

24-6526

FILED
DEC 16 2024
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ORIGINAL

Samreen Riaz,
1534 S Manzanita street
Visalia, California 93292
Tel no: 951-373-0229
Petitioner, pro per litigant

NO: _____

IN THE SUPREME COURT Of THE UNITED STATE

Samreen Riaz
Petitioner,
vs.
The Dental Board Of California/Department OF Consumer Affairs/State OF California
2005 Evergreen street Suite 1550 Sacramento , California 95815
Department Of justice 1300 I street
.Suite 125 Sacramento,CA 95815
Defendant

1. Supreme Court of California
350 McAllister Street.
San Francisco, CA 94102-4797.
415-865-7000.

2. 5th District Appeal Court
2424 Ventura St,

Fresno, CA 93721
(559) 445-5491 3.

3. Tulare superior Court .

Justice Hillman Brett,

Dept 7 221

S Mooney Blvd,
Visalia, CA 93291
(559) 730-5000

Respondent

Supreme Court Of California: S286892

Court of appeal no: F086809

Tulare Superior Case No: : VCu 303441

**On Petition for Writ Of Certiorari To The California Supreme Court
Petition for Certiorari**

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Question Presented :

A: Did the Supreme court of California in error, abuse discretion and show bias in denying Petition (S286892) on Nov 20 24 and left unresolved conflicted issue of law and factual issue? (including violation of 7th, 5th, 1st, 4th and 14th amendment amendments) ? (**opinion attached as Exhibit A**) .

B: Did Tulare court in error or abuse discretion denying writ on Aug 20 24 ?Petitioner/Ophthalmology Patient Samreen Riaz, filed the Writ mandate in the Tulare Superior court after Deny Petition For Reconsideration (Cal. Gov. Code § 11521, 11517 (denial date on all the administrative court and Dental board of California orders (including Oct 13 23 revocation order (**Exhibit B**) .

C: Did 5th district court was in error, bias or abuse discretion when it gave opinion of denying writ in a case No: F086809 on Oct 26 23 for the reason "Petitioner has failed to exhaust her judicial remedies by seeking a petition for writ of administrative mandate under Code of Civil Procedure 1094.5 before the Tulare County Superior Court"? Was Ca department of Consumer affair and dental board of California (now DBCA) issued Oct 13 23 Notice of revocation due to non compliance While Pending Petition F086809 was without jurisdiction and in due process violation? (**opinion attached as Exhibit C**)

D: Did Dental Board of California, department of consumer affairs, state of California made erroneous and abuse of discretion in Order Denying reconsideration Petition on 21st day of August 23 based on Petition reconsideration filed Aug 16 2023? (**Exhibit D**) . Did ophthalmology pat Compensated under imminent domain (**see Boom Co. v. Patterson (1879) when deprived of property or for economic injury?**)

E: Did Dental Board of California, department of consumer affairs, state of California made erroneous and abuse of discretion in Decision And Order(dated August 2nd 23) based on administrative judge proposed decision and Order ?

F: Did the Administrative judge make abuse of discretion and erroneously Propose decision and Order (dated June 20th 2023) based on Accusations that were brought on Aug 17 22?

G: Did Dental Board of California, department of consumer affairs, state of California made erroneous and abuse of discretion when issued Order compelling mental and physical examination(bus and prof code S820) on 06/24/22 based on Petition to compelling mental and physical examination(bus and prof code S820) filed on 06/24/22 ?(**Exhibit E**)

H: Did Dental Board of California, department of consumer affairs, state of California made erroneous and abuse of discretion when issued further "Notice of revocation due to non compliance with the evaluation" on Oct 13 23 while pending WRIT OF MANDATE(1084-1097) ((ORDER -F086809) between Sept 7 23- Oct 26 23 at the 5th District Court which got denied .

I: Did petitioner due process rights violated due to Judge Hillman failure to recuse from the case on and before July 30, 2024 when question raised his personal interest involved in the controversy of this case and bias toward petitioner and further made erroneous ruling on June 18 24 deny Motion to compel discovery and obstructed of discovery (18 U.S. Code Chapter 73) and deny demurrer and motion strike defendant's defective affirmative defenses in July 30 24 hearing?

J: Did petitioner constitution and patients rights violated when DBCA initiated petition on mental exam (without serving petition to ophthalmology patient before order obtained) on ophthalmology patient for a reason that ophthalmology patient was exercised in the past her first amendment rights?

K: Did dental board and Administrative board agency lack jurisdiction, has no legal authority and failed to state act or omission upon which it can proceed over (Ophthalmology Patient/consumer/member of Public (who did not violate dental practice act)?

Suggestive Answer: YES

Certificate of Interested Entities or Persons:

Certificate of Interested Entities or Persons: Pursuant to Rules 8.208 and 8.488 of the California Rules of Court, the undersigned identifies the following interested entities or persons per rule 8.208. .

APPEARANCE FOR Defendant and Respondent :

The Dental Board Of California/Department OF Consumer Affairs/State OF California
2005 Evergreen street Suite 1550 Sacramento , California 95815.

.Department Of justice:

1300 I street .Suite 125
Sacramento,CA 95815

Tulare Superior Court:

221 S Mooney Blvd Visalia ,
Ca 93291 559-730-5000

OAH 2349 Gateway Oaks drive,
Suite 200 Sacramento,
Ca 95833

Dated: Dec 15 2024

By: Samreen Riaz

TABLE OF CONTENT:

COVER PAGE.....	1
QUESTIONPRESENTED.....	2
CERTIFICATE OF INTERESTED PARTIES.....	3
TABLE OF CONTENT.....	4
TABLE OF AUTHORITIES	5-6
Petition	7
Opinion below.....	8
Jurisdiction	8
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	9,10
Statement Of the Case.....	11
Reason For Granting the petition.....	12
Specific facts and citation in Section A-E of Legal standard on pg 14	
I:Argument From " DECISION AND ORDER" by Alan L Felsenfeld,----14	
II: ARGUMENT FROM J. SEAN GAVIN ORDER(JUNE 20th 23)-----14	
(i). ARGUMENT FROM "PROPOSED DECISION" -----15	
(ii). Argument Based On Factual Findings-----15	
(iii)Argument Related To Cost Section -----16	
(iv) Arguments on Legal Conclusion -----17	
I. Argument Accusation lacks Jurisdiction..... Pg18	
(a)disregarding Motion to Strike/Demurrer oppose "Accusation" Pg 18	
(b)when cannot be brought on a Patient of Ophthalmology.....Pg 18	
(c).with no no legal authority ----- Pg 18	
II: Unlawful Application of a Statutory Provision:-----18	
A: No Jurisdiction Or Legal Authority To Apply Section 820 -----18	
B: Complainant Failed TO Show Their Burden OF Proof-----18	
C:Legal reason of Motion To Strike/Demurrer to Accusation..18	
AFFIRMATIVE DEFENSES ARGUMENT----- Pg 20	
ARGUMENT ON STATUE LIMITATION/ TOLL APP onPg 21	
Discrepancy in Fact Finding IN MARCH 12 and other RULINGS Pg 22	
Discrepancy in Authority & Analysis Sect 0312 and other RULING Pg 22	
1:Claim involves § 1983 actions: Pg 23	
2-Statute of limitations Code of Civil Procedure 1094.5 is 90 days: Pg 23	
3: AGENCIES ACTED IN EXCESS OR WITHOUT JURISDICTION Pg 23	
(A).Final decision of revocation of license issued on Oct 13 23 Pg 23	
(B):superior court error finding final decision issued on Aug 2 2023 Pg 24	
(C):Judge error,not find that the October 13 2023 letter effects the timelines Pg 32	
PLAINTIFF FILED DEMURRER AND STRIKE AFFIRMATIVE DEFENSES.....Pg 33	
PIANTIFF Filed MOTION TO DISQUALIFY A JUDGE..... Pg 34	
A: Extraordinary delay in Petition decisionPg 34	
B: Not include all relevant documents..... Pg 34,35	
C: failed to compel produce document.....Pg 35	
D: issued order ONLY that plaintiff need to SERVE the OAH..... Pg 35	
E: concealing actual facts and erroneous fact finding.....Pg 35	
VERIFICATION.....	37
Conclusion.....	38
CERTIFICATE OF WordCount.....	39
Proof Of service OF SERVICE	40
Attached to Petition Appendix A-E	

TABLE OF AUTHORITIES:

CONSTITUTIONAL AND STATUTORY PROVISION

Insurance Co. of North America v. Workers Comp. Appeals Bd. (1981)	Pg 9
Duke v. Workers Comp. Appeals Bd. (1988)	Pg 9
Dent v. West Virginia (1889)	Pg 9
Conn v. Gabbert(1999)	Pg 9
Fort v. Board of Medical Quality Assurance (1982)	Pg 9
Lujan v. Defenders of Wildlife (90-1424)	Pg 9
Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 424(5))	Pg 9
Miller v. Board of Medical Quality Assurance (1987)	Pg 9
Himmel v. State Bar (1971)	Pg 9
Regents of Univ. o f Cal. v. Public Employees Relations Bd. (1983)	Pg 9
Emslie v. State Bar (1974)	Pg 9
Furman v. State Bar(1938)	Pg 9
Schottenstein v. Schottenstein (Fla. Dist. Ct. App. 1980) 384 So.2d 933,936	Pg 9
Marroni v. Matey (E.D.Pa. 1979) 82 F.R.D. 371	Pg10
Kwikset Corp. v. Superior Court (2011)	Pg 10
Shelby county v holder	Pg 10
citizen united v FEC	Pg 10
<i>Cameron v. Cozens</i> (1973)	Pg 10
City and County of San Francisco v. Ang (1979)	Pg 10
Aylward v. State Board etc. Examiners (1948)	Pg 10
B. W. v. Board of Medical Quality Assurance (1985)	Pg 10
City and County of San Francisco v. Padilla (1972)	Pg 10
Armstrong v. Armstrong (1976)	Pg 10
California Standardbred Sires Stakes Com., Inc. v. California Horse Racing Bd	Pg 10
Artis v. District of Columbia.	Pg 10
<u>Ettinger v bd of medical quality assurance</u> (1982)	pg 17
Katie V. v. Superior Court(2005)	Pg 17
Mathews v. Becerra (2019)	Pg 22
Ord v. De La Guerra	Pg 22
Tielsch v. City of Anaheim (1984)	Pg 22
Strumsky v. San Diego County Employees Retirement Association (1974)	Pg 22
Wilson v. Garcia (1985)	Pg 23
<u>Cameron v. Cozens Docket</u>	Pg 23
Artis v. District of Columbia.	Pg 25
City and County of San Francisco v. Padilla (1972)	Pg 26
Saint Francis Memorial Hospital v. State Department of Public Health	pg 26
<i>People v. Nunn</i> (1956) 46 Cal.2d 460, 468, 296 P.2d 813.)	Pg 26
<i>Elkins v. Derby</i> (1974)	Pg 26
<i>Myers v. County of Orange</i> (1970)	Pg 27
<i>Addison v. State of California</i> (1978)	Pg 27
<i>Jones v. Tracy School Dist.</i> (1980)	Pg 27
<i>Montrose Chemical Corp. of California v. Superior Court</i> (2020)	Pg 27
<i>San Diegans for Open Government v. Public Facilities Financing Authority of City of San Diego</i> (2019) pg 27	
.Hollywood Circle, Inc. v. Dept. of Alcoholic Beverage Control.	Pg 29
Anderson v. Dept. Alcoholic Bev. Control.	Pg 31
Gaston PESCE v. DEPARTMENT OF ALCOHOLIC	Pg 31
Midhewy Powder Co., Inc., 883 F.2d 1286, 1294 (7th Cir. 1989).	Pg 33
Cassim v. Allstate Ins. Co. 8 (2004)	Pg 34
College Hospital Inc. v. Superior Court (1994)	Pg 34
Richards v. Owens-Illinois	Pg 34
People v. Cahill (1993)	Pg 34

People v. Ortiz (1978)	Pg 34
Pacific Tel. & Tel. Co. v. Superior Court, 2 Cal.3d 161, 172-173 (1970)	pg 35
Herbert v. Lando (1979)	Pg 35
Chapman v. California (1967)	Pg 36
People v. Cowan (2010)	Pg 36
People v. Cromer (2001)	Pg 36
Hernandez v. Paicius, <i>supra</i> ,	Pg 36
Catchpole v. Brannon, <i>supra</i> , 36 Cal.App.4th at p. 244.	Pg 37
Curle v. Superior Court (2001) 24 Cal.4th 1057, 1070.)	Pg 37
Boom Co. v. Patterson (1879)	Pg 38
Kwikset Corp. v. Superior Court (2011)	Pg 38

ARTICLE 6	Pg 7
Adjudication Bill of Rights§ 11425.10	Pg 7
Section 11505 § 11520(c)	Pg 7
Article III of the Constitution	Pg 7
Articel, section 1 of the California Constitution	Pg 7
<u>Universal Citation:</u> CA Civ Pro Code § 473.5 (2020) (a)	Pg 7
Patient Privacy Rights Act of 2020 (CPRA)	Pg 7
Health Insurance Portability and Accountability Act of 1996 (HIPAA)	Pg 7
Health & Safety Code §1364.5	Pg 7
3.1.1,3.2,3.3 Chapter 3 opinion on privacy, confidentiality	Pg 7
medical record AMA principles of Medical Ethics I, IV	Pg 7
28 U.S.C. § 1367 (d)	Pg 7
1st, 4th,14th . 7th and 5th amendment rights	Pg 7
18 USC 1512,18 USC S241	Pg 14
code of civil procedure 2032.320(a)	Pg 14
code of civil procedure 2016.040	Pg 15
code of civil procedure 2032.310	Pg 15
section 820.	Pg 15
Section 821	Pg 18
Bus & prof code 2000	Pg 19
dental practice act S1600 and S 1601.2	Pg 19
Section 1983 claims	Pg 23
Code of Civil Procedure 1094.5	Pg 23
Universal Citation: CA Civ Pro Code § 1094.6 (b)	Pg 23
Business and Professions Code section 19463	Pg 23
Cal. Gov. Code § 11521,11517	Pg 23
28 U.S.C. § 1367 (d)	Pg 25
Pursuant to Section 11523	Pg 29
APAChapter 5 (commencing with Section 11500) of Part 1,Division 3 , Title 2	Pg 30
Government code (Bus and Prof act S1670)	Pg 30
Code of Civil Procedure Section 25760	Pg 31
Code of Civil Procedure Section 1013	Pg 31
Under Code of Civil Procedure section 430.20	Pg 32
Cal rule 3.1112(a)	Pg 32
Federal Rule of Civil Procedure 12(f)	Pg 32
Code Civ. Proc., § 170.6 and 170.1)	Pg 34
18 U.S. Code Chapter 73	Pg 35
Code of Civil Procedure §2017.010	Pg 35

IN THE SUPREME COURT Of THE UNITED STATE PETITION FOR WRIT OF CERTIORARI :

TO THE HONORABLE JUSTICES, Plaintiff is filing a writ of certiorari (Rule 10(a)) in the SUPREME COURT OF THE UNITED STATES as a matter of right of judicial discretion from the Opinion given by supreme court of California S286892(dated Nov 20 24) based on denied writ mandate in the case vcu303441 by the Tulare Superior Court on Aug 2024 . Petitioner/Ophthalmology Patient , Member of Public, initially filed Writ F086809 in a 5th District Court on Sept 7 23 after Deny Petition For Reconsideration (Cal. Gov. Code § 11521,11517 issued on 21st day of August 23t. Writ F086809 got denied on Oct 26 23 for the reason "Petitioner has failed to exhaust her judicial remedies by seeking a petition for writ of administrative mandate under Code of Civil Procedure 1094.5 before the Tulare County Superior Court. Writ denials by the supreme court, 5th district court and Tulare Superior Court is erroneous, abuse of discretion and biased and were outside the bounds of reason and made without consideration of all the circumstances presented before it and improperly resolved genuine issues of material fact and disregarded the evidence. Tulare Superior Court, 5th district and supreme court failed to recognize that Proceeding occur under administrative board and dental board/consumer board were without jurisdiction, with no legal authority in violation of **Article III of the Constitution**, initiated on Ophthalmology Patient by obtaining an inadmissible privileged information (without consent and knowledge of her patient) from patient ophthalmologist by breaching Ophthalmology Patient/consumer/member patient Privacy Rights Act of 2020 (CPRA), Health Insurance Portability and Accountability Act of 1996 (HIPAA), Medical Information Act (CMIA -violation of California's Health & Safety Code §1364.5 as well as in violation of 3.1.1,3.2,3.3 Chapter 3 opinion on privacy, violation of confidentiality and medical record AMA principles of Medical Ethics I, IV, without serving petition of intrusive mental exam (unconstitutional, violation of Article I, section 1 of the Ca Constitution, violated Universal Citation: CA Civ Pro Code § 473.5 (2020) (a)) to an ophthalmology patient before issuance of order, further disregarding Ophthalmology Patient/consumer/member of Public motion to vacate , strike/demurrer (which was never heard) on mental exam (due process violation and equal protection violation, **Article 6: Administrative Adjudication Bill of Rights (§ 11425.10)** violation) and deprived Ophthalmology Patient from chance proceeding. Judge Sean Gevin made erroneous finding/ ruling based on bus and prof code S1601.2 of dental practice act when Judge Sean himself established that Ophthalmology Patient/consumer/member patient did not violate dental practice act (no jurisdiction) . Above acts are in violation of the **7th,4th,14th,5th 1st Amendment Rights** of Ophthalmology Patient/consumer/member of Public . Judge Hillman failed to withdraw despite the appearance of bias and personal interest involved in the controversy of this case and violated constitutional due process rights of Petitioner/ ophthalmology patients (*Catchpole v. Brannon*) . Petition is presenting a **question of law** for the US Supreme Court on issues of public, government, constitutional importance, public right, equal right, civil rights violations, , racial justice and Petitioner/Ophthalmology patient right to petition the government without discrimination or performing public duty such as participating as witness in court proceedings without retaliation .and requesting the US Supreme Court to make a decision based on their individualized evaluation, guided by the principles of law. The lower courts has decided federal questions in a way or entered a decision in conflict with the other United States court decision in the same important matter. The Petitioner/Ophthalmology patient, consumer and public has special interest and Beneficial interest that can be protected through the WRIT. There is a question of law(De Novo) to this case for which the Supreme court makes an independent determination of the legal issues without giving deference to the lower courts opinions. The Entire evidence and record was not examined for fairness, reasonableness and proportionality in the overall scheme of the law.. Here the lower Court's decision is not within the realm of what a reasonable trier of fact could find. Lower courts failed to meet standard when presented fabricated, disputed, speculative facts and concealed material relevant facts of record to reach (erroneous) decision . Lower courts departed from the accepted and usual course of judicial proceedings. *Shelby County v. Holder and Citizens United v. FEC*, the Court's.

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

Petitioner respectfully request that writ of certiorari issued to review the judgment below cases From State Courts:

OPINION BELOW

Did the Supreme court of California in error, abuse discretion and show bias in denying writ mandate on Nov 20 2024 (**S286892**) based on challenging APPEAL from Denying petition (on and Tulare Superior Court rulings vcu303441 ?(See Appendix/Exhibit A)

Did the Tulare court in error, abuse discretion and show bias when Deny Petition of writ (vcu303441) of mandate was on Aug 20 24?(See Appendix/Exhibit B)

.Did the 5th district appeal court in error, abuse discretion and show bias in denied the writ petition (**F086809**) on Oct 26 23 for the reason "Petitioner has failed to exhaust her judicial remedies by seeking a petition for writ of administrative mandate under Code of Civil Procedure 1094.5 before the Tulare County Superior Court"? (See Appendix/Exhibit C)

Did the Dental Board of California, Department of Consumer Affairs, State of California in error, abuse discretion and show bias in denying reconsideration Petition on Aug 21 23 based on administrative judge proposed decision and Order (dated August 2nd 23)?(See Appendix/Exhibit D)

Did the Dental Board of California, Department of Consumer Affairs, State of California in error, abuse discretion and show bias when Order Compelling mental and physical examination(bus and prof code S820) on 06/24/22 in based on Petition to compelling mental and physical examination(bus and prof code S820) filed on 06/24/22(Exhibit E).

JURISDICTION:

.The date on which the Supreme Court of California (**S286892**) denied writ mandate on Nov 20 2024 .A Copy of that decision appears at (Appendix A.)

.The date on which the Tulare Superior Court entered Deny Petition of writ (vcu303441) of mandate was on Aug 20 24?(Exhibit B).

.The date on which the 5th District Court (**F086809**) Court denied the petition was Oct 26 23 for the reason "Petitioner has failed to exhaust her judicial remedies by seeking a petition for writ of administrative mandate under Code of Civil Procedure 1094.5 before the Tulare County Superior Court" . (Exhibit C).

.The date on which the Dental Board of California, Department of Consumer Affairs, State of California Order Denying reconsideration Petition was Aug 21 23 based on administrative judge proposed decision and Order (dated August 2nd 23).(Exhibit D)

.The date on which the Dental Board of California, Department of Consumer Affairs, State of California Order compelling mental and physical examination(bus and prof code S820) was 06/24/22 based on Petition to compelling mental and physical examination(bus and prof code S820) filed on 06/24/22(Exhibit E)

The Jurisdiction of this Court is invoked under 28 U.S.C S 1257(a)

CONSTITUTIONAL AND STATUTORY PROVISION:

We are not bound to accept the Board's factual findings where they are illogical, unreasonable, or improbable **Insurance Co. of North America v. Workers Comp. Appeals Bd.** (1981) where they do not withstand scrutiny when considered in light of the entire record (**Duke v. Workers Comp. Appeals Bd.** (1988) 204 Cal. App. 3d 455, 460 [251 Cal.Rptr. 185]),1.) Fourteenth Amendment rights that prohibits state deprivation of "life, liberty, or property without due process of law." (**Dent v. West Virginia** (1889) 129 U.S. 114, 121, 9 S.Ct. 231, 32 L.Ed. 623.). Right to practice her profession is both a property right (*ibid* .) and a liberty right (**Conn v. Gabbert**(1999) 526 U.S. 286, 119 S.Ct. 1292, 143 L.Ed.2d 399) These provisions guarantee appropriate procedural protections [citation] and also place some substantive limitations on legislative measures [citations]. The latter guaranty-sometimes described as substantive due process-prevents government from enacting legislation that is 'arbitrary' or 'discriminatory' or lacks 'a reasonable relation to a proper legislative purpose.' [Citation.]" (**Kavanau, supra**, 16 Cal.4th at p. 771, 66 Cal.Rptr.2d 672, 941 P.2d 851.) Due process requires that before one disciplined by deprival or abridgement of the right to engage in his business or profession, he be given reasonable notice of the charges against him, a notice of the time and place of a hearing, and thereafter a fair hearing on the charges. (**Fort v. Board of Medical Quality Assurance** (1982) 136 Cal. App.3d 12, 23, 185 Cal. Rptr. 836) **Violation of ARTICLE 6: Administrative Adjudication Bill of Rights**§ 11425.10 failed to follow required procedures and rights of persons affected. Therefore any "Accusation" based on not complying with the order. The agency, in its discretion, can sustained demurrer on a showing of good cause. As used in this subdivision, good cause includes, but is not limited to, any of the following:(1) Failure of the person to receive notice served pursuant to **Section 11505**. (§ 11520(c).**Standing is a constitutional requirement.** Article III of the Constitution grants the judiciary the power to hear "cases" and "controversies." This means actual cases and controversies, not merely hypothetical ones." **Lujan v. Defenders of Wildlife** (90-1424), "Constitutional Validity is on question of mental examination on ophthalmology patients, members of the public and consumer/Petition by breaching pt confidentiality see citation **Review Dept. 1991** 1 Cal. State Bar Ct. Rptr. 424(5).In the case of **Miller v. Board of Medical Quality Assurance** (1987),challenged the constitutionality of Business and Professions Code section 2296, which required him to undergo a psychiatric examination without a prior hearing. The court found that this provision violated due process rights, as it did not provide an opportunity for a hearing before the examination was ordered: (**Himmel v. State Bar** (1971) 4 Cal.3d 786,793-794.). . **Review Dept. 1991** 1 Cal. State Bar Ct. Rptr. 424).. There is a question to Constitutional Validity of mental examination as it does not serve the interest of government and public [5] A court of record may declare a statute unconstitutional. An administrative agency is prohibited from doing so by **article III, section 3.5 of the California Constitution**, but "remains free to interpret the existing law in the course of discharging its statutory duties." (**Regents of Univ. o f Cal. v. Public Employees Relations Bd.** (1983) 139 Cal.App.3d 1037, 1042, original emphasis)..the board failed to prove the plaintiffs culpability by "convincing proof and to a reasonable certainty. "**Emslie v. State Bar** (1974) 11 Ca1.3d 210, 226; **Furman v. State Bar**(1938) 12 Ca1.2d212, 229-230.)Since the right to practice law for an attorney accused of mental incapacity is as important as the right to practice law for an attorney accused of actual wrongdoing, we interpret the clear and convincing evidence standard applied in **Conway** ;see also **Review Dept. 1991** 1 Cal. State Bar Ct. Rptr. 424 ArticleI, section 1 of the California Constitution includes privacy among the inalienable rights of the people. I See also **Schottenstein v. Schottenstein** (Fla. Dist. Ct. App. 1980) 384 So.2d 933,936 (mere showing that the children of a divorced couple were upset after visiting their father was not sufficient grounds for requiring them to undergo mental examinations, which constituted invasions of privacy and were tolerable only upon a showing of good cause) The California Supreme Court

has made it clear that a determination of mental incompetency does not require psychiatric examination: Kees's privacy rights were violated. Therefore, the direction to undergo a second psychiatric examination was not valid, and Kees was not obligated to follow it. (*In re Berry (1968)* 68 Cal.2d 137, 149 [65 Cal.Rptr. 273, 436 P.2d 273] 273: the United States Supreme Court vacated an order requiring a bus driver to undergo a mental examination.) After *Schlagenhauf*, a federal district court prohibited mental examination of mentally retarded defendants in a negligence action precisely because of federal rule 35(a)'s "good cause" requirement and the right of privacy. (*See Marroni v. Matey (E.D.Pa. 1979)* 82 F.R.D. 371.) **See also Universal Citation:** CA Civ Pro Code § 473.5 (2020) (a) When service of a summons has not resulted in actual notice to a party in time to defend the action and a default or default judgment has been entered against him or her in the action, he or she may serve and file a notice of motion to set aside the default or default judgment and for leave to defend the action: Entitled to Compensation for loss or deprivation of money or property or for economic injury (*Kwikset Corp. v. Superior Court (2011)* . *Shelby county v holder and highly controversial citizen united v FEC* and has sparked ongoing debates about the influence of money in politics. *Mathews v. Becerra (2019)* 8 Cal.5th 756, 768. where Court found therapist violated the patients' right to privacy under the California Constitution, **See** Patient Privacy Rights Act of 2020 (CPRA), Health Insurance Portability and Accountability Act of 1996 (HIPAA). (CMIA -violation of California's Health & Safety Code §1364.5 as well 3.1.1,3.2,3.3 Chapter 3 opinion on privacy, confidentiality and medical record AMA principles of Medical Ethics I, IV In the *Cameron* case the court rejected the Department of Motor Vehicles contention that the entire adjudicative process for suspension of operator's licenses, including judicial review, was governed by the APA. *Cameron v. Cozens (1973)* 30 Cal.App.3d 887 [106 Cal.Rptr. 537]. court determined that the proper approach for judicial review was a petition for a writ of mandate pursuant to section 1094.5 of the Code of Civil Procedure, which does not have a built-in period of limitations. Here Administrative orders are void as rendered without fundamental jurisdiction fn. 9 (*City and County of San Francisco v. Ang (1979)* 97 Cal. App. 3d 673, 677-679 [159 Cal.Rptr. 56]) or in excess of the agency's statutory powers, also referred to as in excess of its jurisdiction. (*Aylward v. State Board etc. Examiners (1948)* ; *B. W. v. Board of Medical Quality Assurance (1985)* ; *City and County of San Francisco v. Padilla (1972)* . As a general rule, acts of courts or agencies undertaken wholly without the power to do so may be **collaterally attacked** at any time without regard to a statute of limitations. (**See, e.g., Armstrong v. Armstrong (1976)** 15 Cal. 3d 942, 950 [126 Cal. Rptr. 805, 544]. Statute of limitations was tolled during pendency of the other remedies: *Elkins v. Derby (1974)*, **See** California Standardbred Sires Stakes Com., Inc. v. California Horse Racing Bd where certain board members were found to have a conflict of interest and were disqualified from voting on an application.. **See** U.S. Supreme Court, "28 U.S.C. § 1367 (d) : *Artis v. District of Columbia*. In this opinion, the Court held that bringing state claims in federal court stops the clock on the statute of limitations for those claims. *Addison* , *supra* , 21 Cal.3d at p. 321, 146 Cal.Rptr. 224, 578 P.2d 941.) .(**See e.g., People v. Cowan (2010)** a fair trial in a fair tribunal is a basic requirement of due process and a appellant has due process rights under both the state and federal constitutions to be tried by an impartial judge, Accordingly, an appellate court applies the independent standard of review. (*People v. Cromer (2001)* 24 Cal.4th 889, 901.) Whether or not judicial misconduct has occurred is evaluated on a case-by-case basis (**equal protection under law under article 1 section 7 as pertains to the Declaration of Rights, 14th amendment violation, See also 1st, 4th,14th . 7th and 5th amendment rights**), Judicial disqualification statutes are "not solely concerned with the rights of the parties before the court but [are] also 'intended to ensure public confidence in the judiciary.'" (*Freeman, supra*, 47 Cal.4th at pp. 1000-1001, citing *Curle v. Superior Court (2001)* *Herbert v. Lando (1979)*: Court acknowledged that discovery can be exploited to the disadvantage of justice.

STATEMENT OF THE CASE.:

Petitioner/ Samreen Farid Riaz in this case is in the shoes of Ophthalmology patient, consumer, member of public, a woman of color, an immigrant, a 0.2 percent Muslim minority of Asian descent (happens to also hold a professional dental license)..Petitioner/(Ophthalmology patient, Consumer, Member of public) Dental license was in in good standing all the time since the Petitioner/ophthalmology patient was issued the license in April 2013, until the Dental Board joined Petitioner's /(Ophthalmology patient, consumer, member of public) Ophthalmologist (named Steven Cantrel) and breach Patient Privacy rights, (HIPAA) rights, patient confidentiality rights .Defendant filed petition on mental exam without serving petition of **(in violation of Article1, section 1 of the California Constitution, in violation of CA Civ Pro Code § 473.5 (2020) (a)) intrusive unConstitutional** mental exam to an ophthalmology patient before issuance of order on mental exam.Defendant further disregarded or not heard later Ophthalmology Patient/consumer/member of Public filed motion to vacate , strike/demurrer on mental exam(due process violation and equal protection violation,**Article 6: Administrative Adjudication Bill of Rights (§ 11425.10) violation**) and deprived fair chance of proceeding.Judge Sean Gevin made erroneous finding and ruling based on bus and prof code S1601.2 of dental practice act (business and professions code section 1600) when Judge Sean himself established established that OphthalmologyPatient/consumer/member patient did not violate dental practice act(Lack jurisdiction) .Lower Courts Disregarded the fact that Alan L Felsenfeld, MA, DDS (dental board president) who issued solely (not presented to the board members) various orders(on mental exam, Accusation, revocation) is a competitor as a dentist in market with Petitioner/Ophthalmology patient and at the time of issuance of (Accusation, revocation) order has dispute and conflict of interest with the ophthalmology patient due to name as a defendant in the case vcu298300 (May 15 23). In Addition , Alansfelsfield has no legal authority that authorize him to **solely** made order by accepting order and proposed decision Of (from now on AJL) Administrative law judge, negligently made order on Ophthalmology Patient/consumer/member of Public and failed to recuse when has conflict of interest due to ongoing dispute with ophthalmology patient in the case vcu298300.In Addition no good cause mentioned for Mental exam other than Ophthalmology Patient/consumer/member of Public exercising her 1st amendment or civil rights.Above acts are in violation of the **7th,4th,14th,5th 1st Amendment Rights** of Ophthalmology Patient/consumer/member of Public .In this case the public(public interest harmed) gets harmed by retaliatory proceedings on Patient of ophthalmology who is a witness in court proceedings in osha, hipaa and public safety matters . Judge hillman failed to withdraw despite the appearance of bias and personal interest involved in the controversy of this case and violated constitutional due process rights of Petitioner/ ophthalmology patients and violated public policy.(*Catchpole v. Brannon*).Judge Hillman erroneously denied the plaintiff's demurrer/Strike the defendant's affirmative defenses in the July 2024 ruling, despite the defenses being clearly defective. On June 18, 2024, Judge Hillman obstructed the discovery process (18 U.S. Code Chapter 73) through an erroneous ruling on the motion to compel, In August 2024, Judge Hillman's ruling on tolling and the statute of limitations was based on false fact-finding when statute of limitations not applicable and can be collaterally attacked at any time (*Armstrong v. Armstrong, 1976*). The DBCA/AJL lacks jurisdiction over the ophthalmology patient. In addition petitions filed within the statute of limitations when apply tolling remedies (*Elkins v. Derby, 1974*).The erroneous rulings are attributed to Judge Hillman's personal, direct, and indirect involvement in the controversy of the plaintiff's case (*Herbert v. Lando, 1979*).

REASONS FOR GRANTING THE PETITION:

The Court should grant certiorari as compelling reasons exist for the exercise of the Court's discretionary jurisdiction as the decision of the lower courts not only erroneous but Petitioner presenting a question of law for the US Supreme court on issues of public, government, constitutional importance(violation of 7th,4th, 1st ,5th and 14th amendment), human rights and civil rights violations, equal right violations, racial justice , Ophthalmology patient rights, right of ophthalmology patient to participate as witness in court proceedings without retaliation in public safety matters **Dent v. West Virginia (1889)** . All Lower Courts Fail to determine .All the Proceeding occur under administrative board and dental board/consumer board was without jurisdiction, with no legal authority in violation of **Article III of the Constitution**, initiated on Ophthalmology Patient by obtaining inadmissible privileged information(without consent and knowledge of her patient) from patient ophthalmologist by breaching Ophthalmology Patient/consumer/member patient Privacy Rights Act of 2020 (CPRA),Health Insurance Portability and Accountability Act of 1996 (HIPAA) **Doe v. Community Medical Center, Inc. (2017)**. Medical Information Act (CMIA -violation of California's Health & Safety Code §1364.5 as well as in violation of 3.1.1,3.2,3.3 Chapter 3 opinion on privacy, violation of confidentiality and medical record AMA principles of Medical Ethics I, IV, without serving petition of (unConstitutional, violation of ArticleI, section 1 of the California Constitution, violated **Universal Citation:** CA Civ Pro Code § 473.5 (2020) (a)**intrusive** mental exam to ophthalmology patient before issuance of order(**Fort v. Board of Medical Quality Assurance (1982)**,**Miller v. Board of Medical Quality Assurance** , further disregarding Ophthalmology Patient/consumer/member of Public motion to vacate , strike/demurrer (which was never heard) on mental exam(due process violation and equal protection violation,**Article 6: Administrative Adjudication Bill of Rights (§ 11425.10)** violation) and deprived from chance proceeding.Judge Sean Gevin made erroneous finding and ruling based on bus and prof code S1601.2 of dental practice act (business and professions code section 1600) when Judge Sean himself established established that Ophthalmology Patient/consumer/member patient did not violate dental practice act .In Addition defendant failed to met (standard of proof) burden of clear and convincing evidence to prove Ophthalmology Patient, Member of Public and a Consumer/Petitioner has a mental incapacity to practice dentistry safely "**Emslie v. State Bar (1974)**,**Cooper v. Oklahoma (1996)** .Supreme, 5th district and tulare Court Disregarded the fact that Alan L Felsenfeld, MA, DDS (dental board president) who issued solely (not by the board members) various orders(on mental exam, Accusation, revocation) is a competitor as a dentist in market with Petitioner/Ophthalmology patient and at the time of issuance of order has dispute and conflict of interest with the ophthalmology patient due to name as a defendant in the case vcu298300 (May 15 23) **California Standardbred Sires Stakes Com., Inc. v. California Horse Racing , Tumey v. Ohio (1927)** Alansfelsfield has no legal authority that authorize him to solely made order by accepting order and proposed decision Of AJL(Administrative law judge), negligently made order not on Ophthalmology Patient/consumer/member of Public name, failed to recuse when has conflict of interest due to ongoing dispute with ophthalmology patient in the case vcu298300.In Addition no good cause mentioned for Mental exam other than Ophthalmology Patient/consumer/member of Public exercising her 1st amendment or civil rights and witness in osha and hippa matter in a court proceedings(**In re Berry (1968)68 Cal.2d 137, 149 [65 Cal.Rptr. 273, 436 P.2d 273] 273**): DBCA instead of investigating Officer Tippin reported misconduct such as misrepresented

himself as police officer in an unannounced visit to ophthalmology patient house (for retaliatory and discriminatory intent) and coincidence of similarities in date of visit of tippin and the complaint filed against cantrell MD by the ophthalmology patient in the past april ,failure to provide opportunity to ophthalmology patient attorney to respond, officer made false statement and other harassing misconduct including failure to leave the private residence on request, shouting ,hitting the door of Ophthalmology Patient/consumer/member of Public.Ophthalmology Patient/consumer/member of Public requested continuance of hearing on May 18 23 for a good cause (extraordinary circumstances) along with evidence that Ophthalmology Patient/consumer/member of Public attorney kathy and mosses stopped responding and answering calls and email however administrative board declined the request and held on may 22 23 hearing without providing Ophthalmology Patient/consumer/member of Public due process and fair hearing rights.Also, Documents from DBCA were not under respondent name. Above acts are in violation of the **7th,4th,14th,5th 1st Amendment Rights** of Ophthalmology Patient/consumer/member of Public .In this case the public gets harmed by retaliatory proceedings on Patient of ophthalmology who is a witness in court proceedings in osha, hipaa and public safety matters and in fact harmful to the public interest. . Judge hillman failed to withdraw (**People v. Cowan (2010)**)despite the appearance of bias and personal interest involved in the controversy of this case and violated constitutional due process rights of Petitioner/ ophthalmology patients and violated public policy. (**Catchpole v. Brannon**). Judge Hillman erroneously denied the plaintiff's demurrer (under Code of Civil Procedure section 430.20) and motion to strike the defendant's affirmative defenses (Cal. Rule 3.1112(a), Federal Rule of Civil Procedure 12(f)) in the July 2024 ruling, despite the defenses being clearly defective. On June 18, 2024, Judge Hillman obstructed the discovery process (18 U.S. Code Chapter 73) through an erroneous ruling on the motion to compel (vcu303441) **Herbert v. Lando (1979)**, In August 2024, Judge Hillman's ruling on tolling and the statute of limitations was based on false fact-finding: (**Wilson v. Garcia (1985)**). The statute of limitations is not applicable and can be collaterally attacked at any time (**Armstrong v. Armstrong, 1976**).

The Dental Board, Consumer Board, or administrative board lacks jurisdiction over the ophthalmology patient/consumer/member of the public **Kees v. Medical Board of California (1992)**. The case was filed within the statute of limitations, which was tolled during the pendency of other remedies (**Elkins v. Derby, 1974**). Reason for error rulings is that judge hillman is personally, directly and indirectly involved in the controversy of plaintiff case\ .Petition is presenting a question of law for the Us Supreme court on issues of public, government, constitutional importance, public right, equal right and civil rights violations, racial justice , Petitioner/Ophthalmology patient right to petition the government without discrimination or performing public duty such as participating as witness in court proceedings without retaliation .and requesting the US Supreme Court to make a decision based on their individualized evaluation, guided by the principles of law. The Supreme court of california, 5th district appeal court, The Superior court has decided federal questions in a way or entered a decision in conflict with the other United States court decision in the same important matter.The Petitioner/Ophthalmology patient, consumer and public has special interest and Beneficial interest that can be protected through the WRIT...There is a question of law(De Novo) to this case for which the Supreme I court makes an independent determination of the legal issues without giving deference to the lower courts opinions. The Entire evidence and record was not examined for fairness, reasonableness and proportionality in the overall scheme of the law.. Here the lower Court's decision is not within the realm of what a reasonable trier of fact could find.Lower courts

failed to meet standard when presented fabricated, disputed, speculative facts and concealed material relevant facts of record to reach (erroneous) decision without a jury trial . Lower courts departed from the accepted and usual course of judicial proceedings. *Shelby County v. Holder* and *Citizens United v. FEC*, the Court's. The provisions of the Dental Practice Act not applicable to ophthalmology patients.

See also specific facts and citation in Section A-E of Legal standard on pg 8 -15of Brief S286892.

See also specific facts and citation in Section A: Violations of multiple statutes including 18 USC 1512,18 USC S241,Privacy Rights Act of 2020 (CPRA),Health Insurance Portability and Accountability Act of 1996 (HIPAA). Medical Information Act (CMIA -violation of California's Health & Safety Code §1364.5 as well as in violation of 3.1.1,3.2,3.3 Chapter 3 opinion on privacy, violation of confidentiality and medical record AMA principles of Medical Ethics I, IV, ordering unconstitutional, intrusive mental exam without serving petition of (unConstitutional, violation of ArticleI, section 1 of the California Constitution, violated Universal Citation; CA Civ Pro Code § 473.5 (2020) (a) to ophthalmology patient before issuance of order, further disregarding Ophthalmology Patient/consumer/member of Public motion to vacate , strike/demurrer (which was never heard) on mental exam(due process violation and equal protection violation, Article 6: Administrative Adjudication Bill of Rights (§ 11425.10).

See also specific facts and citation in Section B: Violation Of The Constitution Right Of An Ophthalmology Patient, Member of Public and a Consumer/Petitioner : Petition asserted violation Fourteenth Amendment rights that prohibits state deprivation of "life,liberty, or property without due process of law." (*Dent v. West Virginia* (1889) 129 U.S. 114, 121, 9 S.Ct. 231, 32 L.Ed. 623.).

See also specific facts and citation in Section C: NO Legal Standing in Administrative Court over an Ophthalmology Patient, Member of Public and a Consumer/Petitioner .

See also specific facts and citation in Section D: Other ground for dismissal of unauthorized by law administrative board proceedings:

See also specific facts and citation in Section V: No violation of dental practice act .

See also specific facts and citation in Section IV. "Section 820 does not require a mental examination in every such situation" *Kees v. Medical Board Court of Appeal of California, Fourth District, Division One Jul 9, 1992 7 Cal.App.4th 1801 (Cal. Ct. App. 1992)* .section 820 is unconstitutional as violation of the right to privacy of an Ophthalmology patient.

See also specific facts and citation in Section VI: Compelling Mental examination is a violation of constitution:

Supreme court disregarded Ophthalmology patient/consumer/member of public petitioner Argument Related To (I)Discrepancies in " DECISION AND ORDER Signed by Alan L Felsenfeld, MA, DDS, Acting as President of Dental Board of California, Department Of consumer affairs, State of california, dated August 2, 2023, II: JUDGE SEAN GAVIN ORDER(JUNE 20th 23):(See All the Facts and Arguments Petitioner Made on Pgs 249 -295 as well as made in Petition to Reconsideration,Declaration 298-321, See copy of proposed order and decision 235-248 Exhibit C): Ophthalmology Patient/consumer/member of Public filed notice of defense objecting merit of bad faith retaliatory and discriminatory accusation (in violation of 2032.310,2032.3109(a) See pgs 256-257 of petition S286892)thru motion to strike/ demurrer for reason that order mental exam (were disputed and biased as Sara wallace brough petition beyond the scope of employment and in violation of code of civil procedure 473.5)issued without serving petition of mental exam to ophthalmology patient before issuance of order , disregarding Ophthalmology Patient/consumer/member of Public motion to vacate , strike/demurrer (which was never heard) on mental exam(due process violation), and that agency has not jurisdiction,legal authority as failed to state act or omission upon which it can proceed ((Ophthalmology Patient/consumer/member of Public is a patient in this case and not violate dental practice act) and that

DBCA/consumer board obtained inadmissible evidence/privileged patient information (without patient consent, in violation of bus and prof code S 1601.2, S2000) from consumer board licensee Cantrell MD/Ophthalmologist (by violating Ophthalmology Patient/consumer/member of Public hipaa rights, breach fiduciary duty toward his patient and patient confidentiality)(See S286892 petition pg 254)(See S286892 EXHIBIT C Pgs 249-295,234 235 Entire Argument Related To Discrepancies in " DECISION AND ORDER" Signed by Alan L Felsenfeld, MA, DDS, ORDER of Alan L Felsenfeld, MA, DDS, Acting as a President of dental board of califonia, Petition to reconsider pg 85 - of Exhibit C.)

(i). Supreme Court disregarded Ophthalmology patient/consumer/member of public /petitioner Argument Related to DISCREPANcies FROM "PROPOSED DECISION" SIGNED BY THIS HONORABLE JUDGE SEAN GAVIN(JUNE 20 23):(See All the Facts and Arguments Made on EXHIBIT C Pgs 249-295 "DISCREPANcies AND ARGUMENT FROM "PROPOSED DECISION" SIGNED BY THIS HONORABLE JUDGE SEAN GAVIN JUNE 20 23): This honorable administrative Judge Sean Gevin was aware that Samreed Farid Rinz was not the name of Samreen Farid Riaz(an Ophthalmology patient/consumer/member of public/Petitioner) who happens to hold a dental license who presented at the hearing . (See S286892 pgs 253-254).

(ii). Supreme Court disregarded Ophthalmology patient/consumer/member of public petitioner Argument Based On Factual Findings Of Proposed Decision Signed By This Honorable Judge Sean Gavin On JUNE 20 23):(See S286892 Exhibit C Pgs 234-248).

Supreme Court disregarded Ophthalmology patient/consumer/member of public petitioner Argument made in Background and jurisdiction Section Of Proposed Decision:(See Facts and Arguments Made on S286892 petition EXHIBIT C Pgs249-295 Argument Related To Discrepancies in " DECISION AND ORDER" Signed by Alan L Felsenfeld, MA, DDS) : JUDGE SEAN GAVIN showed prejudice when presenting one side, many partial, inaccurate facts that are not true depictions of facts and concealed many facts in a "PROPOSED DECISION" section. (See S286892 petition pgs 254-256).Complainant violated Article 3 Motion For Physical Or Mental Examination CODE OF CIVIL PROCEDURE, SECTION 2032.3109(a), in violation of code of civil procedure 2032.320(a), in violation of code of civil procedure 2016.040, violated 2032.310.(See S286892 petition pgs 256-257 and it Exhibit A pgs 4-11) .. violated 2032.310(c).violated section 2032.320. (a) ,violated section 2032.220.(d) .Ophthalmology patient, member of public and consumer/respondent argued that The complainant cannot bring accusation on Ophthalmology patient, member of public and consumer/respondent when ophthalmology Patient/Petitioner was in compliance with code of civil procedure 2032.230(a) refuse to submit to the demanded examination, for reasons specified in the motion to demurrer, motion to strike and motion to vacate filed by ophthalmology patient/respondent by serving copies to all the parties in a in a timely manner.(See S286892 petition pgs 257 and Exhibit A pgs 13-15,16-37,38-71) .This honorable judge showed prejudice when concealed facts regarding Petitioner/patient of ophthalmology, member of public, consumer who happens to hold dental license objected to the examination based on 820 before filing of an accusation by filing notice of defense and multiple motions with administrative board, DBCA, DOJ, Consumer Board and failed to present important fact(See S286892 petition pgs 257-259).See arguments and facts on above ruling and related to the July 6 22 , July 22 22 filing and responsive email from Anahita.Crawford@doj.ca.gov, on pgs 9-11 petition to reconsider/Exhibit C pgs 249-295,326, Exhibit B 225 of S286892 petition.).See Facts And ARGUMENT Made By The Petitioner/ ophthalmology patient/ consumer/member of public In Response To Complainant Evidence

Section Of Proposed Decision And Order: (See All the facts and Argument made by the petitioner in Petition For Reconsideration Pgs 10-12/Exhibit C pgs 249-295. Judge Sean Gevin showed bias , abuse discretion and error when failed to find accurate and complete facts that 820 order and letter to Petitioner/ ophthalmology patient/consumer/member of public who happens to hold dental license, that is submitted by the complainant is obtained by initiating investigation on ophthalmology patient/ consumer/member of public who happens to hold dental license by breaching ophthalmology patient privacy, patient confidentiality, violating hipaa. Judge Sean abuse discretion when failed to find that complainant acted beyond the scope of duty and has no legal authority or jurisdiction on ophthalmology patient, member of public, consumer/Petitioner who happens to hold a dental license. Judge Sean Gevin showed bias, abuse discretion and error when failed to find fact that letter to Petitioner along with 820 order was obtained and provided to Petitioner/ member of public/consumer/ Patient of Ophthalmologist(who happens to hold a dental license) without initial serving “petition compelling examination” before june 24 22. Petition was only served to the board, Order or Default judgment, obtained the same day the Petition was filed, June 24 22 without showing due diligence, uniformity, and fairness in a due process (violation of Code of Civil Procedure, section 473.5). Judge Sean Gevin showed bias, abuse discretion and error when failed to find the fact that letter to Petitioner along with 820 order was challenged or disputed by the Petitioner/ophthalmology patient, consumer, member of public who happens to hold a dental license by filing motion to demurrer, motion to strike, motion to vacate .Judge Sean Gevin showed bias, abuse discretion and error when failed to present facts in a fact finding that Petitioner/ophthalmology patient, consumer, member of public who happens to hold dental license reported misconduct to DBCA regarding Board Officer Tippin(misrepresented himself as a police officer) unannounced Visit (April 14 22) that Officer Tippin was not forthcoming and deceiving in his dealings with the Petitioner/ophthalmology.(See S286892 petition Exhibit A pgs 46-56, petition pg 259), failed to consider it in a legal conclusion that officer Tippin involved in breach of patient privacy, patient confidentiality, hipaa violation of ophthalmology patient by joining and obtaining privileged (unconsented, unauthorized without patient knowledge) information from steven cantrell (Patient ophthalmologist) . (seeReported misconduct of Officer Tipping and facts are(See S286892 Exhibit A pgs 47-56 attached evidence with Motion to Vacate, See also facts and argument made by the petitioner on pgs 11-13 Petition To Reconsider/Exhibit C Pgs 46-56) .See Petitioner Facts and Argument related to misconduct of Officer Tipping on pg 12-13 of Petition to Reconsider/Exhibit C pgs. 249-295 Judge sean abuse discretion and made an error when mention partial truth“He confirmed that as of the date of hearing, respondent had not compiled with the 820 order or submitted to mental or physical exam to determine her fitness to practice”(pg 3 paragraph 5 of proposed decision of judge sean order) without Presenting fact that ophthalmology patient challenged application of section 820.(See Petitioner Facts and Argument related to filing on July 6,22 2022 and sept 06 22 filing on pg 13 of Petition to Reconsider/Exhibit C Pgs. 249-295, See also Exhibit A pgs 89-145 of S286892 petition) .See Facts And ARGUMENT Made By The Petitioner/ ophthalmology patient/consumer/member of public related to Judge Sean Gevin found false and partial fact “Respondent appeared at hearing but declined to testify because she is not represented by counsel” (pg 3 of order and decision paragraph 6 by Judge Sean Given- Respondent Argument section/Exhibit C) which was not a true depiction of facts and based on concealment of all the facts (see S286892 petition specific facts on pgs 261- 265).

(iii)See Facts And ARGUMENT Made By The Petitioner/ ophthalmology patient/consumer/member of public related to A To Cost Section Of Proposed Decision By Judge

Sean Gevin: This honorable judge Sean Gevin statement made in this section was not an accurate depiction of facts, established partial and false facts, Concealed many facts(see **S286892 petition specific facts on pgs 20) including that** during the hearing Petitioner/Ophthalmology Patient/Consumer, Member of the public informed the judge specifically that Petitioner is not an attorney any document introduced needs to be reviewed by attorney and has to be served properly then only respondent and her attorney can prepare arguments based on the document after reviewing the document. (abuse of due process, appearance of bias). (See All the facts and Argument made by the petitioner in **S286892 petition EXHIBIT C pgs 249-295/ Pgs 31-31 COST RECOVERY, Pgs 18-19,46-47 Argument Related To Cost Section Of Proposed Decision By Judge Sean Gevin -Petition For Reconsideration pgs 266-267**).

(iv)See Facts And ARGUMENT Made By The Petitioner/ ophthalmology patient/ consumer/member of public on Legal Conclusion Of Judge Sean Gevin:(See All the facts and Argument made by the Petitioner in **S286892 petition pgs 267-269, EXHIBIT C Pgs 249 - 297 Legal Conclusion Section Of Proposed Decision By Judge Sean Gevin -Petition For Reconsideration Pgs 19 -47)**

1-Judge Sean gevin acknowledged proper standard of proof that "in an action to discipline dentist license , complainant bears the burden to prove her case by clear and convincing evidence (Ettinger v bd of medical quality assurance (1982) 135 Cal.App.3d 853,855-856). "so clear as to leave no substantial doubt"; "sufficiently strong to command the unhesitating assent of every reasonable mind." (Id. at p. 919.)(Katie V. v. Superior Court(2005) 130 cal App.4th 586,594)(pg 4 of proposed decision of judge sean gevin) however judge sean failed to find that standard not met . Ophthalmology patient/ consumer/member of public argue Judge sean showed bias, is in error and abused discretion when changes the language of section 820: (See specific fact on **S286892 petition pgs 20, 267-269). Judge Gevin Sean acknowledge that "Complainant did not prove respondent violated the board's licensing act" "complainant did not prove respondent violated the dental practice act"(see paragraph pg 8 proposed decision and order of judge sean Gevin pg 6/Exhibit C)"the licensing act relevant to respondent is the dental practice act, found at business and professions code section 1600 et seq".**

Judge Sean Gevin legal conclusion that "complainant proved that in june 2022, the board issued and served an order compelling mental and physical examination of respondent to evaluate her fitness to practice safely".(see paragraph 3 of pg 5 of proposed decision exhibit C pgs 235-248) is based on biased, partial fact finding, concealment of facts in the fact finding:(See specific fact on **S286892 petition pgs 221) For Arguments and Facts in above Paragraphs ii. Argument Based On Factual Findings Of Proposed Decision Signed By This Honorable Judge Sean Gavin On JUNE 20 23):(See also**S286892** Exhibit C 236-248). Judge Gevin Sean acknowledge that "Complainant did not prove respondent violated the board's licensing act" "complainant did not prove respondent violated the dental practice act"(see paragraph pg 8 proposed decision and order of judge sean Gevin pg 6)"the licensing act relevant to respondent is the dental practice act, found at business and professions code section 1600 et seq"**

. Judge Sean make an error and abuse discretion when not considered adequate Petitioner/ Ophthalmology Patient/Consumer, Member of the public Legal Argument Presented In Support Of Motion To Strikes and Motion to Demurrsers, In Opposition To Complainant Unlawful Application Of Business and Professional Code Section 820 and Accusations on Patient Of Ophthalmology. Consumer, Member of Public /Petitioner in his "FACT FINDING" and considering a "Legal Conclusion" of proposed decision and order.(see (S286892 petition pgs 21-22 and it Exhibit A pgs 98-181,13-15,16-71, Exhibit B 215-220) .

I :Petitioner Argument That Accusation Brought without Jurisdiction on Ophthalmology Patient without Jurisdiction See specific fact and argument on S286892 related to (a) Disregarding Motion to Strike/Demurrer oppose "Accusation", (b) When cannot be brought on a Patient of Ophthalmology, (c).with no no legal authority on petition pgs 22-23 and it Exhibit A pgs 103-104):)

II:See Facts And ARGUMENT Made By The Petitioner/ ophthalmology patient/ consumer/member of public related to Unlawful Application of a Statutory Provision on Ophthalmology Patient/Consumer, Member of the public in Accusation

A: There Is No Jurisdiction Or Legal Authority To Apply Section 820 On The Petitioner:(See S286892 Exhibit A pgs 100-117,122-142). Section 820 and Section 822 are part of the broader Dental Practice Act, which includes various regulations and statutes starting at Section 1600. Proceedings under Sections 821 and 822 cannot be conducted in accordance with Chapter 5 (commencing wit Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code as Judge Gevin Sean acknowledge that "Complainant did not prove respondent violated the board's licensing act" "complainant did not prove respondent violated the dental practice act"(see paragraph pg 8 proposed decision and order of judge sean Gevin pg 6/Exhibit CS286892).See specific facts and argument (See specific fact on S286892 petition pgs 24025)

B: Petitioner/ ophthalmology patient/ consumer/member of public made Argument That Complainant Failed TO Show Their Burden OF Proof (With Clear and Convincing Evidence) and Basis Of Legitimate Ground For Requesting Psychological Examination Of Ophthalmology Patient/Consumer and Member of Public Under Section 820.(see S286892 Exhibit A pgs 13-15,16-71, 4-11, exhibit B pgs 215-220,225,Exhibit C pgs 326):See specific fact on S286892 petition pgs 25-26.Ophthalmologist Steve Cantrell stepped outside the role of a health care provider when he retaliated and acted with malice due to getting sued for negligence and denying care to Petitioner for discrimination reasons, and he disclosed patient private information in an unlawful manner. (See complete Arguments and Facts presented in Petition to Reconsider Pg 249-321/ S286892Exhibit C,Exhibit A pg 45.) .. Misconduct Reported to DBCA regarding Police Officer Tippin Visit (April 14 22)(see exhibit A pgs 46-56): and See Facts and Arguments Presented on Exhibit A pg 110-111, paragraph 58-64- Memorandum and Point of Authorities In Support Of Petitioner Motion to Demurrer "Accusation". See specific fact on S286892 petition pgs 26.

. C, Petitioner/ ophthalmology patient/ consumer/member of public Legal reason To File Motion To Strike & Demurrer in response to " Accusation" (see S286892 Exhibit A pgs 89-145, 6-11) . See specific fact on S286892 petition pgs 26.. Petitioner/ ophthalmology patient/ consumer/member of public made Argument That Complainant Failed to State "Cause For Discipline" Under Section 821 in Accusation:(see S286892 pg 26 and it Exhibit C Accusation 243-246,See Fact and Argument made by Petitioner on Pg 249 -295 Of

Petition to reconsider /Exhibit C ..Petitioner/ ophthalmology patient/ consumer/member of public made Argument Based On Cost Recovery Of Accusation Section:(See S286892 Exhibit A pg 114, Exhibit C) . Cost Recovery requested in this case to the administrative law judge is not covered Under Section 125.3 subdivision(a) as the investigation done was in a biased, unlawful, discriminatory, and harassing manner. The complainant failed to specify or produce any valid evidence that the respondents committed any violation or violation of licensing act. And see Conclusion in a writ S286892 pg 27 and 28.

Judge Sean Gevin acknowledged and inserted his input for the first time in the proposed decision that" Protection of the public shall be the highest priority for the Dental Board of California in exercising its licensing,regulatory, and disciplinary functions based on bus and prof code S1601.2".(pg 5 of proposed decision paragraph 4/ S286892 Exhibit C 237-242,248) .and that "Unless and until respondent undergoes the required mental and physical examination , it would be contrary to public safety and welfare to allow her to maintain license." .(pg 5 paragraph 4 of proposed decision)based on partial fact finding and ignored evidence and argument presented by the Petitioner, patient of ophthalmology/member of public and consumer , asserted that , "Complainant proved by clear and convincing evidence cause to discipline respondent license" "Public protection requires the respondent's license be suspended." (pg 5 paragraph 5 proposed decision/exhibit C). See argument & facts presented on pg 39-40 Petition reconsider /Exhb C pgs 249-295, further stated "Respondent's failure to comply with 820 order undermines the board's ability to exercise its mandate of public protection".(paragraph 4 of pg 5 of proposed decision by judge sean gevin):Section 1601.2 of the California Business and Professions Code is part of the Dental Practice Act and Judge Gevin Sean acknowledge that "Complainant did not prove respondent violated the board's licensing act" "complainant did not prove respondent violated the dental practice act"(see paragraph pg 8 proposed decision and order of judge sean Gevin pg 6/**S286892** Exhibit C)"the licensing act relevant to respondent is the dental practice act, found at business and professions code section 1600 et seq". Also Accusation (see **S286892** exhibit A pgs 4-11)brought by the department of justice on the complaint of Tracy Montez(dental board of california, consumer affair department) on 8/17/22 or in any previous administrative or investigatory proceeding document against ophthalmology patient, consumer or member of public/Petitioner never asserted bus and prof code S1601.2 ..In this case ophthalmology patient, consumer or member of public/Petitioner is in the shoe of a patient, member of a public and a consumer (who happens to hold a dental license) whose protection including protection of privacy right, patient confidentiality, hipaa violation must be the highest priority of the dental board..Dental board of california and its employees include Sara Wallace, Tracy Motez. Tippin Joseph as well as President Alan felsefled violated section S1600 and section S1601.2 and failed to protect a consumer, a member of a public , patient/ Petitioner who happened to hold dental license, when joined consumer board and medical board licensed ophthalmologist Steven Cantrell(who also violated medical practice act S2000 and S 1601.2) to violate ophthalmology patient privacy(who was a witness in court proceedings in public funds corruption and public safety matters), patient confidentiality, hipaa violation ..In addition, bus and prof code S1601.2 does not apply or allow harm to a patient of ophthalmology, member of a public and consumer (who happens to hold a dental license) by onset of initiate investigatory proceeding by unlawful application of code section S820 when there is no dental practice act violation(clear or convincing evidence from which appears petitioner need to go for mental examination) by the ophthalmology Patient.Section S1601.2 only deals with licensing, regulatory, and disciplinary ,functions.Section 820 has investigatory function and does not deal with license regulation or discipline Function ..Petitioner/Patient of Ophthalmology, member of a public, consumer is harmed by not protecting patient privacy

right, confidentiality rights, hipaa violation by conjoined action of consumer affair, dental board of california along with consumer and medical board licensee Steven Cantrell(violate medical practice bus & prof code 2000 act and S1601.2). .Infact, Dental Board violated section s1601.2 when not protect Petitioner/patient of ophthalmology from President DBCA Alan felsenfeld who granted(unlawful order with no jurisdiction, with no legal authority) order of examination of ophthalmology patient/ consumer and member of public who happens to hold dental license after one sided concealed proceeding without serving document of initial petition (before obtaining order from board President) to the ophthalmology patient/rPetitioner(due process violation, fraud), based on inadmissible evidence obtained by branching patient privacy breach, hipaa violation, patient confidentiality violation (in violation of dental practice act S1600 and S 1601.2). . Alan felsenfeld dds president of dental board violated section S1601.2 and dental practice act 1600 when harmed public, patient, consumer/respondent Samreen Riaz when conspired with medical board licensee, dental board of california actors, consumer affair and breach patient privacy, violate hippa, violate patient confidentiality of ophthalmology patient who happens to hold dental license. .Judge Sean Gevin showed bias when failed to present the fact fairly that S 1601.2 is not asserted by the Doj, department of consumer affairs, and the dental board but by Judge Sean Gevin. .However Judge sean is in error, showed biased and abused discretion in application of S1601.2 on patient of ophthalmology/member of public and consumer/Petitioner(who happens to hold dental license) and at the same time when failed to apply section S1601.2 toward Dental board of california and its employees include Sara Wallace, Tracy Motz, Tippin Joseph as well as President Alan Felsenfeld who violated section S1600 and section S1601.2 by failing to protect members of the public and consumer, patient of ophthalmology(witness in court proceedings in matters of public safety and public funds corruption). Section S1601.2 under the law requires equal and fair application regardless of the skin color and religious belief of the individual.in addition , .Judge Sean made above erroneous ruling when the complainant did not meet standard of proof or burden to prove her case by clear and convincing evidence that unless and until patient of ophthalmology,member of public, consumer/Petitioner undergoes the required mental and physical examination , it would be contrary to public safety and welfare to allow her to maintain license.(see **S286892 Exhibit A 45,39-44,,155, exhibit B pgs 224,221-223**). "in an action to discipline dentist license , complainant bears the burden to prove her case by clear and convincing evidence (**Ettinger v bd of medical quality assurance (1982) 135 Cal.App.3d 853,855-856**) Judge Sean Gevin acknowledged the proper standard of proof that "Clear and convincing evidence requires a finding of high probability[, or] evidence . . . 'so clear as to leave no substantial doubt'; "sufficiently strong to command the unhesitating assent of every reasonable mind."'" (**Id. at p. 919.**)(**Katie V. v. Superior Court(2005) 130 cal App.4th 586,594**)(pg 4 of proposed decision of judge sean Gevin).

Judge Sean Gevin abused discretion, made an error, showed bias when making a legal conclusion "Respondent's Affirmative Defenses, objections and arguments have been considered". "The evidence doesn't support her affirmative defenses thus respondent affirmative defenses are denied".(paragraph 5 of pg 6 proposed decision)."Similarly, respondent objections are rejected".(paragraph 5 of pg 6 proposed decision)based on his partial fact finding and misapplication of law when facts and admissible evidence by Petitioner/ophthalmology supported Petitioner/ ophthalmology patient facts, argument and objections and Gevin Sean acknowledge that "Complainant did not prove respondent violated the board's licensing act" "complainant did not prove respondent violated the dental practice act(See Petitioner Argument on Above legal conclusion on pg 40-42 Petition Reconsider / **S286892 Exhibit C pgs 249-295. Although Complainant has no jurisdiction or legal**

authority to proceed in administrative court over ophthalmology patient, public member/Petitioner(by breach privacy). Ophthalmology patient objected the Accusation with the motion to strike and motion to demurrer, and also further asserted following affirmative defenses, pursuant to Government Code section 11506(a)(5) along with motion to strike, motion to demurrer with the notice of defense on sept 6 22 . SEE 1-8 AFFIRMATIVE DEFENSES on S286892 Exhibit A Pgs 90-91. Judge Sean Gevin made an error, abusing discretion in ruling "The evidence doesn't support her affirmative defenses thus respondent affirmative defenses are denied".(paragraph 5 of pg 6 proposed decision) based on his partial fact Finding. (Shelby county v holder and citizen united v FEC. See Petitioner Arguments and Facts on Pgs 42-43/Exhibit S286892 C pgs 249-295,) .Judge Sean Gevin abused discretion and made an error when failing to present the fact that Petitioner/Ophthalmology patient. Consumers and members of the public filed 'Declaration and Opposition Statement and objected to "Request for Discovery" requested By Complainant Tracy Montez'.(see S286892 exhibit A pgs 72-78 ,92-98) See entire Argument related to Objection to Request for Discovery In Petition Reconsider on Pgs 43-47 /Exhibit C pgs 249-295 with following discussion. Ophthalmology patient made Legal Argument and Objection the justification of the Further Discovery Request . as complainant has No Authority To apply section 11507.6 and not Entitled To Any Award Of Sanctions . Argument related to Cost Recovery .Judge Sean Acknowledge no violation of section 12.53 or dental practice act by the ophthalmology patient.

ARGUMENT BASED ON STATUE OF LIMITATION, TOLLING APPLICATION FROM MARCH 12 24 RULING:

A: Petitioner/Ophthalmology Patient/Consumer/Member of public argue that Judge Hillman was Biased, error and abuse of discretion in Fact Finding IN MARCH 12 RULING and other Rulings: and presented Partial one sided facts, presented minimum facts from the Petitioner/Ophthalmology Patient/Consumer/Member of public pleadings and only in the context to strengthen opposing counsel contention, Concealed Or Missing Material Facts alleged in the Petition of Petitioner/Ophthalmology Patient/Consumer/member Public Petition and specific facts are given on (See S286892 Section 1, 2,3,6 on pg 32 -33, 34) . Petitioner/Ophthalmology Patient/Consumer/Member of public request this court to take judicial notice pursuant to evidence code section 452 of the following official matters from RJN1-12 from jan 16 24 filling/Document attached to S286892 as Exhibit F "Notice Of Default Decision and Order" with the judicial notice of defendant demurrer dated dec 29 23.

Petitioner/Ophthalmology Patient/Consumer/Member of public alleging Document attached as Exhibit F "Notice Of Default Decision and Order" was not served to Petitioner other than as Exhibit F on Dec 29 23.Petitioner/Ophthalmology Patient/Consumer/Member of public alleging that Defendant claims " Board notified petitioner by first class and certified mail" referencing letter attached in Exhibit F is not accurate information. . Petitioner/Ophthalmology Patient/Consumer/Member of public is alleging that Petitioner/ophthalmology patient did not "refused to comply with the dental board of california to complete mental and physical examination" order but in fact challenged application of section 820 on july 6 22 by filing motion to strike and demurrer, July 2122 motion to vacate on application of section 820. (see requested RJN 4,5,6 on jan 16 24), On Sep 06 22 filed Motion to strike and demurrer on accusation and thru Petition to reconsider (see jan 16 24 requested RJN 7).. No facts

finding presented related to Petitioner/Ophthalmology Patient/Consumer/Member of public alleging numerous Discrepancies in DBCA and ALJ proceedings..Judge hillmam failed to present fact that Judge Gevin Sean established that "Complainant did not prove respondent violated the board's licensing act" "complainant did not prove respondent violated the dental practice act"(see paragraph pg 8 proposed decision and order of judge sean Gevin pg 6/Exhibit C)"the licensing act relevant to respondent is the dental practice act, found at business and professions code section 1600 et seq. Judge Hillman did not present the fact that petitioner argued that that "Order Denying Reconsideration" dated August 21 23 if considered Final order then her writ mandate file well within 60 Days of the Service Of the Decision and Order. (see jan 16 24 requested RJN 8).Instead judge Hillman only misrepresented or presented partial fact and part of argument that petitioner arguing Oct 13 23 is a final order in march 12 23 ruling . .Above are a few examples of flaws in fact finding of judge hillman from the March 12 23 ruling , However Petitioner /patient of ophthalmology/member of public and consumer is a proper litigant with no government taxpayer resources and limited time to spare to overcome all the pattern of shortcoming of judge hillman in performing his job in a fair and ethical manner. Petitioner is seeking a lower court honorable justice to review Judge Hillman fact finding form March 12 23 ruling and present it in an impartial , factual manner to regain public trust in the integrity of the us lower court process. (See Shelby county v holder and citizen united v FEC.)

Discrepancy in Authority and Analysis Section OF Justice hillman **MARCH 12 RULING and judge hillman Aug 20th 2024 ruling :**

Judge Hillman failed to provide Authority and Analysis by considering all the material facts pleaded and all essential elements in the complaint that are sufficient to constitute cause of action upon which relief based on as well as those that arise from by reasonable implication therefrom.. Judge Hillman failed to accept as true all material facts properly pleaded in the complaint and failed to , and we consider facts that petitioner requested to take judicially notice of.(**Mathews v. Becerra (2019) 8 Cal.5th 756, 768.**where Court found therapist violated the patients' right to privacy under the California Constitution.)the court stated, "... a demurrer on the ground of the bar of the statute of limitations does not lie where the complaint merely shows that the action may have been barred. It must appear affirmatively that, upon the facts stated, the right of action is necessarily barred. (**Ord v. De La Guerra, 18 Cal. 67; Wise v. Hogan, 77 Cal. 184 ...;** **Pleasant v. Samuels, 114 Cal. 39 ...**)" (171 Cal. at p. 277. See also **Vassere v. Joerger (1938) 10 Cal. 2d 689, 693 [76 P.2d 656]; McFarland v. Holcomb, supra, 123 Cal. 84, 87; Pleasant v. Samuels, supra, 114 Cal. 34, 38; Curtiss v. Aetna Life Ins. Co., supra, 90 Cal. 245, 249-250; Kraner v. Halsey, supra, 82 Cal. 209, 210-211; Evans v. Zeigler (1949) 91 Cal. App. 2d 226, 230 [204 P.2d 902]; 5 Cal.Jur.2d, Rev., Assumpsit, § 38, p. 689; and King, op. cit., 14 So.Cal.L.Rev. at pp. 306-307.). [1] Judicial review of most public agency decisions is obtained by a proceeding for a writ of ordinary or administrative mandate. (Code Civ. Proc., §§ 1085, 1094.5.) The applicable type of mandate is determined by the nature of the administrative action or decision. (**Tielsch v. City of Anaheim (1984) 160 Cal. App. 3d 570, 574 [206 Cal. Rptr. 738],** We recently held in **Strumsky v. San Diego County Employees Retirement Association (1974) 11 Cal. 3d 28 [112 Cal. Rptr. 805, 520 P.2d 29]**, that if the order or decision of a local administrative agency substantially affects a "fundamental vested right," a court to which a petition for a writ of mandamus has been addressed upon the ground that the evidence**

does not support the findings must exercise its independent judgment in reviewing the evidence and must find abuse of discretion if the weight of the evidence fails to support the findings.

Judge hillman finding is in error, abuse of discretion and biased stating "Here the Court find Respondent argument consistent with section 11521 and 11523 and the miller case cited above " (Pg 4 of 5 March 12 24 ruling, see also aug 20 24 rulin) and based on partial inaccurate fact finding and concealing all material facts of plaintiff from the Petition in fact finding

1:Petitioner/Ophthalmology patient, consumer and a member of public claim involves § 1983 actions deprivation of respondent's constitutional rights and 3 year statute of limitation for personal injury applicable to such action to fairly serve the federal interests:(Wilson v. Garcia (1985) However, it is well settled that the assertion of a constitutional right is subject to reasonable statute of limitations unless a constitutional provision provides to the contrary. (Wilson v. Garcia (1985) 471 U.S. 261, 271-272 [85 L. Ed. 2d 254, 263-264, 105 S. Ct. 1938];*el/d*: Section 1983 claims are best characterized as personal injury actions, and hence the Court of Appeals correctly applied the 3-year statute of limitations applicable to such actions. Pp. 471 U. S. 266-280. The characterization of all § 1983 actions as involving claims for personal injuries minimizes the risk that the choice of a state statute of limitations would not fairly serve the federal interests vindicated by 1983. Pp. 471 U. S. 276-279. (Wilson v. Garcia (1985) 471 U.S. 261, 271-272 [85 L. Ed. 2d 254, 263-264, 105 S. Ct. 1938];*el/d*: "The court overruled the demurrer and found Business and Professions Code section 2296 unconstitutional on the basis asserted by Dr. Miller. The court concluded the revocation order was void and, "There can be no conditions of reinstatement from a void order." The court therefore ordered Miller's license reinstated in full, without any conditions." "miller vs board medical quality assuranceIn miller Petitioner asserted " psychiatric examination, issued is void because Business and Professions Code section 2296, upon which the Board had relied, provision no hearing and was therefore unconstitutional.

2-The statute of limitations for filing a petition for writ of mandate under Code of Civil Procedure 1094.5 is 90 days from the date the decision becomes final. Universal Citation: CA Civ Pro Code § 1094.6 (b): Cameron v. Cozens Docket

3: AGENCIES ACTED IN EXCESS OR WITHOUT JURISDICTION: See specific facts and argument due to space constrained in a writ S286892 pgs 36-38 No. 39789

(A).Final and Ultimate decision of revocation of license issued on Oct 13 23 While Pending Petition F086809 California department (On Sept 7 23- Oct 26 23), Before this date license was not revoked. (Petitioner would like to take a judicial notice pursuant to section 452 of RJD 9 requested on jan 16 24).This Honorable judge hillman is error, abuse discretion when stated he " does not find that the October 13 2023 letter effects this timelines at all as the letter simply informed petitioner of the triggering of an event of an event set forth in the june 20 23 AJL order as adopted by the board on Aug 2 2023" is in error (Pg 4 of 5 March 12 23 ruling, Aug 20 24 ruling). "Business and Professions Code section 19463 provides: "The action of the board in suspending or revoking a license issued under this chapter is final, except that the propriety of the action of suspending or revoking a license or of any other final administrative action of the board is subject to review by any court of competent jurisdiction

if the action is commenced in the court within 30 days of the board's action. The action of the board shall stand unless and until reversed by a court. No action may be commenced in a court to attack, review, set aside, void, or annul any final action of the board unless it is commenced within 30 days of the board's action."

.Inaddition Petitioner filed the Writ mandate on Sept 7th 23(well within statute of limitations for filing a petition for a writ of mandate under Section 1094.5which is generally 90 days from the date the decision becomes final) in the 5th district court after Deny Petition For Reconsideration (Cal. Gov. Code § 11521,11517)and Requested Stay on all the administrative court and Dental board of california orders, which got denied without prejudice (**ORDER -F086809**) on Oct 26 23 for the reason "Petitioner has failed to exhaust her judicial remedies by seeking a petition for writ of administrative mandate under Code of Civil Procedure 1094.5 before the Tulare County Superior Court". ((Petitioner would like to take a judicial notice pursuant to section 452 of RJN 9 requested on jan 16 24 RJN 8 requested on jan 16 24) . However While Pending Petition F086809 in the 5th district appeal court, California department of Consumer affair and dental board of california issued on Oct 13 23 further Notice of revocation due to non compliance with the evaluation.(See **S286892 Exhibit E,F**).((Petitioner would like to take a judicial notice pursuant to section 452 of RJN 9 requested on jan 16 24 RJN 9,8 requested on jan 16 24) . In Addition Aug 2 23 order issued while pending complaint in the Tulare Superior court About May 15 23 against dental board of california and Alan felsenfield((Petitioner would like to take a judicial notice pursuant to section 452 of RJN 9 requested on jan 16 24 RJN 10 of jan 16 24)(see**S286892 EXhibit D pgs 328,S286892 Exhibit C 226-228**).Orders issued by the DBC during the pendency of the cases against DBCA must be considered void or invalid due to the lack of jurisdiction,authority, violations of various statutes including the Business and Professions Code and the Administrative Procedure Act (APA).due process violation, conflict of interest,equitable tolling .City and County of San Francisco v. Ang (1979)administrative orders issued without fundamental jurisdiction are void.

2(B):Tulare superior court is in error, bias and abuse discretion when established "TheCourt finds Petitioner had 30 days under section 11523 after 30 days under section 11521, for a total of 60 days to file this writ , From Aug 2 2023. The last day to file the writ, therefore , would have been October 2 023, because this writ was filed Nov 12 2023 AJL order as adopted by the board august 2 23, it is untimely. (Pg 4 of 5 March 12 24 ruling, see also aug 20 24 ruling /S286892 exhibit H:Defendent assertion that "the board served final decision and Order on Aug 2 2023" "(pg 7 line 21 demurrer)is also inaccurate Writ VCU303441 is not time barred (generally The statute of limitations for filing a petition for a writ of mandate under Section 1094.5 is 90 days from the date the decision becomes final) and well within statute of limitations (although statue of limitation itself is not applicable in this case and can be collaterally attacked anytime due to lack of jurisdiction) and based on miscalculation of statue of limitation and without applying Tolling provision(for the time Sept 7 23- Oct 26 23):. 5th District Court (ORDER -F086809) on Oct 26 23 established that Tulare County Superior Court has jurisdiction to this case "Petitioner has failed to exhaust her judicial remedies by seeking a Petition for writ of administrative mandate under Code of Civil Procedure 1094.5 before the Tulare County Superior Court" (**ORDER -F086809** ((Petitioner would like to take a judicial notice pursuant to section 452 RJN8,9 requested on jan 16 24), 1. Facts are, Final "Notice of revocation due to non compliance with the evaluation" was issued on Oct 13 23 by the Dental Board of california, department of consumer affairs, state of california with revocation effective date Oct 16 23, However Petitioner received "Final notice of Decision and order of revocation" in mail about 10 23 23. . Writ mandate VCU303441 in a tulare superior court was filed on Nov 13 23(statue of

limitation for writ of mandate under Section 1094.5 is 90 days from the date the decision becomes final, although statue of limitation itself is not applicable in this case and can be collaterally attacked anytime due to lack of jurisdiction) after the Final “notice of decision and order” issued On Oct 13, 2023. The Final “notice of decision and order” issued On Oct 13, 2023 stated “The proposed decision and order issued on Oct 16 23” and did not mention Aug 2 2023 dated order or referred Aug 2 2023 order as a Final Order. It further stated “Please take notice that your California dental license will be revoked effective at 12:00 AM on Oct 16 23”**((Petitioner would like to take a judicial notice pursuant to section 452 of RJN 9 filed on Jan 16 24)**. Therefore , Petition of writ file within 30 days or less than 60 Days. The service Of the Final Decision and Order.(see S286892 exhibit E, **((Petitioner would like to take a judicial notice pursuant to section 452 of RJN 8,9 filed on jan 6 24)**). Therefore , Petition of writ file within the time period allowed by law and the deadline date calculated by the defendant and tulare court is not accurate. Petitioner is entitled to relief as a matter of law.**(Cameron v. Cozens Docket No. 39789, February 27, 1973)**. Statute of Limitations: The statute of limitations for filing a petition for a writ of mandate under Section 1094.5 is generally 90 days from the date the decision becomes final; 2- However For the sake of Argument even if considers

“Order Denying Order on reconsideration” issued on 21st day of August 23 as a Final order, still Petition writ mandate file well within 60 Days of the Service Of the Decision and Order (RJN 8 requested on jan 16 24. Statute of limitation is paused and suspended and Tolling provision applies between Time limit between Sept 7 23(to the 5th District Court) and Oct 26 23 (5th District writ denial ruling) because of (good cause)pending writ in the 5th district appeal court. **Tolling Provision Applies in this case:** equitable tolling plays a vital role in our judicial system, too: It allows courts to exercise their inherent equitable powers to excuse parties' failure to comply with technical deadlines when justice so requires. Petitioner/Ophthalmology Patient, member of public and consumer made initial effort to remedy damages thru a WRIT OF MANDATE(1084-1097) On Sept 7 23 to the 5th District Court which got denied without prejudice (ORDER -F086809) on Oct 26 23 with thee explanation for the reason “Petitioner has failed to exhaust her judicial remedies by seeking a petition for writ of administrative mandate under Code of Civil Procedure 1094.5 before the Tulare County Superior Court”**(Ophthalmology patient would like to take judicial notice of RJN 8 requested on jan 16 24)** .Petitioner/Ophthalmology Patient, member of public and consumer discovered from the 5th district appeal Court (ORDER -F086809) of Oct 26 23 that Petitioner has to first exhaust her judicial remedies by seeking a petition for writ of administrative mandate first before the Tulare County Superior Court”(RJN 8). Plaintiff/Ophthalmology Patient, member of public and consumer filed on Nov 13 23 a WRIT OF MANDATE in the tulare superior court .Therefore Plaintiff/Ophthalmology Patient/petitioner writ Within 60 the Service Of the Decision and Order issued on 21st day of August 23. Applying tolling provision, Petitioner/Ophthalmology Patient, member of public and consumer writ file within 60 Days of the Service Of the Decision and Order issued on 21st day of August 23.**((Petitioner would like to take a judicial notice pursuant to section 452 of RJN 12 requested on jan 16 24)** “When a case is pending in court, the statute of limitations for a claim may be paused or suspended. According to the U.S. Supreme Court, “28 U.S.C. § 1367 (d) provides a tolling mechanism that suspends the “period of limitations for” refiling a dismissed state claim in state court “while the claim is pending [in federal court] and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period” On January 22, 2017, the U.S.

Supreme Court issued its first 5-4 merits decision of the term in **Artis v. District of Columbia**. In this opinion, the Court held that bringing state claims in federal court stops the clock on the statute of limitations for those claims. . In Addition Aug 21st 23 order issued while pending complaint VCU298300 in the Tulare Superior court About May 15 23 ((Petitioner would like to take a judicial notice pursuant to section 452 of RJN 8,12 requested on jan 16 24)(EXhibit D pgs 328, Exhibit C 226-228) (generally The statute of limitations for filing a petition for a writ of mandate under Section 1094.5 is 90 days from the date the decision becomes final, however statute of limitation itself is not applicable in this case and can be collaterally attacked anytime due to lack of jurisdiction).Plaintiff/ Ophthalmology Patient, member of public and consumer file Petition initially with the 5th district court proceedings on Sept 7 23 (well before Oct 2 23 (erroneous) calculated deadline by the judge hillman), 5th district court denies ruling on Oct 26th 23 (ORDER -F086809) fo the reason first seek relief from the tulare superior court. If we count tolling from September 7th to October 26th, there are at least 49 days tolling period . If tolling applies while Petition was pending action in the 5th district it brings a 60 days deadline to at least Dec 10 23. Petitioner/Ophthalmology Patient, member of public and consumer filed Petition in superior court on nov 12 23. (Within 17 days) . Therefore the court applied the doctrine of equitable tolling and deemed the state court action timely filed because statute of limitation limitation period was suspended while the plaintiffs' claims were pending in the 5th district court . Appellant would like to take judicial notice pursuant to section 452 of the case **F088523** filed Aug 20 24 from the vcu303441 Aug 20 24 tentative ruling and consider it for tolling application, although not necessary as appellant is within time frames for filing a writ petition.

Justice require application on Equitable tolling principle to the statue of limitation in this case context : Filing Petition with the 5th district and Petition reconsideration shows plaintiff /Ophthalmology Patient, member of public and consumer showed due diligence, acted reasonably and in good faith and timely Notice the defendant of the situation. (*Addison , supra , 21 Cal.3d at p. 321, 146 Cal.Rptr. 224, 578 P.2d 941.*) .Opposition conduct is in bad faith, false and deceptive from the beginning of the case where consumer/member of public/ophthalmology patient never served a initial petition and only provided(due process violation, without jurisdiction and authority of law) after order signed by the petitioner competitor in market, a dental board president a political body Alan DDS president(**City and County of San Francisco v. Padilla (1972)**: A conflict of interest seen as a lack of proper authority) signature. .In Addition defendant now claim in demurrer that Aug 2 23 document was a "final decision " .However Aug 2 23 ruling does not state it is a final decision. This shows deception, misleading and bad faith concealment efforts made by the defendant to interfere with the Ophthalmology Patient, a member of the public and consumer /plaintiff's diligent efforts to file a petition in a timely manner. Department failed to notify that Aug 2 23 decision is final decision in a timely manner and concealed available remedy to file petition in the court and offered petition reconsideration without informing it will be not counted as final decision demonstrates that the Department was prejudiced and acted in bad faith **Saint Francis Memorial Hospital v. State Department of Public Health,).Defendant** intentions and state of mind reflect that defendant so far act with malice intent to trap immigrant petitioner , dishonesty with intent to defraud performed official duty or obligation on taxpayer expenses ." (*People v. Nunn (1956) 46 Cal.2d 460, 468, 296 P.2d 813.*) For these reasons, we conclude that tolling the statute of limitations wouldn't prejudice the Department. the core focus of our prejudice analysis: whether application of equitable tolling would prevent the defendant from defending a claim on the merits. (See *Addison , supra , 21 Cal.3d at p. 318, 146 Cal.Rptr. 224, 578 P.2d 941.*).Further reconsideration considered on Aug 2 23 decision which further show misrepresentation and deception on opposition side in claiming Aug 2 23 decisions final decision Defendant will not be prejudiced as

Petitioner/Ophthalmology Patient, member of public and consumer Filing of the Similar claim of reconsideration and 5th district petition shows that petitioner alerts the defendant in a reasonable good faith timely manner of the claim of the need to begin investigation the facts which form the basis for the claim.Petitioner/Ophthalmology Patient, member of public and consumer request this court to take judicial notice pursuant to evidence code section 452 of the following official matters from on jan 16 24 that Document attached as S286892 Exhibit F "Notice Of Default Decision and Order" with the judicial notice of defendant demurrer dated dec 29 23 was not served to Petitioner/Ophthalmology Patient, member of public and consumer other than as S286892 Exhibit F on Dec 29 23.Defendant claims " Board notified petitioner/Ophthalmology Patient, member of public and consumer by first class and certified mail" referencing letter attached in Exhibit F is not accurate information and potential committed further fraud. Elkins v. Derby (1974) 12 Cal.3d 410, 414 [115 Cal.Rptr. 641, 525 P.2d 81, 71 A.L.R.3d 839], quoting Myers v. County of Orange (1970) 6 Cal.App.3d 626, 634 [86 Cal.Rptr. 198]. Supreme court approved tolling state court actions against government agencies while plaintiffs sought alternative relief in the federal courts for the same injuries. (See Addison v. State of California (1978) 21 Cal.3d 313 [146 Cal.Rptr. 224, 578 P.2d 941]; Jones v. Tracy School Dist. (1980) 27 Cal.3d 99 [165 Cal.Rptr. 100, 611 P.2d 441 . Petitioner/Ophthalmology Patient, member of public and consumer was not mistaken or negligent or late in filing petition.Petitioner allege reconsideration was proper alternative remedy as considered by the defendant.Defendant never informed petitioner/Ophthalmology Patient, member of public and consumer that department's view, an Ophthalmology Patient, member of public and consumer/plaintiff's pursuit of an alternative remedy of reconsideration not as appropriate remedy or provided any notice about finality of Aug 2 decision that cannot be reconsidered when issued Aug 2 23 ruling , therefore defendant cannot utilize any further this deceptive argument (finality of aug 2 23 ruling) at this stage. "For the doctrine to fulfill its purpose, however, we continue to presume that tolling is available in the absence of evidence to the contrary, and allow courts to determine on a case-by-case basis whether tolling is warranted under the facts presented, with careful consideration of the policies underlying the doctrine". (See generally Elkins , supra , 12 Cal.3d at pp. 417–420, 115 Cal.Rptr. 641, 525 P.2d 81.) Here Petitioner's actions are reasonable and carried out in good faith because plaintiff "promptly asserted cause of action in the proper state court after the federal court dismissed it for lack of jurisdiction. (See Addison , supra , 21 Cal.3d at p. 319, 146 Cal.Rptr. 224, 578 P.2d 941.) petitioner actions are fair, proper, and sensible in light of the circumstances.Petitioner intentions and state of mind reflect that she is the only one who acted with honesty without intention to defraud in performing her duty or obligation." (People v. Nunn (1956) 46 Cal.2d 460, 468, 296 P.2d 813.)Plaintiff satisfies the third element, and thus is entitled to equitable tolling. (See Montrose Chemical Corp. of California v. Superior Court (2020) 9 Cal.5th 215, 238, 260 Cal.Rptr.3d 822, 460 P.3d 1201 ; San Diegans for Open Government v. Public Facilities Financing Authority of City of San Diego (2019) 8 Cal.5th 733, 746–747, 257 Cal.Rptr.3d 43, 455 P.3d 311 It was from all three of these strands of case law that equitable tolling emerged. The doctrine allows our courts, "in carefully considered situations," (Lantzy , supra , 31 Cal.4th at p. 370, 2 Cal.Rptr.3d 655, 73 P.3d 517) to exercise their inherent equitable powers to "soften the harsh impact of technical rules" (Addison , supra , 21 Cal.3d at p. 316, 146 Cal.Rptr. 224, 578 P.2d 941) by tolling statutes of limitations. As we explained in Addison , equitable tolling today applies when three "elements" are present: "[(1)] timely notice, and [(2)] lack of prejudice, to the defendant, and [(3)] reasonable and good faith conduct on the part of the plaintiff." (Addison , supra , 21 Cal.3d at p. 319, 146 Cal.Rptr. 224, 578 P.2d 941.) These requirements are designed to "balance[e] the injustice to the plaintiff occasioned by the bar of his claim against the effect upon the important public interest or policy expressed by the [operative] limitations statute." (Id. at p. 321, 146 Cal.Rptr. 224, 578 P.2d 941.).

The doctrine of "equitable tolling" is supported by several important policy considerations.

First, it secures the benefits of the statutes of limitation for defendants without imposing the costs of forfeiture on Ophthalmology Patient, member of public and consumer/plaintiffs. Secondly, it avoids the hardship upon Ophthalmology Patient, member of public and consumer/ plaintiffs of being compelled to pursue simultaneously several duplicative actions on the same set of facts. Thirdly, it lessens the costs incurred by courts and other dispute resolution tribunals, at least where a disposition in the case filed in one forum may render the proceeding in the second unnecessary or easier to resolve. Starting in 1974, the California Supreme Court weaved these earlier lines of cases into a new, broader doctrine — "equitable tolling." This doctrine applies "[w]hen an injured person has several legal remedies and, reasonably and in good faith, pursues one." (*Elkins v. Derby* (1974) 12 Cal.3d 410, 414 [115 Cal.Rptr. 641, 525 P.2d 81, 71 A.L.R.3d 839], quoting *Myers v. County of Orange* (1970) 6 Cal.App.3d 626, 634 [86 Cal.Rptr. 198].) The new doctrine rested on a simpler rationale: a plaintiff should not be barred by a statute of limitations unless the defendant would be unfairly prejudiced if the plaintiff were allowed to proceed. As Justice Tobriner stated in the leading case of *Elkins v. Derby*, "[T]he primary purpose of the statute of limitations is normally satisfied when the defendant receives timely notification of the first of two proceedings." (12 Cal.3d at p. 417, fn. 3.). In succeeding cases, the Supreme Court approved tolling state court actions against government agencies while plaintiffs unsuccessfully sought alternative relief in the federal courts for the same injuries. (*Addison v. State of California* (1978) 21 Cal.3d 313 [146 Cal.Rptr. 224, 578 P.2d 941]; *Jones v. Tracy School Dist.* (1980) 27 Cal.3d 99 [165 Cal.Rptr. 100, 611 P.2d 441].) Appeal decisions have treated Justice Richardson's words to have created a definitive three-pronged test for invocation of this doctrine. (2) These three-core elements are: (1) timely notice to the defendant in filing the first claim; (2) lack of prejudice to defendant in gathering evidence to defend against the second claim; and, (3) good faith and reasonable conduct by the plaintiff in filing the second claim. *Elkins v. Derby, supra*, 12 Cal.3d at page 418, the Supreme Court held the filing of a workers' compensation claim equitably tolled the running of the statute of limitations on a tort claim arising out of the same incident even though fault was not an element in the first claim but was in the second.

For the doctrine to fulfill its purpose, however, we continue to presume that tolling is available in the absence of evidence to the contrary, and allow courts to determine on a case-by-case basis whether tolling is warranted under the facts presented, with careful consideration of the policies underlying the doctrine. (See generally *Elkins* , *supra* , 12 Cal.3d at pp. 417–420, 115 Cal.Rptr. 641, 525 P.2d 81.) As Justice Richardson observed in *Addison v. State of California, supra*, 21 Cal.3d 313, 319, "To apply the doctrine of equitable tolling . . . satisfies the policy underlying the statute of limitations without ignoring the competing policy of avoiding technical and unjust forfeitures." : Although "Decision And Order dated August 2nd 23" was not a final order by any means, However if goes with Defendant statement and for the sake of Argument consider" Decision And Order on dated August 2nd 23" (pg 7 line 20, 21 defendant demurrer) a Final order, still not time barred. .The Aug 2nd 23 decision and order notice further stated "Please take notice that decision and order shall become effective on Sept 1 23. Please take further notice pursuant to section 11521 you may submit the board petition to reconsideration of the board decision and order. The power of board for reconsideration shall expires on Sept 1st 23" (see S286892 Exhibit C pg 234, see also 234,235-236, 237-242) ((Petitioner would like to take a judicial notice pursuant to section 452 of RJN 11 requested on jan 16 24) It is

apparent that there was a provision for reconsideration in Aug 2 23 order which means the Aug 2 23 decision would be considered final upon expiration of the period during reconsideration which was Sept 1st 23.

“Section 1094.5, (e).. Writ Petition F086809 file On Sept 7 23 to the 5th District Court. Petitioner/ Ophthalmology Patient, member of public and consumer then discovered from the 5th district appeal Court (ORDER -F086809) on Oct 26 23 that Petitioner/Ophthalmology Patient, member of public and consumer has to first” exhaust her judicial remedies by seeking a petition for writ of administrative mandate before the Tulare County Superior Court”(RJN 8).Plaintiff filed on Nov 13 23 a WRIT OF MANDATE in the Tulare superior court . Therefore when tolling applies, the plaintiff/Ophthalmology Patient, member of public and consumer is well within the 30 days period of filing writ. In Addition Aug 21st 23 order issued while pending complaint VCU298300 in the Tulare Superior court About May 15 23 ((Petitioner would like to take a judicial notice pursuant to section 452 of RJN 10 requested on jan 16 24)(S286892 EXhibit D pgs 328, Exhibit C 226-228) . The Statute of limitations for filing a petition for writ of mandate under Code of Civil Procedure 1094.5 is 90 days from the date the decision becomes final. **Universal Citation: CA Civ Pro Code § 1094.6 (b).** It further states “If there is a provision for reconsideration, the decision is final for purposes of this section upon the expiration of the period during which such reconsideration can be sought; provided, that if reconsideration is sought pursuant to any such provision the decision is final for the purposes of this CA Civ Pro Code § 1094.6 (e) “Section 1094.5, suspending, demoting, or dismissing an officer or employee, revoking, denying an application for a permit, license, or other entitlement, imposing a civil or administrative penalty, fine, charge, or cost, or denying an application for any retirement benefit or allowance.section on the date that reconsideration is rejected.” CA Civ Pro Code § 1094.6 (b). Ophthalmology Patient, member of public and consumer/Petitioner Writ by no means 103 days late but in fact timely and within time frame mentioned in a demurrer to pg 6 A(1) or pg 6 of 19-20 line and stated valid causes of action in Writ Petition. Judge hillman is in error , abuse discretion and biased in considering August 02 23 a final Order:Although Justice hillman established ” Petitioner Exercised the option to seek reconsideration” (Pg 4 of 5 March 12 24 ruling) but failed to accept as true material facts properly pleaded in the complaint that **On Aug 21st 23, The board issued order denying petition for reconsideration(*Mathews v. Becerra (2019) 8 Cal.5th 756, 768.*).**Judge hillman is in error establishing Aug 2 23 order as a “final” order as final order means of the board means delivered to the parties personally or sent to them by registered mail and that order shall be final upon its delivery or mailing and no reconsideration shall be permitted “ ‘A final order of the board on appeal from a decision shall be in writing, and copies thereof shall be delivered to the parties personally or sent to them by registered mail. The order shall be final upon its delivery or mailing, and no reconsideration or rehearing shall be permitted.” **Hollywood Circle, Inc. v. Dept. of Alcoholic Beverage Control.** Judge Hillman failed to note from Aug 02 2023 order reconsideration was permitted. “The action of the board in suspending or revoking a license issued is not final, because other final administrative action of the board was subject to review by other court of competent jurisdiction in the court within 30 days of the board's action. . Business and Professions Code section 19463. **Pursuant to Section 11523 “The petition shall be filed within 30 days after the last day on which reconsideration can be ordered**¹². “ Aug 2 23 issued “Letter” states “**the power of board to order a reconsideration shall expires on sept 1 2023”**(Ahley Grey:Discipline coordinating unit).Writ Petition F086809 filed Sept 7 23(and pending till Oct 26 23) is well within **30 days after the last day on which reconsideration can be ordered(which would be Oct 1 23) . Vcu303441 filed nov 12 24(given the application of equitable tolling the new deadline would**

be November 19, 2023) well within deadline . (*generally The statute of limitations for filing a petition for a writ of mandate under Section 1094.5 is 90 days from the date the decision becomes final, however statute of limitation itself is not applicable in this case and can be collaterally attacked anytime due to lack of jurisdiction*) . “The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to a respondent, or on the date set by the agency itself as the effective date of the decision if that date occurs prior to the expiration of the 30-day period or at the termination of a stay of not to exceed 30 days which the agency may grant for the purpose of filing an application for reconsideration.” **Cal. Gov. Code § 11521.** For the sake of argument, if Aug 02 23 is a final decision(which we discussed above not) , the last day to file reconsideration is Sept 2 23. Petitioner/Ophthalmology Patient, member of public and consumer filed writ on Nov 12 23 well within 60 days(although writ mandate filed within 90 days under Code of Civil Procedure 1094.5) . However tolling applies between (Sept 7 -Oct 26 23 due to writ pending F086809 in the 5th district court). 4- Defendant Assertion “Under the Dental Practice Act. disciplinary actions against licentiaties are conducted under certain provision of the Administrative Procedure act “APA”, as set forth in Chapter 5 (commencing with Section 11500) of Part 1 of division 3 of title 2 of Government code (Bus and Prof act S1670), disputed case may be heard by the Board itself. Or by an administrative law judges “ALJ” who prepares a proposed decision for further board action.”(Pg 6 line 21 -25) has no merit . Disciplinary action proceeding in this case cannot be conducted under the Dental Practice Act as Petitioner/Ophthalmology patient/consumer/member of the public who happens to hold a dental license did not violate Dental Practice Act. Judge Gevin Sean acknowledge that “Complainant did not prove respondent violated the board’s licensing act” “complainant did not prove respondent violated the dental practice act”(see paragraph pg 8 proposed decision and order of judge sean Gevin pg 6/ Exhibit C, See also pg 29 of the writ).(Petitioner would like to take a judicial notice pursuant to section 452 of RJD 13 requested on jan 16 24). The complainant cannot Proceed under Section 1670 as the Petitioner/Ophthalmology Patient, member of public and consumer is not involved in unprofessional conduct gross negligence, or repeated acts of negligence in her profession.“Accusation”solely stemmed from the unlawful application of section 820. Therefore has no jurisdiction to Petitioner/Ophthalmology patient, consumer and a member of public.(see attached to original writ Exhibit C 243-246).Judge Sean Gevin established “ Complainant did not prove respondent violated dental practice act” (See paragraph 8 , of Proposed decision June 20 23 /See S286892 Exhibit C attached to original writ pgs 237-242,248).Petitioner/Ophthalmology patient, consumer, member of public alleges,Administrative Board, DBCA and Department Of consumer affair has No Jurisdiction on Ophthalmology Patient, consumer and member of public/Petitioner(see S286892 exhibit A attached to original writ pgs 89-145, 13-15,16-71, Exhibit B 215-220).Board's has no power to discipline ophthalmology patient/ consumer and member of public. However Alan felsenfield violated section 11500 and bus and prof act S 1670, Dental board of california and its employees include Sara Wallace, Tracy Motez. Tippin Joseph as well as President Alan felsefled violated section S1600 and section S1601.2 and medical board licensed Ophthalmologist Steven Cantrell(who also violated medical practice act S2000 and S 1601.2) (see facts on S286892 pg 49 of the writ). 5. Defendnet assertion “The Board’s October 13 2023 mailing of notice to petitioner that her license was revoked pursuant to August 2 2023 FINAL decision and order also does not extend the statute of limitations” (Pg 8 line 1-3 demurrer) has no merit: Defendant's assertion “under the government code section 11523, judicial review MUST BE TAKEN FROM THE AUGUST 2,2023 final decision and order Petitioner disciplinary Matter”(pg 8 line 3-5 demurrer) is without Merit as discussed above. Dated Dec 29 23, Deputy Attorney General Brent Jex Filled Request Of Judicial notice in the Tulare superior Court with the Exhibit F S286892 containing Dental Board of California issued “notice of default” dated Oct 13. Notice of default stated “ Proposed Decision and Order (Decision) issued on Oct 16 2023”.It

further states "Please take notice that your California Dental License will be revoked effective at 12:00 AM On Oct 16, 2023" .However Both, Aug 2 2023 Decision and June 24 22 "The Order compelling mental and physical examination"(bus and prof code S820) of these decisions were not final decisions and not referred to as a final decision in a Oct 13 23 letter or otherwise. The Final "notice of decision and order" issued On Oct 13, 2023 stated "The proposed decision and order issued on Oct 16 23" and did not mention Aug 2 2023 dated order or referred Aug 2 2023 order as a Final Order .It further stated "Please take notice that your California dental license will be revoked effective at 12:00 AM on Oct 16 23"((Petitioner would like to take a judicial notice pursuant to section 452 of RJD 9 requested on Jan 16 24))

Above mentioned notice of decision and order of revocation dated Oct 13, 2023 was issued (without jurisdiction, due process violation)While Writ (F086809)and Requested Stay on all the administrative court and Dental board of California Orders Pending in the 5th District appeal Court (Sept 7 23- Oct 26 23).

((Petitioner would like to take a judicial notice pursuant to section 452 of RJD 8,9 requested on Jan 16 24)). In Addition Aug 2 23 order issued while pending complaint in the Tulare Superior court About May 15 23 . ((Petitioner would like to take a judicial notice pursuant to section 452 of RJD 10 filed on Jan 16 24))(S286892 Exhibit D pgs 328, Exhibit C 226-228) .Defendant notified the

Petitioner/Ophthalmology Patient, member of the public and consumer of the final decision to revoked license on Oct 13 23. Before Oct 13 23 notification Petitioner license was not revoked. Therefore the petitioner/Ophthalmology Patient, member of the public and consumer is well within time to file a writ with a toll application. The facts are Petitioner/consumer/ member of public/Patient of Ophthalmologist(who happens to hold a dental license received notice and initial petition to compel exam(exhibit A pgs 4-11) after the issuance of order to compel exam obtained (without jurisdiction).((Petitioner would like to take a judicial notice pursuant to section 452 of RJD 1,2,3 filed on Jan 16 24)) 6:"The APA simply does not provide for judicial review of the board oct 13 2023 ministerial action in notifying of it implementing the August 2 2023 final decision and order"(pg 8 line 5-8 demurrer) is without any supporting legal authority citation supporting facts and evidence and not accurate : Under section 23081 of the Business and Professions Code the only decision from which plaintiff could appeal was the decision revoking his license. Anderson v. Dept. Alcoholic Bev. Control. Petitioner/Ophthalmology patient/Consumer and member of the public

License got revoked in this case on Oct 13 23 . Petitioner received "Final notice of Decision and order of revocation" in mail about 10 23 23. **Section 25760, Business and Professions Code**, provides: 'Notice of any act of the department required by this division to be given may be signed and given by the director or an authorized employee of the department and may be made personally or by mail. If made by mail, service shall be made in the manner prescribed by Section 1013 of the Code of Civil Procedure. In case of service by mail, the service is complete at the time of deposit in the United States Post Office.'. Petitioner/Ophthalmology Patient, member of public and consumer contends that by referring to section 1013, Code of Civil Procedure, in section 25760,Business and Professions Code, the Legislature intended to extend the 40 day period for appeal set forth in section 23081, **Business and Professions Code**. **Gaston PESCE v. DEPARTMENT OF ALCOHOLIC**. Defendant quoted "**Anderson v. Dept. Alcoholic Bev. Control**" (on pg 7 line 26-27 of defendant demurrer to initial petition). However this citation further confirms that the principal question in that case involved whether petitioner, under the provisions of the **Alcoholic Beverage Control Act (Bus. Prof. Code, § 23081)** filed his notice of appeal from an order of the respondent, Department of Alcoholic

Beverage Control, revoking plaintiff's on-sale beer and wine license, within the required 40 days after "service or mailing" of such decision by said board. **Defendant further mentioned Pesce v. Department of Alcoholic Beverage Control(pg 8 line1, pg 7 line28 demurrer to initial petition)** where petitioner Pesce from an decision of said department revoking petitioner's on-sale liquor license filed writ against The Department of Alcoholic Beverage Control, its director, the Alcoholic Beverage Control Appeals Board and its members. Which further confirms revoking of license decision mailing is the date of the final.

7: See S286892 pg 52 and 53 where Petitioner/ Ophthalmology Patient, member of public and consumer reasoning and dispute to Defendant presented fact in a demurrer. "loss or deprivation of money or property sufficient to qualify as injury in fact, i.e.,economic injury." **(Kwikset Corp. v. Superior Court (2011) 51 Cal.4th 310, 322.).**

2(C): Judge hillman finding is in error, abuse of discretion and biased "The Court does not find that the October 13 2023 letter effects this timelines at all as the letter simply informed petitioner of the triggering of an event set forth in the june 20 23 AJL order as adopted by the board on Aug 2 2023" (Pg 4 of 5 March 12 24 ruling,Aug 20 24 ruling) and based on partial inaccurate fact finding and concealing all material facts of plaintiff Ophthalmology Patient, member of public/consumer from the Petition in fact finding : .Defendant statement in a demurrer to initial petition is not true depiction of facts either and comprised of partial facts that "On Oct 13, 2023, The board notified petitioner by first -class and certified mail that, consistent with the final decision and order dated Aug 2 2023, Petitioner's dental dental license would be revoked effective Oct 16 2023 , for failing to obtain a mental and physical examination"(line 8-12 pg 5 of defendant demurrer to initial petition) ..However, The Facts are notice of decision and order issued On Oct 13, 2023 where The board notified petitioner "The proposed decision and order issued on Oct 16 23" and did not mention Aug 2 2023 dated order or referred Aug 2 2023 order as a Final Order .It further stated "Please take notice that your California dental license will be revoked effective at 12:00 AM on Oct 16 23"(**(Petitioner would like to take a judicial notice pursuant to section 452 of RJN 9 filed on jan 16 24)**). .Above mentioned notice of decision and order of Oct 13, 2023 where The board notified Petitioner/Ophthalmology Patient Samreen Riaz "The proposed decision and order issued on Oct 16 23" issued While Writ (F086809)and Requested Stay on all the administrative court and Dental board of California Orders Pending in the 5th District appeal Court. Petitioner/Ophthalmology patient Petitioned WRIT OF MANDATE(1084-1097)Initially filed (On Sept 7 23)to the 5th District Court which got denied without prejudice (ORDER -F086809) on Oct 26 23 for the reason "Petitioner has failed to exhaust her judicial remedies by seeking a Petition for writ of administrative mandate under Code of Civil Procedure 1094.5 before the Tulare County Superior Court". **(Petitioner would like to take a judicial notice pursuant to section 452 of See RJN 9,8 filed on Jan 16)**. . In Addition Aug 2 23 order issued while pending complaint in the Tulare Superior court About May 15 23 **(Petitioner would like to take a judicial notice pursuant to section 452 of RJN 10 filed on jan 16 24)**(Exhibit D pgs 328, Exhibit C 226-228) .Petitioner request

this court to take judicial notice pursuant to evidence code section 452 of the official matters from RJN1-12 requested on jan 16 24.

Judge hillman was in error denying PLAINTIFF FILED DEMURRER(Under Code of Civil Procedure section 430.20) AND STRIKE TO Defendant AFFIRMATIVE DEFENSES: (Cal rule 3.1112(a) , Federal Rule of Civil Procedure 12(f)(scheduled for July 30 24):" (Plaintiff would like to take a judicial notice pursuant to evidence code section 452 of FILED, DEMURRER(Under Code of Civil Procedure section 430.20) AND STRIKE TO AFFIRMATIVE DEFENSES for july 30 24 hearing): See Procedural History Of Affirmative Defenses: facts and details on S286892 pg 54, 5th district court established that respondent argument on initial motion to strike affirmative defense was based on 2 reasons -See on S286892 pg 54 , Rule 11 by its terms governs all pleadings, including affirmative defenses. Respondents have violated Rule 11 by filing their grossly inadequate "affirmative defenses." Indeed, Defendants made no attempt to meet minimal pleading requirements in connection with their "affirmative defenses." All "affirmative defenses" are devoid of any factual allegations. Instead, they simply parrot the words of the claimed defense. For example, in the " First Affirmative Defense" , " FAC fails to state a cause of action" Respondent's sole allegation is that "The FAC fails to state a cause of action upon which relief can be granted." The rest of the "affirmative defenses" suffer from the same defect. Defendants appear to believe that the mere incantation of words of a particular doctrine or principle is a substitute for their obligation to include a short and plain statement of the facts upon which affirmative defense is premised In Addition .Respondent made no attempt to meet minimal pleading requirements in connection with their statement that the Respondent "is a political subdivision of the state of California , organized under department of consumer affairs, which regulates the practice of dentistry through the power granted, and duties imposed , by the dental practice Act (Bus and Prof \$1600, et seq)." Instead, they simply made the statement devoid of any evidence and failed to fulfill their obligation to include a short and plain statement of the facts upon which the statement is premised. Therefore Statement is conclusory, insufficient, inadequate, defective and disputed. Respondents pleaded no specific facts whatsoever, and fall far short of the standard for pleadings in the Court.Statement is not based on "knowledge, information, and belief, formed after an inquiry reasonable under the circumstances," . (SeePetitioner response in verified FAC, evidence in all Attachments and Exhibits formally incorporated in Plaintiff's Initial COMPLAINT AND AMENDED COMPLAINT.

Petitioner/ Ophthalmology Patient, member of public and consumer argue that Tulare Court failed to strike defective statements from affirmative defensive answers to Appellant petition: Respondent made no attempt to meet minimal pleading requirements in connection with their statement that the " On August 2 2023, The Board adopted the proposed decision of administrative law judge sean Gevin as it is final decision and order in case number 440 2022 00 0217","Under the terms of final decision and order,Petitioner dental license would be revoked effective Oct 16 2023 unless petitioner completed a mental and physical exam", On Oct 13 2023 , the board notified Petitioner by the first class and certified mail that consistent with final decision and order dated Aug 2 2023, Petitioner dental license would be revoked effective Oct 1" Instead, they simply made the statement devoid of any evidence and failed to fulfill their obligation to include a short and plain statement of the facts upon which the statement is premised. Statement is conclusory, inaccurate, insufficient, inadequate, defective and disputed.Respondents' statement failed to raise the burden of producing sufficient (clear and convincing

or by a preponderance of the evidence.) evidence . Respondent bears the burden of raising and proving that the FAC fails to state a cause of action. Respondents pleaded no specific facts whatsoever, and fall far short of the standard for pleadings in the Court. Statement is not based on "knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, " . See Petitioner response in verified FAC, evidence in all Attachments and Exhibits formally incorporated in Plaintiff's Initial COMPLAINT AND AMENDED COMPLAINT. Court should strike defective statements from affirmative defensive answers to FAc petition.

1. Defendant First- Sixth AFFIRMATIVE DEFENSES were Insufficient and Defective: see specific facts S286892 pgs 55-57.: Heller Fin. v. Case: 1:13-cv-01569 , Midwhey Powder Co., Inc., 883 F.2d 1286, 1294 (7th Cir. 1989). Fifth Affirmative defense not based on "knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, " . Fifth , affirmative defense is clearly defective and the Court should demurrer it (Under Code of Civil Procedure section 430.20 . "a reasonable probability that the plaintiffs will prevail on the merits." (Robbins v. Superior Court (1985) 38 Cal.3d 199, 206 [211 Cal.Rptr. 398, 695 R2d 695]. Prejudicial miscarriage of justice and error will occur in this case if entire record is not examined to establish with reasonable probability that shows result favorable to the petitioner. Cassim v. Allstate Ins. Co. 8 (2004) 33 Cal.4th 780, 800 [16 Cal.Rptr.3d 374, 94 P.3d 513] College Hospital Inc. v. Superior Court (1994) 8 Cal.4th 704, 715 [34 Cal.Rptr.2d 898, 882 P.2d 894].) each individual case to determine whether prejudice actually occurred in light of the entire record." (Ibid.; see also Richards v. Owens-Illinois, Inc. (1997) 14 Cal.4th 985. Petitioner/patient/consumer/member of public case motion to strike affirmative defense must be heard with declaration , mop , notice and motion and any other supporting document available including Plaintiff response to defendant's opposition to petitioner motion to strike.. Here any error by court will also violate plaintiff rights under the federal Constitution which requires automatic reversal if it constitutes a structural defect in the trial. (Arizona v. Fulminante (1991) 499 U.S. 279, 310 [113 L.Ed.2d 302, 111 S.Ct. 1246, 1265].) Also reversal applies under California law when miscarriage of justice resulted. (See generally People v. Cahill (1993) 5 Cal.4th 478, 493-494 [20 Cal.Rptr.2d 582, 853 P.2d 1037]. People v. Ortiz (1978) Federal rules of civil procedure allows Tulare Superior Court to hear a motion to strike Rule 12(f) of the FRCP allows a party to request that the court strike part of the defendant. This motion to strike can even be raised by the court itself. Plaintiff has given a notice of motion to strike and motion must be heard with all the supporting documents filed in support including notice, motion, declaration and , demurrer . Defendant failed to specify or identify any deficiencies in factual and legal support or specify deficient legal authorities that petitioner failed to present in motion to strike instead made a generalized statement with no factual basis .

Petitioner/ Ophthalmology Patient, member of public and consumer argue that she Filed MOTION TO DISQUALIFY A JUDGE (Code Civ. Proc., § 170.6 and 170.1) scheduled For July 30, 2024: (Plaintiff would like to take a judicial notice pursuant to evidence code section 452 of FILED MOTION TO DISQUALIFY A JUDGE (Code Civ. Proc., § 170.6 and 170.1) scheduled For July 30, 2024) on following basis: Plaintiff would like a court to take a judicial notice pursuant to Section 452" of the case vcu303441 filing of declaration and exhibit on june 11 24 (which is an evidence that Entry of default entered dated 4/29/24 against Severo Raoul, Lawrence Larocca in the case vcu398300 Riaz vs DBCA by the Tulare superior court by the deputy clerk Jasmine Cisneros, Stephanie Cameron) where judge hillman is a named co conspirator against petitioner/ophthalmology patient and a witness in the case for many causes of actions . See specific facts on **S286892 brief pg 58.**

A: Petitioner/ Ophthalmology Patient, member of public and consumer argue that Judge hillman causing Extraordinary delay in Petition decision for no good cause and for a reason that judge hillman ipersonally, directly and indirectly involved in the controversy of plaintiff case: See specific facts S286892 writ pg 58.

B:Petitioner/ Ophthalmology Patient, member of public and consumer argue that On June 18 24 hearing,

Judge Hillman in error, abused authority and showed bias when during hearing insisted plaintiff to not include all the relevant documents(he specifically mentioned documents filed in April few times to not included) .filed for consideration to make a decision on this petition for a reason that judge hillman is personally, directly and indirectly involved in the controversy of plaintiff case.:Prejudicial miscarriage of justice and error will occur in this case if the entire record is not examined to establish with reasonable probability that shows result favorable to the petitioner.(Cassim v. Allstate Ins. Co. (2004) 33 Cal.4th 780, 800 [16 Cal.Rptr.3d 374, 94 P.3d 513] College Hospital Inc. v. Superior Court (1994) 8 Cal.4th 704, 715 [34 Cal.Rptr.2d 898, 882 P.2d 894].)

C:Petitioner/ Ophthalmology Patient, member of public and consumer argue that Judge Hillman failed to find facts in a transparent manner (for a reason that judge hillman is personally, directly and indirectly involved in the controversy of plaintiff case) in the case vcu303441 that Petitioner requested on May 3 24 a request for discovery of documents from defendant as well serve subpoena on may 3 24 .Judge Hillman failed to find facts that Petitioner again served subpoena thru third party by mail (june 1 24) as well thru e service to produce requested document dated by june 17 24.(Plaintiff would like court to take judicial notice of Declaration In Support OF A) Motion To Strike Affirmative defense scheduled for June 18 24 B) Regarding Meet and Confer regarding lodging the Administrative Record,C Discovery request and Extraordinary delay in writ decision for no good cause).

D:Petitioner/ Ophthalmology Patient, member of public and consumer argue that Judge Hillman is in error, abused authority and showed bias toward plaintiff when based on May 22 24 hearing in the case vcu303441 issued a Generalized order ONLY that plaintiff (and not defendant) need to SERVE the office of administrative hearing: See specific facts on S286892 brief pg 59.

E: Petitioner/ Ophthalmology Patient, member of public and consumer argue that Judge Hillman showed pattern in many cases (aswell as specifically in this case vcu303441) of plaintiff of issuing a ruling solely by parroting defendant argument . concealing actual facts and erroneous fact finding specifically towards facts presented by the plaintiff which indicate pattern of error is not just a mistake but deliberate bias toward petitioner for a reason that judge hillman is personally, directly and indirectly involved in the controversy of plaintiff case: See section 1,2 See specific facts on S286892 brief Pgs 59-61

Petitioner/ Ophthalmology Patient, member of public and consumer presented Facts from June 18 24 erroneous ruling on Motion to compel vcu303441 and role of judge hillman in obstruction of discovery (18 U.S. Code Chapter 73), for a reason that judge hillman is personally, directly and indirectly involved in the controversy of plaintiff case: Judge Hillman is biased , in error and abuses authority when denied "Motion to Compel Production of Records." without providing any legal basis and involved himself in obstruction of the discovery process. (take judicial notice pursuant to evidence code section 452 of Minute order issued on june 18 24 on 1) Plaintiff Motion Compel Production of Records And 2) Case Management Conference) as defendant fails to provide response and documents as requested and attempted to conceal facts and circumstances that are discoverable as they are not privileged(plaintiff subpoena specifies to redact any personal information) and relevant to the subject matter involved in the pending action . The document requested itself is admissible evidence and it appears reasonably calculated to lead to the discovery of admissible evidence (Pacific Tel. & Tel. Co. v. Superior Court, 2 Cal.3d 161, 172-173 (1970); Code of Civil Procedure §2017.010)such as discriminatory and retaliatory practices and policy of consumer board and dental board toward women, religious minority, court witness and colored individual or patients/consumer/member of public who brought complaint against white license holders. **Facts of this petition, evidence and supporting documents attached to this case petition confirms that one of the reason DBCA brough compelling mental examination on brown patient/ member of public and consumer was that brown patient/consumer/member of public filed grievances of discrimination (refuse of medical aid after eye injury) based on her skin color by the the**

consumer(medical) board license holder white ophthalmologist. Defendant did not file a motion to quash the subpoena either and objections made were generalized and insufficient under California Code of Civil Procedure Section 2031.210. On June 18 24 Petitioner Samreen Riaz provides comments to the judge Hillman that he should have recused himself from this case and he is causing extraordinary delay in the expediting process and obstructing discovery process by not compel production of documents when respondent objected to the court issued subpoena . (**Herbert v. Lando (1979): The Supreme Court acknowledged that discovery can be exploited to the disadvantage of justice**). Plaintiff made comments to judge hillman that the defendant objected to the court order subpoena and multipole discovery request and therefore only option left for plaintiff to file motion to compel production of document. Plaintiff further made comment to judge hillman(after judge hillman mentioned he will deny motion to compel)that it is apparent judge hillman is not not interested in any discovery process . ."Court notes that the records filed within this case have been deemed Administrative Record." (take judicial notice pursuant to evidence code section 452 of Minute order issued on june 18 24 on 1) Plaintiff Motion Hearing – Compe Production of Records And 2) and limited record without discovery is based on judge hillman action of obstruction of discovery process, not sanctioning defendant for defying subpoena or compel Production of Records. Plaintiff is going through whistleblower retaliation and obstruction in discovery caused further harm to plaintiff. . judge Hillman is co-conspirator(conflict of interest and violation of due process) against petitioner in petitioner relevant court case see complaint vcu 298300 pg 49,paragraph 362 and pg 48.

Appellant raised claims regarding judicial disqualification rulings based on her due process rights violation :
See specific facts on S286892 brief Pgs 62-63. Judge Hillman is named as co conspirator and named witness in that case and personally involved in the controversy of the case (based on Code of Civil Procedure § 170.1- § 170.5). Therefore in this case an error of not recusal affects the substantial rights of the appellant (See Chapman v. California (1967) 386 U.S. 18, 23, fn. 8. [evidence of a partial judge is structural error].), the integrity of the judiciary and it would be a miscarriage of justice to not allow reversal of erroneous rulings under judge hillman . Above facts established that Appellant met standard to show that judge hillman and defendant are fully aware of the facts that lead to the appearance of bias (See Scott, supra, 15 Cal.4th at pp. 1205-1208). Judge hillman violated Code 127 of Civil Procedure section 170.1, subdivision (a)(6)(iii)" the trial court judge must recuse themselves if "A person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial." There could be no reasonable tactical justification for the failure to recusal because there could be no conceivable downside on recusal However judge hillman not only chose to preside in the case where his personal interest was involved and the record suggest the judge based his decision not based on evidence and facts of the case presented during proceeding but to protect his personal interest and Judge hillman bias violated plaintiff due process right An appellate claim of judicial bias is grounded in the argument that the appellant was denied the constitutional due process rights to an impartial judge and a fair trial. (See e.g., People v. Cowan (2010) 50 Cal.4th 401, 402 a fair trial in a fair tribunal is a basic requirement of due process and a appellant has due process rights under both the state and federal constitutions to be tried by an impartial judge, Accordingly, an appellate court applies the independent standard of review. (People v. Cromer (2001) 24 Cal.4th 889, 901.) Whether or not judicial misconduct has occurred is evaluated on a case-by-case basis Based on an objective assessment of the circumstances in this case the probability of actual bias on the part of the judge, Hillman, is too high to be constitutionally tolerable. The "extreme facts" in this case support due process error such as presiding in case where personal interest of judge hillman involved, false and biased fact finding to protect judge hillman personal interest, obstructing discovery process for a reason that he is personally, directly and indirectly involved in the controversy of plaintiff case and erroneous rulings based on false fact finding for a reason he has personal interest involved in the controversy of this case .Appelnat complaint to judicial council. Which were presented as exhibit/ evidence with motion disqualifying established plaintiff had concern relating to her **broad rights under Fourteenth Amendment** under judge hillman which were violated due to presiding judge hillman in this case. Plaintiff was denied due process and equal protection under law under **article 1 section 7** as pertains to the Declaration of Rights in California. **Plaintiff's state and federal due process challenge is on the grounds that Judge Hillman's**

impartiality violated both the due process right to an impartial decision maker as well as the right to a fair trial. (See Freeman, supra, 47 Cal.4th at p. 1006.) A reasonable person answer the question in affirmative that under a realistic appraisal of psychological tendencies and human weakness due to judge hillman personal interest involved in the case and know about judicial commission complaint (Exhibit filed with motion to disqualify 6 25 24 that includes Reported incidence to judicial commission regarding judge hillman misconducts, involvement in obstructing trial, and pattern of discrediting court witness to take away chance of witness to testify)filed by plaintiff there was a reasonable risk of actual bias of judge hillman toward plaintiff existed that can prevent guarantee of due process to appellant by judge hillman(Caperton, supra, 556 U.S. at p. 870.) .Appellate case constituted such a scenario looking over all circumstances and relationships of judge hillman in this case) must be considered.that allow court to hold that a judge hillman violated the appellant due process rights by not recusing himself. .However despite the above risk of bias, prejudice and risk of violating due process , Judge Hillman put his personal interest over plaintiff due process right and presided over the case in which his personal interest vested."type of facts that it would consider "extreme" and demonstrative of "actual bias." (See Hernandez v. Paicius, supra, 109) Plaintiff also got prejudice due to judge hillman failure to recusal as Trial court standard on the request for recusal is more favorable standard for recusal under Code of Civil Procedure Section 170.1 (low burden) on plaintiff, Under Code of Civil Procedure section 170.1, subdivision (a)(6)(iii), the trial court judge must recuse themselves if "A person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial."however appellant was precluded to attain favorable standard for recusal under Code of Civil Procedure Section 170.1 at trial level due to judge hillman , error, abuse of authority in failure to recuse from the case and left appellant in position to overcome higher standard for recusal on appeal that is significantly more burdensome specifically in plaintiff case as on appeal now appellant has no attorney(6 of plaintiff attorneys who were relieved by judge hillman) was in agreement to litigate on trial level. Argument based public policy: In appellate case court cannot consider points by simply stating points not raised at trial(although all objections made at trial level where judge hillman failed to recuse) However for the sake of argument this case involves "[a] matter involving the public interest or the due administration of justice." (9 Witkin, Cal. Procedure (3d ed. 128 1985) Appeal, § 315, p. 326.) such as appellant is 0.2 percent muslim minority who was targeted with whistleblower retaliation with specific goal to violate her due process by stay of trial conspiracy and discrediting court witness in osha, hippa, public safety and public funds corruption matters.The issue of judicial religious bias and whistleblower retaliation in public safety matter obviously involves both a public interest and the due administration of justice. (Catchpole v. Brannon, supra, 36 Cal.App.4th at p. 244.) Reminding the court that concerns are more than the instant Appellate rights and public confidence in the judiciary are at stake.: Judicial disqualification statutes are "not solely concerned with the rights of the parties before the court but [are] also 'intended to ensure public confidence in the judiciary.' (Freeman, supra, 47 Cal.4th at pp. 1000-1001, citing Curle v. Superior Court (2001) 24 Cal.4th 1057, 1070.) To that end, the appellate courts should reach the merits of a claim of judicial bias in order to promote confidence in the judiciary for the public at large.

VERIFICATION:

I am Petitioner Samreen Riaz in this case. I have read the above declaration filed with the opening Petition and know its contents. The facts alleged in the Declaration are within my own knowledge, and I know these facts to be true. I declare under penalty of perjury that the foregoing is true and correct and that This verification was executed on the 15 day of Dec 2024

in Visalia, California.

Samreen Riaz: Dated: Dec 15th 24

Conclusion

Plaintiff prayer for relief:

Therefore Appeal court should Direct the Dental Board Of California,Department of Consumer Affair, and Administrative Court to reverse all the erroneous and abuse of discretion rulings and

. Vacate the denying writ mandate order given on Aug 20 24 by the Tulare superior Court and To Vacate the Order Denying Order on reconsideration Petition issue on 21st day of August 23 based on Petition reconsideration Aug 16 2023.

.To Vacate the order Decision And Order(dated August 2nd 23) by ALan Felsenfeld.

.To Vacate the order Proposed Decision and Order (dated June 20th 2023) by Sean Gevin Administrative Judge based on Accusation that were brought on Aug 17 22.

. To Vacate the Order compelling mental and physical examination(bus and prof code S820) on 06/24/22. E. To vacate "Notice of revocation due to non compliance with the evaluation" on Oct 13 23 while pending WRIT OF MANDATE(1084-1097) **((ORDER -F086809))** between Sept 7 23- Oct 26 23 at the 5th District Court which got denied .

.Reverse S286892 ruling given on nov 20 24.

.Reinforce Petitioner/ophthalmology patient, consumer member of public Dental License .

.Compel Discovery from defendant.

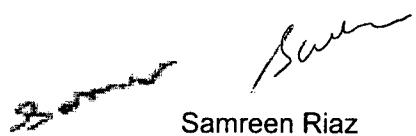
.Disqualify judge hillman.

.Compensate **(see Boom Co. v. Patterson (1879)-Eminent domain)**Petitioner/ophthalmology patient, consumer member of the public for her loss or deprivation of money or property or for economic injury **(Kwikset Corp. v. Superior Court (2011) 51 Cal.4th 310, 322.)**.

. Provide injunctive relief to Petitioner and compel the Dental Board Of California,Department of Consumer Affair, and Administrative Court and DOJ department to investigate and press charges to Complainant and co conspirator based on crime associated with conspiracy, Privacy right violation, hipaa violation and retaliation toward Petitioner/member of public/consumer/p

CERTIFICATE OF COMPLIANCE:

This petition complies with the California rules of the court. The petitioner hereby certifies that this brief contains less than 23 179 words, as using Microsoft Word program, Excluding tables, Cover page, table of content, Certificate of compliance, Verification and Proof of Service or or less than 40 pages



Samreen Riaz

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