

**MEMORANDUM OF LAW IN SUPPORT OF MR. ISIDORO RODRIGUEZ'S UNITED NATIONS COMPLAINT AND SUBMISSION OF INFORMATION TO THE SPECIAL PROCEDURES ABOUT HIS CHALLENGE TO THE GRANT OF "IMPUNITY" FOR THE VIOLATIONS OF THE LIMITATION AND PROHIBITIONS OF THE CONSTITUTIONS AND STATUES OF THE UNITED STATES AND COMMONWEALTH OF VIRGINIA, ARTICLES 7, 8, 10, & 12 OF THE INTERNATIONAL BILL OF RIGHTS, AND RELEVANT PRINCIPALS.**

**PRELIMINARY STATEMENT**

Mr. Isidoro Rodriguez's ("Mr. Rodriguez") United Nations complaint and submission of information to the special procedures challenges the grant of "impunity"<sup>1</sup> and absolute immunity for unlawful acts of the Washington D.C./Virginia Oligarchy of Federal/Virginia government attorneys, employees, and judges, by the Hon. U.S. Dist. Judge John A. Gibney, Jr., by first, ordering the summary dismissal of *Isidoro Rodriguez, Esq., v. Jane/John Does of the Virginia State Bar Disciplinary Board, et al.*, U.S. Dist. Ct. E.D. VA 12-cv-663-JAB (April 12, 2013), *aff'd* 4th Cir USCA No 13-1638 (Nov. 2013) (**Exhibits 2a, 2aii, 2aiii and 2aiv**), to deny Mr. Rodriguez his right to a jury trial to obtain accountability and damages for malfeasance in violation of the *Void Ab Initio Order Doctrine*,<sup>2</sup> and the business conspiracy in violation of VA Code § 18.2.499, 550,<sup>3</sup> and, second,

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<sup>1</sup> The United Nations prohibits the granting of "impunity," because it defines it as, "the impossibility, de jure or de facto, of bringing the perpetrators of violations to account - whether in criminal, civil, administrative or disciplinary proceedings - since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims." Updated Set of principles of human rights to combat impunity at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/109/00/PDF/G0510900.pdf?OpenElement>. It was President Theodore Roosevelt who observed that, "[n]o man is above the law and no man is below it: nor do we ask any man's permission when we ask him to obey it. Thus, any grant of "impunity" and/or absolute immunity for acts outside of scope of employment, jurisdiction and/or judicial authority is a violation of the fundamental right to hold government officials accountable for unlawful acts.

<sup>2</sup> The *Void Ab Initio Order Doctrine* mandates that when an entity does not have either constitutional authority, or legal power, or jurisdiction to render any order, said order is *void ab initio*—therefore not subject *stare decisis/res judicata* as a complete nullity from its issuance and may be impeached directly or collaterally by all persons, at any time, or in any manner. See *Collins v. Shepherd*, 274 Va. 390, 402 (2007); *Singh v. Mooney*, 261 Va. 48, 51-52(2001); *Barnes v. Am. Fertilizer Co.*, 144 Va. 692, 705 (1925); *Rook v. Rook*, 233 Va. 92, 95(1987).

<sup>3</sup> Mr. Rodriguez has sued for unlawful acts to deprive him of his fundamental rights in his international *pro hoc vice* law practice, profession, reputation, employment, as well as statutory right under 26 U.S.C. § 7214 to not be assessed taxes greater than permitted by the Internal Revenue Code, statutory right to unemployment compensation benefits under the Social Security Act, and property rights in his Choate Virginia Attorneys Lien by business conspiracy in violation of VA Code §§ 18.2-499, 500, in retaliation for litigating to oppose acts of malfeasance by the use of unlawful court rules and *void ab initio order*: (a) usurping and/or permitting the usurping of the exclusive constitutional power of the General Assembly of Virginia to create courts and appoint judges; and, (b) systematically denying access to an impartial court and civil trial by jury to secure accountability/damages

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[enjoining of Mr. Rodriguez] from filing any lawsuit in any federal court of the United States involving in any way his disbarment or the allegations leading to his disbarment [by the VSBDB and federal courts]. The Court further enjoins the plaintiff from filing any lawsuit in any federal court of the United States against any of the defendants in this case, against any judge or retired judge, against any United States Attorney or member of a United States Attorney's staff, against the Attorney General of Virginia or any past or present member of the Attorney General's staff, and against the Virginia State Bar or any agents of the Bar. The plaintiff is further enjoined from filing any additional pleadings in the instant case, other than pleadings necessary to perfect and present an appeal.

[As well as ordering a prior restraint by requiring Mr. Rodriguez to file a motion] in the federal court in which he wishes to file [any other type of suit], for leave of Court to file suit. . .”<sup>4</sup>

The Hon Judge Gibney’s grant of “impunity” and absolute immunity for unlawful acts and *void ab initio orders* outside the scope of employment, jurisdiction and judicial authority is but a part of a larger policy to permit the ongoing disobedience by Washington D.C./Virginia government attorneys, employees, and judges of the United State Supreme Court, the Courts of Appeals for the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, D.C. and Federal Circuits, the United States District Court for the Eastern District of Virginia, the United States District Court for the District of Colombia, the United States Tax Court, the Supreme Court of Virginia, and lower Virginia courts (**Exhibit 1, 2, 3, 4a thru 4m**), to the mandates under the 1<sup>st</sup>, 5<sup>th</sup>, 7<sup>th</sup>, and 14<sup>th</sup> Amendments to the U.S. Constitution (“U.S. Const.”), the limitation and prohibitions under Article VI §§ 1, 5, and 7 of the Constitution of the Commonwealth of Virginia (“VA Const.”) on the Supreme Court of Virginia and all other Federal/Virginia courts, the restrictions on the Supreme Court of Virginia and all other Federal/Virginia courts under VA Code §§ 54.1-3909, 3915, 3932, and 3935, the assuming away of the

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for acts outside the scope of employment, jurisdiction, and judicial authority of the Washington D.C./Virginia Oligarchy of Federal/Virginia government attorneys, employees, and judges.

<sup>4</sup> The Hon. Judges Gibney also granted “impunity” to nongovernment bad actors Jack Harbeston and Washington D.C. Lobbyist/Attorney Eric Holder, who entered Virginia in 2003 to undertake the business conspiracy by filing fraudulent VSBDB bar complaints for Mr. Rodriguez litigating to enforce his Virginia statutory property rights and rights as a father (*see* <http://www.liamsdad.org/others/isidoro.shtml>). Disregarding this evidence, Hon. Judge Gibney held that “the Court will not decide Harbeston’s jurisdictional claim since the Court dismissed the case.” However, in the related RICO action *Isidoro Rodriguez v Jack Harbeston et al.*, USDCT WA No. C11-1601 (JCC) (**Ex 4j**), that court dismissed the action for lack of venue because “the complaint concerns disbarment proceedings in other jurisdictions. The proper venue to review those decision is those jurisdictions.”

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*Void Ab Initio Order Doctrine*, the failure to comply with Article 2(1) of the Charter of the Organization of American States, Article V, XIV, XVII, XVIII, XXIII, XXIV, & XXVI of the American Declaration of the Rights and Duties of Man, and refusal to respect Articles 7, 8, 10, & 12 of the United Nations Declaration of Human Rights.<sup>5</sup>

In short, the Hon. Judge Gibney has granted *stare decisis* and *res judicata* to *void ab initio order* so to permit the use of the unlawful court Rules of The Supreme Court of Virginia, **Part 6, § IV, 13-6**, illegally creating an unauthorized **centralized attorney disciplinary system** under the control of the Supreme Court of Virginia, permitting the establishing of the Virginia State Bar Disciplinary Board (“VSBDB”) as a “court” and its members as “judges” with the jurisdiction to hear and decide, “cases of lawyer misconduct. The twenty-member of the VSBDB are appointed by the Supreme Court of Virginia is composed of sixteen attorneys and four lay members. The board issues written opinions following its hearings.” Thus, these illegal court rules are a clear violation of the limitation and prohibition under Art. VI of the VA Const., and VA Code, which all of the court opinions intentional failed to discuss to enforce the VSBDB retaliatory disbarment order of Mr. Rodriguez (see: [http://www.vsb.org/docs/Final\\_Order\\_Rodr\\_11-28-06.pdf](http://www.vsb.org/docs/Final_Order_Rodr_11-28-06.pdf)).

But, the unlawful acts government attorneys and *void ab initio orders* of judges to punish Mr. Rodriguez for litigating to enforce his statutory and fundamental rights cannot be permitted. To do so has a “chilling effect” on the independence and free speech of all other attorneys to act independently of the Executive and Judicial Branch. Otherwise, all attorneys will be subject to bar disciplinary proceedings and

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<sup>5</sup> Additional evidence of the above unlawful policy of the use of legal sophistry to grant “impunity” and absolute immunity for the use of unlawful court rules issued in violation of and failing to discuss the limitations, prohibitions, and restrictions on the Supreme Court of Virginia under the above cited sections of U.S. Const. VA Const., and VA Code, can be obtained from reading the Attorney General of Virginia’ Brief in Support of the Motion to Dismiss, and Motion and Brief in Support of Rule 11 Sanctions of Pre-filing Injunction and Monetary Sanctions (**Exhibit 2v and 2vai**). See also *In re: Isidoro Rodriguez*, States Tax Court Disbarment Order, October 16, 2009, **Exhibit 1**, pages 14, 15, 16, 17, 18, and 19, wherein the USTC surreally interpreted a part of VA Code § 54.1-3909, to assume away any of the restrictions on the delegation of authority so to permit their use of illegal court rules violating VA Const., and VA Code; see also **Exhibit 2**, page 9; **Exhibit 4dii**, page 82 of 83, on the odd grant of “impunity” and absolute immunity for acts outside of scope of employment and jurisdiction by unlawful acts.

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punishment for no other act than justifiably questioning/impugning judicial jurisdiction and reputation, including the “suspension from the practice of law,”<sup>6</sup> marking, “for many if not most attorneys the gravesite of their careers.”<sup>7</sup> See The Official End of Judicial Accountability Through Federal Rights Litigation: *Ashcroft v. Iqbal* [129 S.Ct. 1937 (2009)], *From the Selected Works of Zena D. Crenshaw-Logal*, National Judicial Conduct and Disability Law Project, Inc., Summer 2011.

#### UNITED STATES CONSTITUTIONAL PROVISIONS INVOLVED

First Amendment to the United States Constitution, states in relevant part, “Congress shall make no law respecting . . . the right . . . to petition the Government for redress of grievances.”

Fifth Amendment to the United States Constitution, states in relevant part, “No person shall . . . be deprived of . . . property, without due process of law; . . .”

Seventh Amendment to the United States Constitution, grants the right to a trial by jury for alleged malfeasance by any government employee, including judges.

The Due Process Clause of Section 1 of the Fourteenth Amendment to the United States Constitution, states in relevant part, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of . . . property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.”

#### VIRGINIA CONSTITUTIONAL PROVISIONS INVOLVED

Constitution of Virginia Article VI, § 1. Judicial power; jurisdiction. — The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish.

Constitution of Virginia Article VI, § 5. Rules of practice and procedure. The Supreme Court shall have the authority to make rules..., but such rules shall not be in conflict with the general law as the same shall, from time to time, be established by the General Assembly.

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<sup>6</sup> Tarkington, Margaret. — *A Free Speech Right to Impugn Judicial Integrity in Court Proceedings*, 51 *B.C. L. Rev.* 363 at 391 (2010). (internal footnote omitted).

<sup>7</sup> “Some bankruptcy courts construe costs assessed against an attorney through disciplinary proceedings as a nondischargeable ‘fine, penalty or forfeiture’, thereby fostering a class of lawyers who cannot return to the bar due to indigency.” POPULAR, Inc. (Power Over Poverty Under Laws of America Restored), “Protecting Judicial Whistleblowers in The War on Poverty: A Proposed International Initiative Focusing on The United States.” p 5 (November 2008). Available at [http://www.popular4people.org/files/POPULAR\\_WhitePaper\\_finalized.pdf](http://www.popular4people.org/files/POPULAR_WhitePaper_finalized.pdf). See also, *In re Logal*, 381 BR 706 (Bankr. Court, ND Indiana 2007).

Constitution of Virginia Article VI, § 7. Selection . . . of judges. The justice of the Supreme Court of shall be chosen by a vote of the . . . General Assembly. . . . The judge of all other courts of record shall be chosen by the . . . General Assembly . . . .

#### VIRGINIA CODE SECTIONS INVOLVED

Va. Code § 18.2-499, 500. Combinations to injure others in their reputation, trade, business or profession; rights of employees

A. Any two or more persons who combine, associate, agree, mutually undertake or concert together for the purpose of (i) willfully and maliciously injuring another in his reputation, trade, business or profession by any means whatever or (ii) willfully and maliciously compelling another to do or perform any act against his will, or preventing or hindering another from doing or performing any lawful act, shall be jointly and severally guilty of a Class 1 misdemeanor. Such punishment shall be in addition to any civil relief recoverable under § 18.2-500.

B. Any person who attempts to procure the participation, cooperation, agreement or other assistance of any one or more persons to enter into any combination, association, agreement, mutual understanding or concert prohibited in subsection A of this section shall be guilty of a violation of this section and subject to the same penalties set out in subsection A.

VA. Code § 54.1-3909. The Supreme Court may promulgate rules and regulations: . . . Prescribing procedures for disciplining, suspending, and attorneys.

VA. Code § 54.1-3915. Restrictions as to rules and regulations. ---Notwithstanding the foregoing provisions of this article, the Supreme Court shall not promulgate rules or regulations prescribing a code of ethics governing the professional conduct of attorneys which are inconsistent with any statute; nor shall it promulgate any rule or regulation or method of procedure which eliminates the jurisdiction of the courts to deal with the discipline of attorneys. In no case, shall an attorney who demands to be tried by a court of competent jurisdiction for the violation of any rule or regulation adopted under this article be tried in any other manner.

VA Code § 54.1-3932. Lien for fees. A. Any person having or claiming a right of action sounding . . . liquidated or unliquidated damages on contract may contract with any attorney to prosecute the same, and the attorney shall have a lien upon the cause of action as security for its fees for any services rendered in relation to the cause of action or claim. When any such contract is made and written a notice of the claim of such lien is given to the opposite party, his attorney or agent, any settlement or adjustment of the cause of action shall be void against the lien so created, except as proof of liability on such cause of action.

Va. Code § 54.1-3935. Procedure for revocation of license.

A. If the Supreme Court, the Court of Appeals, or any circuit court of this Commonwealth observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney has . . . violated the Virginia Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against such attorney to show cause why his license to practice law shall not be revoked. If the complaint, verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a rule against the attorney to show cause why his license to practice law shall not be revoked.

B. If the rule is issued by the Supreme Court . . . the rule shall be returnable to the Circuit Court of the City of Richmond. At the time, the rule is issued by the Supreme Court, the Chief Justice shall designate three circuit court judges to hear and decide the case. . . . In proceedings under this section, the court shall adopt the Rules and Procedures described in Part Six, Section IV, Paragraph 13 of the Rules of Court.

C. Bar Counsel of the Virginia State Bar shall prosecute the case. . . .

D. Upon the hearing, if the attorney is found guilty by the court, his license to practice law in this Commonwealth shall be revoked. ...

### RULES OF THE SUPREME COURT OF VIRGINIA

Part 6, § IV, 13-6, established the Virginia State Bar Disciplinary Board to hear the most, “serious cases of lawyer misconduct. The twenty-member board appointed by the Supreme Court of Virginia is composed of sixteen attorneys and four lay members. The board issues written opinions following its hearings.”

### RELEVANT UNITED NATIONS LEGAL DOCUMENTS

*Universal Declaration of Human Rights* ([http://undocs.org/A/RES/217\(III\)](http://undocs.org/A/RES/217(III))).

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law...

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations . . . .

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 17. . . . (2) No one shall be arbitrarily deprived of his property.

Article 23. (1) Everyone has the right to work, . . . and to protection against unemployment. .... (3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

### PRINCIPLES

Updated Set of principles for the protection and promotion of human rights through action to combat impunity at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/109/00/PDF/G0510900.pdf?OpenElement>.

[Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](http://www.ohchr.org/EN/ProfessionalInterest/Pages/EffectiveInvestigationAndDocumentationOfTorture.aspx) (see <http://www.ohchr.org/EN/ProfessionalInterest/Pages/EffectiveInvestigationAndDocumentationOfTorture.aspx>)

[Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power](http://www.ohchr.org/EN/ProfessionalInterest/Pages/VictimsOfCrimeAndAbuseOfPower.aspx) (<http://www.ohchr.org/EN/ProfessionalInterest/Pages/VictimsOfCrimeAndAbuseOfPower.aspx>)

[Basic Principles on the Independence of the Judiciary](http://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx) (<http://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx>)

[Basic Principles on the Role of Lawyers](http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx)

(<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>)

[Guidelines on the Role of Prosecutors](http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfProsecutors.aspx)

(<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfProsecutors.aspx>)

[Basic Principles and Guidelines on the Right to a Remedy and Reparation](http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx)

(<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>)

## STATEMENT OF FACTS

- In 1943 the General Assembly enacted VA Code § 54.1-3935, to establish a ***decentralized*** attorney disciplinary system in Virginia under the control of each county court of appeals, and specifically rejected a ***centralized*** statewide attorney disciplinary system under the control of the Supreme Court of Virginia.

- In 1998 the Supreme Court of Virginia violated the limitations and prohibitions of Article VI §§ 1, and 7 of the VA Const., and the restrictions under VA Code §§ 54.1-3909, 3915, and 3935, by usurping the exclusive legislative authority to establish courts and appoint judges of the General Assembly, by issuing Rules of the Supreme Court of Virginia Part 6, § IV, 13-6, in willful violation of the limitations and prohibitions of Article VI § 5 of the VA Const., and VA Code § 54.1-3915, so to establish under the Court's control a ***centralized*** attorney disciplinary system by creating Virginia State Bar Disciplinary Board ("VSBDB") as a "court" (See <http://www.vsb.org/pro-guidelines/index.php/bar-govt/procedure-for-disciplining-suspending-and-disbarring-attorneys>), and appointing the VSBDB as "judges" (See <https://www.vsb.org/site/about/disciplinary>).

- In 2003 Washington D.C. Lobbyist/Attorney Eric Holder ("Holder"),<sup>8</sup> and Mr. Jack Harbeston ("Harbeston," the Managing Partner of Mr. Rodriguez's client Sea Search Armada and Armada Company ("SSA")) entered into a business conspiracy to injure Mr. Rodriguez's international law practice, good reputation, profession, statutory property rights under VA Code § 54.1-3932, and right to employment in violation of VA Code §§ 18.2-499, 500, by simultaneous entering Virginia and filing two fraudulent bar complaints with the VSBDB to punish Mr. Rodriguez for: (1) litigating in accordance Virginia State Bar Legal Ethics Opinion #1325 issued to Mr. Rodriguez on February 27, 1990 (**Exhibit 3a**) confirming his statutory right to take action to protect his property interest in his Choate Virginia Attorney's Lien on the client's claim to sunken treasure trove aboard the 1707 Galleon San Jose off the coast of the Republic of Colombia ("Colombia") (See [NPR report's on Pres. of the Colombia confirming Dec. 2, 2015, of finding treasure trove valued at USD 18 Billion](#)), and, for litigating to enforce his rights as a father to protect his

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<sup>8</sup> It was alleged in previous RICO actions (**Exhibits 2a, 4a, 4j, and 4k**) that Eric Holder as Deputy Attorney General of the U.S. Dept. of Justice ("DOJ") during the Clinton Administration undertook a business conspiracy to damage Mr. Rodriguez's successful international litigation practice representing nonresident Hispanic U.S. and Colombian citizens against the unlawful policies of DOJ: see *Martinez v. Lamagno and DEA*, 515 U.S. 417 (1995)(the Hon. Chief Justice/Circuit Justice for the USCA for the Fourth Cir. William Rehnquist dissenting)(there the United States Supreme Court reversed the USCA for the 4<sup>th</sup> Circuit, to order an evidentiary hearing before a jury of the acts outside the scope of employment, rejecting DOJ's surreal argument that a DEA agent acted within his scope of employment while negligently causing a car accident while having sex and DWI., See also: *Cooperativa Multiactiva de Empeados de Distribuidores de Drogas (Coopservir Ltda. v. Newcomb, et al.*, D.C. Cir. No 99-5190, S Ct. No 99-1893 (2000) (challenge to President Clinton's Executive Order prohibited bill of attainder issued under the War Power Act); *Organization JD Ltda. v. Assist U.S. Attorney Arthur P. Hui and DOJ*, 2nd Cir. No. 93-6019 and 96-6145 (1996) (Mr. Rodriguez argued and won the right to hold accountable DOJ's Assistant U.S. Attorneys accountable for violations of the Electronic Communications Privacy Act (1978); and, *Lopez v. First Union*, 129 F3rd. 1186 (11th Cir. 1997) (Mr. Rodriguez argued and won the right to hold DOJ's Assistant U.S. Attorneys, employees and financial institution accountable for violation of the Right to Financial Privacy Act).

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13 year-old U.S. citizen son from a “zone of war” pursuant to the Hague Convention, VA Code, and Joint Custody Agreement (<http://www.liamsdad.org/others/isidoro.shtml>).

- On November 27, 2006, after summarily denying various motions challenging their authority and jurisdiction as a “court” and their acting as “judges,” the VSBDB issued a *Void Ab Initio Order*, disbaring and punishing Mr. Rodriguez for litigating to enforce statutory property rights and fundamental rights as a father (**Exhibits 3b** at [http://www.vsb.org/docs/Final\\_Order\\_Rodr\\_11-28-06.pdf](http://www.vsb.org/docs/Final_Order_Rodr_11-28-06.pdf)).

- In 2007, the Supreme Court of Virginia in an unpublished summary order affirmed the VSBDB *void ab initio* disbarment order, without discussing the clear violation of Art. VI of the VA Const., VA Code §§ 54.1-3915, and 3935, and the *Void Ab Initio Order Doctrine* (**Exhibit 3c**).<sup>9</sup>

- From 2007 thru the present, Washington D.C./Virginia government attorneys, employees, and the Honorable Justice of the United States Supreme Court, Honorable Judges of the United States Courts of Appeals for the Second, Third, Fourth, District of Columbia, and Federal Circuits, the United States District Court for the Eastern District of Virginia, and the United States Tax Court, violated the 1<sup>st</sup>, 5<sup>th</sup>, 7<sup>th</sup>, and 14<sup>th</sup> Amend. U.S. Const., Art. VI of VA Const., the *Void Ab Initio Order Doctrine*, the Internal Revenue Code, and the Social Security Act,<sup>10</sup> by their unlawful use and abuse of the judicially created doctrine of *stare decises* and *res judicata* to affirm the VSBDB *void ab initio order* to disbar Mr. Rodriguez as a federal civil litigator, so to injure his international law practice, his business, reputation, profession, statutory property right, and the right to employment (**Exhibit 1, 2, 3, 4a thru 4m**).

- In 2013 the Hon. U.S. Dist. Judge John A. Gibney, Jr., the Honorable Judges of the United States Court of Appeals for the Fourth Circuit, and Honorable Justice of the United States Supreme Court, gave all above government attorneys, employees, and judges “impunity” and absolute immunity from accountability by summarily affirming the dismissing of Mr. Rodriguez’s lawsuit, affirming the denial of the demands for a jury trial and grand jury, affirming the enjoining of any future suit for the alleged violations of the 1<sup>st</sup>, 5<sup>th</sup>, 7<sup>th</sup>, and 14<sup>th</sup> Amend. U.S. Const. VA Const. VI §§ 1, 5 & 7, VA Code §§ 54-1-3909, 3915 and 3935, and the *Void Ab Initio Order Doctrine*, and affirming the issuing a prior restraint mandating that Mr. Rodriguez file a motion with any federal court to seek permission to file any other type of federal action, *Isidoro Rodriguez, Esq., v. Jane/John Does of the Virginia State Bar Disciplinary Board*, et al., U.S. Dist. Ct. E.D. VA 12-cv-663-JAB (**Exhibit 2a thru 2aiv**).

- To challenge the above unlawful acts and obtain “redress of grievances,” Mr. Rodriguez filed petitions from 2009 thru 2017 with President Barrack Obama (**Exhibit 5a thru 5b**), and his legislative representatives from Northern Virginia in the Virginia General Assembly and in the U.S. Congress (**Exhibit 6 and 7**, see also <https://www.youtube.com/watch?v=VAkEfjcA5sQ> and, <https://t.co/sLv7pz3zD5>).

- Because of the refusal to conduct a legislative investigation of the unlawful court rules (**Exhibit 8a, 8b, and 8c**), Mr. Rodriguez filed on May 15, 2016, a Petition (P-926-16) (**Exhibit 9a**) with the Inter-

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<sup>9</sup> Note the order dated October 31, 2007, of the Hon. Chief Justice of the U.S. Supreme Court John G. Roberts, sitting as Circuit Justice of the USCT Appeals for the 4<sup>th</sup> and District of Columbia Circuits, denying Mr. Rodriguez’s application for an injunction of the unlawful rules of the Supreme Court of Virginia (**Exhibit 4bi**).

<sup>10</sup> The evidence in court documents confirm a meanness in retaliation to further punish Mr. Rodriguez, by unlawfully assessed both he and his wife federal taxes grater then allowed by law in violation of 26 U.S.C § 7214, by striking and summarily declaring “frivolous” their 2006 business/litigation expenses against the VSBDB *void ab initio order*, not permitting discovery of IRS employees, and denying the right to subpoena them. Also, after Mr. Rodriguez was terminated as a contract attorney based upon the use of the VSBDB *void ab initio order*, unlawful denying to him his right to Virginia unemployment compensation benefits under the Social Security Act (**Exhibit 4g and 4h**).

American Commission on Human Rights (IACHR), and a Request for Precautionary Measures (MC-367-16) (**Exhibit 9b**, see <http://www.isidororodriguez.com>).

- More than 18 months have passed since the first Request for Precautionary Measures (MC-367) was filed and then summarily denied without any meaningful explanation (**Exhibit 10**), and the Petition (P-926-16) was only provisionally registered and has been only under “study” without action, despite repeated request based on the evidence of “exceptional circumstances” which are “inextricably tied to the merits of the matter” of the systematic denial of access to an impartial court and trial by jury (**Exhibit 11**).

- Because when justice is delayed, justice is denied,<sup>11</sup> the instant United Nations’ complaint and submission of information to the Special Procedures have been filed to challenge the surreal grant of “impunity” and absolute immunity from accountability and damages for the systematic denial of access to an impartial court, and a trial by jury for unlawful acts and *void ab initio orders* of government attorneys, employees, and judges.

LEGAL ANALYSIS

**I. THE UNLAWFUL GRANT OF “IMPUNITY” AND ABSOLUTE IMMUNITY FOR ACTS OUTSIDE OF THE SCOPE OF EMPLOYMENT OF GOVERNMENT ATTORNEYS AND EMPLOYEES, AND FOR ISSUANCE BY JUDGES OF VOID AB INITIO ORDER OUTSIDE THEIR JURISDICTION AND JUDICIAL AUTHORITY.**

The orders of the Hon. U.S. Dist. Judge John A. Gibney, Jr. (USDCT E.D. VA), Hon Justice of the United States Court of Appeals for the Fourth Circuit, and the Hon. John G. Roberts Chief Justice of the U.S. Supreme Court/Circuit Judge of the USCT Appeals for the 4<sup>th</sup> and District of Columbian Circuit (**Exhibits 2a, 2aii, 2aiii and 2aiv**), and the legal analysis of the Attorney General of Virginia (**Exhibits 2av and 2avi**) oddly and arrogantly used legal sophistry to misuse *stare decisis* and *res judicata* in violation of the *void ab initio order doctrine*<sup>12</sup>-- so to unlawfully grant “impunity” and absolute immunity to all government actors, as well as to Jack Harbeston, for their unlawful business conspiracy and acts outside their scope of employment, jurisdiction, and judicial authority in violation of the limitation and prohibitions under Article VI of the VA Const., as well as the restrictions in VA. Code § 54.1-3915.

“Restrictions as to rules and regulations. ---Notwithstanding the foregoing provisions of this article [delegating limited rulemaking authority], the Supreme Court shall not

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<sup>11</sup> "Justice delayed is justice denied" a [legal maxim](#) meaning that if [legal redress](#) is available for a party that has suffered some injury, but is not forthcoming in a timely fashion, it is effectively the same as having no redress at all. . . .” Wikipedia.

<sup>12</sup> More than 214 years ago in *Marbury v. Madison*, 5 U.S. 1 Cranch 137 137 (1803), Chief Justice John Marshall first defined for U.S. jurisprudence the *Void Ab Initio Order Doctrine*, writing that, “a law repugnant to the Constitution is *void, and courts, as well as other departments, are bound by that instrument.*” See also *Sabariego v Maverick*, 124 US 261, 31 L Ed 430, 8 S Ct 461, a *void order* is not entitled to respect in any other tribunal. This is because “[a] *void* judgment does not create any binding obligation.” *Kalb v. Feuerstein*, 308 US 433, 60 S Ct 343, 84 L Ed. 370 (1940); and, *Ex parte Rowland*, 104 U.S. 604, 26 L.Ed. 861 (1882), holding that an illegal order is forever *void*.

promulgate rules or regulations prescribing a code of ethics governing the professional conduct of attorneys which are inconsistent with any statute; nor shall it promulgate any rule or regulation or method of procedure which eliminates the jurisdiction of the courts to deal with the discipline of attorneys. . . .”

Thus, this surreal grant of “impunity” and absolute immunity by unpublished “Star Chamber” like opinions by misuse of *stare decisis* and *res judicata* are violations of the *Void Ab Initio Order Doctrine* to systematically deny Mr. Rodriguez of his fundamental right to an impartial court and right to a civil jury trial to secure accountability and damages for acts outside the scope of employment, jurisdiction, and judicial authority.<sup>13</sup> Under the Common Law dating back to *The Case of the Marshalsea*, 77 Eng. Rep. 1027 (K.B. 1613), there is no absolute judicial and ministerial immunity for acts outside of jurisdiction, and an action for damages will lie for the conspiracy to issue and enforce a *void* order as part of an illegal enterprise.<sup>14</sup>

It is a fundamental doctrine of equal protection of the laws and due process, incorporated into the common law that Mr. Rodriguez as a party affected by various *void ab initio orders* and personal judgment must have his day in court, and an opportunity to be heard, before an impartial court with jurisdiction to hear the matter. *Renaud v. Abbott*, 116 US 277, 29 L Ed 629, 6 S Ct 1194. Under the Common Law, every person is entitled to an opportunity to be heard before an impartial court of law upon every question involving acts outside the scope of employment, judicial authority, as well as involving his rights or interests--before he is affected by any judicial decision on the question. *Earle v McVeigh*, 91 US 503, 23 L Ed 398.

The right to access to an impartial court is also mandated by Article 10 of the United Nations Bill of Rights, wherein it is written that “[e]veryone is entitled in full equality to a fair and public hearing by an

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<sup>13</sup> See *Katia Gutierrez de Martínez v. Lamagno and DEA*, 115 S.Ct. 2227 (1995) (Rehnquist dissenting) (Mr. Rodriguez argued and won by before the U.S. Supreme Court the holding that there was a right to an evidentiary hearing before a jury on the alleged acts of government employees outside the scope of employment ([https://www.oyez.org/advocates/isidoro\\_rodriguez](https://www.oyez.org/advocates/isidoro_rodriguez)).

<sup>14</sup> Sir Edward Coke found that Article 39 of the Magna Carta restricted the power of judges to act outside of their jurisdiction such proceedings would be void, and actionable,

[W]hen a Court has (a) jurisdiction of the cause, and proceeds *inverso ordine* or erroneously, there the party who sues, or the officer or minister of the Court who executes the precept or process of the Court, no action lies against them. But (b) **when the Court has no jurisdiction of the cause, there the whole proceeding is [before a person who is not a judge], and actions will lie against them without any regard of the precept or process . . .** Id. 77 Eng. Rep. at 1038-41. (Emphasis added)

independent and impartial tribunal, in the determination of his rights and obligations . . .”<sup>15</sup> It is for this reason that judges were never given either “impunity” or absolute immunity for unlawful acts, particularly for acts outside their jurisdiction and judicial authority.<sup>16</sup>

In response to the legal sophistry and poor legal analysis of both the Hon. Judge Gibney and the Attorney General of Virginia (**Exhibit 2a, 2av, and 2vi**), research confirms that in both England and the colonies, it was in ordinary courts-**before a jury trial**-which determined whether government officers, including judges, with good behavior tenure, were to be held accountable in either civil or criminal trials for misbehavior. Prakash and Smith, How to Remove a Federal Judge, 116 Yale L. J. 72 at 74 (2006).

Also, it was Blackstone who first discussed various English statutes that provided for the making accountable and removal of judges for misbehavior and acts outside of the jurisdiction. 4 William Blackstone, Commentaries 140 at 141. These were not a statutory exception to grants of good-behavior tenure, but consistent with the concept that a judge could be tried in court for unlawful acts outside of their jurisdiction. See, e.g., R. V. Gaskin, (1799) 1001 Eng. Rep. 1349 (K.B.) (reinstating a parish-clerk upon his demand that his employer shows cause for firing him); James Bragg’s Case (1616) 77 Eng. Rep. 1271, 1278-81 (K.B.)(reinstating a Burgess for lack of cause to remove him).

Consistent with common law, which the laws of Virginia are grounded the General Assembly enacted the English Rule in Va. Code §8.01-195.3(3), to hold that a judge or government attorney had no immunity from suit for acts outside of his judicial capacity or jurisdiction. See Robert Craig Waters,

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<sup>15</sup> In investigating and considering the merits of this complaint for the usurping of legislative constitutional authority by the Washington D.C. Oligarchy Federal/Virginia government attorneys, employees, and judge to permit the promulgation of court rules by violation of the limitation and prohibitions under Article VI of the VA Const., as well as the restrictions in VA. Code § 54.1-3915, the United Nations Commission on Human Rights must recall that Charter was establish in part to respond to the sorry behavior of German and other European judges, lawyers, and law schools assuming away the limitation and prohibitions of their respective constitutions that aided to power Hitler and the National Socialist German Workers' Party (“NAZI”) before World War II. Because, “[b]y the time the gas vans came and the human slaughter factories were built in Auschwitz and the other death camps, the murder of the six million Jews and other persecuted minorities was done completely within the framework of German law.” Yad Vshem, The Holocaust Martyrs’ and Heroes Remembrance Authority, 2004.

<sup>16</sup> “I. COMBATING IMPUNITY: GENERAL OBLIGATIONS, PRINCIPLE 1. GENERAL OBLIGATIONS OF STATES TO TAKE EFFECTIVE ACTION TO COMBAT IMPUNITY, “Impunity arises from a failure by States to meet their obligations to investigate violations; to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished; to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; to ensure the inalienable right to know the truth about violations; and to take other necessary steps to prevent a recurrence of violations.” E/CN.4/2005/102/Add.1, at page 7, Updated Set of principles for the protection and promotion of human rights through action to combat impunity.

“*Liability of Judicial Officers under Section 1983*” 79 Yale L. J. (December 1969), pp. 326-27 and nn. 29-30). Thus, the Hon. Judge Gibney and the Attorney General are not only wrong in their misuse of the holding in *Stump v. Sparkman*, 435 U.S. 349 at 360 (1978), but to their analysis provides additional evidence of their unlawful acts in furtherance of the business conspiracy by granting “impunity” and absolute immunity for acts outside of scope or employment, jurisdiction and judicial authority to injure Mr. Rodriguez.<sup>17</sup>

But not only are the federal government entities of limited and prescribed authority and jurisdiction under the U.S. Constitution but also federal legislation does not nor can it provide for them any judicial immunity for unlawful acts of malfeasance in violation of their jurisdiction and judicial authority. Pursuant to *Rankin v. Howard*, 633 F.2d 844 (1980), and, *Den Zeller v. Rankin*, 101 S. Ct. 2020 (1981), whenever a judge acts where he does not have jurisdiction to affirm and use a *void ab initio order*, the judge is engaged in an act or acts of treason. *U.S. v. Will*, 449 U.S. 200, 216 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed 257 (1821).

Consequently, the evidence confirms that the Hon. Judge Gibney and the Attorney General of Virginia have unlawfully acted to obstruct justice to conceal the unlawful acts by, “[resisting] the execution of the laws under color of authority,”<sup>18</sup> to conceal and obfuscate the unlawful promulgation of illegal court rules in violation of VA Const., and VA Code. This was part of the conspiracy to systematically deny access to an impartial federal court and trial by a jury of the evidence of malfeasance and the business conspiracy to deprive Mr. Rodriguez of business, reputation, profession, property, and right to employment.<sup>19</sup>

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<sup>17</sup> There the U.S. Supreme Court held in an action against a State court judge, that pursuant to common law a state court judge who acts without jurisdiction, or acts in violation of Constitutional, or acts in violation of statutory prohibitions expressly depriving him of jurisdiction or judicial capacity, judicial immunity is lost. This is because a State judge would be immune from suit only if he did not act outside of his judicial capacity and/or was not performing any act expressly prohibited by statute. See Block, *Stump v Sparkman and the History of Judicial Immunity*, 4980 Duke L.J. 879 (1980). This is exactly what the evidence confirms the Supreme Court of Virginia has done.

<sup>18</sup> Misprision of treason to violate the VA Const., is defined pursuant to VA Code §§ 18.2-481 and 482.

<sup>19</sup> See Dr. Richard Cordero, Esq., excellent legal research paper dated April 15, 2016, entitled, **Exposing Judges’ Unaccountability and Consequent Riskless Wrongdoing: Pioneering the news and publishing field of judicial unaccountability reporting.** [http://judicial-discipline-reform.org/OL/DrRCordero-Honest\\_Jud\\_Advocates.pdf](http://judicial-discipline-reform.org/OL/DrRCordero-Honest_Jud_Advocates.pdf). As Dr. Cordero explains in the introduction of his ground-breaking research paper,

In *Chandler v. Judicial Council*, 398 U.S. 74, at 140 (1970), Chief Justice Berge wrote, “If [judges] break a law, they can be prosecuted.” Also, Justice Black and Douglas in their dissenting opinion agreed, that, “. . . judges, like other people, can be tried, convicted, and punished for crimes . . .” *supra.* at 141-142. Also, in *Forrester v. White*, 484 U.S. 219 (1988), the Court held:

This Court has never undertaken to articulate a precise and general definition of the class of acts entitled to immunity. The decided cases, however, suggest an intelligible distinction between judicial acts and the administrative, legislative, or executive functions that judges may on occasion be assigned by law to perform. Thus, for example, the informal and ex parte nature of a proceeding has not been thought to imply that an act otherwise within a judge’s lawful jurisdiction was deprived of its judicial character. See *Stump v. Sparkman*, 435 U.S. 349, 363, n. 12 (1978). Similarly, acting to disbar an attorney as a sanction for contempt of court, by invoking a power “possessed by all courts which have authority to admit attorneys to practice,” does not become less judicial by virtue of an allegation of malice or corruption of motive. *Bradley v. Fisher*, 13 Wall., at 354. [484 U.S. 219, 228]. As the *Bradley* Court noted: “**Against the consequences of [judges’] erroneous or irregular action, from whatever motives proceeding, the law has provided for private parties’ numerous remedies, and to those remedies, they must, in such cases, resort.**” (Emphasis added) *Ibid.*

Therefore, the “impunity” and absolute “judicial immunity” given by the Hon. Judge Gibney, was an act outside his jurisdiction and judicial authority because it violated Article IV of the VA Const. And VA Code, and inconsistent/violation of the holding in *Stump v. Sparkman*, 435 U.S. 349, (1978), which limited absolute judicial immunity for acts with jurisdiction and judicial authority of the court.

Finally, “impunity” and absolute judicial immunity has not even been extended even to State judges acting to promulgate a code of conduct for attorneys. *Supreme Court of Virginia v. Consumers Union of United States, Inc.*, 446 U.S. 719 (1980). In explaining why legislative, rather than judicial, immunity furnished the appropriate standard, The Court wrote: “Although it is clear that under Virginia law the

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“This study analyses official statistics, reports, and statements of the Federal Judiciary showing that its judges are unaccountable and their operation is pervaded by secrecy; consequently, **they recklessly do wrong in self-interest and to people’s detriment, which calls for reform.**” (Emphasis added)

**In the last 225 years since the creation of the Federal Judiciary in 1789, only 8 of its judges have been removed from the bench** (footnote omitted). They hold all their adjudicative, policy-making, administrative, and disciplinary meetings behind closed doors and never appear before a press conference (cite omitted). **They act with impunity. The evidence reveals their motive, means, and opportunity (cite omitted) to engage in financial and non-financial wrongdoing (footnote omitted) by abusing power to deny due process, disregard the law, and decide by reasonless summary orders (footnote omitted).** They have hatched a system of wrongdoing so routine, widespread, and coordinated (cite omitted) among themselves and between them and insiders (footnote omitted, e.g., running a bankruptcy fraud scheme (cite omitted), as to have turned wrongdoing into their Judiciary’s institutionalized modus operandi (cite omitted).” (Emphasis added)

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issuance of the Bar Code was a proper function of the Virginia Court, propounding the Code was not an act of adjudication but one of rulemaking.” Id., at 731. Similarly, in the same, the Court held that judges acting to enforce the Bar Code would be treated like prosecutors, and thus would [484 U.S. 219, 229] be amenable to suit for injunctive and declaratory relief. Id., at 734-737. Cf. *Pulliam v. Allen*, 466 U.S. 522 (1984). **Once again, it was the nature of the function performed, not the identity of the actor who performed it, that informed our immunity analysis.** But at no time was there to be “impunity” for an unlawful activity outside of their jurisdiction, such as for the violation of the *Void Ab Initio Order Doctrine*, U.S./VA Const., and VA Code.<sup>20</sup>

**II. MR. RODRIGUEZ HAS BEEN DEPRIVED OF HIS FUNDAMENTAL RIGHT OF ACCESS TO AN IMPARTIAL COURT AND TRIAL BY JURY OF THE EVIDENCE OF UNLAWFUL ACTS OF MALFEASANCE AND BUSINESS CONSPIRACY.**

Under common law, Article I, Bill of Rights, Section 11 of the VA Const.,<sup>21</sup> and the 7th Amendment to the U.S. Const., it is a fundamental right to a jury trial-not to a judge-which determined whether government officers, including judges, were to be held accountable in either civil or criminal jury trials for misbehavior.

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<sup>20</sup> Administrative decisions, although essential to the very functioning of the courts, have not been regarded as judicial acts. In *Ex parte Virginia*, 100 U.S. 339 (1880), for example, the U.S. Supreme Court declined to extend immunity to a county judge who had been charged in a criminal indictment with discriminating on the basis of race in selecting trial jurors for the county’s courts. The Court reasoned:

“Whether the act done by him was judicial or not is to be determined by its character, and not by the character of the agent. Whether he was a county judge or not is of no importance. The duty of selecting jurors might as well have been committed to a private person as to one holding the office of a judge. . . . That the jurors are selected for a court makes no difference. So are court-criers, tipstaves, sheriffs, &c. Is their election or their appointment a judicial act?” Id., at 348. Although this case involved a criminal charge against a judge, the reach of the Court’s analysis was not in any obvious way confined by that circumstance.”

<sup>21</sup> Article I, Bill of Rights, Section 11. Due process of law; obligation of contracts; taking or damaging of private property; prohibited discrimination; jury trial in civil cases.

That no person shall be deprived of his . . . property without due process of law; that the General Assembly shall not pass any law impairing the obligation of contracts; . . .

That in controversies respecting property, and in suits between man and man, trial by jury is preferable to any other, and ought to be held sacred. . . .

Both the U.S. Const. and VA Const. confirmed an absolute right to civil jury trial of the evidence of malfeasance.<sup>22</sup> See Ames E. Pfander, *Federal Courts, Jurisdiction-Stripping and the Supreme Court's Power to Supervise Inferior Tribunals*, 78 Tex. L. Rev. 1433 (2000).<sup>23</sup>

Thus, there never was absolute judicial and ministerial immunity for acts outside of the scope of employment, jurisdiction, and judicial authority, but more importantly, the factual issues were to be decided by a jury hearing the evidence, see *Martinez v. Lamagno and DEA*, 515 U.S. 417 (1995). Therefore, an action will lie for unlawful malfeasance and the business conspiracy to issue and enforce the *void ab initio orders* issued as part of an illegal enterprise.

### III. Constitutional Limitations and Prohibitions on the Supreme Court of Virginia

The VA Const. and U.S. Const. confirmed that all government power was derived from the consent of the govern—"We the People," and mandate the separation of power to serve as "distribution grids, apportioning authority....," to protect the rights of citizens.<sup>24</sup> D. Arthur Kelsey, *The Architecture of Judicial Power: Appellate review & Stare Decisis*, Virginia State Bar, Virginia Lawyer October 2004, 13.

In that context, echoing James Madison writing in Federalist No. 47, Thomas Jefferson wrote that the violation of the limitation and prohibitions defining the separation of power would create a "**despotic government.**" Notes on the State of Virginia 196 (1787).<sup>25</sup> Consequently, both Founding Fathers understood that the clear lessons from history show that,

Once certain checks and balances are destroyed, and once certain institutions have been intimidated, the pressure that can turn an open society into a closed one-turn into direct assaults; at that point events tend to occur very rapidly, and a point comes at which there is no easy turning

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<sup>22</sup> As Thomas Jefferson wrote in a letter to Thomas Paine in 1789: "**I consider trial by jury as the only anchor ever yet imagined by men, by which the government can be held to the principles of its constitution.**" (Emphasis added)

<sup>23</sup> See Justice John F. Molloy, The Fraternity: Lawyers and Judges in Collusion, Paragon House (2004). "When a lawyer puts on a robe and takes the bench, he or she is called a judge. But in reality, when judges look down from the bench, they are lawyers looking upon fellow members of their fraternity. In any other area of the free-enterprise system, this would be seen as a conflict of interest. When a lawyer takes an oath as a judge, it merely enhances the ruling class of lawyers and judges. . . . How can they be expected not to be beholden to those who elevated them to the bench? When they leave the bench, many return to large and successful law firms that leverage their names and relationships."

<sup>24</sup> Federalist No. 47 p 109, states that, "[the VA Const.], declares, . . . 'that the legislative, executive, and judicial departments shall be separate and distinct; so that neither exercise powers properly belonging to the other. . . .'"

<sup>25</sup> More than 229 years ago Mr. James Madison in Federalist No. 48, Feb. 1, 1788, first addressed the concern that, "[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny." Thus, forecasting unlawful acts outside the scope of employment, jurisdiction and judicial authority the Washington D.C./Virginia Oligarchy by disregarding the limitation and prohibitions of the U.S. Const., VA Const., VA Code, and U.S. Const., and the *Void Ab Initio Order Doctrine*.

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back to the way it used to be. Naomi Wolf, The End of America: Letter of Warning to a Young Patriot, p. 14, Chelsea Green Publishing, Vermont, 2007.

Regarding the need for constitutional checks on the Judicial Branch, Patrick Henry wrote,

Power is the great evil with which we are contending. We have divided power between three branches of government and erected checks and balances to prevent abuse of power. However, where is the check on the power of the judiciary? If we fail to check the power of the judiciary, I predict that we will eventually live under judicial tyranny.

It is safe to argue that these constitutional draftsmen openly advocated a deep distrust of the motive of individuals in government generally, and the Judicial Branch specifically. The key to protection of the rights of citizens was “federalism” and the separation of power between and among entities in government thereby fractures power in innumerable ways to assure independent review of any violation of the law. To this end, VA Code §§ 18.2-481 and 482, confirmed no judicial immunity for acts outside of authority or jurisdiction by making it a Class 2 felony for, “[r]esisting the execution of the laws under color of authority.”

#### **IV. VA General Assembly Established a Decentralized Attorney Disciplinary System**

VA Const. VI §§ 1,<sup>26</sup> and 7<sup>27</sup> diffused the power of the Virginia Judicial Branch by restricting the authority to create courts and appoint judges exclusively to the Virginia General Assembly, thereby limiting the risk of creating dangerous nodes of power within the Judicial Branch inconsistent with the VA Const. and VA Code. To this end, VA Const. VI § 5,<sup>28</sup> and VA Code § 54-1-3915<sup>29</sup> denied the Supreme Court of Virginia jurisdiction and judicial authority to promulgate court rules in conflict with both substantive rights and statutory rights (in short, the courts cannot enact legislation).<sup>30</sup>

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<sup>26</sup> **Article VI, § 1. Judicial power; jurisdiction.** — The **judicial power** of the Commonwealth **shall be vested** in a Supreme Court **and in such other courts of original or appellate jurisdiction** subordinate to the Supreme Court **as the General Assembly may from time to time establish.** (Emphasis added)

<sup>27</sup> **Article VI, § 7. Selection and qualification of judges**--The justices of the Supreme Court shall be chosen by the vote of a majority of the members elected to each house of the General Assembly . . . **The judges of all other courts of record shall be chosen by . . . members elected to each house of the General Assembly.** . . . (Emphasis added)

<sup>28</sup> **Article VI, § 5. Rules of practice and procedure.** — The Supreme Court shall have the authority to make rules governing the course of appeals and the practice and procedures to be used in the courts of the Commonwealth, **but such rules shall not be in conflict with the general law** as the same shall, from time to time, be **established by the General Assembly.** . . .

<sup>29</sup> **VA Code § 54.1-3915. Restrictions as to rules and regulations.** Notwithstanding the foregoing provisions of this article, **the Supreme Court shall not promulgate rules or regulations prescribing a code of ethics governing the professional conduct of attorneys which are inconsistent with any statute; nor shall it promulgate any rule or regulation or method of procedure which eliminates the jurisdiction of the courts to deal with the discipline of attorneys.** . . . (Emphasis added)

<sup>30</sup> As stated by another Virginia attorney. Chief Justice Marshall, “[We judge] 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.** *Cohens v. Virginia*, 6 Wheat, 264, 404 (1816) (Emphasis added).

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Therefore, the Supreme Court of Virginia, held that the power to either suspend or revoke an attorney's license in all of Virginia, must be "conferred by statute," *Legal Club of Lynchburg v. A.H. Light*, 13249, 430, 119 S.E. 55 (1923), citing *Fisher's Case*, 6 Leigh (33 Va.) 619 (1835).<sup>31</sup> Thus, the General Assembly enacted the Acts of Assembly 1932. p. 139, to establish a ***decentralized*** attorney disciplinary system-specifically, not under the control of the Supreme Court of Virginia. But rather the General Assembly gave to each county court of appeals the jurisdiction to discipline attorneys and gave statewide effect to the disciplining of an attorney before that particular court.<sup>32</sup>

Under VA Const. VI § 5, the General Assembly's ***decentralized*** attorney disciplinary system, the Supreme Court of Virginia was gives authority only to promulgate rules establishing an integrated Virginia State Bar (VSB), specifically enacting VA Code § 54-1-3915 to prohibit the Court from the promulgation of court rules in conflict with both substantive rights and statutory rights of an attorney (in short, the courts cannot enact legislation). To this end the VSB was given only the limited powers of investigating complaints against attorneys, to be exercised by a Council and Investigating Committee in each county. The function of the VSB Investigating Committee was comparable to that of a grand jury, as a fact-finding board. It had no power to suspend, reprimand, or disbar an attorney. Only after the issuance of a rule against an attorney, filed with the county clerk's office of the county court having jurisdiction, was,

the court issuing the same shall certify the fact of such issuance and the time and place of the hearing thereon, to the chief justice of the Supreme Court of Appeals, who shall designate two judges, other than the judge of the court issuing the rule, of circuit courts or courts of record of cities of the first class to hear and decide the case in conjunction with the judge issuing the rule . . . .. (Emphasis added)

In *Campbell v. Third District Committee of Virginia State Bar*, 179 Va. 244, 18 S.B.2d 883 (1942), the constitutionality of the ***decentralized*** attorney disciplinary system was upheld, by holding that the General Assembly merely intended to give the county courts the general jurisdiction to hear and determine

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<sup>31</sup>The Court held that although in a proper case a court does have inherent power to suspend or annul the license of an attorney practicing only in that particular court, for a court to have, "[t]he powers to go further and make suspension or revocation of license effective in all other court of the Commonwealth [this] must be conferred by statute." (Emphases added).

<sup>32</sup> See When Has the Supreme Court of Appeals Original Jurisdiction of Disbarment Proceedings? R.H.C. *Virginia Law Review*, Vol. 10, No. 3 (Jan. 1924), pp. 246-248; see also David Oscar Williams, Jr., The Disciplining of Attorneys in Virginia 2 Wm. & Mary Rev. Va. L. 3 (1954) <http://scholarship.law.wm.edu/wmrvl/vol2/iss1/2>.

disbarment proceedings and did not intend to delegate to the tribunal any legislative powers. However, under the clear wording of VA Code §54.1-3935, the General Assembly specifically denied any power to the Supreme Court of Virginia to discipline attorneys statewide, by mandating that any Supreme Court of Virginia disciplinary action was to be referred to a specifically selected three-judge panel from the City of Richmond. Appeal from the judgment of the three-judge county court was a matter of right to the Supreme Court of Virginia. Also, the attorney who had been disbarred had the right to apply to the Governor for reinstatement, if at the time of application for such relief, “there is no other adequate remedy for obtaining it at law.” See VA Code of 1950, 12-45.

Subsequently, VA. Code § 54.1-3935, was enacted by the General Assembly to re-confirm the decentralized attorney disciplinary system’s use of the jurisdiction of each County Court of Appeals, and circuit courts to discipline an attorney. VA Code §54.1-3935(B), again re-confirmed that Supreme Court of Virginia has no power to discipline attorneys statewide, by requiring it to use a three-judge panel formed in the City of Richmond--The statute specifically denied the Supreme Court of Virginia the power to discipline an attorney directly. Under VA. Code § 54.1-3915, limited the delegated authority to the Supreme Court of Virginia under VA. Code § 54.1-3909, by prohibiting the Court from prescribing, adopting, promulgating, and amending rules and regulations of unprofessional conduct, that would be inconsistent with rights under either VA Const. and VA Code.<sup>33</sup> Thus, it is incontrovertible that the General Assembly repeatedly rejected creating any centralized attorney disciplinary system under the direct control of the Supreme Court of Virginia.

#### V. Constitutional Limitations and Prohibitions on the Supreme Court of Virginia

VA Const. VI §§ 1, and 7 diffused the power of the Judicial Branch in Virginia to limit the risk of creating dangerous nodes of power within it. VA Const. VI § 5, and VA Code § 54-1-3915. Specifically,

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<sup>33</sup> Federalist 47, p. 109, states that, “[the VA Const.], declares, . . . ‘that the legislative, executive, and judicial departments shall be separate and distinct; so that neither exercise powers properly belonging to the other. . .’”

prohibits the Supreme Court of Virginia from the promulgation of court rules in conflict with both substantive and statutory rights of attorneys.<sup>34</sup>

To enforce this control on the Supreme Court of Virginia both the U.S. Const. and VA Const., confirm that there exists no “impunity” or immunity of the absolute right of citizens to access to an impartial court and civil jury trial for malfeasance.<sup>35</sup> See Ames E. Pfander, Federal Courts, *Jurisdiction-Stripping and the Supreme Court’s Power to Supervise Inferior Tribunals*, 78 Tex. L. Rev. 1433 (2000).

**VI. Malfeasance of the Supreme Court of Virginia by affirming the VSBDB the Void Ab Initio Order disbarring Mr. Rodriguez.**

The United States Supreme Court in *Pennoyer v. Neff*, 95 US 714, 733 (1877), established the benchmark as to the challenge to any *void ab initio order*. There the court stated,

“Since the adoption of the Fourteenth Amendment to the Federal Constitution, the validity of such judgments may be directly questioned, and their enforcement in the State resisted, on the ground that proceedings in a court of justice to determine the personal rights and obligations of parties over whom that court has no jurisdiction do not constitute due process of law. . . . To give such proceedings any validity, there must be a tribunal competent by its constitution--that is, by the law of its creation--to pass upon the subject-matter of the suit.” (Emphasis added).

Consistent with this the Supreme Court of Virginia, held that “[a] **void judgment is one that has been . . . entered by a court that did not have jurisdiction over the subject matter.**” *Rook v. Rook*, 233 Va. 92, 353 S.E.2d 756, 758 (1987) (Emphasis added), *see also Collins v. Shepherd*, 274 Va. 390, 402 (2007); *Singh v. Mooney*, 261 Va. 48, 51-52(2001); *Barnes v. Am. Fertilizer Co.*, 144 Va. 692, 705 (1925).

This is because all *void ab initio orders* or judgments issued without jurisdictional authority are invalid at the moment of issuance, are to be entirely disregarded, or declared inoperative by any tribunal in which their effect is sought to be given.

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<sup>34</sup> As Virginia Circuit Judge the Hon. D. Arthur Kelsey, wrote, “The Constitution does not authorize the judiciary to write laws that the legislature failed to enact, or to repeal those that violate no recognizable constitutional principle, or to amend laws that are reasonably adequate but nonetheless can be improved upon. As Thomas Jefferson put it, a judiciary that pushes beyond these limits would place us all under the “despotism of an oligarchy” —one flatly at odds with the democratic principles of our republic.” VSB Journal, Hon. D. Arthur Kelsey, *Law & Politics: The Imperative of Judicial Self-Restraint*, (2004). at p.5.

<sup>35</sup> VA Code §§ 18.2-481 and 482, confirm that there is no judicial immunity for acts outside of authority or jurisdiction by making it a Class 2 felony for, “[r]esisting the execution of the laws under color of authority.”

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This *Void Ab Initio Order Doctrine* mandates that when an entity does not have the statutory, constitutional authority, legal power, or jurisdiction to render any order, said order is void ab initio it is a complete nullity from its issuance and may be impeached directly or collaterally by all persons, at any time, or in any manner. All *void ab initio order* may be attacked in any court at any time, “directly or collaterally.” All *void ab initio orders* have none of the consequences of a valid adjudication, thus, neither can the doctrine of stare decisis nor res judicata can be applied to give validity to a *void* order, not subject to becoming valid by the use of either *stare decisis* or *res judicata*. Because “[i]t has no legal or binding force or efficacy for any purpose or at any place. ... It is not entitled to enforcement ... All proceedings founded on the *void* judgment are themselves regarded as invalid. 30A Am Jur. Judgments.” 44 and 45.

Thus, Mr. Rodriguez has provided evidence of the ongoing repeated violations of fundamental rights by the Federal Court by their use of the VSBDB *void ab initio order*, as well as the denial to him of his fundamental right to challenge the various federal court disbarments based upon their use of *stare decisis* and *res judicata* to give effect to and not enjoin the VSBDB *void ab initio order*.

In short, the validity of the VSBDB *void ab initio* disbarment order, as well as those of the Federal Courts (**Exhibit 1, 2, 3, and 4a thru m**), are unlawful because of their failure to give the constitutionally required due process notice and an opportunity to be heard by an impartial court of with subject matter jurisdiction. *Earle v. McVeigh*, 91 US 503, 23 L Ed 398. See also, Restatements, Judgments 4(b). The limitations inherent in the requirements of due process and equal protection of the law extends to the judicial branch, so that a judgment may not be rendered in violation of those constitutional limitations and guarantees. *Hanson v Denckla*, 357 US 235, 2 L Ed 2d 1283, 78 S Ct 1228.

Because, the Virginia Supreme Court, “cannot act beyond the power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not *voidable*, but simply *void [ab initio]*, and this even prior to reversal.” *Valley v. Northern Fire & Marine Ins. Co.*, 254 U.S. 348, 353 (1920).

Finally, it is a fundamental doctrine of law under the U.S. Const. VA Const., and the United Nations Declaration of Human Rights, that because Mr. Rodriguez is affected by a personal judgment of the VSBDB and Federal Court's *void ab initio orders*, he must have his day in an impartial court, and an opportunity to be heard by a civil jury trial, on the evidence of the business conspiracy and malfeasance. *Renaud v. Abbott*, 116 US 277, 29 L Ed 629, 6 S Ct 1194. Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests before he is affected by any judicial decision on the question. *Earle v McVeigh*, 91 US 503, 23 L Ed 398.

### **Court Orders issued in Violation of the Void Ab Initio Order Doctrine**

The Federal Courts have issued *void ab initio* orders by use of VSBDB *void* order sitting as a "kangaroo court" illegally created by court rules of the Supreme Court of Virginia in violation of Article VI of the VA Const., thus, all of the courts had a duty to, "vacate any judgment entered in excess of its jurisdiction." *Lubben v. Selective Service System Local Bd. No. 27*, 453 F.2d 645 (1st Cir. 1972); *see also Jordon v. Gilligan*, 500 F.2d 701, 710 (6th Cir. 1974). The affirmance of the VSBDB *void ab initio order*, based on *stare decisis* and *res judicata* not only fails to create any binding decision but equally important is *prima facie* evidence of the ongoing extent and nature of the business conspiracy. *Kalb v. Feuerstein* (1940) 308 US 433, 60 S Ct 343, 84 L ed. 370.

The orders issued the Hon. Judge Gibney (**Exhibit 2a**), denied Mr. Rodriguez of his right to a jury trial of the business conspiracy and malfeasance in violation of the U.S. Const., VA Const., and *Void Ab Initio Order Doctrine*. All of these *void ab initio* orders exceeded the court's jurisdiction and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed. 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L ed. 565; *Thompson v. Whitman* (1873) 18 Wall 457, 21 1 ED 897; *Windsor v. McVeigh* (1876) 93 US 274, 23 L ed. 914; *McDonald v. Mabee* (1917) 243 US 90, 37 S.Ct. 343, 61 L ed. 608. This is because, "[i]f a court grants relief, which

under the circumstances it hasn't any authority to grant, its judgment is to that extent *void*." (1 Freeman on Judgments, 120-c).<sup>36</sup>

## CONCLUSION

In summary, the evidence confirms that by cronyism, obfuscation and legal sophistry there has been a cover-up to conceal the disobedience to the 1<sup>st</sup>, 5<sup>th</sup>, 7<sup>th</sup>, and 14<sup>th</sup> Amendments to the U.S. Const., the limitations and prohibitions on the courts under Article VI §§ 1, 5, and 7 of the Constitution of the VA Const., the restricts under VA Code §§ 54.1-3909, 3915, 3932, and 3935, the violation of the *Void Ab Initio Order Doctrine*, Article 2(1) of the Charter of the Organization of American States, Article V, XIV, XVII, XVIII, XXIII, XXIV, & XXVI of the American Declaration on the Rights and Duties of Man, and Articles 7, 8, 10, & 12 of the United Nations Declaration of Human Rights, by the Washington D.C./Virginia Oligarchy of government attorneys, employees, and judges.

In furtherance of this business conspiracy to injure Mr. Rodriguez international *pro hoc vice* law practice, reputation, profession, right to property and employment, the Hon. Judge Gibney issue an order surreally granting “impunity” and absolute immunity from accountability for unlawful civil and criminal acts in violation of VA Code §§ 18.2-499, 500 by affirming and using the VSBDB *void ab initio order* (**Exhibit #3**) ([http://www.vsb.org/docs/Final\\_Order\\_Rodr\\_11-28-06.pdf](http://www.vsb.org/docs/Final_Order_Rodr_11-28-06.pdf)), to conceal the promulgation and use of illegal Supreme Court of Virginia Court Rules establishing the VSBDB as a “kangaroo court,” and appointing VSBDB members as “judges” in violation of the VA. Const. and VA Code.

But, while every breach of public trust is a matter of concern, few can be more grievous than those committed by our judiciary. If the Government and courts in the United States are allowed to be lawbreakers, “it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy,” *Olmstead v. the United States*, 277 U.S. 438, 451 (1928).<sup>37</sup> Thus, the Commission must act

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<sup>36</sup> "A judgment which is *void* . . . is a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists." *People v. Greene*, 71 Cal. 100 [16 Pac. 197, 5 Am. St. Rep. 448].

<sup>37</sup> The United States Supreme Court has observed in, *United States v. Miss. Valley Generating Co.*, 364 U.S. 520, 562 (1961): “[A] democracy is effective only if the people have faith in those who govern, and that faith is bound to be shattered when high officials and their appointees engage in activities which arouse suspicions of malfeasance and corruption.”

pursuant to Articles 7, 8, 10, and 17 of the United Nations Declaration of Human Rights, to assure that Mr. Rodriguez be permitted to secure access to a trial by jury so to have accountability and damages for injury to his business, reputation, profession, right to employment, property rights, and statutory benefits.

A government attorney, employee, and judge are all bound by honor and their oath to uphold and defend their respective Constitutions and citizens. The basic tenet is that the government is not to be used for personal enrichment and the extending of benefits to the corrupt. Government and the Judicial Branch are to work to ensure that public officials are using their office to further the public interest and not to enrich themselves or others. A United States Court is a public institution, and it must promote respect for the law.

If the vaunted rule of law can be disregarded by the tyranny of irritated ministers and judges which is evidenced by the acts against Mr. Rodriguez's fundamental rights, then the United States is being permitted to have a policy and practice of "impunity" by denying accountability for the unlawfully disbaring Mr. Rodriguez by the courts and then the courts declaring them absolutely immune from suit for malfeasance. Neither the United States nor all the other members of the United Nations can long survive the unbridled tyranny of a judiciary in collusion with government attorneys, employees, and judges when they place themselves above and beyond the law.<sup>38</sup>

Respectfully submitted,

Isidoro Rodríguez

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<sup>38</sup> The famed 19th-century orator Daniel Webster rightly noted, "[t]here can be no office in which the sense of responsibility is more necessary than in that of a judge; especially of those judges who pass, in the last resort, on the lives, liberty, and property of every man. The judiciary power, on the other hand, acts directly on individuals. The injured may suffer without sympathy or the hope of redress. The last hope of the innocent, under accusation and in distress, is in the integrity of his judges. If this fail, all fails, and there is no remedy on this side the bar of Heaven." Daniel Webster, *The Writings and Speeches of Daniel Webster*, (Boston: Little, Brown, & Co., 1851), Vol. III, pp. 6-7.