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UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

RICHARD I. FINE,)	CASE NO. 11-56255
)	
Plaintiff-Appellant)	D.C. No. 2:10-cv-00048-JST-CW
)	U.S. District Court for Central District
v.)	of California, Los Angeles
)	
STATE BAR OF CALIFORNIA; et)	Reply in Support of Response to Order
al.,)	to Show Cause
Defendants-Appellees)	

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Reply in Support of Response to Order to Show Cause

I. The State Bar et al.’s Reply Made the First Time Devastating Admission that Plaintiff’s Disbarment Was a Fraud.

The State Bar et al.’s Reply to Plaintiff’s Response to the Order to Show Cause states as follows at page 6, ln. 9-11:

Finally, Fine insists that Senate Bill SBX 2 11 is unlawful. **That issue, of course, has nothing to do with Fine beyond his personal crusade against such benefits (mostly through frivolous lawsuits, which is why he was disbarred).** (Emphasis added.)

This was a devastating admission by the State Bar et al. defendants showing that plaintiff’s disbarment had nothing to do with the charges in the Notice of Disciplinary Charges (NDC). The NDC did not charge plaintiff with filing a “frivolous lawsuit” regarding the county payments to judges. Nor could it, as no court of record has ever held that any filing of any lawsuit challenging the county payments to judges was “frivolous”, a sham or without merit.

The admission was even more devastating because of its statement “**(mostly through frivolous lawsuits, which is why he was disbarred)**” referring to lawsuits plaintiff had brought challenging the unconstitutional payments from the counties to the superior court judges and other judicial officers. **The court records showed that no such lawsuit or challenge to a judge on those grounds was ever held to be frivolous or a sham or without basis.**

The statement in the admission “**(mostly through frivolous lawsuits, which is why he was disbarred)**” conclusively demonstrated the corrupt actions of all of the defendants in refusing and preventing plaintiff from receiving due process and a fair trial by admitting that they acted in concert on their

predetermined false premise that all lawsuits brought by plaintiff challenging the unconstitutional payments to the superior court judges and judicial officers by counties were “frivolous”. This act of corruption was most egregious because the State Bar et al. defendants and the defendant California Supreme Court justices knew that such statement about “frivolous lawsuits” violated the precedent of *Sturgeon v. County of Los Angeles*, 167 Cal.App.4th 630 (2008), Rev. Denied 12/23/08. *Sturgeon*, supra, held that the county payments to superior court judges violated Article VI, Section 19 of the California Constitution which requires that the Legislature “prescribe compensation for judges of courts of record.” and that the duty to prescribe judicial compensation is not delegable.

As shown in the Verified First Amended Complaint, the California Supreme Court case of *Adams v. Commission on Judicial Performance* (July 20, 1995) 10 Cal.4th 866, 904 Rehearing Denied Sept., 14, 1995, held that when a judge accepted gifts, financial benefits and favors from attorneys **and a litigant appearing in the judge’s court, this required disqualification with respect to matters** involving these attorneys or their firms, pages 879, 913-914 citing *Adams v. Commission on Judicial Performance*, 8 Cal.4th 630, 661-663 (1994) (*Adams I*) which represented “... **conduct prejudicial to the administration of justice that brings the judicial office into disrepute.**”.

United States law, in particular 18 U.S.C. Section 1346 - the intangible right to honest services, which Article 6, Cl. 2 of the U.S. Constitution requires state judges to obey, mandates that payments by a party in a case to a judge are illegal, particularly in California which has a “unique” bribery statute. The cases are:

- (A) U.S. v. Frega, U.S. v. Malkus, U.S. v. Adams 179 F.3d 793 (1999)

(the payment by a party and an attorney appearing before a judge to such judge are bribery and violate 18 U.S.C. Section 1346-the intangible right to honest services) stating at 805-807:

Because no linkage of payment and specific official act is required under California law and because the indictment incorporates the relevant state bribery statutes, which, in turn, state the elements of the bribery offenses, the indictment is valid in this respect.; and

(B) Skilling v. United States, _____ U.S. _____ (Decided June 24, 2010) (18 U.S.C. Section 1346 “criminalizes only the bribe and kick-back core of the pre-McNally case law, page 45 of opinion.)

All of the defendants knew or were held to know that the county payments to judges before whom the county was appearing were “bribes” under the California Penal Code and violated 18 U.S.C. Section 1346.

All of the defendants knew that plaintiff could not be “disbarred” for having brought litigation challenging county payments to judges before whom the county had appeared, was appearing or was likely to appear, unless the defendants corrupted the process and denied plaintiff due process and a right to a fair trial.

The admission demonstrated that defendants did this by disbaring plaintiff for bringing “frivolous lawsuits” to challenge the illegal county payments which “frivolous lawsuits” the defendants knew did not exist and never existed.

The defendants committed an “extrinsic fraud upon the court” and “obstructed justice” because they illegally purported to be the deciding body when in fact the California Supreme Court justices were guilty of accepting “bribes” by having taken payments from counties while superior court judges, the State Bar Presidents (Board Members) acted in their own self interest by disbaring plaintiff

so as to remove him from cases where he was opposing counsel to them and exposing their clients for illegal actions such as bribing judges, making illegal decisions as county supervisors and making contributions to county supervisors with the expectation of favors and receiving such, exposing a “public” State Bar Board Member for having accepted an illegal “behest” given in her name, showing that the State Bar Court Hearing Department judge was on the Board of Governors of the charity, Southern California Special Olympics, which received \$30,000.00 from LA County while he was deciding plaintiff’s case, showing that all of the State Bar Court judges were defendants in the case of Canatella v. State Bar et al. and Canatella v. Stovitz et al., were all represented by the State Bar and all opposed Canatella’s claim that B&P Code section 6106 was unconstitutional as over broad and vague, the State Bar representative “lied” in his declaration about the origin of the State Bar investigation to cover up and hide the “complaining party” and prevent the identity of the “complaining party” to be discovered and prevent him from being deposed and called as an adverse witness, amongst other things.

The “complaining party” turned out to be commissioner Bruce E. Mitchell, a defendant in one of plaintiff’s cases challenging illegal LA County payments to judicial officers. Mitchell had received illegal payments from LA County, a party appearing before him. Mitchell was also involved in almost every charge in the Notice of Disciplinary Charges, but was not named as a witness by the State Bar which only prosecuted on court filed documents. The State Bar never disclosed that Mitchell was the “complaining party” and never disclosed his complaint letter. The admission underscores the corruption of the State Bar et al. defendants actions

and the actions of the defendant California Supreme Court justices who as shown by paragraphs 6 and 317 of the Verified First Amended Complaint accepted unconstitutional and criminal payments from counties while superior court judges and obstructed justice .

The admission demonstrated that the State Bar et al. defendants and the California Supreme Court justice defendants acted in a concert of action in corrupting justice in plaintiff's disbarment proceeding and violating plaintiff's right to due process and a fair trial, corrupting the California admissions and disciplinary process for attorneys, intimidating witnesses who could testify to the effects of judges having taken unconstitutional and criminal payments from counties having appeared before such judges and obstructing the investigations and possibility of prosecution of judges who have taken illegal payments from counties who have appeared before such judges and themselves for interfering and obstructing such investigations and possibility of prosecutions, amongst other things.

The defendant California Supreme Court justices direct all of the State Bar et al. defendants actions in all admission and disbarment proceedings, make the final decision of admissions and disbarments in all "regulatory" admission and disbarment proceedings and personally preside in "petitions for review" in all disbarment proceedings where such "petition" is sought in the "regulatory" procedure as set forth in the B&P Code and the California Rules of Court.

The admission demonstrated that neither plaintiff, nor any other person appearing in a disbarment proceeding, ever had an opportunity for a fair trial as the State Bar et al. defendants, including the Board of Governors, the individual

State Bar Court Judges, and the Chief Trial Counsel of the State Bar and the California Supreme Court Justices who oversaw and directed their actions all operated in a concert of action to disbar any individual who challenged the unconstitutional criminal payments which the superior court judges and California Supreme Court justices received from counties who had appeared before them, were appearing before them or were likely to appear before them.

At page 3 of the Brief of the State Bar et al. defendants admitted that actions such as those of the defendants fall within the parameters of extrinsic fraud and obstruction of justice by citing to *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1140 (9th Cir. 2004) a case relied upon by plaintiff, *In re Intermagnetics America, Inc.*, 926 F.2d 912, 916 (9th Cir. 1991) and *County of Orange v. Superior Court*, 155 Cal.App.4th 1253, 1261, 66 Cal.Rptr. 3d 689, 695 (2007).

The State Bar et al. defendants specifically ignored the paragraphs of the Verified First Amended Complaint which specifically allege the extrinsic fraud and corruption of the defendants which has been recognized in *Kougasian*. These are nos. 5, 25-35, 42-143, 171-190 and 225-316 relating to the State Bar et al. defendants and 6, 317, 7-24, and 210-221 relating to the California Supreme Court justice defendants.

These paragraphs combined with the new admission of “fraud” and corruption in the State Bar et al.’s Reply conclusively demonstrate that the Rooker-Feldman Doctrine does not apply as there was not any legitimate judicial body to hear the disbarment proceedings and that extrinsic fraud and corruption did occur by the actions of the defendants.

II. The State Bar et al.’s Reply Did Not Contest or Dispute Any Case Cited in Fine’s Response to the Order to Show Cause or the Facts Alleged in

the Verified First Amended Complaint, Including Standing.

A. The State Bar et al.’s Reply Did Not Show That Any Case Cited in Fine’s Response to the Order to Show Cause Was Wrong, Reversed, Distinguished or Mis Cited.

Fine’s Response unequivocally demonstrated that U.S. Supreme Court precedent, 9th Circuit precedent and relevant California Supreme Court precedent mandated that the 9th Circuit reverse the District Court. The State Bar et al.’s Reply did not did not show that any case cited in Plaintiff’s Response to the Order to Show Cause was wrong, reversed, distinguished or mis cited.

B. The State Bar et al.’s Reply Did Not Contest Any Fact Alleged in the Verified First Amended Complaint, Including those Setting Forth Standing.

As shown in Plaintiff’s Response to the Order to Show Cause, U.S. Supreme Court and 9th Circuit precedent mandate that well pled allegations must be taken as true and all inferences must be made in favor of the plaintiff. *Bell Atlantic Corporation v. Twombly*, 127 S.Ct. 1955, 1965 (2007); *Erickson v. Pardus*, 127 S.Ct. 2197, 2200 (2007); *Marceau v. Blackfeet Housing Authority*, 540 F.3d 916, 919 (9th Cir. 2008).

The State Bar et al.’s Reply did not contest any fact alleged in the Verified First Amended Complaint, including the facts relating to “Standing” set forth at paragraphs 149-151.

Such paragraphs state as follows:

149. Standing exists in that the State Bar has obtained an Order of Disbarment and a Judgment against Fine for costs as part of the disbarment, and seeks to enforce the disbarment through civil and criminal court action if Fine attempts to “practice law” or “hold himself out to practice law” in

California, and has contacted other states and judicial forums seeking to have them disbar Fine, including but not limited to the U.S. District Court for the Central District of California, the Ninth Circuit Court of Appeals and the Court of Appeals for the District of Columbia.

150. Plaintiff also stands in a representative capacity for all others who also may be affected by those actions of the Hearing Department of the State Bar Court acting in the “place and stead” of the Board related to orders of involuntary enrollment and “recommending disbarment” against attorneys for violation of B&P Code § 6106 (Moral Turpitude) for acts of filing cases, appeals, writs, pleadings, disqualifications of judges and arguing positions in cases which are protected by the First Amendment to the U.S. Constitution.

151. Plaintiff has suffered an actual “injury in fact” by having been ordered involuntary inactive pursuant to B&P Code § 6007©)(4) and recommended for disbarment pursuant to B&P Code § 6106 (Moral Turpitude) by Judge Richard A. Honn, a Hearing Department Judge of the State Bar Court, and the State Bar Court Review Department and ordered “disbarred” by the California Supreme Court when the justices did not grant review, by not having had the opportunity to confront the “complaining party” Bruce E. Mitchell, whose identity was concealed from the outset of the case through trial, until he admitted such while “visiting” the trial, and by not having been provided with any documents or names of witnesses prior to their disclosure on the eve of trial, and by having the words “Not Eligible to Practice Law” published next to his name on the State Bar web site, amongst other things. Based upon such order of “Involuntary Inactive Enrollment”, Plaintiff was ordered removed from the Bar of the U.S. District Court for the Central District of California. Based upon such “disbarment” Plaintiff was ordered removed from the Bar of the 9th Circuit and the Bar of the State of Illinois and is in danger of being removed from the Bar of the District of Columbia. Nothing prevents the Board, the Chief Trial Counsel of the State Bar and the judges of the State Bar Court and the Supreme Court justices from continuing to prevent plaintiff from earning a living anywhere in the United States and abroad, based upon their obstruction of justice, and illegal, fraudulent and unconstitutional actions.

The State Bar et al.’s Reply at page 5, quotes the case of Scott v. Pasadena

Unified School District, 306 F.3d 646, 656 (9th Cir. 2002) for the proposition that “A plaintiff must satisfy the injury-in-fact requirement [to create a case or controversy within Article III] by alleging that she “has suffered ‘some threatened or actual injury resulting from the putatively illegal action’”. Paragraphs 149-151 of the Verified First Amended Complaint, particularly paragraph 151 sets forth the “injury in fact”. (See Verified First Amended Complaint, paragraphs 32-35, 113-119, 169-190, 194-197 for further facts related to standing as to B&P Code Sections 6007©)(4) and 6106, and paragraphs 201-221 for facts related to standing as to Section 5 of Senate Bill SBX 2 11.)

From the uncontested allegations in the Verified First Amended Complaint, the State Bar et al. knew that the defendant California Supreme Court justices hid behind the retroactive immunity from criminal prosecution, civil liability and disciplinary action for having taken illegal payments from LA County and other counties. They also knew from the uncontested allegations in the Verified First Amended Complaint that the defendant California Supreme Court justices obstructed justice by presiding over Fine’s petition for review, which challenged the very same illegal LA County payments to judges. (See Paragraphs 6 and 317, 6-24 and 210-221.)

The case of Gator.com v. LL Bean, Inc., 398 F.3d 1125, 1129 (9th Cir. 2005) is inapposite. In such case, the parties settled the case after the case was brought leaving nothing for the court to decide as declaratory relief. In the present case, the constitutionality of the statutes precludes any action by the defendants. There was and is no settlement or compromise. Until the constitutionality of the statutes is decided, all past, “disbarred”, present and future members of the California State

Bar are at risk of the unconstitutional conduct of the defendants.

The State Bar et al.'s argument that Scott, supra, at 305 F.3d at 656 removes standing to challenge Senate Bill SBX 2 11 is a direct mis citation to this court.

The referenced page states in relevant part:

An action will be moot only if "[a] determination ... of the legal issues tendered by the parties is no longer necessary to compel ... and could not serve to prevent" the action from which one party seeks relief. DeFunis v. Odegaard, 416 U.S. 312, 317, 94 S.Ct. 1704, 40 L.Ed.2d 164 (1974); Allard v. DeLorean, 884 F.2d 464, 466 (9th Cir.1989) (stating that a federal court has no jurisdiction to hear a case that cannot affect the litigants' rights). Here, a ruling on the merits might still impact the rights of individual plaintiffs who remain eligible to apply to PUSD voluntary schools at some future date. Some of Scott's claims, in other words, remain redressable and, therefore, are not moot. *DeFunis*, 416 U.S. at 317, 94 S.Ct. 1704.(Emphasis added.)

The Verified First Amended Complaint shows that defendants are presently preventing plaintiff from retaining membership in the Illinois, D.C., 9th Circuit and Central District of California Bars by circulating the disbarment notices to all states and federal courts. By declaring Section 5 of Senate Bill SBX 2 11 unconstitutional and enjoining the defendants from acting on such, the retroactive immunity will disappear and the illegal actions of the defendants of having taken illegal money from LA County will in turn void any action by the defendants on plaintiff's disbarment matter as well as prevent defendants from proceeding on any other disbarment related matter.

The Article III standing clearly exists.

It should be noted that the State Bar et al. further deliberately misrepresents to this court in footnote 1 of its Reply that B&P Code Section 6007©)(4) gives

notice to all attorneys. However, as shown in the Verified First Amended Complaint, the statute does not give any notice, nor do the Rules of Procedure of the State Bar, nor does the State Bar on the face of any “Notice of Disciplinary Action.”

The State Bar et al. further deliberately misrepresented the cases of *Jordan v. De George*, 341 U.S. 223, 232 (1951) at footnote 2 of its Reply in stating: “Of course, moral turpitude statutes are constitutional.” and the case of *Canatella v. Stovitz*, 365 F. Supp. 2d 1064, 1075 (N.D. Cal. 2005) in stating “Fine’s precise claim was rejected in *Canatella v. Stovitz*”.

In *Jordan*, supra, the quote does not exist on the page cited. The relevant part of the page states:

Whatever else the phrase 'crime involving moral turpitude' may mean in peripheral cases, **the decided cases make it plain that crimes in which fraud was an ingredient have always been regarded as involving moral turpitude.** We have recently stated that doubt as to the adequacy of a standard in less obvious cases does not render that standard unconstitutional for vagueness. See *Williams v. United States*, supra. But there is no such doubt present in this case. Fraud is the touchstone by which this case should be judged. **The phrase 'crime involving moral turpitude' has without exception been construed to embrace fraudulent conduct.** We therefore decide that Congress sufficiently forewarned respondent that the statutory consequence of twice conspiring to defraud the United States is deportation. (Emphasis added.)

In *Canatella*, supra, the court did not even address the constitutional claim in this case. In this case, the claim is that the words “moral turpitude” are duplicative of the words “dishonesty” and “corruption”, do not add to the statute and are surplusage and therefore vague. *Canatella*, supra, did not address this

issue. It did not even refer to this issue at 365 F.Supp.2d at 1075. Canatella argued that the statute was “over broad” and that the words “dishonesty, moral turpitude and corruption” in combination were vague. The claim in this suit is that the words “moral turpitude” are duplicative of the words “dishonesty” and “corruption”, do not add anything to the statute that is not presently existing with the other words and as applied are vague as there is not any separate definition for the words “moral turpitude” that does not encompass the words “dishonesty” or “corruption”.

California is the only state which still uses the words “moral turpitude” as a reason for disbarment for a non criminal act. New York is the only state which uses “moral turpitude” as the reason for disbarment for a criminal act. All other states and the federal courts have abandoned the use of the words “moral turpitude” as a reason for disbarment or suspension.

III. The Rooker- Feldman Doctrine Does Not Preclude any Cause of Action.

A. The Rooker - Feldman Doctrine Does Not Apply to Parallel Cases or Cases Which Have Not Been Previously Decided.

Obviously knowing that Article III standing has been met, the State Bar et al.’s Reply deliberately attempted to mislead this court by stating that the Rooker-Feldman doctrine barred the U.S. District Court’s consideration of the constitutionality of B&P Code Sections 6007©)(4) and 6106 and Section 5 of Senate Bill SBX 2 11.

The State Bar et al. knew that such statements were deliberate falsehoods as the State Bar et al. were defendants in the 2008 case of Fine v. State Bar et al., USDC Case No. CV- 08- 2906, in which Fine sought declaratory relief to have

B&P Code Section 6007©)(4) [Involuntary Inactive Enrollment Statute] and B&P Code Section 6106 [Moral Turpitude Statute] declared unconstitutional and to enjoin the State Bar et al. from enforcing such. Such complaint was dismissed without prejudice on Younger abstention grounds as it was brought during the state bar proceedings.

U.S. Supreme Court precedent precludes the Rooker-Feldman Doctrine from applying to the first two causes of action to declare B&P Code Sections 6007©)(4) and 6106 unconstitutional and enjoin the defendants from enforcing such, respectively, as these issues were being simultaneously litigated during the disbarment proceedings, i.e., parallel state and federal litigation, even if the disbarment proceedings were “judicial” instead of “regulatory”. Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 292, 125 S.Ct. 1517, 161 L.Ed.2d 454 (2005).

The Rooker -Feldman Doctrine does not apply to the third cause of action declaring Section 5 of Senate Bill SBX 2 11 unconstitutional and enjoining the defendants from enforcing such because the constitutionality of Senate Bill SBX 2 11 was not previously addressed. The Rooker-Feldman Doctrine is limited to state court losers who then challenge the state court decision in a lower federal court. In Exxon Mobil, supra, the court stated at 544 U.S. at 284:

The *Rooker-Feldman* doctrine, we hold today, is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments. *Rooker-Feldman* does not otherwise override or supplant preclusion doctrine or augment the circumscribed doctrines that allow federal courts to stay or dismiss proceedings in deference to state-court actions. (Emphasis added.)

As of June, 2011, the California Commission on Judicial Performance has formally requested the California Attorney General issue a formal opinion that Senate Bill SBX 2 11 is unconstitutional. See Request for Judicial Notice filed with Plaintiff's Response to Order to Show Cause.

B. The Rooker-Feldman Doctrine Does Not Apply to California State Bar and California Supreme Court Proceedings Enforcing the State Bar Act or the Inherent Attorney Admission and Disciplinary Functions of the California Supreme Court.

Most telling however is the fact that the State Bar et al. accepted and did not challenge the U.S. Supreme Court decision of *Forrester v. White*, 484 U.S. 219 (1988). The court stated that criminal actions were not encompassed by judicial immunity, that judges acting to enforce a "Bar Code" would be subject to declaratory and injunctive relief and held that the administrative acts of judges were not encompassed by judicial immunity. The court stated at page 229:

Although this case involved a criminal charge against a judge, the reach of the Court's analysis was not in any obvious way confined by that circumstance. **Likewise, judicial immunity has not been extended to judges acting to promulgate a code of conduct for attorneys.** *Supreme Court of Virginia v. Consumers Union of United States, Inc.*, 446 U.S. 719, 100 S.Ct. 1967, 64 L.Ed.2d 641(1980). In explaining why legislative, rather than judicial, immunity furnished the appropriate standard, we said: "Although it is clear that under Virginia law the issuance of the Bar Code was a proper function of the Virginia Court, **propounding the Code was not an act of adjudication but one of rulemaking.**" *Id.*, at 731, 100 S.Ct., at 1974. **Similarly, in the same case, we held that judges acting to enforce the Bar Code would be treated like prosecutors, and thus would be amenable to suit for injunctive and declaratory relief.** *Id.*, at 734-737, 100 S.Ct., at 1975-1977. *Pulliam v. Allen*, 466 U.S. 522, 104 S.Ct. 1970, 80 L.Ed.2d 565 (1984). **Once again, it was the nature of the function**

performed, not the identity of the actor who performed it, that informed our immunity analysis. (Emphasis added.)

The Rooker-Feldman Doctrine does not apply to non judicial activity. The U.S. Supreme Court stated in the case of *Verizon Md. Inc. v. Pub. Serv. Comm'n of Md.*, 535 U.S. 635 (2002) at 644 n. 3:

3. The Commission also suggests that the *Rooker-Feldman* doctrine precludes a federal district court from exercising jurisdiction over Verizon's claim. See *District of Columbia Court of Appeals v. Feldman*, 460 U. S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U. S. 413 (1923). The *Rooker-Feldman* doctrine merely recognizes that 28 U. S. C. § 1331 is a grant of original jurisdiction, and does not authorize district courts to exercise appellate jurisdiction over state-court judgments, which Congress has reserved to this Court, see § 1257(a). **The doctrine has no application to judicial review of executive action, including determinations made by a state administrative agency.** (Emphasis added.)

The California Supreme Court has held that attorney disciplinary action is a “regulatory proceeding” in the case of *Obrien v. Jones*, 96 Cal.Rptr.2d 205, 211-212, 217; 23 Cal.4th 40 (Cal., 2000).

The court held at 96 Cal.Rptr.2d at 217:

Thus, unlike other instances of legislative regulation of the practice of law that we have found would materially impair our inherent authority in this area, revised section 6079.1, subdivision (a), does not undermine **our ultimate regulatory power over attorney admission and discipline.** (Emphasis added.)

The California Supreme Court in the *Obrien* decision made it completely clear that it was not engaged in the judicial function of deciding cases or controversies in the attorney admission and disciplinary areas, but was regulating, and making and deciding policy.

Under the holdings of *Verizon*, *supra*, and *O'Brien*, *supra*, the Rooker-Feldman Doctrine does not apply to disciplinary actions of the California Supreme Court.

C. The Rooker-Feldman Doctrine Does Not Apply to Extrinsic Fraud or Obstruction of Justice Cases.

9th Circuit Precedent precludes the Rooker-Feldman Doctrine from applying to the fourth cause of action to set aside the void disbarment order as a result of extrinsic fraud upon the court and obstruction of justice. *Kougasian v. TMSI, Inc.*, 359 F.3d 1136 (9th Cir. 2004). 7th Circuit precedent specifically precludes the Rooker-Feldman Doctrine from applying in cases of judicial obstruction of justice in a 42 U.S.C. section 1983 complaint. *Loubser v. Thacker, et al.*, 440 F.3d 439, 441-442 (7th Cir. 2006), Cert. Denied 548 U.S. 907, 126 S. Ct. 2944.

U.S. Supreme Court, 9th Circuit, and 7th Circuit precedent mandate that the District Court be summarily reversed.

The State Bar et al.'s Reply cited to *Dist. of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 n.16 (1983) for a statement that only the U.S. Supreme Court can review "orders of a state court relating to the admission, discipline and disbarment of members of its bar...". From this quote, it erroneously concluded without any authority that Rooker-Feldman bars the fourth cause of action to set aside a void judgment based upon extrinsic fraud upon the court and obstruction of justice.

It also ignored the decision of the California Supreme Court in *O'Brien*, *supra*, in 2000, 17 years after *Feldman*, *supra*, holding that bar admissions and disciplinary matters are "regulatory". *O'Brien*, *supra*, supercedes, *Feldman*, *supra*,

particularly as it relates to California Supreme Court actions where the federal system is bound to follow the highest state court's determination of its own law.

The State Bar et al. also deliberately omitted to inform this court that Feldman, supra, held at 460 U.S. at 482-484:

To the extent that Hickey and Feldman mounted a general challenge to the constitutionality of Rule 46 I(b)(3), however, the District Court did have subject matter jurisdiction over their complaints.

The difference between seeking review in a federal district court of a state court's final judgment in a bar admission matter and challenging the validity of a state bar admission rule has been recognized in the lower courts and, at least implicitly, in the opinions of this Court. (Emphasis added.)

Under Feldman, supra, it is well settled that the first three causes of action for declaratory and injunctive relief relating to the unconstitutionality of B&P Code Sections 6007(c)(4) and 6106 and Section 5 of Senate Bill SBX 2 11 are to be tried in the district court.

Additionally, Mothershed v. Justices of Supreme Court, 410 F.3d 602 (9th Cir. 2005) stated at 606:

The doctrine does not, however, prohibit a plaintiff from presenting a generally applicable legal challenge to a state statute in federal court, even if that statute has previously been applied against him in state court litigation.

Further, Feldman, supra, did not discuss the jurisdiction of the district court in the event of extrinsic fraud or corruption.

As shown in Section 1, the Rooker-Feldman Doctrine does not apply in cases of "extrinsic fraud" or corruption, such as this case. The Rooker-Feldman Doctrine. The Rooker-Feldman Doctrine assumes a legitimate legal system and

honest judiciary. This did not exist in this case and does not exist in California as long as the judges and judicial officers continue to receive illegal payments from counties who have appeared, are appearing or are likely to appear before them.


CONCLUSION

It took the defendants seven years after Mitchell secretly filed his complaint letter (September, 2004), five and one half years after the NDC was filed, (February, 2006), four years after the Order for Involuntary Enrollment was issued (October, 2007) and two and one half years after the disbarment occurred (March, 2009) for the defendants to admit that the whole process was a fraud and a corruption of justice and based upon non existent "frivolous lawsuits" challenging the county payments to judges before whom the county was appearing.

The new admission alone is a basis to reverse the District Court.

Dated: September 2, 2011

Respectfully submitted,



Richard I. Fine
In Pro Per

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and a party to the within action. My business address is 18102 Jaguar Ct., Tarzana, California 91335. On September 2, 2011, I served the foregoing document described as Reply in Support of Response to Order to Show Cause on the interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

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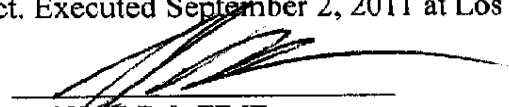
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BY MAIL. BY EXPRESS MAIL /FED EX As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or meter date is more than one day after the date of deposit for mailing in affidavit.

BY FACSIMILE: By transmitting the documents by facsimile to the stated parties at their respective facsimile numbers as shown above pursuant to CCP § 1013(e).

BY PERSONAL SERVICE: By delivering a copy to the above mentioned persons at:

Federal: I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed September 2, 2011 at Los Angeles, California.



RICHARD I. FINE