

Timothy C. Rote
7427 SW Coho Ct. #200
Tualatin, OR 97062
Phone: (503) 272-6264
E-Mail: timothy.rote@gmail.com
Pro Se Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TIMOTHY ROTE,

Plaintiff,

vs.

OREGON JUDICIAL DEPARTMENT,
OREGON STATE BAR PROFESSIONAL
LIABILITY FUND, THE HON. ANN
LININGER, THE HON. ALISON
EMERSON, THE HON. JOSEPHINE
MOONEY, THE HON. JACQUELINE
KAMINS, THE HON. KATHIE STEELE,
CAROL BERNICK AND MEGAN
LIVERMORE (in their official and individual
capacities as CEO of the OSBPLF),
MICHAEL WISE, JEFFREY EDELSON,
DESCHUTES COUNTY SHERIFF'S
DEPARTMENT, MATTHEW YIUM,
NATHAN STEELE, WARD GREENE,
ANTHONY ALBERTAZZI, MARTHA
WALTERS (in her official capacity of Chief
Judge) and JOHN DOES (2-5), *et al.*,

Defendants.

Case No.: 3:22-CV-00985

PLAINTIFF'S CONSOLIDATED RESPONSE
IN OPPOSITION TO THE OREGON STATE
BAR PROFESSIONAL LIABILITY FUND,
CAROL BERNICK, MEGAN LIVERMORE,
NENA COOK AND MATTHEW YIUM
MOTIONS TO DISMISS COMPLAINT AND
AMENDED COMPLAINT

HEARING REQUESTED

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I. INTRODUCTION

Included herein is Plaintiff's Consolidated Response in Opposition to the Professional Liability Fund Groups ("PLF") Motions to Dismiss Plaintiff's Complaint and First Amended Complaint. The PLF Group is comprised of former CEO Carol Bernick, current CEO Megan Livermore, former PLF vendor Nena Cook, vendor Matthew Yium and the Oregon State Bar Professional Liability Fund.

Most of the allegations against the PLF Group arose after this Court would not permit additional allegations or additional defendants to be added and dismissed the Plaintiff claims in case 3:19-cv-01988...December 2021.

Much of this case forms around conscious effort by the defendants to use the anti-SLAPP Motion to Strike provisions of Oregon law to first strike claims against attorney defendants and then to use a punitive ask of the judicial defendants to violate the law further by awarding more prevailing attorney fees than are allowed under ORS 31.152 (3). Defendants are equally aggressive in trying to find a judge who would grant those excessive fee awards.

The events and violations in this case were not adjudicated in case 3:19-cv-01988, with the possible exception of Carol Bernick's role in these violations. Most of the events detailed in this case and in this brief did not become ripe until 2022 and could not have been litigated in the former case.

Plaintiff alleges that there is substantial and objective evidence of the Oregon Court's abuse of procedural and substantive due process as outlined herein, by awarding attorney fees far in excess of what is reasonable and/or lawful and using those unlawful fee awards to target and harass Plaintiff and other disfavored citizens. Plaintiff further alleges procedural and substantive violations associated with the disqualification of one or more the judicial defendants. Moreover,

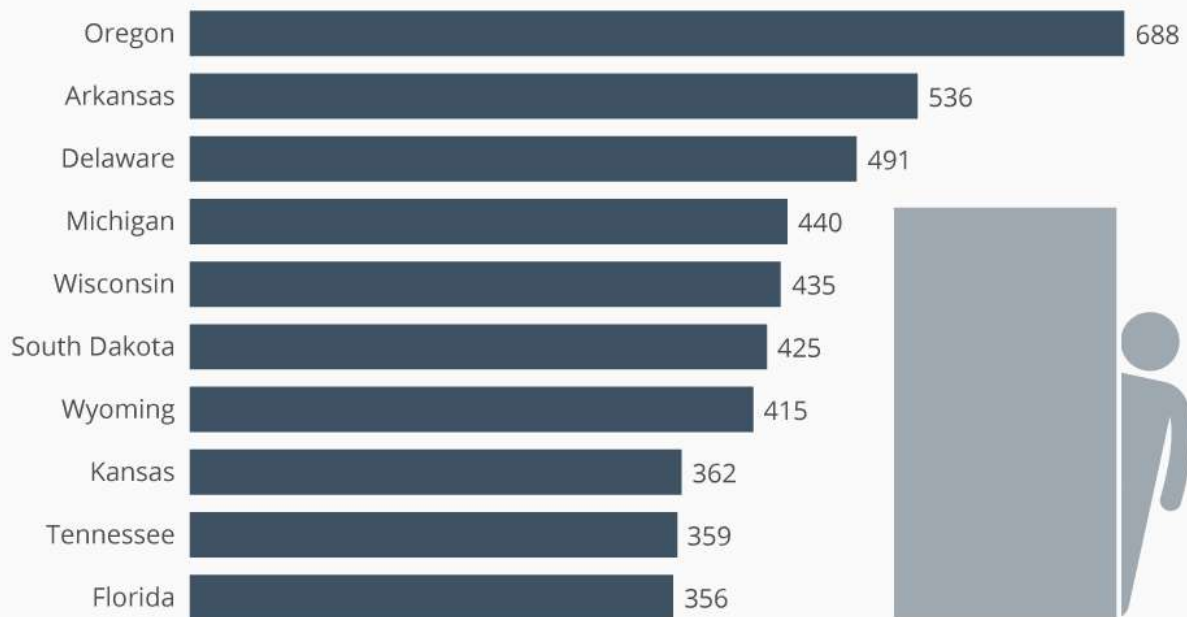
the defendants became decidedly more aggressive after this Court dismissed Plaintiff's complaint in case 3:19-cv-01988.

Plaintiff alleges further that he has been targeted by the Clackamas and Deschutes Circuit Courts, the Supreme Court of Oregon and the Oregon Court of Appeals, *inter alia* for exposing and opposing violations of due process and for identifying the named defendants as actors within the legal community umbrella who support the decriminalization of child pornography.

According to the Mayo Clinic of the US, studies and case reports indicate that 30% to 80% of individuals who viewed child pornography and 76% of individuals who were arrested for Internet child pornography had molested a child; however, they state that it is difficult to know how many people progress from computerized child pornography to physical acts against children and how many would have progressed to physical acts without the computer being involved. See Ryan C. W. Hall; Richard C. W. Hall (April 2007). "A Profile of Pedophilia: Definition, Characteristics of Offenders, Recidivism, Treatment Outcomes, and Forensic Issues". Oregon ranks first amount the states with the most sex offenders per capita.

The U.S. States With The Most Sex Offenders Per Capita

Registered sex offenders per 100,000 inhabitants in 2019



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One of the latest examples of the solicitation of abuse by child predator Max Zweizig is his recent Motion for Contempt. On September 15, 2022, Defendant Albertazzi filed a Motion with Deschutes County Court to have Plaintiff Rote imprisoned for opposing Max Zweizig's effort to unlawfully take Rote's property and otherwise for Rote successfully *engaging* in litigation against Zweizig. Attached to that Motion was a declaration by Max Zweizig, wherein Zweizig denied being a pedophile and child predator but did not deny downloading, possessing and distributing child pornography (**Doc #48-1**). His declaration is an admission that then taken together with Zweizig's testimony in trial 3:15-cv-2415 (**Doc #48-2**), his efforts therein to suppress the forensic reports showing Zweizig's child pornography activity (**Doc #48-3**), his tantamount admissions to distributing child pornography in his deposition of December 21, 2020 in case 19cv01547 (**Doc #18-4**) and his effort to then suppress that deposition (**Doc #38-9, #20-**

10, claiming that he would not receive a fair jury if his child porn admissions were to become public), all in all the history of these collective acts paint now a very clear picture of Zweizig's criminal conduct that should no longer be ignored. There is no remaining rock for any of the judicial defendants to hide behind.

The judicial support Zweizig received also should not be ignored. We have now a very clear picture of the institutional support Zweizig received by and from the Oregon Judicial Department and the named defendants in this case. That institutional support of the distribution of child porn required that defendants target Plaintiff Rote and work in concert with the other defendants to deny Rote his constitutionally guaranteed procedural and substantive due process rights.

Plaintiff alleges that the PLF Group solicited many of the Judges named herein as defendants (who were personally involved beyond the scope of their respective judicial duties) to deprive the plaintiff of his constitutional rights and that the defendants' actions were the proximate cause of the plaintiff's federally protected rights.

Plaintiff respectfully submits that Nathan Steele's Motion to Dismiss lacks merit and must therefore be denied at this time.

II. RELEVANT FACTS

Plaintiff alleges in his First Amended Complaint that Kathie Steele, Ann Lininger, Alison Emerson, Michael Wise, Jacqueline Kamins and Josephine Mooney, and now subsequently many others colluded with Defendants Nathan Steele, Anthony Albertazzi, PLF, Matthew Yium, Carol Bernick, Megan Livermore, Jeff Edelson, Nena Cook, Martha Walters and the Oregon Judicial Department to (1) violate procedural and substantive due process; (2) abuse the anti-SLAPP fee award provisions to retaliate against Plaintiff for publishing concerns and critiques of

the judicial actors for supporting the distribution of child pornography; and (3) provide protection to those criminal players like Max Zweizig who download, possess and disseminate child pornography.

Plaintiff alleges that these collection acts of retaliation are violations of 42 USC §1983, §1985 and other Constitutional mandates that at a minimum require procedural and substantive due process.

A. The Record of Violations in Deschutes County

Most of the violations alleged in this case arose from litigation in Clackamas case 18cv45257; however there are violations of solicitation and facilitation by Nathan Steele of Alison Emerson, benefitting defendant Albertazzi and child predator Max Zweizig. Those violations include forcing Plaintiff to litigate matters in multiple jurisdictions, such as in Deschutes where Rote has no nexus. For that reason and to paint a complete picture the violations in Deschutes County are repeated in this Brief.

Narrative and Timeline

Defendant attorneys have on multiple occasions sought highly prejudicial support from the Deschutes County Court and in particular defendant and **Judge Alison Emerson** in cases 19cn01843 and 19cv00824. Albertazzi was successful but created a record of abuse that implicates his and the Court's role in violating Plaintiff's constitutional rights. Plaintiff alleges that Nathan Steele, through his relationship with Emerson, facilitated the violations identified herein. Nathan Steele was hired by the PLF to represent Albertazzi and according to Steele's billing records was in regular communication with almost everyone more than 55 times in a few month period of time

Defendant Albertazzi sought and secured from Alison Emerson (1) a contempt order and damages of \$8,500 for Rote signing an interrogatory response by declaration instead of by

Notary; (2) an ex parte order secured in November 2021 forbidding Rote from selling any of his assets; (3) an ex parte order secured in November 2021 to turn over information on Tanya Rote, her Sunriver property and Insurance agency related to claims that had been dismissed in Clackamas case 19cv01547; (4) a hearing, ruling and judgment of January 20, 2022 allowing Albertazzi to sheriff sale a property not owned by debtor Rote, when the only evidence on the record was Rote's testimony refuting ownership; (5) assistance from Emerson in soliciting the abuses of other Deschutes Circuit Court Judges; and (6) soliciting a Motion for Contempt against Rote for opposing Zweizig's unlawful use of a Sheriff sale and for opposing Zweizig's collection actions.

Just after Plaintiff filed his Amended Complaint on September 4, 2022, Defendant Albertazzi and Zweizig were denied an opportunity to sheriff sale the stock of Northwest Direct Homes, Inc. ("NWDH") on September 8, 2022, in case 19cv00824, because of Rote's challenge to that writ. Plaintiff Rote is the defendant in that case and challenged the sale of the stock since he is not the owner of that stock. The Timothy Rote Irrevocable Trust is the owner of the stock of NWDH. See **48-13**.

In response, and in what may be considered a hissy fit, on September 15, 2022 Albertazzi then filed in case 19cv00824 a Motion for Contempt against Rote asking that Rote be imprisoned and for remedial sanctions of deeming the Trust and Rote CPA, P.C. as alter ego's of Timothy Rote. Albertazzi and Zweizig are asking the Court to help them avoid the necessary fraudulent transfer action under by ORS 95.230-95.240 and common law actions for piercing the veil and alter ego, which would require years of litigation and a likely trial before an independent jury. Zweizig lost two previous and similar actions in Federal case 3:14-cv-0406 and Clackamas case 19cv01547; so now they are asking for a favor from Deschutes County Court. Even requesting

this kind of abuse of procedural due process should be of concern to this Court. Historically Judge Alison Emerson has come to Albertazzi's aid. See **Doc #48-1, pgs 3-12**.

Albertazzi and Zweizig are in fact asking the Deschutes Court to now put Rote in jail for Rote successfully opposing Zweizig in case 3:14-cv-0406 and Clackamas case 19cv01547 and for refusing to provide any documents of Tanya Rote's Sunriver property or her Insurance Agency. See **Doc #48-1**. Rote has opposed the Motion and also seeks a contempt filing against Albertazzi and Zweizig for perjury by omitting from their statements and declaration that all of their allegations are academic since Rote had offered the stock of NWDH four times since March of 2019 and as late as July 25, 2022 and each time Zweizig had rejected those offers. See **Doc #48-10**. In the style of Deschutes County, *Rote Cross Motion for Contempt was denied* immediately while child predator's Zweizig's Motion has not yet been denied. A letter requesting clarification was filed with the Court on September 27, 2022 (See **Doc#52-1**). There has been no response.

On July 9, 2021 Albertazzi filed a praecipe to sell the stock of NWDH and was granted that order by **Alison Emerson**. See **Doc 48-11, pg 1-2**. Rote objected on multiple grounds but principally on the grounds that the stock was owned by Rote's Irrevocable Trust (**pgs 3-18**). Judge **Emerson** held a hearing on January 20, 2022, took testimony from Rote on the ownership and in spite of there being no competing evidence permitted the sale of the stock to proceed...and it did proceed. See **Doc #48-11, pages 52-59**. Emerson also awarded Albertazzi/Zweizig damages (*Id*, **pages 19-22**) for that hearing. Rote appealed to the Oregon Court of Appeals (*Id.*, **pages 60-80**). Albertazzi did not file a responsive brief, which presumably means he was assured a win—and the Oregon Court of Appeals has not yet decided if the

presumption of evidence supports Rote and that the original order by Emerson permitting the sale is unlawful.

The Sheriff sale was completed and there were no bidders other than Zweizig for 5% of the value of the property. Notice from the Sheriff's office was nonetheless defective in naming the wrong company (Northwest Homes instead of Northwest Direct Homes, Inc.) and Rote filed a Motion to Set Aside the sale of the stock of NWDH (of *February 3, 2022*) on *February 13, 2022*. That Motion was granted on the notice deficiency only, the order signed on *June 23, 2022*. See **48-11, page 82**.

At the same time Rote filed another Motion to Change Venue from Deschutes County to Clackamas County consistent with the other two related cases, namely 19cv01547 and 19cn01843. Ward Greene had first filed case 19cv01547 in Multnomah County and upon Motion the Rote's moved that to Clackamas. The same effort was made for case 19cn01843 and related case 19cv00824, both in Deschutes, in September 2020 (**Doc #48-11, pages 16-20**). Rote has not at any time lived in Deschutes or Multnomah County. Case 19cn01843 was moved. 19cv00824 was not. Rote renewed his Motion to change Venue. The Motion was denied **Doc #48-11, page 82**. Rote then filed a Writ of Mandamus to transfer the case from Deschutes County to Clackamas. The Supreme Court of Oregon denied that Writ. See **Doc #52-2**.

Albertazzi/Zweizig then again sought to sale the stock of NWDH and as before Rote challenged the sale on grounds that the stock is not owned by Timothy Rote, but rather by the Rote Irrevocable Trust, providing this time a K-1 that was not available during the January 20, 2022 hearing. The sheriff sale of the stock of Northwest Direct Homes, Inc. is now on hold pending a hearing scheduled for October, 20, 2022. See **Doc #48-13**.

In the meantime, Plaintiff has alleged that Emerson is a personal friend of Nathan Steele and Albertazzi and should have recused herself from this 19cv00824 case. Rote alleges that a news article of December 20, 2019 on Emerson's campaign cites public support by Nathan Steele. See **Doc 48-12, page 6**. That information was apparently acquired from Emerson's website, <http://emerson4judge.com>, a site which has become inactive since the filing of this lawsuit. See **Doc 48-12, page 1**.

On **November 4, 2021**, Albertazzi secured from **Emerson** ex parte an order in case 19cv00824 requiring Rote to produce information and documents from (1) R 3.20, Northwest Holding LLC (a defendant in case 19cv01547, where to MSJ had already been granted); (2) R 3.21, 3.22, 3.25 and 3.26 for TR1, LLC, a company owned by Tanya Rote (defendant in 19cv01547) to operate the Sunriver rental business; and (3) R 3.23, 3.24, 3.25 and 3.26 for Tanya Rote Insurance Inc.(where subpoenas for similar information had been quashed by the Court in case 19cv01547). See **#48-1 pgs 8-10**. This is the third time Rote has responded to and objected to requests by Zweizig seeking to use interrogatories and discovery requests to collaterally attack the summary judgment dismissal of Zweizig's claims in case 19cv01547.

It is abundantly clear that the order is overly broad seeking information that was either produced or foreclosed from other lawsuits and information about the confidential work of Rote CPA, P.C. And in particular the order is seeking information on the source of funds allowing Plaintiff to pay filing fees and to continue to engage in litigation. See **R 3.5, 48-1 page 8**. The Motion for Contempt seeks to take more than 25% of the wages Rote earns from Rote CPA, P.C....it seeks to take everything and deny Rote the opportunity to generate income. Albertazzi and Zweizig are asking the Deschutes County Court to take bank accounts that hold exempt

funds such as social security. This is the measure of what they believe **Emerson** will give them and it implicates bias and prior successful abuses.

The order solicited by Albertazzi/ Zweizig represents an extraordinary transgression, sought ex parte and signed by Emerson, and is also an act intended to compromise Rote's ability to defend his Fourteenth Amendment Rights. Rote's objection to these requests, when appropriate, forms part of the basis for the Albertazzi/Zweizig Motion for Contempt. The balance of their requests forms from inaccurate statements, the most significant of which is failing to disclose to the Court that the stock valued at approximately \$1,250,000 was offered and rejected by the Albertazzi/Zweizig crime family. The collective acts of perjury by Albertazzi and Zweizig implicate bias and solicitation of Fourteenth Amendment violations. And these acts of perjury also implicate a consciousness of Zweizig's current and past criminal conduct, acts that presume the Court acknowledges Zweizig's child predation in the form of child pornography violations and supports that criminal conduct.

Ward Greene filed the 19cv00824 action in Deschutes County even though Rote has no property there and has never lived there. On information and belief Greene did so because Deschutes County is considered the most favorably disposed Circuit to child pornography and child trafficking. By their own actions, Deschutes has come to the aid of child predator Max Zweizig multiple times. Greene also filed case 19cn01843, which was transferred to Clackamas Court. Resistance by Albertazzi and Deschutes to transfer the case supports Plaintiff's narrative. The Supreme Court of Oregon has endorsed this violation of Oregon law.

Doc #48-5 reflects some of the issues Deschutes County is having with respect to child trafficking. A press release by the Bend Police Department on *September 8, 2022* reported a successful sting and arrest of 20 individuals during a four-month child trafficking operation,

naming those arrested individual. *Id.*, pages 1-3. One week later KBND news published a report that a bend music teacher was arrested for possessing explicit images of children. *Id.*, page 4.

While it is clear that the Bend Police department takes child trafficking and child porn seriously, Albertazzi and Zweizig public compromises to the integrity of the Court portend an issue prosecuting these criminals. Plaintiff offers a few examples criminal indictments filed in other districts against defendants Josh Duggar and Johnny Gonzalez, defendants who downloaded, possessed and disseminated child pornography just as Zweizig has done. For example, Josh Duggar was indicted under (1) 18 USC §2252A(a)(2) and (b)(1) for receipt of child porn; (2) 18 USC §2252A(a)(5)(b) and (b)(2) for possession of child porn. Duggar was ultimately convicted and sentenced to 12 years. **See Doc 48-5, page 6-12.**

While Plaintiff alleges that Nathan Steele facilitated the violations by Emerson and Albertazzi, Plaintiff is not alleging that Nathan Steele knew of Zweizig's child porn business. Nonetheless Steele facilitated most of the violations identified herein.

Violations Accepted as True

1. Unlawful Solicitation of Contempt for Rote Prevailing in case 19cv01547

The Judicial Group cannot deny that Albertazzi's most recent Motion for Contempt filed on September 15, 2022 misleads the Deschutes Court on critical facts—namely (1) that Albertazzi/Zweizig were offered the stock of NWDH four times, a stock valued in excess of Zweizig's judgment, rejecting those offers four times and (2) Zweizig used the sheriff sale procedure to engage in tax and collection fraud. In spite of those very blatant motivations, the Court denied Rote Cross Motion while allowing child predator Zweizigs to proceed. **See #52-1 and #48-1, pages 3-12, #48-6 and #48-10.** This is objectively provable support for child predation and implicates Deschutes Circuit Court for its support of child predation.

2. *Unlawful Solicitation of the Court to Endorse Perjury*

The Judicial Group cannot deny that Zweizig in his declaration in support of the Motion for Contempt dated September 15, 2022 made statements denying he was a pedophile but not denying he has and does, download, possess and disseminate child porn. Doc #48-1, pages 1-2. This is a material, tantamount to an admission of prior perjury and plaintiff is entitled to a reasonable inference that the declaration was crafted with the assistance of Albertazzi. The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators. Zweizig is not afraid of making this admission of downloading, possessing and disseminating child porn in the Deschutes Circuit Court.

3. *Unlawful Contempt 19cn01843 during Covid Pandemic*

The Judges cannot credibly deny that Albertazzi has sought the preferential judicial support of *Alison Emerson* and expects to continue to garner that favor in his filing of the Motion for Contempt, based in large part in having received favorable treatment and through the relationship Nathan Steele has with Emerson. See **Doc #48-12, page 3-6**. The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators and expects Deschutes to violate Plaintiff's substantive due process rights.

Albertazzi successfully secured a Motion for Contempt from Deschutes County on December 22, 2020 (**#52-6, page 1**) based on his opinion of deficiencies in an interrogatory response by Rote. The interrogatory responses were filed by Rote to former counsel Ward Greene in August of 2019. Albertazzi took over in August 2020 and claimed to not have received the responses from Greene. The responses were provided to Albertazzi who then filed a Motion for Contempt, claiming among other things that the response was filed by declaration attestation,

page 7, and for failing to provide documents already in Greene's possession as evidenced in the 19cv01547 case. It took no time at all for Emerson to grant that \$8,500. Even at the time of the judgment (12.22.20), at the height of the Covid Pandemic, attestation by Notary was difficult to accomplish as most notaries were not available and the law in Oregon had not been passed to allow remote notary signatures. See **#52-7**.

4. Unlawful Refusal to Transfer Venue of Case 19cv00824

Doc #48-11, page 80, denied Motion to Transfer case 19cv00824 to Clackamas.

Case 19cv00824 was supposed to be transferred to Clackamas when case 19cn01843 was transferred.

Defendants cannot deny that Albertazzi successfully solicited from Deschutes Circuit Court and the Supreme Court of Oregon the opportunity to harass Plaintiff Rote in multiple jurisdictions (in both Clackamas and Deschutes), in violation of Oregon law and in a glaring attack on Rote's *pro se* status. See **Doc #52-2**.

5. Unlawful Solicitation and Support of Child Predation in Case 19cv00824

Plaintiff Motion to Transfer case 19cv00824, arguing oversight since both cases 19cn01843 and 19cv00824 should have been transferred. This was a particularly abusive act against a targeted *pro se* litigant. Rote's Writ of Mandamus was denied. See **Doc #52-2**.

Deschutes Circuit Court cannot credibly deny that the Court has been fully informed as early as 2019 that Zweizig is a child predator and has in concurrent actions in Clackamas Court sought to suppress Zweizig's deposition in case 19cv01547 wherein Albertazzi alleged that Zweizig would be denied a fair trial in front of a jury if Zweizig's testimony and admissions in his deposition of December 21, 2020 of child predation were not suppressed from the public. Deschutes has also been fully informed of that child predation in the forensic reports showing Zweizig's child predation, and the federal indictment platform for similar cases of downloading, possessing and distributing child porn. See **Doc #38-10, #20-10, pages 2-9, #48-4, #48-5, #48-**

10. Although Rote won that argument of suppression in Clackamas County, wherein the Court found no legal support for a Motion to Suppress Zweizig's admissions, this ask implicates Zweizig's strong opposition to having case 19cv00824 transferred from Deschutes where **Emerson** could have likely ruled in the case. The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators and that the defendants named in this case expects Deschutes to violate Plaintiff's substantive due process rights.

6. *Unlawful Ex parte Order to Engage in Unlawful Discovery*

Judges cannot credibly deny that Albertazzi used the ex parte order unlawfully secured from Judge Emerson on November 4, 2021 to continue to attempt to engage in discovery on dismissed case 19cv01547, to continue to interfere in non-debtor Tanya Rote's life and to cause Plaintiff Rote to continue to suffer for the attacks perpetrated by Zweizig on Rote's family. **Doc #48-1, pages 8-12.** The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators and expects Deschutes to violate Plaintiff's substantive due process rights.

Zweizig unlawful subpoena action was quashed in case 19cv01547 on February 22, 2021. See **Doc #52-8.** He then has attempted to use an ex parte order from Emerson to seek the same and similar documents. See **Doc #48-1.**

7. *Unlawful Order of the Sale of Stock of a Non-debtor Twice*

See **Doc #48-11,** challenge to February sale before and after it happened. Plaintiff Rote does not now own the stock. The Stock was sold by Notice using an incorrect name.

See **Doc #48-13**, challenge again as Plaintiff Rote does not own the stock. Based on that successful challenge Albertazzi filed a Motion for Contempt (**#48-1**). Cross Motion for Contempt (**#48-10**) denied (**Doc #52-1**).

8. *Unlawful Failure to Disclose Ex Parte Communication*

The Judges cannot credibly deny that Nathan Steele solicited **Emerson** on behalf of Albertazzi and child predator Zweizig. Nathan Steele does not deny having a personal and campaign relationship with Emerson. **Doc #48-12, pages 3-6**. The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators and expects Deschutes to violate Plaintiff's substantive due process rights.

9. *Unlawful Soliciting of Support of False Testimony by Albertazzi*

The Judges cannot deny that Zweizig fasely claims to have received no evidence that the Rote Irrevocable Trust owns the stock of NWDH, again lying to the Deschutes Court about the (1) testimony of Rote (**Doc #48-11, page 53-59**); (2) Appellate Court Brief (*Id.*, **pages 60-80**) and references to the record in case 19cv00824; (3) email evidence inquiring of Albertazzi if Zweizig was going to accept or disclaim the transfer of Stock in NWDH (**Doc #48-6**); and (4) subsequent Challenge to the sale that was planned for September 8, 2022, transmitting therein the K-1 and 1099NEC (**Doc #48-13**). Plaintiff brought to the attention of the Court the recent federal indictments against Duggar and Gonzalez for downloading, possessing and distributing child porn in described activity that closely aligns with the Steve Williams forensic report filed in all actions multiple times (**Doc #48-4**) wherein Williams found that Zweizig engaged in numerous criminal acts including downloading, possessing and disseminating child porn.

The Judges cannot credibly deny that Albertazzi assisted Zweizig in producing his false declaration in support of the Motion for Contempt filed in case 19cv00824 on September 15,

2022. **Doc #48-1, pages 1-2.** The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators and expects Deschutes to violate Plaintiff's substantive due process rights.

10. *Unlawful Solicitation of Illegal Collection Actions by Albertazzi*

The Judges cannot deny that based on Zweizig's declaration (**Doc #48-1**), that Albertazzi and Zweizig are attempting to take Rote's EXEMPT retirement income because Rote has successfully opposed Zweizig in two prior fraudulent transfer cases brought by Zweizig, cases 19cv01547 and 3:14-cv-0406 and because Rote stopped the sheriff sale in Deschutes County two times. **Doc #48-1 pages 1-5.**

The Judges cannot credibly deny that Albertazzi is attempting to take Rote's income and assets from Rote CPA P.C. and retirement income from social security to limit Rote's opportunity to defend himself in litigation actions brought by Albertazzi/Zweizig. **Doc #48-1, page 8, line 3.** Zweizig has every right to garnish 25% of Rote's income notwithstanding the transfer of the stock in NWDH, which would result in a full satisfaction of the judgment. Taking all of the income however is illegal and the solicitation to do so is yet another predicate act of racketeering.

B. The Record of Violations in Clackamas County

Narrative and Timeline

Plaintiff filed a malpractice and related claims in Clackamas County in 2018, case 18cv45257. The case was removed from Clackamas by Judge Mosman, when the claims were dismissed. Plaintiff appealed and secured reversal of the dismissal by the 9th Circuit Court. Defendants then moved dismiss the racketeering claims against Cook (**Doc #20-2**) and Albertazzi (**Doc #20-3**) via an anti-SLAPP Motion to Strike and Motion to Dismiss against Bernick, Stendahl and the PLF via a Motion to Dismiss (**Doc #20-2**).

Thus far Judge Norby, Kathie Steele and the trial court administrator have blocked Rote from getting his case before a jury. Plaintiff has filed multiple scheduling order requests, asking for a discovery and trial schedule order. No action moving this case along has been taken. See **Doc #52-3**. That delay benefits the PLF, who is the insurance carrier on the hook for the malpractice committed by Brandsness in the 3:15-cv-2401 trial where Zweizig secured his judgment.

Plaintiff alleges in his complaint that there have been numerous violations as cited in his Complaint and Amended Complaint. Plaintiff alleges that Michael Wise and Kathie Steele aided and abetted Nathan Steele, Albertazzi and the PLF in dismissing the RICO claims and subsequently for the PLF and ALbertazzi in filing and being awarded an unlawful fee petition seeking an attorney fee award of far more than was lawful under ORS 31.152 (3) and ORS 20.075 (2) (a).

Plaintiff alleges the same against Ann Lininger with respect to Ward Greene's petition for attorney fees (**Doc #18-1**), an award granted in July 2020 (**Doc #18-2**) and affirmed on Appeal with statement from the Court of Appeals than finally triggered this lawsuit (**Doc #18-19**)

The relevant facts as to the excessive and unlawful fee petition by Steele on behalf of Albertazzi and for the benefit of the **PLF** in Clackamas case 18cv45257 are outlined in detail in **Doc #20-6**, wherein Plaintiff Rote in Opposition to the fee petition identifies the excessive and unrelated fee as misleading and conflating block-billed time for the anti-SLAPP action (recoverable) and Rule 21 Motion to Dismiss (non-recoverable). Those specific fee entries on the anti-SLAPP Motion and Rule 21 Motion to Dismiss are identified at pages **16-18 of Doc #20-6**, and supplemented herein as **Doc #38-1 and #38-3**.

Plaintiff identifies that 48 hours of the Abertazzi fee petition are unrelated to the anti-SLAPP or excessive, an amount of fees of **\$10,580 (Doc #20-6, page 6)**. Albertazzi's fee petition overall was for **86.6 hours** and **\$19,357.50** in fees (**Doc #20-6, page 3**). The billing statements support time of \$21,540 (**Doc #38- 3**) and the difference between what the statements support and the amount sought is offset to the anti-SLAPP for purposes of this analysis. When removing the time and fees for the fee petition and for the other time and fees unrelated to the anti-SLAPP, Plaintiff concludes that that amount of fees associated with the anti-SLAPP is not greater than **\$6,820** ($\$19,357.5 - \$10,850 - \$1,687.50$). That \$6,820 compares reasonably to Christiansen's anti-SLAPP fee petition of \$6,325 in case 3:15-cv-2401. See **Doc #20-6, page 2 and Doc #38-1, page1**. Plaintiff alleges that the unlawful billing practices are encouraged and solicited by the PLF, in an effort to maximize a fee award.

The above analysis of time and fee associated with and not reasonable connected to the anti-SLAPP is un-refuted by defendant Nathan Steele, who prepared the fee petition and under declaration but attested falsely to the amounts associated with the anti-SLAPP. It is un-refuted that Steele conflated the anti-SLAPP fee petition with the Rule 21 Motion to Dismiss with the intent of misleading in collusion with the Court, namely defendant and pro tem Judge Michael Wise. It is un-refuted that the PLF called on Steele to file that knowing false petition for attorney fees. The anti-SLAPP and Motion to Dismiss filed by Nathan Steele is provided at **Doc #20-3**.

As further evidence of the excessive and unlawful fee petition, Plaintiff provides the fee petition from the PLF defendants in Clackamas case 18cv45257. See **Doc #20-9, #38-1 and #38-2**. Further, Plaintiff outlines in that opposition to the PLF defendants' fee petition that some **28.7 hours** and **\$7,175 of fees** are associated with the anti-SLAPP. See **Doc 20-9, page 10, lines10-21**. This is *particularly instructive* because the anti-SLAPP brought by the PLF Group was only

for Nena Cook, was a separate filing and action that did not conflate the anti-SLAPP with the Motion to Dismiss the PLF, Bernick and Stendahl. The rates of defendant Matthew Yium @ \$250 an hour are comparable but otherwise slightly higher than Nathan Steele's @\$225 an hour. Thus it is un-refuted that the time reasonably associated with the anti-SLAPP Motions proceeding for Albertazzi (Steele representing) and Cook (Yium representing) on the upper end is **28.7** hours and **\$7,175**. Just as with Nathan Steele, however, Yium and the PLF group are seeking an excessive fee award, some \$60,000, although the billing statements support only \$50,000, only a \$7,175 portion of which is associated with the anti-SLAPP. See **Doc #20-9, #38-1 and #38-2**.

In both cases described above, neither the PLF Group nor the Steele-Albertazzi group actually prepared a summary of time by effort or category, pushing that burden to the court or Plaintiff Rote (so that the Court could not hide behind an ORCP 68 request). In both cases, Yium (for the PLF) and Steele (for Albtertazzi) filed only billing statements with the Court and left for the Court the effort to deduce how much was reasonable and how much was not. Most *pro se* litigants would not have been sophisticated enough to accumulate and report to the Court the excesses. In both case, Plaintiff opposition included a detailed analysis categorizing the fee entries from each billing statement, summarizing those categories and then linking that data to an Exhibit 1 (**Doc #38-1** for example) and supporting Exhibit 1.1 (**Doc #38-2** for example) filed in opposition to those fee petitions.

Plaintiff filed his revised **Doc #38-1** herein as the summary of time and fees by category of effort for the PLF Group, Steele/Albertazzi and Greene/Zweizig. Plaintiff filed herein as **Doc #38-2** the detailed entries from the defendants' PLF billing statements by category and billing date, which previously was filed in Clackamas County as Plaintiff Exhibit 1.1. Repeating the

same concept then Plaintiff filed **Doc #38-3** which is the same detailed accounting spreadsheet for the Steele/Albertazzi team and **Doc #38-4** which is the same spreadsheet categorizing the time and billing entries for the Greene/Zweizig group. All of those detailed entries when summarized carry to Plaintiff **Doc #38-1**.

What Plaintiff has gleaned from the effort to categorize and summarize the Steele fee petition is that he spent **24** hours talking to his client and the other defendants, **18** hours reviewing the cases in which Plaintiff was a party going back almost 20 years, **6.6** hours reviewing the PLF defendants' filings and **7.5** hours generating a two page declaration in support of his fee petition and redacting the names of the PLF manager(s) approving those invoices. **Doc #38-3** is as follows:

18cv45257		Anti-SLAPP						
C. Steele for Albertazzi (Source Doc #20-6)			See Ex 3					
8	Prepare Anti-SLAPP and MTD		See Ex 3	\$225		16.9	\$ 3,802.50	
6	Research		See Ex 3	\$225		1.1	\$ 247.50	
9	Review Response		See Ex 3	\$225		4.1	\$ 922.50	
10	Reply and Hearing		See Ex 3	\$225		10.1	\$ 2,272.50	
7	Other		See Ex 3	\$225		0	\$ -	
1	Correspondence to/from Others		See Ex 3	\$225		8.4	\$ 1,890.00	
2	Correspondence to/from Client		See Ex 3	\$225		14.2	\$ 3,195.00	
3	Correspondence to/from Matthew Yuim		See Ex 3	\$225		1.6	\$ 360.00	
4	Review Other Cases by Plaintiff		See Ex 3	\$225		17.9	\$ 4,027.50	
5	Review Other Defendant and Hearing		See Ex 3	\$225		6.6	\$ 1,485.00	
11 and 12	Objection to order		See Ex 3	\$225		8.2	\$ 1,845.00	
13	Fee Petition		See Ex 3	\$225		7.5	\$ 1,687.50	
	Rate variance					0	\$ (195.00)	
	Total					96.6	\$21,540.00	

Like Steele for Albertazzi, Ward Greene also filed a knowingly fraudulent fee petition for Zweizig. Greene's fee petition is provided herein as **Doc #18-1**. The detailed allocation of those fees to categories is as indicated provided herein as **Doc #38-4**. Unlike with Yium and Steele, the PLF was not reimbursing Williams Kastner. Nonetheless, out of the \$20,970 sought by Greene, \$2,000 was for *post judgment collection*, \$8,685 was for *collections activity* and unrelated to the anti-SLAPP, \$1,775 was for *summary judgment* actions which the Rote's won and \$1,900 was

for defense of the third party counter claims brought against them (in which James Callahan and the PLF represented Basuari and Kastner). Only **\$6,610** of the \$20,970 awarded was for the anti-SLAPP or reasonably connected to the anti-SLAPP. See **Doc #38-1, page 4**. Judge Lininger's order is on the record in this case as **Doc #18-2**. The Plaintiff Appellate Brief in that case outlining the unlawful fee award in 19cv01547 is **Doc #18-10**. The Opinion by Kamins and Mooney claiming the Rote appeal of the unlawful fee award was objectively unreasonable is in the record as **Doc #18-19** and dated May 19, 2022.

Plaintiff alleges the allegations raised in this case were not ripe for a 42 USC §1983 claim until some or all of the issues raised in this brief were sufficiently adjudicated to a point to show the constitutional abuses by the state under the color of state law.

Allegations Accepted as True

1. Unlawful Solicitation of Fee Award Anti-SLAPP Greene/Zweizig

The defendants do not deny that Ward Greene sought an unlawful fee award (**Docs #38-1 #38-4 and #18-1**) in case 19cv01547 on behalf of his client Zweizig, seeking therein a punitive action against the Rote's for filing counterclaims of slander of title and interference with contract.

Defendants do not deny that Ward Greene drafted the proposed order.

Defendants do not deny that out the \$20,970 awarded to Greene/Zweizig, more than \$12,000 was for collections and other activity unrelated and not reasonable connected to the anti-SLAPP (**Doc #38-1, #38-4, #18-1 and #18-10**).

2. Unlawful Fee Award Anti-SLAPP Greene/Zweizig

Defendants do not deny that the excessive and unlawful fee award by Lininger (**Doc #18-2**) in case 19cv01547 adopting the language of the proposed order provided by Greene claimed that the Rote's affirmative defenses and counterclaims were some form of harassment. The

defendants do not deny that they solicited the Clackamas Court for abuses of process that implicate violations of Plaintiff's protected rights.

3. *Unlawful Refusal to Acknowledge the MSJ in Favor of the Rote's*

Defendants do not deny that the Rote's were subsequently granted summary judgment on Zweizig's claims in case 19cv01547 (**Doc #18-10**) in March 2021, which was affirmed in Appeal (**Doc #18-13**) on March 21, 2022.

4. *Unlawful Use of Lis Pendens*

Defendants do not deny that Greene filed an unlawful *lis pendens* against Tanya Rote's property at the start of case 19cv01547 (in case 19cv00824) and that the *lis pendens* resulted in the loss of a sale of the Sunriver property.

Defendants do not deny that Albertazzi and Zweizig filed a Motion for Contempt in case 19cv00824 for among other things the Rote's prevailing in case 19cv01547. See **Doc #48-1**.

5. *Unlawful Use of Process to Retaliate*

Defendants do not deny that when summary judgment against the fraudulent transfer claim were granted it had the effect of vitiating the false allegations against the Rote and published by Ann Lininger.

Defendants do not deny that Kamins, Mooney and the Oregon Judicial Department endorsed Ann Lininger's order of July 16, 2020 (**Doc #18-2**), wherein Lininger wrote "Mr. Zweizig is entitled to attorney fees because ...The Rotes have acted willfully, maliciously, and in bad faith to harass and intimidate Mr. Zweizig because Mr. Zweizig is trying to collect on a judgment against the Rotes, to force him to incur large attorney fees, and to delay resolution of his claim that the Rotes have fraudulently concealed assets to avoid paying on the judgment. ORS [20].075(1)(a)."

Defendants Kamins and Mooney, before issuing the order of May 19, 2022 (**Doc #18-19**), were fully aware that the allegations by Lininger in her order (**Doc #18-1**) were proven false after

close of discovery on March 9, 2021, when the claims against the Rote's in that case 19cv01547 were dismissed (**Doc #18-11**), a full year before Kamins and Mooney issued their pro-child predation order. The Judicial department was most certainly aware that the unlawful use of a *lis pendens* by Zweizig was endorsed and has gone unpunished. Kamins and Mooney were aware that the Oregon Court of Appeals had already affirmed without opinion the dismissal at Summary Judgment of Zweizig's unfounded and unsupported claims in case 19cv01547. See order March 21, 2022 (**Doc #18-13**). Kamins and Mooney cannot credibly deny that their order of May 19, 2022 is seen by the public as conflating support for the LGBTQ community with support for decriminalizing child porn.

Defendants do not deny that the order issued by Kamins and Mooney (**Doc #18-19**) of May 19, 2022 *claimed* the Rote's had no objectively reasonable basis for challenging the attorney fees petitioned by Greene and awarded by Ann Lininger in the amount of \$20,970, in spite of the clear evidence showing that 37 entries and \$12,000 were unrelated to the anti-SLAPP. See **Doc #38-1, #38-4 and #18-10**.

Defendants cannot credibly deny that Plaintiff was targeted by Kamins, Mooney, Lininger and Kathie Steele to punish Rote for pursuing his right of petition, for publishing critiques of the judiciary and for opposing child pornography. The order showcases collective support of the child predation of Max Zweizig.

6. Unlawful Hearing on Disqualification of Wise

Defendants, and in particular Nathan Steele, the PLF acting through Yium and Wise, do not deny that they knew Wise could not act on his own disqualification in case 18cv45257. They do not deny that they knew Wise's term had expired. They do not deny that Kathie Steele was disqualified and could not under Oregon law sign **the limited judgments of 1.12.22 and 1.25.22**. See **Docs #20-13, #20-4, #38-5, and #48-14**. The Judges cannot credibly deny that

Michael Wise and Kathie Steele solicited the PLF, Albertazzi, Nathan Steele and the other defendants to violate Plaintiff's substantive due process rights.

7. *Unlawful Solicitation by K Steele, Wise and Lininger*

Michael Wise and Kathie Steele do not deny knowing that Albertazzi was only entitled to a fee award for attorney fees directly or reasonably connected to the anti-SLAPP portion of the proceeding in case 18cv45257 and pursued an unlawful amount of fee and relatedly cannot credibly deny that Steele's declaration in seeking unlawful fees was deceptive and intentional. See Doc #20-6, pages 11-12. The Judges cannot credibly deny that Michael Wise and Kathie Steele solicited or invited Albertazzi, Steele, Yium and the other defendants to violate Plaintiff's substantive due process rights.

Wise and Kathie Steele cannot credibly deny that Wise's unprovoked statement in the September 2021 hearing in case 18cv45257, identifying Lininger and Kathie Steele as having recruited Wise to become a pro tem Judge, implicated bias and signaled Wise's willingness to award an excessive amount of attorney fees that were unrelated to the anti-SLAPP fee proceeding (Doc #20-1, pages 3-18).

Defendants cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Nathan Steele, the PLF Group and the other defendants to violate Plaintiff's substantive due process rights.

8. *Unlawful Solicitation by Steele and PLF Group on Disqualification*

Defendants do not deny that they were well aware that Wise could not act on his own disqualification in the September 2021 hearing. See Docs #48-14, #20-1. Both Nathan Steele and Matthew Yium nonetheless solicited Wise to violate Oregon Law on disqualification under ORS 14.250.

9. *Unlawful Solicitation of Abuse of Attorney Fees by Steele/Albertazzi*

Defendants do not and cannot deny that Nathan Steele block-billed the anti-SLAPP and Motion to Dismiss time charges in case 18cv45257 in order to seek an unlawful fee award on the successful anti-SLAPP. Steele does not deny that the strategy was encouraged by the PLF and/or Albertazzi. Steele does not deny that there is any finding by Michael Wise in the record in case 18cv45257 that would allow him to petition for fees unrelated to the anti-SLAPP. See **Docs #38-1, page 2, #38-3 and #20-6, pages 13-29.**

Defendants cannot credibly deny that Michael Wise solicited Albertazzi, Nathan Steele, Yium and the other defendants to violate Plaintiff's substantive due process rights.

10. *Deceptive and Unlawful Motion to Dismiss Racketeering Claims*

Defendants do not deny that Wise dismissed the Oregon Racketeering Claims against Cook and Albertazzi immediately after the unlawful hearing of September 2021, based on attorney immunity, when no such immunity exists for those OR RICO Claims. See **Doc #48-14.**

Defendants do not deny that Nathan Steele represented Anthony Albertazzi in an anti-SLAPP Motion to Strike and Alternative Motion to Dismiss Oregon Racketeering Claims against Albertazzi in Clackamas case 18cv45257, claims that implicated the defendants' support of multiple crimes including witness tampering, perjury, subornation of perjury, and the downloading, possession and dissemination of child porn. See **Compl., pg 9, par 17 and Doc #20-3. See Doc #38-6, pages 13-19.**

Defendants do not deny that Nathan Steele/Albertazzi anti-SLAPP Motion to Strike argument was entirely based on litigation and/or attorney immunity for Oregon RICO predicate acts alleged against Albertazzi, including acts for bribery, unlawful collection, subornation of perjury, unsworn falsification, witness tampering, perverting the course of justice, etc. See **Doc #20-3.**

Defendants cannot credibly deny that Michael Wise was self-interested (and therefore conflicted) in an action and defense attempting to expand the reach of attorney immunity.

Defendants cannot credibly deny that Ann Lininger, Michael Wise and Kathie Steele used the litigation proceeding to punish Plaintiff for exposing the attorney misconduct in the cited cases.

11. *Unlawful Hearing on Attorney Fees Fee Petition*

Defendants cannot credibly deny that the hearing in case 18cv45257 on the fee petition by Steele/Albertazzi, a hearing in which Plaintiff did not able to attend., was unlawful until such as time as a different judge acted on Wise's disqualification.

12. *Unlawful Award of Attorney Fees to Steele/Albertazzi*

Defendants cannot credibly deny knowing that Nathan Steele and Albertazzi intentionally pursued an unlawful fee award (for fees Nathan Steele charged the PLF) for a portion of the litigation not associated or reasonably connected to the anti-SLAPP proceeding, fees that would not otherwise be awarded and used block-billing time entries to conflate the time spent on the anti-SLAPP versus the Motion to Dismiss, an unreasonable and unlawful amount of \$4,700. Plaintiff alleges that the block-billing is a strategy embraced by the PLF Group and Vendors (Nathan Steele and Yium) to maximize their fee petition awards (**Docs #20-6, pages 3-6, #38-1 and #38-3**).

Defendants cannot credibly deny that Michael Wise and Kathie Steele solicited of the attorney defendants that the fee petition detail should use the block-billing to attempt to conceal the fees not recoverable under ORS 31.152 (3). Nathan Steele, Ward Greene and Matthew Yium all used block-billing.

Defendants cannot credibly deny that Nathan Steele slammed the file at the request of the PLF. Nathan Steele does not deny that he slammed the file for unrelated activities including downloading and reading cases over a 10 year prior period, which had nothing to do with the anti-SLAPP. Steele does not deny that he slammed the file for over 55 alleged conversations with Albertazzi, the PLF and Yium. See **Docs #38-1 page 2, #38-3 and #20-6**.

Defendants cannot credibly deny that Docs #38-1 and #38-3 are an accurate summary of Nathan Steele's time by category of work performed for the anti-SLAPP and Motion to Dismiss Albertazzi in case 18cv45257. Albertazzi and Nathan Steele do not deny that they intentionally did not provide that equivalent report or summary similar to Plaintiff's (Doc #38-1, page 2) in order to succeed in petitioning for an unlawful fee award.

Defendants cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Nathan Steele and the other defendants to violate Plaintiff's substantive due process rights.

Wise and Kathie Steele cannot credibly deny that Nathan Steele and Yium redacted the name of the PLF manager with whom they engaged in these unconstitutional petitions. Nathan Steele does not deny that the PLF manager was Bernick and/or Livermore (Doc #20-6, page 13-29).

13. Unlawful Signing of Limited Judgments by Kathie Steele

Defendants cannot credibly deny that Kathie Steele was a defendant in federal case 3:19-cv-01988 and under Oregon law disqualified from signing the limited judgments of January 12, 2022 (Doc #20-4) and January 25, 2022 (Doc #20-5).

14. Unlawful Notice of Signed Judgments

Defendants do not deny that Nathan Steele and Albertazzi conspired with Kathie Steele, Michael Wise and others to not inform Plaintiff that the limited judgment dismissing the RICO claims against Albertazzi had been signed on January 12, 2022, interfering therein with proper Notice of the signed Judgment.

Defendants do not deny that the Court sent the Notice to an incorrect address, as did Albertazzi. See Doc #20-4, page 5. The Judges cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Nathan Steele and the other defendants to violate Plaintiff's

substantive due process rights by discouraging defendants from separately notifying Rote of the judgment events.

15. *Unlawful and Clandestine Signing of Order and Limited Judgment*

Defendants cannot deny credibly that Wise and Kathie Steele conspired with Nathan Steele, Albertazzi and PLF to file and serve a fee petition (on the successful challenge and dismissal of Plaintiff's appeal of the January 12, 2022 limited judgment—a filing deemed late by the Oregon Court of Appeals) on Rote only by first class mail to an incorrect address (former address of Rote). The conspiracy involved filing and serving the fee petition to an address Nathan Steele knew to be invalid, the same former incorrect address of the Plaintiff that had repeatedly been used incorrectly by Clackamas Court (Plaintiff sold his former home on Big Fir Rd. in West Linn in August 2021). For the first time, Nathan Steele and Albertazzi did not provide a courtesy copy by email and cannot credibly deny that they perpetrated service violations multiple times in an attempt to take advantage of Plaintiff's pro se status. **See Doc #48-17, page 6 and 7.** The Judges cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Nathan Steele and the other defendants to violate Plaintiff's substantive due process rights by discouraging defendants from separately notifying Rote of the judgment events.

Defendants do not deny that Nathan Steele and Albertazzi conspired with Wise, Kathie Steele, the PLF and others to not inform Plaintiff that the limited judgment awarding fees had been signed on April 18, 2022, the defendants interfering with proper Notice of the signed Judgment. The Court sent the Notice to an incorrect address. This abuse of service happened numerous times and intentionally as Plaintiff alleged. One such example is provided as **#48-17, 6-7.**

Defendants cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Nathan Steele, the PLF, Yium and the other defendants to violate Plaintiff's substantive due process rights by discouraging defendants from separately notifying Rote of the

judgment events. Subsequently Plaintiff informed the Clackamas and trial court administrators to stop sending notices to the incorrect address and to notify Rote of such actions by email.

16. *Unlawful Solicitation of Abuse of Attorney Fees by PLF Group*

Defendants do not deny that the PLF Group of the Professional Liability Fund, Bernick, Stendahl and Cook in case 18cv45257 filed an unlawful fee petition of approximately \$60,000, when the supporting billing statements submitted by Yium only supported an anti-SLAPP fee of **\$7,175**. See **Docs 38-1, page 2, #38-2, column 14, and #20-9**. Some **\$10,000** of the fee petition was not supported at all by the billing statements and **\$31,000** was for fees associated with a 9th Circuit appeal (a case and action in which Rote prevailed).

17. *History of Unlawful Perjury by Albertazzi and Zweizig*

Defendants cannot deny that Albertazzi and Zweizig filed a false declaration in case 19cv01547 to attempt to liquidate the bond posted to secure the anti-SLAPP fee award on appeal, an award that Greene claimed Williams Kastner abandoned. The false declarations by Albertazzi and Zweizig claimed an appellate judgment was final in case 19cv01547, but attached an appellate judgment from a different case (19cv14552). This was an intentional act by Albertazzi and Zweizig. See **Docs #18-16, pages 2, 3, 9 and 10**. Rote opposed and is seeking sanctions. See **Doc #18-17**, Plaintiff's Motion in Opposition. This is one of the few times that a judicial actor looked at the evidence and ruled that the package provided by Albertazzi was incorrect. Nonetheless, the Judges cannot deny that Albertazzi and Zweizig have been emboldened by judicial support that led them to believe they would get away with this false declaration and exhibit. Plaintiff alleges that these actions of perjury are endorsed by the PLF and are not isolated (**Doc #48-10**).

18. *Unlawful Denial of Motion and Judgment for Default*

Defendants cannot deny credibly that Clackamas Court staff, instructed by Ann Lininger, rejected Plaintiff's Motion for Default Judgment against Max Zweizig. Plaintiff alleges that it is unlawful to for Court staff, regardless of who supervises Clackamas Court staff, from denying

(rejecting) a Motion for Default Judgment based on an un-served and late Answer in case 22cv17744. **See Doc #52-4, page 8.** Plaintiff filed a Motion to Strike because Defendant's Answer was not filed timely and has not yet been served. **Doc #52-4, pages 1-5.**

19. *Unlawful Refusal of Court to Allow Case to Proceed*

Defendants do not deny that Judge Norby of Clackamas Court has refused to allow the remaining malpractice claim in case 18cv45257 to proceed. The Court has thus far, now after more than two years from being remanded back from the federal court, refused to respond to Motions, issue a scheduling order or otherwise allow the malpractice claim against Brandsness to proceed. All the while the PLF has refused to cover the damage associated with the malpractice. **See Doc #52-3.**

20. *Unlawful Solicitation of Court to Endorse the Distribution of Child Porn*

Defendants cannot credibly deny that Zweizig has admitted to child predation not less than acquiring, possessing and distributing child pornography and Albertazzi has attempted to suppress those admissions to benefit his collection activity and to seek favor with the Court. Albertazzi was provided notice of Steve Williams forensic reports (**Doc #38-10**), was present at the deposition of Zweizig of December 21, 2020 (**Doc #18-4**), sought to suppress that deposition (**Doc #38-9**), and argued for that suppression (**Doc #20-10, pages 2-9**).

C. The Record of Violations by the Superior Courts

Oregon Court of Appeals

The Oregon Court of Appeals reviewed and affirmed without opinion the dismissal of the Rote's counterclaims for interference with contract and slander of title, Appeal A173748. **See Doc #18-8.** The Rote's Petitioned the Supreme Court for Review, outlining in substantial part that virtually all other states in the County require a Bond or permit counterclaims for slander of title and interference with contract to protect the defendants in a fraudulent transfer lawsuit by a Plaintiff pursuing a money judgment—distinguishing a money judgment from one based on title

or lien. The Supreme Court of Oregon denied Review. This is in spite of the fact that neither Ward Greene nor Zweizig made an appearance in that lawsuit. **See Doc #48-16.**

Perhaps the most glaring and clear evidence that the Oregon Court of Appeals is targeting Plaintiff Rote and denying Plaintiff substantive due process is the order issued by Kamins and Mooney awarding attorney fees to Helen Tomkins for representing Zweizig in the appeal of attorney fees, A174364. Plaintiff opposed the attorney fee petition by Tomkins because it attempted to collect fees for the A174364 appeal and A175781 appeal (which she lost). **See Doc #18-12.** In Appeal A174364, Plaintiff Rote filed a detailed Opening Brief in that appeal showing that court, in meticulous detail, the 37 entries from Ward Greene's fee petition having nothing to do and not reasonably connected with the anti-SLAPP. **See Doc #18-10.** Although that appeal was affirmed without opinion, as all the other appeal have been (**Doc #18-9**), Kamins and Mooney decided to announce that in spite of those identified 37 entries, that the Court would abandon the facts for a retaliatory public statement that the appeal was objectively unreasonable (**Doc #18-19**). Plaintiff never had a chance of substantive due process. It is not possible for Kamins and Mooney to reach their findings based on the evidence in the record...in the absence of retaliatory animus. Plaintiff opposition to that fee petition is reflected in **Doc #38-1 and #38-4.** Ann Lininger issued the award and in that order claimed the Rote's were filing counterclaims to harass Zweizig. **See Doc #18-2, pg 2, line 7-14.** Plaintiff filed this complaint after the Supreme Court denied review, making this claim ripe. **See #48-15.** Plaintiff reiterates that ultimately the Rote's prevailed on Summary Judgment on all claims with a finding that Zweizig provided not credible evidence to overcome a 2012 transfer to a holding company or Tanya Rote's ownership of the subject Sunriver property (**Doc #18-11**). The Motion for Summary Judgment transcript is provided herein as **Doc #20-10.**

Supreme Court of Oregon

1. Motion to Disqualify Lynn Nakamoto

In 9th Circuit case #18-36060, the Court referred a question to the Supreme Court of Oregon on whether there was a \$500,000 cap on noneconomic damages in Zweizig's case 3:15-cv-2401. Rote, defendant and appellee on that question, filed a Motion to Disqualify Justice Nakamoto, Garrett, Balmer and Walters in that case, although particularly emphasizing the disqualification of Lynn Nakamoto and Chris Garrett because of prior and caustic associations with the Markowitz and Perkins Coie firms. See **#52-5, pages 21 to 29**.

In what should be considered a solicitation by Nakamoto and the Supreme Court of Oregon, Appellant attorneys representing Max Zweizig (Joel Christiansen and Shenoa Payne) secured from Defendant Edelson a highly prejudicial declaration and series of false statement that misled the court on Nakamoto's prior contact with then defendant Rote. See **#52-5, pages 14-17**. Consistent with these high prejudicial statements, Edelson did not admit that he represented Rote against Zweizig in a broad statement about representing Rote on a number of cases, *Id.*, **pages 14-16, ¶ 2**.

As the Motion for Summary Judgment filed in ASP case 050511-1 shows, Edelson represented Rote in that case against Zweizig. See **Doc #48-8, page 8**. The date of that Motion is June 4, 2009, a time when Lynn Nakamoto was with the firm and was the managing shareholder. In spite of the overwhelming evidence presented in that Motion for Summary Judgment, arbitrator Bill Crow did not grant that Motion. A short time thereafter, Edelson was removed from the arbitration action and that project was moved to another attorney outside that firm. A short time thereafter Edelson met ex parte with arbitrator Crow who was infuriated that Edleson was removed from the case. Crow was a shareholder of the Schwabe firm at that time. Both Markowitz and Schwabe occupied the PacWest Tower in downtown Portland. Both Crow and

Edelson were also listed as arbitrators for the Arbitration Service of Portland and knew each other socially.

Once Crow refused to grant the Motion for Summary Judgment of Zweizig's claims, Lynn Nakamoto was consulted on appellate process if any available at the time Crow refused to grant Summary Judgment. Understand that Zweizig had been pursuing his case for six years without a shred of evidence.

Edelson was fully informed of the child pornography reports and testimony of forensic experts Justin McAnn (Zweizig's expert), Mark Cox and police officer Steve Williams showing the child pornography downloaded, possessed and disseminated by Zweizig, having represented Rote and employer Northwest Direct against Zweizig in ASP 050511-1. See **Doc #48-8**. The forensic reports are referenced in Plaintiff Chapter 4 blog post on Zweizig's criminal conduct. See **Doc #48-4**. Edelson took this action to prejudice the Court against Rote, having apparently concluded that Nakamoto was going to write the Opinion for the Court. Rote, apparently, was the only one who did not know that at the time.

There is no evidence in the record of 9th Circuit case 18-36060 that Joel Christiansen or Shenoa Payne induced Edelson to issue a declaration in support much less commit perjury in his declaration. See **Doc #52-5, page 14-17**. There is no evidence in the record of that case that Edelson unilaterally discovered the challenge to Lynn Nakamoto and then acted to refute those allegations of conflict with a separately filed statement as a friend of the Court. The more plausible narrative is that Nakamoto reached out to Edelson because writing that Opinion had some enormous value to her personally.

Nakamoto wrote the Opinion of the Supreme Court removing the cap on noneconomic damage awards on employment claims, even though the Oregon Tort Act still retains that cap and evolved from the same initial legislation codified in ORS 31.710.

2. Motion to Disqualify Chris Garrett

Rote also sought to disqualify Justice Garrett for a threat he made during his representation of David Wu. That issue arose when Wu refused to pay an invoice for “get out the vote” calling during his re-election campaign. Garrett was on that legal team and threatened Rote after the litigation was resolved in Rote’s favor.

The Supreme Court denied Rote’s Motion to disqualify Nakamoto and Garrett. See **Doc #52-5**.

The Supreme Court has in fact denied every Motion filed by Rote. See **Doc #52-2**, on Writ of Mandamus to force Deschutes to transfer the case to Clackamas. The OSC also denied Review of 174364, award of unlawful fees (**#48-15**) and dismissal of counterclaims for interference with contract and slander of title (**#48-16**).

D. The Evidence of Collusion

Plaintiff previously references the above **Docs #18-1, 18-2, 18-10, 18-19, 38-1 to 38-4, 20-1, 20-3, 20-4, 20-5, 20-6, 20-7, 20-8, and 20-9** in Plaintiff’s prior responses. Plaintiff incorporates all of those allegations against the Judicial Defendants and further submits Plaintiff’s **Docs #48-1 to #48-18**, filed herein, as support.

Plaintiff also previously submitted in this analysis his **Doc #38-5**, which is a letter to Judge Wise. The Plaintiff shows by that he did not raise issues associated with Ann Lininger or Kathie Steele in that letter to Wise. Judge Wise raised those issues unilaterally in the hearing in September 2021 (**Doc #20-1, page 7**), implicating collusion and interference with the other

judicial actors and attorney defendants. In fact Wise indicated that he talked to presiding Judge Kathie Steele the day before the hearing.

Plaintiff alleges Wise' decision to conduct a hearing on his own disqualification violates Oregon law, ORS 14.250. That decision sent a message to defendants Nathan Steele, Albertazzi, Yium and PLF Group, a message they well understood to mean aggressive and unlawful billing would be invited by Wise to retaliate on behalf of the judicial group. The attorney defendants were in possession of the letter sent to Wise (#38-5). A judge does not have authority to rule on substantive validity of motion to disqualify. See *Phelps and Nelson*, 122 Or App 410, 857 P2d 900 (1993), Sup. Ct. review denied.

Wise also made statements that were proven to be incorrect. Wise claimed "While I'm quite familiar with Judge Steele and Judge Lininger, especially being that those are the ones that asked me to serve as a pro tem judge, I must let you know, Mr. Rote, that for the first time in my 30-year career, I had to hire a lawyer on a matter. And that lawyer hired another lawyer to assist in the case and that lawyer is Matt Kalmanson." See **Doc #20-1, page 7, lines 3-10**. The truth however is that while Kalmanson was hired by the PLF to represent attorney defendants in case 19cv01547, there was no recent event as Wise described. To put this delicately Wise lied about this record of "first time in my 30 year" statement. Plaintiff contacted Kalmanson, who denied having represented Wise on any matter in the last ten years. Plaintiff could provide that email.

Nathan Steele's attestation as to the accuracy and reasonableness of his fee petition is knowingly false, claiming "Previously provided (as Doc #38-1) are true and accurate copies of billing statements for the reasonably-related attorney fees, costs and disbursements incurred in the defense of the above-captioned matter. The amount of the attorney fees totals \$19,357.50, and the amount of the costs and disbursements totals \$1,777.76." That attestation by Steele that

the fees were reasonably connected to the anti-SLAPP was knowingly false for the reasons outlined in the argument section of this brief and there is no record in the case that supports a different finding.

Judge Wise, even while disqualified, made no findings on the record in any hearing, in any published order or judgment that would have allowed an award of attorney fees and costs for anything but the mandatory fee award under ORS 31.152 (3), the anti-SLAPP provisions. There was no necessary finding by the Court that the *un-served third amended* complaint claims against Albertazzi for Oregon RICO were somehow objectively unreasonable (a necessary finding for attorney fees) or that Albertazzi was absolutely immune (which would not have provided a fee opportunity). **See Doc #20-4**. And as pointed out in **Doc #48-1**, Albertazzi filed a false declaration on his own account and constructed the false declaration of Max Zweizig, which is an affirmation of prior predicate acts under the Oregon and Federal racketeering Statutes. The point is Wise showcased that he was willing to violate the law in order to retaliate against Rote, even concealing from the record that Zweizig's appellate attorney Shenoa Payne shared office space with Wise.

Plaintiff alleged in his Third Amended Complaint in case 18cv45257 that Albertazzi, Cook and the PLF group engaged in racketeering. The Third Amended Complaint described in detail those defendants' predicate acts, which included that both Zweizig and Albertazzi:

“participated in the enterprise through a pattern of racketeering activity by committing or attempting to commit acts of bribery (ORS 162.015 & 162.025), perjury (ORS 162.065), unsworn falsification (ORS 162.085), obstructing judicial administration (ORS 162.235, to include witness tampering, spoliation, false evidence and perverting the course of justice) and Coercion (ORS 163.275),

committing most of these act within a five year period of time measured from the date the complaint was filed. Less than two months ago the enterprise through defendants Zweizig and attorney Albertazzi also engaged in an effort to extort money, by attempting to collect on a debt not owed by plaintiff, also predicate act (ORS 260.575).”

The allegations against Albertazzi, Cook and PLF Group for Oregon RICO have not been refuted. See **Doc #38-6**. More specifically, and on information and belief, the PLF did not issue a 1099 to Zweizig and joined Zweizig in his effort to not report \$100,000 in free legal services provided by the PLF. This tax fraud could only be accomplished with the approval of Carol Bernick and Megan Livermore, since the Chief Financial Officer of the PLF would have been required to file 1099 NEC or 1099 Misc. The Treasury Department has been put on notice and it is likely they will pursue their own criminal investigation.

One of the key reasons raised by Plaintiff to ask Wise recuse himself was that he is actively practicing law in Oregon and would not likely be impartial in a case alleging criminal conduct of attorneys who would commit these crimes for their own benefit and for the benefit of his or her clients. Wise understood that, as the transcript so indicates. See **Doc #20-1, pages 1-12**. In spite of Albertazzi’s and Cook’s effort to constrain Zweizig’s testimony in multiple actions, Zweizig did blurt out that Greene resigned no longer wanting to be associated with Zweizig and the raping of children (**Doc #18-4, page 15**). Per Zweizig, Greene specifically responded to an email Rote sent him with a copy of the Steve Williams forensic report. Greene has not refuted that statement in this action.

Judge Kathie Steele while disqualified to the 18cv45257 case signed the limited judgment dismissing Albertazzi (**Doc #20-4**) and PLF (**Doc #20-5**). At the time Steele was a defendant in

civil rights case 3:19-cv-01988. Plaintiff argues that this is prima facie evidence that Kathie Steele solicited Wise to violate Plaintiff's rights and does not enjoy judicial immunity for those acts while clearly being disqualified to perform them.

Judge Wise signed the order and judgments awarding attorney fees while still disqualified and while his pro tempore status had terminated. **See Doc #20-7 and #20-13.** The limited judgment referenced a hearing in which Rote was not in attendance.

And last but certainly not least is the solicitation of Nakamoto of Edelson to publish a knowingly false declaration to aid and abet child predation. **See Doc #52-5.**

E. The Record of Aiding and Abetting Child Pornography

Plaintiff alleges that the violations of Plaintiff's First and Fourteenth Amendment rights sought by the defendants also implicate criminal conduct of aiding and abetting.

1. The Inferences That May be Drawn

As part of that Motion for Contempt reflected in Doc #48-1, Zweizig filed a declaration in support and seeks to have Plaintiff Rote imprisoned in Deschutes County jail for Rote's role in (1) successfully defending Tanya Rote's Sunriver property and prevailing in case 19cv01547; (2) pursuing a wrongful use of a civil proceeding action, Clackamas case 22cv17744, for Zweizig bringing the fraudulent transfer action (19cv01547) with no evidence; (3) defending against First and Fourteenth Amendment abuses in case 19cv00824 and other cases, including this one; and (4) exposing Zweizig as a distributor of child pornography and cybercriminal. Make no mistake, Albertazzi and Zweizig are asking the Court to imprison Plaintiff Rote for engaging in civil litigation successfully. **See Doc #48-1, pgs 1-2.**

Zweizig's declaration claims that the allegations that Zweizig is a child predator and pedophile are false (**#48-1, pg 2, ¶4**). Most notably, ***Zweizig does not deny*** that he has in the past and does in the present download, possess and disseminate child porn. Federal law prohibits the

production, distribution, reception, and possession of an image of child pornography using or affecting any means or facility of interstate or foreign commerce (18 U.S.C. § 2251; 18 U.S.C. § 2252; 18 U.S.C. § 2252A). This is a particularly noteworthy affirmation and attempt to deceive the Court by an omission that was not doubt commissioned by defendant Albertazzi.

Albertazzi is pursuing a judgment of \$1 Million that Zweizig secured in federal case 3:15-cv-2401. Zweizig filed an ORS 659A.030 lawsuit against Rote alleging therein that Rote had published blogs alleging forensic evidence ignored by the arbitrator in 2010 that objectively and summarily vitiated Zweizig's ORS 659A claims in that case. **Doc #48-2** is the trial transcript in case 3:15-cv-2415 in which Zweizig denies that he committed these federal and Oregon crimes of downloading, possessing and disseminating porn of any kind. See **Doc #48-2, pgs 7, 9, 68, 103, 104, 123 and 172.**

Doc #48-3 is Zweizig's Motion in Limine in that 3:15-cv-2401 case, wherein he sought successfully to suppress the forensic reports from the jury that affirmed Zweizig's criminal conduct related to child porn and for other criminal conduct including spoliation, perjury, cybercrime and destruction of evidence.

Doc #48-4 is one of Rote's blog posts, the post with which Zweizig took most offense and which allegedly caused him to file his ORS 659A.030 complaint of case 3:15-cv-2401. The forensic reports used to reach the conclusions by Rote are cited and linked in that blog post. The forensic report by Police officer Steve Williams is attached thereto starting at **page 5**. Williams report and the others provided herein confirm that Zweizig separated his employer issued 120 gig hard drive into multiple partitions or sector such as d:\, d:\paul, d:\shared, d:\winmx, d:\laptop and others which were used to download, store and disseminate child porn, porn, movies and videos. D:\ paul refers to Paul Bower, who had organized a competing company called Superior

Results Marketing with Zweizig on September 16, 2001. The group intent was to breach their respective non-compete agreements and to solicit and steal Rote's clients. See **Doc #48-7, Plaintiff's Declaration Doc #48 at ¶12**. Zweizig and Bower did not succeed and it was a now obvious mistake to allow Zweizig to stay with the company.

The evidence against Zweizig was, as early as 2005, overwhelming on his criminal, cybercriminal and misplaced litigation, which is why Rote and Zweizig's former employer Northwest Direct ("ND") filed a Motion for Summary in that arbitration, arguing that the forensic reports showed there was no credible question of fact on when (October 2, 2003 by email) and why (Zweizig was terminated and the lengths he went to in an effort to extort a raise) Zweizig was terminated. That MSJ was filed by then counsel for NW and Rote, namely Jeff Edelson. See **Doc #48-8**.

The testimony from the arbitration of Jamie Gedye and Zweizig's former forensic expert Justin McAnn was also suppressed from the 3:15-cv-2401 trial. McAnn confirmed the cybercriminal activity and destruction of programming by Zweizig, programming which was removed from other company servers by Zweizig. Once Zweizig removed the programming he then used that leverage to attempt to extort a payoff from his former employer and Rote. See **Doc #48-9**.

Zweizig also admitted in his deposition of December 21, 2020 that his former attorney Ward Greene reviewed the forensic reports provided to him by Rote (Steve Williams 120 gig hard drive report) and resigned no longer wanting to be associated with Zweizig and the raping of children. See **Doc #18-4, pg 10, line 12**. Soon thereafter and also in case 19cv01547 Zweizig/Albertazzi filed a Motion to suppress his deposition from the public space claiming he would not receive a fair trial if this child porn evidence was available to the jury pool. Rote

opposed. See **Doc #38-9**. Clackamas Court refused to suppress his deposition testimony. See **Doc #20-10, pages 3-10**. The Rote's were granted Summary Judgment against all of Zweizig's fraudulent transfer claims in case 19cv01547 (**Doc #18-11, #20-10**). As previously noted, Zweizig appealed and the Oregon Court of Appeals affirmed the Court granting the MSJ and denied reconsideration (**Doc #18-13**).

Plaintiff argues there is now a stacking of evidence that shows Zweizig no longer denies that he downloads, possesses and disseminates child porn and that he has in multiple cases asked the Court to suppress that evidence so he could lie about it under oath. The evidence that he lied is objectively provable. When a Court suppresses that credible evidence, Zweizig's history is to then lie about the existence of the forensic evidence and even of his own expert's prior testimony, implicating perjury in the 3:15-cv-2401 trial during which he claimed he did not download, possess or disseminate any porn. See **Doc #48-2 to 48-4**.

Zweizig's new omission of his declaration in support of Motion for Contempt (Doc #48-1, pages 1 and 2) confirms that Zweizig is a child predator when that is defined to include downloading, possessing and/or distributing child porn, even though he has not yet been arrested or prosecuted for those crimes or when he defines child predator to not include criminal allegations of downloading, possessing and disseminating child porn. Reformatting his hard drive on November 12, 2003 was a masterful stroke by him, no doubt then assisted by attorney Sandra Ware. Zweizig admitted to reformatting the 1120 gig hard drive. And again Zweizig then made admissions in his deposition of December 21, 2020 and, like in the federal case, then attempted to suppress that testimony evidence (**Doc #38-9**).

Zweizig asked the defendants identified herein to help him perpetrate these crimes. The defendants named herein did perpetrate the crimes and violations so identified.

Plaintiff asks this Court for a finding that Zweizig committed perjury in case 3:15-cv-2401, in case 19cv01547 and has renewed his effort to do so by declaration omissions in case 19cv00824. In this new Motion for Contempt, Zweizig and defendant Albertazzi have again solicited favors that violate due process. Plaintiff is entitled to inference that the defendants solicited, colluded and received prior favors from the State Courts that violated Plaintiff's First and Fourteenth Amendment rights.

2. *Record of Disclosure of Child Pornography*

Clackamas County Court was first given Notice of Zweizig's child predator activity in case 19cv01547 on June 24, 2019 with the filing of the Police Officer Steve William's forensic report (August 2005). See **Doc #38-7**. Subsequently Zweizig admitted to perjury and his child predator activity in a deposition dated December 21, 2020 and filed in that case on March 1, 2021. Albertazzi and Zweizig moved to suppress Zweizig's deposition on Date. That Motion to suppress the deposition was denied on March 9, 2021 (**Doc #20-10**).

Clackamas County Court was first given Notice of Zweizig's child predator activity in case 18cv45257 on September 3, 2021 with the filing of the Police Officer Steve William's forensic report (August 2005). See **Doc #38-8**. Subsequently Zweizig admitted to perjury and his child predator activity in a deposition dated December 21, 2020 (**Doc #18-4**) in case 19cv01547 and filed in case 18cv45257 on September 3, 2021. The Court in case 18cv45257 was informed that Albertazzi and Zweizig moved to suppress Zweizig's deposition in case 19cv01547. That Motion to suppress by Albertazzi and Zweizig was denied on March 9, 2021 (**Doc #20-10, pages 3-10**).

Deschutes County Court was first given Notice of Zweizig's child predator activity in case 19cv00824 on January 11, 2019 with the filing of the Police Officer Steve William's

forensic report (August 2005). See **Doc #38-10**. Subsequently Zweizig admitted to perjury and his child predator activity in a deposition dated December 21, 2020 (**Doc #18-4**). The Court in case 19cv00824 was not informed that Albertazzi and Zweizig moved to suppress Zweizig's deposition in case 19cv01547. That Motion by Albertazzi and Zweizig in case 19cv01547 to suppress his deposition from the public space was denied on March 9, 2021 (**Doc #20-10**).

Every Judge and attorney identified as defendants in this case were informed of Zweizig's child predator behavior, the forensic reports showing that behavior, proof that other jurisdictions have imprisoned comparable players for possessing and distributing child porn just as the forensic reports show Zweizig doing. See **Doc #38-7** to **#38-10**. HGTV celebrity Josh Duggar was arrested and convicted of possessing and distributing child porn through a peer to peer sharing program just as Zweizig did. See **Doc #20-11**. Every defendant nonetheless chose to act outside the law to benefit Zweizig.

All Plaintiff asked of the defendants was to follow Oregon law...which they refused to do.

III. ARGUMENT

A. Legal Standard

In *Conley v. Gibson*, 355 U.S. 41 (1957), the Supreme Court stated the interplay between Rule 8 (pleading) and Rule 12(b)(6) as follows: “[T]he accepted rule [is] that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” 355 U.S. at 45-46. In *Bell Atlantic Corporation v. Twombly*, 55 U.S. 544 (2007), the Court noted questions raised regarding the “no set of facts” test and clarified that “once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint,” *id.* at 563. It continued: “Conley, then, described the breadth of opportunity to prove

what an adequate complaint claims, not the minimum standard of adequate pleading to govern a complaint's survival." *Id.* In *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), the Court further elaborated on the test, including this statement: "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face.'" *Id.* at 1949 (citation omitted).

B. Issue Preclusion

Issue preclusion, also known as collateral estoppel, "precludes relitigation of an issue already litigated and determined in a previous proceeding between the same parties." *Pike v. Hester*, 891 F.3d 1131, 1138 (9th Cir. 2018); see also *Robi v. Five Platters, Inc.*, 838 F.2d 318, 322 (9th Cir. 1988) ("The doctrine of issue preclusion prevents relitigation of all issues of fact or law that were actually litigated and necessarily decided in a prior proceeding. . . . The issue must have been actually decided after a full and fair opportunity for litigation." (quotation marks and citations omitted)). The party asserting issue preclusion must show: (1) the issue at stake was identical in both proceedings; (2) the issue was actually litigated in the prior proceedings; (3) there was a full and fair opportunity to litigate the issue; and (4) the issue was necessarily decided, which is also described as necessary or essential to the judgment. See *Howard v. City of Coos Bay*, 871 F.3d 1032, 1041 (9th Cir. 2017).

This Court in its ruling of December 30, 2021 in case 3:19-cv-01988 found that Plaintiff had alleged insufficient facts against Kathie Steele for soliciting Ann Lininger to award excessive fees. Plaintiff alleges in his complaint that Steele joined Lininger in her chambers and solicited excessive fees, measured in this case by the filing of a claim against Lininger with the details of Ward Greene excessive billings. Lininger was not a defendant in that case. Moreover, Plaintiff alleges that the abuses by Lininger were endorsed by the Oregon Court of Appeals, which made a highly prejudicial statement claiming the Rote's should not have resisted the

award of excessive attorney fees awarded by Lininger and solicited by Kathie Steele (**Doc #18-19**). Plaintiff also supplements numerous additional pieces of evidence that include but not limited to Kathie Steele signing limited judgments while still a defendant in that prior federal case (**Doc #20-4 and #20-5**) and Wise's admissions of meeting with Kathie Steele before the hearing on September 2021 (**Doc #20-1**).

Absent the repeated violations of excessive fee awards where the Plaintiff was a party, such as filed by Nathan Steele (PLF vendor where the PLF is beneficiary) on January 14, 2022 (**Doc #20-6**) and then Yium (PLF vendor where the PLF is beneficiary) on February 8, 2022 (**Doc #20-9**), Plaintiff could not allege that this is a pattern stemming back to Ward Greene (**Doc #18-1**) and Ann Lininger (**Doc #18-2**). Plaintiff has settled out his claims with Ward Greene but there is an issue as to the accuracy of whether the fees Greene claims were abandoned, those fees identified in Lininger's order (**Doc #18-2**). Recognizing that the award of fees to Greene/Zweizig is likely a immune act does not have the effect of tainting Plaintiff claims against Nathan Steele, the PLF, Yium, Livermore, Cook or Kathie Steele in this case. It may have a preclusive effect on Carol Bernick, who may or may not have authorized the unlawful fee petitions of 2022 by Nathan Steele/Albertazzi, Yium and the PLF Group.

Plaintiff alleged the additional non-immune violations by Kathie Steele that benefited the PLF and were targeted at Plaintiff Rote.

The PLF also benefitted from filing a Motion to Quash a subpoena of Zweizig's representation, which again Zweizig affirmed was unsolicited (**Doc #18-4**). Argument was heard on that question but Wise has not issued an Order granting the PLF's Motion to Quash Zweizig's representation agreement with the PLF. What is abundantly clear however is that the PLF should have issued a 1099 Misc to Zweizig for the cost of that representation in Clackamas case

19cv14552, which Plaintiff estimates to be \$100,000. The PLF represented Zweizig in case 19cv14552 and at various times in case 19cv01547 and on appeal of the anti-SLAPP dismissal of the Rote's counterclaims in that 19cv01547 case.

There was no compelling reason why the PLF would have represented Zweizig and as the record shows there is a pattern of abuse by the PLF. Bernick is to that extent included in this case if she was the party who authorized Zweizig representation in to 2022. Should discovery be allowed, it will show communication from Kathie Steele to Carol Bernick and an unlawful representation of Zweizig. Plaintiff is entitled to that inference even now.

Plaintiff alleges in this case that the PLF has encouraged these abused for their own benefit. Understandably a Motion to Dismiss is typically not an action in which attorney fees are not recoverable, but if conflated with the anti-SLAPP and presented in just the right way with limited representation on what they fees were for...straddling the line of perjury...the PLF could be successful in seeking and securing unlawful fees.

The PLF's policy of retaliation and unlawful billing practices can be traced back to Carol Bernick as early as 2018. Nena Cook took over for a short time in 2020 and reasserted those policies. Bernick was rehired in 2021 for six months. Livermore took over on July 1, 2021 and the policy of retaliation against litigants remains intact. Plaintiff does allege that the unlawful billing is a policy of the PLF.

Issue or claim preclusion would be negligible and should be denied. Plaintiff is trying to show a pattern of unconstitutional behavior which he believes he has accomplished.

C. Satisfied Elements of the 42 USC §1983 Claims

The factual allegations against the defendants are voluminous, but does not represent all of the First and Fourteenth Amendment violations perpetrated by these same defendants.

“Traditionally, the requirements for relief under [§] 1983 have been articulated as: (1) a violation of rights protected by the Constitution or created by federal statute, (2) proximately caused (3) by conduct of a ‘person’ (4) acting under color of state law.” *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). Plaintiff so alleges against the Judicial defendants and incorporates the “Relevant Facts” section of this brief.

For points of clarification, Plaintiff alleges that an unlawful fee petition rises to unconstitutionality when an adverse party seeks attorney fees through one or more strategies designed to conflate and conceal fees from recoverable proceedings (such as an anti-SLAPP) with non-recoverable proceedings (such as a Motion to Dismiss). Plaintiff alleges that the PLF does as a rule ask its vendors to conflate those actions in an effort to recoverable unlawful fees. Every fee petition identified in this case, Doc’s #38-2 to #38-4 used block-billing to conflate recoverable and non-recoverable fees. In every case a summary by category of fees was not filed by the defendants. And in all cases the defendant attorneys sought three (3) to eight (8) times more than allowed by law. Plaintiff is entitled to an inference that these were intentional acts to aid and abet the unconstitutional acts of all the defendants.

Whether unlawful and unconstitutional acts are targeted or not targeted offers a degree of credibility on a finding of 42 USC §1983 violations, but does not diminish that the practices of a given court are substantive violations particularly when solicited by one or more of the defendants.

Plaintiff would also note that a defendant who avoided a Federal or Oregon Racketeering action by invoking attorney immunity or privilege, such as on witness tampering, perjury or unlawful collection actions, cannot avoid 42 USC §1983 violations when engaging in the deprivation of rights under the color of state law. And in this case the non-judicial defendants continued their equally unlawful pursuits including solicitations of the Court to collude in perjury, subornation of perjury, witness tampering, unlawful collection actions, and the distribution of child pornography.

1. Deprivations of Rights under Color of State Law

Nathan Steele, Yium and the PLF Group are among other things accused of soliciting and conspiring with Michael Wise and others to use the anti-SLAPP fee petition under ORS 31.152 to retaliate and violate Plaintiff's federally protected rights. The Defendants Motions to Dismiss are replete with calls for retaliation for daring to file a claim against an attorney. **See Doc #20-2 and #20-3.** Those calls for retaliation carry over to the fee petitions. **See Doc #20-6 and #20-9.**

Nathan Steele, Yium and the PLF Group are among other things accused of soliciting and conspiring with Michael Wise and others to avoid disqualification of Wise under ORS 14.250 to retaliate and violate Plaintiff's federally protected rights. **See Doc #20-1.** Plaintiff staunchly opposed Wise having a hearing on his own disqualification. **See Doc 48-14.**

The Fourteenth Amendment prohibits a state from depriving any person of life, liberty or process without due process. U.S. Const. Amend XIV, §1. The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. *Marshall v Jericho*, 446 U.S. 238, 242, 100 S. Ct. 1610 (1980).

a. Plaintiff reiterates the allegations and evidence of First and Fourteenth Amendment Violations under color of state law by Deschutes County Court facilitated by Nathan Steele and raised by Plaintiff in Section II A of this brief;

b. Plaintiff reiterates the allegations and evidence of First and Fourteenth Amendment Violations under color of state law by Nathan Steele, the Clackamas Circuit Court, Michael Wise, Ann Lininger and Kathie Steele and other defendants as raised by Plaintiff in Section II B of this brief; and

c. Plaintiff reiterates the allegations and evidence of First and Fourteenth Amendment Violations under color of state law by the Supreme Court of Oregon and Oregon Court of Appeals, Kamins and Mooney raised by Plaintiff in Section II C of this brief; and

d. Plaintiff reiterates the allegations and evidence of First and Fourteenth Amendment Violations under color of state law against the defendants for collusion raised by Plaintiff in Sections II A-D of this brief.

2. Collusion and Acts of Defendants

Plaintiff reiterates the allegations and evidence of the 30 First and Fourteenth Amendment Violations of sections II A-II C and multiple acts of collusion by defendants in sections II D.

Plaintiff alleges that Nathan Steel solicited and colluded with Wise, Yium, Greene, Kathie Steele and others to violate Plaintiff's federally protected rights.

D. Judicial Immunity

With Zweizig's Declaration of September 15, 2022 (**Doc #48-1**) as well as the other evidence in support, it is now axiomatic that Zweizig has and does download, possess and disseminate child pornography in violation of federal and state law. It is also now reasonably certain that the Judges named as defendants in this case knew or believed Zweizig is a child predator as defined to include Zweizig and his child porn business. With that relative certainty comes an inference that the Judicial Defendants are using their respective roles to aid and abet in the downloading, possession, distribution and monetization of child pornography.

The question that will always be raised is whether State Judges enjoy absolute immunity to 42 USC §1983 claims? The Supreme Court of the United States opined that they are protected from damages but not injunctive and declaratory relief. See *Supreme Court of Va. v. Consumers Union of United States, Inc.*, 446 US 719 - Supreme Court 1980.

Citing at *Id.* 735, "Adhering to the doctrine of *Bradley v. Fisher*, 13 Wall. 335 (1872), we have held that judges defending against § 1983 actions enjoy absolute immunity from damages liability for acts performed in their judicial capacities. *Pierson v. Ray*, 386 U. S. 547 (1967);

Stump v. Sparkman, 435 U. S. 349 (1978). However, we have never held that judicial immunity absolutely insulates judges from declaratory or injunctive relief with respect to their judicial acts. The Courts of Appeals appear to be divided on the question whether judicial immunity bars declaratory or injunctive relief we have not addressed the question.

Plaintiff has amended his complaint to add a demand for declaratory and injunctive relief against the Judicial defendants. Plaintiff notes that case *Supreme Court of Va. v. Consumers Union of United States, Inc.* specifically arose and resulted in a finding that the Virginia Court and its chief justice properly were held liable in their enforcement capacities. *Id.*, at 736. Plaintiff amended his complaint to allege violations by the Oregon Judicial Department and Chief Justice Martha Walters.

What remains is a question of judicial capacities in the context of the anti-SLAPP and other identified actions of the defendants and whether the acts specifically described in this case fall within judicial capacity.

Plaintiff argues that the September 20, 2021 hearing shows that it is plausible to find Michael Wise engaged with the Court (presiding Judge) before the hearing including contact with Judges Lininger and Steele before addressing his recusal in case 18cv45257, by reference to **Doc #20-1, pages 6-8**. No part of Plaintiff's communication to the Court invokes any statement about Lininger and Steele and accordingly Plaintiff alleges contact by them to Wise falls is credibly alleged and is outside of their respective judicial capacities (**Doc #38-5**). Discovery needs to be done on what the contact with the Court involved. Defendants would not be shielded against a §1983 claim or §1985 conspiracy claim on actions and violations outside of their official judicial capacities. Plaintiff argues that the meeting between Wise, Steele and Lininger on or before the hearing of September 20, 2021 was first not a meeting form which these judges

have immunity and second not a meeting on Wise's judicial disqualification, there being no separate finding on his disqualification.

Plaintiff argues that Kathie Steele executing the limited judgments of January 12th and 25th of 2022 are not likely acts enjoying judicial immunity. Steele was not presiding Judge at the time those orders were signed. Defendants have made no allegation that these orders (derived from her interference with the anti-SLAPP and Motions to Dismiss proceedings, those proceedings adjudicated by Michael Wise), were protected and immune judicial acts. Further discovery may reveal that presiding Judge Michael Wetzel assigned these limited judgments to Steele, but as of this time Plaintiff makes a plausible argument that they were not and could not be assigned to Steele without Steele taking unilateral action. The Oregon Code of Judicial Conduct would have specifically precluded Steele from engaging in this case while she was a defendant in case 3:19-cv-01988, which was not dismissed until March 23, 2022.

Kathie Steele is not protected from soliciting the abusive acts of Ann Lininger when she granted the anti-SLAPP Motions to Strike Plaintiff's claims in case 19cv01547. Plaintiff alleges plausibly, and without any attempt to refute by the judicial defendants, that Steele was in Lininger's chamber coaching Lininger during the January 2020 anti-SLAPP hearing. That allegation is sufficient to impune the attorney fee awarded by Ann Lininger of July 16, 2020 (**Doc #18-2, page 2, line 15-20**). The allegations asserted by Lininger were that the Rote's were guilty of resisting Zweizig's efforts to take Tanya Rote's property and thus an anti-SLAPP award was appropriate because that opposition was some form of harassment. Of course the Rote's have an absolute right to defend against Zweizig's efforts to take properties unlawfully and to attempt to in his various forms molest Rote's grandchildren. Nonetheless, Lininger was not a

named defendant in the prior case because there was no pattern of behavior that arose until after the prior case was dismissed. The violations continued to even now.

Zweizig made a similar claim as Lininger, that Plaintiff Rote should be arrested for opposing and prevailing against Zweizig in case 19cv01547 (**Doc #48-1, pages 1-2**). That is the record of retaliation coming from Lininger's chamber. The Rote's subsequently prevailing at Summary Judgment refutes any suggestion that the Rote's opposed for any other reason than to prevail.

Plaintiff does not concede that Lininger is immune from §1983 damages from that order (**Doc 18-2**), nor for §1985 conspiring with Kathie Steele (who was presiding Judge at that time in 2020 and 2021) to deprive the Rote's of substantive due process. Steele prior behavior was adequately alleged and remains an ongoing element in this case.

Citing *Stump v. Sparkman*, 435 U. S. 349 (1978), the scope of the judge's jurisdiction must be construed broadly where the issue is the immunity of the judge. A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in the "clear absence of all jurisdiction citing therein *Bradley v. Fisher*, 13 Wall at 351.

On August 16, 2022 Clackamas County Judge Michael Wetzel issued a letter confirming that Michael Wise was not a duly appointed pro tempore Judge from December 8, 2021 to July 20, 2022. See **Doc #48-13**. Judge Wetzel cites the de facto Judge doctrine, *DHS v JH*, 370 Or App 85 (June 8, 2022), as providing validity to Wise's actions and orders, especially since many of the orders were signed by regular Judges. Plaintiff interprets that letter and case citation as confirming jurisdiction to Wise during his proceedings, but arguably does not excuse Wise from liability under §1983 and §1985.

Perhaps it is appropriate to outline the status the defendants in Ciavarella case, which Plaintiff has cited to numerous times.

Defendants Michael Conahan (“Conahan”) and Mark Ciavarella (“Ciavarella”) abused their positions as judges of the Luzerne County Court of Commons Pleas by accepting compensation in return for favorable judicial determinations. As part of this conspiracy, Conahan and Ciavarella acted with Defendants Robert Powell, Robert Mericle, Mericle Construction, Pennsylvania Child Care (“PACC”), Western Pennsylvania Child Care (“WPACC”), Pinnacle, Beverage, Vision, and perhaps others. The basic outline of the conspiracy was that Conahan and Ciavarella used their influence as judicial officers to select PACC and WPACC as detention facilities, and that they intentionally filled those facilities with juveniles to earn the conspirators excessive profits. In return, approximately \$2.6 million was paid to Conahan and Ciavarella for their influence. See *Humanik v Ciavarella*, 3:09-cv-00286-ARC, #537, page 3. Ultimately the §1983 claims against Ciavarella were dismissed under a judicial immunity theory. Subsequently, Ciavarella petitioned the Supreme Court to vacate his bribery charge, for which he was found guilty citing *Mcdonnell V. United States*, 792 F. 3d 478, decided June 27, 2016.

Former Judge Ciavarella was convicted in federal court on Feb. 18, 2011 of 12 of 39 charges alleging he took bribes and kickbacks while serving as a judge. He was later sentenced to 28 years in prison. Ciavarella, 71, remains jailed at Federal Correctional Institution-Ashland in eastern Kentucky. His expected release date is June 18, 2035. A federal judge overturned three charges, but later refused to reduce his sentence. That same judge in January rejected Ciavarella's request for compassionate release due to the COVID-19 pandemic.

Former Judge Conahan pleaded guilty and was sentenced to 17 1/2 years in federal prison, but in June he was granted early release from a Florida federal prison due to the COVID-

19 pandemic. Conahan, 68, is now under home confinement and reports to a Residential Reentry Management field office in Miami. He's expected to remain under Bureau of Prisons supervision until Aug. 19, 2026. Conahan and his wife now live in a \$1.05 million home in a private gated community known as The Estuary along the waterfront in Delray Beach, Florida.

Attorney Powell, co-owner of the juvenile detention centers, was disbarred and sentenced to 18 months in federal prison after pleading guilty for his role in paying \$770,000 in kickbacks to Ciavarella and Conahan. He was released from prison on April 16, 2013. Powell, 62, and his wife now live in a \$2.38 million home in the private gated Frenchman's Reserve Country Club golf community in Palm Beach Gardens, Florida. Powell entered into a settlement in the §1983 cases brought against him.

Developer Robert Mericle, the developer of the juvenile detention centers, paid \$2.1 million to the judges and was charged with failing to disclose to investigators and a grand jury that he knew the judges were defrauding the government by failing to report the money on their taxes. Mericle, 58, served one year in federal prison and was released on May 29, 2015. He continues to lead his commercial real estate and construction firm that draws national and worldwide companies to the region. Mericle entered into a settlement in the §1983 cases brought against him.

Plaintiff would also argue that the Wise orders were derived after Wise presided over his own hearing on disqualification, which at a minimum makes his decisions void or voidable under Oregon law. Plaintiff raises this as a component of the volume of activity also satisfying the plausibility standard. See **Doc #48-14, #20-1, #20-7, #20-8, #20-13**. These violations were conceived and executed against Plaintiff, a *pro se* litigant, and believe they deserve enhanced review.

Thus Plaintiff argues that with respect to Kathie Steele there was a clear absence of jurisdiction on any direct act or act of collusion because she never had jurisdiction or authority to act in any capacity in case 19cv01547 or 18cv45257, particularly after being sued in federal court in case c:19-cv-01988. Following the guidance of *Stump v. Sparkman*, 435 U. S. 349 (1978), Steele was not acting in her capacity as a Judge or within the scope of the Judges jurisdiction, at 362.

The acts of Lininger while more blatant appear to convey judicial immunity for her order awarding Zweizig attorney fees in case 19cv01547 (**Doc #18-2**), but not soliciting the violations of Michael Wise in September 2021.

Kamins, Mooney and Emerson have jurisdiction for their judicial acts and would not to that extent be subject to damage under §1983. Should discovery show however that one or more of these judges solicited from others, including any one of the other defendants, violations of the Plaintiff's Fourteenth Amendment right to substantive due process, there should be liability under 42 USC §1985.

Regardless this Court would have jurisdiction and discretion to provide declaratory relief that as applied in case 19cv01547 and 18cv45257, the anti-SLAPP fee awards were used to retaliate against Plaintiff pursuit of his due process rights, are as applied unconstitutional and enjoin the Oregon Judicial Department from awarding anti-SLAPP fees above those supported by the fee petition for fee directly related or reasonable connected to the anti-SLAPP portion of proceedings.

There is nothing in these statutes that would provide qualified immunity to the other non-judicial defendants such as Nathan Steele.

E. The Application of the Plausibility Standard

In *Bell Atlantic v. Twombly*, 550 U.S. 544, 547 (2007) and *Aschcroft v. Iqbal*, 556 U.S. 662, 678 (2009) the Supreme Court held that in order to survive a motion to dismiss for failure to state a claim, a complaint must be plausible. To satisfy this plausibility standard, a complaint must plead sufficient facts to permit a reasonable inference that the defendant is liable for the alleged misconduct.

Plaintiff has alleged specific facts to show that the Order issued by Ann Lininger contained highly prejudicial statements about the Rote's, allegations that were subsequently proven false when the Rote's prevailed in Summary Judgment, implicating substantive due process violations. See **Doc 18-2, 18-1 and 18-10**. That violation was solicited by Greene and child predator Zweizig.

Plaintiff has alleged specific facts to show that the fee petition by Greene/Zweizig contained 37 entries that had nothing to do with the anti-SLAPP proceedings and should not under Oregon law have been awarded, citing ORS 31.152 (3) and ORS 20.075 (2) (a). See **Doc 18-1 and 18-10**.

Plaintiff has alleged specific facts to show that the abuses of Ann Lininger were solicited by then presiding Judge Kathie Steele (2020). See Plaintiff Declaration **Doc #20**. This allegation is un-refuted.

Plaintiff alleged specific facts to show that Michael Wise invoked Judge Steele and Lininger in a September 20, 2021 hearing without provocation implicating a facial admission that Wise had engaged with Lininger and Steele and was going to retaliate against Plaintiff for his Civil Rights actions. See **Doc #20-1, pages 6-8**.

Plaintiff alleged specific facts to show that Wise held a hearing on his own disqualification rendering his orders and judgments void or voidable under Oregon law. **Doc #20-1, page 4-10.**

Plaintiff alleged specific facts to show that Wise granted a Motion to Dismiss and anti-SLAPP in favor of Albertazzi knowing full well that Albertazzi had not been served the Third Amended Complaint. **See Doc #20-1.**

Plaintiff alleged specific facts to show that Wise awarded attorney fees to Albertazzi of twice the amount supported in the attorney fee petition and applying ORS 31.152 (3) and ORS 20.075 (2). **See Doc #20-6.**

Plaintiff alleged specific facts to show that in a rehearing in June 2022, in front of Wise on the April 18, 2022 Judgments signed by Wise, that Wise invoked ORCP 68 after Mooney and Kamins did the same in the order issued by them in Appeal case 174364. **See Plaintiff's Declaration Doc #20, #20-7 and #18-19.**

Plaintiff alleged specific facts to show that Wise signed the order and limited judgment on the award of attorney fees to Albertazzi when Wise was not an appointed pro tem Judge and that Wise knew he was not an appointed pro tem Judge. **See Doc #20-7, #20-8 and #20-13.**

Plaintiff alleged specific facts to show that Judges Mooney and Kamins opined in an order dated May 19, 2022, that the Rote's appeal of Ward Greene's fee petition was objectively unreasonable in spite of the Rote's objectively proving that 37 out of 63 entries were unrelated to the anti-SLAPP proceedings. **See Docs #18-19, #18-10 and #18-1.**

Plaintiff alleged specific facts to show that Judge Steele acted outside of any plausible jurisdiction to sign the January 12th and 25th 2022 limited judgments secured by Michael Wise

and signed by Steele when she was not the presiding Judge of Clackamas County and was a defendant in 3:19-cv-01988. **See Doc #20-4 and #20-5.**

Plaintiff alleged specific facts to show that the Oregon State Bar Professional Liability Fund Group filed a fee petition seeking \$60,000 on an anti-SLAPP fee petition, wherein the billing statements only supported a \$7,175 fee. **See Doc #20-9.** Plaintiff has shown that the anti-SLAPP fee petition awards should have been in the \$7,000 range and not the plus \$20,000 in damages awarded punitively. **See Docs #18-1, #18-10 and Doc #20-6 and #20-9.** Plaintiff will address the PLF in greater depth in his Response to the PLF Group.

Plaintiff has alleged sufficient facts to show Judge Alison Emerson awarded \$8,500 to Max Zweizig for Plaintiff failing to secure a notary's signature and instead provided a response by declaration, and issued an order ex parte at Albertazzi's request to engage in discovery on cases already dismissed and affirmed by the Oregon Court of Appeals. At the time Albertazzi solicited Emerson, the Covid Pandemic was in full force. **See Doc #52-6.** There were very few opportunities to secure a notaries signature in Oregon until that law was past by the Oregon Senate. **See #52-7, Doc #48-1, #18-11, #18-13.**

Plaintiff has alleged sufficient facts to show that the judicial defendants actions are designed to benefit litigant Max Zweizig and that the defendants are well aware that Zweizig is an active child predator. Plaintiff has alleged specific facts to show that Defendants are aware that Zweizig's deposition of December 21, 2020 (filed in cases 19cv01547 and 18cv45257) shows he admits to lying to the jury and losing an attorney over his child predation (which he did not deny). **See Doc #18-4.** Plaintiff has alleged specific facts to show that Zweizig moved to suppress his Deposition of December 21, 2020, claiming he would not get a fair trial if his child porn activity was known. **See Doc #20-1.** Plaintiff showed Zweizig published a recent

declaration testifying to not being a pedophile, but did not deny the specifically alleged criminal activity of downloading, possessing and disseminating child porn. Doc #48-1, pages 1-2, #48-2, #48-3, #48-4 and indictments of similar crimes, Duggar and Gonzalez in Doc #48-5. Plaintiff alleges that Zweizig and Albertazzi crafted that declaration of September 15, 2022 to not deny the crimes associated with child porn by claiming to not be a pedophile or child predator.

Plaintiff alleged sufficient facts to show that the Defendants were aware of the forensic reports on Zweizig's child predation and other criminal activity, said forensic report (s) filed in cases 19cv01547 and 18cv45257. See excerpt of such a report by Steve Williams, #20-12 Plaintiff alleged sufficient facts to show that Josh Duggar has been convicted of possessing and distributing child porn, the same findings and forensic opinion on the record in that case showing the same forensic detail as found on Zweizig's computer. See Doc #20-11.

Plaintiff has alleged sufficient facts to show that the anti-SLAPP fee petition is tool in the Oregon Judicial Departments arsenal and to show a pattern of abusive behavior implicating US 42 §1983 and §1985 and Constitutional violations of due process.

Plaintiff has alleged that the violations contained herein are endorsed by the Oregon Court of Appeals and Supreme Court of Oregon. See Doc #18-19, 48-15, 48-16, and Doc #52-2. Plaintiff has alleged and re-asserts that Nathan Steele and the PLF were aware of the historical constitutional violations by the judicial defendants and solicited further violations.

F. Monell Liability

The Monell doctrine was decided in *Monell v. Department of Social Services of the City of New York* (436 U.S. 658 (1978)), and gives victims of police misconduct a way to seek recovery in civil lawsuits.

“Under *Monell*, a plaintiff must also show that the policy at issue was the ‘actionable cause’ of the constitutional violation, which requires showing both but for and proximate

causation.” *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1146 (9th Cir. 2012) (citing Harper, 533 F.3d at 1026). Regardless of what theory the plaintiff employs to establish municipal liability—policy, custom, or failure to train— the plaintiff must establish an affirmative causal link between the municipal policy or practice and the alleged constitutional violation. See *City of Canton*, 489 U.S. 378, 385, 391-92 (1989); *Van Ort v. Estate of Stanewich*, 92 F.3d 831, 835 (9th Cir. 1996).

Plaintiff asserts that it is well settled that the PLF could be subjected to *Monell* liability. Plaintiff must adequately allege that the PLF implemented a policy, custom, or well settled practice that caused a violation of his constitutional rights, or a decision maker made or ratified the alleged violation. *Gordon*, 6 F.4th at 973-94. The facts outlined in this case support the Plaintiff’s allegations that there is a pattern of behavior or well settled practice by the PLF and its vendors of soliciting unlawful attorney fees and history of success in getting those fees awarded. Given the volume of contact by Nathan Steele (**Docs #20-6, #38-1 and #38-3**) and Yium (**Docs #20-9, #38-1 and #38-2**) with their PLF managers, as reflected in their billing detail, it is a reasonable allegation that the PLF instructed and endorsed these unconstitutional acts. Redacting the PLF managers name adds to that narrative. The fact that Ward Greene knew enough to engage in the same unlawful fee petition in 2019 (**Doc #18-1**) at a time when the PLF vendors also filed unlawful fee petitions is proof that this is a pattern of behavior beginning well before 2019.)

Plaintiff has alleged that Greene’s fee petition was excessive by \$12,000 (**Doc #38-1, page 3, and #38-4**), Yium’s (PLF) excessive by \$53,000 (**Doc #38-1, page 2, #38-2**) and Nathan Steele’s (PLF) excessive by \$11,000 (**Doc #38-1, page 2, #38-3**). The Courts were on full notice of these excesses and appear to have enjoyed granting them. The PLF Group is not immune.

In furtherance of this argument and multiple *Monell* violations, Plaintiff put Deschutes County on notice of their unlawful sale in February 2022 and the sale was completed with Albertazzi/Zweizig seeking to engage in tax and collection fraud. But for Northwest Direct Homes (Inc.) being misnamed on the Notice to the Public of the sale as Northwest Homes, the sale would have likely been considered final. As a matter of policy Deschutes allowed Albertazzi and Zweizig to engage in a process intended to perpetrate tax and collection fraud. Even at the time of that sale, the Deschutes Sheriff Department had been put on notice that the stock of Northwest Direct Homes Inc was not owned by Rote. The sale was voided by the Deschutes Circuit, but by no act of resistance by Deschutes County Sheriff Office. **See Doc #48-11.**

Plaintiff alleges that the composite allegations against the defendants cannot simply be explained by advocacy by the defendant attorneys or sympathetic support by the judicial defendants. The record shows solicitations of unconstitutional abuses by the defendants and symbiotic relationship between all the defendants to violate Plaintiff's constitutional rights. There is absolute consciousness of the violations and the state of mind in pursuing those, with the exception of the Deschutes Sheriff's office. Deschutes appears to be in a more understandable rock and hard place position on whether to fight a court order or allow a child predator to engage in tax and collection fraud.

G. Addressing Specific Arguments of the Defendants

1. *The "Setting in Motion" Theory of Participation*

Plaintiff believes he has adequately pled that the judicial defendants were personally involved in the deprivation of plaintiff's constitutional rights and that the defendants' actions were with those of the other defendants the proximate cause of the violation of plaintiff's federal rights.

Plaintiff also ascribes to all defendants a setting in motion theory of causation, which is described as follows:

“A person subjects another to the deprivation of a constitutional right, within the meaning of §1983, if that person does an affirmative act, participates in another’s affirmative acts, or omits to perform an act which is legally required to do that causes the deprivation of which complaint is made. Indeed, the requisite causal connection can be established not only by some kind of direct personal participation in the deprivation, but also by setting in motion a series of acts by others which the actor knows or reasonably should know would cause others to inflict the constitutional injury.”

See *Hydrick v Hunter*, 449 F 3d. 978 (9th Circuit 2006). See *Starr v Bacca*, 652 F 3d. (9th Circuit 2011), supported by cases in the 1st, 4th, 5th, 8th and 11th Circuits. See *Belanger v Ciavarella*, 3:09-cv-00286, page 20 (July 2012).

2. Plaintiff Is Not Attempting To Appeal the Anti-SLAPP Awards

In many respects there must be some maturity of a state case, state actions, violations under the color of state law and the solicitation of those violations to establish causation and to firmly document the setting in motion theory of causation.

The Fourteenth Amendment prohibits a state from depriving any person of life, liberty or process without due process. U.S. Const. Amend XIV, §1. The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. *Marshall v Jericho*, 446 U.S. 238, 242, 100 S. Ct. 1610 (1980).

In spite of repeated warnings to the defendants in this case, they repeatedly seek to have Plaintiff imprisoned, have his family destroyed, have his exempt income taken, and have his

businesses destroyed simply because he is peacefully engaging in and opposing litigation brought by Abertazzi and Zweizig. See **Doc #48-1, pages 1 and 3-12. Nathan Steele/Albertazzi** also for example sought an unlawful fee petition on successful dismissal of a racketeering claim brought against him even when Albertazzi had not yet been served with the Complaint. See **Doc #20 ¶4, Doc #20-3**. The allegations against Albertazzi are numerous and would not have been discovered in the absence of the state sponsored abuses against Plaintiff.

Plaintiff is not attempting to use this action to appeal Nathan Steele/Albertazzi's or Greene's unlawful fee petitions. To the contrary, there is pending in that Clackamas case 18cv45257 a Motion to Set Aside the Judgment on multiple grounds, some of which are addressed in this case. See **Doc #48-14**. As such the neither the Rooker-Feldman doctrine nor an affirmative defense of issue preclusion have merit in this case against defendants because the civil rights violations did not fully mature until after Plaintiff was denied the opportunity to add defendants and/or case 3:19-cv-01988 was dismissed.

Plaintiff identifies a voluminous pattern of unconstitutional actions by defendants, whether that is seeking to have Rote imprisoned, taking from Rote his exempt social security income to limit his ability to pay for filing fees or counsel or petitions and awards of attorney fees that shows a pattern of violating substantive due process and to target Plaintiff. See Plaintiff **Docs #38-1-4, Doc #20-6, #20-9, #18-1 and Docs #48-1-18**.

Plaintiff asserts that the abuses of the anti-SLAPP fee petitions were solicited by the judicial defendants and/or the institutional support for child porn is so well known that no additional schooling of prejudicial behavior need be encouraged. Moreover the pattern of abuse of favor by Judges Lininger, Wise, Kathie Steele, Kamins, Mooney and Emerson, have been objectively proven and all of those decisions were made without Oregon law support and/or by

ignoring evidence prejudicial the abusers findings—such as Ann Lininger finding that the Rote’s counterclaims for slander of title and interference with contract were filed to harass Zweizig. See **Doc #18-2, page 2, line 15-20**. That so emboldened Zweizig and Albertazzi that they repeated the language used by Ward Greene when presenting that draft order to Lininger, repeating it in Zweizig’s Motion to have Rote imprisoned (**Doc #48-1, pages 1-2**).

The objective evidence of Nathan Steele and Albertazzi’s attempts to abuse the anti-SLAPP fee petition opportunity is his fee petition, which very clearly shows block-billing of the recoverable anti-SLAPP time and the non-recoverable Motion to Dismiss time. Plaintiff believes the Court will accept that this is a transparent attempt to abuse mandatory award provisions of ORS 31.152 (3) and ORS 20.075 (2)(a). ORS 20.075 (1) factors are irrelevant in a mandatory fee petition.

By Nathan Steele’s own declaration in support of his fee petition, Albertazzi sought \$7,245 for the conflated time to prepare, file, research and defend the combined anti-SLAPP and Motion to Dismiss, where after reviewing those filings one could reasonably conclude that (based on the Motions content of only) only 1/3 of the total brief preparation time is associated with the anti-SLAPP. One could reasonably argue then that the fee petition was specifically designed to circumvent the limitations of Oregon’s anti-SLAPP fee award statutes of ORS 3.152 (3) and ORS 20.075 (2). There is nothing in the ORS 20.075 (2) statutes that would allow Steele to conflate these two separate Motions and seek fees for the Motion to Dismiss portion. See **Doc #38-1**, categories 6, 8, 9 and 10, and supporting **Doc #38-3**.

But there’s more. Albertazzi also sought \$5,445 in time for chit chatting with his client, the PLF and defendant Yium over the short pendency of the anti-SLAPP proceedings, some 40 separate entries. And he used this hyperbolic billing opportunity to download from pacer every

case in which Plaintiff has been involved in over the last 20 years, charged \$5,512.50 for that effort as well as some \$400 in pacer fees. Steele was slamming the file and his actions were condoned by the PLF manager who approved his invoices and condoned and supported by pro tem Judge Wise with the full knowledge of its abuse.

Plaintiff asserts that this is a pattern of behavior adopted and first perpetrated by Ward Greene in his fee petition of May 27, 2020, wherein he sought and secured attorney fees on an anti-SLAPP Motion. Greene represented Zweizig at the time. As with Steele the detailed billing entries are put into a spreadsheet by Plaintiff, categorizing each billing entry. **See #38- 4.** That information is then summaries for time and fees by those sale categories. **See Doc #38-1, page 3.** This analysis clearly and objectively proves that Greene sought \$8,685 for collections actions unrelated and not reasonably connected to the anti-SLAPP proceedings. Greene was representing Zweizig at that time and was involved in, filed and prosecuted the fraudulent transfer action on behalf of Zweizig in Clackamas case 19cv01547. Greene used this time to attempt to recover fees from his collection activity (\$8,685), Motion for Summary Judgment (\$1,775) and other unrelated activities (\$1,900). The Rote's objected to this fee petition and outlined their objections in great detail, just as Plaintiff had done with respect to Steele's. Unlike Steele/Albertazzi, Greene did not attest to the fees even being associated with the anti-SLAPP and they were still approved by Judge Lininger.

Plaintiff would also bring to the Court's attention that defendant Yium also filed a fee petition in case 18cv45257 in an attempt to recover an unlawful amount of fees, which showed that his time and fees associated with the anti-SLAPP portion of the proceeding in Nena Cook's anti-SLAPP is \$7,175. **See 38-1, page 2.** Yium was hired by the PLF to represent the PLF group, which included the PLF, Carol Bernick, Nena Cook and Pam Stendahl. Had Yium just sought the

fees for the anti-SLAPP he would not be a named defendant in this case; however, he did not. Instead he is seeking \$60,000 in attorney fees. The portion of his fees associated with the Motion to Dismiss the PLF, Bernick and Stendahl was approximately \$12,000, in close alignment with Alberetazzi's excessive fee petition. Yium also seeks \$31,000 in fees for a previous Motion to Dismiss and Appeal to the 9th Circuit, wherein Plaintiff Rote prevailed. And he is seeking fees of \$10,000 not even supported by the billing detail (#38-2).

Like Steele/Albertazzi, Greene and Yium the fee petitions by all three defendants are designed intentionally to give the judicial defendants the opportunity to abuse substantive due process, to attack and retaliate against Plaintiff for Plaintiff exposing these actors' support of child pornography and other criminal conduct. These acts have been described in great detail and this case is not an appeal or pseudo appeal of defendants' violations. In all cases, Plaintiff brought the fraudulent fee petitions to the attention of the Court by filing a detailed response and objection.

Defendant Steele and Albertazzi's argument or jurisdiction and/or affirmative defenses are in error and his Motion to Dismiss should be denied.

3. *Status as an Individual Under 42 USC §1983*

Defendants misconstrue the law of 42 USC §1983 and §1985 as to the capacity of Judge or Michael Wise in acting through his private practice. Presuming that some of the judicial acts are not immune, the defendant judges would have engaged in the violations herein outlines as an individual.

A person deprives another of a constitutional right, "within the meaning of § 1983, 'if he does an affirmative act, participates in another's affirmative act, or omits to perform an act which he is legally required to do that causes the deprivation of which complaint is made.'" See

Preschooler II v. Clark Cty. Sch. Bd. of Trs., 479 F.3d 1175, 1183 (9th Cir. 2007) (quoting *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)); see also *Lacey v. Maricopa Cty.*, 693 F.3d 896, 915 (9th Cir. 2012) (en banc); *Stevenson v. Koskey*, 877 F.2d 1435, 1438–39 (9th Cir. 1989).

Plaintiff adequately alleged individuals working concert with the state and others, through the acts of the defendants was the proximate cause of Plaintiff's damages.

Where a private party conspires with state officials to deprive others of constitutional rights, however, the private party is acting under color of state law. See *Tower v. Glover*, 467 U.S. 914, 920 (1984); *Dennis v. Sparks*, 449 U.S. 24, 27–28 (1980); *Crowe v. Cty. of San Diego*, 608 F.3d 406, 440 (9th Cir. 2010); *Franklin v. Fox*, 312 F.3d 423, 441 (9th Cir. 2002); *DeGrassi v. City of Glendora*, 207 F.3d 636, 647 (9th Cir. 2000); *George v. Pacific-CSC Work Furlough*, 91 F.3d 1227, 1231 (9th Cir. 1996) (per curiam); *Kimes v. Stone*, 84 F.3d 1121, 1126 (9th Cir. 1996); *Howerton v. Gabica*, 708 F.2d 380, 383 (9th Cir. 1983).

The defendants, individually and collectively, set in motion and took action in concert with state officials specifically designed to deny Plaintiff a right to a fair and impartial tribunal that one would predict if embraced to be one or more violations of due process.

4. Under the Color of State Law 42 USC §1983

It is un-refuted that the Oregon State Bar Professional Liability Fund (PLF) is organized under the umbrella of the Oregon Judicial Department in order to skirt jurisdiction of the Oregon Insurance Commission. It is un-refuted that the PLF enjoys tax exempt status tantamount to a quasi-agency or a municipality of this state.

It is un-refuted that Nathan Steele was hired by the PLF to represent Albertazzi in case 18cv45257. It is un-refuted that the PLF provided a budget of \$20,000 for the anti-SLAPP

action, asked Steele to attempt to recover all of his attorney time through deceptive block-billing techniques, to solicit or exploit bias of Judge Wise and to redact the names of the PLF manager who instructed him. It is undisputed that Albertazzi colluded with Nathan Steele to accomplish listed violations of due process.

It is un-refuted that Matthew Yium was hired by the PLF defendants in case 18cv45257 to represent the PLF, Bernick, Stendahl and Cook. It is un-refuted that the anti-SLAPP was only filed on the racketeering claims against Cook, who represented Zweizig without request by Zweizig. The PLF defendants were fully aware that Zweizig downloads, possesses and distributes child pornography.

It is un-refuted that the nature of Nathan Steele declaration in support of his fee petition and is attached billing statements were designed to solicit abuses of the fee petition opportunity under ORS 31.152 (3) and ORS 20.075 (2) and that those solicitations were directed to Judge Wise, who is also a practicing attorney, specifically seeking an act of abuse simply because Albertazzi is at this time an attorney with a license to practice in Oregon. In the absence of Albertazzi's fee petition, Wise could not have acted unilaterally to use the fee petition to violate Plaintiff's rights of substantive due process. And it is un-refuted that Wise granted the Motion to Dismiss the PLF, Bernick, Stendahl and Cook after committing his own perjury by invoking some recent malpractice event of his own, fees that were covered by the PLF. **Doc #20-1.**

This understanding the PLF has with the judicial community must be exposed and stopped. Even now, Plaintiff's malpractice claim in case 18cv45257 is going nowhere. Judge Norby refuses to set a scheduling order of any kind and Plaintiff's \$10 Million economic and noneconomic damage claims in that case are artificially being held in abeyance.

“To prove a conspiracy between the state and private parties under [§] 1983, the plaintiff must show an agreement or meeting of the minds to violate constitutional rights. To be liable, each participant in the conspiracy need not know the exact details of the plan, but each must at least share the common objective of the conspiracy.” See *United Steelworkers of Am. v. Phelps Dodge Corp.*, 865 F.2d 1539, 1540–41 (9th Cir. 1989) (en banc) (citations and internal quotation 18 marks omitted).

Plaintiff has shown that there is a common objective, which is to use the fee petition in an unlawful way to target and punish Plaintiff. Plaintiff has shown that this abuse is not an isolated incident. Without being rebuffed in these earlier unconstitutional petitions, Plaintiff is also brazenly being denied a right to proceed with his case in 18cv45257 and being threatened by everyone of the defendants while criminal Zweizig is applauded and financially supported.

In case 19cv01547 Ann Lininger used the fee petition by Ward Greene to attack the Rote’s right to oppose Zweizig’s fraudulent transfer claims. The order issued by Lininger is prima facie evidence of the animus Lininger had for the Rote’s (**Doc #18-2**), making claims therein that are tantamount to punishing the Rote’s for merely opposing child predator Zweizig’s claims and his fee petition. It is un-refuted that Greene was awarded \$20,970 on fee petition evidence (**Doc #18-1**) that only supported a fee award of approximately \$6,600 (**#38-1, page 3 and #38-4**). It is un-refuted that the Rote’s informed Lininger by Motion and hearing testimony before making the unlawful award. It is un-refuted that Greene did not refute the Rote’s contemporary filings similar to **Doc #38-1 and #38-4**. It is un-refuted that on Appeal the Rote’s brought excessive and unlawful billing to the attention of the Oregon Court of Appeals (**Doc #18-10**) showing the detailed 37 entries unrelated to the anti-SLAPP. It is un-refuted that the analysis reflected in **#38-1 and #38-4** was not refuted by Helen Tomkins in opposing the Rote’s

appeal. And it is un-refuted that the Oregon Court of Appeal via Kamins and Mooney indicted the Rote's for opposing the anti-SLAPP award and filing the appeal, tainting the appeal as being objectively unreasonable (**Doc #18-19**).

It is un-refuted that Judge Wise without provocation raised Lininger and Kathie Steele in the September hearing in case 18cv45257 (**Doc #20-1**), the hearing in which Wise acted while disqualified and acted with animus to dismiss the racketeering claims against Albertazzi and Cook.

Plaintiff argues that it is objectively unreasonable for the defendants to deny the evidence offered in this case heretofore. This evidence shows absolute and unequivocal attempts to solicit of the Court excessive and unlawful fee awards, solicitations of bias of the Court and acts of bias by the Courts implicating 42 USC §1983 violations.

The defendants collectively acted under the color of state law, using the ORS 31.152 (3) and ORS 20.075 (2) statutes to grant a facially defective fee award as a tool for retaliation and did so again in opposing disqualification and skirting the requirements under ORS 14.250 There was a necessary symbiotic relationship between the judges and the attorney defendants to carry out the abuses.

In all cases, Albertazzi, Nathan Steele, Yium and Greene sought fee awards far greater than their billing detail supported and in every case where that issue was tried they succeeded in securing unlawful fee awards. Therefore, 42 US §1983 provides a cause of action against persons acting under color of state law who have violated rights guaranteed by the Constitution. *See Buckley v. City of Redding*, 66 F.3d 188, 190 (9th Cir. 1995); *Demery v. Kupperman*, 735 F.2d 1139, 1146 (9th Cir. 1984).

Where a violation of state law is also a violation of a constitutional right, however, § 1983 does provide a cause of action. See *Lovell*, 90 F.3d at 370; *Draper v. Coombs*, 792 F.2d 915, 921 (9th Cir. 1986); see also *Weilburg v. Shapiro*, 488 F.3d 1202, 1207 (9th Cir. 2007).

Plaintiff alleges that the violation of state law ORS 31.152 (3), ORS 20.075 (2), ORS 14.250 and the right to an independent tribunal also violates Plaintiff's constitutional rights and these violations do not mature or are not ripe in this cause of action until the judicial actors take action implicating constitutional violations.

5. *Attorney Immunity under 42 USC §1983*

“Prosecutors enjoy immunity when they take ‘action that only a legal representative of the government could take.’” *Burton v. Infinity Capital Mgmt.*, 862 F.3d 740, 748 (9th Cir. 2017) (quoting *Stapley v. Pestalozzi*, 733 F.3d 804, 812 (9th Cir. 2013)). Note the Supreme Court has not extended immunity beyond the prosecutorial function. *Burton*, 862 F.3d at 748. For example, “[e]ven court-appointed defense attorneys do not enjoy immunity because, despite being ‘officers’ of the court, ‘attorneys [are not] in the same category as marshals, bailiffs, court clerks or judges.’” *Burton*, 762 F.3d at 748 (quoting *Ferri v. Ackerman*, 444 U.S. 193, 202 n.19 (1979)).

Defense counsel, even if court-appointed and compensated, are not entitled to absolute immunity. See *Tower v. Glover*, 467 U.S. 914, 923 (1984); *Sellers v. Proconier*, 641 F.2d 1295, 1299 n.7 (9th Cir. 1981). See also *Burton v. Infinity Capital Mgmt.*, 862 F.3d 740, 748 (9th Cir. 2017) (explaining that “[e]ven court-appointed defense attorneys do not enjoy immunity because, despite being ‘officers’ of the court, ‘attorneys [are not] in the same category as marshals, bailiffs, court clerks or judges.’” (*Ferri v. Ackerman*, 444 U.S. 193, 202 n.19 (1979)).

The Ninth Circuit has concluded that private individuals are not entitled to qualified immunity in either § 1983 or Bivens actions. See *Clement v. City of Glendale*, 518 F.3d 1090, 1096 (9th Cir. 2008); *Franklin v. Fox*, 312 F.3d 423, 444 (9th Cir. 2002); *Conner v. City of Santa Ana*, 897 F.2d 1487, 1492 n.9 (9th Cir. 1990); *F.E. Trotter, Inc. v. Watkins*, 869 F.2d 1312, 1318 (9th Cir. 1989).

6. Burden of Proof under 42 USC §1983

The plaintiff bears the burden of proving that the right allegedly violated was clearly established at the time of the violation. If the plaintiff meets this burden, then the defendant bears the burden of establishing that the defendant reasonably believed the alleged conduct was lawful. See *Sorrels v. McKee*, 290 F.3d 965, 969 (9th Cir. 2002); *Trevino v. Gates*, 99 F.3d 911, 916–17 (9th Cir. 1996); *Browning v. Vernon*, 44 F.3d 818, 822 (9th Cir. 1995); *Neely v. Feinstein*, 50 F.3d 1502, 1509 (9th Cir. 1995), overruled in part on other grounds by *L.W. v. Grubbs*, 92 F.3d 894 (9th Cir. 1996).

It is not altogether clear that Albertazzi's Motion to have Rote imprisoned (**Doc #48-1**) is a lawful request, for the reasons outlined in Rote's Cross Motion for Contempt. **See Doc #48-10**. Measured however against Albertazzi's success at soliciting bias and contempt findings from the Deschutes Court, it is clear that Albertazzi and Zweizig feel they have a cart blanche relationship with that Court regardless of the facts or how outlandish the act. Plaintiff alleges that Albertazzi withheld from the Deschutes Court key information such as Rote's offer four times to transfer the Stock of NWDH to Zweizig and that those offers were summarily rejected by Zweizig, **pages 2-5**. Or by Albertazzi pursuing discovery via the ex parte order issued by Emerson on November 4, 2021 (19cv00824) that very clearly sought discovery for a case (19cv01547) that had already been dismissed on March 21, 2021 (**#48-1, pages 3-10**) in **Clackamas**, and quashed subpoena

(Doc #52-8) post discovery also in Clackamas. But Albertazzi did all of this and more and it demonstrates a proclivity of support for child predator Zweizig and a history to success in securing from the defendant judges violations of the Plaintiff's federal rights.

Plaintiff alleges he has satisfied the burden of proof showing the numerous violations that could only have been accomplished by the intent of the defendants to directly engage in or to collude to violate state laws in retaliation against Plaintiff, which are in turn violations of Plaintiff's First and Fourteenth Amendment Rights.

H. Damages and Relief under 42 USC §1983

“A plaintiff who establishes liability for deprivations of constitutional rights actionable under 42 U.S.C. § 1983 is entitled to recover compensatory damages for all injuries suffered as a consequence of those deprivations.” *Borunda v. Richmond*, 885 F.2d 1384, 1389 (9th Cir. 1988); see also *Smith v. Wade*, 461 U.S. 30, 52 (1983) (“Compensatory damages ... are mandatory.”). The Supreme Court has held that “no compensatory damages [may] be awarded for violation of [a constitutional] right absent proof of actual injury.” *Memphis Cmty. Sch. Dist. v. Stachura*, 477 U.S. 299, 308 (1986).

Compensatory damages include actual losses, mental anguish and humiliation, impairment of reputation, and out-of-pocket losses. See *Borunda*, 885 F.2d at 1389; *Knudson v. City of Ellensburg*, 832 F.2d 1142, 1149 (9th Cir. 1987); *Chalmers v. City of Los Angeles*, 762 F.2d 753, 760–61 (9th Cir. 1985).

Section 1983 is an exception to the Anti-Injunction Act, 28 U.S.C. § 2283, which establishes that federal courts may not enjoin state-court proceedings unless expressly authorized to do so by Congress. See *Mitchum v. Foster*, 407 U.S. 225, 242–43 (1972); *Goldie's Bookstore, Inc. v. Superior Court*, 739 F.2d 466, 468 (9th Cir. 1984). This does “not displace the normal principles of equity, comity and federalism that should inform the judgment of federal courts

when asked to oversee state law enforcement authorities.” *City of Los Angeles v. Lyons*, 461 U.S. 95, 112 (1983); *Mitchum*, 407 U.S. at 243. In fact, injunctive relief should be used “sparingly, and only ... in clear and plain case[s].” *Rizzo v. Goode*, 423 U.S. 362, 378 (1976) (citation and internal quotation marks omitted).

I. Application of 42 USC §1985 (3)

To state a cause of action under § 1985(3), a complaint must allege (1) a conspiracy, (2) to deprive any person or a class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, (3) an act by one of the conspirators in furtherance of the conspiracy, and (4) a personal injury, property damage or a deprivation of any right or privilege of a citizen of the United States.

Plaintiff alleges that he is a class of one, that there is historical precedent for this action and that the defendants in this case conspired to violate Plaintiff’s rights. Plaintiff alleges conspiracy under both §1983 and §1985.

The Courts have also recognized "class of one" claims. If an individual can show that he or she has been "singled out" for irrational or differential treatment by a Federal, state or local government entity or official, Section 1983 can be used in filing a "class of one claim." This occurred in "*Olech v. Village of Willowbrook*", 528 US 562 (2000). The Olechs sued the Village of Willowbrook in Federal Court (Section 1983) for delaying their access to the village water line in 1995. The Olechs maintained that the Village denied them access due to an earlier lawsuit they had filed against the village over an easement, which they successfully won. They believed that the officials for the Village of Willowbrook intentionally withheld the water line, causing them to have to use an over ground rubber hose to connect to a neighbor's well for water. They also believed that the Village officials intentionally waited until winter to attempt to solve their water problems, knowing that the rubber hose would freeze and leave them without water for the

entire winter. The Olechs were in their seventies and showed that these actions caused them suffering and "singled them out" as no other citizens of the Village had been treated in such a manner. See Richter, Nicole, "A Standard for "Class of One" Claims Under the Equal Protection Clause of the Fourteenth Amendment: Protecting Victims of Non-Class based Discrimination From Vindictive State Action", Valparaiso University Law Review, Volume35, Number 1, Fall 2000, pg.197-200.

“The language requiring intent to deprive of equal protection ... means that there must be some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirators’ action.” *Griffin*, 403 U.S. at 102; see also *RK Ventures, Inc. v. City of Seattle*, 307 F.3d 1045, 1056 (9th Cir. 2002); *Butler v. Elle*, 281 F.3d 1014, 1028 (9th Cir. 2002) (per curiam); *Sever*, 978 F.2d at 1536. Plaintiff alleges that the animus against Plaintiff is reflected in the defendants’ collective violations and conspiracy to engage in those violations. Plaintiff is a class of one.

Pro se complaints are construed liberally, and may only be dismissed if it appears beyond doubt the plaintiff can prove no set of facts in support of his claim would entitle him to relief. *Nordstrom*, 762 F.3d at 908; see also *Byrd*, 885 F.3d at 642 (explaining the court has “an obligation where the petitioner is *pro se*, particularly in civil rights cases, to construe the pleadings liberally and to afford the petitioner the benefit of any doubt.”).

J. Child Pornography Violations and Punishment

Why are the named defendants in this case supporting Zweizig’s child porn distribution business? After some investigation, Plaintiff alleges collusion among the defendants to groom and exploit children. There is substantial evidence that executives at the Oregon Health Authority and Oregon Children’s Theater are aware of the grooming and molestation of children at the hands of one or more of the defendants named herein and that evidence had been turned

over to the FBI. Support of Zweizig's use of the Oregon Court's to monetize and collect and award he secured by perjury, denying that he downloaded and disseminated child porn, now testimony that has been reversed, does nothing less than solidify those concerns of a vast network of child predators at the highest ranks of the state judiciary.

1. Federal Definitions

Child pornography under federal law is defined as any visual depiction of sexually explicit conduct involving a minor (someone under 18 years of age). Visual depictions include photographs, videos, digital or computer generated images indistinguishable from an actual minor, and images created, adapted, or modified, but appear to depict an identifiable, actual minor. Undeveloped film, undeveloped videotape, and electronically stored data that can be converted into a visual image of child pornography are also deemed illegal visual depictions under federal law.

Federal law prohibits the production, distribution, reception, and possession of an image of child pornography using or affecting any means or facility of interstate or foreign commerce (18 U.S.C. § 2251; 18 U.S.C. § 2252; 18 U.S.C. § 2252A). Specifically, Section 2251 makes it illegal to persuade, induce, entice, or coerce a minor to engage in sexually explicit conduct for purposes of producing visual depictions of that conduct. Any individual who attempts or conspires to commit a child pornography offense is also subject to prosecution under federal law.

Federal jurisdiction is implicated if the child pornography offense occurred in interstate or foreign commerce. This includes, for example, using the U.S. Mails or common carriers to transport child pornography across state or international borders. Federal jurisdiction almost always applies when the Internet is used to commit a child pornography violation. Even if the child pornography image itself did not travel across state or international borders, federal law may be implicated if the materials, such as the computer used to download the image or the CD-

ROM used to store the image, originated or previously traveled in interstate or foreign commerce.

In May 2008, the Supreme Court upheld the 2003 federal law Section 2252A(a)(3)(B) of Title 18, United States Code that criminalizes the pandering and solicitation of child pornography, in a 7–2 ruling penned by [Justice Antonin Scalia](#). The court ruling dismissed the United States Court of Appeals for the 11th Circuit's finding the law unconstitutionally vague. Attorney James R. Marsh, founder of the *Children's Law Center* in Washington, D.C., wrote that although the Supreme Court's decision has been criticized by some, he believes it correctly enables legal personnel to fight crime networks where child pornography is made and sold.

2. Oregon Definitions

A person commits the crime of using a child in a display of sexually explicit conduct “if the person employs, authorizes, permits, compels or induces a child to participate or engage in sexually explicit conduct for any person to observe or to record in a visual recording.” ORS 163.670(1). A child is any person less than 18 years of age or, when a visual recording is at issue, less than 18 years of age at the time of the original recording. ORS 163.665(1). The Oregon Court of Appeals has resisted the credible application of this statute to fight criminal distribution of child pornography. See *State v. Cazee*, s 308 Or App 748 (2021).

ORS 163.684 provides that (1) A person commits the crime of encouraging child sexual abuse in the first degree if the person:

(a)(A) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, displays, finances, attempts to finance or sells a visual recording of sexually explicit conduct involving a child or knowingly possesses, accesses or views such a visual recording with the intent to develop, duplicate, publish, print, disseminate, exchange, display or sell it; or

(B) Knowingly brings into this state, or causes to be brought or sent into this state, for sale or distribution, a visual recording of sexually explicit conduct involving a child; and

(b) Knows or is aware of and consciously disregards the fact that creation of the visual recording of sexually explicit conduct involved child abuse.

A violation of ORS 163.684 is only a class b felony, without much strength in contrast to the federal statutes, although case law supports a broad interpretation. See for example "Duplicates" includes downloaded videos from peer-to-peer network. *State v. Urbina*, 249 Or App 267, 278 P3d 33 (2012), Sup Ct review denied.

3. Efforts by the Oregon Judiciary to Monetize Zweizig's Criminal Conduct

The body of evidence cited in this brief invokes a finding that Albertazzi is attempting to monetize the perjury and other criminal act of Zweizig that first arose in case 3:15-cv-2401 and proceeded in cases 18cv45257, 19cv01547 and 19cv00824. Albertazzi has sought and received the benefit of judicial intervention that violated Oregon law and targeted Plaintiff to violate Plaintiff's First and Fourteenth Amendment Rights. All of this also benefits Zweizig.

Zweizig's **collective admissions** of **#48-1, Doc #18-4** and his **Motions to suppress** his testimony (**#48-3, Doc #38-9, #20-10**), necessarily lead to a conclusion that Zweizig is a producer and distributor of child pornography and secured a \$1 Million judgment by first moving the Court to suppress the evidence against him (**#48-4**) and then deny before a jury that he downloaded, possessed and distributed porn of any kind (**#48-2**). He does not now deny he did and does download, possess and distribute child porn (**#48-1**). He may have strained the definition of being a child predator as being limited to being a pedophile.

Martha Walters (John Doe 1) was appointed to the Supreme Court of Oregon by Ted Kulongoski. As Chief Judge, Walters assigned the Zweizig cases to Nakamoto, Kamins and Mooney. Walters pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Lynn Nakamoto (John Doe 2) worked at the Markowitz firm through 2011 and until her appointment to the Oregon Court of Appeals by Ted Kulongoski. Governor Kate Brown appointed Nakamoto to the Supreme Court. Nakamoto retired soon after writing the Supreme Court Opinion supporting Zweizig. Nakamoto pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Jacqueline Kamins worked at the Markowitz firm until her appointment to the Oregon Court of Appeals on January 17, 2020 by Kate Brown. Kamins pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Kathie Steele was appointed presiding Judge of Clackamas Circuit by Martha Walters and remained Presiding Judge through 2021. Steele assigned Ann Lininger to the Zweizig cases until Lininger recused herself. Steele pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Josephine Mooney was appointed to the Oregon Court of Appeals by Kate Brown on May 17, 2019. Mooney pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Ann Lininger was appointed to the Clackamas County Circuit in July 2017 by Kate Brown. Lininger pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Alison Emerson was appointed to the Deschutes County Circuit in February 2020 by Kate Brown. Emerson pledged support for the decriminalization of possessing and distributing child pornography and is a child predator. Emerson's husband is a corporal in the Bend Police Department.

Bethany Flint (John Doe 3) was appointed to the Deschutes County Circuit in February 2016 and has been assigned the Zweizig Motion practice multiple times by presiding Judge Wells Ashby.

Wells Ashby (John Doe 4) was appointed presiding of Deschutes County Circuit Judge by Martha Walters in 2019 and remains presiding Judge today.

IV. CONCLUSION

Plaintiff asks for a declaratory judgment restraining the Oregon Judicial Department, the PLF Group and the named judicial defendants in this case from aiding and abetting in the distribution of child pornography and monetizing of Zweizig's child porn business which includes the judgment secured in case 3:15-cv-2401 and registered in Deschutes in case 19cv00824. Plaintiff cannot imagine that this Court endorse the exploitation of this or any Court to aid and abet criminal activity...which at this point and by Zweizig declaration of September 15, 2022 is a certainly pursued by the defendants.

Plaintiff seeks a declaratory judgment seeking a stop to all collection actions in case 19cv00824.

Plaintiff seeks a declaratory judgment restraining the Oregon Judicial Department and PLF Group from using the anti-SLAPP fee petitions under ORS 31.152 unlawfully, identified herein as constitutional violations, to deny Plaintiff substantive due process.

Plaintiff seeks a declaratory judgment restraining the Oregon Judicial Department from refusing to follow mandatory disqualification procedures under ORS 14.250, identified herein as constitutional violations, to deny Plaintiff procedural and substantive due process.

Plaintiff seeks economic and noneconomic damages in an amount not less than \$2,000,000 per violation of the PLF Group, against defendants Matthew Yium, Livermore, Cook and Bernick and \$10,000,000 in damages against defendant PLF.

For the reasons outlined above, the Court should deny the PLF Group's Motions to Dismiss until post discovery, when summary judgment on just the judicial acts will be more clearly formed. At the moment there is a conflation of immune and non-immune activities.

Dated: October 4, 2022

s/ Timothy C. Rote

Timothy C. Rote

Pro Se Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2022, I filed the foregoing with the Clerk of the Court. Defendants making an appearance, as reflected below, have been served electronically through the Court's ecf system. I also provided a copy by email.

James M. Callahan, OSB #780232
j.callahan@callahanandshears.com
Callahan & Shears, PC
PO Box 22677
Portland, OR 97269-2677
Telephone: 503-513-5130
Of Counsel for Defendant Ward Greene

John E. Laherty OSB #036084
Senior Assistant Legal Counsel
1300 NW Wall St., Ste. 205
Bend, OR 97703
541-330-4645
John.laherty@deschutes.org
Of Counsel for Deschutes County

Kim E. Hoyt
Garrett Hemann Robertson P.C.
PO Box 749
Salem, OR 97308-0749
503-581-1501
Email: khoyt@ghrlawyers.com
Of Counsel for Jeffrey Edelson

Matthew J. Yium, OSB No. 054377
121 SW Morrison St 11th Floor
Portland, OR 97204
Telephone: (503) 228-3939
Email: matthew.yium@foster.com
Of Counsel for Defendants Bernick;
Professional Liability Fund; Cook;
Livermore and Yium

Nathan G. Steele, OSB#004386
Email: ngs@steelefirm.com
The Steele Law Firm
125 NW Greeley Ave
Bend, Oregon 97703
Telephone: (541) 647-1812
Of Attorney for Anthony Albertazzi

Nathaniel Aggrey
Oregon Department of Justice
Civil Litigation Unit
1162 Court Street NE
Salem, OR 97301
503-947-4700
Email: nathaniel.aggrey@doj.state.or.us
Of Counsel for Oregon Judicial Department,
Hon. Ann Lininger, Hon. Alison Emerson,
Hon. Josephine Mooney, Hon. Jacqueline
Kamins, Hon. Kathie Steele, Michael Wise

BRETT MERSEREAU, OSB No. 023922
brett@brettmersereau.com
The Law Office of Brett Mersereau
2100 NE Broadway, #119
Portland, OR 97232
Telephone: 503-673-3022
Facsimile: 503-218-1760
Of Attorneys for Defendant Nathan Steele

Federal Bureau of Investigations
Child Pornography Victims Assistance
1 Edgar Hoover Building, Room 3329
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dated: October 4, 2022

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