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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

TIMOTHY ROTE, Plaintiff, vs. ~~COMMITTEE ON JUDICIAL CONDUCT AND DISABILITY OF THE JUDICIAL CONFERENCE OF THE UNITED STATES~~, UNITED STATES DEPARTMENT OF JUSTICE, OREGON JUDICIAL DEPARTMENT, OREGON STATE BAR ~~and~~ PROFESSIONAL LIABILITY FUND, COLORADO JUDICIAL DEPARTMENT, THE HON. ROBERT KUGLER, THE HON. MICHAEL MOSMAN, THE HON. PAUL PAPAK, THE HON. ELIZABETH WEISHAUPL,THE HON. ROBERT HERNDON,THE HON. JAMES EGAN, THE ~~HON. BILLY WILLIAMS (in his official capacity as U.S. Attorney and chief law official in Oregon~~), THE HON. MARCO HERNANDEZ, THE HON. KATHIE STEELE, CAROL BERNICK (in her official capacity as CEO of the OSBPLF), NANCY WALKER and JOHN DOES (1-5), *et al.*, Defendants.	Case No.: 3:19-CV-01988 THIRD AMENDED CIVIL RIGHTS COMPLAINT: 42 U.S.C. § 1983: FIRSTAND FOURTEENTH AMENDMENTS; 42 U.S.C. § 1985: CONSPIRACY; OREGON CONSTITUTION ARTICLE I, §8, §10 AND §20; BIVENS FIRST AND FOURTEENTH AMENDMENT VIOLATIONS; JURY TRIAL REQUESTED

PREAMBLE

Mark Ciavarella, a Judge of the Pennsylvania Court of Common Pleas, accepted nearly $3 million in kickbacks from the owner and builder of two private prisons that housed juvenile inmates. In exchange, he sentenced children to long stays in juvenile detention for minor offenses. He was convicted of racketeering, money-laundering, mail fraud, tax fraud, and conspiracy to defraud the United States and was sentenced to 28 years in prison. Subsequent to the Judges conviction, the defendants (including the defendants who paid the bribe and state government bodies responsible for overseeing the juvenile programs) entered into a $17 Million settlement in favor of the Plaintiffs.

The acts of collusion and conspiracy by the named defendants in this case were designed to hurt plaintiff and his family over a pronounced period of 18 years. The retaliatory acts are unlawful, unconstitutional and substantially unprotected by judicial immunity.

COMPLAINT FOR DAMAGES, DECLARATORY AND INJUNCTION RELIEF

Plaintiff Timothy Rote brings this action for economic, noneconomic and punitive damages for the defendants abridging, and conspiring to abridge the plaintiff's First and Fourteenth Amendment rights of the United States Constitution and Oregon Constitution.

Court reporter Nancy Walker, in case 3:15-cv-2401, published a false trial transcript, removing from the record arguments in closing argument and during the trial by Max Zweizig counsel that Timothy Rote should be punished by the jury for being rich. That request of the jury would have likely resulted in a reversal of the judgment and remand by the 9th Circuit, had an accurate transcript been produced. Judge Hernandez quashed a subpoena for Walker's recordings

of the trial. Judge Mosman ordered the clerk to delete the Court's digital recordings of the trial. Even now, Zweizig continues to argue in Clackamas and Deschutes County Court's that Timothy Rote should be punished by State Court judges because Rote (plaintiff in this case) publishes critiques of the Court and further argues that Rote should be punished for being rich. Unlike in Federal Court, the recordings of the State Court were preserved, the transcripts accurately prepared and now on the record.

Plaintiff concedes that the Federal Actors will get away with malicious retaliation for Plaintiff exercising his first amendment right of free speech and petition in challenging the accuracy of the trial transcript in case 3:15-cv-2401. Plaintiff concedes that the Federal Actors will get away with denying Plaintiff his contractual right to arbitrate Max Zweizig's claims, in violation of the Rooker-Feldman Doctrine and Oregon law mandating arbitration. Plaintiff concedes that the Federal Actors will get away with suppressing key forensic report evidence from the jury, substantially aiding Plaintiff Zweizig with the opportunity to lie about the existence of the forensic reports, where all three forensic experts agreed (including Zweizig's) that Max Zweizig download and disseminated child porn from a computer exclusively used by him, from his home in New Jersey, using a peer to peer program in his name. Plaintiff concedes that this Court will protect the other Federal and State Actors who have repeatedly engaged in behavior to assist child predator Max Zweizig.

When Judge Mosman moved the RICO and Malpractice claims from State to Federal Court, he also substantially delayed by two years Plaintiff Rote's malpractice claims against Andrew Brandsness, who first failed and then refused to file a Motion to Compel arbitration in case 3:15-cv-2401. As this Court most certainly knows, placing Rote as a former employer in front of a jury and allowing a former employee to allege that Rote's critique of an arbitrator and

of the courts is the same as an attack on former employee Zweizig (after anonymity and redaction of Zweizig's name), punishable under ORS 659A, serves no public purpose. It is simply an attack on free speech.

On December 21, 2020 Zweizig admitted that he duped the jury and the court during the trial in case 3:15-cv-2401. He also made affirmations of the accuracy of the forensic reports, those reports findings that Zweizig engaged in the dissemination of child pornography and engaged in other criminal acts such as cybercrime and identity theft. One of those reports was generated by Zweizig's expert Justin McAnn. Zweizig affirmed in his deposition of Decemner 2020 that his prior attorney, Ward Greene, resigned no longer wanting to be associated with the raping of children. Subsequently Zweizig moved to suppress his deposition testimony from the public arguing that his affirmation of being a child predator will hurt his chances in front a jury.

On April 28, 2021, TLC star Joshua Duggar was indicted in Federal Court on one count of receipt of child porn, one count of possession of child porn, and a forfeiture allegation. At his trial in November and December 2021, Homeland Security expert James Fottrell testified that Duggar (1) partioned (split) his hard drive in to two components, one where he conducted his regular business and the second where Duggar maintained his child porn; and (2) that Duggar installed a peer to peer program (uTorrent) so that this child pornographic material could be shared with others. Fottrell was able to view photo and video files, including files previously deleted by Duggar, videos like "pedomom" as well as lewd images of an 8-12 year girl. In December 2021 a jury found Duggar guilt of these crimes. Duggar was sentenced to 15 years in prison.

Like Duggar, computer forensic experts Steve Williams and Mark Cox opined that Zweizig had partitioned his issued hard drive and installed a peer to peer program like

BitTorrent, where Zweizig maintained his child porn. Like Duggar, the experts testified that Zweizig's computer hard drive containing the child porn was not used by anyone after Zweizig reformatted the hard drive and returned it. Unlike Duggar, who was arrested before he had a chance to destroy his computer, Zweizig reformatted the hard drive and was not arrested. Returning his reformatted hard drive to Rote however did break chain of custody and made prosecuting Zweizig problematic. Subsequent forensic reports of Zweizig's hard drive reveal images of child rape and mutilation.

Ultimately Plaintiff accuses the federal and state actors of engaging in an orchestrated attack against Plaintiff for exercising his free speech in critiquing the court and arbitrator for ignoring the reports and in violating his rights of due process. Less there be any doubt, Zweizig has not admitted to crimes against children, perjury and extortion.

As grounds therefor, plaintiff alleges as follows:

INTRODUCTION

1. Pursuant to 42 U.S.C. § 1983 and § 1985, Plaintiff alleges the deprivation of rights guaranteed to him by the First and Fourteenth Amendments to the United States Constitution and Oregon Constitution Article I, §8, §10 and §20 and conspiracy to violate those rights.

2. Pursuant to *Bivens*, Plaintiff alleges against the Federal Actors named herein the deprivation of rights guaranteed to him by the First and Fourteenth Amendments to the United States Constitution and Oregon Constitution Article I, §8, §10 and §20 and conspiracy to violate those rights.

VENUE AND JURISDICTION

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (Federal question and Defendant United States), 1343 (3) and (4), as this action arises under the laws of the United States. This is

an action for damages for claims brought under 42 U.S.C. § 1983 for the redress of rights secured by the United States Constitution and for same violations perpetrated by Federal Actors .

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391. Defendants are residents of multiple States and the District of Columbia, the due process violations occurred in Oregon, New Jersey and Colorado and the United States is a defendant for acts committed in New Jersey, Colorado and Oregon.

PARTIES

5. Plaintiff Timothy Rote (Rote) is a citizen of the United States and a resident of the state of Oregon.

~~6. Defendant Committee on Judicial Conduct and Disability of the Judicial Conference of the United States ("the Review Committee") is a standing committee established by the Judicial Conference of the United States ("the Judicial Conference") to review orders and actions of the Judicial Councils of the U.S. Circuit Courts of Appeal regarding complaints against judges and judicial discipline under the Act. The Review Committee derives its authority from sections 331 and 357 of the Act, and from Rule 21 of the Rules for Judicial Conduct and Judicial-Disability Proceedings. The Committee consistently refuses to punish members of the judiciary who retaliate against citizens who publish complaints about the judiciary, allowing the integrity of the litigation process to be abridged. The Committee has specifically refused to take action against Kugler and Mosman who have admitted to threatening the plaintiff with incarceration and assault if plaintiff does not cease exposing the members of the judiciary.~~

7. Defendant United States Department of Justice, also known as the Justice Department, is a federal executive department of the U.S. government, responsible for the enforcement of the law and administration of justice in the United States. The United States Department of Justice

through Billy Williams engaged in ex-parte contact and conspired with Judge Mosman who then remanded a Clackamas County Court case 18cv45257, dismissed defendant Walker with prejudice in that case, retained without jurisdiction to dismiss with prejudice the remaining defendants and ordered the destruction of the court's and Walker's trial recordings in related federal case 3:15-cv-2401.

8. Defendant Oregon Judicial Department is the judicial branch of government of the state of Oregon in the United States. The chief executive of the branch is the Chief Justice of the Oregon Supreme Court. The Oregon Judicial Branch has been aware of the abuses of the PLF, payments and benefits to the judiciary and acts of retaliation by Egan and the compromise to due process without intervening.

~~9. Defendant Oregon State Bar is a government agency in the U.S. State of Oregon. Founded in 1890 as the private Oregon Bar Association, it became a public entity in 1935 that regulates the legal profession. The public corporation is part of the Oregon Judicial Department. Lawyers are required to join the OSB in order to practice law in Oregon. The Oregon State Bar Professional Liability Fund ("PLF") is organized under the Oregon State Bar, was put on notice of the perjury, subornation of perjury and other crimes perpetrated by the PLF and chose to take no action.~~

10. Defendant Oregon State Bar Professional Liability Fund, while separately run, operates under the umbrella of the Oregon State Bar. The Oregon State Bar Board of Governors created the Professional Liability Fund in 1977 pursuant to state statute (ORS 9.080) and with approval of the membership. The PLF first began operation on July 1, 1978, and has been the mandatory provider of primary malpractice coverage for Oregon lawyers since that date. The PLF is a captive insurance agency that has no mandatory reporting requirement. The PLF was put on

notice of the perjury, subornation of perjury and other crimes perpetrated by Berncik and PLF Vendors and chose to take no action. On information and belief, the PLF's non-immune acts include but are not limited to aiding and abetting the judicial defendants, represented Zweizig in exchange for a quid pro quo agreement with the judicial defendants to dismiss plaintiff malpractice and RICO claims in Clackamas case 18cv45257, and is the RICO enterprise. The PLF maintains offshore account in the approximate amount of $10 Million which it uses to pay bribes to some or all of the named defendants.

11. Defendant Colorado Judicial Department is the Judicial Branch of the State of Colorado, is established and authorized by Article VI of the Colorado Constitution as well as the law of Colorado. The Department was put on Notice that a Federal Judge had interfered with the litigation before Judge Weishaupl in retaliation against plaintiff and took no action to censor Weishaupl or protect due process. Defendant was served and has not responded in this litigation.

12. Defendant Robert B. Kugler is a Senior United States District Judge of the United States District Court for the District of New Jersey and is also serving as a Judge on the United States Foreign Intelligence Surveillance Court. Kugler has engaged in numerous acts of retaliation including but not limited to soliciting the abuse of a public office on multiple occasions, targeting and harassing plaintiff Rote in 2006, 2010, 2014, 2018 and 2019, the details of which are outlined below. The source of the angst was Rote discovering that one of Kugler's clerks met with Sandra Ware ex-parte while Kugler had jurisdiction of a case involving Ware's boyfriend, namely Max Zweizig. On information and belief, Ware passed onto Kugler the Jones transcript and attempted to extort Kugler by threatening to reveal numerous private and embrassing facts about Kugler's life, information Ware acquired in a close relationship with Kugler. Kugler threatened Rote on the record during a contempt hearing in New Jersey on July 11, 2005. The

Kugler threats included soliciting the U.S. Attorney's office to imprison plaintiff Rote for publishing letters to Kugler about Zweizig's porn and probable connection to the Court. Neither the Clerk for Judge Kugler nor Ware have denied their ex parte meeting and the passing of the Jones Transcript. Ware acquired the Jones transcript on February 2, 2004 and published the transcript to named defendants, who in turn published the transcript to other defendants (including the arbitrator Crow) soliciting retaliation against Rote for publishing the defendants support of child porn and trafficking. .

13. Defendant Michael Mosman is a United State District Court Judge of the United States District Court for the District of Oregon, is the former Chief Judge and also served on the United States Foreign Intelligence Surveillance Court. Judge Mosman engaged in a number of retaliatory acts outside the protection of immunity, including but not limited to unlawfully exercising jurisdiction over state court claims against state resident defendants and dismissed those claims with prejudice (recently reversed by the 9th Circuit), refused to recuse himself while conflicted on litigation involving his personal friend in Nancy Walker, failed to recuse himself on conflicts arising from his financial relationship with the PLF, failed and has thus far refused to disclose benefits received from the PLF and others in quid pro quo agreements, and on information and belief ordered a clerk to destroy the court's trial recordings in case 3:15-cv-2401, solicited state judicial actors to retaliate against the plaintiff and ordered the U.S. Marshals Service to harass and attack the Plaintiff and Plaintiff's extended family in retaliation for filing this action against the judicial defendants.

14. Defendant Marco Hernandez is a United States District Court Judge of the United States District Court for the District of Oregon. In case 3:15-cv-2401 Hernandez quashed the subpoenas for Nancy Walker's digital recordings of the trial (with no party with standing to object), ,

refused to allow the jury to be interviewed on the question of impact had the jury seen the forensic reports showing Zweizig's criminal activity (including child porn), quashed the subpoenas of Crow's arbitration file (which likely would have evidence of Kugler's call to Crow), denied Plaintiff discovery and the depositions of Zweizig and Ware, refused to compel arbitration on exactly the same claims involving the same parties Zweizig brought before in 2004-2011 (where arbitration against Rote was compelled), allowed Zweizig to allege claims already denied in prior litigation and strategically suppressed impeachment evidence of the computer forensic reports which paved the way for Zweizig to lie about the content of the forensic reports.

15. Defendant Paul J. Papak is a Federal Magistrate Judge on the United States District Court for the District of Oregon. He was first appointed to this position on September 19, 2005, and his current term will expire on September 18, 2021. Papak confirmed the arbitration award issued by former Defendant and Arbitrator William Crow in 2102 with the full knowledge and body of evidence that Crow had failed to disclose his prior partnership relationship with opposing counsel, that Crow resigned from the engagement, re-engaged as arbitrator and in retaliation ignored all the evidence produced by Plaintiff's company. That evidence included 1,000 documents, the testimony of eight witnesses and the testimony and reports of three computer forensic experts. Judge Papak aided and abetted the unlawful and immoral arbitration award to Zweizig (which included statutory damages under ORS 659A. 199, .230 and post-employment retaliation damages under ORS 659A.030 (1)(f), at the demand of Mosman and Kugler, Judge Papak did, however, confirm that the Zweizig contract mandate to arbitrate applied to post-employment retaliation claims (confirming the opinion of the New Jersey State Court, which compelled Zweizig to arbitration).

16. Defendant Elizabeth A. Weishaupl is a district court judge in Arapahoe County for the 18th Judicial District. She has been in private practice, an Assistant Attorney General for the State of Colorado, and an Assistant U.S. Attorney. She was appointed to the bench in 2008 and has presided over criminal, civil, domestic, probate and juvenile matters since that time. Weishaupl received the Jones and Kugler transcripts and in June 2014 took a call from Robert Kugler, who solicited a trial ruling against plaintiff Rote's controlled companies on a Denver action against Silicon Valley Bank.

17. Defendant Robert Herndon was the Chief Judge in the Clackamas County Circuit in Oregon. Herndon joined the Clackamas County Circuit Court in 1997, has retired from the bench and practices law in Oregon. Herndon ignored the U.S. Marshals evidence and has confirmed he had a quid pro quo relationship with the PLF at the time his opinion granting the anti-SLAPP for the benefit of the PLF.

18. Defendant James C. Egan is the Chief Judge of the Oregon Court of Appeals. The Oregon Court of Appeals is the state intermediate appellate court in the State of Oregon. Part of the Oregon Judicial Department, the Oregon Court of Appeals has thirteen judges and is located in Salem, Oregon. Prior to be appointed the Oregon Judiciary, Egan practiced law in Albany Oregon specializing in employment law. Egan, who previously represented Zweizig, conspired with the other defendants named in this case and solicited the Oregon Court of Appeals justices to AWOP the anti-SLAPP against plaintiff and in favor of the PLF, ignoring subpoena evidence from the U.S. Marshals Service indicting the PLF actors with perjury and false swearing.

~~19. Defendant Billy J. Williams is United States Attorney for the District of Oregon, effective on December 12, 2015. Billy Williams has served as the Acting United States Attorney, for the District of Oregon since May of 2015. He has been with the U.S. Attorney's Office since~~

~~October of 2000. Prior to his role as Acting United States Attorney, he served as the First Assistant, Chief of the Criminal Division and Chief of the Violent Crimes Unit. Williams contacted Mosman ex-parte when representing the United States in Federal case 3:19-CV-00082 and had aided in the cover up of a back dated order to dismiss Walker with prejudice.~~

~~20. Defendant Kathie Steele is the Chief Judge of the Clackamas County Court, assuming that role after Robert Herndon retired. Steele intervened for the benefit of Max Zweizig in Clackamas cases 19cv14552, 19cv01547 and 18cv45257. Judge Steele instructed Judge Lininger to grant anti-SLAPP Motions and award legal fees supported only by fraudulent fee petitions for the sole purpose of attacking Plaintiff.~~

21. Defendant Nancy Walker is a court reporter for the U.S. District Court of Oregon and as an independent contractor produces trial transcripts for a fee. Walker published knowing false draft and final trial transcripts in 2018 and destroyed her digital recordings at the request of Mosman and perhaps other judicial actors while under subpoena and litigation hold notice.

22. Defendant Carol Bernick is the Chief Executive Officer of the Oregon State Bar Professional Liability Fund ("PLF"). She is the recipient of the Peter Perlman Service Award from the Litigation Counsel of America and a Fellow in the College of Labor & Employment Lawyers. She previously was a member of the board of the Multnomah Bar Association, where she chaired the Judicial Selection Committee and to this day exercises power and influence over judicial appointments and due process. Bernick has solicited and endorsed most of the ten acts of perjury and subornation of perjury and engineered the assignment of pro tem Judges friendly to the PLF. Bernick also authorized the gratis representation of Zweizig (in multiple state cases) without mandate and requirement, in fact in violation of the PLF charter, at the request of

Mosman and Kugler. Zweizig confirmed his free representation by the PLF, and that he did not solicit that representation, in his deposition on December 21, 2020.

23. Defendant Kathie Steele is the Chief Judge for in the Clackamas County Circuit in Oregon. Judge Steele's staff refused to allow plaintiff Rote to file documents into several cases in a series of reverse discrimination, effectively denying plaintiff access to litigation as a right of due process. On information and belief, Kathie Steele knew of these acts, endorsed them, also solicited the PLF to represent Zweizig and strategized with Michael Mosman on how best to retaliate against plaintiff. The non-judicial acts of Judge Steele include but are not limited to soliciting Judge Ann Lininger of the Clackamas County Court to award excessive and unlawful legal fees to Zweizig in an anti-SLAPP Motion striking plaintiff's and plaintiff's wife counterclaims for interference with contract and slander of title.

24. Nena Cook became the Chief Executive Officer of the PLF effective January 1, 2020. Cook has been a civil litigator in Oregon for more than 25 years. Most of her legal career has been spent with two mid-sized Portland law firms, Ater Wynne LLP and Sussman Shank LLP. Until recently Cook was hired by the PLF to provide free legal services to Max Zweizig, a non-attorney, in Clackamas County Case 3:19-cv-14552. On information and belief the representation was based on a request by Mosman and other defendants targeting plaintiff Rote for naming Walker as a defendant in Clackamas case 18cv45257 and for opposing the decriminalization of pedophilia.

STATEMENT OF FACTS

25. In 2001 The Hon. Robert E. Jones presided over a case in which plaintiff Sean Jones brought an action for breach of contract and FCRA violations against a company owned by Rote.

Sean Jones was terminated for intercepting, opening and responding to Rote's personal mail, a federal crime. Jones did not refute the criminal conduct.

26. Upon the defense resting, the court instructed the jury and in a last minute change to the jury instructions the court effectively vitiated the defendant's affirmative defenses and counterclaims.

27. The jury returned with a small verdict in favor the plaintiff.

28. Shortly thereafter plaintiff Sean Jones alleged the Hon. Robert E. Jones was a family member.

29. Rote responded by asking the Judge via letter to recuse himself from post-verdict jurisdiction and Judge Jones did so with fanfare. The hearing on recusal will be referred to hereafter as the "Jones Transcript." There is little information supporting a conclusion that the subsequent chain of civil rights violations were designed and executed by Judge Jones, but it is abundantly clear that the defendants consider the publishing of the Jones family relationship worthy of punishment. **(The First Act)**. Plaintiff does not believe Judge Jones was involved with these civil right violations, but it is also abundantly clear that Judge Jones had knowledge of the transcripts being filed, knew they were being used to abridge due process and did nothing to stop the abuse.

30. Post judgment jurisdiction was transferred to Multnomah County Oregon and Rote had his company pay the judgment soon thereafter. Opposing counsel was suspended from the practice of law shortly thereafter for abuse of process, which Rote's company encountered in a fraudulent garnishment.

31. In 2003, Max Zweizig, an employee of a different company (owned by Rote) conspired with his girlfriend Sandra Ware (Rutgers Law School graduate) to perpetrate a fraudulent employment claim against Rote and the employer Northwest Direct ("NDT").

32. As part of that scheme, Zweizig destroyed and removed programming code critical to his employer over a six month period of time. When the time was ripe and the programming was erased, hard drives overwritten, etc., processed data and reports withheld from clients, Zweizig and Ware attempted to extort a substantial raise from Rote.

33. Rote rejected the extortion attempt and upon Zweizig filing data due clients, Zweizig was given notice. It appeared at that point that Zweizig had been under some pressure and Rote sought to get Zweizig into counseling and to retrieve from him the critical programming code that Zweizig withheld.

34. Initially Zweizig responded well, but then refused to turn over the programming, instead choosing to file a complaint (three weeks after being given notice by Rote) with the Oregon Department of Justice (ODJ) and Lane County District Attorney claiming his employer was over-billing clients.

35. Defendant and then attorney James Egan filed that complaint on behalf of Zweizig, without a scintilla of evidence, after talking to Zweizig's NJ attorney. Later Egan would testify during the 2010 arbitration that he did not know Sandra Ware was Zweizig's girlfriend.

36. The ODJ opened an investigation. Evidence was requested. No evidence was provided by Zweizig or Egan and the investigation was closed down.

37. Zweizig also filed with Rote a spreadsheet as the sole piece of evidence. Zweizig claimed to have received the spreadsheet via email, but no such email has ever been provided by ZweizigThat spreadsheet remains uncorroborated.

38. Rote investigated, found the spreadsheet to be a fabrication by Zweizig, no clients were identified, there were hourly adjustments but Rote's company rarely billed by the hour, no one corroborated the spreadsheet, and the amount in question was nominal $400 (in a month in which the employer billed $400,000).

39. Zweizig refused to provide copies of employer owned software programming before or after his last day of employment which ended on November 14, 2003.

40. After Zweizig's last day, Rote's company shut down for 10 days as the programming was recreated, the shutdown displacing more than 150 employees.

41. In 2004 Zweizig filed a complaint in New Jersey state court for retaliation against former employer Northwest Direct ("NDT") and Rote alleging retaliation claims. NDT and Rote ordered counsel to transfer the case to Federal Court based on diversity.

42. The case was assigned to Judge Robert Kugler. A Motion to Compel arbitration was filed by Rote and NDT. While under consideration, Sandra Ware met with a Kugler law clerk, a classmate of Ware's, passing to him in person the Jones Transcript.

43. In response, Kugler dismissed defendant's access to federal court with prejudice sending the case back to New Jersey State Court, denying NDT and Rote their procedural right to access federal court.

44. Plaintiff asserts that Kugler's decision to not put Rote's counsel on notice to cure any defect in the transfer of the case to Federal Court as being a highly unusual act and self-evident as to prejudice and intent to deny Rote and NDT due process. **(The Second Act)**.

45. Rote responded by sending a letter to Kugler notifying him of the ex-parte contact by Ware and Zweizig, publishing to Kugler the forensic results of a hard drive Zweizig returned on his last showing showing the existence of programming Zweizig denied having and a litany of

child incest porn downloaded by Zweizig using a peer to peer program registered in his name. The computer forensic report issued by police officer Steve Williams was filed with Judge Kugler.

46. In response, Kugler issued an order to show cause (Kugler Show Cause) as to why Rote should not be held in contempt for Rote exercising his right of free speech to a judge who had divested the court of jurisdiction.

47. Rote filed a complaint with the Second Circuit.

48. A hearing on the show cause order was heard in Camden Federal Court at great cost to Rote and Kugler attempted to convince the U.S. Attorney's Office to pursue criminal contempt for Rote sending the letter. **(The Third Act)**.The United States refused to do so and the hearing was concluded with a finding that Rote did not engage in criminal contempt. Ware and the clerk have never denied the ex-parte handing off of the Jones Transcript.

49. Kugler abused his office and after the hearing requested Rote's counsel join Kugler in chambers where he asked Rote to withdraw his complaint. Rote conveyed to counsel that he refused to do so and counsel advised Rote to leave the state while he still could. On information and belief the Judicial Committee endorsed this retaliatory behavior by Federal Judges against a party who has filed a complaint against a Judge.

50. The case proceeded to state court. Zweizig was a subject to a contract that mandated arbitration. The contract was evaluated for conscionability and upheld. Zweizig was compelled to arbitration in Portland Oregon. Zweizig filed the Jones and Kugler transcripts with New Jersey State Court. However, in this case the State Court was not amused.

51. In 2006 arbitration was commenced with Rote and his company as Claimant and Zweizig as Respondent. The arbitration was delayed substantially as Zweizig lost counsel on four separate occasions.

52. In 2009 opposing counsel Linda Marshall appeared on behalf of Zweizig. Marshall submitted to arbitrator William Crow both the Jones and Kugler transcripts asking the arbitrator to deny Rote and NDT their constitutional right of due process. The 2010 trial transcript in fact documents a cross examination of plaintiff's attorney on the Jones hearing in 2001, but even at that time did not disclose that Crow and opposing counsel Marshall had been partners for 14 years at Miller Nash.

53. Crow cited both the Jones and Kugler transcripts on the record during the arbitration and at one point made snide comments to Rote about his communications. On the record on May 26, 2010, Crow made it clear that publishing to Kugler that Sandra Ware had met ex-parte with Kugler's clerk, had influenced him. Crow seemed to miss the point that the plaintiff and employer were victims of the ex-parte contact between Ware and the law clerk, a meeting which Ware and the clerk have never denied. The transcript of the arbitration on that day intimates a conversation between Kugler and Crow, a conversation which was subsequently confirmed in August 2018. Crow actually demanded an explanation even after Kugler had five years earlier initiated a show cause hearing for contempt, asked the U.S. Attorney's office to prosecute Rote for the notice to Kugler, which the U.S. Attorney's refused to do and ultimately dismissed the contempt hearing with no finding of contempt. The Opinion and award by Crow specifically refused to award damages on the publishing of a letter to Kugler but Crow's animus and bias is reflected in the order.

54. In May 2010 the first of ten (10) arbitration hearings began. Approximately half way through those hearing Rote became aware that Crow and Marshall had been partners at the law firm of Miller Nash at the same time and for some 14 years. Neither Crow nor Marshall disclosed their prior partner relationship.

55. Upon raising the failure to disclose the prior partnership relationship, arbitrator Crow immediately resigned. Marshall told him that the providence of Crow's independence rested solely with the Arbitration Service of Portland (ASP) and Crow re-engaged.

56. The ASP determined that Zweizig would be prejudiced if Crow resigned.

57. Upon rejoining, arbitrator Crow summarily ignored the evidence put on by employer NDT and found in favor of Zweizig, awarding him $67,500 in back pay, $5,000 on an alleged post-employment letter (a letter not in evidence) to a third party and $1,000 for a post-employment unemployment compensation challenge by NDT. On information and belief this act was solicited by Robert Kugler and Michael Mosman **(The Fourth Act).**

58. The evidence ignored by Crow included a hard copy and digital copy of an email terminating Zweizig three weeks before his complaint to the ODJ, the testimony of three witnesses placing the date of notice of termination to three weeks before the complaint to the ODJ by Zweizig alleging overbilling of clients(and alleged retaliation for doing so), the testimony and reports by three forensic experts (including one of Zweizig's experts) opining that the digital email terminating Zweizig was evaluated and confirmed as having been sent three weeks before Zweizig's complaint.

59. Crow also ignored all evidence of damage caused by Zweizig including emails from Zweizig claiming that there was no program code to process and report on 100,000 bits of data daily, the testimony of the expert hired to search and then recreate the programs, the testimony of

three witnesses that knew the programming existed and was withheld by Zweizig and the testimony of three computer forensic experts (one of them Zweizig's) who opined that the programming was in fact found on a hard drive reformatted by Zweizig on his last day. Those forensic reports and the testimony of the experts was placed in the record in each of the cases referenced in this complaint.

60. Crow ignored more than 1,000 documents and the testimony of ten witnesses. Ethics complaints were filed with the Oregon State Bar for Marshall and subsequent attorneys instructing Zweizig to destroy evidence, for aiding and abetting in his perjury, for lying to Crow and also as to Crow for violating a multitude of ethical mandates.

61. The complaints went to Crow who was then the Chair of the Disciplinary Board for the Oregon State Bar and they went no further. **(The Fifth Act).**

62. NDT filed a Motion to Vacate the arbitration award citing Crow's failure to disclose, his recusal, his re-engagement, his incapacity and complete refusal to consider the evidence of NDT as well as Zweizig's own evidence refuting Crow's narrative.

63. In 2012, Magistrate Paul Papak considered the arguments and while acknowledging Crow's failure to disclose his conflict, lack of independence, apparent lack of capacity and intentional disregard of evidence nonetheless refused to vacate the award. In spite of refusing to consider the merits of the arbitration, Papak did insert knowingly false facts, most prominent of which was a statement that only a hard copy of the email terminating Zweizig was in evidence before Crow, when in fact that was not true. A digital copy of the email terminating Zweizig before his complaint to the ODJ had been maintained and evaluated by three forensic experts. The forensic reports evaluating the digital email, confirming the email was sent to Zweizig

terminating him before Zweizig's complaint to the ODJ, was also in evidence with the Motion to Vacate. Papak ignored that evidence. **(The Sixth Act)**.

64. Magistrate Papak's refusal to vacate the arbitration, given the evidence, is self-evident as to prejudice and Papak's intent to deny Rote and NDT due process.

65. Papak was influenced by the Jones and Kugler transcripts as well a complaint filed against Crow (which Marshall noted in her declaration in support of confirming the award) and consciously decided to deny Rote due process.

66. In February 2017, Rote met with Crow and Crow admitted that he did not have the stamina to look at the evidence, had referred Marshall to Zweizig and had used a draft opinion written for him by Marshall. Crow's admissions to his inability to exercise the responsibilities of his contract are consistent with the acts solicited by Kugler **(The Seventh Act)**. Plaintiff refuses to name Crow as a defendant out of sincere belief that the parties that manipulated Crow should be held accountable**.**

67. Immediately thereafter Rote filed a Motion to Set Aside the Judgment and Papak refused to consider the evidence. **(The Eighth Act)**.Rote filed a complaint against Papak thereafter.

68. From 2009 through June 2014, NDT and Rote litigated against Silicon Valley Bank ("SVB") in Arapahoe County Colorado, after SVB had instructed executives of a software company owned by SVB to break into NDT's servers and destroy software. SVB's intent was to use the shutdown it caused to extort a settlement in lawsuit filed by NDT for breach of contract and fraud.

69. The dispute was over some $50,000 due Touchstar Software Company on a $250,000 contract, SVB wanting to keep the $200,000 received and take back the software in its entirety. Rote refused to capitulate to the extortion and successfully adjudicated an Emergency Motion to

enjoin SVB (and Touchstar) from further destruction and to reinstall the software. NDT prevailed in Denver Federal Court and SVB refused to comply.

70. CEO Rote and former CEO of Touchstar both testified at trial that Touchstar had fraudulently provisioned the hardware and software rendering close to half the software licenses unusable and effectively engaging in a fraudulent bait and switch tactic. NDT sought more than $1.6 Million in damages.

71. On Information and belief, Weishaupl received a copy of the Jones and Kugler transcript and a call from Kugler asking Weishaupl to find against Rote. Although Weishaupl had found in favor of NDT during Summary Judgment, the court found that the product delivered by Touchstar and SVB that rendered half the licenses unusable was not a **material** breach of the contract. **(The Ninth Act)**. Weishaupl published her opinion on July 31, 2014. Kugler was identified by Crow as the judicial actor who solicited Wweishaupl.

72. In 2015, plaintiff Rote began writing articles and posts about the arbitration and litigation with SVB. The evidence from the arbitration represented a bulk of the source material. Rote specifically addressed the evidence the arbitrator ignored. Plaintiff also wrote similar articles about the SVB litigation.

73. Zweizig found the articles and blog posts about the arbitration defamatory and demanded the blog (which contained much more than the Zweizig posts) be taken down. Rote refused to do so, but offered Zweizig anonymity and redaction.

74. In Retaliation, opposing counsel Joel Christiansen and Linda Marshall spun a blog post written by Rote (on whether arbitrators are above the law), reached out to deputy clerk of The Hon. Robert E. Jones on November 12, 2015 and conveyed that Rote was going to attend a dinner in the Judges honor and assault, if not assassinate, Judge Jones. Christiansen filed a false

declaration misrepresenting the content of his commentary to the deputy clerk, the content of which was eventually acquired from the U.S. Marshals Service.

75. On Christmas Eve Zweizig filed a lawsuit against Rote and former employer NDT in the U.S. District Court of Oregon. Almost immediately opposing counsel filed the Jones and Kugler transcripts asking the court for bias and to deny Rote his rights of free speech and due process. **(The Tenth Act)**.Counsel would file the Jones and Kugler transcripts two more times in the 3:15-CV-2401 lawsuit, each time asking the court for bias, to punish Rote for his free speech and to deny Rote his due process.

76. The Hon. Marco Hernandez did deny Rote due process. Zweizig's claims in the 3:15 lawsuit were asserted as employment claims for retaliation, not for defamation, for publishing the details of the arbitration. As such the employment claims are subject to Zweizig's contract dispute resolution clause requiring notice, mediation and arbitration. Zweizig failed to comply with the contract.

77. Under Oregon law the court has the limited jurisdiction to decide (1) if there is a contract requiring arbitration and (2) if the claims are the type of claims subject to arbitration, such as employment claims. Zweizig sought damages under post-employment retaliation claims citing the contract, the very type of claim he was awarded damages in during the arbitration. The Federal Arbitration Act also limits the review by the court and demands the court compel arbitration as the implicated contract requires.

78. And yet the court decided to deny Rote's Motion to Compel, using waiver and non-signatory theories, arguments well beyond the threshold questions before the court under Oregon law. **(The Eleventh Act)**.The court also denied Rote's counterclaim for defamation even though Rote had raised factual defenses to the anti-SLAPP filed by Christiansen on behalf of Zweizig.

The court refused to allow plaintiff Rote discovery or to depose Zweizig and Ware. Under the 9th Circuit Courts guidance, anti-SLAPP Motions are to be treated as Motions for Summary Judgment and discovery afforded when there are factual defenses, as in the case where the content of Christiansen's statements to the deputy clerk are challenged and refuted by other evidence. **(The Twelfth Act)**.

79. In 2016 Rote filed a defamation lawsuit against Christiansen and Marshall in Clackamas County Court for statements made alleging Rote intended to attack Judge Jones. Rote became aware of the nefarious contact (but not content) with the deputy clerk since the U.S. Marshals Service got involved and interviewed Rote and Rote's attorney.

80. Judge Robert Herndon presided over the short duration of the case.

81. The Oregon State Bar Professional Liability Fund hired counsel to represent Marshall and Christiansen and counsel filed an anti-SLAPP Motion to Strike Rote's claims arguing the articles and posts were publications on a topic of public interest and in a public forum, also concealing the content of the statements made to Judge Jones deputy clerk. **(The Thirteenth Act)**.

82. During the course of the anti-SLAPP Rote argued that the claims made by opposing counsel had to be dangerous enough for the U.S. Marshals Service to investigate and for the Marshals to place Rote on the watch list at the U.S. District Court of Oregon. Rote offered further evidence that plaintiff has refused to reveal the content of the statements, but had done so in the 3:15CV2401 lawsuit, opposing counsel Christiansen now having admitted that he and Marshall contacted the deputy clerk.

83. Rote asked the Herndon court to accept as evidence that the statements while still concealed must have been material enough for the U.S. Marshals to take action. Opposing counsel hired by the PLF also knowing concealed the content of the statements made by Marshall and Christiansen and misrepresented the content to the court.

84. Opposing counsel hired by the PLF, with full knowledge of Carol Bernick, filed the Jones and Kugler transcripts, asked for and received prejudicial favor denying Rote his constitutionally right of due process. The Herndon court granted the anti-SLAPP. **(The Fourteenth Act)**. Rote appealed.

85. On appeal, Rote argued the clear weight of inference given the fraudulent concealment of the statements published to the deputy clerk. Herndon acknowledged that he was influenced by the Jones and Kugler transcripts and that was asserted in the appeal.

86. After the Clackamas County anti-SLAPP was granted and before the appeal, Rote acquired further evidence from the U.S. Marshals Service via subpoena and FOIA request. The content of the statements made to the deputy clerk, recorded by the deputy clerk and provided to the U.S. Marshals Service, showed that Christiansen had engaged in perjury in his federal declaration in support of the anti-SLAPP Motion and that counsel in the Clackamas County case had also engaged in perjury.

87. An Ethics complaint was filed against Christiansen and Marshall with evidence of his perjury in his declaration and as compared to the U.S. Marshals evidence showing highly defamatory statements made about Rote, statements concealed by Christiansen. The Oregon State Bar took no action for violation of Oregon Rules of Professional Conduct sections 3.3 to 3.5. The Oregon State Bar aided and abetted Christiansen and Marshall in their efforts to deny Rote his right of due process. **(The Fifteenth Act)**.

88. The Herndon court refused to consider the U.S. Marshals Evidence while the anti-SLAPP was under appeal. The court further refused to consider the new evidence after appeal, ignoring Oregon law allowing a Motion to Set Aside the Judgment for fraud upon the court and threatening Rote with enhanced legal fees. Herndon denied Rote due process. On information

and belief, Paul Papak contacted Herndon requesting that Herndon deny Rote his right of due process. **(The Sixteenth Act)**.

89. By the time Rote filed his appeal with the Oregon Court of Appeals on the Clackamas Court granting the anti-SLAPP, James Egan, former counsel for Zweizig, was on the Oregon Court of Appeals. Rote filed an affidavit on Egan and further sent an email requesting Egan not get involved with the appeal. That request was ignored.

90. On information and belief, James Egan engaged other members of the Oregon Court of Appeals to Affirm without Opinion (AWOP) the Clackamas County Courts decision and to deny Rote his right of due process. **(The Seventeenth Act)**. Egan is now Chief Justice of the Oregon Court of Appeals and is seeking appointment as a Federal Magistrate.

91. The Hernandez court (3:15-CV-2401) further decided just before trial to deny Rote's source material supporting his blog posts, the most important of which was the forensic reports. Plaintiff counsel Christiansen filed a Motion in Limine specifically identifying exhibits Rote sought to present to the jury and which Christiansen described, authenticated and argued supported Rote's posts describing Zweizig's cybercrime, copyright violations, destruction of programming and the downloading and disseminating of child porn using a peer to peer program registered to Zweizig. Until that Motion in Limine was granted, Zweizig had only argued the publishing of the forensic reports was a violation of a protective order. After the Motion in Limine was granted, Zweizig took a position the blog posts were untruthful and did not raise the protective order issue during trial**. (The Eighteenth Act)**.

92. Judge Marco Hernandez intentionally made objectively unreasonable ruling to punish Rote for his free speech and to deny his right of due process. Out of the more than 60 exhibits Rote sought to introduce at trial, the court permitted only five (5), and did not permit the forensic

reports even for impeachment of Zweizig's testimony. Judge Hernandez would have seen that the forensic reports were referenced as source material in Chapters 4 and 7 of the blog and that the issues raised on child porn, cybercrime , copyright, identity theft and destruction of evidence had not been addressed by Crow in the arbitration. Moreover this evidence specifically rebutted Zweizig's testimony and because it was referenced in the Motion in Limine by Christiansen, did not need to be corroborated further…Zweizig's legal team having done that.

93. In 2018 Rote filed a new lawsuit in Clackamas County seeking again damages for Defamation and IIED for the false and defamatory statements published to Judge Jones deputy clerk, against former PLF counsel for fraudulent concealment of the true statements made to the deputy clerk, for malpractice against Rote counsel for failing to file a Motion to Compel arbitration before answering and against the PLF for refusing to cover the malpractice. The PLF's refusal to cover was based on retaliatory animus for publishing a series of articles critical of the PLF endorsement of perjury and for covering attorneys engaged in retaliatory acts outside the scope of coverage. **(The Nineteenth Act).**

94. Rote also penned a number of articles questioning the propriety of the PLF enjoying tax free status while failing to act in the public's interest as originally conceived, for growing to a financial powerhouse that pays out less in claims as a % of premiums than independent carries, for being a captive insurance company and not qualifying for tax exempt status and for concealing what appears to be $2 Million a year in undisclosed payments to outside parties.

95. Rote also renewed his Motion to Set Aside the Judgment for legal fees in the Clackamas anti-SLAPP Motion. Judge Susie Norby was assigned to the case. Rote submitted the U.S. Marshals evidence showing clearly that Christiansen's representation of the statements made to the clerk were tantamount to perjury, that the anti-SLAPP decision should be void as a matter of

law and the opportunity for legal fees therefore foreclosed. Norby ignored the evidence and AWOPed the earlier decision. On information and belief, Susie Norby is actively seeking an appointment to Court of Appeals, met with James Egan to garner his support for that position and denied Rote's Motion as an act of solidarity and as requested by Egan. **(The Twentieth Act)**.

96. Also, during this time Rote filed a Motion to Correct the record in the 3:15-CV-2401 case now under appeal. The court transcript was missing two statements made by opposing counsel Christiansen at closing, the most important of which was a false claim that Rote was making $4 Million a year and the jury should award Zweizig's damages accordingly. While that statement was one of 17 prejudicial statements, for which the court did not intervene **(The Twenty First Act)**, Rote asked the court reporter Nancy Walker to check and make sure she did not make an error. Walker maintained she did not make an error.

97. Plaintiff Rote immediately issued litigation hold emails to Walker and the court clerk and offered to pay Walker for copies of the recordings. Walker refused.

98. Rote added Nancy Walker as a defendant in the 2018 Clackamas lawsuit claiming intent to defraud and to create a knowingly false document. Rote subpoenaed the recordings. Walker refused to respond or object to the subpoena.

99. The United States intervened by an untimely removal of the Clackamas County action to the U.S. District Court of Oregon. The United States argues that the action against Walker was an action against the United States, even though Walker claims personal property ownership of the tapes. Rote objected to the removal and Judge Michael Mosman decided that the court would retain jurisdiction**. (The Twenty Second Act).**

100. Rote again issues subpoenas to Walker and the Clerk of the Court. The United States responded by arguing the subpoenas should be quashed, the proper process requiring the court to examine exclusively the recordings to determine if the court record needed to be corrected. Judge Hernandez did quash the subpoenas. **(The Twenty Third Act)**.The Motion to Correct the record was denied.

101. After the subpoenas were quashed Rote went to the Court Clerk and filed a form requesting copies of the trial recordings from the court's digital recording system. The clerk could not find any record of the recordings and called Jennifer Padget, deputy clerk for Judge Hernandez. Although plaintiff subpoenaed and put a litigation hold on the recordings, said recordings were destroyed. **(The Twenty Fourth Act)**.Who ordered the recordings destroyed is not known and Padgett will not confirm who ordered her to destroy the recordings, but there is a trail. Plaintiff's position is that Judge Hernandez is the only one who could have ordered deputy clerk Paget to destroy the tapes. As previously noted, the United States was aware the tapes of the trial were being destroyed.

102. On information and belief, court reporter Nancy Walker's trial recordings were also destroyed. The United States has not denied that Walker destroyed her digital recordings. **(The Twenty Fifth Act)**.

103. Defendants Christiansen & Marshall (Defamation and IIED), Brandsness (malpractice and breach of contract), The United States, Kalmanson and PLF (and related parties) all filed Motions to Dismiss in 3:19-CV-00082-MO. The court granted all Motions. Brandsness and the PLF were dismissed on malpractice, the court having found that there was no written contract. The written contract was provided as Doc #18-1. Judge Michael Mosman ignored that evidence in the record and further back dated an opinion and order to dismiss

Walker with prejudice **(The Twenty Sixth Act)**. On information and belief Judge Kugler solicited this punishment directly with Judge Mosman, both being FISA Court Judges. The 9th Circuit reversed Judge Mosman's dismissal of the state court claims on grounds that Judge Mosman lacked jurisdiction to keep and then dismiss the state court claims.

104. The Intentional Tort and Related Claims against the United States as Nancy Walker were dismissed with prejudice, even after the court knew that Walker had destroyed her digital recordings. Plaintiff position is that tampering with a trial record is common place in the Portland division. **(The Twenty Seventh Act).**

105. There are other cases that could be incorporated in this complaint. For example, Zweizig filed a fraudulent transfer case against Rote personally on the NDT judgment. NDT had been destroyed by the very cybercrime that he and SVB engaged in. Without a scintilla of evidence that case went on for four years, Rote's Summary Judgment having been denied three times. Marshall admitted during the trial the case was used to try to extort payment by Rote. Judge Hernandez found in favor of Rote, the claims not only being time-barred but also that there was no evidence to support the claims. Still Rote was subjected to the high cost of litigation for four years. **(The Twenty Eighth Act).**

106. Rote pursued a malicious use of a civil proceeding claim in Clackamas County, case 3:19-cv-14552, against Zweizig and his legal team which includes Sandra Ware, Joel Christiansen and Linda Marshall. The Oregon State Bar PLF provided representation to Christiansen and Marshall immediately. In 2019, plaintiff discovered the PLF has also provided free legal services to Zweizig and Ware. Zweizig also confirmed this representation in his December 21, 2020 deposition and that he had not solicited the representation.

107. In the interim Judge Kathie Steele refused to process plaintiff's Motion for default Judgement against Zweizig and Ware more than four times from June through September 2019. Law clerks working for Judge Steele acknowledged that they were motivated to stop the default out of support for Zweizig,. On information and belief, Mosman solicited this violation of due process directly from Kathie Steele. **(The Twenty Ninth Act).**

108. Once email service to Zweizig and Ware had been approved and with the Fifth Motion for Default pending, the Oregon State Bar PLF, with the approval of Carol Bernick, hired Nena Cook to represent non-attorneys Zweizig and Ware. The only plausible support for firing to repair malpractice is a letter the Marshall inadvertently issued to plaintiff Rote outlining Zweizig's and Ware's intent to use the baseless 3:14-cv-406 litigation to extort a settlement and defame plaintiff Rote. Ultimately the client attorney privilege letter was sealed under a protective order, but the publishing of that letter to secure PLF representation would remove privilege.

109. Kathie Steele refused to allow Plaintiff Rote to even file a Motion in Clackamas to reopen the protective order under seal. The Clerk was repeatedly told not to process the Motion, forcing Rote to file the Motion to Supplement evidence without seal.

110. Plaintiff suspected the PLF had decided to represent Zweizig out of a retaliatory act given that plaintiff had sued the PLF and Bernick for Oregon RICO citing more than ten counts of perjury, subornation of perjury, fraud, conspiracy and aiding and abetting child porn. **(The Thirtieth Act).**

111. Plaintiff requested confirmation by the PLF on October 1, 2019. Nena Cook did not confirm that she was hired by the PLF until November 14, 2019 and after she filed a false pleading to dismiss Ware from 19CV14552, failing therein to disclose to the court that the letter

causing her appointment also vitiates the argument against Ware's argument of lack of jurisdiction. **(The Thirty First Act).**

112. Plaintiff has been unable to confirm if Cook was hired out of retaliation for the OR RICO lawsuit, now with the 9th Circuit, Mosman having dismissed all claims in retaliation for plaintiff whistleblowing on the Nancy Walker and court's transcript tampering out of the Portland Division. Again, plaintiff requested Mosman disqualify himself on any matter involving the PLF. **(The Thirty Second Act).**

113. The PLF has a $100 Million war chest, which generates $25 Million year in premium revenue, paying only $2.5 million in claims. The PLF refuses to disclose annually the direct and indirect payments to the judiciary even under an FOIA request. The PLF is considered a quasi-government agency organized under Oregon's Judicial Branch. As of this time, the PLF has refused to respond to a subpoena for documents on coverage of the defendants in Clackamas case 18cv45257 and the coverage of Zweizig and Ware. The PLF's collusion with Judge Mosman and Kugler to dismiss the malpractice claim against Brandsness and the PLF in the amount of no less than $500,000 is one of the many predicate acts to Oregon and Federal RICO, is a violation of the Hobbs Act, 18 U.S.C. § 1951 and may well represent an act of extortion by the PLF. (**The Thirty Third Act**).

114. During the Motion to Dismiss the malpractice claim in Federal Court (3:19-cv-00082) before Judge Mosman, counsel for Brandsness hired by the PLF alleged falsely that there was no written contract for professional services between Brandsness and Rote. Judge Mosman used that false allegation to dismiss the malpractice claim with prejudice. The PLF and Mosman knew that was a false representation of facts, constitutes an act of perjury by the PLF and prima facie evidence of a quid pro quo agreement for profit between Mosman and the PLF, represents

violations of the Hobbs Act and predicate acts under Federal and Oregon RICO. (**The Thirty Fourth and Thirty Fifth Acts**).

115. Post Judgment, Zweizig filed another fraudulent transfer action against Rote and Tanya Rote, plaintiff's wife. After two years of discovery, the Rote's prevailed on their Motion for Summary Judgment, Zweizig providing no evidence to support his claims. In the interim however the Rote's have again been severely damaged. The Rote's sought counterclaims for slander of title and interference with the contract, Zweizig having filed his action in Clackamas case 19cv01547 in January 2019 just before the closing of a sale of property owned by nondebtor Tanya Rote. Judge Lininger of the Clackamas County Court granted Zweizig's anti-SLAPP Motion as to those counterclaims and awarded $20,970 in attorney fees to Zweizig in July 2020. The fee petition by Zweizig counsel included a declaration and attached billing records by counsel Williams Kastner. Those records showed that 66% of the $20,970 awarded was specifically identified to other actions by Williams Kastner and not reasonably connected to the anti-SLAPP. The fraudulent fee award was solicited by Steele, Mosman and the PLF and constitutes a violation of the Hobbs Act, and predicate acts under Federal and Oregon RICO. (**The Thirty Sixth Act**).

116. On December 21, 2020 (case 19cv01547) Max Zweizig admitted in a deposition and under oath that he duped the jury in case 3:15-cv-2401, lying about the existence of forensic reports showing that he did download and disseminate child porn from an employer owned computer used exclusively by Zweizig in his home in New Jersey from 2001 through mid-May 2003. Zweizig admitted that his former attorney, Ward Greene, resigned after evaluating the computer forensic reports showing Zweizig's child porn and other criminal activity. Zweizig admitted that his former attorney, Ward Greene resigned no longer wanting to be associated with

Zweizig and the raping of children. Zweizig admitted that the PLF represented him in cases 19cv14552 and 19cv01547, without request or repair and on information with the full knowledge that Zweizig is still engaged in the dissemination of child porn. Representation was solicited by the defendants and the free assistance implicates the Hobbs Act and predicate acts under Federal and Oregon RICO (**The Thirty Seventh Act**).

117. The jury award in case 3:15-cv-2401 was appealed to the 9th Circuit on multiple grounds. 9th Circuit Judge Richard Paez requested assignment to this case. Under Oregon Law (*Livingston* case), a non-signatory may compel arbitration against a signatory plaintiff if the claims are contemplated under the contract. In 2011 Zweizig was awarded damages under ORS 659A.199, .230 and .30(1)(f). Zweizig argued for affirmation of the award.The case was affirmed by the USDCOR, by Judge Papak. In 2015 Zweizig pursued claims under ORS 659A.199, .230 and .30(1)(f) and (g) and against the same parties. Judge Paez refused to bound by Oregon law and compel arbitration. The 9th Circuit is bound by Oregon law on the issue of equitable estoppel, *Beeman v. Anthem Prescription Mgmt., LLC*, 689 F.3d 1002, 1008 (9th Cir. 2012). On information and belief the defendants solicited Judge Paez to refuse to follow Oregon law in favor of Zweizig and the trafficking of children. (**The Thirty Eighth Act**).

118. In March 2021, Zweizig filed a Motion for execution of a writ to sale Plaintiff's homestead in Clackamas County Oregon. Plaintiff Rote in objecting to the writ, showed that Zweizig lacked standing to file the writ because the sales price of the home was insufficient to pay the liens superior to Zweizig's. In parallel litigation, Plaintiff Rote successfully discharged the Zweizig liens after three hearing, wherein Zweizig presented no evidence to challenge the value of the sale to an independent third party. The Deschutes County Court nonetheless approved the writ during the covid moratorium. On information and belief the defendants

solicited the Deschutes Court through Chief Judge Wells Ashby, an act of retaliation for naming the defendants in this case and exposing the defendants' support of child pornography. (**The Thirty Ninth Act**).

119. In September 2020, the U.S. Marshals Service harassed and attempted to intimidate Plaintiff Rote and his extended family. Two officers of the U.S. Marshals attempted to interview Plaintiff's Mother-in-Law for Plaintiff investigating Mosman. The U.S. Marshals contacted Tanya Rote and even suggested to her that she should be cautious with Plaintiff. The U.S. Marshals Service contacted Plaintiff and inquired about this lawsuit and plaintiff's blog posts documenting an investigation of Mosman, his history of supporting child pornography and his connection to the PLF. (**The Fortieth Act**).

FIRST CLAIM FOR RELIEF
42 U.S.C. §1983
Violation of Plaintiff's First Amendment Rights

Against All Defendants

120. Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 119 as though fully set forth herein.

121. In all claims in this action , against the Defendants the plaintiff alleges:

a. Mosman and the other federal actors aided and abetted and conspired with State Actors to;

b. to deny Plaintiff his right of free speech and due process in state court and in the pursuit of state tort claims, rights guaranteed under the U.S. Constitution;

c. by assisting child predator Max Zweizig in securing free counsel from the state and an agency of the state (PLF) for a civil suit and appeal;

d. by using fee petition abuses in State Court to silence Plaintiff from publishing critiques of the Court and/or filing criminal complaints; and

e. pursuing these violations and other acts of retaliation while hiding under the cloak or color of state law.

122. Plaintiff alleges that these acts retaliation were solicited under color of any statute, ordinance, regulation, custom, or usage of Oregon State Law that constituted a deprivation of his rights, privileges, or immunities secured by the Constitution and laws.

123. Plaintiff also alleges that the acts of retaliation were violations of the Oregon Constitution, Article I, Section 8, which states that "No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right."

124. Plaintiff Rote exercised his constitutional right to freedom of speech by blogging, tweeting and otherwise publishing about matters of public concern and national debate, among them being the efficacy of arbitration, failures of the judiciary to reign in arbitrators, the right to file a complaint to a body administering judicial conduct without fear of repercussion and persecution, to disclose ex-parte and other forms of misconduct by court staff when found, to publish the results of ongoing litigation and to question the court's adopting a poster child who disseminates child porn. Plaintiff also exercised his constitutional right of petition for redress of the defendants' conscious targeting plaintiff for exercising his right of petition including the filing of this case.

125. Defendants are "persons" within the meaning of 42 U.S.C. § 1983.

126. The acts abridging Plaintiff's rights more specifically herein include aid and abetting and collusion to (1) defer and delay Plaintiff's state tort claims including a malpractice claim that would mitigate the judgment in case 3:15-cv-2401; (2) assess legal fees in actions without attendant fee support; (3) representation of Zweizig, Christiansen, Greene and other attorneys

engaged in the dissemination of child porn, child molestation and trafficking; (4) dismissal of plaintiff's claims in other actions forcing Plaintiff to suffer damages up to and including the time in which the dismissals were reversed; (5) refusing to sign orders or allow Plaintiff the proper venue in state Court, and others, all of which were taken under color state law.

127. Zweizig and his attorneys, and those attorneys petitioned the defendant actors to punish Rote for Rote's critiques of the Court. That solicitation of bias was repeated more than a dozen times including by the PLF and its vendors (an arm of the state judicial department). Defendants embraced those solicitations of bias by and through violations of due process.

128. Defendants' acts were designed to punish and discourage the open publication of critiques of the court and court staff, among those cited including but not limited to ex-parte contact between Sandra Ware and Kugler's law clerk, the publishing of a letter therein, placing and allowing the Jones and Kugler transcripts to taint proceedings, judicial endorsed acts of perjury, concealment of perjury that serves the interest of judicial actors, financial malfeasance, the destruction of trial recordings, harassment, intimidation, using law enforcement to intimidate and punish Plaintiff, etc.

129. Defendants' constitutional abuses and violations were and are directly caused by policies, practices and/or customs devised, implemented, enforced, encouraged and sanctioned by the PLF and other Defendants, which included entering into a confidential legal representation agreement with Zweizig designed to deny Plaintiff Rote his malpractice claim and to quash the subpoena of that agreement.

130. As a direct and proximate result of defendants' unlawful acts, Rote has suffered economic damages and harm to his reputation.

131. As a direct and proximate result of defendants' unlawful acts, Rote has suffered outrage, betrayal, offense, indignity, embarrassment, humiliation, injury and insult in amounts to be determined by the jury at trial.

132. Rote seeks recovery of all other equitable relief and punitive damages as provided by law, in addition to reimbursement of his reasonable attorneys' fees and costs pursuant to 42 USC § 1988 and 28 USC §1927, if appropriate.

133. Defendants' conduct toward Rote demonstrated a wanton, reckless or callous indifference to the constitutional rights of Rote and all persons citizens of the United States, which warrants an imposition of punitive damages in such amounts as the jury may deem appropriate to deter future violations.

SECOND CLAIM FOR RELIEF
42 U.S.C. §1983
As Applied Due Process Violations of Plaintiff's Right To An Impartial Tribunal As Guaranteed By The Fourteenth Amendment

Against All Defendants

134. Plaintiff repeats and reasserts the allegations set forth in paragraphs 1 through 133 as though fully set forth herein.

135. 42 U.S.C. § 1983 and the Due Process Clause of the Fourteenth Amendment, provides that no State shall "deprive any person of life, liberty, or property, without due process of law."

136. Defendants are "persons" within the meaning of 42 U.S.C. § 1983.

137. Defendants encouraged opposing counsel to file the Jones and Kugler transcripts in the described litigation more than ten times, in six legal actions and in three states with the intent of encouraging if not demanding judicial bias. Many of the attorneys who files the transcripts were hired and paid by the Oregon State Bar professional liability fund. The judicial actors identified as defendants in this action embraced the persecution of plaintiff without regard to the truth,

facts, law or consideration that their acts aided and abetted the dissemination of child pornography and expanded the footprint of child trafficking.

138. Among the abuses by the court include refusal to vacate an arbitration award stemming from the arbitrators acknowledgement of inability to perform the duties demanded, refusal to permit discovery, refusal to allow evidence, refusal to compel arbitration, refusal to recuse (Papak, Hernandez and Portland Division), refusal to sanction, collusion in the misconduct of opposing counsel, aiding and abetting cybercrime, editing and destroying a trial record, all of which was intended to punish the plaintiff for the exercise of his constitutional right to free speech.

139. The acts of defendants when measured against applicable law, res judicata, unrefuted facts, were objectively unreasonable and unsupported, most often presented as a commitment to ignoring proffered evidence.

140. The acts of defendants described herein were taken under color of federal and state law.

141. Defendants' acts violated Rote's rights under the Fourteenth Amendment of the United States Constitution, made applicable to the State of Oregon and Colorado.

142. Defendants' constitutional abuses and violations were and are directly caused by policies, practices and/or customs devised, implemented, enforced, encouraged and sanctioned by Defendants including: (a) the failure to adequately and properly train and supervise Federal and State employees; (b) the failure to properly and adequately monitor and discipline Federal and State employees; (c) the overt and tacit encouragement and sanctioning of, and failure to rectify, the practices that led to the Fourteenth Amendment violations here.

143. As a direct and proximate result of defendants' unlawful acts, Rote has suffered economic damages and suffered harm to his reputation.

144. As a direct and proximate result of defendants' unlawful acts, Rote has suffered outrage, betrayal, offense, indignity, embarrassment, humiliation, injury and insult in amounts to be determined by the jury at trial.

145. Rote seeks recovery of all other equitable relief and punitive damages as provided by law, in addition to reimbursement of his reasonable attorneys' fees and costs pursuant to 42 USC § 1988 and 28 USC §1927, if appropriate.

146. Defendants' conduct toward Rote demonstrated a wanton, reckless or callous indifference to the constitutional rights of Rote, which warrants an imposition of punitive damages in such amounts as the jury may deem appropriate to deter future violations.

THIRD CLAIM FOR RELIEF
42 U.S.C. §1985
Conspiracy to Violate Civil Rights

Against All Defendants

147. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 148 as though fully set forth herein.

148. 42 U.S.C.§ 1985 claims arise from: (1) a conspiracy; (2) to deprive plaintiff of equal protection or equal privileges and immunities; (3) an act in furtherance of the conspiracy; and (4) an injury or deprivation resulting therefrom." *Tilton v. Richardson,* 6 F.3d 683, 686 (10th Cir. 1993).

149. The defendants knowingly and willing conspired to punish Rote for his public speech, denied Rote critical elements of due process influencing or deciding the outcome of litigation to which Rote was a party, by defendants objectively unreasonable bases in law and fact nefariously masquerading as judicial deference, with the intent of hurting Rote to whom they also ascribe a separate socio-economic class and as a business owner.

150. Any single act stands out as an abuse of judicial discretion. The sum of the acts presents a prolonged and calculated pattern of persecution among the defendants as conspirators with the intent of causing economic harm to Rote, singling Rote out to punish his speech and to deny him due process.

151. The collusion between actors named as defendants in this case and counsel not named as defendants is best defined by counsel filing the Jones transcript, Kugler Show Cause Order and Kugler transcript some ten times in six actions in three different states, each time a criminal request for the abuse of a public office and each time not sanctioned by the court.

152. Opposing counsel first filed the Jones transcript ex-parte in 2004 in Camden, N.J.; then the Jones and Kugler transcripts in 2005-2006 in N.J State Court; then again in the 2010 arbitration; then the Jones and Kugler transcripts and Crow complaint in 2012 with the confirmation; then the Kugler and Jones Transcript in 2014 (3:14-CV-406); then the Kugler and Jones transcript in the 3:15-CV-2401 case some three times; then in the 2016 defamation case against Christiansen and Marshall, this time filed by opposing counsel hired by and deemed filed by the Oregon State Bar PLF and Carol Bernick; then finally also filed in the Oregon Court of Appeals resulting in an AWOP. The AWOP was an act of support for the courts civil rights violations, solicited and secured by James Egan.

153. Officers of the court have through these filings requested and, upon re-filing, confirmed that Rote has and will be denied due process.

154. In state court, Crow, Weishaupl, Herndon, Egan and Steele conspired with Kugler, Papak, Mosman and opposing counsel to punish speech about the court, to deny Rote due process and to deny him an independent triar. Carol Bernick aided and abetted in the dissemination of the Jones and Kugler transcripts and in the acts violating Rote's free speech and

right to due process. Rote put Bernick on notice about the perjury and acts of PLF counsel and Bernick endorsed those acts.

155. In Federal court, Papak, Kugler, Mosman, Hernandez, Bernick and Williams aided and abetted in punishing Rote's speech and denying Rote dues process by actively engaging with opposing counsel in strategy, motion and advocacy, by effecting the quashing of subpoenas, by destroying recordings, by assisting in the cover up of inaccurate trial transcripts and through multiple acts of intimidation and suppression of evidence.

156. The state and federal actors and conspirator defendants implicate their respective employer agencies such as the Oregon State Bar Professional Liability Find and departments given tasks under their respective charter confirms that they were acting under the color of the law administered by those employers.

157. Those employers failed to act even when Rote called for recusal of one or more of them when bias appeared probable or imminent. Those employer agencies and departments chose to not act to protect the civil rights of plaintiff Rote.

158. As a direct and proximate result of defendants' unlawful acts, Rote has suffered economic damages and harm to his reputation.

159. As a direct and proximate result of defendants' unlawful acts, Rote has suffered outrage, betrayal, offense, indignity, embarrassment, humiliation, injury and insult in amounts to be determined by the jury at trial.

160. Rote seeks recovery of all other equitable relief and punitive damages as provided by law, in addition to reimbursement of his reasonable attorneys' fees and costs pursuant to 42 USC § 1988 and 28 USC §1927, if appropriate.

161. Defendants' conduct toward Rote demonstrated a wanton, reckless or callous indifference to the constitutional rights of Rote, which warrants an imposition of punitive damages in such amounts as the jury may deem appropriate to deter future violations.

FOURTH CLAIM FOR RELIEF
BIVENS

162. Plaintiff repeats and reasserts the allegations set forth in paragraphs 1 through 161 as though fully set forth herein.

163. Against the Federal Actors, plaintiff alleges that if treated as a federal actor, did unlawfully publish a transcript in case 3:15-cv-2401 that removed from the court record a statement or statements made by Max Zweizig and/or his attorney Joel Christiansen that asked the jury in that case to punish Rote because he was wealthy.

164. Plaintiff further alleges that Mosman removed the state tort claims to Federal Court where he summarily dismissed all those claims including a malpractice claim, all the while knowing he did not have jurisdiction over the State Tort Claims.

165. Plaintiff further alleges that the 9th Circuit reversed Mosman and ordered the state tort claims back to Clackamas County, where a pro tem Judge and former Oregon State Bar Board Member dismissed the RICO, Breach of Contract and Fiduciary claims against the PLF. That pro tem Judge specifically admitted that he was biased, still practicing law.

166. The reversal of the dismissals in federal Court has the effect of making Mosman's early dismissal not absolutely immune. Mosman had no jurisdiction over the state court claims, not at any time and taking them and dismissing them was unconstitutional. Mosman was acting under color of federal authority when he removed the state tort claims and dismissed Rote's claims even with the knowledge that Brandness legal counsel at that time engaged in perjury when alleging that there was no contract between Rote and Brandsness.

167. Although Hernandez quashed Rote's subpoena for Walker's recordings, and his action is likely immune, no party had standing to challenge the subpoena; however the United States did make an appearance and argued to quash the subpoena of Walker's recordings. Plaintiff asserts that the statements made by Zweizig/Christiansen in case 3:15-cv-2401 claiming Rote to be wealthy and therefore should be punished, have been repeated several times in State Court (19cv01547) as well, where the transcript has been secured.

168. Plaintiff further alleges that either Mosman and/or Hernandez ordered the clerk of the USDCOR to delete the Court's separate trial recordings, while under subpoena. USA Assistant Attorney Hager acknowledged that Walker's digital recordings are the only one's remaining and have been preserved, although he has not heard them and cannot in any way validate the fraudulent transcript. The recordings are not in Hager's possession.

169. In so far as there is general agreement that the Court's separate recordings were destroyed by order of one of the federal defendants, acting under federal authority, that destruction of property is unconstitutional and implicates a broader abuse that is not immune. Mosman was not for example the Judge assigned to the 3:15-cv-2401 case. Hernandez was. It is unclear who had the authority to order the Court's recordings destroyed, but Mosman was Chief Judge at the time the Court's recordings were destroyed. Plaintiff alleges that Mosman caused the Trial recordings to be destroyed in violation of Rote's constitutional rights of due process and that Mosman was acting under Federal authority, albeit not with immunity.

170. Nancy Walker's digital recordings of the 3:15-cv-2401 trial are the only recordings that remain, if they do remain. The US Attorney's office has neither secured those recordings nor listened to them, per Hager. More importantly, the US Attorney's Office and Walker have not denied that Walker published a false transcript.

171. Plaintiff alleges that the digital recordings of the 3:15-cv-2401 have been spoliated, destroyed to protect Walker and child predator Zweizig. Plaintiff is entitled to relief from this and the other unconstitutional acts by the federal actors that implicate Bivens.

172. District courts have jurisdiction over Bivens causes of action under 28 U.S.C. § 1331 because they are "civil actions arising under the Constitution."

173. While an FTCA claimant must first file and exhaust administrative remedies with the appropriate federal agency before filing in federal district court, a Bivens plaintiff may file directly in federal court.

174. All objective evidence shows that Mosman removed the state tort claim in case 18cv45257 against Walker to protect her and also ordered the clerk of the court to destroy the Court's recordings to protect Walker. The consistency of Zweizig's testimony in Clackamas case 19cv01547 asking the Court to punish Rote on language edited from Walker's transcript not only implicates these Bivens allegations but also a class of one under 42 US 1855.Regardless, it would astounding for the public to process that the Court initiated a criminal editing of a transcript to protect the Court and/or court reporter. Just as in Ciavarella, judicial immunity if it exists does not transfer to Walker.

175. Plaintiff seeks compensatory and punitive damages and requests an award of his attorney fees and litigation expenses/costs against defendants pursuant to 42 USC § 1988.

WHEREFORE, Plaintiff Rote prays for judgment against defendants as follows:

1. Economic damages in the form of consequential damages and prejudgment interest in an amount to be determined at trial, but not less than $10,000,000;

2. Noneconomic damages in an amount to be determined at trial, but not less than $50,000,000;

3. All available equitable relief and damages in amounts to be determined at trial, consistent with the claims above against defendants;

4. Punitive damages consistent with the claims above against defendants in amounts to be determined at trial;

5. Reasonable attorneys' fees and litigation expenses/costs herein, including expert witness fees and expenses, consistent with the claims above against defendants; and

6. Grant such other relief as is just and proper.

PLAINTIFF HEREBY REQUESTS A JURY TRIAL.

Dated: February 14, 2022

s/ *Timothy C. Rote*
Timothy C. Rote
Pro Se Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2021, I filed the foregoing with the Clerk of the Court which will send notification of such filing to the following:

ALL COUNSEL REGISTERED

and I hereby certify that I have also emailed the document to the following participants while my motion for ECF is pending:

Joseph.arellano@foster.com
Nathaniel.Aggrey@doj.state.or.us
paul.cirino@usdoj.gov

and sent by first class mail to:

COLORADO JUDICIAL BRANCH
THE HON. ELIZABETH WEISHAUPL
STATE COURT ADMINISTRATORS OFFICE
1300 BROADWAY N., SUITE 1200
DENVER, COLORADO 80203

s/ Timothy C. Rote
Timothy C. Rote
Pro Se Plaintiff
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