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CLERK OF DISTRICT COURT
DISTRICT OF ARIZONA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
TUCSON DIVISION

JOHN V. DOMMISSE

PLAINTIFF

VS.

JANET NAPOLITANO, In Her
Individual Capacity Only;

WILLIAM NORCROSS, In His
Individual Capacity Only;

JOSEPH SCHERGER, In His
Individual Capacity Only;

PETER A. BOAL, In His
Individual Capacity Only;

SYDNEY WESTPHAL, In Her
Individual Capacity Only;

MARK NANNY, In His
Individual Capacity Only;

MIRIAM K ANAND, In Her
Individual Capacity Only;

P PHILIP SCHEERER, In His
Individual Capacity Only;

DEFENDANTS

CIV 06 368TUC GEE

CASE NUMBER _____

COMPLAINT
(Title 42 U.S.C. §§ 1983-1988
Civil Rights Lawsuit)

JURY TRIAL DEMANDED

NOW COMES John V. Dommissee, Plaintiff, to file this Complaint and would
show the Court the following, to wit:

I. JURISDICTION

This action is brought pursuant to Title 42 USC §§ 1983-88, Title 28 U.S. § 1331, Title 28 USC 1343, State Law Claims under Title 28 USC § 1367 and the First, Fourth, Fifth and Fourteenth Amendments to the U.S. Constitution.

II. PARTIES

1. Plaintiff in this case is John V. Dommissse who is a resident of Tucson, Arizona.
2. Defendant Janet Napolitano can receive mail at c/o 1700 West Washington, Phoenix, Arizona 85007.
3. Defendant William Norcross can receive mail at c/o 200 West Arbor Drive, San Diego, California 92103-8204.
4. Defendant Joseph Scherger can receive mail at c/o 200 West Arbor Drive, San Diego, California 92103-8204.
5. Defendant Peter A. Boal can receive mail at c/o 200 West Arbor Drive, San Diego, California 92103-8204.
6. Defendant Sydney Westphal can receive mail at 2601 East Roosevelt St., Phoenix, Arizona 85008-4973 (AND at 3255 East Elwood St., Phoenix, Arizona).
7. Defendant Mark Nanney can receive mail at 9545 E. Doubtree Ranch Rd., Scottsdale, Arizona 85258-5514.
8. Defendant Miriam k Anand can receive mail at 1006 E. Guadalupe Rd., Tempe, Arizona 85283-3047 (AND at 9545 Doubtree Ranch Rd., Scottsdale, Arizona 85258-5514).
9. Defendant P Philip Scheerer can receive mail at 9545 E. Doubtree Ranch Rd., Scottsdale Arizona 85258-5514.

III. STATEMENT OF THE CASE

The Plaintiff is a licensed allopathic physician in the State of Arizona and practices nutritional medicine, which is a practice allowed and recognized by the Arizona Medical Board (the Board, below). Complaints were filed with the Arizona Medical Board which is headed by Janet Napolitano, and who is acting under color of law as the Governor of the State of Arizona and of the Arizona Medical Board. The Plaintiff was entitled to peer review from licensed physicians practicing the same or similar type of legitimate medicine. Instead, eight (8) defendant individuals, seven

(7) of whom had little or no knowledge and/or experience in nutritional medicine, were chosen by the defacto Arizona Medical Board to evaluate the Plaintiff's medical approaches under color of law. Based upon their evaluation, the Plaintiff was sanctioned, in violation of his due process and equal protection under the law. In other words, the Defendants acting under color of state law by using their defacto office and assumed authority, did directly and collectively, with the Arizona Medical Board, knowingly conspire together against the Plaintiff in violation of his civil and constitutional rights. The overt acts are outlined in Counts 1 thru 14 of this Complaint.

IV. COMPLAINT

Count 1

The Defendants willfully and knowingly encouraged, inflamed the passions and prejudices, enticed and coerced certain physicians and former patients, to testify and make statements against Plaintiff with misrepresentations, false and perjured declarations, when in fact, said patients had only grievances and self-interests not related to the jurisdictional Medical Board investigations against Plaintiff.

Count 2

The Defendants had numerous ex parte communications to conspire against Plaintiff concerning his legal pleadings and strategies that greatly prejudiced the Plaintiff's due process rights of law.

Count 3

The Defendants neglected or refused to adequately respond and comply with legitimate and legal due process by their:

- a. Non-compliance with the Privacy Act of 1974 since the Board assumed federal jurisdiction and is a nominee for federal agencies.
- b. Non-compliance in providing all rules and regulations concerning allegations in the complaint against Plaintiff.
- c. Non-compliance in providing copies of oaths of office for all Board members and appointed officers.
- d. Non-compliance in providing necessary rules of interpretation or construction in the administrative action.
- e. Non-compliance in providing copies of verification of certification, dating and filing of regulations used in the complaint against Plaintiff.

These are all in violation of Plaintiff's due process and equal protection under the law.

Count 4

The Defendants caused Plaintiff to be under an illegal jurisdiction, venue and authority when in fact the original complaints were fatally defective and did not exist due to several missing legal and fact essential elements, overcharging with regulations, and, where overt acts were outside the statute, in violation of due process and equal protection under the law.

Count 5

Defendants deliberately delayed and/or provided no rulings on motions or issues of the Plaintiff, while, at the same time, Defendants made timely rulings for the Board, to greatly prejudice and harm Plaintiff so that he could not adequately prepare for trial in violation of Plaintiff's due process and equal protection under the law.

Count 6

All of the above Defendants discriminated against Plaintiff in violating his due process of law and equal protection under the law, both individually and in combined conspiracy among themselves. The Defendants had an improper, ulterior motive for the discrimination.

Count 7

All of the Defendants were only concerned with administering injustice, prejudice and unfairness against the Plaintiff as demonstrated through Defendants' acts, words and deeds, all of which are in violation of due process of law and equal protection under the law.

Count 8

All of the Defendants violated and deprived the Plaintiff of liberty concerning the right to be left alone to pursue one's chosen profession without interference and harassment, under the liberty clause of due process in the Fifth Amendment to the U.S. Constitution. Defendants deprived, and are continuing to deprive, Plaintiff of property under the property clause of due process in the Fifth Amendment, causing the Plaintiff to experience undue difficulty and expense in protecting his interest, which, though not limited to, are the Plaintiff's medical license and his right to practice medicine.

Count 9

The Defendants have continually exercised bad faith in prosecuting the Plaintiff by refusing to honor or follow established statutes, regulations and legal principles of law which has resulted in severe intent to cause harassment. The Plaintiff has suffered irreparable damages, as a result that is both great and immediate. This can be characterized as official lawlessness.

Count 10

The Defendant's use of Arizona's Medical Act constituted a deprivation of constitutional rights under the color of state law concerning peer review of the Plaintiff. At this point, any appeal from the Board or Court findings should not be

required because an appeal would be futile, judging by incidental rulings of the Arizona Court of Appeals and of the Arizona Supreme Court against the Plaintiff. The Medical Board disciplinary proceedings did not provide a meaningful opportunity to adjudicate the Plaintiff's constitutional claims.

Count 11

The alleged peer review of the Plaintiff was a sham because seven (7) of the review members, all except Joseph Scherger [who nevertheless acquiesced in the Final Report issued by the Physicians' Assessment and Clinical Evaluation (PACE) Program of the U of Cal at San Diego Medical School, under pressure from the Arizona Medical Board], had no meaningful knowledge or experience concerning the Plaintiff's special area of nutritional medical practice. This totally violates the right for peer review.

Count 12

The Defendants have an indirect pecuniary interest in the outcome of the proceedings against the Plaintiff, causing the administrative process to be extremely biased against the Plaintiff and rendering the Defendants incompetent to adjudicate the issues. The Defendants' only concern was the financial well-being of more-conventional medical practitioners (practicing in more-established or more-traditional practice areas); they consider the nutritional medical practice of the Plaintiff to be a real threat. The Defendants' indirect pecuniary interest also disqualifies them from passing on the issues, which is a fact known to the Defendants. The Defendants were biased and, because the bias was known and real, they acted in bad faith and could not provide the Plaintiff with fair and impartial hearings in conformity with due process of law.

Count 13

The Defendants conspired to deprive the Plaintiff out of his property, i.e., his right to practice his profession. Without due process of law, the result is that irreparable injury follows in the normal course of business, considering the attendant bad publicity which would inevitably be associated therewith.

Count 14

The Defendants, being a part of, or contracted by, the defendant administrative body itself, were unconstitutionally constituted, rendering them incapable of even hearing the charges filed against the Plaintiff and were, by reason of prejudgment bias, incompetent to consider the charges.

V.CONCLUSION

Therefore, due to the severe harassment, intimidation and illegal overt acts against the Plaintiff, he has endured and suffered great harm in legal costs, in expenditure of vast amounts of his professional time, in much less income, loss of business opportunity, loss of reputation, loss of liberty and property, loss of due process of law and equal protection of the law, outside of a legitimate government interest, which was/ is totally unwarranted.

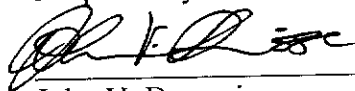
VI.DAMAGES

The Plaintiff asks this Court for a judgment in his favor and actual damages of two hundred thousand (\$200,000.00) from each Defendant. The Plaintiff also asks for one and a half (1.5) million dollars (\$1,500,000.00) in punitive damages from

each Defendant. The Plaintiff does not seek damages from the public (federal or state) treasury, but solely from the individual funds of the Defendants.

Due to the fact that the Defendants may be unable or unwilling to pay for said damages in cash, Plaintiff demands that any and all personal and real assets be the subject matter for damages, which would include, but is not limited to, any and all real property, stocks, bonds, vehicles, certificates of deposits, money market accounts, equipment, furniture, jewelry, boats, sporting equipment, etc. Therefore, the defendants' real and personal properties should be subject to a Notice of Lis Pendens, prohibiting the sale or disposition of said property until a final disposition of this cause of action.

Respectfully submitted,

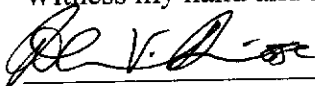


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VERIFICATION

IT IS HEREBY Verified that under the penalties of perjury that the foregoing complaint is true and correct to the best of my knowledge and belief.

Witness my hand and seal this _____ day of July, 2006.



John V. Dommis