ORIGINAL

23-745

No. ___

In The

Supreme Court of the United States

In re: Henry L. Klein,

Petitioner,

THE HONORABLE JUSTICES OF THE LOUISIANA SUPREME COURT: CHIEF JUSTICE JOHN L. WEIMER, ASSOCIATE JUSTICES WILLIAM J. CRAIN, SCOTT J. CRICHTON, JAMES T. GENOVESE, JAY B. McCALLUM, JEFFERSON D. HUGHES, III and PIPER D. GRIFFIN,

Respondents.

PETITION FOR EXTRAORDINARY WRITS OF MANDAMUS AND PROHIBITION

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Since September 6, 1974

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QUESTIONS PRESENTED

On April 14, 2023, *Axon v. FTC* was decided along with *SEC v. Cochran,* leaving open only where the fundamental challenges may be heard *("Axon")*. Given *Axon's* significance to issues raised in *Klein v. ODC,* 23-261, on October 10, Petitioner filed a Request to Enforce the Supremacy Clause with *Axon* being the supreme law of the land, Appx G. On October 12, the Louisiana Supreme Court treated the Request as a Petition for Rehearing and DENIED without reasons, Appx A. In essence, the May 18 *Per Curiam* gave **absolute deference to** Louisiana's attorney-regulation scheme[1].

Q-1: Did the Louisiana Supreme Court violate the Constitution's Supremacy Clause by DENYING Petitioner's Request to enforce *Axon v . FTC* and *SEC v. Cochran* as the supreme law of the land, preempting Louisiana's Disciplinary Rule XIX?

Q-2: Does Louisiana's attorney-regulation scheme provide a"... meaningful judicial review ..." in the form of 20 minutes oral argument on a record devoid of Article III adjudicators and hearing transcripts?

Q-3. Given the combination of prosecutorial and adjudicatory roles in a single ODC deputy, was Petitioner subjected to "... an illegitimate proceeding

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[1] "Deferential review is particularly concerning given [ALJ] tendency to overwhelmingly agree with their respective agency's decisions.", *Axon* concurrence by Justice THOMAS at n.1.

led by an illegitimate decision-maker ..."? *Axon,* at 13.

Q-4. Was Petitioner's suspension"... retaliation ..." for his whistle-blower exposure of Girod LoanCo, an admitted vulture fund wielding $400 million in FNBC debt criminally bloated multi-fold?

PRELUDE RE: *AXON/COCHRAN*

In Re: Henry L. Klein, 2023-B-0066, has all attributes Justice KAGAN described in *Axon.* Better yet, this case answers the second part of the question posed:

> "Our task today is not to resolve those challenges; rather, it is to decide where they may be heard."

The last sentence of the concurrence by Justice THOMAS also applies:

> "In an appropriate case, we should consider whether such schemes and the appellate review model they embody are constitutional methods for the adjudication of private rights."

Petitioner also welcomes the easier avenue for deciding issues: 28 U.S.C. §1331. Petitioner and Regina Heisler were both deprived of due process by the *sui generis* structure of Rule XIX, meaning that the Louisiana administrative scheme was **unstructured** - *ergo:* **unconstitutional**. At page 2 of his concurrence, Justice GORSUCH struck a welcome note from *Thunder Basin v. Reich,* 510 U.S. 200 (1994). *(At the outset, Thunder Basin requires litigants and courts to ask whether a comprehensive review process exists.)*

The answer is a strong "**no**". Petitioner tried his best to acquaint the Louisiana Justices with *Axon's* significance, e.g., Appx E. Respectfully, the Respondent Justices did not have an option to

disregard the Supremacy Clause, which ends with the mandatory admonition that:

> *"... the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding ..."*

CONGRESSIONAL INTENT, *VEL NON*, AND THE NEED FOR REFORM

All significant cases cited in *Axon* and elsewhere consider Congressional intent as to any agency-structure under judicial review. Congress, however, plays no role in lawyer-regulation, making most cases inapposite, requiring analysis elsewhere. The total collapse of due process protection here beckons two recent documentaries on the need to reform the attorney-discipline regime.

Lucian Pera, February 7, 2023,

"It's Time for the ABA to Renew Its Role in Attorney Discipline", and Michael Frisch, February 20, 2023, "A Need For Study and Reform", Appx J and Appx K.

The ODC/GIROD illicit combination targeting Henry Klein is an unfortunate "... sign of the times ..."[2] This case can deliver prompt succor to Petitioner and use five years of Petitioner's hard work to independently investigate how this could have ever happened in America, *Chambers v. NASCO.*

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[2] Politically-Motivated Bar Discipline.

PARTIES TO THE PROCEEDINGS

1. Henry Klein is an attorney with a 55-year career which has often fought corruption, Appx D. Petitioner traced GIROD from Montreal to the Cayman Islands and exposed the $108 billion TPG conglomerate of "... private equity hedge funds ..." for what they are. On December 22 just past, GIROD threatened Petitioner with more retaliation if he filed any pleadings in *Girod LoanCo v. Henry Klein,* Appx I:

> This letter also advises that any future filings, pleadings, or discovery propounded in this action will be provided to the Louisiana Supreme Court **in connection with your application for reinstatement**[3].

2. Respondents in mandamus are the seven members of the Louisiana Supreme Court, the Honorable Chief Justice John L. Weimer and the Honorable Associate Justices William J. Crain, Scott J. Crichton, James T Genovese, Jay B. McCallum, Jefferson D. Hughes, III and Piper D. Griffin.

3. Paul Pendley was the **single** ODC deputy who assumed the conflicting roles of (i) complainant, (ii) investigator, (iii) charge scrivener, (iv) prosecutor, and (v) advocate for ODC/GIROD. Pendley's arguments to the ODC adjudicative board and the Louisiana Supreme Court were **unrecorded**, eliminating any

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[3] Thus, the Need for a Writ of Prohibition.

modicum of "... meaningful judicial review ..."

4. GIROD lawyer Eric Lockridge was ODC's **only** witness, protecting a $15 million axe to grind. On June 15, 2021, Lockridge sued Petitioner **personally** at *Girod LoanCo v. Henry Klein* because Petitioner would not stop fighting for the Heislers[4].

[4] "... The Heislers should expect Girod to pursue a [$2MM] deficiency claim if they continue fighting ...", Appx F:

SIGNIFICANT RELATED PROCEEDINGS

On September 14, 2023, a Petition for a Writ of Certiorari was filed in *Henry L. Klein v. Louisiana Office of Disciplinary Counsel*, Docketed on September 18, 2023 as 23-261. The Questions Presented dealt with Axon/Cochran factors but the issue of the Louisiana Supreme Court's refusal to give higher deference to the Supremacy Clause was not ripe when the Court denied Certiorari. On November 20, 2023, Certiorari was denied, leaving Mandamus as the only avenue for relief.

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TABLE OF AUTHORITIES

Cases:

United States Constitution:

Article VI, Clause 2:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding 1

First Amendment:

> Congress shall make no law ... abridging the freedom of speech ... or the right of the people to petition the Government for a redress of grievances 9, 15

Other Authorities:

A Need for Study and Reform
Fear, Risk and the First Amendment:
Unraveling the Chilling Effect,
58 Boston Law Review 15

It's Time for the ABA to Renew Its Role
in Attorney Discipline,
February 7, 2023 US Law Week 4

RULING BELOW

On October 12, 2023, the Louisiana Supreme Court DENIED Petitioner's request to enforce the Supremacy Clause of the United States Constitution pursuant to *Axon v. FTC* and *SEC v. Cochran,* Appx A. The only aspect missing was where the "... fundamental, even existential challenges ..." could be brought. Given that the Louisiana Supreme Court was a combination of administrative functions and review functions, the answer to Justice KAGAN's open question is:

"here and now"

Moreover, because the arguments to the adjudicative board and the Supreme Court were unrecorded, no "... meaningful judicial review ..." is possible.

JURISDICTION

This Court has jurisdiction to compel the Louisiana State Supreme Court Justices to comply with the Supremacy Clause of the Constitution, Article VI, Clause 2, by mandamus pursuant to 28 U.S.C. § 1651(a). The October 12, 2023 order declared that "This Court's judgment of May 18, 2023 is final and definitive", triggering 28 U.S.C. 1257 as between Petitioner and the Justices who declined to enforce the Supremacy Clause.

In *Cheney v. United States District Court,* 542 U.S. 367 (2004) the factors are set forth at Part III, met here.

> First, 'the party seeking issuance of the writ [must] have no other adequate means to attain the relief he desires.' Second, the petitioner must satisfy the burden of showing that [his] right to issuance of the writ is clear and indisputable. Third, even if the first two prerequisites have been met, the issuing court, exercising its discretion, must be satisfied that the writ is appropriate under the circumstances.

This Court's Jurisdiction to review a final judgment from the highest court of a state is granted by 28 U.S.C. §1257. Thus, the request to enforce the Supremacy Clause would be "...in aid of this Court's jurisdiction ..."

STATEMENT OF THE CASE

In 2006, First NBC Bank opened with high pomp and circumstance, rising to NASDAQ prominence in record time. The crash was as precipitous, with top insider Gary Gibbs overdrawn $123 million on April 28, 2017. **Gibbs was the con-artist who defrauded Regina Heisler.** Nonetheless, no court of justice has given the widow-Heisler any succor, *however slight.* Every check and balance failed. Bank regulators were fooled; *Nominee Borrowers* were unwittingly used to create "... shill loans ..."; FDIC violated its own policy on selling the assets of a failed bank for pennies-on-the-dollar. On May 10, 2017, Petitioner tried to pay $600,000 in legitimate Heisler debt, but was told the debt was $9.8 million to be sold in a "... private equity market ...". On

November 13, 2017, GIROD bought the Heisler debt, beginning a six-year crusade by Petitioner against GIROD, part of a $108 Billion vulture fund conglomerate known as TPG with connections to the Ugland House in the Cayman Islands. The task of fighting a multi-billion operation in a "secondary market" also known as "... vulture funding ..." was a daunting task for a one-man operation[5].

REASONS THE WRIT SHOULD BE GRANTED

Correcting Regulatory-Power Abuse. At GIROD's behest, ODC "... threw the book..." at Petitioner without a scintilla of evidence to support the plethoric defamation. Weaponizing regulatory power is increasing at disturbing levels. As Judge Pauley recognized in *SEC v. Caledonian Bank,* 145 F. Supp. 3d 290 at 293 (S.D.N.Y. 2015):

> ***This Case Provides Fertile Ground for Agency Self-Examination***

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[5] To understand why Petitioner is willing to fight giants, his first Life-Altering Experience in his *Curriculum Viate* Appx D, explains:

> April 9, 1948, streets of Bogota, Colombia: the assassination of Jorge Eliecer Gaitan: vivid witness to the beginning of "La Violencia", a ten-year civil war triggered by the murders of over 3,000 people in downtown Bogota.

Because of that experience, Petitioner loves the United States, making the humiliating May 18 Order "... the last straw ...", as Michelle Cochran exclaimed about the SEC's new ALJ.

So does **this** case. But neither ODC nor the Respondent Justices can perform the self-examination. The maxim *nemo judex in causa sua* warns that no one can be the judge in his own case. At Docket 23-261, ODC presented no defense. No Self-Regulating Organization will ever be tough on itself. On February 7, 2023, US Law Week published:

> ***It's Time for the ABA to Renew its Role in Attorney Discipline:***
>
> "I join six other veteran ethics and professional responsibility lawyers from across the nation in calling for the American Bar Association to launch a once-in-a-generation review of the mechanics, structure, reach and infrastructure of lawyer regulation." *Lucian Pera, Adams & Reese.* Appx J.

It has been more than 50 years since the Thomas C Clark Committee reported the lawyer discipline system in "... a scandalous situation ...". On February 20, 2023, A Need For Study And Reform was published, Appx K stating:

> *THANKS TO LUCIAN PERA FOR SENDING HIS CALL FOR A LONG OVERDUE STUDY OF BAR DISCIPLINE PROCESSES. IT'S TIME FOR THE AMERICAN BAR ASSOCIATION TO LAUNCH A FRESH, HIGH-LEVEL EFFORT TO RENEW*

THE US LAWYER DISCIPLINE SYSTEM FOR THE 21ST CENTURY

What happened here should never happen again. Zealously fighting for a victim of corruption should never be sanctioned. This case implores an independent investigation of the Louisiana system. *Sui generis* means "anything goes." The ODC deputy *a qua* presented an illusion to six ODC "... administrative executives dressed up as courts[6] ...",

KLEIN-AXON PARALLELS

The parallels between *Klein v. ODC* and *Axon v. FTC* compel Mandamus to the Louisiana Supreme Court to vacate the May 18 Judgment, *nunc pro tunc.*

(1) The "subjected-to" test. Just as Michelle Cochran did not accept being subjected to "... an illegitimate proceeding led by an illegitimate decision" maker ...", Petitioner objected to the charges of "... **overly-zealous** ..." pleadings to protect Regina Heisler[7]. The ODC ".. illegitimate decision-maker ..." would be Paul Pendley, wearing too many hats to meet Rule XIX §2 standards:

> **Agency.** There is hereby established one

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[6] Concurring Opinion by Justice THOMAS, at 4.

[7] Petitioner had already raised objections pursuant to *Lucia v SEC,* 585 U.S._ (2018), *Bandimere v. SEC,* 844 F.3d 1168 (10th Cir. 2016) and *Carr v. Saul,* 593 U.S.__ (2021), hardly "... frivolous lawyering ..." requiring a career-ending suspension.

> permanent statewide agency to administer the lawyer discipline and disability system. The agency is a unitary entity. While it performs both prosecutorial and adjudicative functions, **these functions shall he separated within the agency insofar as practicable in order to avoid unfairness.**

Equally-illegitimate would be the three members of the Hearing Committee, hand-picked by ODC and ill-versed in the "expertise" needed to understand the Note-Kiting Scheme that fooled federal regulators for five years. As this Court noted at p. 9:

> "The Commission, we emphasized, had 'extensive experience' in addressing the statutory issues raised, and could resolve them in ways that brought to bear its 'expertise' over the mining industry. All that was less so, we acknowledged, of the company's constitutional challenge; but that claim could be 'meaningfully addressed in the Court of Appeals.'"

On the heels of the ODC-selected Hearing Committee came the ODC adjudicatory board, making six "... administrative executives dressed up as courts ..." In the case at bar, the arguments to the board were **unrecorded**. Petitioner's objections to 1st Amendment violations and outright misrepresentations are therefore unavailable for "... meaningful judicial review ..."purposes.

(2) The "meaningful judicial review" test. Few tenets are as overarching as the concept that in the administrative state, meaningful judicial review is a constitutional *sine qua non.* GVR should be utilized in the case at bar. Neither ODC nor the Respondent Justices can argue that a meaningful judicial review took place. No evidence was analyzed and no "record below" was considered. The ODC Deputy stood up first on May 1 and simply spoke mendaciously (the nicest way to phrase it). The description of Petitioner as a serial violator of the rules was **unsupported by specifics.** The lawyer in the reports is not the Henry Klein this Court has seen for years, written up in the annals of MOML, the Making of Modern Law.

(3) The "unfair and unconstitutional internal forum" test. The dearth of evidence actually introduced into the record by ODC doesn't matter in a structure where the agency acts as "... prosecutor, judge, and jury ...", a fundamental flaw recognized in *Axon* at p. 5. Similar to *Axon* and *Cochran,* Petitioner objected to being subjected to the ODC's unfair and unconstitutional **internal** forum (focus on "internal"). On February 14, 2023, Petitioner filed a 36-page Opening Brief on serious issues **never** mentioned by ODC or the administrative panels below. Some select excerpts from the Table of Contents are enlightening:

Girod was a vulture fund and ODC knew it. The Louisiana Supreme Court severely chastised Petitioner for using the term "vulture fund".

Girod's claim was 29.4 times the Amount Invested. This is THE hallmark of vulture-creditors.

Girod paid less than $300,000 for the Heisler debt and bloated it to over $15 million.

ABA FORMAL OPINION 491. Lawyers were warned against aiding potential clients intent on committing fraud or crime.

Valuable Excerpts from the McKay Commission. Consistently, Petitioner attempted to provide the Louisiana Court with reasons why the system needed reform.

Paul-Pendley-Policing-Paul-Pendley. The epitome of an *inner-sanctum* structure was the DENIAL of all requests by Petitioner for discovery. Not some - all requests. In the body of the Opening Brief, the dissenting opinions in *Bandimere v. SEC* were provided, with the following statement about combining administrative and adjudicative functions in one person:

> "They are vested with duties of administration and at the same time given important judicial work. **The evils resulting from this confusion of principles are insidious and far-reaching.**"

Secrecy. Section D(2) required the Hearing Committee to render findings of fact and conclusions of law. Petitioner's objections to this flaw were OVERRULED by "the chair".

Improving the Quality of Decisions. This came

right from the McKay Commission. With only one witness carrying out a sinister agenda, the findings were nothing more than *ipse dixits* and *non-sequiturs*. In his brief, Petitioner quoted the late jurist, Martin L.C. Feldman with his views at the trial level in *Weyerhaeuser v. United States Wildlife & Fisheries Service,* 586 U.S.__ (2018):

> "... What the government has done is remarably intrusive and has all the hallmarks of governmental insensitivity to private property ..."

Appointments Clause Challenge to ODC's Non-Article III Adjudicators. Petitioner followed the lead from *Ryder v. United States,* 515 U.S. 177 (2015):

> "We think that one who makes a timely challenge to the constitutional validity of of the appointment of an officer who adjudicates his case is entitled to a decision on the merits of the question and whatever relief may be appropriate if a violation has indeed occurred."

Lack of Specificity and ODC Refusals to Address Respondent's Objections. Petitioner filed eight motions for discovery without avail. The thornier issue is to what extent did ODC collude with GIROD and others in order to help a vulture-creditor? Was May 1 predetermined? *Chambers v. NASCO* is at this Court's disposal.

First Amendment Violations Impacting

Respondent. Access to an impartial tribunal is undeniable. *In re: Murchison,* 349 U.S. 133 (1955). This case is so egregious that Petitioner does not need to say another word, except please.

Failure to Mention Compelling Mitigating Factors. Paul Pendley knew that Petitioner was raising two grandsons who lost both parents to heroin and a very talented son to Fentanyl. The May 18 decision failed Humanitarian 101. Now Petitioner is ruined with no recourse but **this** "... temple of justice ...", a phrase attributed to Justice FRANKFURTER in *Universal Oil Products v. Root Refining,* 328 U.S. 575 (1946).

This case also brings hope to Justice GORSUCH as he closed his concurrence in *Axon,* at p. 14:

> Respectfully, this Court should be done with the Thunder Basin project. **I hope it will be soon.**

SILENCING HENRY KLEIN

Today, GIROD is foreclosing on a multitude of Louisiana victims, making the silencing of Henry Klein imperative. Unafraid (perhaps foolishly), Petitioner has been accusing TPG of money-laundering with distribution in the Cayman Islands. Petitioner gave ODC deputy Paul Pendley copies of the investigative reports he sponsored, but Mr. Pendley "...

turned a blind eye ..." to all the evidence[8]. In the process, Petitioner accused ODC, GIROD and Eric Lockridge of entering into a "... Faustian Pact ..." That **protected speech** obviously enraged the Louisiana Justices to the point of accusing Petitioner of "... repugnant disrespect ..." for the system we all serve.

GVR

By separate Motion to the Court, Petitioner will seek GVR with *Wolff v. Selective Service,* 372 F.2d 817 (2d Cir. 1967) providing speed:

> "Since it is the mere threat of unconstitutional sanctions which precipitates the injury, **the courts must intervene at once to vindicate the threatened liberties.**

Based on the *Klein-Axon* parallels, *supra,* the Louisiana Justices should be ordered to give *Axon / Cochran* deference over the disciplinary process that allowed weaponization for the sole benefit of GIROD. A final quote from *Ex Parte Burr,* 22 U.S. 9 Wheat. 529 (1822) provides sage guidance on "core values ..."

> ***The profession of an attorney is of great importance to an individual, and the prosperity of his whole life***

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[8] GIROD tied up all Heisler assets despite Petitioner's attempts to protect the family from the $15 million fleecing that has taken place. On December 23, 2022, Regina Heisler died destitute.

> ***may depend on its exercise. The right to exercise it ought not to be lightly or capriciously taken from him.***

"Capricious" may be too nice. What ODC did is indefensible. The office was created to protect clients from lawyers violating rules, not litigants seeking help to muzzle an opponent. As the ultimate guardian of the legal profession, this Court has an opportunity to correct an unbridled administrative process. Better yet, this Court can cement the second part of the *Axon* question. In the realm of lawyer conduct, the highest court in any state is supposed to review the agency action *de novo*. Therefore, the highest court **is a court of first resort.** In Petitioner's (unrecorded) arguments before the adjudicative board, the Appointments Clause objection was not given any deference. Moreover, the proposition that Appointments Clause analyses can only be 15 minutes long is illusory. Lucian Pera and his six veteran ethics and professional responsibility lawyers from across the country are correct about this being a time for the ABA to act. The suspension of Henry Klein for being "overly-zealous" in fighting the corruption of vulture funding was reckless.

THE CONSTITUTIONAL RIGHT TO THINK

The ill-treatment Petitioner received on May 1 was exacerbated by the criticism of his thoughts. For example, just "... thinking ..." that GIROD and ODC colluded was sanctionable. Not so.

The birthplace of all expression is

> **the mind. It is the purest of all beginnings since the Immaculate Conception. It is the ultimate *raison d'etre:***
>
> ***Cogito, Ergo Sum***
>
> **"... I think, therefore I am ..." The 1st Amendment has never been in greater danger. God protect us all from losing the constitutional right to think.**

The power of expression should return to yesteryear, when 1st Amendment rights were "... rights ...", not invitations to a fight.

PRACTICING LAW HAS A HIGH CORE VALUE

Petitioner shares Justice THOMAS's grave doubts about having his core values capriciously taken by non-Article III adjudicators without consequence:

> "As I have explained, when private rights are at stake, full Article III adjudication is likely required. Private rights encompass the three 'absolute' rights, life, liberty, and property, so called because they 'appertain and belong to particular men merely as individuals,' not 'to them as members of society or standing in various relations to each other'-that is, not dependent upon the will of the government. Such rights could

> be adjudicated and divested only by Article III courts."

In the instance of the seven Justices administering a *sui generis* enforcement action, there were no Article II or Article III adjudicators. In Petitioner's case, no process of law took place, much less "... due process ..." In 1968, Petitioner was "vested" with a private right with substantial collateral value. Petitioner's membership in federal bars throughout the United States are in peril. For what? Being zealous? The last sentence in the first concurrence applies:

> "In an appropriate case, we should consider whether such schemes and the appellate review model they embody are constitutional methods for the adjudication of private rights."

This case is "... the appropriate case ..." on compelling constitutional grounds.

SUMMARY OF UNDERLYING PRINCIPLES

1."... Chilling Advocacy ..." The use of threats to chill advocacy has been constitutionally unacceptable since *Dombrowski v. Pfister,* 380 U.S. 479 (1965). Protected speech is the essence of "... meaningful access to courts ...", a 1st Amendment right, *Broudy v. Mather,* 460 F.3d 106 (D.C. Cir. 2006). When Paul Pendley first sought permission to be "... the complainant ...", he was rejected as chilling advocacy. He went back and lobbied harder, raising disturbing questions as to his motive. Highly-respected scholars rank "chilling" as a

major substantive component of First Amendment adjudication: *Fear, Risk and the First Amendment: Unraveling the Chilling Effect,* William & Mary Faculty Publications, 58 Boston Law Review (1978).

2. The Power to Investigate Carries With It the Power Defame and Destroy. Paul Pendley claimed he had "... the right to investigate ..." a letter from the clerk of the Louisiana Supreme Court specifically stating that the Court "... **was not filing a complaint against Mr. Klein**. Paul Pendley nonetheless commenced an investigation. As Southern District of New York Judge William H. Pauley, III put it in *SEC v. Caledonian Bank,* 145 F. Supp. 3d 290 (2015)

> "... the power to investigate carries with it the power to defame and destroy. Judges rely on [the agency] to deploy these powers conscientiously and provide accurate assessments of the evidence collected in their investigations. In that way, the integrity of the regulatory regime is preserved ..."

Petitioner asserts that this Court should follow the lead of Justice WHITE in *Chambers v. NASCO:*

> The inherent power [to require submission to lawful mandates] allows a federal court to vacate its own judgment upon proof that a fraud has been perpetrated on the court. This historic power of equity to set aside fraudulently begotten judgments is necessary to the

> integrity of the courts, for tampering with the administration of justice in [this] manner involves far more than an injury to a single litigant. **It is a wrong against the institutions set up to protect and safeguard the public."**

3. The May 18 Order was "Fraudulently Begotten." The task of vacating the May 18 Order belongs to this Court and only to this Court, described in *Universal Oil Products v. Root Refining,* 328 U.S. 575 (1946) at 580:

> ***The power to unearth such a fraud is the power to unearth it effectively.***

To that end, the *Universal Oil Products* court appointed a special master and had the aid of *amici* to protect the public interest. That "public interest" could not be higher than in the case at bar: (i) bank regulators were deceived, (ii) unbridled vultures laundered billions; (iii) innocents were robbed; (iv) bar discipline was weaponized and (v) a 79-year-old lawyer was suspended for ferreting-out the truth.

NATIONAL IMPLICATIONS

Most states use the ABA Model for Attorney Discipline. The McKay Commission made recommendations regarding a public perception of distrust that have not been implemented. All disciplinary agencies are SROs. This was a case about Paul-Pendley-Policing-Paul-Pendley without any **consequences**. Twenty minutes couldn't save Fifty-

five years of exposing corruption. The goal of every state disciplinary agency is to protect **the public**, not private litigants.

ARGUMENT ON QUESTION NO. 1

Q-1: Did the Louisiana Supreme Court violate the Constitution's Supremacy Clause by DENYING Petitioner's Request to enforce *Axon v. FTC* and *SEC v. Cochran* as the supreme law of the land, preempting Louisiana's Disciplinary Rule XIX?

Yes. *In Axon/Cochran,* the administrative state was exposed by the New Civil Liberties Alliance for what it is. There were no Article III adjudicators in this case nor an Article II adjudicator. Just "state actors" for 14th Amendment purposes. ODC and GIROD colluded and **Petitioner had the right to think so and to say so.**

ARGUMENT ON QUESTION NO. 2

Q-2: Does Louisiana's attorney-regulation structure provide a "... meaningful judicial review ..." in the form of 20 minutes of oral argument on a record devoid of Article III adjudicators or hearing transcripts?

No. But the worst flaw was allowing unrecorded sessions at the adjudicative board level and at the Supreme Court. Rule XIX is mandatory:

> **F. Hearings Recorded.** The hearing shall be recorded. Upon respondent's request, the board shall make the record

> of a hearing available to the respondent at the respondent's expense.

The result was visibly predestined and the presentation was lop-sided. Although Petitioner was the Appellant, ODC went first and last. The judicial review *a qua* was "... meaningless ..." The need for the ABA to Renew Its Role in Attorney Discipline is paramount. By the time Petitioner addressed the Louisiana Justices on May 1, Paul Pendley had "... poisoned the well ..." and there was nothing Petitioner could do on "... the back end ..."

ARGUMENT ON QUESTION NO. 3

Q-3. Given the combination of prosecutorial and adjudicatory roles in a single ODC deputy, was Petitioner subjected to "... an illegitimate proceeding led by an illegitimate decision-maker ..."?

Yes. In Petitioner's opening brief, the dissent by Judges LUCERO and MORITZ in *Bandimere v. SEC* was a powerful response to the following issue:

> *Many complaints were voiced against the actions of the hearing examiners, it being charged that they were mere tools of the agency concerned and subservient to agency heads in making their proposed findings of fact and recommendations.*

The answer should never be forgotten:

> "The [agency actors] are vested with

larceny at hand:

> 01/21/20: Henry: We expect the total deficiency to be over $2MM after the sale of Baronne and application of the Schwab proceeds. **The Heislers [and you] should expect Girod to pursue a deficiency claim if they continue fighting.**
>
> 02/10/20: Eric: How do you justify taking everything this lady owns? And doing it with the right to seek deficiencies? And then sending the money to the Caymans? How do you sleep at night? What happened to your oath? **The practice of law has reached the lowest of levels with your actions.** Shame on you.

WRIT OF PROHIBITION

On December 22 past, GIROD made this threat:

> This letter also advises that any future filings, pleadings, or discovery propounded in this action will be provided to the Louisiana Supreme Court **in connection with your application for reinstatement.**

CONCLUSION

Lawyers who fight corruption should never be sanctioned. "Yesteryear, telling the truth was deemed a virtue. Louis Brandeis, the 'people's lawyer' was admired, not castigated. Elliot Ness was untouchable. Today, the crooks are untouchable. Regulators don't regulate and the power to investigate '... is the power to defame and destroy ...'

Weaponization of governmental prowess, *however slight,* gains ferocity in the wrong hands. The threat of sanctions is the most lethal enemy of the 1st Amendment. Petitioner refused to yield to these insidious ways and means to chill his advocacy for Regina Heisler ..."

GIROD was not Petitioner's client and Petitioner was not GIROD's lawyer.

The use of ODC to SILENCE Petitioner had **no** justification within the Louisiana lawyer-disciplinary scheme. It is time for restructure and reform. The corruption of the process for GIROD's multimillion-dollar purposes beckons an independent *Chambers v. NASCO* investigation of fraud upon the courts.

Respectfully submitted,

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Member of the Supreme Court
Bar Since September 6, 1974