IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,	Supreme Court Case No. SC20-1602
Complainant,	
v.	Florida Bar File
BRUCE JACOBS,	No. 2019-70, 188 (11 H)
	No. 2019-70,358 (11H)
Respondent.	No. 2020-70,056 (11 H)
_____/	

PETITIONER/RESPONDENT'S INITIAL BRIEF

Respectfully submitted,
/davidjwinker/

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CASES CITED

SYMBOLS AND REFERENCES

The following abbreviations and symbols are used in this brief:

R Exh. = Respondent's exhibits from final hearing.

TFB Exh. = The Florida Bar's exhibit from final hearing.

ROR = Amended Report of Referee, dated November 16, 2021.

T1 = Transcript of Guilt Phase of bar trial hearing before Referee on April 22, 2021

T2 = Transcript of Guilt Phase of bar trial hearing before Referee on April 23, 2021

SH1 = Transcript of hearing sanctions phase of bar trial before Referee on May 6, 2021

SH2 = Transcript of hearing sanctions phase of bar trial before Referee on May 6, 2021

STATEMENT OF THE CASE AND FACTS

Bruce Jacobs, Esq. ("Jacobs") is a 25 year member of the Florida Bar with no prior disciplinary proceedings. (ROR 33). Jacobs challenges these bar proceedings violate his First Amendment rights and the selective prosecution doctrine. R. 18. Jacobs admitted making statements that impugned the integrity of the Third DCA and Miami-Dade Circuit Judge Michael Hanzman, apologized publicly and privately, but his statements were not dishonest or made with reckless disregard for the truth. R. 18.

Jacobs has a First Amendment right and an affirmative ethical duty under TFB rules to report attorneys he believes engaged in systemic fraud and report judges who violate judicial canons, refuse to grant disqualification, ignore fraud, and deprive his clients of their property without due process.

I. The Witnesses Who Testified for Jacobs Describe an Attorney of Deep Religious Faith, Integrity, and Conviction to Defend the Rule of Law Against Banks Engaged in Fraud

Jacobs' best friend of 20 years, James Pann, a university professor, a clinical psychiatrist, and the client in *HSBC v. Aquasol*, testified Jacobs "vigorously" advocated about issues of fraud on Aquasol's behalf. He testified Jacobs tries to manage his high stress practice fighting foreclosures by deep religious practices, therapy, extended fasts,

marathons, and being a scout leader for his children. (SH1, 182:19-190:16).

Mr. Pann testified Jacobs takes foreclosure defense very seriously, particularly banks committing fraud on the court. Mr. Pann testified Jacobs sees it as "important to our democracy… important for our country… holding powerful financial institutions accountable, just like everyone else." Mr. Pann testified this is very stressful for Jacobs because "its been a real thing. He has a lot of integrity.… He's a very good person… his religious beliefs really matter to him, and they affect his behavior. Its not just talk or going through the motions. Its real." (SH1, 192:2-20).

Jacobs' first law partner, Brian Barakat, Esq., also testified to a 20 year friendship with Jacobs who "was near the top" of the foreclosure defense industry. Mr. Barakat and Jacobs are both adult leaders in Boy Scouts of America and swore "Bruce lives by the Scout Law more than most scouts." He has "tremendous integrity and general reputation for a good relationship with judges. There are judges he routinely butts heads with but that is an exception." (SH2, 20:18-39:25).

Jacobs' next law partner, Court Keeley, Esq. testified Jacobs does the work of deposing witnesses and aggressively trying foreclosure cases.

Even when he butts heads with opposing counsel and judges, Mr. Keeley testified Jacobs always maintained his professionalism.

Mr. Keeley testified as a former Miami prosecutor like Jacobs, "it was shocking to me" after trying foreclosure cases "the lack of due process afforded to people." (SH2, 48:20-39:25). Mr. Keeley testified Jacobs became a "scholar" of constitutional rights under the Fifth Amendment. Mr. Keeley noted it is "shocking" how "the rules of evidence are bent" in foreclosures. Mr. Keeley explained "this whole situation" with TFB arose from the "constant lack of due process, the constant being shut down…, documents being submitted into evidence in trials that are just blatantly false and provably false." Yet, "they're letting them in and let slide by." Mr. Keeley swore Jacobs "absolutely, absolutely" has a good faith basis to raise his arguments of fraud on the court and Article 9 of the UCC. (SH2, 48:20-55:24).

Mr. Keeley testified "since this whole mess" started, Jacobs became much more careful about his pleadings but he "just has very strong beliefs, I think, that what he's doing is right. Back on to the constitutional grounds, upholding due process, not depriving people of their property without due process of law, I think he has very strong personal beliefs of what he would say is fighting the good fight." (SH2, 57:11-18).

An experienced foreclosure defense lawyer, Margery Golant, Esq. testified Jacobs' unclean hands for forgery of endorsements defense had merit. Ms. Golant presented the same defenses after the "robo-signing scandal" but some judges "refuse to allow it" and even proffer the evidence. Those judges become angry, impatient and have said in open court they "don't want to hear it" which is "extremely frustrating" to her ethical duty to her clients. She testified these bar issues come from Jacobs' frustrations from being denied a meaningful opportunity to be heard. (SH2, 13:2-16:25).

Another respected attorney who has handled some foreclosure cases, David Winker, Esq. testified to meeting Jacobs for the first time only months before the bar trial after bringing his 8 year old daughter to scouts in Coral Gables. Mr. Winker testified Jacobs and his wife are "beloved within the scout community." (T2, 213:21-25; 232:20-25). Mr. Winker described Jacobs' reputation as a vehement advocate for his clients saying "he's a bare knuckle brawler in this world of bare knuckle brawlers" litigating highly contentious foreclosures. Mr. Winker also swore Jacobs is "a bulldog" about fighting false evidence in equitable actions. (T2, 213:22-217:23).

Mr. Winker testified he is sympathetic to Jacobs because he has seen in his own cases "documents so obviously false" he believed he would be sanctioned if he tried to offer them into evidence. He saw evidence a Countrywide endorsement was added after the fact and believed it would be "a failure in advocacy" to not raise the defense, even if the judge was unwilling to hear it. Mr. Winker feels this all comes down to one basic truth: "***Either Bruce is out of line or the judge is out of line.***" (T2, 222:11-232:6).

Ricardo Corona, Esq. another foreclosure defense attorney who raised the same fraud arguments swore some judges were more receptive than others. Mr. Corona testified few lawyers will actually litigate foreclosures ethically or pro bono, as Jacobs routinely does. Mr. Corona swore if Jacobs was disbarred it would be a loss to homeowners and the foreclosure defense bar. Homeowners would find it more difficult to find quality representation if Jacobs was removed from the practice of law. (SH1, 143:23-146:6).

Ana Lazara Rodriguez is a former political prisoner who served 19 years being tortured in a Cuban prison for women. She testified Jacobs represented her *pro bono* after she was "trapped" in a Countrywide loan. "He's the only one that has been fighting for me." Ms. Rodriguez testified "I

have been fighting my whole life for freedom, for integrity, for justice, for decency. So I know when a human being has integrity. I want justice. I want freedom. He's a good fighter for all those things." (SH2, 41:3-46:1).

Another client, and Jacobs' former paralegal, Genny Rodriguez, testified working with Jacobs prosecuting foreclosures for Camner, Lipsitz and Poller, a firm that represented BankUnited since 2001. In 2013, Jacobs began representing Ms. Rodriguez in her foreclosure before the Honorable Miami-Dade Circuit Judge David Miller on a *pro bono* basis. Jacobs raised the same fraud and was successful before Judge Miller. Ms. Rodriguez testified Jacobs did a tremendous amount of work on her case and swore Jacobs is "a really unique person, not only honesty and integrity, but he's also there to help a fellow homeowners, because he went through the process himself and understands it." (SH2, 59:1-65:25).

Another client who testified for Jacobs, Rabbi Yochanon Klein, knows Jacobs to be a "spiritual and religious minded" person who cares for his family and his community. Rabbi Klein fell into foreclosure after his 16 month old daughter was diagnosed with liver cancer. Jacobs' *pro bono* efforts helped Rabbi Klein's family get through a difficult time. (SH1, 156-1-159:22).

Another client who testified for Jacobs, Maria Williams James, swore she was "up against bank lawyers" that lacked candor and lied to the court "a lot" and reported them to TFB several times. TFB took no action to discipline any bank layer engaged in fraud or lack of candor in her case. "They left me hanging." (T2, 208:14-209:11).

II. The Five Circuit Judges Who Testified on Jacobs' Behalf

The Honorable Miami-Dade Circuit Judge Pedro Echarte, with 23 years on the bench, described Jacobs as "absolutely" experienced, vigorous, and zealous in his representation of foreclosure defense clients. (SH1, 85:2-86:21). Judge Echarte swore Jacobs' foreclosure defense arguments were made in good faith and he presented the law accurately. (SH1, 87:11-88:1). Finally, Judge Echarte swore when he ruled against Jacobs, there was never any negative behavior in response in his courtroom. (SH1, 91:6-17).

The Honorable Miami-Dade Circuit Judge Michelle Barakat testified Jacobs is a close family friend for decades. Judge Barakat described how Jacobs mentored children and adults in scouting, took the Troop to summer camp, taught honesty, integrity, and leadership skills. Jacobs' involvement as an adult leader helped her son make Eagle Scout. Judge Barakat testified to Jacobs' deep seated religious belief noting his

son's bar mitzvah in Israel. Judge Barakat said Jacobs is "very kind, very giving, very charitable. Bruce is a very good person. Bruce is all heart." (SH1, 97:1-103:2).

The Honorable Miami-Dade Circuit Judge Jose Rodriguez testified after 27 years on the bench, he can swear Jacobs is a skilled foreclosure defense lawyer. Jacobs was prepared for what is clearly contentious litigation. Jacobs does not raise bad faith or frivolous arguments and never impugned the conduct of his courtroom. Judge Rodriguez testified Jacobs was a zealous advocate who conducted himself professionally. Even when he ruled against Jacobs, Judge Rodriguez testified he "wouldn't expect" Jacobs to attack him as a judge for his ruling. Jacobs always acted with integrity. (SH1, 120:7-130:3).

The Honorable Senior Miami-Dade Circuit Judge Lawrence A. Schwartz testified Jacobs appeared before him first, as a prosecutor assigned to his criminal division decades ago, and then more recently in foreclosure court. In 22½ years on the bench, ***Judge Schwartz testified this was only the second time he volunteered to testify on behalf of a lawyer having bar issues.*** Judge Schwartz swore Jacobs has a positive reputation for ethics and professionalism. When asked whether his conviction in this case for impugning the integrity of a judge would change

his opinion of Jacobs, Judge Schwartz responded: “No. Different judges are going to have different opinions.” (SH1, 169:13-177:25).

The Honorable Miami-Dade Circuit Judge David Miller testified after taking the bench in 2001 that he knows Jacobs to be “at the top of his game” and “always well-informed of his clients’ facts and the legal position relating to those facts.” Judge Miller testified to his own s*ua sponte* order finding bad faith discovery tactics and awarding sanctions under the Inequitable Conduct Doctrine in *Bank of America, N.A. (“BANA”) v. Genny Rodriguez* in Circuit Case Number 203-30447 dated December 12, 2014. Judge Miller swore “I certainly haven’t been convinced otherwise since then. When asked if there’s a difference between zealous advocacy and attacking the integrity of the court, Judge Miller replied “there a fuzzy line that if you’re from the school of Irving Younger, you know that the effectiveness comes when you’re dancing on that line….”(SH2, 142:19-159:14).

Judge Miller testified to his order finding bad faith discovery tactics and awarding sanctions under the inequitable conduct doctrine. R Exh 30. The order described that the Liebler, Gonzalez, and Portuondo law firm (“the LGP firm”) appeared in Jacobs’ cases with BANA and Bank of New

York Mellon ("BONYM") after he deposed a senior BANA executive about forged endorsements and false assignments presented in foreclosures.

Judge Miller's order described that the Fourth DCA had previously certified a question of great public importance to this Honorable Court finding "many, many foreclosures appear tainted with suspect documents" in *BONYM* v. Pino 57 So. 3d 950, 954 (Fla. 4th DCA 2011).

Judge Miller noted the Honorable former Fourth DCA Chief Judge Barry M. Stone and the Honorable Miami-Dade Circuit Judge Darryl Trawick both entered orders finding similar misconduct by BANA and the LGP firm. Judge Miller noted the LGP firm defied an order to coordinate a corporate representative deposition for over two years.

Judge Miller found the LGP firm's objections were "filed in **bad faith.**" (emphasis in original). Judge Miller found "It is **outrageous** that Plaintiff and the LGP firm would force Defense Counsel to jump through so many hoops clearly intended to deliberately block discovery ordered by several Circuit Court judges." (emphasis in original). Judge Miller made "an express finding of bad faith and outrageous conduct by the Plaintiff and the LGP firm" and awarded sanctions under the Inequitable Conduct Doctrine. (R Ex. 30:3).

III. **This Prosecution Violates Jacobs' First Amendment Rights**

Jacobs' selective prosecution defense asserts TFB ignored bar complaints he filed against attorneys representing BANA and JP Morgan Chase that set forth compelling evidence of systemic frauds that intentionally mislead judges in foreclosures. These frauds are national in scope and are detailed in a federal false claims act case Jacobs filed as Relator in *U.S.A, ex. rel. Bruce Jacobs v. JP Morgan Chase*. R. 18. The evidence is supported by many sanctions orders of many respected judges finding "outrageous" and "bad faith" misconduct, including by judges who testified on Jacobs' behalf in this bar trial. (R. Ex. 1).

Rather than prosecute bank attorneys for lack of candor that assisted national banks to again engage in systemic frauds in foreclosures, Jacobs asserts TFB selectively prosecuted him to silence him, leave his clients without counsel, and allow our nations' largest banks to deprive homeowners of their constitutional rights using fraudulent evidence in foreclosures. R. 18.

Jacobs asserts he did not dishonestly impugn the integrity of Judge Hanzman or the Third DCA. In *Aquasol*, Judge Hanzman threatened to hold Jacobs in contempt and jail him for cross examining HSBC about a

false, fictitious, and robo-signed David J. Stern mortgage assignment in evidence which was the basis of an affirmative defense of unclean hands. Jacobs maintains he truthfully argued the Third DCA and Judge Hanzman violated judicial canons, deprived Aquasol of its property without due process, ignored fraud, and disregarded this Honorable Court's still controlling precedent on the evidence required to prove standing to foreclosure. R. 18.

Jacobs further asserted he did not lack candor in *BONYM v. Atkin*, where the Honorable Miami-Dade Circuit Judge David Miller was about to initiate criminal contempt proceedings. BANA, a non-party wihtout standing, got the Third DCA to disqualify Judge Miller. Judge Hanzman took the case from another division, relieved BANA of contempt proceedings in violation of Florida law, and set hearings knowing Jacobs was in Israel for his son's bar mitzvah. Judge Hanzman reported Jacobs to TFB under false charges of lack of candor and impugning his integrity for filing a "scurrilous" motion to disqualify criticizing him that truthfully stated grounds requiring his disqualification. R. 18.

Jacobs asserts the Third DCA publicly reprimanded him for his criticism, fined him $4,665, and continues to punish him when due process requires recusal as set forth in the Motions to Disqualify the entire court.

Jacobs is duty bound to protect his clients' right to due process before a fair and impartial judge. His speech is protected by the First Amendment. He has an affirmative obligation under TFB Rules to report unethical conduct by lawyers and judges. He cannot be disbarred for saying Judge Hanzman and the Third DCA lack integrity, refused to recuse themselves as required by the judicial canons, and are protecting systemic frauds in foreclosures. (R. 18). He cannot be disbarred for false accusations of lack of candor either.

IV. The Referee Wrongfully Denied Leave to Show Bank Attorneys Lacked Candor and Impugned the Integrity of Miami-Dade Circuit Judge Beatrice Butchko in Support of Jacobs' Selective Prosecution Defense

The Referee acknowledged Jacobs filed bar complaints with TFB against bank attorneys for this systemic fraud on the court, forgery, and fabricating evidence. (ROR. 20-21). The Referee acknowledged Circuit judges like Judge Miller issued sanctions orders against banks and their counsel for "stonewalling discovery, bad faith litigation tactics and unclean hands." However, the Referee erred in finding these bad faith tactics of failing to disclose facts and law to assist in criminal fraud on the court are different from the violations Fla. Bar Rule 4-3.3 (candor to the tribunal) that the Referee found Jacobs not guilty of by directed verdict. (ROR 21-23).

It is selective prosecution for TFB to attempt to silence Jacobs for lack of candor on a weak case and not prosecute bank lawyers for their lack of candor evidenced by multiple sanctions orders issued by respected judges set forth overwhelming evidence TFB has a strong case to prosecute for lack of candor by bank lawyers. (ROR 21-23).

The Referee acknowledged attorneys privileged to practice law "must agree to follow the Rules Regulating TFB which 'has a duty to investigate and prosecute alleged violations of the rules.'" While the Referee insists TFB did its duty to investigate Jacobs, TFB has abdicated that same duty with respect to evidenced violations by bank counsel. The rich and powerful are not above the law and their counsel are not above TFB rules. Yet, Jacobs is being treated differently than bank lawyers who violated Fla. Bar. Rule 4-3.3 by lack of candor and Rule 4-8.2(a) by dishonestly impugning the integrity of a judge with reckless disregard for the truth.

To prove the point, on September 9, 2021, Jacobs filed a motion to reopen the bar trial to present new evidence of selective prosecution. (R. 65). As set forth in the motion, in June of 2021, the Honorable Miami-Dade Circuit Judge Beatrice Butchko initiated criminal contempt proceedings against BANA, BONYM and their counsel, Nathaniel Callahan, Esq., an

Akerman partner, in *BONYM v. Julie Nicolas* involving the exact same fraud as in *BONYM v. Atkin*. Mr. Callahan presented perjured testimony to Judge Butchko and she followed Fla. R. Crim. P. 3.840 to hold him accountable.

As set forth in the motion to reopen, not even Judge Butchko's criminal contempt proceeding caused TFB to act against bank lawyers for lack of candor that assists in systemic frauds in foreclosures. Judge Butchko initiated contempt proceedings after the Akerman lawyer offering perjury during an evidentiary hearing on a motion to vacate judgment due to the same fraud exposed in the *Atkin* case. Akerman reacted in complete attack mode by impugning Judge Butchko's integrity, falsely accusing her of "rubber-stamping" a proposed order, and collaborating with Jacobs as though she was not honestly discharging her judicial duties with integrity.

Akerman demanded Judge Butchko be "urgently held accountable" and baselessly accused her of an "improper" professional relationship where Jacobs had a "special influence" over her. TFB had uncontroverted evidence Akerman lacked candor, was caught committing fraud on the court, and impugned Judge Butchko's integrity with reckless disregard for the truth. Yet, TFB took no action offering claiming it cannot investigate Akerman attorneys for this unethical behavior without a judicial referral.

On October 14, 2021, Jacobs filed his reply to TFB's opposition to reopening the case. (R. 72.) The reply noted TFB conceded it never opened a grievance investigation into the Akerman attorneys and argued TFB abdicated its duty to hold all lawyers to the same rules. (R. 73.) The difference is TFB wants to silence Jacobs. That is selective prosecution.

V. **The Referee's Findings are Based on TFB's False Narrative**

The Referee rejected TFB's allegations of lack of candor and granted Jacobs' motion for directed verdict because he did not fail to disclose controlling authority. (ROR 16). However, the Referee found Jacobs impugned the integrity of Judge Hanzman and the Third DCA. The Referee made no findings Jacobs made any specific statement of fact dishonestly or with reckless disregard for the truth. (ROR).

The Referee found Jacobs' pleadings seeking disqualification "used reckless and disparaging language to malign and impugn the judiciary." Specifically, after the Third DCA refused to follow Jacobs' argument about this Honorable Court's requirements to prove standing to foreclose without fraudulent evidence, the Referee found Jacobs called them "traitors to the constitution", claimed the system was "rigged", and claimed "that any court

that protected the monopoly over the rule of law is a traitor to the constitution and should be tried for treason."

The Referee found Jacobs filed the motion to disqualify as a "deliberate and knowing litigation tactic" to "manipulate the system" when he does not get the relief sought in his motions. Respectfully, TFB presented this admittedly false narrative to the Referee that Jacobs files disparaging and inflammatory motions to disqualify to revenge unfavorable rulings when the motions to disqualify "serve no other purpose than to allow respondent to 'express the bottomless depth of the displeasure that one might feel" for having lost his appeal. (ROR 18).

This Honorable Court should review the Supplemental Memorandum on Investigation filed by Jude M. Faccidomo, Esq. the Assigned Investigating member for these grievances and the Chair of Florida Bar Grievance Committee 11-H dated November 13, 2019. See (TFB Exh pg 640-642). The memo shows TFB lacks candor to this Honorable Court. It shows TFB knows the narrative Jacobs' disqualification motions served no legitimate purpose is a sham. As Mr. Faccidomo wrote "… it should be noted that to deem the pleading frivolous is a significant finding. Further, a lawyer is obligated by the Oath of Attorney and Rules Governing the Florida Bar to provide zealous representation of their client. This includes

properly preserving appellate issues***. In fact, if an attorney failed to preserve an appellate issue, they can be deemed ineffective in their representation***." (emphasis added).

VI. TFB Denied Jacobs Denied Due Process by Introducing an Uncharged Bar Complaint Over Repeated Objections

TFB violated Jacobs due process rights by introducing evidence of an uncharged bar complaint which became central to the Referee's report and recommendation. Broward's only judge presiding over foreclosures, the Honorable Circuit Judge Andrea Gundersen filed the uncharged bar complaint after Jacobs filed a series of motions to disqualify before and after she entered an order summarily striking all defenses and RICO counterclaims alleging fraud, unclean hands, and forgery "with prejudice under the litigation privilege." TFB Ex. 15.

The attorney who obtained that order striking all defenses (not just the fraud) was none other than Nathaniel Callahan, Esq. -- the same Akerman attorney Judge Butchko later hit with criminal contempt charges for making the same bad faith arguments to cover up the exact same systemic fraud.

Jacobs' clients repeatedly sought Judge Gundersen's disqualification and finally reported her to the Judicial Qualifications Commission before she relented, honored the judicial canons, and granted her disqualification.

(R. Ex. 5; 55). Jacobs filed an "Emergency Motion for Evidentiary Hearing on the Parties Cross Motions for Contempt for Fraud Upon the Court and to Issue an Order to Show Cause under Fla. R. Crim. P. 3.840 in *BONYM v. Jakubow* in Miami-Dade Circuit Case Number 2016-19900-CA-01. R Ex. 56. The *Jakubow* case was pending in Judge Hanzman's division.

In Jakubow, Jacobs filed an affidavit in support of the motion to explain how BANA and BONYM acted in concert to present forged endorsements and false assignments in Countrywide originated loans. There was evidence of fraud on the court, forgery, perjury, and obstruction of justice.

The *Jakubow* Motion set forth this was an emergency because BANA, BONYM, and their counsel, the LGP firm, were depriving homeowners of their property without due process in violation of the Fifth Amendment to the U.S. Constitution and Article 1, §9 of the Florida Constitution. It was also an emergency as TFB was prosecuting Jacobs for his conduct challenging these fraudulent foreclosures in bad faith. The Jakubow Motion noted TFB had either disbarred or suspended other prominent foreclosure defense lawyers such as Mark Stopa, Kenneth Trent, Kelly Bosecker, Charles Gallagher, and Darin Letner. (R Ex. 56:2).

In *Jakubow*, Jacobs asked for an expedited hearing to adjudicate whether “the Countrywide endorsement in this case is a forgery, supported by perjury, and covered up by obstruction of justice by defiance of multiple subpoenas by the destruction of nearly 2 billion records, backdated records, defiance of court orders, and intentional misrepresentations of fact and law by counsel” for BANA and BONYM. (R Ex. 56:3).

The Motion set forth evidence showing BANA gave contradictory statements under oath (a felony) and created a clandestine “delinquent note endorsement process” in defiance of federal regulators and the U.S. Department of Justice investigating the "robo-signing scandal” to forge Countrywide endorsements (another felony). (R Ex. 56:6-7).

The *Jakubow* Motion set forth that a Pasco County foreclosure defense attorney is presently disbarred and serving 9 years in prison for forgery of endorsements in BANA foreclosures. This Court instructs resorting to forgery to defraud a court is “completely contrary to the most basic ideals of the legal profession.” *The Florida Bar v. Salnik*, 599 So.2d 101, 103 (Fla. 1992).

The Jakubow Motion set forth that the Second DCA, the Fourth DCA, the Hawaii Supreme Court, U.S. District Court Judge for the Southern District of Florida Ursula Ungaro, and U.S. District Court Judge for the

Southern District of New York Kevan Karas all enters orders supporting Jacobs' theory of fraud on the court. (R. Ex. 56:9-11).

The *Jakubow* Motion set forth that BONYM demanded Jacobs be held in contempt insisting his fraud arguments were frivolous and only raised to "delay these foreclosures and line his own pocket." BONYM also asked for "absolute immunity" claiming a litigation privilege to commit RICO acts. The Motion argued the Third DCA instructs even if a case is dismissed, this Honorable Court holds there is jurisdiction and authority to consider a motion for sanctions. *BANA v. Morales*, 2020 WL 7233359 (Fla. 3d DCA 2020).

The Motion also disclosed the Third DCA dismissed a RICO counterclaim alleging this fraud citing the litigation privilege but provided no analysis of the facts or the issue of law. *Bank of New York v. Abadia*, 202 WL 7635978. The Third DCA denied a motion for contempt while granting a litigation privilege which is based on the rationale that a Court will punish misconduct under its inherent contempt powers. (R. Ex. 56:12-13).

As set forth in the *Jakubow* motion, Jacobs only filed the first motion to disqualify Judge Gundersen after ***she recused herself*** in two of the cases Judge Stone had consolidated with this same fraud fact pattern years before. Judge Gundersen became openly frustrated after the LGP

firm lawyer misrepresented facts and law without consequence in a bad faith effort to undue years of orders from Judge Stone. (R. Ex. 56:13-15).

Judge Gundersen allowed the Akerman attorney, Mr. Callahan, to falsely argue "fraud on the court is not a defense to foreclosure" and then hit Jacobs' client with attorney's fees for filing the RICO counterclaim claim "without substantial fact or legal support." Judge Gundersen denied sanctions against Jacobs noting the Honorable Miami-Dade Circuit Judge Spencer Eig allowed his RICO claims to proceed in the *Abadia* case. (R. Ex. 56:13-15). She was clearly not fair or impartial.

TFB was allowed over strenuous objections to introduce evidence of Judge Gundersen's uncharged bar complaint. TFB introduced only the last in the series of motions to disqualify Judge Gundersen on cross-examination of Jacobs' therapist during the defense case in chief, who had never seen the motion and had no idea Judge Gundersen granted the motion. Jacobs objected that the Gunderson disqualification was not part of the three counts at issue in the bar trial. No testimony that opened the door to additional bar complaints, no probable cause determination, no bar grievance committee meeting, and that its introduction was highly prejudicial. (T2, 5:4-6:25).

TFB used the Gundersen disqualification motion to cross examine Jacobs over objection. (T2, 86:2-9). TFB asked Jacobs if he said "No Honorable Court should accept the materially false argument that there is some privilege or absolute immunity to commit fraud upon the court in foreclosures." Jacobs responded that Judge Gundersen entered an order stating BANA had a privilege to commit fraud and felonies in foreclosure which is unconstitutional not Florida law. His motion spoke truth.

Jacobs testified as a former prosecutor with 25 years of experience, anyone presenting false evidence should be prosecuted and disbarred. He explained how he was a "Teddy Roosevelt" Republican and believed attorneys swear an oath to fight JP Morgan Chase from becoming more powerful than the government, which is the death Knell of democracy. Jacobs insisted TFB should prosecute bank lawyers who lied to Judge Gundersen and committed fraud. "No person shall be deprived of their property without due process" by fraud in their case. (T2, 94:13-100:8).

Jacobs objected to the Gundersen complaint being introduced a third time under a due process argument because they were not charged and not part of the case. (T2, 106:8-20). Moreover, Jacobs testified he believed if Florida law grants a litigation privilege against a suit to commit fraud on

the court then Judge Gundersen was obligated to exercise her inherent contempt powers to confront that fraud. (T2, 118:17-120:24).

Jacobs testified over 20 clients signed verified motions to disqualify Judge Gundersen which she granted. (T2, 121:5-12:9) (R. Exh. 5). These motions were part of a series of motions filed after Judge Gundersen allowed Bank of New York and BANA's counsel to offer false statements of fact and law with impunity during a series of hearings. All of Jacobs' clients swore they had objective reasons to fear she was not fair and impartial.

As set forth in the motion to disqualify, Judge Gundersen initially ***recused herself*** after the second hearing and then commented on motions to disqualify her insisting those cases "**WAS NOT" (**emphasis in original) consolidated with the other pending foreclosures (they were). (R. Exh. 55). Judge Gundersen allowed Mr. Callahan to argue "fraud on the court is not a defense to foreclosure" citing a case that said submitting forged evidence with the intent to defraud is fraud on the court. (R. Exh. 55).

In her report, the Referee made a finding by clear and convincing evidence "that respondent used reckless and disparaging language in his various pleadings to malign and impugn the qualifications and/or integrity

of the judiciary." (ROR 17). Again, the Referee made no finding whether any statements were actually false. (ROR).

The Referee found the motions to disqualify Judge Gundersen "conclusive" evidence to negate testimony Jacobs acted in good faith in seeking disqualification of judges. The Referee noted Jacobs filed a series of motions to disqualify Judge Gundersen without "derogatory or inflammatory language" but the motions were legally insufficient and only intended to "force the recusal that he could not otherwise legally obtain."

The Referee never explained why it was legally insufficient to require Judge Gundersen's disqualification by raising her *sua sponte* recusals from multiple cases involving the same fraud, her comments on the truthfulness of subsequent motions to disqualify, her failure to take appropriate action to confront fraud, and her forcing a client to pay attorney's fees after striking that client's pleadings citing a litigation privilege. ROR. 19-20.

Mr. Winker testified the Gundersen Motions to Disqualify showed an escalation over time and swore it was a "disservice" to present only the last motion to disqualify" as TFB did over objection. The motions escalated and the judge disqualified herself because this was "the process working, not Bruce doing something wrong." (T2, 222:11-232:6).

VII. **TFB's Case in Chief Against Jacobs Offered No Witnesses and Only Part of the Story**

At the bar trial guilt phase, TFB set forth a series of statements made in a Motion for Rehearing En Banc, a Motion to Disqualify the Third DCA, and a Motion to Disqualify Miami-Dade Circuit Judge Michael Hanzman. (T1 50:14-71:23) TFB called no witnesses and relied on these statements in its case in chief. Over objection, Jacobs' counsel, Ben Kuehne, Esq. responded to TFB's by noting the Honorable Eleventh Circuit Court of Appeal Judge Barbara Lagoa, before elevating, dissented in the opinion which referred Jacobs to TFB for prosecution in *HSBC v. Aquasol*. (T.1 84:5-21).

Under the doctrine of completeness, Mr. Kuehne also noted the record reflects "Mr. Atkin further fears Judge Hanzman will not be fair and impartial based on his comments in another trial conducted with undersigned counsel involving a fraudulent mortgage assignment prepared by the infamous law offices of David J. Stern, the, quote, King of Robo signing, end quote, who the Florida Bar permanently disbarred for filing documents in foreclosures across Florida." (T1, 93:5-14)

Mr. Kuehne also noted, "Judge Hanzman failed to disclose significant personal financial holdings that are heavily invested in the financial sector generally, and BONYM, that's BONYM, the initials for it, specifically, which

is an objective reason to fear his rulings ignoring fraud on the court by large financial institutions is to protect its own -- his own personal investments rather than to protect the rule of law." (T1, 94:2-12)

Mr. Kuehne also noted, Mr. Atkin has also reviewed Judge Hanzman's financial disclosures filed with the Florida Commission on Ethics. It appears as of 2017 Judge Hanzman had approximately $8 million invested in five mutual funds which appears to have earned him interest in excess of $1.1 million in 2017… It appears that one of the mutual funds Judge Hanzman is personally invested in GLD is managed by BONYM as trustee, which is the same trustee for the plaintiff trust in the Atkin foreclosure and which would be negatively affected in order to show cause finding felony foreclosure misconduct, in violation of the $25 billion national mortgage settlement by BONYM, BANA, BANA, N.A., and the LGP firm. (T1, 97:2-96-7).

Mr. Kuehne also noted, Mr. Atkin verified the motion to disqualify as true and correct. (T1, 97:18-98:5). Mr. Kuehne also noted he admitted making the statements referenced by TFB in these proceedings but "denied the assertion of disparaging or reckless comments" (T100, 5-101:21).

VIII. Jacobs' Uncontroverted Testimony Show his Statements of Opinion (which are Not Actionable) and his Statements

of Fact Were Not Made With Reckless Disregard for the Truth

After the close of TFB's case, Jacobs testified his foreclosure defense career began in 2008, when he took a "baby moon" to Israel with his wife who was pregnant with their second son. He devoted himself to foreclosure defense which he saw as a "David v. Goliath" battle. His "pro bono" days in court helped many people on the "rocket dockets" that plagued Florida's courts during the foreclosure crisis. His wife had to intervene to get him to stop representing so many clients for free. (T. 125:21-128:2).

Jacobs testified that in 2010, he joined Max Gardner's army travelling the nation to meet with industry experts and insiders when the robo-signing scandal broke. (T1 128:17-129:10). He was part of a national movement, sharing information and presenting at CLE courses. (T1, 130:5-12). He testified to working with Kathleen Cully, the "Mother of Securitization" and how securitization was intended to work, and how he eventually was asked to be a speaker at a Max Gardner seminar. (T1, 130:20-132:10).

Jacobs testified about the $25 Billion National Mortgage Settlement after the "robo-signing" scandal" exposed systemic frauds in foreclosures, including fabrication of false evidence of standing (i.e. millions of false and

fictitious mortgage assignments and fraudulent endorsements that supported an unclean hands defense.) (T1, 140:10-143:23).

Through the orders of many judges, Jacobs discovered evidence and filed a federal false claims act case against BANA, N.A. before the Honorable U.S. District Judge Ursula Ungaro who found using these forged endorsements and false assignments would violate the $25 billion National Mortgage Settlement. (T1, 151:19-153:23).

Jacobs testified he obtained evidence BANA, JP Morgan Chase, and other banks engaged in fraud and had top tier law firms assist with that fraud by mispresenting the law and the facts, and presenting perjured testimony in violation of their duty of candor to the court. Jacobs explained how certain judges like Miami-Dade Circuit Judge Beatrice Butchko and Miami-Dade Circuit Judge Pedro Echarte Jr., started contempt proceedings for this fraud in foreclosures. (T1, 166:21-170:6).

Jacobs testified that Miami-Dade Circuit Judge David Miller, Third DCA Judge Bronwyn Miller, Miami-Dade Circuit Judge Specer Eig, and Palm Beach Circuit Judge Howard Harrison were some of the judges who took action in response to these systemic frauds. Judge Harrison made findings of unclean hands by JP Morgan Chase which ultimately ended with a settlement that satisfied the mortgage with a confidential payment.

(T1, 170:6-25). Jacobs identified many other judges over his career who took action against this fraud as Banks dropped "well over a million dollars worth of mortgage" foreclosures to avoid his fraud defenses. (T1, 171:1-16).

Jacobs testified how the Third DCA ruled in *BANA v. Morales* that even if the case is dismissed, a trial court would still have ancillary jurisdiction to prosecute banks and their counsel for sanctions under the inherent contempt powers of the courts. (T1, 172:9-20).

Jacobs testified he files motions to disqualify judges because he must preserve the arguments for further appellate review. (T1, 181:24-182:11). He moved to disqualify Judge Hanzman for the first time in *HSBC v. Aquasol* after he was threatened with jail and contempt for asking questions about a "David J. Stern" robo-signed assignment introduced into evidence. Judge Hanzman said he didn't care if David Stern or Howard Stern prepared the false evidence. He prejudged the case, refused to consider the unclean hands defense, and refused to hear evidence of fraud. (T. 204:4-205:3).

On Appeal, the Third DCA affirmed Judge Hanzman's refusal to grant disqualification finding "Aquasol's motion to disqualify the trial judge was legally insufficient because it was premised on nothing more than its

disagreement with an adverse legal ruling." *Aquasol Condo. Ass'n, Inc. v. HSBC Bank USA, Nat'l Ass'n*, 312 So. 3d 105, 108 (Fla. 3d DCA), cause dismissed, No. SC18-2009, 2018 WL 6326238 (Fla. Dec. 4, 2018). The Third DCA never addressed Judge Hanzman's threat of jail, the false mortgage assignment in evidence, or his refusal to enforce the Florida Supreme Court's doctrine of unclean hands for admitting false evidence into the trial.

Jacobs testified that in the *Aquasol* appeal, the Third DCA initiated contempt proceedings and accused him of lack of candor for failing to disclose the decision overturning Judge Butchko's criminal contempt proceedings in *HSBC v. Buset*. Although the uncharged accusation of lack of candor said Judge Hanzman had relied on *Buset* for his ruling, *Buset* did not come down until after Jacobs filed his initial brief in *Aquasol*. The Banks' own brief in *Aquasol* didn't raise *Buset*. (T1, 206:22- 212:19). Although the referee references the Third DCA's accusations against Jacobs for lack of candor, the Referee ultimately ruled Jacobs never violated Fla. Bar Rule 4-3.3 for lack of candor. (ROR 16).

Jacobs testified he cancelled his son's bar mitzvah in Miami and moved it to Israel once the Third DCA started contempt proceedings against him in *Aquasol*. Even after accusing Jacobs of criticizing the court,

the Third DCA did not grant disqualification and started a second contempt charge for filing a motion to disqualify the entire court in *Bank of New York v. Atkin*.

In Israel, Jacobs spent time in prayer and renewed his resolve to fight this David v. Goliath battle for homeowners against the nation's largest banks engaged in fraud on the court. He committed to be careful in making his arguments, fearful it was what he said, not how he said it. (T1, 214:1-216:6). Jacobs explained his words were his "truth" although his statements were taken out of context to make them seem unethical. He never accused a judge of taking bribes or stealing. He gave his motions to disqualify to his counsel, Mr. Kuehne to approve so TFB could not say he was just attacking judges without any good faith basis. (T1, 219:13-222:25).

Jacobs testified how the Atkin case before Judge David Miller was fraud on the court because of 11 years of forgery, perjury, false assignments, false mortgage loan schedules. However, BANA got Judge Miller removed from the case claiming he was not fair or impartial. (T1, 234:2-236:22). BANA and its lawyers asked the Third DCA to remove Judge Miller knowing he had entered two orders finding "outrageous" and "bad faith" misconduct for blocking discovery into the same fraud. Jacobs

testified his response to that appeal included a motion to disqualify the Third DCA which was factually true. (T1, 238:16-240:11).

Jacobs testified the Third DCA's rulings conflicted with a Second DCA ruling in *BONYM v. Sorenson* but he was never allowed to present his evidence of fraud on the court. He was put in a very difficult position because the Third DCA insisted it was frivolous to file a motion to disqualify, but it was also necessary to file a motion to preserve the issue for further appellate review. Just because a pleading may be futile does not make it frivolous. (T1, 242:14-244:1). Jacobs testified when the law and the facts say a judge must recuse themselves it is up to the judge who swore the oath to the constitution to follow that law. (T1, 244:21-245:7).

Ultimately, another judge vacated Judge Miller's orders on sanctions. However, Judge Miller testified that "he hasn't been convinced otherwise" that BANA and its counsel engaged in willful and intentional and bad faith responses" to discovery warranting sanctions. (T2, 150:5-14.

Jacobs testified that he had filed a proper claim for attorney's fees under the court's inherent contempt powers for fraud upon the court in *Atkin*. After the show cause hearing was set to go forward, Bank of New York dismissed the 11 year old foreclosure of a $700,000 mortgage and Jacobs filed a motion to preserve the right to fees. There was a good faith

basis to seek fees because of the dismissal. The motion was filed as a place holder. The first motion for order to show cause clearly asked for fees under the court's inherent contempt powers for fraud on the court. (T1, 258:3-261:23).

After the Third DCA granted BANA's request to remove Judge Miller from the *Atkin* case, Judge Hanzman came in to cover a hearing for Judge Rodney Smith's division. Judge Hanzman took over the *Atkin* case without any order transferring the case to his division. Judge Hanzman set a hearing on the attorney's fees issue knowing Jacobs had long ago filed a notice of unavailability for his son's bar mitzvah in Israel. (T1, 271:2-273:17).

The day Jacobs gave his son a pair of tefillin for the first time, Judge Hanzman wrote the order calling his motion to disqualify "scurrilous" and referring him to Ms. Avery for prosecution by TFB. (T2, 21:24-22:3). Jacobs testified Judge Hanzman commented on the motion which truthfully said he prejudged the case and was "kind of boastful" about the fact that he was going to be affirmed on appeal. (T2, 23:3-25).

Judge Hanzman accused Jacobs of lack of candor for failing to provide a legal basis for fees after the bank voluntarily dismissed its case to avoid being held in contempt. (T2, 26:8-20).

Jacobs testified at trial Mr. Atkin believed Judge Hanzman was not objectively fair or impartial and wanted him disqualified. (T2, 34:14-36:7). Jacobs swore he filed the motion to disqualify Judge Hanzman in good faith as there was a clear refusal to consider that BANA and BONYM had unclean hands and were using fraudulent evidence of standing. (T2, 36:18-39:1). Jacobs testified the facts supported the topic headings which TFB insisted impugned Judge Hanzman's integrity. (T2, 39:17-47:25). TFB insists those topic headings are grounds for disbarment.

By calling the motion to disqualify "scurrilous" Judge Hanzman created an independent basis to require his disqualification. It is improper for a judge to comment on the truthfulness of a motion to disqualify. (T2, 52:8-53:10). Jacobs testified in no uncertain terms that his motion to disqualify Judge Hanzman did not recklessly disregard the truth. (T2, 123:3-15). It was truth.

Mr. Atkin testified at the bar trial that he signed the motion to disqualify verifying the facts were true. He believed Judge Hanzman was unfair to him by taking over his case despite his financial entanglement with the Plaintiff. Mr. Atkins testified he wanted a fair trial with a judge that did not have a financial tie with the plaintiff in his case. (T2, 170:22-179:9).

Mr. Atkin swore Judge Hanzman's financial disclosures showed about $8 million invested in banks and was reason to him to fear the judge would not listen arguments about fraud. Mr. Atkin believed the evidence supported his position "100 percent" that Judge Hanzman was biased against him. (T2, 179:17-180:23). Mr. Atkin swore he instructed Jacobs to file the motion to disqualify Judge Hanzman and that all the facts were true. (T2, 181:4-12).

IX. **Judge Hanzman's Testimony Shows He Denied a Legally Sufficient Motion to Disqualify in Disregard for the Canons**

At the start of Judge Hanzman's testimony, Mr. Keuhne objected to his appearing "with the court seal behind him" and "the trappings of the judicial office to accentuate his testimony." (SH1, 9:12-22).

Judge Hanzman admitted he was the trial judge in both *HSBC v. Aquasol* and *BONYM v. Atkin* that led to these bar proceedings against Jacobs. (SH1, 17:3-10).

Judge Hanzman testified he entered a scathing order in a prior trial involving EMC Mortgage against Jacobs that "pretty much called him out" for accusing banks and their lawyers of fraud in 2016. (SH1, 19:21-21:6). Although Judge Hanzman attacked Jacobs in that order, there is no evidence Jacobs filed a motion to disqualify or filed any attack in response.

Judge Hanzman testified he next encountered Jacobs in a trial with *HSBC v. Aquasol*. Judge Hanzman swore that Jacobs made an *ore tenus* motion for disqualification after he threatened to hold him in contempt, claiming the issue was Jacobs kept arguing issues he ruled on. Judge Hanzman swore that Jacobs "repeatedly fails to cite controlling precedent" and "constantly moving for recusal and lodging personal attacks."

After the *Aquasol* trial and appeal resulted in the Third DCA starting contempt against Jacobs, Judge Hanzman testified to a private meeting in chambers with Jacobs. Judge Hanzman noted Jacobs "likes to quote the bible" and "talks about how he's charged with vindicating this nationwide fraud" and said he wasn't sure if this was really coming from a religious place, but told Jacobs he would be disbarred unless he stops accusing opposing counsel of fraud in these foreclosure cases. (SH2, 21:7-25:4).

Judge Hanzman testified the next encounter with Jacobs was in *Bank of New York v. Atkin*. The Bank argued Judge Hanzman lacked jurisdiction to impose sanctions for fraud upon the court after it voluntarily dismissed its foreclosure. After asking the parties to brief the issue, Judge Hanzman testified he received a "blistering" disqualification motion that "completely fabricated" the claim he continued to rule on the case which was in another division. Judge Hanzman acknowledged the motion alleged

he “routinely prevents review of fraud on the part of banks” and “was looking away from fraud, refusing to hear evidence and abdicating his judicial responsibility.” Judge Hanzman also testified the motion alleged he had millions of dollars invested in funds that “are basically the S&P 500 and that “those banks comprise some of the S&P 500, which raise his own financial self interest as an area of concern. (SH1, 25:18-27:12).

Judge Hanzman then testified he “entered a reasoned order as to why I had no jurisdiction to entertain his claims of fraud” (which rejected the same authority of this Honorable Court the Third DCA held gave jurisdiction to consider sanctions after dismissal in *BANA v. Morales*). Judge Hanzman testified the Third DCA affirmed his denial of disqualification and his order finding a voluntary dismissal divests a court from jurisdiction to prosecute a plaintiff for fraud upon the court. (SH1, 27:18-28:6).

Judge Hanzman testified he denied another Motion to Disqualify Jacobs filed in *Bank of New York v. Jakubow* that cited “the fact that I had referred him to the Bar,… my refusal to enforce fraud against banks, my repeated refusal to honor my oath and adjudicate claims involving banks fairly, and … my alleged financial interests showing I have millions of dollars invested in the financial sector in March of 2021. Judge Hanzman

testified he referred Jacobs to TFB because he "repeatedly, without foundation, accuses judges, litigants and their lawyers of criminal conduct, fraud….." Judge Hanzman swore "there's no question in my mind that [Jacobs] should not be entrusted to practice law and represent people in matters involving their life and their property." (SH1, 28:19-32:23).

On cross-examination, Judge Hanzman admitted he filed another complaint with TFB against Jacobs after he appeared in *Jakubow*, but had still not recused himself in *Jakubow*. (SH1, 35:23-36:9).[1] Judge Hanzman admitted Mr. Atkin authorized Jacobs to file a declaration that BONYM (the Plaintiff) was trustee of one of his financial holdings. Judge Hanzman admitted Mr. Atkin signed an affidavit he was concerned his finances meant he could not get a fair trial, but denied the concerns were legitimate. After Judge Hanzman denied knowing whether Bank of New York was trustee over his exchange traded fund GLD, Mr. Kuehne introduced a printout establishing that fact. (R. Ex. 57) (SH1, 38:4-43:14).

Mr. Kuehne cross-examined Judge Hanzman on his testimony that Jacobs failed to disclose *Bank of New York v. Pino* as controlling authority

[1] The Referee struck all references to the second uncharged Bar complaint Judge Hanzman filed against Jacobs after Mr. Kuehne asked to subpoena former Miami Commissioner and Mayor Xavier Suarez to challenge the truthfulness of Judge Hanzman's sworn testimony during the bar trial in support of that second uncharged complaint. (SH1, 148:6-154:19).

that he lacked jurisdiction to consider contempt for fraud on the court after a voluntary dismissal. Judge Hanzman dismissed the questions about the Third DCA's ruling in *BANA v. Morales* that held a trial court ***has*** inherent authority to consider a motion for sanction even after a dismissal as part of its jurisdiction over ancillary matters, insisting he ruled and he was affirmed. Judge Hanzman did concede it was proper for Jacobs to ask for sanctions against a bank after a voluntary dismissal. (SH1, 44:3-48:9).

Judge Hanzman testified he would "certainly not be surprised" that "many, many foreclosure cases involved issues of fraudulent assignments." Judge Hanzman acknowledge Jacobs routinely raised issues of forged endorsements, false assignments, and fraud upon the court.

Judge Hanzman denied knowing Jacobs won a false claims act case against BANA before Judge Ungaro, but acknowledged he "always argues banks and their lawyers are engaged in massive fraud… in virtually every case." Judge Hanzman also admitted foreclosure defense lawyers often accuse lenders of obtaining standing by fraud in cases before him and other courts." (SH1, 63:24-66:11).

At the end of cross-examination, Judge Hanzman admitted he refused to consider Jacobs argument the David J. Stern robo-signed

mortgage assignment was fraud finding it "irrelevant" whether David Stern or Howard Stern created false evidence. On redirect, Judge Hanzman again accused Jacobs of accusing lawyers of fraud "without any evidence and without any basis" (SH1, 73:15-78:22).

X. Banks have Weaponized these Bar Proceedings to Excuse Illegal Behavior Across the Nation

The Referee heard from Brandon Makaawaawa, the president of Na Poe Kokua ("NPK"), a grass roots non-profit organization from Hawaii fighting to hold BANA accountable for a $150 Million commitment to provide affordable housing for native Hawaiians. NPK spent decades looking for a lawyer with integrity willing to take on their fight against BANA until they found Jacobs. (SH1, 200:25-208:1).

The second witness, Ian Chan Hodges, testified in greater detail how BANA defied its $150 Million commitment to native Hawaiians made decades ago. Mr. Chan Hodges testified that the Governor of Hawaii, David Ige, wrote a senior executive at BANA, Cathy Bessant, asking she return to Hawaii to deal with the issue in 2018.

That same year, the Hawaii Supreme Court issued rulings in *BANA v. Reyes-Toledo* that dealt with the same fraudulent foreclosure issues Jacobs was exposing. Then he saw an article in CNBC describing how BANA purged nearly 2 billion records in Jacobs' cases. Mr. Chan Hodges

reached out to connect to Jacobs and join forces to hold BANA accountable for its fraudulent practices. (T2, 184:12-187:23).

Mr. Chan Hodges testified the Chairperson of the Maui County Council, Kelly King, reached out to members of the Miami City Commission to look into bringing Jacobs on board in the County's efforts to hold BANA accountable. Mr. Chan Hodges discussed Jacobs' work in Florida with Governor Ige. At the Maui County Council meeting, BANA's lawyer/lobbyist handed out highlighted copies of the Third DCA opinions and Judge Hanzman's order disparaging Jacobs. BANA's lobbyist postured it was working to ensure Jacobs was disbarred or prevented from practicing law.

The orders derailed the Council's efforts to retain Jacobs to hold BANA accountable. Mr. Chan Hodges testified it was clear that "of all the lawyers, BANA did not want Bruce Jacobs to be involved in this. Mr. Chan Hodges noted this large powerful bank had Judge Hanzman's order to the council 5,000 miles away from Miami within six days. In the end, the Council did not consider Jacobs. BANA was not a party to Judge Hanzman's case but had a highlighted copy of the order in Maui six days later. (T2, 188:19-205:6).

SUMMARY OF THE ARGUMENT

The First Amendment protects Jacobs right to criticize government officials, including elected judges. His language in criticizing judges does not warrant punishment as it is language used by U.S. Supreme Court Justices and even if awkward or offensive, was grounded in truthful arguments.

U.S. and Florida Supreme Court law firmly protects an attorney's right an obligation to file motions for disqualification. Judge Hanzman and the Third DCA are obligated to grant disqualification under U.S. and Florida Supreme Court law to protect due process for Jacobs and his clients.

This is selective prosecution. Jacobs is being railroaded by powerful interests trying to deprive his clients of their homes without due process. TFB cannot disbar Jacobs while refusing to prosecute Akerman attorneys who impugned Judge Butchko's integrity and clearly lacked candor by committing fraud on the court. Jacobs beat his lack of candor charge.

The Constitution protects Jacobs right to practice law and speak out about these legitimate concerns of systemic fraud in foreclosures protected by judges who refuse to uphold the law or disqualify themselves. These proceedings are a sham as Jacobs had a legitimate reason to file these

motions to disqualify. Namely to preserve the appellate issue as Mr. Faccidomo documented before TFB prosecuted this action.

ARGUMENT

I. Jacobs' First Amendment Right to Truthfully Criticize Judges is Squarely Protected by U.S. Supreme Court Law

U.S. Supreme Court "cases recognize that disciplinary rules governing the legal profession cannot punish activity protected by the First Amendment and that First Amendment Protections survives even when the attorney violates a disciplinary rule he swore to obey when admitted to the practice of law. *Gentile v. State Bar of Nevada,* 501 U.S. 1030, 1035–36, 111 S. Ct. 2720, 2734, 115 L. Ed. 2d 888 (1991); See, *e.g., In re Primus,* 436 U.S. 412, 98 S.Ct. 1893, 56 L.Ed.2d 417 (1978). "Public awareness and criticism have even greater importance where, as here, they concern allegations of … corruption." *Id.* at 2727; citing, *Nebraska Press Assn. v. Stuart,* 427 U.S. 539, 606, 96 S.Ct. 2791, 2825, 49 L.Ed.2d 683 (1976).

The U.S. Supreme Court instructs "The Constitution limits state power to impose sanctions for criticism of the official conduct of public officials, in criminal cases as in civil cases, to false statements concerning official conduct made with knowledge of their falsity or with reckless

disregard of whether they were false or not. *Garrison v. Louisiana*, 379 U.S. 64 (1964) citing *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).

The *Gentile* Court rejected the theory that the practice of law brings with it comprehensive restrictions that professional bodies may impose "when those restrictions impinge upon First Amendment freedoms." The Court found no justification to abandon normal First Amendment principles in the case of speech by an attorney regarding pending cases. *Id.*

The *Gentile* court recognized Attorneys participate in the justice system and are trained in its complexities, they hold unique qualifications as a source of information about pending cases. "Since lawyers are considered credible in regard to pending litigation in which they are engaged and are in one of the most knowledgeable positions, they are a crucial source of information and opinion." *Id.* at 2735; *citing*, *Chicago Council of Lawyers v. Bauer,* 522 F.2d 242, 250 (CA7 1975).

Similarly, this Honorable Court instructs "Attorneys play an important role in exposing valid problems within the judicial system." *The Fla. Bar v. Ray*, 797 So. 2d 556, 560 (Fla. 2001). In *Ray*, this Honorable Court recognized an "attorney's legitimate criticism of judicial officers" may be necessary to "publicize problems that legitimately deserve attention….

because attorneys are perceived by the public as having special knowledge of the workings of the judicial branch." *Id.*

"In cases raising First Amendment issues ... an appellate court has an obligation to 'make an independent examination of the whole record' in order to make sure that 'the judgment does not constitute a forbidden intrusion on the field of free expression.'" Id. at 2726; *citing, Bose Corp. v. Consumers Union of United States, Inc*., 466 U.S. 485, 499, 104 S.Ct. 1949, 1958, 80 L.Ed.2d 502 (1984) (quoting *New York Times Co. v. Sullivan*, 376 U.S. 254, 284–286, 84 S.Ct. 710, 728–729, 11 L.Ed.2d 686 (1964)).

Accordingly, this Court is "compelled to examine for [itself] the statements in issue and the circumstances under which they were made to see whether or not they do carry a threat of clear and present danger to the impartiality and good order of the courts or whether they are of a character which the principles of the First Amendment, as adopted by the Due Process Clause of the Fourteenth Amendment, protect." *Id.; citing Pennekamp v. Florida*, 328 U.S. 331, 335, 66 S.Ct. 1029, 1031, 90 L.Ed. 1295 (1946).

This Honorable Court is obligated to look beyond the statements made in motions to disqualify the Third DCA and Judge Hanzman. This

Court is obligated to consider the full record to jealously guard Jacobs' right to petition the government with his clients' grievances under the First Amendment.

The First Amendment "was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people." *Roth v. United States*, 354 U.S. 476, 484, 77 S.Ct. 1304, 1308, 1 L.Ed.2d 1498 (1957). The Supreme Court states "speech concerning public affairs is more than self-expression; it is the essence of self-government." *Garrison v. Louisiana*, 379 U.S. 64, 74-75, 85 S.Ct. 209, 216, 13 L.Ed.2d 125 (1964). Fundamentally, any means used by a Court to chill speech on matters of importance to the public, even if compelling (it is not), still must be narrowly tailored to avoid unnecessary abridgement of the right of free speech. *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612 (1976); *NAACP v. Button*, 371 U.S. 415, 83 S. Ct. 328 (1963); *Shelton v. Tucker*, 364 U.S. 479, 81 S. Ct. 247 (1960).

Jacobs statements as a leading attorney defending homeowners in a foreclosure system being abused by banks are core political speech protected by the First Amendment. The most odious forms of unacceptable restrictions on free speech involve efforts by government to insulate itself

from criticism.[2] Speech regarding qualifications and integrity of judges, the third branch of our government, is essential for democracy to function properly and cannot be suppressed merely to protect judicial reputation. The punishment of attorney speech impugning judicial integrity falls squarely with the *Gentile, Sullivan, Garrison,* and *Valeo* rules.

In *Sullivan*, the Court noted the judiciary cannot protect its reputation through contempt citations even if the statements contained "half-truths" and "misinformation." *Sullivan*, 376 US at 272 (*quoting Pennekamp v. Florida*, 328 US 331 (1946). Any apparent offense by Jacobs has no compelling interest that exceeds that of the First Amendment. *See First National Bank of Boston v. Bellotti*, 435 U.S. 765, 776, 98 S. Ct. 1407, 1415 (1978); *Bates v. Little Rock*, 361 U.S. 516, 80 S. Ct. 412 (1960); *Thornhill v. Alabama*, 310 U.S. 88, 101-102 (1940).

Here, Jacobs' submissions, even if perceived to be offensive, cannot result in disciplinary action. His speech is both reasonable and made in good faith as a lawyer commenting on issues about which he has knowledge and is considered by the public to be an informed spokesperson.

[2] Cass R. Sunstein, *FREE SPEECH NOW*, 59 U. Chi. L. Rev. 255, 305 (1992) https://chicagounbound.uchicago.edu/uclrev/vol59/iss1/10/

II. **Jacobs Cannot Be Disbarred For Using the Same Definition of Treason to the Constitution as the U.S. Supreme Court**

The Florida Bar and the Third DCA take statements out of context from Jacobs' three pleadings from 2018 to make them appear inflammatory, sanctionable, and an offense worthy of his disbarment in 2022. One statement that caused significant discomfort was Jacobs' use of the phrase "traitor to the constitution that should be tried for treason" to describe a court that would refuse to address systemic fraud by powerful banks that deprived homeowners of their property without due process.

Respectfully, the U.S. Supreme Court used "treason to the constitution" to describe the same problem in *Cohens v. State of Virginia*, 19 U.S. 264, 404, 5 L. Ed. 257 (1821), when it held:

> It is most true that this Court will not take jurisdiction if it should not: but it is equally true, that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. *We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.* ***The one or the other would be treason to the constitution****. Questions may occur which we would gladly avoid; but we cannot avoid them.* All we can do is, to exercise our best judgment, and conscientiously to perform our duty. In doing this, on the present occasion, we find this tribunal invested with appellate jurisdiction in all cases arising under the constitution and laws

> of the United States. We find no exception to this grant, and we cannot insert one.

Without an experienced lawyer of Jacobs' stature speaking out about his reasonable criticism of the judicial foreclosure system and the penchant for some judges to blindly accept the self-serving assertions of financial institutions, the public will be deprived of its right to receive information about the workings of its judicial representatives from those most familiar with the operation of the judicial branch of government. Moreover, Jacobs' clients will be left without counsel to challenge fraud in their cases and protect their constitutional rights.

III. **Jacobs Cannot Be Punished for Filing Motions to Disqualify to Protect a Client's Right to a Fair and Impartial Judge**

This Honorable Court instructs "Attorneys should not be placed in a position where they fear retaliation for filing a motion to disqualify." *In re Cohen*, 99 So. 3d 926, 940 (Fla. 2012). Lawyers have an ethical obligation to seek disqualification when a court's impartiality is objectively in question.

The U.S. Supreme Court has long recognized "contempt power over counsel … is capable of abuse …. Men who make their way to the bench sometimes exhibit vanity, irascibility, narrowness, arrogance, and other weaknesses to which human flesh is heir. Most judges, however,

recognize and respect courageous, forthright lawyerly conduct. They rarely mistake overzeal or heated words of a man fired with a desire to win, for the contemptuous conduct which defies rulings and deserves punishment. They recognize that our profession necessarily is a contentious one and they respect the lawyer who makes a strenuous effort for his client. *Sacher v. United States*, 343 U.S. 1, 12, 72 S. Ct. 451, 456–57, 96 L. Ed. 717 (1952).

"Attorneys should be free to challenge, in appropriate legal proceedings, a court's perceived partiality without the court misconstruing such a challenge as an assault on the integrity of the court. Such challenges should, however, be made only when substantiated by the trial record." *United States v. Brown*, 72 F.3d 25, 29 (5th Cir. 1995).

Consistent with the high trust placed in the courts by the people, courts cannot equally shield the judiciary from critique by that portion of the public most situated to advance knowledgeable criticism. *State ex rel. Oklahoma Bar Ass'n v. Porter*, 766 P.2d at 968–69. Consequently, a statement by a lawyer viewed as impugning the integrity of a judge or the judiciary cannot be subjected to disciplinary sanctions unless that statement is false. Truth is and remains an absolute defense. *Yagman*, supra, 55 F.3d at 1438.

"The fair administration of justice provides a valuable right to challenge in good faith the neutrality of a judge who appears to be biased against a party. Lawyers using professional care, circumspection and discretion in exercising that right need not be apprehensive of chastisement or penalties for having the advocative courage to raise such a sensitive issue to assure the client's right to a fair trial and the integrity of our system for administering justice." *U. S. v. Cooper*, 872 F.2d 1, 5 (1st Cir. 1989).

Like Oklahoma's *Porter* decision, Colorado and Texas both instruct that "interest about judges is important in Colorado, where the public periodically votes whether to retain judges." See Colo. Const. art. VI, §§ 20(1), 25; *Semaan*, 508 S.W.2d at 432 ("[T]he right of a lawyer as a citizen to publicly criticize adjudicatory officials .... is particularly meaningful where, as in Texas, the adjudicatory officials are selected through the elective system."). *In re Green,* 11 P.3d 1078, 1085 (Colo. 2000).

The assumption that respect for the judiciary can be won by shielding judges from published criticism wrongly appraises the character of American public opinion. For it is a prized American privilege to speak one's mind, although not always with perfect good taste, on all public institutions. And an enforced silence, however limited, solely in the name of

preserving the dignity of the bench, would probably engender resentment, suspicion, and contempt much more than it would enhance respect. *Standing Comm. on Discipline of U.S. Dist. Court for Cent. Dist. of California v. Yagman*, 55 F.3d 1430, 1445 (9th Cir. 1995).

"No other principle is more essential to the fair administration of justice than the impartiality of the presiding judge." *In re Barnes*, 2 So. 3d 166, 171 (Fla. 2009), *citing In re Gridley*, 417 So.2d 950, 953 (Fla.1982) (holding that judge failed to promote public confidence in the integrity and impartiality of the judiciary when he injected himself and his office into a case by advocating for a defendant). In *Barnes,* this Honorable Court "cautioned judges" to avoid being "misunderstood by the public as being unwilling to enforce the law as written, thereby undermining public confidence in the integrity and impartiality of the judiciary." *Id.*

Jacobs has established a substantial record documented by orders of many judges that support his challenge to the court's perceived partiality. Jacobs had a good faith basis to seek disqualification for the grounds raised in his motions. His clients who signed the motion swore they objectively feared their court would not honor the judicial canons and uphold the law against banks committing fraud in foreclosure. As feared,

those courts ruled against the clients and in Jacobs' view allowed the banks and their counsel to commit fraud on the court with impunity.

III. **The Third DCA and Judge Hanzman Deprived Jacobs of Due Process by Refusing to Disqualify Themselves as Required**

The U.S. Supreme Court recognizes "presumptive bias" as the one type of judicial bias other than actual bias ***that requires recusal under the Due Process Clause***. *Richardson v. Quarterman*, 537 F.3d 466, 475 (5th Cir. 2008); citing *Buntion,* 524 F.3d at 672 (quoting *Bigby v. Dretke,* 402 F.3d 551, 559 (5th Cir.2005)); *see also Crater v. Galaza,* 491 F.3d 1119, 1131 (9th Cir.2007) (coming to the same conclusion). Presumptive bias occurs when a judge may not actually be biased, but has the appearance of bias such that "the probability of actual bias ... is too high to be constitutionally tolerable." *Id.* (quoting *Withrow v. Larkin,* 421 U.S. 35, 95 S.Ct. 1456, 1464, 43 L.Ed.2d 712 (1975)).

The Supreme Court has found that a judge's failure to recuse constitutes presumptive bias in three situations: (1) when the judge "has a direct personal, substantial, and pecuniary interest in the outcome of the case," (2) when he "has been the target of personal abuse or criticism from the party before him," and (3) when he "has the dual role of investigating and adjudicating disputes and complaints."[5]

Here, Judge Hanzman and the Third DCA judges have a direct, personal and substantial interest seeing Jacobs prosecuted for his personal abuse and criticism of them. Either Jacobs should be disbarred for making false and unethical accusations of misconduct, or these Judges are engaged in serious ethical violations for trying to railroad Jacobs. The Third DCA has assumed the dual role of investigating and adjudicating complaints by publicly reprimanding, fining, and reporting Jacobs to TFB. Clearly, there is a presumptive bias, and actual bias, that requires disqualification.

Under the Judicial Canons, a judge has an ethical obligation to grant disqualification, even without a motion to disqualify, when their impartiality is objectively in question. As officers of the Court, all judges and attorneys swear an oath to protect the integrity of the proceedings and the constitutional rights of the litigants on both sides.

IV. **This Selective Prosecution is Unconstitutional, Inequitable and Unjust**

Jacobs should have prevailed on his selective prosecution to this disciplinary action. Jacobs asserts The Florida Bar prosecuted him in bad faith with the ulterior motive to violate his first amendment rights. *Thompson v. The Florida Bar*, 526 F. Supp. 2d 1264 (S.D. Fla. 2007). The

seminal Florida case on selective prosecution recognizes the U.S. Supreme Court precedent that:

> To support a defense of selective prosecution, a defendant bears a heavy burden of establishing at least *prima facie*, (1) that, while others similarly situated have not generally been proceeded against because of conduct of the type forming the basis of the charge against him, he has been singled out for prosecution, and (2) that the government's discriminatory selection of him for prosecution has been invidious or in bad faith, i.d. based upon such impermissible considerations as … the desire to prevent his exercise of constitutional rights." *State v. A.R. S.* 684 So. 2d 1383 (Fla 1st DCA 1996); citing, *Wayte v. United States*, 470 U.S 598, 608, 105 S. Ct. 1524, 1530, 84 L.E.2d 547 (1985). *United States* v. Batchelder, 442 U.S. 114, 125, 99 S.Ct. 2198, 2205, 60 L.Ed.2d 755 (1979)); *United States v. Berrios*, 501 F.2d 1207, 1211 (2d Cir.1974)), review denied, 581 So.2d 167 (Fla.1991).

The First DCA further instructed "the second prong of the test requires the defendant to "demonstrate discriminatory purpose" by establishing that '(1) he was singled out for prosecution although the government was aware that others had violated the law, and (2) the government followed unusual discretionary procedures in deciding to prosecute.' *State v. A. R. S.*, at 1385.

The question of whether an attorney may raise selective prosecution as a defense to the Florida Bar is not one of first impression. The Honorable U.S. District Court Judge Adalberto Jordan held a claim of

selective prosecution may be raised against a bar complaint provided the litigant:

> allege that similarly situated individuals were treated differently based on the content of their speech. "[A] 'similarly situated' person for selective prosecution purposes [is] one who engaged in the same type of conduct, which means the same basic [disciplinary violation] in substantially the same manner as [Mr. Thompson]—so that any prosecution of that individual would have the same deterrence value and would be related in the same way to the [Florida Bar's] enforcement priorities and enforcement plan—and against whom the evidence was as strong or stronger than that against [Mr. Thompson]." *Thompson v. Florida Bar*, 526 F. Supp. 2d 1264, 1280 (S.D. Fla. 2007), citing *United States v. Smith*, 231 F.3d 800, 810 (11th Cir.2000) (brackets and content inside brackets substituted for original language).

Here, Jacobs alleges that the Florida Bar has prosecuted him in an effort to chill his first amendment rights to defend his clients right to a fair and impartial judge. The Florida Bar failed to process or initiate disciplinary complaints he submitted against no less than four other attorneys who assisted banks in the commission of this criminal systemic foreclosure fraud for lack of candor in violation of Fla. Bar. Rule 4-3.3. The four attorneys continue to commit fraud upon the courts, taking homes in violation of the constitutional rights of homeowners, during a pandemic.

The Florida Bar never submitted Jacobs' complaints against bank lawyers for lack of candor to a grievance committee for a probable cause

determination. They were simply not prosecuted while Jacobs is "treated differently from others similarly situated" "The Florida Bar has failed to go after other attorneys who have allegedly committed offenses like [lack of candor, fraud on the court, forgery, perjury, destruction of evidence, defiance of court orders and subpoenas, obstruction of justice, etc.], and that allegation, "taken as true at this stage of the litigation, suggests that the Florida Bar may not have its enforcement priorities quite right." *Thompson v. Florida Bar*, 526 F. Supp. 2d 1264, 1280 (S.D. Fla. 2007).

The Florida and U.S. Supreme Courts likewise recognize the defense of selective enforcement of disciplinary rules in the line of cases permitting attorney advertising but with appropriate restrictions by lawyer licensing officials. *See* Amendments to Rules Regulating The Florida Bar—Advertising Rules, 762 So. 2d 392 (Fla. 1999), which cited as authority *In Re Primus*, 436 U.S. 412, 432-33 (1978) ("Because of the danger of censorship through ***selective enforcement*** of broad prohibitions and because First Amendment freedoms needs breathing space to survive, government may regulate in [this] area only with narrow specificity.") (emphasis added).

Courts of other states have similarly recognized the potential viability of the selective enforcement defense to attorney disciplinary proceedings,

although cases in which the evidentiary support for such a defense is sufficient are infrequent. *See State ex. rel. Counsel for Discipline v. James*, 673 N.W.2d 234 (Neb. 2004) (setting out the elements of a claim of selective enforcement but holding that because "James has not attempted to satisfy the aforementioned evidentiary burden . . . his assertions of selective prosecution are without merit.") *Id*. at 226; See also, *In re Complaint as to the Conduct of Daniel J. Gatti*, 330 Or. 517 (Oregon Supreme Court en banc 2000)(*Citing United States v. Armstrong*, 517 U.S. 456, 465, 116 S.Ct. 1480, 134 L.Ed.2d 687 (1996) (selective prosecution claim cognizable under Fourteenth Amendment equal protection).

The Bar Referee erred in denying Jacobs' selective prosecution defense and his motion to reopen the trial to consider additional evidence the Bar abdicated its responsibility to enforce the Rules of Discipline fairly and equally. The additional evidence would show The Florida Bar and the Third DCA took no action against bank lawyers who impugned the integrity of Judge Butchko who initiated criminal contempt charges for their lack of candor soon after the trial. The Third DCA removed the judge and initiated contempt charged against Jacobs in a subprime loan foreclosure that again violated the federal and Florida Fair Housing Acts. TFB also refused

to prosecute any of the Bar complaints Jacobs filed as evidenced by R. Ex. 1.

The evidence of selective prosecution is that (1) the Bar prosecuted a weak case against Jacobs under Rule 4-3.3 for lack of candor and Rule 4-8.2 for impugning the integrity of the judge, (2) the Bar declined to prosecute a much stronger case for the same rule violations against attorneys for large and powerful financial institutions despite orders initiating criminal contempt against them for fraud upon the court, and (3) the prosecution really just seeks to silence Jacobs so he cannot continue to practice law, expose the systemic fraud, or question the impartiality of certain courts in violation of his first amendment rights.

Jacobs has been selectively singled out and targeted for discipline by the Bar because he represents homeowners in his exercise of his constitutional right to speak out in the course of his duty to provide effective representation. It is his right and obligation as a member of the Bar to speak out about constitutional violations involving fraud. That is the underpinning of a selective prosecution claim as described in *State v. A.R.S.*, 684 So. 2d 1383 (Fla. 1st DCA 1996) (selective prosecution based on impermissible considerations including exercise of constitutional rights).

The Bar is not prosecuting all attorneys involved in serious misconduct that lack candor equally. The Third DCA and Judge Hanzman violated the judicial canons requiring they uphold the law against powerful banks and report misconduct by their counsel and grant their disqualification. TFB is trying to silence Jacobs for exposing that misconduct and lack of candor.

V. **TFB's Investigator Exposed These Proceeding as a Sham**

"A plea is considered 'sham' when it is palpably or inherently false, and from the plain or conceded facts in the case, must have been known to the party interposing it to be untrue." *See Rhea v. Halkney*, 157 So. 190, 193 (Fla. 1934)." Respectfully, Jacobs submits TFB is on notice this prosecution is a sham, filed in bad faith, and only pursued to silence his First Amendment right and obligation under the Florida Bar rules to report unethical conduct by attorneys and judges allowing banks to commit systemic frauds in foreclosures. Specifically, Mr. Faccidomo's supplemental memorandum refutes the false narrative that Jacobs' has a litigation tactic to file salacious and bad faith disqualification motions for no other purpose than to attack judges who rule against him.

Mr. Faccidomo corroborated Jacobs' testimony he filed disqualification motions to preserve issues for appeal. Jacobs never filed a

motion against Judge Hanzman after the EMC ruling. Circuit court judges swore Jacobs does not use that bad faith tactic. Respectfuly, these charge should be dismissed as a sham.

WHEREFORE, Bruce Jacobs, Esq. respectfully requests this Honorable Court dismiss these proceedings as unconstitutional, inequitable and unjust, and grant any further relief deemed mete and just.

CERTIFICATION OF FONT SIZE AND STYLE

The undersigned counsel does hereby certify that this brief is submitted in 14 point proportionally spaced Arial font with a word count of 12991.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically via the Florida Courts E-filing Portal upon all parties listed on the Service List for this case on this 23rd day of June, 2022.

/djw/
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