Right to Benefits.

EDUCATION CODES 44915, 44916,(no notice of her classification) 44919, (hearing rights and due process) 44917,44918, 45024, (equivalent pay) 45025, 22010, 44932, 44948.3 (probationary employees cannot be released escape for cause or performance and right to appeal but subs do not)

CCR 5 T5 11700 HOURS OF INDEPENDENT STUDY TEACHER

California Code of Regulations Title 5. Education Division 3. Teachers' Retirement System Chapter 1. Teachers' Retirement System Article 16. Penalties and Interest for Late Remittances and Late and Unacceptable Reporting by Employers

California Teachers Association Vs GOVERNING BOARD OF THE YOSEMITE COMMUNITY COLLEGE DISTRICT et al. and [respondent] State Teachers Retirement System. 1985. 169 Cal. App. 3d 39 a

. 5 CCR 27100-27101 b. 5 CCC 27100-27104 c.

EDC 22010 d. EDC 22021 e.

STRS LAW 5CCR 27100-27103 f. ED CODE 20520

.Information must be furnished under Ed code 22456, 22010 h. Under STRS law Ed code 22106.5 base hours

California Ed code 45025, Service Credits in STRS 22700–03, Government Code 3547.5 Audit for fiscal sound.
California Ed code 41020 Annual Audits for vacancies and misasignments

Ed code 22138.5 there cannot be a longer or shorter day. j. Additionally under CCR/gov code 11700 k.

THE State Constitution Extract Article XVI of the California Constitution: Section 17 l. Government Code

EERA Law 3545 b.1 m. EDC 26200-26216 Plan Administration.

Section Ed code 27300, Class of employee 22112.5, Creditable compensation 27400, Ed code 22119.5, EDC 26113, EDC 22112.5, Correction of errors 22308, 22215, California Constitution ART XVl at 17 Ed code 22301, rights and under 27100-27103 24616.5, 22008, 24617 and 22326 (a)

Ed code 27300, Class of employee 22112.5, Creditable compensation 27400, Ed code 22119.5, EDC 26113, EDC 22112.5, Correction of errors 22308, 22215, CTA vs Governing Board/STRS 1985, EDC 22719, 22700-3, 24000,EDC 45025, Abbott Vs city of Los Angeles 1985) ***(California Supreme court Petition)***

UNDERPAYMENTS EDC 22213, EDC 22308 (APPENDIX F) 22214

EDC 23008 -Adjustment / penalty. EDC 23010 Appeal. EDC 24616-Authority of Overpayment collection. ***EDC 24616.5 Report of erroneous Reporting of Information of Employer. EDC 24617 Collection of Overpayment. EDC 24618 Collection of Overpayment/Underpayment. EDC 24500 Right of Recovery from Third Person or Entity.*** *EDC 24502 Action permissible. EDC 22503 substitutes get credit. EDC 24505 limited time to fix an action. EDC 22351 Legislative Intent. EDC 24000 Service credit.*

EDC 22354. EDC 22350 Investments. EDC 22303 Employment of Retired Public Employees CCR 27100-27103 California Education Code 22308 **code 22206 a and b**

IN THE SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

To Clerk, Supreme Court of the United States, 1 First Street, NE, Washington, DC 20543.

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below and rule in Wu's favor or overturn the decision of the issuing opinion

Index of Appendix

Appendix E

Order in Superior Court on Order Denying leave to Amend with Prejudice for Defendant Carreon on **1/20/21**

Order in Superior Court on ORder denying leave to Amend with Prejudice for Defendant Rittling on **4/20/21**

Appendix E POS

OPINIONS BELOW

The opinion of the highest state court to review the merits appears at Appendix _A _ to the petition and is [x] reported as_Non Published _Sustainging the Demur with prejudice and no leave to amend
The opinion of the _THIRD COURT OF APPEALS CALIFORNIA __ court appears at **Appendix A**

Appendix A

OPINION, and highest opinion order was in State Third Court of Appeals Rebecca Wu vs Gina Carreon and Peter Rittling. Sustaining the Trial court's Ruling. *Wu v. Carreon,* No. C093905 (Cal. Ct. App. Apr. 29, 2024) 4-29-2024

Appendix B

Decision or Opinion of State Trial Court Sacramento Superior Court
Wu vs Carreon et..al Super. Ct. No. 34-2019-00261122-CU-PO-GDS
Judge Christopher Krueger
Defendant Carreon Notice of Entry of Judgement/Dismissal. Demur to Second Amended Complaint with prejudice and no leave to Amend **2-11-2024**
Defendant Rittling Notice of Entry of Judgement/Dismissal Demur to Second Amended Complaint with prejudice and no leave to Amend **5-20-2021**

Appendix C

Decision of State Supreme Court Denying Review
WU v. CARREON and Rittling Case: S285376, Supreme Court of California
7-31-2024

Appendix D

Order of Third Court of Appeal Denying Rehearing Wu vs Carreon and Rittling
5-22-2024

Appendix E

Order in Superior Court on Order Denying leave to Amend with Prejudice for Defendant Carreon on **1/20/21**

Order in Superior Court on ORder denying leave to Amend with Prejudice for Defendant Rittling on **4/20/21**

Appendix G

Order in Superior court First Amended Complaint Demurrer Sustained on Gina Carreon not allowing based on Gov Tort Act Filing within Six months **6-9-2020**

JURISDICTION OF UNITED STATES SUPREME COURT

The jurisdiction of the U.S. Supreme Court is invoked under **28 U. S. C. §1257(a)**
The date on which the highest state court decided my case was July 31, 2024c
A copy of that decision appears at Appendix C
A timely petition for rehearing from Court of Appeal was thereafter denied on the following date: and a copy of the order denying rehearing appears at Appendix D.
An extension of time to file the petition for a writ of certiorari was granted
To December 31st , 2024 and including in the ORDER
Allowing to file within sixty days After the November 1st Appendix A p. 2
Rule 30 provides that not include date of order

STATUTORY PROVISIONS FOR THE US SUPREME COURT TO REVIEW

CCP 1714.10 require a pre-filing to have conspiracy on an attorney in 1983
42 USC 1983, 1st Amendment,
14th Amendment, CCP338
Equal Protection of the Laws Supremacy Clause EDC 44110-44114 and
CAlifornia Gov Code 822.2

STATEMENT OF THE CASE

This case is about Whistleblower demotion, then a year later termination, Representing other teachers and refusing to settle without other teachers, misclassification as a probationary teacher with more due process rights and right to a union contract and CBA. **Wu** was Reclassified to a regular Teacher position under an employment contract with medical benefits, union, and Salary based on years of service. Wu was a teacher but

classified as a substitute with about one-third or one half of the proper pay with retirement. Wu raised the issue at a board meeting in 2015 and joined the statewide union CTA but was denied the local union.

Wu had her 1st Amendment and 14th Amendment rights violated. The local exclusive union is Supremacy Clause, Equal protection of the laws, and Due process rights. The federal Constitution does not allow states to impede on the rights of individuals especially the well established civil rights and reasons the court has always had a **PRESIDENT of not Requiring a Government Tort Claim for a 1983.** In this case, Wu believes the whole state has been biased at various levels and agencies.

This case is about the right to have a **cause of action on an attorney** whom is contracted out by a municipality that was breaking well established laws and statutes as well as civil rights of students tha Wu complained about. **Wu should not have to file a PRe-filing on a Conspiracy under CCP 1714.10 for Section 1983** and would qualify for the Exceptions including a gain because the attorney is protecting his actions involved prior to the case that Wu is claiming he conspired in. Wu claims if the government Tort Act claim does not have to be filed in 1983 then neither does a CCP 1714.10. Because it would interfere with her equal protection of the laws, Supremacy clause and **no other state has such laws.**

BOTH A 42 USC Section 1983 and a CCP 1714.10 should not require a Pre-filing because it interferes with the right to petition the government. ***United STates Constitution First Amendment*** to petition the Government for a redress of grievance And due process under the 14th amendment. *A corrupt state can stop people from their rights like in the Wu case - the state was corrupt.*

This is also a question of corruption in all levels of State government. Wu should not have to file a pre-filing like claim with the California Government Tort Act on Carreon or Rittling and should be able to have the causes separate.

TOLLING Should have been allowed on the Decision Makers Employer and stalled the SOL on the suit on the Decision makers. The Writ of Mandate for underlying causes of statute violations should be allowed on a Decision maker even if the suit for the Writ did not include the individual decision makers. Tolling must be allowed or allowed for her Government Tort Claims (Three were filed by the Defendants acknowledging them) The Decision maker was signing off in the tort or Writ of Mandate with the Attorney for the District. Wu claims would cause the tolling, especially if they, Carreon

and Attorney Rittling, are involved in the case causing the Tolling and knowledgeable of potential claims.

This is a case of probable cause of Corruption at all levels including State courts. Much of the Facts are inaccurate and Wu filed numerous citations and cases yet were not addressed or claimed not to be. Defendant Worked in the Superior court and her boss worked in the AG office that improperly responded to Wu complaints.

Much of the trial court, [opinion p. 10-11] claimed that because Wu claimed Carreon conspiracy with Rittling and did not pass [timely filed] the Conspiracy claim under CCP 1714.10 Then those causes cannot be valid to deny the Demur. The other part of the case on Carreon was she did not file Government tort claim or did not file a tort within six months of when she did file the Government tort claim but Wu claims

1. She did not have to file a Government Tort claim act to Sue the decision Maker of her Employer. Regardless, she did file Gov Tort Claims and Tolling would occur because of the **Writ of Mandate 2015 case against her Employer was for her actions.**
2. She did not have to file the claim for a section 1983 and citations to cases were ignored in the Appeals ruling she raises in a Rehearing.
3.Wu did file tort acts but Wu claimed they are tolled pending the tort on Wu vs Twin Rivers Unified School District. The court claims they are not the same defendants.

"The trial court reasoned that because Rittling was alleged to have conspired with Carreon, and Wu could not demonstrate a conspiracy involving Rittling, Therefore her causes of action against Carreon failed to state a claim because Carreon could not conspire by herself" - The 3rd court then went to review the causes of action but Wu claims the 3rd court fails to review in depth or at all. [opinion p.10]

The trial court sustained Carreon's demurrer [to most causes] and failed to timely file her suit after rejection of her government tort claim. [p.11] [TRIAL COURT ruled that Wu request for Tolling or estoppel was denied because Wu employer in her Writ of Mandate still pending at the time was not the Defendants]

THE court claims inaccurately Wu cites to no authority demonstrating she was free to file them without first filing a government tort claim.

This case is about requiring Wu to have a pre-filing to have a 42 USC 1983 on an attorney. This case is about If Wu was required to have a Government Claims tort act filed, which Wu did file claims.

The court claimed it was not tolled because the defendants were not the same in Wu vs TRUSD and that Wu made no arguments on tolling that requires timely notice, lack of prejudice to the defendant, and reasonable and good faith conduct on the part of the plaintiff. [opinion p. 12] Yet We made many arguments in Rehearing, all appeal briefs, and in trial court and they were all ignored.

REASONS FOR GRANTING THE PETITION OR
ARGUMENTS INCORPORATING ARGUMENTS ABOVE

1.THERE ARE Statutes and issues to be reviewed That affect Wu constitutional rights under the 1st and 14th Amendment.

This is an issue of Federal and constitutional issues of whether a Petitioner must file a Gov tort Claims act to file a 42 USC Section 1983 and or if They did file them, then are the SOL tolled. Should Wu be allowed to Amend and or without prejudice. 1st Wu should not have to file a state pre-filing to file on an attorney for a CCP 1714.10 because it impedes on federal constitutional rights and the state was prejudiced. Harassing letters by Rittling were not under CCP 1714.10 and thus no pre-fling was needed. Carreon worked at the superior court in a past work intern position and the president of the board worked at the AG office. Amendment US Constitution. 42 USC 1983. CCP California Code of Procedures 1714.10. California Government Tort Claims Act *14th Amendment.* 28 U.S. Code § 2403 (b) Intervention by the United States or a State; constitutional question Of a state action or law.

Because Carreon was the Decision Maker in the Mou letter that was intended to cause pain and suffering in an attempt to have Wu waive her rights to years of service, , demotion and loss of her main job at KHS high school, and then a year later her termination she was liable for due process and with blower violations. Because Carreon did not provide termination notice for her KHS job, undisputed, nor termination for her as

a probationary teacher when Carreon knew Wu was misclassified as a substitute with no due process rights, union rights only the exclusive union can provide to the next step in the grievance process to a administrative hearing the Member cannot ask for but only the union, and that probationary teacher have due process rights, which a Gov tort claim stated. Third court Ruled in underlying cass Wu was misclassified as a probationary teacher. A runaway Corrupt State of California that has no Austin for teacher vacancies, mis assignments, and no auditing for complaints on fraud and misuse of federal funding with literally no review.

2.THERE WERE MANY CAUSES OF ACTION THAT FALL UNDER A 1983

WU CLAIMED AND CITED IN COURT CARREON WITH Rittlings HELP intentionally did not give Wu Notice in 2016 When Wu lost her KHS position nor in 2017 for Termination of her teaching position EDC 44955 DUE PROCESS FOR HEARING FOR PROBATIONARY STATUS OR NOTICE BY MARCH 15TH WHICH DEFENDANTS DO NOT CLAIM WERE GIVEN. -Ever. This brief has many others in it.

3.RITTLING HAD AN INDEPENDENT DUTY TO WU AND THEY FELL OUTSIDE THE REQUIRED 1714.10. REGARDLESS WU FILED A TIMELY CCP 1714.10

The court did not deny that Wu filed a properly timely CCP 1714.10 motion when the Opposition was due and allowed in case law. This is not denied by the appeals court and thus not an issue. **Rather It was Denied because all courts claimed Wu would not prevail thus this case only is review for Why Wu would not have to file one and or Why Wu would have enough to prevail when no detailed determination on each cause was given.**

Rittling had direct Independent Duty to Wu not to mislead or harm from the Two letters by him not related to the case and not part of the case that Wu addresses in the Second Amended Complaint Both were for Rittlings response formally to Wu Whistleblowing on Williams Act and vacancies or Ghosts not in the system as teachers to CDE in SARC and Civil Rights Violations Thus a Duty to Wu by Rittling whom Sent and signed the letters and in evidence record in this case in trial court. The Second Letter was for informing her it's a misdemeanor to interrupt a school meeting but it was sent after

Carreon sent him an email, as per waved evidence in PERB, that I was whistleblowing and how do they keep me away.

Carreon Claimed I was informed I was notifie**d in 2017 of termination of substitute services only not as a teacher. THIS is in dispute and is not ruled on because it was not a part of the WRit or the stipulation in 2015. This is a second case on hold in Superior court from 2017.**

2017 Mulligan did not remember sending a letter of termination titled for substitutes as she only oversaw substitute employees. NO letter was ever claimed to be given to a teacher as a misclassified teacher. . She had a long career in karate and Would see Wu every month to pick up her check. The Director of HR claimed that Mulligan said it after falsely claiming he sent it in a Declaration. Mulligan knew Wu took Karate classes but did not remember me telling her Wu was on a Demo team in Koshi Shori Kenpo and took classes six days a week three hours a day for several years in High School in Woodland Self Defense School of Karate. She said this under oath and she said she would remember if she sent a term letter and she has never seen a term letter claimed in 2017 that said effective immediately but HR let Wu work until near the end of JUly 2017.

This case is about Whistleblower interference, Termination, harassment. Wu was declared misclassified not as an hourly teacher but a probationary teacher in Wu vs Twin Rivers Unified School District which is the ministerial duty to classify correctly and have a employment contract and a union contract and Wu had Neither as never claimed by TRUSD that there was one. Procedures were not followed even for a year during litigation and guidance by the attorney for TRUSD.

WU was determined in 2023 by the Third Court of Appeal that Wu was a PROBATIONARY TEACHER not an Hourly teacher who had no lunch, almost double CBA hours of what a defined Day is for working - about Five periods or hours of direct instructional hours.

> Wu was **Probationary and Misclassified** not an Hourly Teacher filling out SUBSTITUTE time cards ***Wu v. Twin Rivers Unified Sch. Dist.*, No. C088570 (Cal. Ct. App. Mar. 2, 2023)**

Wu must prove rights, privileges, or immunities secured" to Wu by the Constitution 42 U. S. C. §1983. The Third court and the trial court do not go into any detail of exactly why Wu conclusions, statements do not create 1983 or any of the Other causes of actions.

Wu's support for her contention was all discussed in the 70 pages and attached Declaration in the Second Amended Complaint. **There were over 200 emails and other evidence like the PAF forms all cited to in the Appeals brief in THIS case.**

It Would it be a Clear viable cause of action to overturn a Demur for having filed a Writ of Mandate for Classification, liglitagtion and hearing on the merits not done, Complaint in emails and in person in prior and during pre hearing on the merits, negotiated on behalf of other teachers with the union, potentially cause others to join a statewide union because the local union did not represent them, then Reclassify similarly situated, everyone but Wu with many similarly reclassified teachers who then obtained the union membership in the reclassification in 2016 and demote Wu to an acknowledged position that Wu could not do and put her in harm's way, and be the only person who was in a lawsuit, encouraging others to join the CTA, Refusing to settle without the other Teachers in 2016. Wu complained in 2015 to the board and in email about the unequal education with teachers as substitutes, undisputed. The Superintendent claims to the Keema Teachers like Wu who show up "please do not speak" and come see him in front of everyone.

Wu cannot work in the regular substitute outside of her regular teaching position she loses with no due process. Wu two principals at KHS said Wu did a good job with no issues in video testimony and under oath and filed transcripts in Superior court.

Then in May 2017 Wu complained in person and used her Work emails of Civil rights under Cal Williams Act to the board, superintendent. Carreon attends all board meetings as head of HR. Wu lost her CTA attorney in May 2017. Wu claims there are crimes in HR in person to the board in May 2017. Wu sends emails using her Work email to elected officials with Sue Frosts assistant responding in emails back to her Work emails, and CCTC responses to her work emails, and various question of the use of PAF forms, how Wu is paid and claimed on her WRit of Mandate filed by CTA in 2015 that it says "not for use of substitutes," Wu does cite the evidence and the dozens of pages of Declaration in this case. Then Wu prints material all claimed to be related to her case, or work emails related to her complaints, that Wu claims in an email to her boss she is using it to file complaints but not on him and sending it to enforcement agencies [FBI, grand jury, STRS] in June 15th 2017, and Carreon

sends an email to HR manager that day after receiving Wu email to her boss and says Wu should be "cut loose." Wu continues until July 21 working even over the summer because her boss requests that Wu continue because he needs me with a parent who requested Wu. He claims No issues known of Wu of her teaching except the printing for law enforcement which Wu did. The notice of termination in 2017 was for a substitute position not her HHI home hospital position that she picked up a few hours a week in 2017 unknown to HR because she was on the list for years but never had accepted it. She loved it.

As claimed misclassified employee Wu was never given any notice for her teaching position in 2016 or demoted position to regular sub in 2017 and no claim has been given for any notice of her HHI position.

The claimed Generic letter to terminate Substitutes has no reason and dated June 28th 2017 and states "Effective Immediate." The letter was not signed, not claimed in any response or Answer in any litigation Forum from PERB, or Writ until 2019 and then motion to dismiss for untimely in PERB.Wu had her email blocked then not allowed to work in August 1s 2017 with no notice and her emails Gina Carreon and HR Manager Bojanski asking why she has her email blocked was left unanswered or responded to.

. A zero Dollar check was sent that prevented Wu from obtaining her STRS cash out until after Discovery and thaT zero dollar check caused the county to claim Wu was employed in Fall 2017 and one cannot have a cash out if employed. ONe letter was sent REsponding to Wu complaint of civil rights of children in June 28, 2017 and then another Wu can not cause a disturbance at a school in August 10th 2017 still not responding to Wu request for having her email turned back on for the HHI positions which are a first come first serve bases in obtaining only through the email. Her boss did not know she was terminated. Carreon claims no misconduct happened at the board meeting nor schools but printing in June 2017 and claiming she is whistleblowing to employees which Wu did.

4.AN IN DEPTH REVIEW OF THE CAUSES OF ACTION MUST BE DONE TO DETERMINE IF THEY FALL UNDER A Section 1983

5.WU WAS NEVER GIVEN ANY REVIEW TO DETERMINE IF HER CAUSES ARE VIABLE CAUSES OF ACTION AND THE THIRD COURT RULED THAT DUE TO THE GOV CLAIMS ACT NOT TOLLING FOR HER CLAIMS AND CANNOT CONSPIRE WITH HERSELF , and WU CANNOT SUE AN

EMPLOYEE , THEN IT'S NOT RELEVANT BUT SHE DID HAVE SOME VIABLE CAUSES

Some causes would fall under Section 1983 and would not need a gov Claims Act. OThers would fall under **EDC 44110-44114 and Gov Code 822.2** that ALLOW for Suing a PUblic Employee as well as Section 1983 Also allows it in CONTRADICTION TO THE COURT OF APPEAL AND TRIAL COURT For the Demur .

however inartfully pleaded are held to less stringent standards than formal pleadings drafted by lawyers." Eldridge v. Block, 832 F.2d 1132, 1137 (9th Cir. 1987)

The rule of liberal construction is "particularly important in civil rights cases." Ferdik v. Bonzelet, 963 F.2d 1258, 1261 (9th Cir. 1992); see also Johnson, 207 F.3d at 653

All my explanations were ignored for the most part. There was no claim of why the details and claim was not a cause of action or 1983

11.WU WAS Denied HER RIGHT TO THE LOCAL EXCLUSIVE UNION GRIEVANCE PROCESS THAT THE CBA ONLY ALLOWS THE UNION TO TAKE IT TO A ADMINISTRATIVE HEARING THAT CARREON DID AND RITTLING AGREED TO. THIS CAUSED WU TO DUE PROCESS UNION MEMBERSHIP FOR A WHOLE YEAR IN SETTLEMENT AGREEMENTS AND POLICY BEFORE

CONTRARILY to the Opinion,p.2 Wu contacted the local union and let them know in July 2015 that All the similarly situated teachers like Wu [maybe 30-40] should get reclassified in an email. She also joined the NON- EXCLUSIVE union CTA but we were not allowed to be a part of TRUE Twin Rivers United Educators [as ruled Published– *Rebecca Wu v. Pub. Emp't Relations Bd.*, 87 Cal.App.5th 715, 303 Cal. Rptr. 3d 693 (Cal. Ct. App. 2022)

After a year of Settlement talks Wu was demoted in 2016 to another misclassified position, while 25 of her colleagues were reclassified to tenured positions and another person was hired.

> *Wu was demoted in 2016 to another misclassified position, while 25 of her colleagues were reclassified to tenured positions and another person was hired. P.3*

The 3rd court claims Wu ended her position in 2016 based on notification in the case Wu vs TRUSD but the District never claims there was any . [writ and stipulation only cover the loss of the 2016 positions as Wu attorney left when the Opening brief was due and Wu was still working] Because there was no notice Wu filed a unemployment loss of job which Rittling claims Wu was still at the same position as a substitute. Wu was not and her CTA attorney did not file injunctive relief, claiming Wu was not in the same position in an email and to appeal the unemployment decision. Wu filed a police report on Carren and Rittling about it and told the FBI.

CONTRARY to the Opinion of p.3 All the emails filed in this case,[and many more sent in May 2017 and early June 2017] and in the Writ of Mandate all show That Wu complained to government agencies, the School Board, the County office of Ed and elected officials that the Williams ACt , and Vacancies that were being ignored and reported as Ghosts in the system that reports teacher position vacancies to California Department of Ed, [LCAP] and the Williams Act and the emails about it were what Wu printed out in a printer with other Education corruption issues including the misclassification. This was claimed in court that was it, nothing else was printed when asked by Judge Cloughesy in retaliation to HR manager Bojawski under oath. Carreon said in testimony under oath there were no other issues with the email correspondence to my boss. I used the printer for enforcement of illegal activity to a grand jury and other agencies when she got this email from my boss's boss Rudy Puente. Then on the same day send HR manager Bojanski an email Wu "should be cut loose" and this is usable testimony because it's an email to Bojanski HR manager.

What was claimed in TRail court, and in Appeals was Retaliation because Wu was supposedly given a termination notice in June 2017, [again- none given in 2016 in violation of Due process to Probationary Teacher positions] That the 2017 Notice was only for Substitutes and generic, not signed, and not in the HR file and said Effective Immediately June 23 2017. But Wu worked up to late July 21 and had her email cut in August 1st 2017 [as claimed in this case at the amended complaint and original complaint and provien in PERB retaliation case still pending]

> "*EFFECTIVE IMMEDIATELY*" - not signed, not in HR file
> Generic termination letter dated June 23. Wu worked until July 21

CONTRARY Wu was making Whistblower claims of the Williams Act violations. Her attorney Maggie Geddes from CTA law firm who originally worked with Who had said she could go to the board or HR but as a member of the Community. MAggie Filed the Writ of Mandate for Classification and retired the next day- probably because she knew CTA would not want her to.

Colleen Mulligan said in front of me in a PERB hearing it is for effective im

This case is filed in State Court, not federal as pro per by Wu. This case was filed within two years of being permanently terminated through her email being cut.

Wu filed a Second Amended complaint that was denied and the case was dismissed which included hundreds of exhibits in the case and over70 pages of details and causes of actions. Wu claims no details were given for why they were not causes of actions in oral argument in 3rd court claims thus under case law a general dismissal is not allowed. The 3rd court of California fails to address details provided in the case and Wu points to an overall corruption in government in California.

Wu claims overall corruption in the State of California. Wu does have another case that was on hold for same defendants but new evidence has come to light and in the Trial court it was ruled with No clearity that some causes are ment for a motion for new causes although the court fails to explain. That case was moved to another judge as Wu has pointed to the AG office for the last decade plus, California Department of Education, California Commission on Teaching Credential and Office of Controller as sinsterly acting in covering up their refusal to audit when complaints are made.

12.VALID CAUSE EXISTS of her denial of a union membership that were NOT ADDRESSED, BUT RAISED IN THE REHEARING AND IN ALL BRIEFS FROM TRIAL TO APPEAL WAS WU DENIAL OF THE UNION WHICH WAS TO SILENCE HER AND WAS A VIOLATION OF HER 1st AMENDMENT RIGHTS AND 14TH BECAUSE IT WAS **PROPERTY, right to speaking up, and had due process rights to a Administrative hearing only the exclusive union not its members are allowed to approve of in the CBA.**

Wu was not reclassified with a union membership when everyone one else was <u>But Wu</u> in Summer 2016 when it was known we were all misclassified with no union, salary schedule under that union, medical benefits for years, and due process rights in the union. Fraud willful intent to harm goes back under CCP 338 three years.

13.WU SHOULD HAVE RIGHTS TO TOLLING AND DENIAL DENIES HER DUE PROCESS RIGHTS TO TRIAL

Alternatively, Wu asserts she did file a government tort claim and her time to file a court action after the rejection of that claim was tolled because she was pursuing cases related to her misclassification against the District in the trial court and before the Board.

14. TOLLING SHOULD BE ACCEPTED IN PERSONAL SUIT ON INDIVIDUAL DEFENDANTS IN A 42 US SECTION 1983 AND OTHER CLAIMS IF THE PLAINTIFF HAS AN CASE WITH THE EMPLOYER AND THE DEFENDANTS WERE REPRESENTING THE EMPLOYERS IN COURT AND THEY ARE THE DECISION MAKERS AS HEAD OF HR AND THE ATTORNEY INVOLVED IN THE CASE AS ESTABLISHED [Third Court of Appeal Opinion p. 12]

IT was established in the Opinion in the Third court that the head of HR was Carreon as claimed by Wu and the attorney was guiding the district prior to the WRit of MAndate filed and that Opinion recognizes Rittling was the attorney running the Writ with Wu employer. Therefore, it is clear that Notice was given,

> *[The] doctrine of equitable tolling requires timely notice, lack of prejudice to the defendant, and reasonable and good faith conduct on the part of the plaintiff.[opinion p. 12] ...Wu does not engage with this standard or attempt to demonstrate how she can meet each element,* ***especially in light of the fact that the District was the defendant*** *in her other actions and* *not the individual defendants named here.*

Wu raised the facts that Carreon WAS THE HEAD OF HR AND this is acknowledged in the Option set of facts. Wu claimed that Rittling was the attorney for the district working With Carreon. WU constantly condense throughout all pleadings in trial and appeal court over and over again they were working on the Writ of Mandate and thus they have notice because Wu mentions they were working on the Writ of Mandate and it is Carreon that signs along with Rittling in the Public Employment Relations Board case.

15. WU HAD FULL LEGAL RIGHT TO SUE DEFENDANTS CARREON AND RITTLING , ESPECIALLY UNDER A 42 USC 1983 EVEN IF THEY WERE NOT HER EMPLOYER.

*The trial court sustained Carreon's demurrer to these [*Wu's many causes of action with no details by any court Why they do not stand*] causes of action on a variety of grounds, including importantly that Wu did not allege that Carreon was her employer. In her appellate briefing, Wu challenges the trial court's various rulings, but* ***she does not address the fact that Carreon is not her employer.*** *For this reason, Wu has not demonstrated that she can amend her complaint to state a cause of action for either whistleblower termination or wrongful termination against Carreon. (See Yau v. Allen (2014) 229 Cal.App.4th 144, 154* **[OPINION p.3]**

Contrarily- Wu argues they are the Decision makers and its well established in a Section 1983 Wu can sue Individuals even under Gov Tort acts and under EDC 44110-44114.

16. ACTIONS ON WU BY DEFENDANT RITTLING MUST BE ALLOWED AS CAUSES OF ACTIONS AND DO NOT NEED A CCP 1714.10 CONSPIRACY MOTION TO BE FILED. REGARDLESS, WU DID FILE A CONSPIRACY MOTION AND IT WAS DENIED . [Opinion p. 12]

Wu cites established case law Wu cites in her Opposition to demur and in appeal briefs that allows a CCP 1714.10 to be filed up to the day the Opposition is filed as Wu did. This is not questioned but rather that if it is not approved then it is not done. The record is publicly available in Sacramento Superior court and clear. The ruling in the Court of Appeal only speaks to if Wu had a viable 1714.10. Therefore, I will not waste space on her timely properly filed CCP 1714.10

17. INDEPENDENT ACTION AGAINST WU by RITTLING WERE RESPONDING TO WHISTLEBLOWING SHE HAD DONE FROM MAY to AUGUST FOR CIVIL RIGHTS VIOLATIONS TO STUDENTS AND GOVERNMENT CORRUPTION SHE UNCOVERED IN MILLIONS OF FRAUD YET THE COURT WILL NOT REVIEW THIS AS AN INDEPENDENT ACTION WHEN TECHNICALLY BOTH LETTERS IN AUGUST 10th DAYS AFTER SHE WENT TO THE BOARD BUT DID NOT SPEAK AND IN JUNE 2017 WHEN HER EMAILS WERE CC THE BOARD TO OTHER

ELECTED OFFICIALS AND HER FORMAL COMPLAINT ON BEHALF OF STUDENTS WAS RESPONDED TO BY RITTLING [Opinion p. 12]

18.THERE WAS ENOUGH EVIDENCE OF PUBLIC CORRUPTION AND WRONGFUL ACTS BY DEFENDANTS TO ALLOW FOR A CAUSES OF ACTION AND AN AMENDED COMPLAINT IF NEEDED AND AS WELL AS TO APPROVE THE TIMELY FILED MOTION FOR CCP 1714.10 ON RITTLING.

1. Because of the public corruption and ties to the AG office and the Courts it is imperative that the US Supreme Court review this case and bring in national importance for federal funds.

19.THE COURT FOUND NO FAULT WITH WU claim of WHISTLEBLOWING [opinion p. 11] AND IT SHOULD BE ENOUGH TO ALLOW CIVIL CONSPIRACY WITH RITTLING WITH HER EMPLOYER IRRESPECTIVE OF WEATHER WU COULD HAVE A CAUSE WITH CARREON DUE TO NOT PURSUING HER FILED GOV TORT CLAIM WITHIN SIX MONTHS OR TOLLING

If the court found no fault with the whistleblowing causes, then Why is not allowed to have probable cause of action on rittling for a Civil Conspiracy? That makes no sense.

No claim of why Wu was terminated is in this case, in the PERB non final case not presented her as it was statements in 2022 that Wu was claiming Whistleblowing and using the printer which all of it was confirmed before the judge and is employment material related to whistleblowing which Wu believes it would have to go to trial to make a determination especially as no cause was ever given formally.

It is always claimed Wu did not settle, but Wu needed the years of service to go and be placed tens of thousands a year more in service credits in another district. They have to be mailed unopened between districts as recognized years of service and the settlement only included internal recognition and after the MOU sent March 18th 2016 was sent causing extreme suffering including Wu boss calling the police in April=May 2016 because of the harassment it caused from other teachers claiming one person is going to

ruin it for everyone when the MOU said they will not talk to them to discuss their employment until a settlement occurs all While Carreon claims to Wu, CTA and her attorneys that the Retired similarly situated cannot be hired. PERB documents filed also show Carren claimed they expected to be done with the settlement and had no plan to hire the retired similarly situated even though Wu had spoken up to Carreon and Rittling a month earlier in settlement talks on February 8th 2016 that the Retired teachers should be hired and at that meeting they agreed to include the non-retired teachers whom did not know of a lawsuit filed with a claim in Sept and lawsuit in November 2015 and I was told not to tell them. I had said around December after our first settlement talk I did not want to settle without the non-retired. Then when the MOU was sent it included the retired teachers and all staff at Keema High School. I sent emails to my attorney that it will cause harassment and then for months informed him it did but they never took it back. Rittling approved the MOU as Carreon claimed in PERB. Everyone knew, including Carreon I went to the Board in 2015 with Carreon present, that we were misclassified and it was a civil rights violation to the students who have the right to equal education. We were denied mandatory from I believe the legislature training in Common Core and never allowed inthe training website for the district teachers. My principal called the Police because of the harassment of me by a coworker about the MOUSE that was meant to pressure me to waive my rights to my years of service.

The years of Service – they can only be **sent via Certified mail between Districts** and this allows a teacher to be on the proper payscale. This is a difference between 30 or more grand per year and what I wanted to leave the district after the president said Rittling plays dirty and then a month later the MOU is sent. I also wanted my retirement fixed and it didn't come in Discovery because HR sent a 0 dollar check to the county and that stopped it. New causes are not in there, where they do not send them based on what a CBA would require them to be per the Court decision as a Probationary teacher I would.

20.QUESTIONABLE BIAS IN THE COURTS BECAUSE CARREON WORKED IN THE SUPERIOR COURT AND HER BOSS THE PRESIDENT OF THE BOARD HAD PREVIOUSLY WORKED IN THE ATTORNEY GENERAL'S OFFICE AND THE TRIAL COURT WORKED IN THE AG OFFICE AND CARREON's ATTORNEY SPENELI REFUSED TO ANSWER THE QUESTION IF SHE DID IN HER PAST FOR ONE YEAR LEAVING THE CASE TAINTED, AND MY SANCTION REQUEST SHOULD BE GRANTEd. SHE CLAIMED SHE HAD WORKED THEIR TO MY WITNESS

Currently there is a legislative Audit or JLAC on TRUSD but not for the far worse issues Wu brought up but for an oversight at a Charter school doing similar things. Wu points out in court that Carreons Boss is not licensed as Deputy Superintendent as required to run HR and he is the Main one of two Trainers for FCMAT and the kind of auditing agency that only comes in if asked by a Board or county Superintendent and none have ever asked to this day on TRUSD. Not even for the Six million dollar pool in the public school do they have any accountability for. The grand jury clerk, the only person who files and gives the papers to the grand jury, informed me that the papers were not provided due to one page being a 10x14 printout of the one page form and I do not know if or why the others were not reviewed. The AG office sent me a letter responding to my complaint of the district and Board to go to the board. CCTC and CDE claim the end is the Board because vacancies and inaccurate SARC reports or data sent to them they do not do any investigation or audit for and only change information if it is sent to them. CCTC [whom sent the check for my cash out retirement after I ran through credit funds but it was oddly sent after Discovery Ended but I had an attorney lined up in Fall 2017]

> *In her appellate briefing, Wu argues she was not required to file a government tort claim. Wu's argument, however, appears to be specific to her whistleblower claims and a potential federal civil rights claim, not the defamation, misrepresentation, and fraud claims raised in her first three causes of action against Carreon. Indeed,* ***the trial court did not find a defect in Wu's whistleblower claims*** *related to the filing of a government tort claim. As to her first three causes of action against Carreon, Wu cites to no authority demonstrating she was free to file them without* ***first filing a government tort claim.*** *(See Hernandez v. City of Stockton (2023) 90 Cal.App.5th 1222, 1230* **[Opinion p. 11]**

21.WU CLAIMS NO TORT ACT WAS REQUIRED FOR BOTH DEFENDANTS OR NEEDED TO FILE WITHIN SIX MONTHS AFTER - THE CASE COULD BE TOLLED DUE TO 2015 WU VS TRUSD became final in 2023. THE THIRD COURT CLAIMS THAT IS DIFFERENT DEFENDANT WHICH IS WU EMPLOYER TRUSD, YET WU CLAIMS THAT IT IS TOLLED BECAUSE BOTH DEFENDANTS WERE THE ONES RUNNING THE CASE, THAT IS CARREON WAS THE REPRESENTATIVE SIGN THE ANSWERS AND DISCOVERY ALONG WITH RITTLING THE ATTORNEY WORKING WITH HER. SHE WAS ALSO THE DECISION MAKER IN ALL ACTS EXCEPT ONE

OF RITTLINGS Undisputed is the Two year for personal Injury in California and three years for sinister fraud under CCP 338.

21.aTHE CASE WAS DISMISSED IN THE TRIAL COURT ON MOST CAUSES OF ACTION FOR NOT PROSECUTING WITHIN SIX MONTHS OF A THE STATE GOVERNMENT TORT ACT BUT WU ALWAYS CLAIMED IT WAS NOT REQUIRED.

- ***United STates Constitution First Amendment*** *to petition the Government for a redress of grievance* and the 14th amendment allowing due process does not allow the STATES to have a Gov claims Act on a Plaintiff because it impedes on their rights. In CCP 17114.10 would not apply because its

22.WU DID NOT HAVE TO EXHAUST STATE REMEDIES OR GOVERNMENT TORT CLAIMS ACT AT THAT TIME NOR WOULD SHE HAVE TO HAVE TO DO THE STATE CCP 1714.10 BECAUSE IF THEY ARE NOT REQUIRED FOR TORT CLAIMS THEN THEY ARE NOT REQUIRED PRE FILING WHICH IS SIMILAR INTERFERENCE THAT A GOV TORT CLAIM ACT IS TO MY CONSTITUTIONAL RIGHTS. ESPECIALLY FOR SERIOUS CORRUPTION AND INTENTIONAL VIOLATIONS OF THE LAW AND INTENT TO HARM OR RETALIATE

- ***United STates Constitution First Amendment*** *to petition the Government for a redress of grievance* and the 14th amendment allowing due process does not allow the STATES to have a Gov claims Act on a Plaintiff because it impedes on their rights. In CCP 17114.10 would not apply because its

23.STATUTE OF LIMITATION WAS DENIED BECAUSE OF THE CLAIM WU DID NOT FILE A TORT AFTER FILING HER GOVERNMENT CLAIMS ACT, THAT SHE CANNOT SUE HER BECAUSE CARREON IS NOT HER EMPLOYER [opinion p.12-15] AND YET IN BREFIS FROM TRIAL TO APPEAL WU CITES SOME CASES IN ALL APPEAL BRIEFS AND GOV TORT ACT LAW THAT ALLOWS IT AS WELL AS EDC 44110-44114 Also ALLOWS IT.

Federal courts should borrow all applicable provisions for tolling the limitations period found in state law. Wallace, 549 U.S. at 394

California has two years of SOL – Comm. Concerning Cmty. Improvement v. City of Modesto, 583 F.3d 690, 701 n.3 (9th Cir. 2009)

Generally, exhaustion of state judicial or state administrative remedies is not a prerequisite to bringing an action under § 1983. Patsy v. Bd. of Regents, 457 U.S. 496, 500 (1982)
Exhaustion of state tort claim procedures is not required. See Rumbles v. Hill, 182 F.3d 1064, 1070 (9th Cir. 1999), overruled on other grounds by Booth v. Churner, 532 U.S. 731 (2001)

24.BECAUSE WU WAS SINISTERLY MISCLASSIFIED AND THEN DEMOTED WU TO APOSTION CARREON AND RITTLING WERE AWARE WU COULD NOT DO AND PLACED HER IN HARM'S WAY SHE REFUSED TO WORK AL <u>AT THE EXACT SAME TIME –RECLASSIFYING AROUND 25 SIMILARLY SITUATED</u> TEACHERS PER PUBLIC BOARD MEETING ON SEPT 13, 2016 –<u>EXCEPT WU – WITH MOST OF THEM NOT SIGNING A SETTLEMENT AGREEMENT</u>

THENA YEAR LATER IN 2017 CARREON AND RITTLING FULLY CONSTRUCTIVELY TERMINATED HER BY BLOCKING HER EMAIL AND DEACTIVATING HER WITHOUT INFORMING HER OR GETTING BACK TO HER EMAILS TO PLEASE ACTIVATE BECAUSE SHE DECIDED NOT TO QUIT WHILE THE WHISTLEBLOWING WAS DISCOVERED PRIOR TO THE FALSELY CLAIMED TERM LETTER

21.THE STATE LAW 1714.10 a-c DOES NOT INCLUDE A CLAIM OUTSIDE OF CONSPIRACY IN CONTRADICTION TO THE OPINION p. 7 AS WU CLEARLY ARGUES The 3rd court in this case recognizes Wu was a probationary teacher, not a substitute.

> **"The District, however, used her as an independent studies teacher, whose job duties qualified the position for a <u>probationary classification</u> instead of a substitute classification."OPINION in this case Wu vs Carreon p.5**

The Third Court in this case recognizes Carreon was head of Human Resources

> *Carreon was the* ***top person*** *in Human Resources and the person signing the legal documents in her Writ of Mandate along with Peter Rittling assigned to HumanResources* **.. Order denying 2nd Amended Complaint on Rittling p.5**

CRC Rule 3.1312 preparing the order, allowing five days for losing party to make a statement and Wu claim this was denied Wu in threat by Attorney Evans in email correspondence filed in the Motion for new causes wu said she cannot give nor claim any statement and no Motion cannot be done either.

NOTICE OF MOTION AND MOTION TO FILE NEW CAUSES *UNiTY conduct that does not violate clearly established statutory or constitutional rights" then there can be immunity if discretionary. - Harlow vs Fitzgerald 457 U.S. 800, 818,100 C (1982) Ed code 22010 is not discretionary and Rittling himself committed a crime and violated it as anyone who contributes to the "cause" of the decrease or increase in STRS or contributes to the prevention of information as requested is also a crime. Under color of law an attorney is liable . West V. Atkins (1988) 387 US 42,49,108 p2250, 2255*

Wu does explain in all briefs in appellate and state court that Wu did explain the Due process rights for constitutional right to due process for termination under probationary and tenure laws in Oral argument in Trial court. Wu explains the CBA has a process for due process if terminated and sinisterly demoted in 2016. Three years SOL for sinister actions. Wu explains in briefs.

In Nieves v. Bartlett, 587 U.S. 391 (2019), claims if there is a mistreatment to an employee who is signed out from another similarly situated it can be a nexus. This case is for criminal and Wu is for civil Regulation and violation of due process. However, it still simply applies in the sense of what happened to Wu.

Wu was the only one in a lawsuit, the only one with a grievance with a non exclusive union CTA filed writ of mandate, the only one arguing on behalf of dozens of similarly situated, and then was the ONLY one not Reclassified. And thus enough evidence exists to show this. The case Wu vs TRUSD was accepted by the Third court that Ruled that Wu was probationary teacher .WU presented enough evidence that a violation of the

CBA and probationary laws violated her Due process in both 2016 then in 2017 when she was still demoted and employed. Yet the court in Trail court and Appellate does not address it.

Related case **Published**– *Rebecca Wu v. Pub. Emp't Relations Bd.*, 87 Cal.App.5th 715, 303 Cal. Rptr. 3d 693 (Cal. Ct. App. 2022)

22.Undisputed is an Attorney working for a public municipality can be held as acting under color of state law and this is uncontested except for liability

relief under [§] 1983 has been articulated as: (1) a violation of rights protected by the Constitution or created by federal statute, (2) approximately caused (3) by conduct of a 'person' (4) acting under color of state law." Crumpton v. Gates, 947 F.2d 1418, 1420 (9th Cir. 1991).

Plaintiffs can plead that " *(1) the defendants acting under color of state law (2) deprived plaintiffs of rights secured by the Constitution or federal statutes."* Gibson v. United States, 781 F.2d 1334, 1338 (9th Cir. 1986);

THERE WAS EXTENSIVE EVIDENCE IN 200 pages AND DECLARATIONS UNDER OATH OF EVENTS AS WELL AS 70 PAGES OF WRITTEN MATERIAL FOR THE SECOND AMENDED COMPLAINT IN 2020 WHICH IS ENOUGH EVIDENCE TO GRANT A TRIAL FOR RETALIATION, WHISTLEBLOWING AND VIOLATIONS OF CONSTITUTIONAL VALUES.

A 1983 CAN BE APPLIED AS A CAUSE OF ACTION TO RITTLING AND CARREON FOR CONSPIRING WITH WU ATTORNEY TO DENY HER 1ST AND 14th AMENDMENT RIGHTS TO HER UNION AND UNION CONTRACT ASSOCIATION AND MEMBERSHIP

"Contract Clause" of the United States Constitution says that no state shall pass a law "impairing the obligation of contracts." U.S. Const., art. I, § 10. The Contract Clause is violated "when one alleges that he or she has a contract with the state, which the state, through its legislative authority, has attempted to impair." *University of Hawaii Professional Assembly v. Cayetano,* 183 F.3d 1096, 1101 (9th Cir. 1999)

WU STATES IN 70 pages and hundreds of Documents to claim simply her Constitutional rights of Free Speech, Freedom of association to the local exclusive union, Due process rights of termination and probationary status that includes that right under the 14th Amendment to equal access to the same laws. Wu was a probationary teacher but continued to be misclassified for the Year from Nov 2015- to August 2016 during settlement discussions instead of reclassified and terminated with no employment contract and no Union protection or membership that was denied while she spoke out from 2015 on. In this situation it was sinister as well as ministerial duty not a description to provide Wu with the probationary status.

As stated in the Appeals brief and trial court –It is well established that Union is a form of Freedom of Association. Wu cites in trial court briefs and all briefs Gov Code 3545 b.1 which is the foundation of the Case in the Petition for Writ of Certiorari. In case Wu vs Public Employment Wu claims no union contract was given for her misclassification. Carreon was head of HR and the HR manager Bojanski directly under her claims under oath when interviewed by CTA attorney in February 2017 she knew in 2013 [. that the substitutes were also teachers because the director of data management informed her that the Hourly paid teachers were not in the Teacher database they send to CDE.

After I complained directly to her I was denied the right to apply for the one and only position ever in history posted for a part-time teacher at Keema High School for Independent Studies, because I was not NCLB certified when I told her I was in the position. She said then at that point she had all the Hourly paid teachers would then get No Child Left Behind qualified with a Verification Process for Special Settings which Wu did for three years. She said I was Highly Qualified in core subjects in testimony. She told eight of us teachers privately we were the Golden Child of the district because we jumped in and took the 24 college credits even though I had a Clear teaching credential with an English Language Learner authorization sense 2003. She said under oath as well she did not know why the Personal Action Forms were used to pay us.

> ***PAF FORMS state — "NOT FOR USE WITH SUBSTITUTES"***
> ***and also it states it requires a Position form to go with it. The PAF states for all years she had one***

The PAF filed in the Writ of Mandate filed in Sacramento Superior Court 2015-80002234 Wu vs TRUSD November 2015 by hired CTA attorney. Carreon signs many of the PAFs as well as Director of Payroll, And Some have Assistant

The Intentional Retaliation was intended to prevent Wu from speaking out, and having employment and due process of termination notice which was not done. No notice was given in 2016 and thus Wu was still a probationary teacher and then in 2017 which is not addressed in the 2015 Writ because the Writ Wu vs TRUSD was filed While Wu was employed and that is on hold but due to open possibly.

23.THE PURPOSE OF 1983 AND NOT HAVING TO FILE A STATE PRE-FILING BECAUSE GOES BACK TO THE CIVIL RIGHTS AND STATES THAT WERE CORRUPT EVEN AS WHOLE INCLUDING JUDGES, COURTS, AGENCIES AND ACTORS AND THAT IS EXACTLY WHAT HAPPENED WITH WU IN CALIFORNIA

Wu's rights, privileges, or immunities secured" to Wu by the Constitution. 42 U. S. C. §1983. Wu had her right to her common law contract in an Employment Contract as a Probationary teacher but no contract was given. Wu also lost or was intentionally denied her Contract to the union especially when **Everyone BUT WU**, for similarly situated teachers whom Wu was negotiating for and signed settlement agreement or or most did not sign one and they GOT a union contract and thus union protection that Wu did NOT get when she was demoted and terminated with no notice, and violation of her CBA rights that she was denied. She could not fight back with the Due process right to a hearing with an ALJ in the CBA that ONLY a local union can bring or approve a hearing process. Obviously they would if they could represent me. (see related case Wu vs PERB/TRUE in US Supreme court)

24.CONTRARY TO THE OPINION IN THE THIRD COURT THE DEFENDANTS HAD NO IMMUNITY

Section 1983 provides for no immunity under conditions that Wu had That Carreon administered. Rittling had no immunity for the continuation of knowing wrongful advice on keeping for a year after complaints and during the whole settlement discussion time that took two years with almost no discovery until I became pro per.

"*liability as to the attorney-defendants is based on nonconfidential communications with third parties and nonconfidential conduct involving third parties.* " Rebecca vs good friend

> *where an _attorney gives his client a written opinion with the intention that it be transmitted to and relied upon by [a third party] in dealing with the client[,] . . . the attorney owes the [third party] a* ***duty of care in providing the advice*** *because [that party's] anticipated reliance upon [the opinion] is —the end aim of the transaction.‖'‖ (Pavicich v. Santucci, supra, 85 Cal.App.4th at p. 395.)*

Due Process Clause *–In case authority Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97, 13 P.3d 704] -- Government Code §820.2 discretionary actions only have immunity. It immunizes basic policy-making decisions, but not the routine operational decisions of employees carrying out those decisions.* ***Government Code §815.6: Mandatory Duty Liability -- (Haggis v. City of Los Angeles (2000) 22 Cal.4th 490 [93 Cal.Rptr.2d 327, 993 P.2d 983].)***

..Statements to nonparticipants in the action are generally not privileged *under section 47, subdivision (b), and are thus actionable unless privileged on some other basis." (Rothman v. Jackson (1996) 49 Cal.App.4th 1134, 1141, Silberg v. Anderson (1990) 50 Cal.3d 205, 219.)*

> *1983 claims Municipalities and employees cannot have the* ***qualified immunity defense****. .. even if they did not know they were violating constitutional rights–. Owen v. City of Independence, (1980) 445 U.S. 622.*

Below are citations from - Missouri Law Review Volume 56 Issue 4 Fall 1991 Article 4 Fall 1991 *Supervisory Liability under 42 U.S.C. Section 1983* Shari S. Weinman.

United States Court of Appeals for the Ninth Circuit Office of Staff Attorneys. Section 1983 Outline. Originally Written in 2002 By Kent Brintnall Updated Summer 2011 By Office of Staff Attorneys United States Court of Appeals for the Ninth Circuit

Administrative decisions, even though they may be essential to the very functioning of the courts," are not within the scope of judicial immunity. Forrester v. White, 484 U.S. 219, 228-30 (1988) The requisite causal connection may be established when an official sets in motion a 'series of acts by others which the actor knows or reasonably should know would cause others to inflict' constitutional harms." Preschooler II, 479 F.3d at 1183

Regardless of what theory the plaintiff employs to establish municipal liability – policy, custom or failure to train – the plaintiff must establish an affirmative causal link between the municipal policy or practice and the alleged constitutional violation. See City of Canton, Ohio v. Harris, 489 U.S. 378, 385, 391-92 (1989);

"The proponent of a claim to absolute immunity bears the burden of establishing the justification for such immunity." Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 432 (1993); Local governmental units are not entitled to absolute immunity. See Leatherman v. Tarrant County Narcotics Intelligence & Coordination Unit, 507 U.S. 163, 166 (1993)

"[G]government officials performing discretionary functions [are entitled to] a qualified immunity, shielding them from civil damages liability as long as their actions could reasonably have been thought consistent with the rights they are alleged to have violated." Anderson v. Creighton, 483 U.S. 635, 638 (1987)

Officials "cannot be expected to predict the future course of constitutional law, but will not be shielded from liability" for acts that violate constitutional rights. Procunier v. Navarette, 434 U.S. 555, 562 (1978)Once a court determines that "the law was clearly established, the immunity defense ordinarily should fail, since a reasonably competent public official should know the law governing [the official's] conduct." Harlow, 457 U.S. at 818-19.

Municipal employees sued in their official capacity are not entitled to qualified immunity. See Eng v. Cooley, 552 F.3d 1062, 1064 n.1 (9th Cir. 2009); The Ninth Circuit has concluded that private individuals are not entitled to qualified immunity in either § 1983 or Bivens actions. See Clement v. City of Glendale, 518 F.3d 1090, 1096 (9th Cir. 2008)

25. CONTRARY TO THE OPINION ON PAGE 17 WU DID RAISE THE ISSUE ON ALL LEVELS OF COURT OF THE DUE PROCESS, INDEED THE TORT CLAIM IS CITED THAT INCLUDES DUE PROCESS IN IT FOR A REGULAR POSITION WHICH INCLUDES PROBATIONARY POSITION. NO OFFER OF A PROBATIONARY POSITION GIVEN TO ALL SIMILAR SITUATED TEACHERS WAS GIVEN TO ME TO HAVE WHILE WE HASHED OUT THE TENURE ISSUE AS PER MANY EMAILS AND TESTIMONY BETWEEN WU ATTORNEY -WU AND BETWEEN RITTLING AND HER ATTORNEY

ED CODE 44225.7 REQUIRES HER TO HIRE SOMEONE WHO IS FULLY LICENCED AND YUMAL the one employee hired when Wu was let go and everyone else was Reclassified with tenure and a union contract in 2016. Edc 22010, EdC 44918, 44917. 44920, after one year of probationary would be tenure, As a probationary teacher Wu has rights to notice of termination The Government code in EERA does not allow arbitrary transfer nor demotion to a known job Wu could not do as known to Carreon and Rittling because Wu told them and so did Wu attorney.

EDUCATION CODES 44915, 44916,(no notice of her classification) 44919, (hearing rights and due process) 44917,44918, 45024, (equivalent pay) 45025, 22010, 44932, 44948.3 (probationary employees cannot be released escape for cause or performance and right to appeal but subs do not) **CCR 5 T5 11700 HOURS OF INDEPENDENT STUDY TEACHER** EDC 26700 Vested Right to Benefits.

26.RITTLING AND CARREON CONSPIRED TO PREVENT WU FROM HAVING THE PROPER RETIREMENT CONTRIBUTIONS, AND WHISTBLOW INTERFERED WITH HER 1st AND 14TH AMENDMENT WHEN THEY INFOMED THE PAYROLL DIRECTOR TO NOT TALK TO THE AUDIT FROM STRS MANAGER COZAD. BECAUSE HE ASKED THE PAYROLL DIRECTOR WHOM WU WAS SUBSTITUTING FOR THEY SILENCED BOTH PAYROLL DIRECTOR ELI WINTER AND HR TECH WHO RUNS THE SUBSTITUTE SYSTEM COLLEEN MULLIGAN AND BOTH WERE IN PERB HEARING FOR RETALIATION WITH SUBPOENAS , AS CLAIMED IN ALL BRIEFS IN TRAIL AND IN APPEAL.

Wu filed a police report, and other law enforcement complaints on this as that was March 15, 2019 WHen Wu received an email by the top Auditor in STRS that the District Attorney [Rittling] told Elli Winter [Director of Payroll and due in Month as Witness in Retaliation case 2867 E Wu vs TRUSD and now about to be decided] that she could not talk about it because it was part of the case. The ministerial Duty requires Immediate response. 1st and 14th Amendment of the Constitution [More Complaints of Causes of Action] EDC on retirement 22010. Carreon knew from emails from Bill Mcguire her boss, that STARS will not take partial retirement in a Settlement agreement.

CTA VS GOVERNING BOARD et.al. (CTA VS CALSTRS) California Teachers Association Vs GOVERNING BOARD OF THE YOSEMITE COMMUNITY

COLLEGE DISTRICT et al. and [respondent] State Teachers Retirement System. 1985. 169 Cal. App. 3d 39

IN PRIVATE RETIREMENT SYSTEMS A PERSON WHO DOES WHAT CARREON DID AND RITTLINGS GUIDANCE CAN GO TO PRISON FOR FALSIFYING EXTRA DUTY OR OVERTIME PAY, INTENTIONALLY DEFRAUDING THE RETIREMENT SYSTEMS AND NOT CHANGING SALARY SCHEDULES BASED HOURS..https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/newsroom/criminal-releases/01-04-2011.pdf

https://www.cde.ca.gov/ta/ac/sa/index.asp [SARC REPORTS FOR PARENTS ON A SCHOOL]

https://www.cde.ca.gov/ta/ac/sa/parentguide.asp

https://www.cde.ca.gov/eo/ce/wc/wmmisassignments.asp

If a school board does not take action for a misclassification complaint then it can go to the County COE but this is intentionally being claimed the opposite by the CDE. I have spoken and emailed many times and they say the same thing, as per the brochure as well, that the complaint for Vacancy miss-assignments ends with the Board. They will not take action or anything only accept reports and any inaccurate reports only the district can contact them to change it. I have this on recording but everyone in CDE knows this even at the top.

The SChool Accountability Report Cards and Annual Fiscal Reports show almost no teachers to 700 students for years. The Annual Fiscal reports show over a million dollars go to the school as additional funds but they were to pay the up to 50 plus at any given year of misclassified Hourly teachers while other Reports for other schools with around 700 students were more like 6 or even 7 million or around including mostly wages. The savings each year was in the Millions not including the matching retirement or Medical Insurance which We were illegally not given. This changed in 2016-2017 but it's easy to hide the funds like the 6 million for a Pool at another school and refusal to show the details.

Williams act on Vacancies and miss-assignments including the requirement of a posting in EACH AND EVERY CLASSROOM In california claiming no substitutes and a regular teacher must be assigned [a sub for an assigned teacher out or an open posted vacancy for job positions is acceptable but there must be a teacher]California Education Code (EC) Section 33126,

EDC 44258.9. g. 1 *(B) If no action is taken after the notice required pursuant to subparagraph (A), an employee of a school district shall notify the county superintendent of schools*

b (1) "Assignment" means the placement of an individual in a teaching or services position. An "assignment" can be filled legally by an individual with a credential, permit, waiver, or any other document issued by the commission authorizing the assignment, or the individual may be otherwise authorized by statute.

b (3) "Misassignment" has the same meaning as defined in Section 33126. For purposes of this section, "employee," as used in the definition of "misassignment" in Section 33126, includes an individual ***hired on a contract.***

*(3) The teaching assignment monitoring outcome data reporting shall be executed in a manner consistent with the statewide system of support and the school accountability system established pursuant to Article 4.5 (**commencing** with[EDC] Section 52059.5) [LCAP] of Chapter 6.1 of Part 28 of Division 4, county office of education monitoring established pursuant to Article 2 (commencing with Section 1240) of Chapter 2 of Part 2 of Division 1 of **Title 1,** and the state plan approved by the state board that is required for compliance with the **federal Every Student Succeeds Act**, or any other federal law that effectively replaces that act.*

ARTICLE 4.5 - Local Control and Accountability Plans[LCAP] and the Statewide System of Support [EDC] Section 52060.

(d) All of the following are state priorities for purposes of a school district's local control and accountability plan:

(1) [#1 priority] The degree to which the teachers of the school district are appropriately assigned in accordance with Section 44258.9, and fully credentialed in the subject areas, and, for the pupils they are teaching, every pupil in the school district has sufficient access to the standards-aligned instructional materials as determined pursuant to Section 60119, and school facilities are maintained in good repair, as defined in subdivision (d) of Section 17002.

(2) Implementation of the academic content and performance standards adopted by the state board, including how the programs and services will enable English learners to access the common core academic content standards ..

27.CARREON AND RITTLING VIOLATED THE CIVIL RIGHTS OF STUDENTS AND RETALIATED/CONSPIRED WITH THE DISTRICT WHEN SHE HIRED ONLY ONE PERSON OUTSIDE THE DISTRICT IN 2016 INSTEAD OF RECLASSIFYING WU AND THE PERSON HAD NO ENGLISH LANGUAGE AUTHORIZATION OR [ELA OR CLAD ARE FULFILL THE REQUIREMENT in CCTC TEACHING COMMISSION] WU WHSISTLEBLEW ON THIS AND YET SHE WAS LET GO WITHOUT NOTICE TO A [Known Misclassified] PROBATIONARY TEACHER IN 2017.

ARTICLE 4.5 - Local Control and Accountability Plans[LCAP] and the Statewide System of Support [EDC] Section 52060. d(2) ***(see above)*** **PRIORITY #1 is that their are highly qualified teachers and PRIORITY #2 Teachers have English Language learner Authorizations**

The other concern for English Language Learners requires an authorization to teach them in Title 1 schools. TRUSD had only KHS as the only school not classified as Title 1 which brings in more money but nothing compared to the savings of Hourly Teachers with no lunch, benefits working almost double the hours for way less pay and no rights to the My Learning Plan which is the online school website where teachers sign up for required and optional professional development. The dozens of emails sent in May and June 2017 using my work email verify this.

28.THIS COURT SHOULD RULE THAT REGARDLESS IF CCP 1714.10 ONLY SPEAKS TO CONSPIRACY CAUSES OF ACTION THE COURT OF APPEAL CANNOT DETERMINE THAT IT CAN DROP ALL OTHER CAUSES OF ACTION NOT IN CONSPIRING OTHERWISE IT DENIES DUE PROCESS RIGHTS TO OTHER CAUSES

Hung v. Wang (1992) 8 Cal.App.4th 908, 915, - Cited in this case by the 3rd Court

29.THIS COURT SHOULD RULE THAT THE NON MONETARY BENEFIT WHICH IS ALLOWED IN AN EXCEPTION IN CCP 1714.10 a-c CAN INCLUDE WHEN THE ATTORNEY WAS GUIDING THE CLIENT with INTENT TO HARM WU

This would be for the MOU harassment letter Rittling approved of, his guidance on demoting and termination WITH NO MISCONDUCT and for the Two Letters to Wu that included the one that its a misdemeanor to interrupt a school meeting when no such claim of was done except going into the District headquarters but not asking my immediate boss whom sent emails about coming in to turn in grades for one student I was asked to continue to work with a month after a term letter for the substitute position. Carreon sent the HR manager and email I should be cut when she received an email I was whistleblowing in 2017.

> Rule 3.6 Trial Publicity *(Rule Approved by the Supreme Court, Effective November 1, 2018) (a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows* or reasonably should know* will (i) be disseminated by means of public communication and (ii) have a substantial* likelihood of materially prejudicing an adjudicative proceeding in the matter.*

30.THIS COURT SHOULD RULE THAT THE TWO LETTERS IN CONNECTION TO A CITIZENS WHISTLEBLOWER COMPLAINT ON CIVIL RIGHTS WERE NOT A PART OF REPRESENTING THE CLIENT ON AN EMPLOYMENT CASE INVOLVING MISCLASSIFICATION REGARDLESS IF MISCLASSIFICATION AS A NON TEACHER OR SUBSTITUTE WAS THE CAUSE OF THE CIVIL RIGHT VIOLATIONS TO STUDENTS. THEY ARE <u>EXCEPTIONS WITH NO NEED FOR A PRE FILING UNDER CCP 1714.10 c</u>

31.WHISTLEBLOWING OF REPORTING OF GOVERNMENT WASTE AND WRONGDOING SHOULD NOT REQUIRE ANY PRE FILING for a 1710.4 OR GOV TORT ACT

WU RAISED IN HER AOB p. 52 AND TRAIL THAT HAVIN A 1714.10 and GOV CLaims Act for her Whistleblowing Activities Chills others and defeats the purpose of EDC 441120-44114 Which allows the suit on an Employee for Retaliation for Reporting Corruption in School Districts.It harms the reporting of government improper actions.

> ***It interferes with victims, and Chilling.*** "---- **<u>AOB p. 52</u>**

32.THIS COURT SHOULD RULE THAT CCP 1714.10 A STATE REQUIREMENT TO FILE A PRE-FILING FOR CONSPIRACY IS NOT REQUIRED BECAUSE A

33.SIMILAR PRE FILING ACT LAW IS NOT REQUIRED IN A 1093. THE GOVERNMENT CLAIMS ACT IS REQUIRED BECAUSE THE US SUPREME COURT HAS ALREADY RULED THAT ACT INTERFERES WITH THE SUPREMACY AND 14TH AMENDMENT AND THEREFORE, THE CCP 1714.10 IS A STATE LAW THAT CANNOT APPLY TO A 1983 EVEN IN STATE COURTS.

> ***"WU does not have to file a CCP 1714.10 petition to sue an attorney if it is for his actor person in Wu to claim that he violated or created a cause of action under 42 USC 1983*** *or her constitutional rights violations. Even if it was conspiring under that code it is irrelevant because the state cannot create nor use a law that preempts the Constitution. Her case should NOT have been Dismissed on Rittling. a. The purpose of 1714.10 does bring up issues of constitutional rights. Hung v Wang 8 Cal App 4th 915 (1992).* ***It interferes with victims, and Chilling.*** "---- **AOB p. 52**

34.INTERFERES WITH THE PURPOSE AND INTENT OF THE 1983 AND MY CONSTITUTION TRUMPS IT U.S. CONST. art. VI

> *" Like a Government Claims Act requirement to file a claim to sue, these are just things the state has created that prevent a person from exercising their rights and to protect against a zealous state.*
>
> *c. CCP 1714.10 became null and void and preempted by the constitution in 42 USC 1983. –AOB - p. 53 "*

Wu also argues the supremacy clause of the United States Constitution acts to prevent application of section 1714.10, especially if she amends her complaint to state a civil rights claim. Wu does not cite to any authority demonstrating that the supremacy clause prevents application of section 1714.10 to her causes of action.

Her citation to Hung v. Wang (1992) 8 Cal.App.4th 908, 915, does not assist her and in fact proves the opposite.

In Hung, the appellate court held that section 1714.10 does not infringe on a party's constitutional rights to due process, a jury trial, or equal protection. (Hung, at pp. 914-915.) Further, Wu has not cited to authority demonstrating section 1714.10 does not apply to a federal civil rights claim under title 42 United States Code section 1983 brought in state courts

35.THIS COURT SHOULD OVERTURN Hung v. Wang (1992) 8 Cal.App.4th 908, 915, AND LOONEY. AND CLAIM THAT A PRE-FILING ON AN ATTORNEY FOR ANY CAUSE

Looney v. Superior Court

16 Cal.App.4th 521 (Cal. Ct. App. 1993)

Even if a pre-filing was required for Vexatious litigants and a patent for Federal rules of Civil Procedures are allowed or not in violation of constitutional equal rights to due process. This requirement is on Anyone with a case for Civil Conspiring, and for any attorney. The individual filing has no vexatious litigation and a patent is not similar because it is a thing not a human. Regardless, the main reason is that at least in a 1983 not gov tort act prefling claim is required and thus under the same reasons then a 1714.10 should not be required also. The gov tort act is any person for any reason that violates a constitutional or federal rights. The whole purpose of the 1983 is simply not to let states and state agencies have corruption.

36.THIS COURT SHOULD RULE THAT WU FILED THE CCP 1714.10 CONSPIRACY AND THAT IT HAD PROBABLY CHANCE OF WINING AND SHOULD BE ISSUED

Wu was Retaliated against for speaking out, filing a Writ of mandate for Classification which the court Ruled Wu was misclassified and thus a teacher not a substitute. Under Gov code 3545 b.1

The CBA does not allow Arbitrary transfers and Wu was transferred out, not hired with priority hiring as a probationary teacher [that denied her that status when everyone got reclassified to tenure and or probationary but Wu]

Had Wu been a probationary teacher, her Days of service would be over 75% of the Days in the CBA and Wu would have rights to tenure. This was sinisterly denied Wu and that tenure has more due process to an ALJ for any dismissal at any time. Probationary only allows for Notice or right to a hearing if dismissed during the school year.

Due to all the facts and that Wu was singled out and was the only one not reclassified among many who also did not sign a settlement agreement. Wu was complaining in May 2017 to the board and many government agencies in emails that were also sent to the board. The email obtained in a hearing and reviewed under oath in PERB

37.CAN A PAST RULING CLAIMING WU WAS TERMINATED BY A CONTRACT BE RAISED IN A PERSON SUIT AS TRIAL WITHIN A TRIAL DUE TO THE FACTS UNDISPUTED NORE EVER CLAIMED OTHERWISE BY ALL PARTIES THAT THERE WAS NO CONTRACT

38.THE MOTION TO ADD NEW EVIDENCE MUST BE ADDED OR RECOGNIZED BECAUSE WU DID REFER TO THE PERB HEARING IN THE TRIAL COURT OPPOSITION TO THE DEMUR ON HER SECOND AMENDED COMPLAINT

DEMUR CANNOT BE GENERAL —In ORal argument 4-15-2024 Wu claims Demur needs to state specific all or entire complaints and details. None are given. If there is a general argument then it **cannot be demurred.** Wu cites case in Oral ARgument — **Karufman vs Bobo and Wood 1950 99 Cal App 2nd 233**

- Mcdonnell Douglas Corp vs Green US 411 792,
- CAL Rules of Court 3.1320 a Demur needs to state, specific, All, Entire

39.WHISTLEBLOWING OF REPORTING OF GOVERNMENT WASTE AND WRONGDOING NOT REQUIRE ANY PRE FILING in CCP 1714.10 OR GOV TORT ACT to File for a Section 1983 because of the importance of clean good Government

40..CARREON AND RITTLING CAUSED WU'S EMPLOYER TO VIOLATE THE LAW AND DENY HER THE UNION AND IS A CLEAR REASON THAT THE A CAUSE OF ACTION EVEN IN A 1983 IS VALID ENOUGH TO OVERTURN THE DEMUR

29 U.S.C. 158(a)(3), which provides in pertinent part: It shall be an unfair labor practice for an employer…by 2 discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization.

Cal Government Code 3545.b.1 requires all Teachers to be in the Exclusive union and Wu would have been a member of TRUE if Wu had been a Probationary Teacher.

.

ED CODE 44924. Except as provided in Sections 44937 and 44956, any contract or agreement, express or implied, made by any employee to waive the benefits of this chapter [Retirement] or any part **thereof is null and void.**

41.WU CLAIM SOL SHOULD BE TOLLED DUE TO THE PERB CASES WU VS TRUSD 2867E and 2888E AND CITED THEM IN TRIAL COURT AND ALL COURTS BUT THEY WERE IGNORED AND IT IS ODD BUT DENIED IN

COURT OF APPEAL BECAUSE OF A CLAIM THEY WERE NOT ATTACHED BUT THEY WERE CITED TOO AND DECLARATION AND THEY WERE IN THE RECORD BUT THE DEFENDANTS DID NOT RECOGNIZE THEM. REGARDLESS, THE THIRD COURT CLAIMS THEY CANNOT BE TOLLED DUE TO NOT THE SAME DEFENDANTS IN CASE BUT THIS IS ALLOWED IN A SECTION 1983 UNDER YOUNGER DOCTRINE

We further deny the request to the extent Wu requests us to take judicial notice of her ongoing complaint against the District before the Public Employment Relations Board (Board). Wu did not provide us with the documents she would like us to judicially notice ***Opinion 3rd court p. 2 Wu vs Carreon***

42.THE FOLLOWING ARE SOME THE CITATIONS WU HAD IN HER REHEARING AND STATE SUPREME COURT THAT WU DID THAT WERE NOT REVIEWED

All the below are taken from briefs

RITTLING DID NOT QUALIFY FOR QUALIFIED IMMUNITY

Hallstrom v. City of Garden City, 991 F.2d 1473, 1482 (9th Cir. 1992).
The Supreme Court has concluded that **private individuals** who conspire with state officials to violate others' constitutional rights are not entitled to qualified immunity in § 1983 actions. Wyatt v. Cole, 504 U.S. 158, 168-69 (1992)
Nor if the actions are not reasonable .Saucier v. OR Katz, 533 U.S. 194, 201 (2001)

The rule of liberal construction is "particularly important in civil rights cases." Ferdik v. Bonzelet, 963 F.2d 1258, 1261 (9th Cir. 1992); THREE YEARS UNDER CCP338 **Lugar v. Edmondson Oil Co., Inc., 457 U.S. 922 (1982) a private individual can be held** under 42 USC 1983 Wu was denied a union membership that had a Exclusive Grievance process I was encouraging others to join the union

Although both the "clearly established right" and "reasonableness" inquiries are questions of law, w**here there are factual disputes as to the parties' conduct or motives, the case cannot be resolved at summary judgment** on qualified immunity Grounds.**[for a 1983]** Lolli v. County of Orange, 351 F.3d 410, 421 (9th Cir. 2003)

The proponent of a claim to absolute immunity bears the burden of establishing the justification for such immunity." Antoine v. Byers & Anderson, Inc., 508 U.S. 429, 432 (1993)

"While [the] statement of deficiencies need not provide great detail or require district courts to act as legal advisors to pro se plaintiffs, district **courts must at least draft a few sentences explaining the [complaint's] deficiencies**." Eldridge, 832 F.2d at 1136 Karim-Panahi, 839 F.2d at 625.

THE THIRD COURT DID NOT REVIEW AT ALL FOR PLAUSIBLE ACTION EVIDENCE
In Ashcroft v. Iqbal determined that under § 1983, requires that it contains factual allegations, not mere conclusions, with plausible actions and not merely speculative.
2016- MOU letter SENT MARCH 15th 2016

- *Rittling knew Wu wanted her best friends, the other misclassified teachers and the Retired teachers from February at least because Wu told him herself in person. WHEN SHE TOLD HIM AS SHE CLAIMS IN DECLARATIONS AND HER ATTORNEY REMEMBERS in PERB*
- *Rittling approved the MOU letter and represented the district because he worked with Carreon during the settlement informal meetings.*
- *Rittling knew the MOU claimed to everyone that Wu would be pressured unethically to settle if the best friends were not going to find out about their job status until after Wu settles or only if Wu settles. He should not have agreed to it where it claimed They will not have meetings until after a settlement.*
- *He should have known it would and did cause harassment*
- ***Article I, section 28(a)(7)** of the California Constitution provides that public safety extends to public high schools*
- *"**where students and staff have the right to be safe and secure in their persons**."*

43. A DEMUR like Summary Judgment CANNOT BE DONE ON A 1983 WHEN A QUESTION OF DISPUTE OF THE INTERNET AND OR CONDUCT OF CONSPIRING
Lolli Vs County of Orange

Carreon and Rittling continuously did not provide her a grievance process with a local union membership under Gov Code 3545 b.1

- *Right to a local union with EXCLUSIVE association to file a Grievance and did not give me my PROPERTY Rights, and 1st Amendment right to Association to CBA and to probationary status with due process, and a CBA with a local union and proper Salary Schedule which is like DOUBLE the money with medical.*
- *Right to my property or Due Process clause of Probationary STatus*
- *" **Due Process Clause** for Wu LIBERTY, PROPERTY AND TENURE under Shaney v. Winnebago Cty. Soc. Servs. Dept. (1989) 489 U.S. 189, 195.*

2019- March 15, Wu received an email from the Auditor Jody Cozad with STRS retirement that he asked for information of Who Wu was substituting for and was met with a response from Payroll Director that they will not provide any information until her 2015 Writ of Mandate is over. It's over and they are still not providing the information. Colleen Mulligan, who ran Substitute services and Elli Winter who ran payroll services were both due for a Hearing in Labor Board SA-2888E Wu vs TRUSD for retaliation in April and it is a crime to deny information to STRS under EDC 22010 and Wu witnesses were intimidated. Mulligan in 2018 ten days after the WRit ruling emailed Wu a one page form that claims Wu worked most all years over 80% of the days based on her hours Which Wu provided in a Motion for new trial but her attorney never filed, it was late and he never showed up which upset the judge in Wu Writ case.[Ed Code§ 22112.5.c STRS can override a district for a class of employees based on hours, CBA, and class of employee AOB p. 49-50]

"exhaustion of state administrative remedies should not be required as a prerequisite to bringing an action pursuant to § 1983," *Patsy, 457 U.S. at 516. "prescribe the rules and procedures governing suits in their courts . . . .* ***does not extend so far as to permit States to place conditions on the vindication of a federal right****." Felder, 487 U.S. at 147.*

"Carreon was liable under all Claims Tort Act and 820.2 and or 42 USC 1983. No Claims was required because it bridges the federal constitutional rights and interferes and so does 1714.10 ."--AOB p. 39-40

Wu should have been tenure had Carreon not placed Wu as three days with longer than normal days and prevented her from working over 75% of the days but still 100% of the set time for teachers. EDC §§44914, 44918 ;San Jose Teachers Assn. v. Allen. (1983) 144 Cal.App.3d 627, 641 ***AOB - p. 40***

CIVIL RIGHTS UNDER 42 USC 1983 in AUGUST 2016,

Indeed Wu had rights to notice of termination by March 2017 as she would have been FOR HER DEMOTION AND LOSS OF HER POSITION WITH DUE PROCESS RIGHTS AS A TENURE ED CODE 44929.21, ED CODE 44916, 44917, 44918, OR PROBATIONARY YEAR TWO TEACHER UP TO 2017.

44. **Gina Carreon committed Malice, corruption and Fraud and can be personally sued under CA GOV 822.2, 820.4m 820.6, 820.8, 825 he is liable for the intentional and general torts.**(gov. code 818.8 and 10.39)

1st cause- [CTV10 p. 2967] Defamation on Carreon [if found not required to do internal claim in Gov Tort Act] False claim of termination letter that did not exist as

signed in HR. [five day hearing in PERB shows this] 2nd cause-Defamation on Rittling [CTV10 p. 2967] 3rd cause - Misrepresentation of facts by Rittling on Williams Act [CTV10 p.2967]

AOB WU p. 46] qualified Immunity for Carreon or Rittliing - They knew they were breaking statutes. *Harlow v. Fitzgerald 457 U.S. 800 (1982)* CT. V. 2 p. 455, CT V.4 FAC 969,] and [Kristen Finnley president of local union asked for Wu reclassification [Vo. 2 461] Wu Declaration of many acts and facts

45. CCP 47 c. C does not allow immunity AND therefore WU can SUE RITTLING AS WELL AS THE EMAIL FROM CARREON WU CAME IN WHISTLEBLOWING AND HOW DO THEY KEEP HER AWAY RIGHT BEFORE RITTLING CLAIMS ITS A MISDEMEANOR TO DISTURB THE BOARD AND ONLY SPEAK TO HIM

CP 47 c. C does not allow immunity. -AOB p. 55 *47B does not apply when 47c is an Exception to 1st amendment or FREE SPEECH violations or 14th Amendment. Violations Section 1983 Does not apply to 47b. William Vs Horovath 1976 16 Cal 3rd*

46. Wu ARgued 1983 and Due process in Trial and Appeal

- Opposition - for Rehearing on merits for Rittling - 4-20-2021
- **CT p. 4680-4696 Opposition to Writing 4-7-2021 RAISES 42 USC 1983**
- Carreon Opposition p. 4264, and 4296 on Section 1983

Viciously CIRCUMVENTING tenure and probationary due process *right that violated her constitutional right due process in Probationary and permanent status.* ***Perry v. Sindermann****, 408 U.S. 593 (1972),which also held that where a teacher has attained de facto tenure, the teacher is entitled to due process prior to dismissal by the school district -AOB p. 41*

- Rittling Continued to violate Wu and had sinister procedures in HR approved while he represented the district. This continued for two years from 2015-2017
- CT p. 4339, CT 4294 and
- CT p. 1105 The Personal Action Forms that claim Not for use with Substitutes that require a position control that would put US or me into the teacher database and then we would be notified to the Local union per the CBA that requires notification. We were sinisterly NOT placed in the Subs system nor the teacher database.
- CT p. 1130 Mattu the principal does claim that The board knew and directions,

he did not create the PAFMy witness whom Rittling got the subpoena for. We had no lunch, no break, no union, no prep period and no proper salary schedule which would be double or more.

- CT p. 1133 The MOU THAT CAUSED HARASSMENT force a settlement that We did not do and caused the harassment whistleblower intimidation that
- Pickering vs Board of Education 1969 The threat of dismissal from public employment is a potent means of inhibiting speech. Keyshian Vs Board of REgents 1967
- CT p. 201, 199,204,, P. 46 in Reply- Due process for loss of jobs. Concealment of false statements to Unemployment in 2016 when Wu still had not settled, demoted to job Rittling and Carreon Knew Wu could not. CT. p. 47
- EDC 22714, 22713 incentive to get teachers to retire, and EDC 22715, 22714 A, B (4) must consider if there are non-retired teachers available. Then Wu was retaliated against when she was not reclassified but all similarly situated were reclassified non-retired and retired.OPPOSITION to Demur CT p. 4264 and 2396
- AOB- p. 48-49 Intimidation of Winter and Witnesses,
- AOB p. 49 Carreon is FINAL DECISION MAKER
- Wu spoke to SOL Tolling due to other cases and asked to Amend but denied - If SOL are claimed then it cannot be dismissed unless addressed as to why not. Not done- Jablon vs Dean Witter 9th Cal 1980
- Wu was denied the tenure track, the CBA that has the Day to equal five hours
- Administrators [Carreon and Rittling guiding her] cannot Circumvent tenure rights by hiring substitutes and abuse of statutes ———-Centenelly Valley Secondary Teacher Association vs Sentinel High School 37 Cal App. 3rd 35,38,112, Cal Rptr 27
- Email Carreon CT p. 1106, PAF p. 1105, 1034 Rittling to Costa p. 1038
- EDC 44955 NOTICE MUST be Given by MARCH 15 for a PROBATIONARY EMPLOYEE OR IF NOT THEN RE-ELECTED IF NO NOTICE. NO Notice was given EVER for Loss of TEaching job at KHS in 2016 after working from 2007 and not in 2017 either. WU was denied her right to a HEARING if

dismissed without Notice. **DUE PROCESS RIGHTS Wu raises EDC 44916, no notice of classification 44919 hearing rights Due process as well.** 18 USC1512 Witness Tampering

- **ARBITRARY CLASSIFICATION IS NOT ALLOWED UNDER THE 14th Amendment of Constitution.**
- **Common law due process rights denied Balen vs Peralta J College**

47. ULTIMATELY IS THE CORRUPTION OF ALL LEVELS OF STATE GOVERNMENT CAUSE ENOUGH DOUBT TO REMAND THE CASE OR ALLOW TO BE TRANSFERRED TO FEDERAL COURT WHERE IT IS MORE NEUTRAL ÁND WU CAN GET A FAIR TRIAL

Wu filed another case for new causes and based on no SOL for retirement and 1983 Which Wu mentions in her Opposition in trial court but it's unknown which causes the order on June 9 2020 were claiming had to be filed as Motion for New causes and not amended. Regardless, more evidence for new causes emerged in 2022 in PERB and Wu would like to add them. The judge removed himself from this related case.

Twin Rivers in a Capital Town: Local Control and Ultimate Power Rebecca Wu https://www.davisvanguard.org/2024/05/twin-rivers-in-a-capital-town-local-control-and-ultimate-power/

Not once has there been any offer of settlement by the School Insurance Carreon and Rittling were, and still are, a part of, if not running, one of the largest local public entities. They cannot have free reign to do whatever. A public district entity - a thing by itself- will naturally do whatever it can to protect itself but it is the laws, and rulings of overseeing agencies that provide the Hand which helps it stay in the light. The Hand must repel its own agenda and guide. The Hand must not allow an expanding, barely seen from above, pollution to grow in the steel blue waters. It is not an iceberg, it is something far from natural in the still water. We do not want to see with our own eyes and witness the unnatural illness of the pollution spreading like a jellyfish actually harming the sensitive ecosystem and extraordinary life of the world underneath. It's time for change and flowing water guided by a good Hand.

48. Wu requests an Attorney Representation under *28 U.S. Code § 1915 e (1)* for this court.

CONCLUSION The petition for a writ of certiorari should be granted.

I declare under penalty of perjury under the laws of the United States the statements are true and Correct to the best of my knowledge

Respectfully, Date - December 31, 2024 Rebecca Wu _____

CERTIFICATE OF WORD COUNT OR PAGE COUNT

I CERTIFY THAT THE PAGE COUNT IS 40 pages NOT INCLUDING BEFORE THE PETITION OR THE BELOW APPENDIX AND ATTACHMENTS per Rule 33. The word or page limits do not include the pages containing the questions presented, the list of parties and corporate affiliates of the filing party, the table of contents, the table of cited authorities, the listing of counsel at the end of the document, or any appendix.

I declare under penalty of perjury under the laws of the United States the statements are true and Correct to the best of my knowledge

REBECCA WU _____ 12/30/24

Index of Appendix

Appendix A

Opinion of State Third Court of Appeals Rebecca Wu vs Gina Carreon and Peter Rittling. Sustaining the Trial court's Ruling.
Wu v. Carreon, No. C093905 (Cal. Ct. App. Apr. 29, 2024) **4-29-2024**

Appendix B

Decision of State Trial Court Sacramento Superior Court
Wu vs Carreon et..al Super. Ct. No. 34-2019-00261122-CU-PO-GDS
Judge Christopher Krueger.--- Carreon 2-11-21 — Rittling 5-**20-21**
Defendant Carreon Notice of Entry of Judgement/Dismissal. Demur to Second Amended Complaint with prejudice and no leave to Amend **2-11-2021**

Defendant Rittling Notice of Entry of Judgement/Dismissal Demur to Second Amended Complaint with prejudice and no leave to Amend **5-20-2021**

Appendix C

Decision of State Supreme Court Denying Review
WU v. CARREON and Rittling Case: S285376, Supreme Court of California
7-31-2024

Appendix D

Order of Third Court of Appeal Denying Rehearing Wu vs Carreon and Rittling **5-22-2024**

Appendix E

Order in Superior Court on Order Denying leave to Amend with Prejudice for Defendant Carreon on 1/

Order in Superior Court on ORder denying leave to Amend with Prejudice for Defendant Rittling on **4/20/21**

Appendix F

200 pages of Evidence in the Declaration of Wu for Amended Complaint,
70 pages of statements in the Second Amended Complaint

Appendix G

Order in Superior court First Amended Complaint Demurrer Sustained on Gina Carreon not allowing based on Gov Tort Act Filing within Six months **6-9-2020**

APPENDIX H

PROOF OF SERVICE

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATE: ~~October 29~~, 2024

Dec 31

Exhibit A