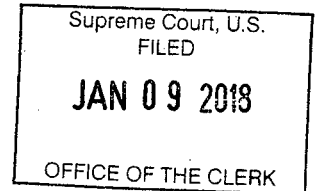


IN THE SUPREME COURT OF THE UNITED STATES



No. _____

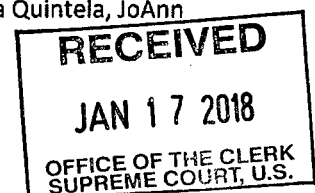
MARIE L. HENRY, PETITIONER
v.
THE FLORIDA BAR, ET AL., RESPONDENTS

APPLICATION FOR AN EXTENSION OF TIME WITHIN
WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

To the Honorable Clarence Thomas, Marie Henry, appearing in pro per, respectfully requests a 60-day extension of time, to and including March 14, 2018, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case. The list of individual/entities having an interest in this litigation.¹

The court of appeals entered its judgment on July 14, 2017 and denied rehearing *en banc* on October 16, 2017. The mandate was issued on October 25, 2017 adjudging and decreeing the Order of the Court. Unless extended, the time within which to file a petition for a writ of certiorari will expire on January 14, 2018. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1). A copy of the opinion of the court of appeals is attached. The order of the court of appeals denying rehearing *en banc*, will be supplemented as Henry do not have a

¹ Hon. Julie E. Carnes, Florida Bar, Florida Supreme Court, Greenberg Traurig, P.A., Hon. Frank M. Hall, M. Hope Keating, John Harkness, Jr., Marie Henry, Hon. Carlos E. Mendoza, Michael H. Moody, Adria Quintela, JoAnn Stalcup (deceased), Jan Wichrowski.



copy and is unable to obtain a copy due to printing and internet issues. The following grounds are offered in support of the requested extension of time and for a hearing regarding Henry's membership status before this Court:

1. The undersigned could not file the request for extension time at least 10 days before January 14, 2018 because since December 13, 2017, she has been visiting a sick parent who resides in St. Croix, USVI. Furthermore, the island was devastated by two Category 5 hurricanes (Irma and Maria). Due to the severity of the disaster, Henry's access to phones, internet, fax or printing is restricted.

2. Before leaving the U.S. mainland Henry exhausted considerable time and effort, without success, toward finding a Supreme Court barred attorney willing to accept her case *pro bono*.

3. Henry has also been overwhelmed with financial difficulties and medical issues flowing from the instant case. She is also facing considerable financial difficulties with the Internal Revenue Service since she depleted her retirement accounts to support herself, family and to pay legal fees after she was fired from her corporate position of Staff Counsel, and forced to shutter her practice, Law Office of M.L. Henry, LLC because of the actions of the Florida Bar.

4. This is a case of exceptional importance, both personally and professionally to Henry that it warrants a Petition for Certiorari. The length and content of Henry's request for extension of time is necessary so the Court is fully apprised that the deprivation of Henry's clearly established legal rights

are serious, ongoing and impact the status of her memberships before this Court and the Middle District Federal Court, Florida.

5. Henry is a member of this Court. In accordance with this Court's Rule 8, Disbarment and Disciplinary Action, the Eleventh Circuit Court of Appeals declination of jurisdiction in affirming the dismissal of Henry's civil rights complaint and denial of declaratory/injunctive relief impact her membership status in this Court. The Eleventh Circuit Opinion basically leaves Henry with a void judgment. And indeed, the case presents important issues regarding the parameters set forth in this Court's Rule 10(c). The United States Court of Appeal, Eleventh Circuit, has decided an important question of federal law that has not been, but should be, settled by this Court. And has decided an important federal question in a way that conflicts with relevant decisions of this Court.

6. In *Lathrop v. Donahue*, 367 US 820 (1961), this Court rejected a constitutional attack of mandatory membership in state bar associations. However, the free speech and free association arguments advanced in *Lathrop* were not rejected by the prevailing opinion. The Court merely found that more facts were needed for them to be considered. This case presents important facts regarding why this Court should reconsider the constitutionality of mandatory membership in state bar associations, include:

1. Whether an Art. III court denies justice, as a matter of law, when the trial judge is a compulsory member of the Florida Bar, and makes personal remarks against a Plaintiff's interest in his Order

denying rehearing from the dismissal of her complaint against the Florida Bar;

2. When a Plaintiff assert factually based allegations of illegality, absence of jurisdiction, and unconstitutionality as a bar to a state bar disciplinary prosecution, may an Art. III court decline to exercise its jurisdiction without a finding of facts, application of the facts to the law, discovery or a hearing;
3. In light of this Court's decision in *State Bd. of Dental Examiners v. FTC*, 135 S. Ct. 1101 (U.S. 2015), whether the Florida Bar, governing structure where private attorneys are vested with state authority to regulate the profession they control and without active supervision by a politically accountable state official, may claim sovereign immunity from suit under the Eleventh Amendment; and
4. Whether an Art. III Circuit Court of Appeal transgresses the law when it establishes as the Circuit law that all actions of the Florida Bar are "judicial acts" subject to absolute judicial immunity, without applying the factors relevant to determining whether a given act is judicial, as enunciated by this Court in *Stump v. Sparkman*, 435 U. S. 349, 362 (1978). And where the plain language of F.S. § 454 *et seq.* (Regulation of Professions – Attorney at Law); the Rules Regulating Fla. Bar; and decisions of Florida Appellate Courts interpret the jurisdiction of Art. V § 15 Fla. Const. to be prosecutorial.

7. Federal and state law demonstrate a concern for the legal and political divisiveness that are the hallmark of integrated state bar associations. Unsupervised Boards govern the profession they regulate with pecuniary and other self-interest. F.S. § 454.11 specifically proscribe the filing of disciplinary charges against an attorney *for reasons that violate the Constitution or State Law*. And more than 50 years ago, this Court's decisional law interpreted the First Amend. U.S. Const. to hold that a state bar cannot, under the guise of attorney discipline, punish a member for exercising constitutional rights.²

² Lawyers, like any other party, have an absolute right to unfettered speech and the right to access

Similarly, in *Florida Bar re Schwarz*, 526 So. 2d 56 (Fla 1988), the Florida Supreme Court ("FSC") recognized the danger of compelled association and pertinently said: "*To practice law in the courts of Florida we require that all lawyers be members of The Florida Bar. Exception can be made for a particular case, but, for the day-by-day practice, there is no exception — membership in The Florida Bar is compelled. This compelled membership should limit the activities of The Florida Bar to the stated purposes.*"³

8. The legitimate state interest underlying licensing statutes and the regulation of the professional practice of law is the protection of the public. Henry and M.E. are members of the public that the Rules Regulating the Florida Bar failed to protect. In *Middlesex County Ethics Comm. v. Garden State Bar Assn.*, 457 US 423, 432 (1982), this Court recognized that attorney discipline is an important state interest which bears a close relationship to State proceedings that are criminal in nature.

the court to vindicate grievances. If an attorney's activity or speech is protected by the First Amendment, disciplinary rules governing the legal profession cannot punish the attorney's conduct. See for example *NAACP v. Button*, 371 U.S. 415 (1963) *In re Primus*, 436 U.S. 412, 432-433, (1978); *Bates v. State Bar of Arizona*, 433 U.S. 350, 355, 365, 384, (1977); *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1054, (1991) (Kennedy, J., dissenting in part).

³ In Re Amendment to Integration Rule of The Florida Bar, 439 So.2d 213, 213 (Fla.1983), the court said the purpose of the bar is: "'[t]o inculcate in its members the principles of duty and service to the public, to improve the administration of justice, and to advance the science of jurisprudence.'" Id. (quoting Fla. Bar Integr. Rule, Preamble). See also Rule Regulating Fla. Bar 1-2. In two foot-notes the FSC discussed the divisiveness of compelled membership saying: "Two courts have recently found compulsory bar membership unconstitutional. *Schneider v. Colegio de Abogados*, 682 F. Supp. 674 (D.Puerto Rico 1988) (failure to protect dissenters' rights makes compelled membership in bar association unconstitutional); *Levine v. Supreme Court*, 679 F. Supp. 1478 (W.D.Wis. 1988) (mandatory bar membership is a constitutionally impermissible burden on an individual's rights of association and speech.

9. The Florida Bar exercises executive-legislative-judicial power. As such, individuals charged with violating the Rules Regulating the Florida Bar or the unlicensed practice of law, face a tribunal that makes its' own rules, enforces its' own rules then permit self-interested members to sit in adjudication of its' own rules. This Court in *Caperton v. AT Massey Coal Co., Inc.*, 129 S.Ct. 2252, 2254 (2009), said that it is unconstitutionally intolerable when a judge has a direct, personal, substantial, pecuniary interest in the outcome of a case, explicitly finding that: "*no man can be a judge in his own case.*" (i and "*no man is permitted to try cases where he has an interest in the outcome.*" Id. 2255.

10. The governing body of the Bar is its 52-member Board of Governors. The officers of the Florida Bar shall be a president, a president-elect, and an executive director. The executive director is chosen by the board of governors and perform all duties usually required of a secretary and a treasurer, serve as publisher of the Florida Bar Journal and the Florida Bar News and as director of public relations. The board shall fix the executive director's salary and other benefits and emoluments of office. (Rule Regulating Fla. Bar 1-5.1, 1-7.2, 2-4.3).

11. The Board of Governor is comprised of private lawyers who are elected by members of Florida Bar who are in "good standing." The Board has exclusive authority to formulate and adopt matters of policy concerning the activities of the Bar, subject only to limitations imposed by the Rules Regulating the Florida Bar. The Bar receives no state funds. Its operations are funded by member fees and other non-fees services such as sales of Continuing Legal Education, sale of

advertising space in the Florida Bar Journal and News, rental of exhibit space and through the FSC orders directing disciplined lawyers to pay prosecution costs.

12. The FSC discretionary authority as a State court derives from Art. V. § 3 Fla. Const. Therefore, the FSC cannot act under its discretionary judicial authority of a State court in supervising the Florida Bar or in reviewing its recommendations to discipline or expel its members. The FSC authority to approve, disapprove, or alter the recommended discipline made by the Florida Bar Board of Governor derives from its rulemaking authority (the FSC Integration Rule as carried forward in Art. V § 15 Fla. Const.). Furthermore, Rule Regulating Fla. Bar (3-2.1(q) indicate that decisions of a disciplinary authority arising under Art V § 15 Fla. Const., are non-judicial. The Rule defines a “Final Adjudication” as: *“A decision by the authorized disciplinary authority or court issuing a sanction for professional misconduct that is not subject to judicial review except on direct appeal to the Supreme Court of the United States.”*⁴

13. Art V, § 4(b)(1) Fla. Const. guarantees an appeal, as a matter of right. And Art. I § 21 Fla. Const. not only guarantee access to the courts but to justice as a matter of right. This Court’s Rule 10, Part III (Jurisdiction on Writ of Certiorari), clearly establishes that Henry has no direct right of appeal to the United States Supreme Court. The Rule pertinently states: *“Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be*

⁴ Henry was entitled to an appeal as a “matter of right” to determine whether or not the decision below: 1) afforded procedural due process; 2) observed the essential requirements of law; and 3) is supported by competent substantial evidence. See *City of Deerfield Beach v. Vaillant*, 419 So. 2d 624 (Fla. 1982).

granted only for compelling reasons." As such, the Final Adjudication of the FSC Order suspending Henry from the practice of law, pursuant to its jurisdiction under Art. V § 15 Fla. Const. is unconstitutional and denied Henry equal protection in violation of the Fourteenth Amend. U.S. Const.

14. In *Dacey v. Florida Bar, Inc.*, 414 F.2d 195, 198 (5th. Cir., 1969) the court cited language from *Petition of Florida State Bar Ass'n, Fla.*, 40 So. 2d 902, 907 (1949), and said: "*the law practice is intimately connected with the exercise of judicial power in the administration of justice*", *that it is reasonable for Florida to treat it differently from other professions.*" As such, the FSC integration of the Florida Bar placed Henry in a class of citizens who are denied the equal protection of law, guaranteed by the Fourteenth Amend. U.S. Const. Unlike Henry, a Florida licensed Doctor, Dentist, Teacher or other licensed professional, faced with disciplinary charges that affect his/her property interest in a professional license and liberty interest in his/her good name, has a right to a trial before an independent, neutral arbiter, and is entitled to a judicial appeal as a matter of right.

15. Rule Regulating Fla. Bar 3-5.1(e), specifically provides that "[d]uring ... *suspension the respondent shall continue to be a member of The Florida Bar but without the privilege of practicing.*" And F.S. § 454.31 (practice while suspended or disbarred) establish that compulsory membership in the Florida Bar merely forces a class of citizens to associate with each other for the payment of compulsory membership dues. This compulsory association has nothing to do with the "practice

of law.” The facts in the instant case is emblematic of inherent conflicts of interest and broad abuse of powers that control the economic livelihood of disfavored members and control the political views of dissenters.

16. As a result of her compulsory association with the Florida Bar, Henry has been denied the opportunity to practice law not only in the State of Florida but in every other jurisdiction in the United States. She has no avenue to resign or disassociate herself from the Florida Bar. Instead, she is still required to financially support the Florida Bar in the form of full payment of annual dues, and fulfill Continuing Legal requirements set by the Florida Bar but denied the opportunity to practice her profession. She is also banned from voting in the elections that elect the members who govern the Bar. She is not even permitted to sit for the Bar Exam in another jurisdiction. In *Supreme Court of NH v. Piper*, 470 US 274, 281 (1985), this Court observed that the opportunity to practice law is a fundamental right guaranteed by the Privileges and Immunities Clause of the United States Constitution, Art. IV, § 2.

17. Henry’s federal complaint filed in this cause plead facts demonstrating that against a back-drop of compelled association, the Florida Bar filed a two-count Complaint and asserted eight (8) specifications of professional misconduct charges against Henry’s penal interest without jurisdiction and without probable cause. In *J.R. v. State*, 99 So.3d 427, 430 (Fla., 2012) the FSC said: “*The constitutional guarantee of due process requires that all essential elements of an offense must be proved by the prosecution beyond a reasonable doubt.*”). An essential element of the

charges leveled against Henry requires an Attorney-Client relationship engaged in the professional “practice of law.” No such element is established in the record of proceedings against Henry.

18. The Florida Bar charges filed against Henry to deprive her of the property interest in her license and liberty interest in her good name emanated from the following factual allegations made in her federal civil rights complaint:

1. On February 23, 2012 after a telephone consultation with William Wilhelm, Florida Bar Attorney/Consumer Assistance Program (ACAP)⁵ Henry acting in her capacity as Parent, private citizen, and complaining victim filed an Ethics complaint against Assistant State Attorney, John Carnahan for malfeasance, misfeasance, and the racially charged prosecution initiated against Henry and her child after the speedy trial time-frame expired;
2. A motion for disqualification that Henry filed on March 8, 2012 and refiled on May 22, 2012 pursuant to F.S. § 38.10 to disqualify Circuit Judge Michael Takac. Henry exercised fundamental rights as a private citizen and aggrieved consumer to disqualify the judge from presiding in a predatory lending suit Henry filed in *pro per* on August 4, 2009 against her Mortgage company, Bank of America, *et al* seeking a rescission of her mortgage contract and other damages;
3. A citizen’s complaint that Henry filed against Officers Brett Livingston and Iverlisse Severance, Mount Dora Police Department on behalf of herself and her then 13-year old daughter, (“ M.E”);
4. A letter written by the President of the Mount Dora Historical Society, Andrew Mullins, to the Chief of Police referring to minority kids, including M.E. as “hoodlums” and “miscreants.”

⁵ According to the Florida Bar official website found at <https://www.floridabar.org/public/acap/> (last visited 1/3/2017) ACAP purpose is: “ For individuals who are unsure if a lawyer has acted ethically or who are dissatisfied and wish to consider whether filing a complaint may be appropriate, The Florida Bar operates the Attorney Consumer Assistance Program (ACAP). ACAP staff, including attorneys, handle complaints and may be able to resolve problems before a complaint is filed. The ACAP telephone number is toll-free: 1-866-352-0707.”

5. A federal lawsuit (5:13-cv-00528-JSM-PRL Henry v. City of Mount Dora *et al*) that Attorney Frank Allen filed on behalf of Henry's minor child, M.E. in the Middle District Court of Florida.
6. A letter that Henry wrote to the Executive Director John Harkness Jr., and the Florida Bar President, Eugene Pettis dated December 30, 2013 setting forth a formal complaint of harassment, retaliation, intimidation, intentional violation of rights and malicious prosecution. Pertinently, in a letter dated February 27, 2014, the Florida Bar Counsel, JoAnn Stalcup, wrote to Henry's attorney and said: "*the Bar anticipates presenting correspondence with accompanying attachments, Ms. Henry wrote, dated December 30, 2013 to Mr. Eugene K. Pettis, President of the Florida and Mr. John Harkness, Jr. Executive Director of the Florida Bar.*"

19. As discussed at ¶18(2), the Florida Bar filed Count I [TFB File 2013-30,074 (18A)] because a Florida Bar member who is also Circuit Judge, Michael Takac, issued a 7-page Order on June 19, 2012 in response to Henry's motion to disqualify him from presiding in a civil lawsuit in which she appeared in *pro per*. The Order found Henry's motion(s) "*legally insufficient*" and the judge disqualified himself on June 19, 2012. On June 25, 2012, the judge sent the 7-page Order with a cover letter to Jan Wichrowski, Chief Branch Discipline Counsel Florida Bar, and ordered professional sanctions against Henry's law license.

20. The judge's cover letter and Order took issue with the fact that Henry used the legal term "*racial-animus*" in her motion. And he accused Henry of "*lying by omission*" because she did not put the date she filed the initial motion to disqualify him in a replacement motion she filed in order to effect personal service. "And he adjudicated that Henry's failing to immediately serve a copy of the motion to his chambers constituted "*legal insufficiency*" of the motion. The extra-judicial conduct and misrepresentations of the law were communicated on judicial

letterhead and in violation of Henry's clearly established Constitutional rights. And violate the statutory law and judicial canons promulgated by the state of Florida.

21. The FSC binding legal authority recognizes that F.S. § 38.10 is a substantive right. In *Bundy v. Rudd*, 366 So.2d 440, 443-442 (Fla. 1978), the court held that: “[w]hether a judge ruled correctly in denying a motion for disqualification as legally insufficient, s/he shall not pass on the truth of facts alleged nor adjudicate the question of disqualification....to do so creates an intolerable adversary atmosphere between the trial judge and the litigant.”

22. Count I charged Henry with: 4-3.3(a) (*knowingly make false statement of fact or law to a tribunal/fail to correct a false statements of material fact or law previously made to the tribunal or fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer...*); 4-8.4(c) (*A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation*); 4-8.4(d) (*A lawyer shall not engage in conduct prejudicial to the administration of justice*); 4-3.1. (*A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous*). The Referee found that the Florida Bar proved by clear and convincing evidence that rules 4-3.3(a), 4-8.4(c), and 4-8.4(d) were violated. And failed to prove by clear and convincing evidence that rule 4-3.1 was violated.

23. Count II [TFB File No. 2012-31,557 (18A)] emanated from the Ethics complaint, discussed *supra* at ¶18(1). The Florida Bar made accusations that Henry

disparaged Mr. Carnahan by accusing him of racial animus in the prosecution of her minor daughter, M.E. Count II also emanated from the citizen's complaint discussed in ¶18(3), *supra*. The Florida Bar obtained a copy of the citizen's complaint along with emails from Mount Dora police officers and used these as evidence of professional misconduct that Henry accused the police of "racial profiling." Also, Count II concerned a letter written by Andrew Mullen, President of the Mount Dora Historical Society to the Mount Dora Police Chief. The letter referred to a group of minority children, including M.E. as "hoodlums" and "miscreants." Officer Livingston received a commendation as a result of Mr. Mullen's letter. Henry criticized the content of Mr. Mullen's letter including the veracity of his statements and the use of racial stereotypes. She also questioned why Mr. Carnahan had a copy of the letter as evidence in M.E.'s prosecution. The Florida Bar obtained a copy of Mr. Mullen's letter and used it as evidence of Henry's professional misconduct in a trial spanning two-days. The Florida Bar threatened sanctions (orally/writing) and convicted Henry of "*complaining of racial animus*."

24. The Florida Bar charged Count II as follows: 4-3.3(a), (*knowingly make false statement of fact or law to a tribunal/fail to correct a false statements of material fact or law previously made to the tribunal or fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer...*); 4-8.4(c) (*A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation*); 4-8.4(d) (*A lawyer shall not engage in conduct prejudicial to the administration of justice*); 4-3.5 (*a lawyer disrupting a tribunal*); 4-3.5 A lawyer

shall not engage in conduct intended to disrupt a tribunal. *The Referee found that the Florida Bar* proved by clear and convincing evidence that rules 4-3.3(a), 4-8.4(c), and 4-8.4(d) were violated. And failed to prove by clear and convincing evidence that rule 4-3.5 was violated.

25. The formal complaint was approved by the FSC. The Chief Justice assigned County Judge, Hon. Thomas Jaworski, Eight Judicial Circuit as the Referee in Henry's alleged misconduct. Judge Jaworski is a member of the Florida Bar.

26. Rule Regulating Fla. Bar 3-7.6(d) mandate that a disciplinary proceeding trial must be conducted "in the county in which an alleged offense occurred or in the county where the respondent resides or practices law or last practiced law in Florida." Henry formed no relevant contacts with Alachua County.

27. Rule Regulating Fla. Bar 3-7.11(d), requires a subpoena be served on Henry in accordance with Florida law. A subpoena was not served.

28. During Henry's trial on November 12-13, 2013, the Florida Bar Counsel presented the Referee with a copy of the federal civil rights lawsuit (5:13-cv-00528-JSM-PRL *Henry v. City of Mount Dora et al*) filed by, Attorney Frank Allen, for Henry's minor child M.E. The lawsuit was tendered in evidence of Henry's alleged professional misconduct.

29. On March 17, 2014, during the sentencing phase of the Florida Bar's trial affecting Henry's penal interests, the Referee said on the record, that M.E.'s case, was "*res judicata*."

30. On March 31, 2015, the same day Henry filed a notice of appeal in M.E.'s case, the FSC adopted the 29 Page Report of Referee and suspended Henry's license to practice law. F.S. § 454.31 provides that practice while suspended or disbarred is a 3rd degree felony, punishable by up to 5 years in prison. The Florida Bar enforces F.S. § 454.31. The suspension of Henry's law license on the same day she filed a notice of appeal in a federal lawsuit on behalf of M.E., interfered with M.E.'s rights to access the court and established that if Henry proceeded to represent M.E. she could be charged with a 3rd degree felony.

31. The FSC cursory, conclusory, unelaborated suspension order doubled the recommended sanctions of 91 days to 6 months with conditions that Henry must have a mental fitness evaluation with Florida Lawyer's Assistance Inc. ("FLA")⁶ and follow any treatment recommendations made by FLA before she can regain her license. (*Fla. Bar v. Henry*, 168 So.3d 230 (Fla. 2015)). Henry is also required to petition the FSC for reinstatement; pay more

⁶ According to published sources, Florida Lawyer's Assistance Inc. ("FLA") (FEIN 59-2642210) is the brain-child of the Florida Bar Executive Director, John Harkness, Jr. FLA Facebook page found at https://www.facebook.com/pg/fla.lap1/about/?ref=page_internal (last visited 1/8/2018) state: "The program created in 1986 pursuant to a mandate from the Florida Supreme Court to assist lawyers, judges, and law students dealing with **substance abuse and mental health issues**. The services are free and completely confidential. Anonymity of participants is protected by both Florida law and Florida Bar rules." According to <http://www.nonprofitfacts.com/FL/Florida-Lawyers-Assistance-Inc.html> FLA has assets of \$256,879.00 and Form 990 Revenue of \$718,313.00.

than \$6,100.00 in prosecution fees; and demonstrate that she has been rehabilitated.⁷

32. At a sanctions hearing held on March 17, 2014, the Florida Bar Counsel, introduced the letter discussed in ¶17(6) *supra*. The twenty-nine (29) page Report of Referee which followed on April 30, 2014 included the December 30, 2013 letter as evidence in “aggravation” of Henry’s professional misconduct requiring a rehabilitation suspension.

33. For the foregoing reasons, on June 19, 2015, Henry filed a Verified in *pro per* complaint, in the United States District Court for the Middle District of Florida, invoking the Court’s federal question jurisdiction under U.S.C Title 28 §§1331 and 1343 for violations of 42 U.S.C. §§ 1983, 1985, 1986 asserting violations of rights secured by the First, Fourth, Fifth and Fourteenth Amendments U.S. Const. And asserting, *inter alia*, that all of the defendants, acting individually or in concert and in a complete absence of any jurisdiction, deprived her of rights guaranteed her under the Federal and state Constitutions. The complaint included violations of equal protection, due process, freedom of speech, freedom of association, access to the courts, and privacy.

34. By Order dated August 26, 2015, Judge Mendoza dismissed Henry’s complaint and motions for injunctive/declaratory relief and called the complaint a shot-gun pleading.

⁷ For bar fitness purposes, rehabilitation is the reestablishment of the reputation of a person by his or her restoration to a useful and constructive place in society. See Webster’s Third International Dictionary (Unabridged) (1967). IN RE CASON. 249 Ga. 806, 808 (GA 1982).

35. Henry filed an amended complaint on September 10, 2015. She also filed a motion for emergency injunctive relief and declaratory relief on September 24, 2015. The amended complaint invoked the court's federal question jurisdiction and deprivation of rights as did the initial complaint.

36. The Defendants did not answer. Instead, the Defendants, moved for dismissal under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) asserting Eleventh Amendment immunity; the *Rooker-Feldman* doctrine; absolute immunity for Defendants Harkness, Stalcup, Quintela, and Wichrowski; and on the ground that *Younger v. Harris*, 401 U.S. 37 (1971) requires the court to abstain from hearing the lawsuit.

37. The United States District Court for the Middle District of Florida (Hon. Carlos E. Mendoza) granted the motion. The court dismissed Henry's claims on a variety of bases -- Eleventh Amendment immunity, Younger abstention, and absolute judicial immunity for the individual defendants. And declined to exercise its jurisdiction for Henry's claims seeking Injunctive/Declaratory Relief.

38. The particular claims of relevance here are: 1) deprivation of Henry's property rights in her law license without due process; 2) deprivation of her liberty interest in her good name without due process; 3) denial of equal protection; 4) violation of Henry's First Amendment rights to free speech and association; 4) prosecution for complaining of government's conduct which transgressed the Constitution, statutory laws and a plethora of judicial canons promulgated by the State of Florida; 5) prosecution in the complete absence of any jurisdiction; 6)

unconstitutionality of Rule Regulating Fla. Bar 3-1.1 (facially and as applied); and
7) a complete denial of meaningful access to justice to cure ongoing deprivation of substantive rights.

.39. Henry appealed the dismissal of her case. On appeal the United States Court of Appeals for the Eleventh Circuit affirmed the district court dismissal **with prejudice** and failed to address each issue raised in the appeal. Specifically, the opinion did not address:

1. Dismissal with prejudice is reversible error. See for e.g. *Stalley v. Orlando Reg'l Healthcare Sys.*, 524 F.3d 1229, 1232 (11th Cir. 2008). "[a] *dismissal for lack of subject matter jurisdiction is not a judgment on the merits and is entered without prejudice.*"
2. Declaratory and Injunctive Relief from forced association with FLA. In *Florida Bar re Schwarz*, 526 So.2d 56, 57 (Fla. 1988), the FSC citing *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460, (1958) recognized that: "*Freedom of association is a right protected under the first and fourteenth amendments. And a state may justify a constitutional intrusion into an individual's freedom of association only when there is a compelling state interest present.*"
3. The Complaint that Rule Regulating. Fla. Bar 3-1.1 is unconstitutional facially and as applied. The Rule holds that: "*a license to practice law confers no vested right to the holder thereof, but is a conditional privilege revocable for cause.*" Henry has a vested property right in her license and there is no cause or jurisdiction demonstrated for the charges filed against her. Indeed F.S. § 454.11 proscribed the Florida Bar challenged conduct.
4. Illegality, absence of jurisdiction and that the State treats the Florida Bar as a prosecutor.

40. Under the precedents of the FSC and Florida appellate courts, the State of Florida treats the Florida Bar as an enforcer of the Rules Regulating Fla. Bar and the unlicensed practice of law -- a prosecutor:

1. In *Florida Bar v. Trenzenfeld*, 833 So.2d 734 (Fla. 2002), the FSC stated that the role of the Bar's Grievance Committee is one "*similar to that of a grand jury*";
2. Rules Regulating Fla. Bar 3-2.1(a), 3-7.6(g) define the Florida Bar Counsel's role as that of a prosecutor and pertinently say: "*Bar counsel shall make such investigation as is necessary and shall prepare and prosecute with utmost diligence any case assigned*";
3. Florida's District Courts of Appeal observed that the role of the Florida Bar is that of a prosecutor. See e.g. *Mueller v. The Florida Bar*, 390 So. 2d 449, 452 (Fla. 4th DCA 1980) holding: "[T]he initiation of grievance matters is a prosecutorial function of the Florida Bar";
4. Rules Regulating Fla. Bar 1-4.2(a) and 1-4.2(b)(1)) -- authority and responsibility of the Florida Bar board of governor pertinently state: "*The board of governors shall furnish to each member of the FSC minutes of each meeting of its executive committee except when acting in a prosecutorial role in a disciplinary or unlicensed practice of law matter*;" and
5. The Florida Bar exercises sweeping discretionary power to criminally charge and prosecute individuals for unlicensed practice of law and pursuant to F. S. §§§454. 23, 454.31, 454.32 (a third-degree felony punishable with a term of imprisonment of 5 years).
6. The Florida Bar 's website, found at floridabar.org, provide information instructive to the public that defines its role/jurisdiction and pertinently say:

As an official arm of the Florida Supreme Court, The Florida Bar and its Department of Lawyer Regulation are charged with administering a statewide disciplinary system to enforce **Supreme Court rules of professional conduct** for its more than 104,000 members. The Florida Bar accepts complaints against attorneys, investigates those complaints and prosecutes attorneys who engage in unethical conduct. The Florida Bar protects the public by prosecuting unethical attorneys, and investigating and prosecuting the unlicensed practice of law. We also work hard to assist people who are trying to get information about Florida's legal system.

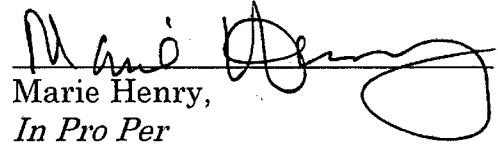
41. In *Forester v. White*, 484 US 219, 228-229 (1988), this Court held that judges acting to enforce the Bar Code would be treated like prosecutors, and thus would be amenable to suit for injunctive and declaratory relief.

42. In Henry's case, the Eleventh circuit relied on *Middlesex* (1982) where in discussing Younger abstention the Opinion held that a NJ Bar disciplinary case was "judicial", arguably *Forrester*, a 1988 opinion, implicitly overruled *Middlesex* by interpreting its *Supreme Court of Virginia v. Consumers Union*, 446 US 719 (1980) that judges enforcing a Bar Code lack judicial immunity but are considered prosecutors (in other words they are not involved in a judicial proceeding but rather in prosecutorial behavior)). Four concurring justices in *Middlesex* at page 439 said *"Furthermore, it is unclear whether proceedings before the Ethics Committee are more accurately viewed as prosecutorial rather than judicial proceedings."* *However, even if Younger applies, Younger only lasts as long as the state proceeding is ongoing. Moreover, Middlesex makes clear that it is the Supreme Court's practice, to defer to the State's own description of the Bar proceedings. Middlesex*, 457 U.S. at 432-34.

43. Due to lack of phone and internet services, Henry is unable to consult with Counsel for the Respondents, M. Hope Keating. Henry reasonably believes that Ms. Keating would have no objections to this request for a 60-day extension within which to file a Petition for a Writ of Certiorari.

WHEREFORE, Henry ask the Court to grant her an additional 60 days, to and including March 14, 2018, within which to file a petition for certiorari and a hearing regarding the status of her membership with this Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marie Henry", is written over a horizontal line.

Marie Henry,

In Pro Per

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