

FILED

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

JEFFREY D. MOFFATT,

Docket No. \_\_\_\_\_ BY: \_\_\_\_\_

Plaintiff

LACV17 06029-VBF-DEM  
VERIFIED COMPLAINT

v.

State of Arizona,  
State Supreme Court of Arizona,  
State Bar of Arizona, and

**JURY TRIAL NOT DEMANDED**

Scott Bales, Chief Justice, in his  
Official Capacity,

Defendants

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The Plaintiff, Jeffrey D. Moffatt, moves the Court for entry of judgment in his favor against the Defendants named above and in support of such Complaint as avers follows:

**PRELIMINARY STATEMENT**

1. This is an action challenging both past and ongoing policies by a tax exempt agency, known as the State Bar of Arizona, operating outside the system of limited, divided government established by the

Constitution. The SBA is registered with the IRS as a 501(c) (6), tax exempt entity. There has been no provision by the SBA to be deemed a qualified governmental entity.

2. State Bar of Arizona (SBA) and State Supreme Court Presiding Disciplinary Judge William J. O'Neil (Court PDJ) have wielded plenary control over the SBA's operations. SBA's regulation and operation of the company is largely unrestrained by any of the three branches of state government. (SBA) Director, PDJ O'Neil, answers to no one (not even the Governor); many of its actions are functionally unreviewable by the courts. SBA's unbounded authority over attorney regulation and disbarments cannot be reconciled with our constitutional system of limited and divided government authority. SBA has misused its unchecked authority by expropriating and/or seizing tens of thousands of dollars of value from private parties for the benefit of the SBA. The provisions of law purporting to allow such actions should be struck down and the deleterious consequences flowing from those provisions should be undone.

3. In this action, Plaintiff seeks to declare all SBA decisions invalid. Plaintiff also seeks to show that all of PDJ O'Neil's decisions including the disbarment of Plaintiff invalid. Plaintiff seeks to preliminarily and

permanently enjoin enforcement and continuation of the Arizona Supreme Court's Rule 51 appointment of a "Presiding Disciplinary Judge"; Under the administration of the Arizona Supreme Court, PDJ William J. O'Neil has not been duly appointed by the Governor of the State of Arizona and/or duly sworn as a Justice of the Arizona Supreme Court in violation of the Arizona State Constitution (Article 6, Section 7, Arizona State Constitution).

4. State Supreme Court Presiding Disciplinary Judge O'Neil's issues final rulings in "discipline" matters in a manner that deviates from following the Constitution. This is doubly problematic and unconstitutional, since O'Neil has never been properly authorized, nor properly appointed by the Governor, compounded by **State of Arizona Supreme Court Rule 48, Discipline proceedings being neither civil nor criminal proceedings**, allow the Supreme Court to violate State and Constitutional rights, and makeup rules at will. Having a non-authorized individual, with no checks and balances, nor ability to be removed by the Governor, making up law on the fly, cannot satisfy Constitutional requirements, which is another reason to have Rule 48 stricken as Unconstitutional, and void for vagueness.

5. A Violation of Article 6, Section 1, exists by the creation of the SBA to handle legal matters, and the appointment of William J. O'Neil. The SBA is not a court, only a tax exempt corporation, that has been improperly delegated court power in violation of Article 6 Section 1. The judicial power shall be vested in an integrated judicial department consisting of a supreme court, such intermediate appellate courts as may be provided by law, a superior court, and such courts inferior to the superior court as may be provided by law and justice courts. No authorization is given to delegate State powers to a corporation, especially in light of that corporation never seeking to have quasi-governmental power, via filings with the IRS.
6. AZ Constitution Article 6 Section 1 does not delegate powers to Presiding Disciplinary Judge, William O'Neil, and thus the creation and delegation is a violation of the Constitution.
7. Violation of A.R.S. Sup. Ct. Rules, Rule 51(a), exists under the appointment power, delegation power, and separation of powers. **(a) Presiding Disciplinary Judge.** The Supreme Court shall appoint a presiding disciplinary judge and other judges as necessary to serve at the pleasure of the Supreme Court. The court shall periodically review and evaluate the performance of the presiding disciplinary judge and other

judges. Any judge appointed pursuant to this paragraph shall be subject to the same qualification and evaluation criteria as the presiding disciplinary judge.

8. Arizona Supreme Court Rule 48 creates a Sui Generis process, outside of constitutional protections and rights guaranteed to Plaintiff, which is unconstitutional.

9. AZ Const. Article 6 Section 3 has been violated. ..."[T]he chief justice...he may assign judges...to serve in other courts or counties". It does not provide for the permanent appointment of a judge to a body that is a corporation, outside the justice system, as such the appointment of PDJ O'Neil was in violation of Article 6 Section 3. "The supreme court shall have administrative supervision over all the courts of the state. The chief justice shall be elected by the justices of the Supreme Court from one of their number for a term of five years, and may be reelected for like terms. The vice chief justice shall be elected by the justices of the supreme court from one of their number for a term determined by the court. A member of the court may resign the office of chief justice or vice chief justice without resigning from the court."

10. The "Oath of Office for the Ariz. Const. art. VI, § 26, has been

ignored and violated by Defendant's for allowing O'Neil to not have authenticated and signed his oath of office. Art VI 26 reads in pertinent part: "Each ...judge ... shall, before entering upon the duties of his office, take an subscribe an Oath that he will support the Constitution of the United States and the Constitution of the State of Arizona, and that he will faithfully and impartially discharge the duties of his office to the best of his ability.

11. Ariz. Rev. Stat. Ann. § 38-231(B) has been violated by Defendants, and compensation should be removed from O'Neil. This article reads "[a]ny officer or employee who fails to take and subscribe to the oath or affirmation provided by this section within the time limits prescribed by this section is **not entitled to any compensation until the officer or employee does so take and subscribe to the form of oath or affirmation** prescribed by this section," The "Oath" of Office, for William J. O'Neil does not indicate an appointing official (normally Governor) or initial terms to begin and end. "The "Oath of Office" applicable to "O'Neil" is absent compliance with the State of Ariz. Const. art. VI, § 37 and nor does the "Oath of Office" have a set term in accordance with Ariz. Const. art. VI, § 37;

12. The “Oath of Office,” purported to be for William J. O’Neil, is not registered and filed with the Arizona Secretary of State, statutorily required pursuant to Ariz. Const. art. VI, § 26, has been violated. The control and supervision by Defendants of O’Neil are faulty for allowing this failure of an oath of office signed and registered with the Secretary of State.
13. Plaintiff brings this action resulting from damages suffered due to his unlawful disbarment from the practice of law in Arizona on or about April 19, 2016.
14. Plaintiff wrongfully was deprived of his property, i.e. his license to practice law in Arizona and, thus, his livelihood in violation of his federal constitutional rights to due process, equal protection, and Freedom of Speech.

### **JURISDICTION and VENUE**

15. Jurisdiction is conferred on this court by Title 28 U.S.C. “Section 1331 (federal question jurisdiction), Title 28 U.S.C. 1391 (b) (2) (diversity of jurisdiction, exceeding \$75,000.00 in damages) and Title 28

U.S.C. Section 1343 (3) – (4) and Plaintiff seeks remedies authorized by Title 28 U.S.C. Section 1651, Section 2201 and Section 2202.

16. Venue is properly in this court pursuant to Title 28 U.S.C. § 1391 (b) (2) because Plaintiff resides in this district, Plaintiff's law practice and law office are in this district, and a substantial number of events supporting the claim occurred in this district. The alleged ethical misconduct for which Plaintiff was disbarred by the Arizona Supreme Court's Presiding Disciplinary Judge occurred substantially in this district of California.
17. Original jurisdiction also is invoked under Title 42 U.S.C. § 1983 because this is a complaint for redress of injury caused by deprivation of rights, privileges, and immunities by defendants acting under color of statute, ordinance, regulation, custom or usage.
18. Original Jurisdiction also is invoked under Title 42 U.S.C. §1985(1)(2)(3) since this is a complaint for redress of injury due to deprivation of rights, privileges, and immunities due plaintiff by two or more defendants. Plaintiff contends the defendants conspired to impede, hinder, obstruct, or defeat justice in Arizona, intending to deny plaintiff due process, equal protection of the laws, and injure him for lawfully defending his rights to the equal protection under those laws.



19. Original Jurisdiction also is invoked under Title 42 § 1986 because Plaintiff maintains each of the defendants had knowledge of impending wrongs and commission of those wrongs, held the power to prevent the injustice and neglected or refused to do so. The improper creation of the SBA, Unconstitutional transfer of power, violation of separation of powers clause of the Constitution, Improper appointment of O'Neil, failure to daily supervise the SBA and O'Neil also satisfy Title 42 U.S.C. §1986 .
20. Original jurisdiction is also invoked under Title 42 U.S.C. §1988 a complaint for costs and attorney fees.
21. This Court is an appropriate venue for this cause of action pursuant to Title 28 U.S.C. §1391(b) (1) and (b) (2).
22. The actions involved took place under diversity of jurisdiction; evidence and records relevant to the allegations are maintained in this judicial district;
23. Diversity of Jurisdiction's amount in controversy is satisfied by more than \$75,000.00 at issue based on Jeff Moffatt's previous annual income stream.
24. Diversity of Jurisdiction is satisfied by Moffatt being a resident

of CA, the State of Arizona's Supreme court being a resident of AZ, Scott Bales, head of the AZ Supreme Court, is an Arizona resident, thus, diversity is satisfied.

### **PARTIES**

25. Plaintiff, Jeffrey D. Moffatt, hereinafter called Jeffrey, met all state requirements and was admitted to the Arizona Bar February, 2002.
26. Defendant Scott Bales is Chief Justice of the Arizona Supreme Court and Chief Administrator charged with administering AZ Supreme Court Rule 51 of the Arizona Supreme Court. It is under Rule 51 State Supreme Court Presiding Disciplinary Judge William J. O'Neil was appointed unconstitutionally as Presiding Disciplinary Judge of the Arizona Supreme Court. Therefore, Defendants do not enjoy judicial immunity for the acts alleged herein.
27. Defendant, the Arizona Supreme Court, is an entity of the State of Arizona; Arizona entered the Union as the 48th State in 1912.
28. Plaintiff is informed and alleges that Defendants, their agents, and employees customarily engage in the acts under discussion in this complaint. Plaintiff is further informed and alleges that Defendants are aware of and acquiesce or encourage their agents and employees in doing

so. Plaintiff has exhausted his state remedies to Arizona Supreme Court to no avail. In committing the alleged acts, Defendants have acted and will continue to act under the color of law.

## STATEMENT OF FACTS

29. Defendants have violated the State Constitution, by appointing a Tax Exempt organization, the SBA, to handle legal matters.
30. Plaintiff, has been continually impacted by Defendant's actions, as recently as June of 2017, via letters sent by the Defendants as well as the SBA, which is under daily oversight by Defendants, as such Defendant's actions are ripe for review.
31. Defendants have violated the separation of powers clause, by delegating judicial matters to the SBA, a corporation.
32. Defendants have violated Association of Railroad, known as **Amtrak**, on remand from the U.S Supreme court, U.S. COURT OF APPEALS, FOR THE DISTRICT OF COLUMBIA CIRCUIT, 12-5204 by allowing the SBA to both act as a regulator and a market participant, while the SBA is only a corporate entity.
33. Defendants have violated PHH, 839 F.3d at 21, by allowing the

SBA to have unchecked power. “A long line of Supreme Court precedent tells us that history and tradition are important guides in separation of powers cases,” PHH, 839 F.3d at 21;

34. The ultimate aim of the separation of powers is to protect individual liberty, see, e.g., *Bowsher v. Synar*, 478 U.S. 714, 721 (1986). Moffatt’s individual liberties have not been protected, but trampled on and turned upside down in a fashion similar to George Orwell’s book 1984 .
35. Defendants have violated the due process clause of the Constitution by allowing a business partner of William J O’Neil, Supreme Court Justice Robert Brutinel, to sit on the Arizona Supreme Court bench and rule on matters challenging the rulings of O’Neil.
36. Plaintiff alleges that the Rule 51 of the Arizona Supreme Court is unconstitutional, which reads in pertinent part... “The Supreme Court shall appoint a presiding disciplinary .... to serve at the pleasure of the Supreme Court” violates the Arizona State Constitution and further deprives Plaintiff of his right to maintain his law license without Due Process of Law under the 14th Amendment to the United States Constitution.

37. When a government official acts on behalf of an agency that is structured in violation of the separation of powers, the official's action is ultra vires and must be vacated. That is what the Supreme Court did in *NLRB v. Noel Canning*, 134 S. Ct. 2550 (2014), which affirmed a ruling of the D.C. Circuit that an NLRB decision was "void ab initio" because the Board "lacked authority to act" due to a violation of the Recess Appointments Clause, *Noel Canning v. NLRB*, 705 F.3d 490, 493 (D.C. Cir. 2013). Here, the SBA and O'Neil are improperly structured, and appointed, and their actions should be ultra vires, and decisions vacated.
38. Plaintiff contends that the appointment of O'Neil by a single Supreme Court justice more than a decade ago violates the appointments clause of the Arizona Constitution.
39. Plaintiff contends neither the Governor nor the legislature has increased the number of Supreme Court justices to provide an additional slot for O'Neil. By O'Neil claiming to be a member of the Arizona Supreme Court, without the Governor, nor the Legislature voting and creating such a post, makes O'Neil's claim of being a Supreme Court Justice a violation of the Arizona Constitution.
40. The SBA's encroachment into legal matters and the appointment of William J. O'Neil are violations of Article 6, section 1 of the Arizona

Constitution and the appointment of William J. O'Neil. The SBA is not a court, but has been improperly delegated court powers in violation of Article 6 Section 1. The judicial power shall be vested in an integrated judicial department consisting of a supreme court, such intermediate appellate courts as may be provided by law, a superior court, such courts inferior to the superior court as may be provided by law and justice courts.

41. A Violation of Article 6, section 1 exists by the creation of the SBA to handle legal matters, and the appointment of William J. O'Neil. The SBA is not a court, but has been improperly delegated court power in violation of Article 6 Section 1. The judicial power shall be vested in an integrated judicial department consisting of a supreme court, such intermediate appellate courts as may be provided by law, a superior court, and such courts inferior to the superior court as may be provided by law and justice courts.
42. By O'Neil not having an authenticated oath of office, nor having his oath attested by the Secretary of State, makes O'Neil in violation of the Commission clause of the Arizona State Constitution.
43. Failure to have an "Oath of Office" registered and filed with the

Arizona Secretary of State violates Ariz. Const. art. VI, § 26 and constitutes a felony. William J. O'Neil, oath and registration is absent, thus a violation and a felony.

44. O'Neil was appointed to the post indefinitely rather than elected, which invalidates the appointment and is unconstitutional.

45. AZ Supreme Court Rule 48 creates a Sui Generis process, outside of Constitutional protections and rights, guaranteed to Plaintiff, which is Unconstitutional.

46. AZ Supreme Court Rule 51 (c) 1 allows the O'Neil appointment to control a budget, enlist attorneys to assist, i.e. appoint a panel. In essence, the O'Neil appointment creates an unchecked power that controls the prosecution, funds the prosecution, and appoints panel members as well.

47. AZ Supreme Ct. Rule 51 allows the PDJ to adopt practices he feels necessary, rather than being mandated by Constitutional requirements, and criminal law requirements. Essentially the PDJ is allowed to make up laws as he deems fit, which makes them void for vagueness and unconstitutional.

48. **Arizona Supreme Court Rule 48 (a) is in violation of the Due Process clause of both the U.S. and State of Arizona Constitution.**

**This rule states the Nature of Proceedings, for Discipline ... are neither civil nor criminal, but are sui generis.**" Petitioner never waived his rights to due process, and a state cannot take away a vested Federal right, and allow it to make decisions unchecked and unaccounted to by the U.S constitution or of the Arizona State Constitution.

49. When a government official acts on behalf of an agency that is structured in violation of the separation of powers, the official's action is ultra vires and must be vacated. That is what the Supreme Court did in *NLRB v. Noel Canning*, 134 S. Ct. 2550 (2014), which affirmed a ruling of the D.C. Circuit that an NLRB decision was "void ab initio" because the Board "lacked authority to act" due to a violation of the Recess Appointments Clause, *Noel Canning v. NLRB*, 705 F.3d 490, 493 (D.C. Cir. 2013). Here, the SBA and O'Neil are improperly structured, and appointed, and their actions should be ultra vires, and decisions vacated.

50. Further, Plaintiff alleges that the Arizona Supreme Court's delegation to the State Bar of Arizona to criminally prosecute Plaintiff for alleged violations with specific core ethical charge 8.4(b) of the State Bar Rules of Ethical Conduct (policies only) constitutes an unconditional violation of due process. The State Bar of Arizona is merely a 501(c) (6)



(Business League Trade Association) as per the U.S. Department of Treasury - Internal Revenue Service. The State Bar of Arizona is not a governmental state entity; is not a quasi-governmental entity and has no prosecutorial powers. The State Bar of Arizona is also not defined within the Arizona Constitution as having Criminal Court Powers and, as such, ethical charge of 8.4(b) imposed against Plaintiff constitutes an unconditional violation of his due processes.

51. Additionally, Plaintiff contends the State Supreme Court has a duty of daily oversight and has or should have knowledge that Court Presiding Disciplinary Judge William J. O'Neil has a pattern of disbaring attorneys who complain about judicial misconduct.

52. Plaintiff also contends the State Supreme Court has a duty of daily oversight, has or should have knowledge that Court Presiding Disciplinary Judge William J. O'Neil apparently demonstrates a pattern of disbaring attorneys who have physical disabilities. O'Neil allegedly fails to accommodate that disability as the ADA requires.

53. Plaintiff contends the State Supreme Court has a duty of daily oversight, has, or should have, knowledge that which reads in pertinent

part... “The Supreme Court shall appoint a presiding disciplinary .... to serve at the pleasure of the Supreme Court” violates the Arizona State Constitution and further deprives Plaintiff of his right to maintain his law license without Due Process of Law under the 14th Amendment to the United States Constitution.

54. Presiding Disciplinary Judge William J. O’Neil has a pattern of disbaring attorneys by claiming criminal violations. These charges frequently are never filed or adjudicated by juries of peers. The usual violation by O’Neil comes via an 8.4(b) claim in the disbarment.

55. Plaintiff contends the State Supreme Court has a duty of daily oversight, has, or should have knowledge that Court Presiding Disciplinary Judge William J. O’Neil has a pattern of favoritism toward judges and attorneys from large and politically connected firms.

56. Plaintiff contends the State Supreme Court has a duty of daily oversight, has, or should have, knowledge that Court Presiding Disciplinary Judge William J. O’Neil imposed disparate and unconstitutional deprivation treatment towards Plaintiff.

57. Plaintiff contends the State Supreme Court has a duty of daily

oversight but has wrongfully, intentionally and well as negligently allowed Court Presiding Disciplinary Judge William J. O'Neil (who does not have a valid Loyalty "Oath of Office" filed with the Secretary of State's office as required by Arizona law) to violate Arizona State Law.

58. Plaintiff contends the State Supreme Court has a duty of daily oversight has allowed Court Presiding Disciplinary Judge William J. O'Neil to preside even when matters involving conflicts of interest would indicate the necessity of his recusal. Plaintiff contends that the State Supreme Court that has a duty of daily oversight and has allowed Court Presiding Disciplinary Judge William J. O'Neil to deny fair and impartial hearings in accordance with due process. Plaintiff contends that the State Supreme Court with a duty of oversight has allowed Court Presiding Disciplinary Judge William J. O'Neil to rule an entity that violates Amtrak, *infra*. That entity, the SBA, is both a market regulator and a market participant. A corporation that is both a market regulator and a market participant is unconstitutional.

59. Plaintiff contends that the State Supreme Court with a duty of oversight has allowed Court Presiding Disciplinary Judge William J. O'Neil to have excessive power, a violation Justice Scalia's argument in *Morrison v. Olson*, a case decided on June 29, 1988. Based on *The*

*Federalist*. Scalia wrote that the principle "is the absolutely central guarantee of a just government" and that "without a secure structure of separated powers, our Bill of Rights would be worthless." Scalia identified the powers the Constitution vests in the three departments of government and declared, "That is what this suit is about. Power. The allocation of power among Congress, the President, and the courts in such fashion as to preserve the equilibrium the Constitution sought to establish—so that [quoting James Madison] 'a gradual concentration of the several powers in the same department' can effectively be resisted" and, by implication, our rights preserved. "Frequently," Scalia continued, "an issue of this sort will come before the Court clad, so to speak, in sheep's clothing: the potential of the asserted principle to effect important change in the equilibrium of power is not immediately evident, and must be discerned by a careful and perceptive analysis. But this wolf comes as a wolf."

60. Defendants satisfy via the Scalia argument "A wolf comes as a wolf. This excessive power, unrestrained regulatory ability, and lack of supervision is unconstitutional; therefore the delegation of power to O'Neil and the State Bar of Arizona,(SBA), should be deemed void. SBA is headed by a single individual rather than a multi-member board

or commission; to the extent a panel exists, the panel was appointed by PDJ O'Neil and thus not independent. This highly unusual feature of SBA's structure violates the separation of powers. Normally in the absence of direct control by the democratically elected Governor, the usual leadership structure of an independent agency acts as a substitute check on the excesses of any individual leader of that agency. Since there is no independence, nor separation of powers, the SBA violates the alternative structure. The traditional multi-member structure guards against arbitrary decision making, protecting individual liberties by preventing the concentration of power of any one person. Independent agencies headed by multi-member boards are forced to account for multiple viewpoints, adopt compromises that result in less extreme decisions, and better resist capture by interest groups. SBA's unusual structure prevents those affected by its decisions from enjoying the benefits of multi-member leadership, and as a result SBA has undertaken a series of actions that have significantly harmed the companies' membership, as well as licensed attorneys.

61. The fact that SBA's discipline system is headed by an individual means the Governor and the Arizona State Supreme Court have less influence over its decisions than decisions made by independent

agencies headed by multi-member commissions. When an independent agency is run by a commission with multiple members serving staggered terms and a chairperson designated by the Governor, the Governor can influence agency actions by appointing one or more commission members and selecting the chairperson. Many statutes that create multi-member commissions also require bipartisan membership, thus guaranteeing at least some members will belong to the Governor's political party. Supreme Court Justice O'Neil, and equally SBA's PDJ O'Neil, in contrast, serves an indefinite term and was appointed by a single Supreme Court Justice. As a result, Supreme Court Justice O'Neil and SBA's PDJ financial manager under rule 51, and (Court PDJ O'Neil) could remain in office during the entire four-year term of a Governor from a different political party, while pursuing policies directly at odds with the incumbent Governor. As a result of SBA's unusual structure, it is more insulated from governor's influence than virtually any other independent state agency.

62. It is not constitutional for any independent state agency to operate under the direction of a single individual, but this structure is especially problematic in SBA's case because it has vast authority over a critical sector of the Arizona and United States economy.

63. SBA's current Director and (Court PDJ O'Neil) has said that he is a Justice of the Arizona State Supreme Court, despite lack of authorization to create another judicial slot, gubernatorial appointment, legislative review or election.
64. O'Neil's position is a violation of the separation of powers, appointments clause, and delegation clauses of the Arizona Constitution, as well as the U.S. Constitution.
65. Plaintiff, Jeffrey Dean Moffatt, was unconstitutionally deprived of due process which resulted in an intentional interference with Plaintiffs' Arizona Attorneys license to practice law in the State of Arizona, law practice and his livelihood by purported State Supreme Court of Arizona Presiding Disciplinary Judge William J. O'Neil, Arizona Supreme Court's appointee. Plaintiff practices Federal law and resides in this district. Plaintiff is a disabled attorney who is a protected person under the Americans with Disabilities Act. Plaintiff further contends that purported Judge O'Neil discriminated against him on the basis of his disability and deprived him of due process of law under the Constitution.
66. Plaintiff asked for a nude photo from an adult woman, not a legal client, on Facebook; Plaintiff maintains this was free speech protected by

the First Amendment of the U.S. Constitution.

67. Since Plaintiff's request for a nude photo from an individual who lacked any attorney client relationship, this request was constitutionally protected. Arizona State Supreme Court Presiding Disciplinary Judge William J. O'Neil, hereinafter called (PDJ O'Neil) improperly removed Plaintiff's protections under First Amendment Constitution applicable to Plaintiff's freedom of speech.

68. The Court (PDJ O'Neil) failed to comply with the Federal Three Prong Standard Test or Miller Test, pursuant to Miller v. California, 413 U.S. 15, 24-25 (1973) a landmark decision case by the U.S. Supreme Court; Smith v. United States, 431 U.S. 291, 300-02, 309 (1977); and Pope v. Illinois, 481 U.S. 497, 500-01 (1987), to determine if Plaintiff's material words of expression during Facebook communication with a New Mexico resident and adult woman non-legal client (requesting a nude photo), caused "Obscene" criminal conduct to violate the Miller Test.

69. Plaintiff's request for a nude photo during a Facebook communication was not a depiction of illegal conduct in every state to warrant imposing Plaintiff with a State Bar Ethical Rule (policy)



Guideline charge of an 8.4(b) alleged criminal conduct violation. These actions deprived Plaintiff of his constitutional protections. Note that State Bar Ethical Rule (E.R) 8.4(b), (policy) charged against Plaintiff was not adopted by Arizona Statutory Criminal Code and does not meet the elements set forth in Arizona Criminal Law Codes 13-1002, which requires specific intent. The request of a Nude Photo does not satisfy criminal solicitation in AZ Criminal Code Title 13 Section 13-3211. California Criminal Penal Code 1154 regarding Prostitution and Solicitation Elements needed to be deemed a crime under State Bar Ethical Rule 8.4(b) are clearly necessary or legally valid to impose against any Arizona attorney including Plaintiff.

70. The Court (PDJ O'Neil) had a judicial duty to apply principles that are within the U.S. Constitution in order to afford Plaintiff constitutional protections guaranteed within both the Fifth Amendment (due process) and Fourteenth Amendment (equal protection) of the U.S. Constitution.

71. The Court, Chief Justice and (Presiding Disciplinary Judge O'Neil) are required to comply with Schwartz v. Examiners, 353 U.S. 232 (1957) when disciplining Plaintiff and other State Arizona Attorneys.

72. Plaintiff was brought up on the same allegations in New Mexico in 2013. The New Mexico State bar found no client relationship, no legal

services, no duty and no violation.

73. PDJ O'Neil was aware of the exoneration in New Mexico, and rather than following Rule 8 of the Arizona State Bar, providing for following the forum jurisdiction, proceeded to try Moffatt.

74. PDJ O'Neil has not allowed the admission of bribery, extortion and election tampering into evidence in the Moffatt matter that was made by Hershhal (Pat) Spurlin, a 3-time felon, to the Carlsbad Police Department; the admission is an oral confession that is on Audio tape *Report #S1602144.*

75. PDJ O'Neil removed Moffatt's entire response and convicted Moffatt by default.

76. PDJ O'Neil also charged Moffatt with failing to attend a hearing with all the requisite due processes when the hearing took place a day after the notice of it.

77. The Fine (Sanction) imposed by Court (PDJ O'Neil) against Plaintiff of disbarment from practice of law on April 19, 2016, retroactive March 2016, within the State of Arizona, violated Plaintiff's First Amendment Rights guaranteed pursuant to the U.S. Constitution.

78. The Court (PDJ) violated right to Due Process of Law under the U.S. Constitution by:

- A. Not affording Plaintiff with an impartial jury, when (PDJ) imposed State Bar Ethical Rule (policy) 8.4(b) against Plaintiff and claimed Plaintiff committed criminal conduct, for asking a non-legal client for a nude photo on Facebook.
  
- B. Not upholding the Fourteenth Amendment nor affording Plaintiff with equal protections as a citizen, prior to issuing an Order dated April 19, 2016 for Final Judgment and Order, ordering the disbarment.
  
- C. Not complying with the Court's duty to comply with **Brady v. Maryland, 373 US 83 - 1963** by not disclosing the knowledge that O'Neils office had knowledge about the exoneration in New Mexico, as well as the knowledge of the extortion, bribery and election tampering, of Spurlin and Childers. An additional violation is not signing the subpoena that Moffatt

requested that would have proven the New Mexico vindication, as well as the Spurlin criminal actions that are now documented in the New Mexico Spurlin confession.

D. The Court (PDJ) not complying with the duty to have and execute a valid Loyalty “Oath of Office” in order to enforce and claim Plaintiff violated an 8.4(b) State Bar Ethical Rule (policy) charged as criminal conduct. Because the Court (PDJ) does not have a valid “Oath of Office” the Court (PDJ) does not enjoy judicial immunity for the acts alleged herein.

E. Disciplinary commission fees paid to the Court (PDJ) by the State Bar of Arizona create prejudice, clouding impartiality when prosecuting Plaintiff; those fees create a bias against Plaintiff.

79. Jeffrey filed a Special Action with the Arizona Supreme Court and the Court gave a blanket denial without rationale for the denial; this was signed by Robert Brutinel, Supreme Court Justice and business partner of O'Neil's.

80. The State Supreme Court Presiding Disciplinary Judge O'Neil under the direction and control of the Court acted as investigator, judge, and jury, which knowingly refused and blatantly denied exculpatory evidence.
81. The State Supreme Court Presiding Disciplinary Judge O'Neil acted as investigator, judge, and jury, knowingly deprived Jeffrey of property under the color of law in violation Jeffrey's constitutional rights. The unconstitutional acts alleged herein, and similar unreasonable, arbitrary and capricious acts by these defendants are complained of by many attorneys.
82. This Court is requested to visit the website "*Arizona Attorneys Against Corrupt Professional Regulation*" (AAACPR.org) and take judicial notice thereof. The attorneys who publish that website do not publish their name(s) for fear of retaliation and or retribution by the Bar and its inquisitional "disciplinary panel(s)."
83. Jeffrey is unable to locate any attorney willing to represent him against the Court and Chief Justice of the Court, applicable to constitutional infrastructure violations, constitutional rights and protection violations.

## **STATEMENTS OF PLAINTIFF'S CLAIMS**

### **(FEDERAL AUTHORITY OVER PLAINTIFF'S CLAIMS)**

84. The United States Constitution provides that “this Constitution, and the laws of the United States which shall be made in pursuance thereof... shall be the supreme law of the land... anything in the Constitution or laws of any State to the contrary notwithstanding “(U.S. Const., Art. VI, cl.2).
85. Plaintiff raises a substantial property right (law certificate, law practice, right to a livelihood without discrimination) which is protected by the Fourteenth Amendment of the United States Constitution which provides that a person shall not be deprived of life, liberty or property without due process of law.
86. Plaintiff also raises a federal statutory entitlement to protection against unlawful discrimination and/or retaliation under the Americans with Disability Act.
87. Although defendant is a court and defendant Scott Bales, Chief Justice, has acted within his official capacity, the actions taken by defendants conclusively qualify them as "State Actors" under the

Fourteenth Amendment of the United States Constitution, and their acts constitute action under color of law for purposes of 42 U.S.C. § 1983 et. Seq.

88. Circular 20 Code of Federal Regulations 31 U.S.C. § 10.1 provides for the Department of Treasury to have exclusive jurisdiction over Plaintiff related to Federal tax and the Department of Treasury has not charged Moffatt. See [https://www.irs.gov/pub/irs-utl/Revised\\_Circular\\_230\\_6\\_-2014.pdf](https://www.irs.gov/pub/irs-utl/Revised_Circular_230_6_-2014.pdf).

89. The Department of Treasury under 31 U.S.C. § 10.1 has exclusive disciplinary jurisdiction for ethical issues related to Federal Tax Practice, and the Department of the Treasury has never taken any action against Plaintiff. California's Bar similarly took no prosecution action on this item, and the California Department of Insurance vacated the charges and Plaintiff's insurance license is fully intact.

## **PLAINTIFF'S ADDITIONAL FACTUAL ALLEGATIONS**

### **(BACKGROUND)**

90. In 2013 compliant Lisa Childers filed a complaint with the State of New Mexico Bar. Lisa Childers was a prospective client only. Childers

and Moffatt communicated on Facebook.

91. Moffatt was speaking with Childers on Facebook outside of work hours, using his right to private personal speech protected in the First Amendment. Childers resided in the State of New Mexico and Moffatt resided in California at the time of contact.

92. Lisa Childers stated she needed legal help with her Federal back tax issues due to the Internal Revenue Service (IRS).

93. Plaintiff asked Childers (non-client) during his off duty hours for a nude photo (emphasis on the word photo-singular) in exchange for the \$75.00 consultation fee; Childers claimed she could not afford to pay.

94. Hershel "Pat" Spurlin, (ex-felon) and co-conspirator to Lisa Childers also communicated with Plaintiff on Facebook.

95. Spurlin said that he and Childers knew Plaintiff's wife was running for California State Senate and demanded in writing via Facebook that Plaintiff pay \$10,000.00 for requesting a nude photo from Childers.

96. Spurlin and Childers stated if Moffatt did not pay the \$10,000.00 they would ruin Plaintiff wife's run for State Senate and have Plaintiff disbarred. Spurlin even negotiated down the amount to \$2,500.00 and stated if paid, then neither Spurlin nor Childers would report Plaintiff to



the Bar or ruin Plaintiff wife's run for State Senate.

97. After family meetings, Plaintiff refused to pay the extortion. Criminal charges are pending against Spurlin in New Mexico for felony extortion.
98. Lisa Childers then filed a complaint against Plaintiff in three State Bars: New Mexico, California, and Arizona. Plaintiff first heard from the State Bar of New Mexico in 2013. In the later part of 2014, the State Bar of New Mexico ruled in favor of Moffatt and dismissed all the alleged ethical (non-criminal) charges. New Mexico found no attorney client relationship, no contract, no services, no duty, and found no crime.
99. The State Bar of California rejected Childers complaint and did not file any ethical charges against Plaintiff. Arizona never responded from the 2013 complaint. Only a week after Moffatt's wife announced her candidacy for State Senate in 2015, Arizona started its second process on the matter. Spurlin, on behalf of Childers, admitted to the Carlsbad Police Department they were extorting Jeffrey to file claims in all three jurisdictions. Plaintiff believes that Arizona dismissed the original complaint in 2013 without notifying Plaintiff.
100. The State of New Mexico has felony Charges pending against Spurlin and possibly Childers for extortion, bribery and election

tampering, which Defendants are aware.

101. Defendants have not sought the oral confession of Spurlin, which exists in the State of New Mexico Carlsbad Police Department on Audio tapes.
102. The State Bar of Arizona rather than following a similar discipline ruling with the forum jurisdiction, the State Bar of New Mexico in 2013, the State Bar of Arizona, filed charges against Plaintiff in November 2015. The New Mexico determined no attorney-client relationship was established, no duty, and no violations and dismissed charges against Plaintiff. The State Bar of Arizona nevertheless continued to discipline-prosecute Plaintiff, past the statute of limitations on a matter already adjudicated in favor of Plaintiff.
103. Brady violations are rampant with the present case at issue. The SBA had no jurisdiction, was aware of the exoneration and barred by the statute of limitations. Also, Arizona SBA likely had dismissed the complaint itself two years prior, given that the claimant mailed the complaint in 2013, and it was not until late 2015 that Plaintiff was contacted.
104. Given that this is the first Federal Forum that has jurisdiction on the underlying matter, the Erie Doctrine is relevant. This Erie Doctrine,

since sitting in diversity, would make the 2013 determination controlling, and set aside the Arizona decision.

105. Judge Kozinski, from the 9th Circuit has written extensively on prosecutorial misconduct inside Arizona. The case Plaintiff finds himself in is very similar to actions by other attorneys, who have found themselves at odds with the Arizona State Bar for apparently ignoring Constitutional guidelines. The denial of due process, although egregious in Plaintiff's case evidently demonstrates how the Arizona State Bar operates.

106. The variation for Plaintiff is that the operative matter took place between two people who are not residents of Arizona. New Mexico's State Bar reviewed the matter and found no attorney client relationship, no duty and no criminal action.

107. The operative issue, offering to do a consultation on a tax case in exchange for a nude picture, was criminalized by the State Bar of Arizona, more than two (2) year after the action. Nudes happen to be legal in the United States, including Arizona. Plaintiff filed a response to the Arizona State Bar matter which was totally expunged. The improper removal of Plaintiff's entire response/brief allowed the Arizona State Bar to convict Plaintiff on an alleged "default."

108. Below is a list of some of the issues Plaintiff faced. The third world justice and denial of due process is encapsulated in the following list. A single violation, much less two dozen violations, clearly would satisfy *Schwartz v. Board of Examiners* 353 U.S. 238, 239 thereby allowing for removing the AZ disbarment of Jeffrey.
109. The State Bar of Arizona submitted to the Court, Charge[s] against Plaintiff with core charge of Ethical Rule (policy) 8.4(b) not adopted by Arizona State Law and claimed Plaintiff committed criminal conduct by asking non-legal client for a nude photo. Contrarily, the State Bar of Arizona is nothing more than a tax exempt organization granted authorization from U.S. Department Treasury – IRS a Tax Status of a 501(c) (6) Business League Trade Association, that is tax exempt; as such, it does not have jurisdiction to prosecute or investigate Plaintiff, because the Bar is not a quasi-governmental prosecutorial or investigator agency, or political subdivision of the State.
110. The purported State Supreme Court of Arizona Presiding Disciplinary Judge (PDJ) William J. O’Neil has not signed his oath of office with a genuine handwritten signature, which is a felony in Arizona. The failure to have signed his own Oath of Office thereby makes PDJ’s Disbarment Order “null and void.” Against Plaintiff.

111. O'Neil failed to follow AZ State Bar Rule 8, which defers to the forum state's jurisdiction, i.e., New Mexico.
112. Failed to follow Model Rule 57(b) which requires Arizona to follow the decision of a forum state regarding discipline. In this case, the exoneration of Plaintiff.
113. The Arizona State Bar operated outside its jurisdiction.
114. Charged for a crime past the statute of limitations of said crime.
115. Charged for a crime without the elements necessary for the crime
116. Charged for a crime without the necessary specific intent necessary for the crime.
117. Charged without Criminal authority on an issue related to a non-client.
118. Failed to apply the Miller test, *infra* for first amendment speech.
119. Failed to find the speech in violation of obscenity statutes.
120. Criminalized First Amendment Speech.
121. Denied all Discovery.
122. Denied request for admissions.
123. The Arizona Bar had knowledge of the New Mexico exoneration, yet committed Brady violations by proceeding even when aware the Plaintiff had been cleared a year before.

124. A removal action to Federal Court was attempted but rejected based on the fact that the Arizona State Bar is a tax exempt entity, and not a government body.
125. Rather than a government entity, the Erie Doctrine, with diversity of citizenship, would have made the New Mexico determination operative and vindicated Plaintiff.
126. The Arizona State Bar, as a corporation, is also a market participant and has acted as a regulator. This was viewed to be unconstitutional to act as a regulator in Association of Railroads, on remand from the U.S Supreme court, U.S. COURT OF APPEALS, FOR THE DISTRICT OF COLUMBIA CIRCUIT, 12-5204. In short the tax exempt lost regulatory power under Amtrak, infra and thus the disbarment has no value.
127. State Supreme Court has direction and control over the State Bar of Arizona, which issued improper requests for Plaintiff's medical records.
128. State Supreme Court had direction and control over the State Bar of Arizona which issued improper requests for Plaintiff Moffatt's financial records,
129. Defendant improperly issued request for all of Plaintiff's federal

clients.

130. Defendant improperly denied requests for subpoenas for nude images on Judicial staff, as well as State Staff computers and electronics; this would have shown the disparity of treatment between Jeffrey and Defendant's own staff and employees.

131. The Court failed to grant recusal of Presiding Disciplinary Judge when there was and is a direct conflict of interest.

132. In this case an Arizona Supreme Court Judge, also a business partner of William J. O'Neil, failed to disqualify himself in the matter (conflict of interest).

133. The Court (PDJ) treated a non-crime as a felony when, in fact, sexual misconduct and criminal solicitation charges did not apply.

134. Hal Nevitt, State Bar of Arizona Former Director of the Member Assistance Program (MAP) was charged with sexual misconduct by the State of Arizona Board of Behavioral Health Examiners in Case No 2011-0063. This same agency also found Nevitt guilty of Breach of Confidentiality related to HIPPA violations. Compounding the disparity in treatments, a past President of the State Bar of Arizona was alleged to have started prostitution ring and rather than being prosecuted, he was elected Bar President the next year.

135. Plaintiff should not be accused and/or prosecuted of a crime by the State Bar Ethical Rule ER 8.4 (b) without being appointed a jury of Plaintiff's peers pursuant to the U.S. Constitution.
136. Plaintiff should not criminally be charged of a crime by State Bar of Arizona 8.4 (b) without due process pursuant to 5th and 14th Amendments.
137. The Court (PDJ) violated the Americans with Disability Act of 1990 for failure to provide reasonable accommodations to Plaintiff.
138. Once a professional attorney license is issued, it is a vested property right, which provides for due process. In Plaintiff's matter with Arizona State Bar, rules for the hearing were disregarded, all responses were denied and all legal rights were ignored, did not provide due process or reasonable accommodation. The mere appearance or semblance without the substance of legal rights (as in Plaintiff's case) does not pass Constitutional muster. (State v. Brechler 185 Wis. 599, 202 N.W. 144, 148.
139. The misuse of power by the Court (PDJ) is evident in Plaintiff's case. Here, a purported state actor is impacting the ability to practice law in the highest court in the Country and has misused power; thus, the Arizona Bar is in violation of Brechler, *infra*.



140. Plaintiff is not the only the victim of the Arizona system. Jerry Spence's business partner (Mr. Moriarty) was equally disbarred for assisting a former prosecutor challenge her disbarment of Lisa Aubushon for investigating judicial corruption.

141. Pursuant to *Schware v. Board of Examiners*, 353, U.S. 238, 239, the practice of law is not a matter of States Grace, footnote 5, citing *Ex parte Garland*, 415 Wall, 333, 379. This right requires due process to be afforded. The total denial of discovery requests for admissions, and removal of Plaintiff's response (and giving him a default) is a violation of *Atkins*, *infra*, as well as *Brechler*, *infra*.

142. The "State" contended (In *SCHWARE*, *Supra*) that even though the use of aliases, the arrests, and the membership in the Communist Party would not justify exclusion of *Schware* from the New Mexico bar if each stood alone, when all three are combined in his exclusion was justified. The *Schware* Court rejected that contention. The *Schware* Court held: "There is no evidence in the record which (353 U.S. 232, 247) rationally justifies a finding that *Schware* was morally unfit to practice law. On the record before us we hold that the State of New Mexico (the state the *Shware* case was in) deprived petitioner of due process in denying him the opportunity to qualify for the practice of law... The

judgment below is reversed and the case remanded for proceedings not inconsistent with this opinion.” Citing *Schware*.

143. Even better than *Schware*, Plaintiff was not even accused of a crime, much less never arrested; the claimed bar found criminal violation without an arrest (much less trial or conviction), should not raise substantial doubts about Plaintiff’s good moral character.[See, footnote 6, in *Schware*, *infra*.]. An arrest, by itself, is not considered competent evidence at either a criminal or civil trial to prove that a person did certain prohibited acts. Cf. *Wigmore, Evidence*, 980a.

144. According to sources, Mr. Moriarty was disbarred for representation of past Assistant Attorney General Lisa Aubushon, who was going after judicial corruption, according to Auchbuon. Some of the persons in that case were tied to business associates of Court (PDJ) William O’Neil, the same Presiding Disciplinary Judge involved in this matter.

145. Rachel Alexander, also an Assistant Attorney General, was disbarred for simply having her name on a case also investigating judicial corruption.

146. T. Anthony Guajardo was disbarred for alleged misrepresentation when none was proven. Guajardo had filed a complaint of judicial

misconduct and the judge filed a retaliatory bar complaint against Guajardo, charging misrepresentation.

147. Material facts indicate that Plaintiff was treated substantially different (induced disparate treatment) from others.

148. Plaintiff doing his own investigation, Plaintiff received sources of information purporting State Supreme Court Presiding Disciplinary Judge William J. O'Neil's, bailiff (Rozell Williams, a multiple time felon) was convicted for selling favorable justice decisions. Rather than prosecuting O'Neil, the Peter Principle was in full throttle. O'Neil subsequently jumped around, inserting himself in judicial matters. After O'Neil shut down a Judicial investigation of corruption, and corruption charges of his past clients, he was appointed to the Tax Exempt organization as the PDJ, known as the Arizona State Bar Court (PDJ) O'Neil has held himself out as a Supreme Court Justice, when in fact, this is not the case, O'Neil (PDJ) was an appointed judge. Judges in Arizona are either elected, or appointed by the Governor, with approval of the Legislature. The fact that O'Neil holds his position without following the mandates of the Arizona State Constitution, indicates he is an interloper and his decisions have no value.

149. The State Supreme Court Presiding Disciplinary Judge O'Neil does

not follow dictates of the constitutional protections required of a State Court; instead he, apparently, determines his own policies and procedures in bringing and adjudicating those charges with power to deprive an attorney of his or her property interest in a law license.

150. Defendant Scott Bales, Chief Justice, a licensed attorney in Arizona, knew or should have known, that State Supreme Court Presiding Disciplinary Judge O'Neil is not permitted to act in opposition to the State Supreme Court.

151. Defendant Scott Bales, Chief Justice knew or should have known that the Court (PDJ's) conduct in disciplining attorneys and in particular discipline of Plaintiff would offend the sense of fairness of any reasonable person. These actions were singular in denying Jeffrey his license to practice law, his business and interference with his college degrees.

152. Chief Justice Scott Bales supervised, cooperated and conspired with, and counseled Presiding Disciplinary Judge O'Neil in denying or refusing Moffatt a fair trial by ignoring the Rules of the Supreme Court of Arizona.

153. Chief Justice Scott Bales failed in his daily oversight of the SBA and O'Neil by allowing clearly erroneous conduct that prevented

Plaintiff a trial.

154. As a result of these defendants' unconstitutional actions, Jeffrey was deprived of his license to practice law in Arizona and his property in the business. Moffatt has lost income and continues to suffer irreparable public humiliation, emotional distress, and loss of professional reputation due to press release by the Bar on Courts website. Discipline of matter back in 2009 for issue of 2006 still remains by the Bar hyperlinked to the Courts website and the Bar / Court induced other media sites to continue republishing false statements that abridge Moffatt of his constitutional rights and protections.
155. The Court and the Supreme Court Presiding Disciplinary Judge O'Neil denied Jeffrey his entitlement to constitutional guarantees. Jeffrey was denied access to exculpatory witnesses, evidence, and testimony.
156. The activities of the defendants are directed, constrained and supervised by the Court and are fairly attributed to the Court/State.
157. Defendants utilized the Court to cloak themselves in State authority and arbitrarily and capriciously violated Jeffrey's civil and constitutional rights.
158. Jeffrey was subjected to an inquisitional process alleged to be a

State Court procedure that did not identify specific charges or alleged wrongful conduct such that Jeffrey could reasonably defend himself; he was subjected to threat of criminal prosecution, then convicted and deprived of property in violation of his constitutional rights. Due process, equal protection and the protections against self-incrimination were denied.

159. Jeffrey was not tried nor found guilty by any criminal court. Only the Court Presiding Disciplinary Judge O'Neil ruled that Plaintiff's conduct was criminal pursuant to the Arizona Bar's Ethical Rule (policy) of 8.4(b) not adopted by Arizona Laws.

160. Jeffrey had been deprived an Arraignment Hearing, Preliminary Hearing and a jury trial before his peers though the Court and Court Presiding Disciplinary Judge O'Neil claimed Plaintiff 's conduct was criminal pursuant to Ethical Rule (policy) 8.4(b).

161. Chief Scott Bales employed by the State abused his position and authority while performing his formal capacities or exercising his responsibilities to the State.

162. The State of Arizona solely, through its Supreme Court, is authorized to regulate the practice of law through its Courts and has unconstitutionally delegated that function to Court Presiding Disciplinary

Judge William J. O'Neil.

163. The Supreme Court defers to the State Supreme Court Presiding Disciplinary Judge O'Neil, in disciplinary matters.
164. State Supreme Court Presiding Disciplinary Judge O'Neil's issues final rulings in "discipline" matters.

**RESPONDENT PROTECTED CLASS MEMBER OF ADA  
(RESPONDENT'S TRAUMATIC BRAIN INJURY (TBI))**

165. Plaintiff is a protected class member pursuant to the Americans with Disability Act (ADA).
166. The court should note that Plaintiff is a coma survivor following a horrific bicycle accident.
167. This resulting traumatic brain injury (TBI) of frontal lobe damage may have contributed to Plaintiff's impulsive behavior and serve as an exacerbating factor in the Lisa Childers matter. His request for a nude photo was a private matter between Childers and Respondent via Facebook. Childers was "NOT" a client and "NEVER" became a legal client with Plaintiff.
168. Plaintiff's TBI disability, wasn't discovered until 2014, although

the accident occurred in 1976. In this accident, Plaintiff suffered multiple broken bones and lost hearing in his left ear from a blood clot on his brain, bursting his ear drum. Plaintiff's TBI injury may be a causal factor and proximate cause for cognitive impulse in his 2013 Facebook communications.

169. Had the Arizona Supreme Court and State Bar of Arizona provided adequate accommodations to Jeffrey Moffatt, Respondent, under the Americans Disability Act (ADA) of 1990 and not violated 42 U.S.C. § 12132, Plaintiff would have released his medical records to them.

### **VIOLATION OF RIGHT TO WORK STATE**

170. The Arizona Supreme Court is in violation of Arizona's "Right To Work" provision of the Arizona Constitution, Article 25, Section O, which reads in pertinent part: "Right To Work or Employment without membership in a labor organization—No Person shall be denied the opportunity to obtain or retain employment because of non-membership in a labor organization, nor shall the State or any subdivision thereof, or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of non-membership in a labor



organization.”

171. The Arizona Supreme Court’s mandatory requirement that Plaintiff and other Arizona attorneys be members of the State Bar Of Arizona violates the “Right To Work” provision of the Arizona Constitution. Plaintiff along with other attorneys was mandatorily required to pay membership dues to the State Bar of Arizona as a precondition to work as an attorney in Arizona. The State Bar of Arizona is a “labor” or “employment” organization because employment as an attorney is the basis of membership, constituting a “closed shop” or what is referred to as a “Mandatory Integrated Bar.”

172. The State Bar of Arizona conducts and pays for political lobbying with membership dues, supporting political views which Plaintiff has opposed and has spoken against. Such political action by the State Bar of Arizona violates Plaintiff’s First Amendment Rights to freedom of speech. Further, the Arizona Supreme Court has violated Article 25, Section O, of the Arizona Constitution by denying Plaintiff and other attorneys an opportunity to opt out of mandatory membership in State Bar of Arizona. Plaintiff is challenging the mandatory requirement that attorneys join the Arizona State Bar to practice law in Arizona.

173. The Court should note that there are other states where attorneys

are still under regulation by the state and must be law-abiding attorneys. However, those states do not mandate attorneys join a Bar Association and/or to pay membership dues as a precondition to work as an attorney, protecting attorneys' constitutional rights. Generally, an attorney is required (among other things) to pass a twelve hour bar exam and to earn a law degree from an accredited law school, constituting a lifetime's investment in time, money, and hard work which should not be taken away in violation of the Constitution.

### **PENDENT STATE CLAIMS**

#### **(INTENTIONAL OR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)**

174. The preceding paragraphs are re-alleged and incorporated herein as if fully rewritten.
175. Defendants' actions have been intended and calculated to cause Jeffrey extreme emotional distress; alternatively, defendants knew or should have known that their actions would result in extreme emotional distress to Jeffrey.
176. The Defendants intentionally or recklessly disregarded the near certainty that their conduct would cause distress.

177. The defendants' unconstitutional conduct was extreme and outrageous in that it permanently deprived Moffatt, under color of law, of his property, professional reputation, and ability to earn a living in his chosen profession.
178. Actions by Defendants have been so extreme and outrageous as to go beyond the bounds of decency by interrupting and denying Jeffrey's right to live free from interference and wrongful punishment and violates Federal Laws intended to maintain those freedoms.
179. If reasonable minds could differ about whether the conduct rose to the required level, it is a question for the jury. *Id. See also, Johnson v. McDonald*, 197 Ariz. 155, 160 . . . (App. 2000).
180. If the disciplinary system and panel were organs of the Arizona Courts, this witch hunt could not have occurred and constitutional protections would have prevailed.
181. Defendants' actions were deliberately calculated to interfere with Jeffrey's ability to earn a living.
182. The Defendants' actions have been the direct and proximate cause of extreme emotional upset, mental, financial injury to Jeffrey. The effect has been extreme, bordering on the unendurable.
183. As a result of the Defendants' intentional infliction of extreme

emotional distress upon Plaintiff, Plaintiff prays from this Honorable Court damages from Defendants, jointly and severally, in the amount of \$150,000.00 in compensatory damages for each year of lost income as a result of his disbarment and \$10 million in punitive damages from each of them.

### **IRREPARABLE INJURY**

184. For the foregoing reasons, Defendants have caused and will continue to cause substantial and irreparable harm to Plaintiff for which the Plaintiff has no adequate remedy at law.

### **CLAIMS FOR RELIEF:**

#### **CLAIM ONE (VIOLATION OF THE FIRST AMENDMENT)**

185. Plaintiff incorporates by reference the allegations of the preceding Paragraphs.

186. Defendants' actions complained of herein deprived Plaintiff of his right to Freedom of Speech and Privacy Rights under the First Amendment of the U.S. Constitution and under the Privacy Act.

187. Defendant have charged Plaintiff with a crime, and subjected Plaintiff to the loss of a vested right, based on mere words that were used.

The criminalizing of words is a violation of the worst kind, which is why the protection of speech and words is in the First Amendment.

188. The criminalization of words is eerily similar to George Orwell's book 1984, which compounds the violation of the First Amendment.

189. Plaintiff requests that Defendant's direct the SBA be removed from having any prosecutorial power, especially over speech and words. Plaintiff additionally requests that his words that were conveyed to Childers be deemed protected speech, and not subject to the phantom 8.4(b) Ethical Rule violation ( Policy guideline), which is a criminal charges or disbarment. Note, 8.4(b) is boilerplate for O'Neil; O'Neil uses it in the majority of his decisions despite the facts not existing to prove the matter, which is another reason to remove the SBA and O'Neil from having criminal power over speech.

## **CLAIM TWO**

### **(VIOLATION OF THE MILLER OBSCENITY TESTS)**

190. Plaintiff incorporates by reference the allegations of the preceding Paragraphs.

191. Defendant has criminalized a request for nudity, something that has been litigated by the infamous owners of Playboy and Hustler magazine, more than fifty (50) years ago.
192. Although nudity is legal in the State of Arizona, apparently Defendants found it authorized to make it illegal for an California Resident to request a nude from a New Mexico adult woman resident.
193. The conundrum is compounded when New Mexico's Bar reviewed the matter and found no duty, no client relationship and no services provided as an attorney and therefore no relationship that Defendants could attach jurisdiction to even try to overthrow 50 years of legalized nudity.
194. Defendant's did not apply the Miller Test for Obscenity, but rather stated the mere request for a nude as a barter was criminal and illegal. This failure to apply the Miller Test, and criminalize the action without factually finding it in violation of Miller Test is a Constitutional violation.
195. Plaintiff requests that Defendant's direct the SBA be removed from having any prosecutorial power, especially over requests for nudity, especially when the Miller test has not been applied. Plaintiff

additionally requests that the request Plaintiff made be deemed in fact not in violation of the Miller Test, and thus Legal.

**CLAIM THREE**  
**(VIOLATION OF ADA)**

196. Plaintiff incorporates by reference the allegations of the preceding Paragraphs.
197. Plaintiff has faced a significant, documented head trauma (TBI) that has resulted in documented head trauma, with real results. These results qualify Plaintiff to be listed as a protected class.
198. Defendants' actions complained of herein deprived Plaintiff of statutory right pursuant to Americans with Disabilities Act (The ADA) (43 USC Section 12132).
199. Defendant failed to give a protected status to Plaintiff.
200. Defendant has a habit of not protecting individuals that are protected via ADA, but also a habit of disclosing medical information in violation of HIPPA rules. This disclosure is easily found by disseminating protected individuals health records onto the internet.

201. Plaintiff requests that Defendant's direct the SBA be removed from having any prosecutorial power, especially over issues that relate to ADA. Plaintiff additionally requests that Defendant's provide better treatment for attorneys that have been injured, as well as better treatment for those with frontal lobe damage, such as Plaintiff.
202. Plaintiff requests the court deem Plaintiff a protected class member of ADA.
203. Plaintiff requests that any action that has taken place be looked at through the lens of ADA, which requires even more deference than normal.
204. Plaintiff requests that the make it up as you go, i.e. Sui Generis law, especially as it relates to ADA issues be deemed Constitutionally deficient.

#### **CLAIM FOUR**

#### **(PROCESS VIOLATION OF 14<sup>TH</sup> AMENDMENT DUE PROCESS)**

205. Plaintiff incorporates by reference the allegations of the preceding paragraphs.



206. Plaintiff was provided notice of a hearing a day in advance and then sanctioned for not attending it. This was a violation of the notice requirement of due process.
207. Defendant removed all of Plaintiff's responses, and denied all discovery. This was equally a violation of due process.
208. Defendant required Plaintiff to appear, despite having no jurisdiction. This was equally a violation of due process.
209. Defendant failed to mandate O'Neil recuse himself, when it was apparent a conflict existed.
210. Defendant had Robert Brutinel, a Supreme Court Justice and business partner of O'Neil rule on Plaintiff's case. This was a blatant conflict of interest and denial of due process to Plaintiff.

### **CLAIM FIVE**

#### **(VIOLATION OF THE U.S CONSTITUTION BY BEING VOID FOR VAUGENESS)**

211. Plaintiff incorporates by reference the allegations of the preceding Paragraphs.
212. Defendant removed the Constitution as the ultimate power that O'Neil and the SBA would use, allowing for the use of Sui Generis. This allows a make it up as you go.

213. To be charged for a crime, outside the state lines, outside the elements existing for a crime, despite an exoneration in the forum state satisfies the charges being stricken for being void for vagueness.
214. The clause that allows the use of Sui Generis, should be seen as Unconstitutional, and be removed as a measuring stick by the Arizona Supreme Court.
215. Plaintiff requests that this court determine that the use of Sui Generis to adjudicate Plaintiff and other attorneys is void for vagueness, and Unconstitutional.

### **CLAIM SIX**

#### **(VIOLATION OF HIPPA)**

216. Plaintiff incorporates by reference the allegations of the preceding Paragraphs.
217. Defendants have allowed in their dereliction of daily review and oversight, the SBA and (Court PDJ O'Neil) to publish medical health records about attorneys, without redaction. This publication is a violation of HIPPA.
218. Defendant's allowed the SBA and O'Neil to sanction Plaintiff for not providing the medical records it demanded of Plaintiff, despite the

lack of jurisdiction or proper authorization.

219. Plaintiff requested that Defendant's make accommodations for medically protected information, and Defendant's refused. This refusal was a violation of HIPPA.

220. Plaintiff requests that Defendants' in their daily oversight of the next version of administration and control over Attorneys, since the present version is clearly illegal, be required to adhere to HIPPA.

221. Plaintiff requests that the violation he was given for the failure to provide medical records, to Defendant and its delegates be excused, since his records were in fact protected under HIPPA.

## **CLAIM SEVEN**

### **(VIOLATION OF THE GOVERNOR'S CONSTITUTIONAL REMOVAL AUTHORITY AGAINST SBA AS BOTH DISCIPLINE JUDGE AND MANAGER OF THE SBA BUDGET)**

222. Plaintiffs incorporate by reference the allegations of the preceding paragraphs.

223. The Arizona Constitution provides that the Article 4. Section 1. A. The executive department shall consist of the governor. The AZ.CONST. art. 4, § 4, further states that "he shall take Care that the Laws be

faithfully executed,” Those provisions vest all executive power in the Governor of Arizona and give the Governor the constitutional authority to remove state agency heads from office at will. Although the Supreme Court has recognized a limited exception to this constitutional principle for certain independent agencies headed by expert, multi-member commissions, see generally *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935), that exception does not apply to SBA.

224. By making SBA’s head a single PDJ, exercising Judicial power claiming discipline, running a budget that controls prosecution, and is benefited by the fines and fees it collects, rather than a multi-member board and eliminating the Governor’s power to remove the Director at will, SBA violates the Governor's constitutional removal authority.

225. The constitutional defect in SBA’s structure is exacerbated by the since the SBA has broad power over the legal sector, a vital part of the economy, as well as the ethical practices of prosecution, which have been called into question by 9<sup>th</sup> Circuit Justice Kozinski. The targeting of prosecutors that have gone after judicial corruption.

226. SBA is subject to the Constitution’s separation of powers when it acts as conservator, especially when it exercises its conservatorship powers to expropriate private property.

227. Moreover, even if SBA were never subject to the Constitution's separation of powers when it acts as discipline, it would still be subject to the separation of powers when it acts as regulator. SBA acted in its capacity as regulator when it forced attorneys, such as Plaintiff, into compliance. The fact that SBA was operating in violation of the separation of powers when it initially imposed the disbarment infects its subsequent decision. Plaintiff is suffering ongoing injuries as a result of SBA's expropriation of the member's rights and its continuing efforts to adopt policies that disadvantage attorneys, especially those that stand at odds with PDJ O'Neil and the land developers he has been involved with. These ongoing injuries are being visited upon Plaintiffs as a result of both decisions by SBA as manager of SBA moneys and decisions by SBA as regulator of attorneys.

228. To remedy the violation of the Governor's constitutional removal authority alleged in this Count, the Court should: (1) vacate the disbarment of Moffatt; and (2) declare that henceforth SBA is no longer an independent agency and strike down the provisions of Supreme Court of Arizona that purport to make SBA independent from the requirements of any other legal system.

## **CLAIM EIGHT**

### **(VIOLATION OF THE SEPARATION OF POWERS AGAINST SBA AS BOTH REGULATOR AND CONSERVATOR AND TREASURY)**

229. Plaintiffs incorporate by reference the allegations of the preceding paragraphs.
230. Even if it were otherwise constitutional for an independent agency to operate under the leadership of a single individual, this feature of SBA's structure would still violate the Constitution's structure when combined with other aspects that further insulate SBA from oversight by any of the three branches of the State government.
231. In addition to operating without any supervision by the Governor, SBA also has no meaningful direction or supervision from Arizona Legislation. Arizona Supreme Court gives SBA vast power over attorneys and their members, but SBA has successfully argued for an interpretation of the statute that fails to articulate any overarching policy that SBA also has no meaningful direction or supervision from the State Legislature. The Arizona Supreme Court also exempts SBA from the appropriations process by permitting SBA to self-fund through fees it assesses on the attorneys it regulates without any oversight from the State Legislature. Very few independent state agencies are exempted from the

appropriations process, and SBA is the only such agencies headed by a single Director. Exemption from the appropriations process not only diminishes legislative oversight of an independent agency but also reduces the Governor's influence over the agency since the agency need not seek the Governor's assistance to obtain funding from Congress.

232. The Arizona State Supreme Court also forbids functional judicial review of a vast array of actions SBA takes as regulator or manager of member funds. This is compounded by the business partner of O'Neil, Brutinel ruling on cases that he has a clear conflict of interest. When they are reviewed, the O'Neil Business partner, Robert Brutinel makes rulings, protecting O'Neil and the SBA. As a result of statutory restrictions on judicial review of SBA's actions, and the inbred conflict of interest the courts in many circumstances are powerless to ensure that SBA exercises its authorities in a lawful manner.

## **CLAIM NINE**

### **(VIOLATION OF DISTRIBUTION OF POWERS CLAUSE)**

233. Plaintiffs incorporate by reference the allegations of the preceding paragraphs.

234. Article 3 of the Arizona Constitution provides: ARTICLE III. DISTRIBUTION OF POWERS clause provides for a Distribution of Powers The powers of the government of the state of Arizona shall be divided into three separate departments, the legislative, the executive, and the judicial; and, except as provided in this constitution, such departments shall be separate and distinct, and no one of such departments shall exercise the powers properly belonging to either of the others.

235. The purpose of the Constitution's separation of powers is to guard against decisions that diminish the rights of private individuals. The Constitution's structure is also designed to ensure that the organs of state and federal government remain accountable to the people. Yet SBA is not subject to meaningful direction or oversight by any branch of government created by the Constitution. The absence of any check on SBA's actions by the Executive, Legislative, or Judicial Branches makes SBA the least accountable corporate agency in a state or nation's history and violates the Constitution's structure and the separation of powers. The designation of power in a tax exempt corporation, headed by a single PDJ, O'Neil with unchecked power is in violation of PHH, 839 F.3d at 21



236. To remedy the violation of the Constitution alleged in this claim, the Court should: (1) vacate the Moffatt disbarment; and (2) declare henceforth SBA is no longer an independent agency and strike down the provisions of the Arizona State Bar that make SBA unaccountable to any of the three branches of the state government.

### **CLAIM TEN**

#### **(VIOLATION OF THE APPOINTMENTS CLAUSE AGAINST SBA AS REGULATOR AND FOR ALLOWING O'NEIL TO BE THE MANAGER OF SBA'S BUDGET )**

237. Plaintiffs incorporate by reference the allegations of the preceding paragraphs. The Appointments Clause provides that the Governor “shall nominate, and by and with the advice and consent of the Senate, shall appoint” all Supreme Court Judicial officers of the State of Arizona.

238. A.Z. CONST. art. V, § 8, The appointments clause permits the Legislature to vest the appointment of inferior officers in the Governor alone, in the Courts of Law. A Supreme Court Judge should be nominated by the Governor and confirmed by the Legislature.

239. Here, the SBA is not a state agency, but a tax exempt corporation. As the head of an independent agency, the Presiding judge of the SBA would be a principal officer of Arizona under the appointments clause if

the SBA was a government entity. Accordingly, this office may be filled only by someone nominated by the Governor and confirmed by the Legislature.

240. When there is a vacancy in a position that must be filled by a principal officer, the Constitution permits an inferior officer to temporarily assume the responsibilities of the position in an acting capacity. However, the Appointments Clause limits the period the appointee may serve. Appointment of O'Neil, without formal gubernatorial appointment nor consent of the Legislature makes SBA unaccountable to any of the three branches of the state government.

241. Article 6, Section 12 B. The governor shall fill any vacancy in such counties by appointing a person to serve until the election and qualification of a successor. At the next succeeding general election following the appointment of a person to fill a vacancy, a judge shall be elected to serve for the remainder of the unexpired term. Here, the governor has never appointed O'Neil, nor was he elected head of the SBA Discipline commission. As such, there is a violation of Article 6, Section 12 B. O'Neil has held his place a for more than a decade, longer than any elective term and therefore a violation.

242. AZ Constitution, Art V, Section 8. Vacancies in office Section 8. When any office shall, from any cause, become vacant, and no mode shall be provided by the Constitution or by law for filling such vacancy, the governor shall have the power to fill such vacancy by appointment. The Governor has never appointed O'Neil, a violation of Art V, Section Eight.
243. By the time PDJ O'Neil approved the disbarment, he had been SBA's acting Director and claimed Supreme Court Judge for nearly seven years, exceeding a reasonable tenure.
244. Furthermore, it is impossible for someone to serve as a recess appointee principal officer without Senate confirmation for more than two years. PDJ O'Neil's tenure is unreasonable and unconstitutional.
245. In addition, although Legislature may by statute provide that, in the event of a vacancy, the occupant of a specific inferior office will by operation of law become an acting principal officer, the Constitution does not permit a single member of the Arizona Supreme Court to appoint an acting principal officer of SBA, much less appoint another member of the Supreme Court, which is the title O'Neil states he has. For this reason as well, PDJ O'Neil's appointment was unconstitutional. The Arizona

Supreme Court's Rule 51 appointment of a "Presiding Disciplinary Judge" was an improper appointment.

246. To remedy the violation of the Appointments Clause alleged in this claim, the Court should vacate the appointment of O'Neil and the delegation of duties to the SBA.

### **CLAIM ELEVEN**

#### **(VIOLATION OF COMMISSION APPOINTMENT)**

247. Plaintiffs incorporate by reference the allegations of the preceding paragraphs.

248. Arizona Constitution Article V, section 11, under Commissions Section 11. All commissions shall issue in the name of the state, and shall be signed by the governor, sealed with the seal of the state, and attested by the Secretary of State.

249. PDJ O'Neil is also said to be a commissioner, and yet he has never had his commission signed by the governor, nor signed his oath of office, nor had said oath attested by the Secretary of State. As such, O'Neil is in violation of Article V, Section 11, as a commissioner,

250. To remedy the violation of the violation of the Commission doctrine alleged in this Count, the Court should vacate all judgments

made by the O'Neil, including the disbarment of Plaintiff.

## **CLAIM TWELVE**

### **(VIOLATION OF THE CREATION AN UNAUTHORIZED SUPREME COURT JUSTICE)**

251. Plaintiffs incorporate by reference the allegations of the preceding paragraphs.
252. Article 6, Section 2. The Supreme Court shall consist of not less than five justices. The number of justices may be increased or decreased by law, but the court shall at all times be constituted of at least five justices.
253. O'Neil has publicly held himself out as an Arizona State Supreme Court Justice as Presiding Disciplinary Justice. This violates Article 6, Section 2, since during the period of time of O'Neil, exceeded the original five Justices, and now the seven Justices that are authorized.
254. O'Neil claims a position in the Arizona Supreme court that is impermissible, and violates Article 6, Section 2
255. To remedy the violation of the impermissible number of Supreme Court justices alleged in this count, the Court should vacate all judgments made by the O'Neil, including the disbarment of Plaintiff, since he was holding himself out as an unauthorized member of the Arizona State

Supreme Court.

### **CLAIM THIRTEEN**

#### **(VIOLATION OF THE NON-DELEGATION DOCTRINE AGAINST SBA and O'NEIL AS DELEGATE and PRESIDING DISCIPLINARY JUDGE)**

256. Plaintiffs incorporate by reference the allegations of the preceding paragraphs.
257. Arizona Constitution Article 3, Section 1 of the State of Arizona Constitution vests "The legislative authority of the state shall be vested in the legislature, consisting of a senate and a house of representatives, "This text permits no delegation of legislative powers from Legislators to any other organ of government. Under the non-delegation doctrine, the Arizona Supreme Court impermissibly delegates legislative power when it gives a tax exempt corporation, i.e. the SBA discretion without articulating any intelligible principle to guide the entities exercise of discretion.
258. Although the Supreme Court broadly defines the boundaries of SBA's discretion as a regulator and manager of bar dues and bar fines, by enumerating a list of permissive powers the agency may choose to exercise, under the interpretation of the statute that SBA has successfully

advanced in other litigation, the Arizona Legislators failed to articulate an intelligible principle to guide SBA's exercise of discretion

259. This constitutional flaw is exacerbated by the fact that the Arizona Supreme Court bars any original judicial review that would restrain or affect the exercise of powers or functions of SBA as a regulator of attorneys. By foreclosing judicial review of SBA's exercise of its disciplinary powers or functions, this provision enables SBA to take actions that would otherwise violate state and federal law. As a result, under SBA's understanding of the delegation by the Supreme Court, so long as SBA is exercising its broadly defined disciplinary powers, it is free to disregard the fiduciary duties that state law would otherwise impose on the Companies' management, to enter into contracts authorizing other state agencies to violate State and federal statutes, and generally to ignore any law including the United States Constitution. That SBA is able to exercise this extraordinary power without any intelligible principle from the Arizona State Legislators to guide its exercise of discretion violates the non-delegation doctrine.

260. SBA abused its undirected discretion as the purveyor of discipline by imposing the Discipline hearings, which visited serious harm on the Arizona Attorneys. Arizona Supreme Court's Rule 51 appointment of a

“Presiding Disciplinary Judge” was a violation of the non-delegation doctrine.

261. To remedy the violation of the non-delegation doctrine alleged in this Count, the Court should vacate all judgments made by the SBA, including the disbarment of Plaintiff.

### **CLAIM FOURTEEN**

#### **VIOLATION OF THE PRIVATE NON-DELEGATION DOCTRINE AGAINST SBA AS DISCIPLINARIAN, FINE CREATION (SANCTION), COLLECTION AND MARKET PARTICIPANT)**

262. Plaintiff incorporates by reference the allegations of the preceding paragraphs.
263. Plaintiff alleges in the alternative and solely for purposes of this count that when SBA acts as a disciplinarian, it is a tax exempt corporation and not an appendage of Arizona state government.
264. The Vesting Clauses award all Legislative power to the legislature, AZ CONST. Article 4. Section 1. A. The executive department shall consist of the governor Art VI, § 1, cl.1, and all Judicial power to the Supreme Court Judicial power; courts Section 1. "The judicial power



shall be vested in an integrated judicial department consisting of a supreme court, such intermediate appellate courts as may be provided by law, a superior court, such courts inferior to the superior court as may be provided by laws and justice courts.”

265. Together, these provisions of the Constitution do not permit any delegation of Legislative, Executive, or Judicial power to a private entity. Indeed, authorizing a private entity to exercise any of the sovereign powers of the state government constitutes “delegation in its most obnoxious form.” *Carter v. Carter Coal Co.*, 298 U.S. 238, 311 (1936).

266. Delegations of Judicial power to a private entity are no more permissible than delegations of Legislative power to a private entity. “[I]f Congress could act as effectively without the President as with him” by assigning responsibility for executing the laws to a private entity, it would be able to enhance its own powers at the expense of the President. See *Printz v. United States*, 521 U.S. 898, 923 (1997).

267. Delegations of Vesting Clause power to a private entity are per se unconstitutional because they invite the use of the state government’s sovereign powers to further private interests. Far from guarding against such misuses of power, SBA understands the Supreme Court delegation

to authorize it to do anything it “determines is in the best interests of . . . (SBA)” when acting as Judiciary.

268. Irrespective of whether SBA’s judicial discipline powers are characterized as Judicial, Legislative or Executive, the Supreme Court delegation gives Vesting Clause power to SBA.

269. As discipline arm, SBA has successfully argued that delegation by the Supreme Court grants it the power to ignore otherwise applicable state and federal law. SBA actions show it is free to exercise in a manner that is harmful to the interests of the attorneys and the community. SBA does not properly or legally exercise Judicial, Legislative or Executive power when it: (i) displaces state and federal law; and (ii) makes decisions in a non-fiduciary capacity that are binding on the attorneys and their clients. SBA did both of those things when it took jurisdiction to discipline attorneys.

270. The Arizona Supreme Court’s Rule 51 appointment of a “Presiding Disciplinary Judge” is in violation of the Private non delegation doctrine.

271. To remedy the violation of the Constitution alleged in this Court, the Court should vacate the delegation of judicial power to the SBA, and have the Arizona Supreme Court regain original jurisdiction of discipline issues of attorneys.

## CLAIM FIFTEEN

### (ARIZONA SUPREME COURT RULE 48, ALLOWING FOR “SUI GENERIS” PROCEEDINGS ARE UNCONSTITUTIONAL)

272. Plaintiff incorporates by reference the allegations of the preceding paragraphs.

273. Plaintiff alleges in the alternative and solely for purposes of this count that when SBA, and or Supreme Court PDJ O'Neil uses Arizona Supreme Court Rule 48, [being] neither civil nor criminal does away with and overthrows both State and Federal Constitution protections and rights of Plaintiff. Allowing a Supreme Court judge to make up rules and procedures as they see fit, is patently unconstitutional, as well as void for Vagueness.

274. The Arizona Supreme Court's Rule 48 use of Sui Generis is Unconstitutional on State and Federal Due process clauses as well as Unconstitutional by being void for Vagueness.

275. Since the Arizona Supreme Court Rules, Policies and Guidelines are made up on a whim, an individual can be charged with a crime, as in the present matter, without jurisdiction, elements of the crime, timeliness and despite Constitutional protections and still be found guilty of violation under Rule 48, via the Make it up as you go framework. This

type of control in better in line with rules from the third world dictators, than claimed members of the Arizona Supreme Court. Once again, Arizona Supreme Court Rule 48 is a rule that only belongs in works of fiction, such as George Orwell's book 1984.

276. To remedy the violation of the Constitution alleged in this Court, the Court should vacate Rule 48, and have civil and criminal procedures, as well as Constitutional protections used in the discipline issues of attorneys, specifically the way Rule 48 was used against Plaintiff.

### **CLAIM SIXTEEN**

#### **(DENIAL OF DUE PROCESS AND EQUAL PROTECTION; VIOLATION OF 42 U.S.C. SECTION 1983)**

277. Plaintiff realleges and incorporates by reference the allegations set out in Paragraph 1 thru 276 inclusive of this Complaint as though fully set forth here.

278. The unconstitutional appointment of the State Supreme Court Presiding Disciplinary Judge (Judge William J. O'Neil) under the Arizona Supreme Court's Rule 51, and the unconstitutional delegation of prosecutorial authority to the State Bar of Arizona, has deprived Plaintiff

due process of law and the equal protection of the laws in violation of the 14th Amendment to the United States Constitution, by:

279. Failing to provide a fair and impartial due process hearing to Plaintiff.
280. Failing to follow the Arizona Constitution for the appointment of Justices of the Arizona Supreme Court.
281. Failing to allow Plaintiff to exercise his constitutional right to be free of retaliation and/or discriminatory application of disciplinary action by the Presiding Disciplinary Judge.
282. Failing to have a valid oath of office (filed with the Secretary of State's office) for all justices of the Arizona Supreme Court in accordance with Arizona law particularly with regards to the Presiding Disciplinary Judge.
283. Failing to comply with the Arizona Constitution with regards to the unlawful delegation to the State Bar of Arizona prosecutorial authority to prosecute Plaintiff in that the State Bar of Arizona(a 501 (c) (6) ,an entity with no prosecutorial authority since it is merely a Business League Trade Association pursuant to the IRS.
284. Partial makeup of the Arizona Bar vests monetary controls for hiring and firing the Disciplinary Judge O'Neil, because of Disciplinary

Commission |Fees, paid to O'Neil. Due to the monetary influence of disciplinary commission fees, independent Bar Counsel and Bar Counsel staff were unable to be impartial towards Plaintiff. The lack of impartiality towards Plaintiff created an abhorrent conflict of interest.

285. The Arizona State Supreme Court Presiding Disciplinary Judge position is unconstitutional because the complete delegation of authority for attorney discipline to a non-governmental private corporation the (State Bar of Arizona), which has only received designation from the U.S. Department of Treasury – Internal Revenue Service in April 1988, to have jurisdiction of a Business League Trade Association 501(c)(6), pursuant to the Federal government, U.S. Department of Treasury – Internal Revenue Service' own "Letter of Determination" dated April 1988.

286. The sole and exclusive authority to regulate the practice of law must lie with the Arizona Supreme Court.

287. Even if the Arizona Supreme Court, can delegate authority, and delegation is an issue, but if delegation of authority is proper, the Arizona Supreme Court must retain daily oversight. Presiding Disciplinary Judge's decisions are final; Arizona State Supreme Court

retained only appellate jurisdiction, which is not appropriate oversight, thus a violation of the necessary daily oversight.

288. The Arizona State Supreme Court Presiding Disciplinary position is not a valid seat because its presiders are not valid judges through appointment by the Arizona Governor or Elected by the Arizona constituents.

289. The Disciplinary court's own rules require a "public member" on "disciplinary panels" who is not a "judge" therefore the position of Presiding Disciplinary Judge position is not entitled to immunity and is liable as state actors under a Federal Title 42 U.S.C. 1983.

290. The Arizona Supreme Court, and the head judge of the Arizona Supreme Court are aware that one of the Supreme Court Judges has ownership dealings with PDJ O'Neil, the business associate of O'Neil, is Judge Robert Brutinel; The Supreme Court, and the head judge of the Supreme Court has allowed Robert Brutinel to rule on PDJ cases, including Petitioners; Robert Brutinel denied all of Petitioner's motions. The conflict of interest helps to establish that the daily oversight requirement of the Arizona Supreme Court has not been met.

291. The Arizona Supreme Court and its Chief Justice are aware that PDJ O'Neil has used his disbarment powers to retaliate against attorneys

presenting claims of judicial corruption. Their oversight mandate has not been enforced.

292. The Arizona Supreme Court and its head, are aware that recusal motions regarding PDJ O'Neil are routinely denied despite recusal being a fundamental right. This recusal fundamental right, was denied in the Petitioner's case, which further bolsters the Supreme Court's management and daily oversight requirement.

293. The Supreme Court of Arizona, and its head judge, are aware of PDJ O'Neil's federal loan violations, but not removed him from power. Short sale of a property to a straw buyer connected to O'Neil, allowed the PDJ to retain possession of a family property at a fraction of the value; a similar violation was committed by a judge in Wisconsin and he faced a federal prison sentence for two years.

294. The Arizona Supreme Court and the head judge are aware of O'Neil's perjury and failed to correct the situation. O'Neil denied involvement in the Lisa Aubuchon matter when attorney Aubuchon sought a grand jury indictment of a land developer purportedly connected to O'Neil. O'Neil sits on the Judicial Commission and was proven to perjure himself regarding his involvement and subsequent disbarment of Aubuchon and Edward Moriarty.



295. The doctrine of judicial immunity has been dismissed in this case, since Defendant's have allowed an improperly appointed individual, to act as a Supreme Court Judge, without proper appointment. Defendants have allowed O'Neil to act, and Robert Brutinel to run interference for his business partner, to charge Plaintiff past the statute of limitations, charge past jurisdictional bounds, charge despite exclusive federal jurisdiction, charge for a crime with no prosecutorial power, charge for a crime despite a New Mexico exoneration; each of these material facts shows a clear absence of all jurisdiction over the subject matter.

296. Liability for Defendants flows when acts in the "clear absence of all jurisdiction over the subject matter." *Alzua v. Johnson*, 231 U.S. 106, 34 S. Ct. 27 (1913); *Pierson v. Ray*, 386 U.S. 547, 87 S. Ct. 1213 (1967); *Stump v. Sparkman*, 435 U.S. 347, 98 S. Ct. 1099 (1978); *Schuler v. City of Chambersburg, Pa.*, 641 F. Supp. 657 (M.D. Pa. 1986).

297. The Fed Circuit applied these standards to a §1983 suit against a judge based upon allegations that the Kansas state judge had participated in an attempt to "deprogram" him from the Unification Church. See *Rankin v. Howard*, 633 F.2d 844 (9th Cir. 1980), cert. denied, 451 U.S. 939, 101 S. Ct. 2020, 68 L. Ed. 2d 326 (1981). The plaintiff had "alleged that the judge, prior to the initiation of the actual proceeding, had agreed

with the parents to grant a guardianship petition, despite the fact that the judge knew (plaintiff) was not a Kansas resident." *Beard v. Udall*, 648 F.2d 1264, 1268 (9th Cir. 1981) (per curiam). Noting the Stump standards, the Rankin court held that if plaintiff's allegations were proven true, "the judge would not enjoy judicial immunity because by imposing a temporary guardianship over a non-resident, the judge acted in the clear absence of jurisdiction; and by agreeing in advance to grant the petition, he acted non-judicially." *Id.* *BROOKS V. FITCH* 534 F. Supp. 129 (D.N.J. 1981).

298. Here, the Arizona State Supreme Court and its presiding judge, improperly delegated authority, acted clearly outside their jurisdiction, and are therefore not immune, a principle clearly rooted in Anglo American law. *Braldey v. Fisher* 13 Wall. 335, 80 U.S. 335, 20 L. Ed. 645 (1871); *Bauers v. Heisel*, 361 F.2d 581 (3d Cir. 1966).

299. In using the Stump standards in Plaintiff's case the Arizona Supreme Court and Chief Justice Bales, are unable to argue judicial immunity, since improper delegation of power and improperly supervised power to the Presiding Disciplinary Judge (PDJ) O'Neil were absent of all jurisdiction and (PDJ) exceeded his jurisdiction and authority two years past statute of limitations on a subject matter, that

had already been adjudicated in Plaintiffs favor within the State of New Mexico in year 2014 and (PDJ) is not seated as a constitutional valid judge of the State Supreme Court of Arizona.

300. In State of Arizona Constitution Article VI Section One Judicial Powers does not permit duties to be done by O'Neil, which is problematic since Defendant's have a duty of daily oversight and supervision.

301. Plaintiff requests a ruling that Defendants are in violation of 1983.

#### **CLAIM SEVENTEEN (VIOLATION OF AMTRACK)**

302. Plaintiff realleges and incorporates by reference the allegations set out in paragraphs 1 through 301, inclusive, of this Complaint as though fully set forth here.

303. Defendants have allowed a tax exempt organization, i.e. the Arizona State Bar to both be a market participant and regulator.

304. This delegation of power and conflict of interest to a non-governmental entity Is unconstitutional, and a violation of Amtrak, infra.

305. The remedy for the Amtrak violation would be to remove the SBA from being a regulator.

306. Another remedy for the Amtrak violation would be removing any regulatory power of O'Neil.

## CLAIM EIGHTEEN

### (VIOLATION OF MORRISON V. OLSON, 487 U.S. 654, 671-73, 695-97 (1988))

307. Plaintiff realleges and incorporates by reference the allegations set out in paragraphs 1 through 306, inclusive, of this Complaint as though fully set forth here.
308. Defendants have allowed the supervised entity, the State Bar, to have unwieldy and unchecked power, often in violation of the U.S. Constitution. “A long line of Supreme Court precedent tells us that history and tradition are important guides in separation of powers cases,” PHH, 839 F.3d at 21; see *id.* at 21-25, and SBA’s structure finds no support in historical precedent.
309. Defendants are aware that O’Neil has misused his power at the State Bar, disbarring attorneys who have rooted out judicial corruption or exposed corruption and misdeeds of O’Neil’s friends. This has happened by the unwielding power and single headed nature of the SBA for discipline. The single-head structure of independent agencies is of recent vintage and has been constitutionally contested by the Executive Branch. See PHH, 839 F.3d at 18-19.

310. Defendants have allowed Napoleon like control in an entity which should be pristine and free of outside influences. Arizona's SBA appears to mire itself in controversy and suspect activities, misapplying justice. The Scalia quote in Morrison, *infra* is accurate, "A wolf comes as a wolf."
311. Defendants are in violation of the ability of the Governor to remove O'Neil. The removal power, and checks on removal power was state via the Supreme Court holding in Morrison. The independent counsel was an inferior officer who had only "limited jurisdiction" for defined investigations, 487 U.S.at 691; see also *id.* at 671-72, and "lack[ed] policymaking or significant administrative authority," *id.* at 691s by creating a system that promotes corruption and discourages disciplining connected judges and criminals to justice for fear of disbarment. The delegation and allowances to the State Bar of Arizona, and to O'Neil are a violation of Morrison. The unchecked power should have a remedy of removing the Delegation of power to the SBA, and O'Neil; this is compounded by the improper control and single headed nature of the discipline unit, in violation of PHH, *infra*.

## **CLAIM NINETEEN**

**(VIOLATION OF NORTH CAROLINA DENTAL BOARD  
EXAMINERS)**

312. Plaintiff realleges and incorporates by reference the allegations set out in paragraphs 1 through 311, inclusive, of this Complaint as though fully set forth here.
313. Defendants are fully aware that O'Neil has control over the individuals named to the Arizona Bar panel, since they are appointed by O'Neil's secretary.
314. Defendants are aware that the composition of the Bar panel is in violation of the Supreme Court case – North Carolina Dental Examiners' Board- because control and delegation of board membership are held exclusively by O'Neil and his subordinates.
315. The makeup of the Bar panel is known to have been made up of at least one neighbor, Robert Gallo.
316. The makeup of the Bar panel is known to have been made by one business associate of O'Neil.
317. At least one Bar Panel member has left the Bar panel, asserting that decisions were pre-determined, and devoid of due process.
318. Defendants supervision of O'Neil, his conflicts of interests in the Bar panel, and alleged lack of due process are in violation of National

Dental Examiners, and should be deemed an Unconstitutional makeup of the SBA.

## **CLAIM TWENTY**

### **(VIOLATION OF KELLER PURE)**

319. Plaintiff realleges and incorporates by reference the allegations set out in paragraphs 1 through 318, inclusive, of this Complaint as though fully set forth here.

320. Defendants are aware that Keller Pure mandated that Bar associations not hire lobby members, yet the Arizona State Bar has actively hired lobby members.

321. Legislators have attempted to decouple regulation and management of the State Bar by citing corruption and misdeeds of the Bar. Despite these attempts, the State Bar has hired lobbyists and used its own State Bar personnel to dissuade legislators from this decoupling of power.

322. Defendants with their supervision requirement have violated Keller Pure by allowing the State Bar to hire lobbyists to maintain absolute power.

323. Defendants' State Supreme Court members made individual calls

to legislators, attempting to thwart the decoupling legislation. Therefore, not only did Defendants improperly supervise allowing Keller-Pure violations, but some members actively participated in those violations.

324. Misuse of money and power to maintain absolute control of the State Bar through lobbyists, Supreme Court staff and its members provide a basis to find the Arizona State Bar in violation of Keller Pure.

**CLAIM TWENTY-ONE**  
**(VIOLATION OF THE ERIE DOCTRINE)**

325. Plaintiff realleges and incorporates by reference the allegations set out in paragraphs 1 through 324, inclusive, of this Complaint as though fully set forth here.

326. Defendants are aware that Moffatt was exonerated in New Mexico by that State Bar.

327. The New Mexico State Bar found no crime, no duty and no violation as well as no services provided.

328. Given that the case is now sitting in diversity, Arizona should be bound by the New Mexico State Bar vindication under the Erie Doctrine.

329. The remedy should be reversing the tax exempt corporation SBA



ruling by O’Neil under the Erie Doctrine, finding similarly no violation, no duty, no crime and no services provided. This would then equally exonerate Plaintiff and restore his Arizona State Bar membership

## **CLAIM TWENTY-TWO**

### **(VIOLATION OF RIGHT TO WORK AZ CONST. ARTICLE 25 SECTION 0)**

330. Plaintiff realleges and incorporates by reference the allegations set out in paragraphs 1 through 329, inclusive, of this Complaint as though fully set forth here.

331. The Arizona Supreme Court is in violation of Arizona’s “Right To Work” provision of the Arizona Constitution, Article 25, Section O, which reads in pertinent part: “Right To Work or Employment without membership in a labor organization—No Person shall be denied the opportunity to obtain or retain employment because of non-membership in a labor organization, nor shall the State or any subdivision thereof, or any corporation, individual or association of any kind enter into any agreement.

332. Mandating Moffatt to be a member of an SBA to work as an attorney is a violation of the Right to Work provision of Article 25,

Section O.

**CLAIM TWENTY-THREE**  
**(VIOLATION OF TITLE 42 U.S.C. §1985)**

333. Plaintiff realleges and incorporates by reference the allegations set out in paragraphs 1 through 332 inclusive, of this Complaint as though fully set forth here.

334. Plaintiff alleges injury under Title 42 U.S.C. §1985(1)(2)(3) since he suffered injury due to deprivation of rights, privileges, and immunities due plaintiff by two or more defendants. Plaintiff contends the defendants conspired to impede, hinder, obstruct, or defeat justice in Arizona, intending to deny plaintiff due process, equal protection of the laws, and injure him for lawfully defending his rights to the equal protection under those laws.

335. Defendants conspired to deny essentially every motion Moffatt proffered.

336. Defendants worked in concerted effort to conspire with allowing a business partner of PDJ O'Neil named Robert Brutinel Supreme Court

Justice, to deny review in the Arizona Supreme Court, as well as denied en banc review, without disclosing they were connected to O'Neil.

337. Defendant's worked in concerted effort to even deny Plaintiff's Writ of Mandate showing the illegality of the power and control that exists with O'Neil, thus Defendants were on notice of the issue and actively chose to deny Moffatt's rights, by applying law that Defendant's took an oath of office to uphold.

338. Defendants conspired with allowing a corporation to exist and specifically speaking the (SBA) that has operated outside the U.S. Constitution, operated outside the State Constitution, exceeded jurisdiction and authority, which was intended and designed to thwart providing Moffatt and other attorneys redress of injuries.

339. Defendants allowed an entity to exist, that could issue Constitutional violations, make up laws as it went, issued decisions that were not subject to removal statutes to Federal District Court for Constitutional violations, because the SBA was not deemed a governmental entity.

340. Defendants have knowledge that the delegation of duty to the SBA violated Moffatt's 1985 rights and did not correct the fundamental appointment power, distribution of power or the creation of power to a

corporation that was both a market participant and a regulator.

341. Defendant's knowledge that a violation exists and the failure to commit a fundamental flaw satisfies the elements of 1985 which consist of conspiring to impede, hinder, obstruct, or defeat justice in Arizona, intending to deny plaintiff due process, equal protection of the laws, and injure him for lawfully defending his rights to the equal protection under those laws.

342. The remedy for the Title 42 U.S.C. §1985 violation entails removing the power given to the SBA, removing the power and delegation to O'Neil. The Court should make a finding that individuals that Moffatt was impacted by an at least a single act of conspiring to impede, hinder, obstruct, or defeat justice in Arizona, intending to deny plaintiff due process, equal protection of the laws, and injure him for lawfully defending his rights to the equal protection under those laws. With the Court making such a finding will remove Plaintiff's Disbarment and make PDJ's Disbarment Final Judgment and Order null and void.

#### **CLAIM TWENTY-FOUR**

#### **(LEGAL FEES UNDER TITLE 42 U.S.C. 1988)**

343. Plaintiff realleges and incorporates by reference the allegations set out in paragraphs 1 through 342 inclusive, of this Complaint as though fully set forth here.

- a. Plaintiff requests that legal fees be awarded, since the deprivations Plaintiff has suffered have been vast, the Constitutional violations have compounded the state Constitutional violations are numerous.
- b. Defendant delegated non delegable duty to a corporation.
- c. Defendant improperly created a new AZ Supreme Court Justice in violation of delegation powers, separation powers and removal powers.
- d. Defendants permitted abused under color of State and federal Law.
- e. Defendant created the most powerful fictitious judge in the state, and that creation was allowed to makeup the law. The creation and subsequent Napoleonic Power used by the SBA and O'Neil violates the Federal and State Constitution, by both the creation and implementation as to Plaintiff.
- f. The make it up as you go syndrome, provided for under AZ Supreme Court Rule 48, and is also an abuse under color of State Law.
- g. A single improper act by a government would allow for damages under 1988. The number of damages that flow here, verges on a

record from the Guinness book of world records, or from a chapter of George Orwell's book 1984.

**CLAIM TWENTY-FIVE**  
**(REQUEST FOR INJUNCTIVE RELIEF)**

344. Plaintiff hereby moves this Honorable Court for injunctive relief, preliminarily and primarily declaring the underlying disciplinary action *void ab initio* until the matter can be heard on its merits in a properly constituted court of law.

345. When a government official acts on behalf of an agency that is structured in violation of the separation of powers, the official's action is ultra vires and must be vacated. That is what the Supreme Court did in *NLRB v. Noel Canning*, 134 S. Ct. 2550 (2014), which affirmed a ruling of the D.C. Circuit that an NLRB decision was "void ab initio" because the Board "lacked authority to act" due to a violation of the Recess Appointments Clause, *Noel Canning v. NLRB*, 705 F.3d 490, 493 (D.C. Cir. 2013). Here, the SBA and O'Neil are improperly structured, and appointed, and their actions should be ultra vires, and decisions vacated.

346. Plaintiff hereby moves this Honorable Court to order the SBA be removed from the delegation of power from the Arizona Supreme Court. Plaintiff also requests the court to remove Arizona SBA from interfering in judicial matters, and requests injunctive relief, preliminarily and primarily declaring the underlying disciplinary action *void ab initio* until the matter can be heard on its merits in a properly constituted court of law.

347. Plaintiff hereby moves this Honorable Court to order the delegation of title of the Arizona Supreme Court be removed from O'Neil. As well as O'Neil be removed from the delegation of power from the Arizona Supreme Court. Plaintiff also requests the court to remove O'Neil from interfering in judicial matters, and requests injunctive relief, preliminarily and primarily declaring the underlying disciplinary action *void ab initio* until the matter can be heard on its merits in a properly constituted court of law.

348. Plaintiff hereby moves this Honorable Court to order Robert Brutinel of the Arizona Supreme Court be recused from any actions dealing with the SBA and O'Neil, based on the conflict of interest. Plaintiff also requests the court to remove Brutinel from reviewing

O'Neil and SBA issues and from interfering in judicial matters, and requests injunctive relief, preliminarily and primarily declaring the underlying disciplinary action *void ab initio* until the matter can be heard on its merits in a properly constituted court of law.

349. Equitable relief is proper because there is great likelihood of success on the merits; there is no other legal remedy, and Moffatt will continue to suffer irreparable harm if injunctive relief is not granted.

350. **PRAYER FOR RELIEF**

351. Wherefore, Plaintiff respectfully Prays that this Court:

- a. Assume jurisdiction over this action.
- b. Issue Declaratory Judgment that the appointment of a Presiding Disciplinary Judgment pursuant to Rule 51 of the Arizona Supreme Court is unconstitutional, invalid, null and void.
- c. Issue Declaratory Judgment that the use of Arizona Supreme Court Rule 48, allowing for Sui Generis proceedings is unconstitutional, invalid and null and void.
- d. Issue a Declaratory Judgment that the delegation of power to the SBA is unconstitutional.
- e. Issue a Declaratory Judgment that the appointment of PDJ



O'Neil was impermissible and unconstitutional.

f. Issue preliminary and permanent injunctions restraining Defendants, their agents, employees, and successors in office from further implementing the system of disciplinary action through the use of the Presiding Disciplinary Judge (Judge William J. O'Neil) and the delegation of prosecutorial authority to the State Bar of Arizona.

g. Award Plaintiff his costs of suit and attorney's fees pursuant to 42 U.S.C. § 1988 (b); and;

h. This Court grant compensatory damages to Plaintiff, in the amount of \$10 Million dollars or further relief the court deems appropriate.

i. Award Plaintiff \$150,000 for the loss of license for each year.

j. Pay Plaintiff legal fees for all the work that has gone into to defend the illegal and Unconstitutional actions of Defendants.

**Dated:** August 14, 2017, Monday

Respectfully Submitted

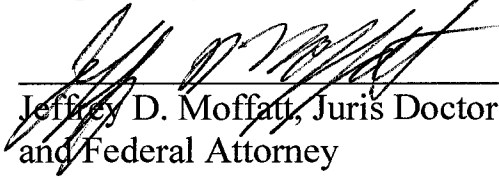
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Jeffrey D. Moffatt, Juris Doctorate, Masters in Taxation Law, MBA, BA  
and Federal Attorney

**Dated:** August 14, 2017, Monday

I hereby verify that the aforementioned statements made by me are true. I understand that if any of the aforementioned statements made by me are willfully false, I am subject to punishment.

Respectfully Submitted,



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Jeffrey D. Moffatt, Juris Doctorate, Masters in Taxation Law, MBA, BA  
and Federal Attorney

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