No.:

In The

Supreme Court of the United States

IN RE SHERRI JEFFERSON,
Petitioner,

On Application to Stay the Order of the Supreme Court of Georgia

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EMERGENCY APPLICATION FOR A STAY PENDING THE DISPOSITION OF A PETITION FOR A WRIT OF CERTIORARI

December 3, 2019

SHERRI JEFFERSON
[redacted]
478-922-1529
[redacted]

To the **HONORABLE CLARENCE THOMAS**, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit[1]: A Stay is necessary because for fifty-three years under this Court's precedent in *Spevack v. Klein*, 385 U.S. 511 (1967,) lawyers cannot be disbarred for exercising their privilege against self-incrimination. Moreover, an adverse inference must be drawn from **proven facts**. *Leary v. United States*, 395 U.S. 6, 36 (1969). In *Barnes*, this Court cautions lower courts about the use of inferences because of denial of due process. 412 U.S. 837 (1973). Moreover, *In re Ruffalo*, 390 U.S. 544 (1968), held that lawyers are entitled to notice, and full and fair litigation in attorney discipline proceedings. The Supreme Court of Georgia order of disbarment by virtue of default for exercising Fifth Amendment privilege is in direct conflict with *Spevack, Leary, Barnes and Ruffalo*. Plus, their use of *active market participants* ***not*** supervised by either the Supreme Court of Georgia or the State Bar of Georgia and whose competitive actions violate due process and equal protection contravenes this Court's ruling in *North Carolina State Bd. of Dental Examiners v. FTC*, 135 S. Ct. 1101 and *Oyler v. Boles*, 368 U.S. 448 (1962).

Further, the Georgia Bar failed to give petitioner notice[2] of charges of misconduct, denied full and fair litigation, plus fabricated a story that the petitioner

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[1] Supreme Court of Georgia case within the 11th Circuit

[2] Changed their facts to implicate violation of the Rules throughout the proceedings making it impossible to know the charges. [Mandamus App. K -R. 3-45, 1058-1067, 1068-1138, 1366-1437 and the October 7, 2019 order at App. A]

'*failed to respond to discovery*,' falsely accused petitioner of engaging in acts unbefitting an attorney, and falsely asserted that she lied to three tribunals even though the record is devoid of evidence and none of the courts issued orders, statements, hearing records, or directives and/or ever claimed dishonesty or fraud upon the court[3].

". . . **start a smear campaign ..... discredit Jefferson's standing in her community ..... we must take off our gloves when dealing with her** ...." [Mandamus Appx. E and K – Index R. 46-114, 1271-1365] These are the words communicated in written emails by the State Bar of Georgia executive committee, board of governors, and attorneys to discredit the petitioner and her founding the African American Juvenile Justice Project whose mission is community accountability and responsibility. Petitioner addressed these abuses in a lawsuit filed in the Superior Court of Fulton County No. 2009-cv-177312[4] litigated through 2015 when the Bar engaged in these proceedings. Still, the State Bar continues to advance frivolous bar complaints to accomplish the goal of disparaging petitioner, painting her in an unethical, unprofessional, embarrassing, and false light in direct contradiction of any evidence before the Bar, court, or truth to ruin her professional career and impinge her personal life to discredit her standing in the legal and civic community, which is why it was disseminated to media outlets across the country including New York's Bloomberg Law.

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[3] See Mandamus App. C, E, G and H

[4] Bar offered to dismiss Lumsden's complaint in exchange for money damages and dismissal of the lawsuit.

This case presents the kind of extraordinary circumstances in which this Court exercises its discretionary authority to issue a writ of mandamus or certiorari. Therefore, a stay is proper because the Supreme Court of Georgia's October 7, 2019 order of disbarment, November 4, 2019 denial of motion to vacate said order and refusal to issue a mandate contravenes a clearly applicable rule of procedure and said order is manifestly wrong and defies this Court's precedent in *Spevack, In re Ruffalo*, and *North Carolina Board of Dental Examiners.*

For the immediate, while the stay of judgment from the order of disbarment is enforced, the petitioner also seeks a writ of mandamus and/or prohibition to compel the Supreme Court of Georgia and other courts to prevent it from further adjudication and execution of the order in this matter until this Court has considered the Petition for Writ of Certiorari. Alternatively, that the mandamus or prohibition compels Georgia to comply with the standard set forth in *Spevack, Ruffalo, and North Carolina Board of Examiners* and reverse, dismiss, remand, or vacate and set aside its order of disbarment. Further, the Supreme Court of Georgia's blatant refusal and disregard for and compliance with Georgia Rules of Professional Canons and Proceedings Rule 4-213 and Rule 4-219 (evidentiary hearing within 90-days and review board hearings), Georgia law under O.C. G.A. 15-19-32 (trial by jury), and this Court's unambiguous precedent in *Spevack, Ruffalo, and North Carolina Board of Examiners* constitutes an exceptional circumstance warranting this Court's intervention, and Petitioner has no other avenue for relief.

During the Stay, the petitioner asks this Court to grant certiorari to exercise its supervisory power, as set forth in Supreme Court Rule 10(a), because the Supreme Court of Georgia has grossly and unjustifiably departed from ordinary judicial procedures. For the reasons previously stated, compelling reasons exist for this Court to exercise its supervisory powers and grant certiorari under Rule 10(a). "This Court … has a significant interest in supervising the administration of the judicial system," and its "interest in ensuring compliance with proper rules of judicial administration is particularly acute when those rules relate to the integrity of judicial processes." *Hollingsworth v. Perry*, 558 U.S. 183, 130 S. Ct 705, 175 L. Ed 2d 657, 2010 U.S. LEXIS 533 (citing Rule 10(a)).

PARTIES TO THE PROCEEDING

The following were parties to the proceedings in the Supreme Court of Georgia:

1. Sherri Jefferson filed an exception to or an appeal from the Report and Recommendation entered by a conflicted ***special master and review board chairperson*** to subject her to disbarment by virtue of default.

2. The State Bar of Georgia Office of General Counsel, William J. Cobb of Decatur, Georgia, Special Master Patrick Longan of Macon, Georgia, and Review Board Chairman Anthony "Tony" Askew of Atlanta, Georgia were the named appellants in the lower-court proceedings.

The following are parties to the proceeding in this Court:

1. Sherri Jefferson is the Petitioner.

2. The Supreme Court of Georgia is the Respondent.

RULE 29.6 STATEMENT

None of the petitioners is a nongovernmental corporation. None of the petitioners has a parent corporation or shares held by a publicly traded company.

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[5] This pleading also references the Appendix before this Court attached to Petition for Writ of Mandamus and Petition for Writ of Certiorari

TABLE OF AUTHORITIES

United States Supreme Court Cases

U.S. Constitution and Federal Statutes

OPINIONS BELOW

In re *Sherri Jefferson*, on October 7, 2019, the Supreme Court of Georgia issued a per curiam order to disbar. In re *Sherri Jefferson*, on November 4, 2019, the Supreme Court of Georgia issued an order denying petitioner motion to vacate and set aside and stay without any finding of fact. Pending before the Court in In re *Sherri Jefferson*, petitioner filed a Notice of Intent to Seek Writ and a Stay of the Mandate on November 5, 2019 and Amended on November 6, 2019, but the court has not yet ruled on it.

JURISDICTION

This Court has jurisdiction to recall and enter a stay of the Supreme Court of Georgia's judgment pending review on a writ of certiorari and issuance of a mandamus. See 28 U.S.C.§§ 1254(1), 2101(f) and The All Writs Act, 28 U.S.C. § 1651, and Rule 13 of the Rules of the Supreme Court of the United States.

STATUTORY PROVISION

"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority . . . ." U.S. CONST. art. III, §2, cl. 1.

"[N]or shall any State . . . deny to any person within its jurisdiction the equal protection of the laws. . . or deprive of life, liberty, or property." U.S. CONST. amend. XIV. And GEORGIA

STATEMENT OF THE CASE

Overview

The Georgia Bar falsely alleged petitioner violated Rules 3.3(a)(1) Candor Toward the Tribunal; 4.2(a), Communications with Persons Represented by Counsel; and, 8.1 and 8.4(a)(4) Misconduct. The first-time petitioner received specific notice of charges and specific allegations to implicate these rules was in the October 7, 2019 order of discipline. [Mandamus App. J]. The court disbarred the petitioner by virtue of default judgement falsely citing "willful failure to respond to discovery." [Mandamus App. A. pgs. 11-12] in that she invoked her Fifth Amendment privilege against self-incrimination and "inferred that petitioner admitted allegations" as facts [Mandamus App. A pg. 6 fn. 4]. However, the record proves the petitioner fully complied with Discovery and the disciplinary proceedings and the Georgia court failed to review the record. [Mandamus App. G. Responses to Discovery filed on September 5, 2017 at R. 587-602 and 603-615 and See. Mandamus App. K].

Conflicted Special Master, Review Board and Office of General Counsel

Special Master Patrick Longan had several conflicts of interest and the petitioner moved both the Board and the Supreme Court for his recusal, reappointment and disqualification, to no avail. [Mandamus Appendix K]. He is a professor at Mercer University, which is the alumni of both the petitioner and former Governor Nathan Deal who is employed as a professor at the University. Plus, petitioner successfully sued the university for discrimination. Further, the

university also has a competing interest in her sex trafficking program. Moreover, Patrick Longan also served as the attorney for the grievant's employer. Plus, several members of both the investigative panel and review board served as Mercer University's board of trustee and/or are partners in the law firm that represents Mercer University. There is more. [Mandamus Appendix D, E and H].

Anthony "Tony" Askew, the Review Board Panelist and Chairperson who wrote the report and recommendation for disbarment had numerous conflicts of interest [Mandamus Appendix K] including serving the State of Georgia as a special assistant attorney in federal courts. The case that the Supreme Court of Georgia falsely accuses the petitioner of lying before is in the federal court. It involved her constitutional challenge to Georgia's private citizen warrant statute. That case was pending while Askew of *Meunier Carlin & Curfman* was representing the State in a copyright violation suit in the same court. In fact, that case is also pending before this court on appeal from Judge Stanley Marcus decision in the 11th Circuit against the State of Georgia Code Revision Commission v. Public Resource Org, Inc., 1:15-CV-02594-MHC. [Mandamus Appendix D-Exceptions to Report and Recommendation and Mandamus Appendix E-Disparity and Bad Faith]. Askew did not act independently and he did not review the record in this case. Contrary to the Georgia court, Rule 8.1 was only dismissed after the State Bar of Georgia not the review board, received petitioner's constitutional challenges to the special master report where she noted they tried to add a new violation of Rule 8.1. The review board failed to conduct its duty.

Falsely Accused of Violation of Rule 3.3, Rule 8.4 and Rule 8.1

The order of disbarment falsely states that petitioner lied in a court filing by asserting that a police report was filed against her in *Jefferson v. Deal* case 1:15-cv-02226 TCB aka *Doe v. Deal* et al when she filed a challenge to Georgia's private citizen warrant statute and that the court dismissed her actions based upon her lies [Appx. A. pgs. 2-5]. This is false. Evidence of the report is in the record never considered or reviewed by the Georgia court. The woman [Grievant 2] filed several false police reports and/or actions against the petitioner, to include on February 7, 2015 police report No. 15038186500 in the City of Atlanta Police Department Zone 3. The report consists of false accusations against the petitioner. So, petitioner contacted the woman's employer to secure information to prove that petitioner never appeared on their school property, never threatened her on the job, never contacted the woman at school, and never contacted her via emails, visits, or calls to the school, etc., as alleged. [Mandamus App. K 75-100 and 1271-1365 and App. C, D and F]. Grievant 2 police report was dismissed following an investigation by the police department, so she filed a private citizen warrant against the petitioner.

Notwithstanding, following the order of disbarment, the Bar hand-delivered the order to the clerk at the federal court to convince the court to disbar the petitioner. So, petitioner sought information for her defense. Judge T.C. Batten who presided over the Doe v. Deal case, responded below. [Mandamus App. C. at 10, 11, 12, and 13 - November 6, 2019 Amended Notice of Intent to Seek Review by SCOTUS].

-----Original Message-----
From: Suzy Edwards <Suzy_Edwards@gand.uscourts.gov>
To: Attysjjeff <attysjjeff@aol.com>
Cc: Uzma Wiggins <Uzma_Wiggins@gand.uscourts.gov>; Lori Burgess <Lori_Burgess@gand.uscourts.gov>; Judith Motz <Judith_Motz@gand.uscourts.gov>
Sent: Wed, Nov 6, 2019 3:30 pm
Subject: RE: Order of Court

Ms. Jefferson: Let me be more clear: I have nothing to give you. I know nothing about this. Neither Judge Batten nor anyone else in his chambers was involved in this matter in any way.

Thank you.

Suzy Edwards
Courtroom Deputy Clerk to
The Honorable Timothy C. Batten, Sr.

U.S. District Court
Northern District of Georgia
(404) 215-1422 (Atlanta)
(678) 423-3021 (Newnan)

From: Attysjjeff <attysjjeff@aol.com>
Sent: Wednesday, November 06, 2019 3:17 PM
To: Suzy Edwards <Suzy_Edwards@gand.uscourts.gov>; attysjjeff@aol.com
Cc: Uzma Wiggins <Uzma_Wiggins@gand.uscourts.gov>; Lori Burgess <Lori_Burgess@gand.uscourts.gov>; Judith Motz <Judith_Motz@gand.uscourts.gov>
Subject: Re: Order of Court

Ms. Edwards,

I am not asking you to determine whether the Supreme Court case is on the docket, I know that it is not on the docket. I am asking your office to turn over the statement, order, hearing records, or information that you gave to the State Bar of Georgia that said that I lied to your court in 2015 in the deal case. What information did your office give them to make then advance that claim against me under Rule 8.1 as I never lied, and was never accused by this office of lying or by the court. In other words, ask Judge Batten to provide to you what order he issued regarding a lie or dishonest act that I committed during self representation in Jefferson v. Deal that would lead the Bar to accuse me of lying to his tribunal as nothing in the order references such and I have all of the order from 2015.

/s/ Sherri Jefferson

False Allegation That Petitioner Lied to Houston and Fulton Courts

To avoid confusion Grievant 1 is the man and Grievant 2 is the woman referenced in the order of disbarment, where now resigned William J. Cobb of the State Bar Office of General Counsel, falsely accused the petitioner of lying to tribunals and filing multiple pleadings and claims before several different courts, citing *In the Matter of Koehler*, 297 Ga. 218 (2015). However, the record proves that petitioner only filed the federal action challenging the private citizen warrant.

Houston Claim

Next, the order alleges that the petitioner lied to the Houston and Fulton courts in a private citizen warrant dispute. The warrants are the same people, but separate incidents. First, the petitioner never appeared before the Houston County court because grievant 1 secured a private citizen warrant *ex parte* on April 9, 2015 from Judge Katherine Lumsden's[6] magistrate, Robert Turner. Grievant knowingly gave the court the wrong mailing address for petitioner, but the court also had her address on file and failed to serve her with notice or call her on the date of the hearing.

The petitioner learned that grievant 1 was receiving her mail without her authorization, knowledge or consent. She asked him to cease and to forward her

[6] Katherine Lumsden is the superior court judge who presided over the child custody case in this matter. She and the former wife's lawyer were law school classmates and worked together in the Houston County District Attorney Office.

mail. He refused. After conferring with the post office, she forwarded her mail. Mandamus App. I]. Then, months later to prevent her from getting her mail, on February 4, 2015 Grievant 1 filed a false complaint with the U.S. Postal Inspector General office to prevent the petitioner from forwarding her mail. He falsely accused the petitioner of forwarding mail belonging to him and his son. Upon investigation, they dismissed his complaint because only her mail was forwarded, which he knew. (See Mandamus Appendix I at pgs. 1-3 and also App. K Index to R. 1588-1604). Furthermore, she also learned that he was named as a principal in her business and he listed them as married on the internet. [See Mandamus Appendix I pgs. 1-5 and at 14-17]

Moreover, based upon his grievance and during the pendency of the bar complaint, petitioner also learned that grievant (1) named her on his American Express credit card. According to an Equifax report, he falsely asserted to AE that the petitioner was in a relationship with him from **July 17, 2008 through November 8, 2014**. He contacted AE during the pendency of these disputes to cancel the account ending in **No. 93938**. However, the petitioner stopped dating him in 2008 unaware that the AE mail and card was directed to his home address. [Mandamus App. K R. 48-114 and I]

Notwithstanding, after conferring with the State Bar on April 9, 2015, it appears that grievant 1 went to court to get a private citizen warrant against the petitioner. He also falsely claimed he was harassed on December 23, 2014. But petitioner never harassed him. Compelling and confusing, he called to wish

petitioner and her family[7] a Merry Christmas on December 25, 2014 at 12:42 pm; moreover, he asked for her legal assistance in a December 9, 2014 meeting plus on January 26, 2015 he asked law enforcement to ask petitioner to help him and his son. On February 11, 2015 petitioner declined in a written communication to law enforcement. He took out another application for a private citizen warrant the same day. [Mandamus App I and K at 48-114, 1271-1365 and pgs. 22-24 within *App. to Stay*]

Nevertheless, on April 10, 2015, petitioner was taking into custody upon return from vacation on a BOLO and APB warrant. No bond, she was confined for 2 days without knowing the charges. Judge Turner sent a public defender to the jail to force the petitioner to admit to harassing communications by text with grievant one. Notwithstanding, during confinement, the judge issued another warrant for stalking.

The petitioner refused any liability because she was not guilty and moreover, her last responsive communication was on January 19, 2015 when the call was interrupted by Grievant 2 whom joined the conversation to denounce petitioner as an attorney. The petitioner had no prior interactions with Grievant 2. Petitioner never harassed either Grievant 1 or 2 and never spoke to them again. Aside, Georgia did not have a harassing text communication law effective April 2015. Still, petitioner remained confined for five days while denied a preliminary hearing,

[7] Petitioner never introduced grievant to her parents.

food and water, subject to multiple strip searches, and forced to wash her hair with some harsh chemical. [Mandamus App. K. Index 48-114 and 1271-1365].

On April 15, 2015, the petitioner was finally released on an O.R. bond after the court denied her request for a preliminary hearing to confront the accusers. Petitioner never had any proceedings before the Houston Magistrate court. The warrants were subject to constitutional challenge on the grounds of denial of due process because of the ex parte hearing. So, all the accusations cited in the October 7, 2019 order, especially pages 2-5 are false. [Mandamus App. H-J and K - Index to Record 75-100 and 1271-1365]. The county prosecutor did not accept the case from the judge or prosecute the private citizen warrant. [See Mandamus App. D. G. and H].

The petitioner never had a detective to spy on grievant 1 or two. She asked the post office to investigate why he was receiving her mail without her authorization, knowledge or consent and why the internet had postings that he was the principal of her law firm and she had his last name with all mail going to his home. [Mandamus Appendix I pgs. 1-3 and pgs. 15-17, Appx. K. 1271-1365]

Fulton

Next, petitioner never appeared before the Fulton court on the private citizen warrants filed by Grievant two. Petitioner filed a motion to dismiss the warrant for criminal defamation on constitutional grounds that Georgia ruled it unconstitutional and based upon the Free Speech Clause of the First Amendment. Further, the disbarment order states that the petitioner said the woman had

bloodshot eyes. This is not disparaging. Grievant 2 took pictures of herself and either she or someone sent the photo to the petitioner. Photos demonstrated bloodshot eyes and constructive and actual possession of alcohol. Grievant 1 alleged that Grievant 2 sent the photos because she took them at a public event with him in October 2014[8] and petitioner and Grievant 1 discussed the matter. Petitioner never disparaged anyone. [Mandamus App. K – Index 75-114]. Nevertheless, the Fulton court dismissed the action without any hearing, proceeding or notice.

Pre and Post Formal Compliant Proceedings

Denied Petitioner Homestead Judge and Forum Shopped for Special Master of Choice

On March 27, 2015, the State Bar sent petitioner a demand by email to change her homestead address by falsely asserting return of mail so that Mr. Patrick Longan from Katherine Lumsden's circuit could preside as special master. [App. E, F, and H, plus Appx. K 177-211 and 1271-1365].

Updated mailing address for the State Bar of Georgia
From: attysjjeff <attysjjeff@aol.com>
To: Wolanda Shelton <WolandaS@gabar.org>
Date: Fri, Mar 27, 2015 11:33 am

Good morning, Ms. Jefferson.

I am writing to request a current mailing address for you. The State Bar of Georgia has been attempting to mail you important documents and they have been returned by the U.S. Post Office. Feel free to email me your correct address and please contact the Membership Department to update your mailing address with the State Bar of Georgia.

Thank you for your prompt attention to this matter.

[8] October 2014 not October 2015

Wolanda Shelton

Grievance Counsel

The following day, on March 28, 2015 Shelton served the petitioner via email with a complaint filed by grievant 1 and 2, however, the information therein, misspelled petitioner's name, had an incorrect name and location of the county courthouse in his homestead, and other altered material called into question who actually wrote the grievances. [Mandamus App. K. Index 46-114 and 1271-1365]

Proceedings involving complaint, evidentiary hearing, discovery, and conflicts

On January 28, 2017, the Bar advanced its formal complaint. On February 2, 2017 the petitioner filed her Answer and requested an evidentiary hearing under Rule 4-213. She also filed challenges and sought reappointment of Patrick Longan as the special master, but her request was denied. In February 2017, Mr. Cobb filed a responsive pleading to the motion to recuse and disqualify Mr. Longan based upon conflict of interest [Mandamus Appx. L and K. Index R. 322-326]. He wrote Ms. Bridget Bagley, counsel for the review board. He said, **that the conflicts although apparent will not deny due process because he will file a request for discovery, then will allege that the petitioner failed to comply with discovery, then will seek a sanction and because he will win by virtue of default the Supreme Court of Georgia will deny review**. Bagley agreed as the counsel for the review board and denied reappointment. [Mandamus Appx. L and K – Index R. 327-329].

Six months later, Cobb filed a Motion for Sanctions without ever serving discovery upon the petitioner [App. D, F and K]. He claimed that he mailed discovery via regular U.S. mail, but customary practices had been to email and mail all communications. He did not email or mail. [App. D. G and H]. More compelling, is after the clerk of the disciplinary board finally allowed petitioner to review the docket, petitioner noted dozens of documents never received that had been filed by the State and special master. So, she moved the board to furnish all documents instanter. [Mandamus Appx. K – Index R. 963-972].

On September 5, 2015 Mr. Cobb served discovery via email. Petitioner responded the same day. [Mandamus G and K. Index 587-605]. Then, on September 11, 2017, the special master issued an untimely notice for a September 18, 2017 sanction hearing for failure to comply with discovery even though the scheduling order concluded all discovery on October 31, 2017. Plus, he filed it to prevent petitioner from receiving responses to her discovery upon the State and grievant. Petitioner challenged the notice to no avail. [Mandamus App. L and K Index R. 334].

Then, Longan personally called two Mercer University law school graduates now judges to ask to use their courtroom – conflicted judge, Katherine Lumsden of Houston County and Karyn Powers of Clayton County. He scheduled use of Powers' courtroom over objections and conducted an open court session. On September 18, 2017, he secured a blue uniform police officer not county bailiff and denied petitioner access to her phone not William Cobb. He forced petitioner to sit in the

area where probationers sat. He denied her due process, created a hostile environment, no eye-to-eye contact, and in a threatening tone and posture he demanded the petitioner to state on the record that he gave her due process. She objected. He then looked to his computer and continued typing never engaging petitioner thereafter except to interrupted her on the record and demand he gave her due process. [App. H and K]. Under these circumstances, she still testified regarding compliance with discovery that she did not receive discovery in May 2017, that she filed responses upon receipt, and stated her objections. [Mandamus App. L, K Index Transcripts and App. H]. The sanction 'hearing' was limited to discovery not the merits of the complaint.

On October 9, 2017 Longan entered an order granting sanctions. His order struck petitioner's answers, discovery request upon the State, grievant and Mercer University and, he also denied her motion to dismiss the formal complaint. Petitioner filed objections and a motion to vacate and set aside the order, which he denied. [Mandamus Appx. H and K].

Order of Discipline

Denial of Due Process, Infirmity of Proof of Misconduct and Legally and Factually Flawed

Romantic Relationship

The Supreme Court of Georgia order of discipline grossly and incorrectly states the following:

That the petitioner had a romantic relationship with a client [Grievant 1], which is false and contradicted by the record in the case. Moreover, the grievant

states in his own statement that he 'dated' the petitioner in 2008 six years prior to 2014. Respectfully, the terms romantic relationship, dating, and association have different meanings to petitioner. The petitioner met grievant through a distant relative and stopped associating with grievant shortly after they met in 2008 immediately upon learning that he had multiple marriages, child out of wedlock, and had dropped out of college. The two lived in separate parts of the State. He was divorced for eleven (11) years before the petitioner met him and he had custody of his son. Now, he needed assistance retrieving his son from his former wife who removed the child without authorization from a church retreat. The parties were not dating during, after or ever since he sought legal representation.

More compelling, the record proves that on January 16, 2009, the petitioner contacted the State Bar of Georgia ethics department to seek permission to represent the grievant [See below and Mandamus App. E and K. R. 46-114 and 1271-1365]. Rebecca Hall of the State Bar Ethics committee provided a response to petitioner's request for guidance. Petitioner sent the communication to all parties including grievant and the presiding judge [Katherine Lumsden] via email, fax and certified mail. Then, six months later the petitioner successfully represented grievant 1 before Lumsden's court.

The Bar was given specific clarity that the parties no longer associated and were not romantically involved. Petitioner was never charged under Rule 1.7 because the Bar knew that she did not have a conflict of interest.

-----Original Message-----
From: Becky Hall <BeckyH@gabar.org>

To: attysjjeff@aol.com
Sent: Fri, 16 Jan 2009 3:03 pm
Subject: RE: Confidential - Reply from the State Bar of Georgia

Thank you for the clarification. My advice would differ somewhat if A and B were not already divorced. (See In the Matter of James W. Lewis, 262 Ga. 37 (1992). Rule 1.7 is the rule on point. The main question you should ask yourself is whether there is any thing now (or in the foreseeable future), including your own interests, that would prevent you from doing your professional best on behalf of Person A. (For instance, if you become so incensed with the situation (or otherwise angry at B), that you are not able to speak to (or otherwise negotiate with) the opposing party, then you should not represent A.) If you are a member of another state/district's bar association, you may want to contact them, as different jurisdictions differ slightly on romantic relationships with clients. I hope you find this helpful.

Petitioner won custody of his son without incident.

Periods of direct representation were 2009-2011, which includes the Georgia Court of Appeals and not 2008-2010 as alleged in the order to disbar. The order remained in effect until the child graduated high school or turned eighteen, whichever occurred first. He remained in high school until after his 18th birthday – contrary to the order [App. A. pgs. 2-5].

Nevertheless, months after winning custody, Katherine Lumsden filed a bar complaint against the petitioner citing she had no knowledge the parties dated. Her frivolous bar complaint was overcome by evidence that Lumsden retained Claire Chapman, GAL to do a case study on the petitioner after the January 16, 2009 ethics inquest. [Mandamus App. E and App. K 75-100 and 1271-1365[. Still, the Bar opened the case from 2009 through October 16, 2014[9]. Then, proceeded in

8. During pendency of Fulton lawsuit

March 2015 with this case. Lumsden is the bar complaint[10] referenced in the order [Mandamus App. A].

Violation of Due Process Under Rule 4.2

The Supreme Court alleges that the petitioner violated Rule 4.2 when she communicated with grievant 2 while under legal representation on March 2, 2015 knowing that the person filed a bar complaint against the petitioner. [App. A pgs. 2-5]. However, the record proves that Wolanda Shelton of the State Bar of Georgia served the petitioner with the complaint **26 days later on March 28, 2015** via email as referenced herein and petitioner had no knowledge of the complaint when she served her responses upon the *pro se* grievant 2 to the private citizen warrant and malicious prosecution on March 2, 2015. [Mandamus App. E and F]. The bar has changed their allegations in support of violation of Rule 4.2 multiple times throughout the course of this case every time the petitioner disproves them.

The facts to implicate Rule 4.2 have been that 1). petitioner communicated on January 26, 2015. Evidence proved the party was not under legal representation when petitioner mailed letter and that their attorney contacted petitioner for the first time on January 27. 2015, 2). That petitioner communicated on February 13,

[10] The order also notes a prior bar complaint from 2004 allegation asserting the petition failed to report litigation on her fitness to practice law application – she was not involved in litigation. Rather, she won a home warranty arbitration based upon terms of new home building warranty. It was not a court proceeding. Plus, petitioner challenged the Bar's Rule 1.5 regarding attorney fees because the Bar does not have a set rate to charge clients. Petitioner fees were in full compliance with customary practices and her pro bono services were free.

2015, the bar received evidence that the grievant had filed a private citizen warrant and proceeded pro se.). 3). That petitioner contacted the grievant when she served her with the January 26, 2015 letter that had been returned to the petitioner due to the incorrect zip code, the bar received evidence that those communications were not subject to any legal representation and was just a copy of the letter directed to law enforcement in response to their January 19, 2015 allegations. [Mandamus App. D, F. and J].

Violation of Petitioner's Right to Due Process in Prosecution of Rule 3.3, 8.1 and 8.4

The bar overcharged the petitioner in the shot-gun formal complaint with no facts to support Rules 3.3, 8.1 and Rule 8.4. Then continued to change the allegations during the course of the proceedings every time the petitioner filed a response, including falsely asserting she violated 1). when she filed her Motion to Dismiss, 2). when she said that she did not receive Discovery, 3). That she changed her mailing address to change homestead when in fact, Wolanda Shelton forced petitioner to change her address on March 27, 2015; and, finally 4). that she lied to the Houston, Fulton and federal court. All of their accusations are false. [Mandamus App. K -R. 3-45, 1058-1067, 1068-1138, 1366-1437 and the October 7, 2019 order at App. A]

REASONS FOR GRANTING THE STAY

"To obtain a stay pending the filing and disposition of a petition for a writ of certiorari, an applicant must show (1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect

that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay." *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010). These standards are readily satisfied in this case.

I. There is a reasonable probability that the Court will grant certiorari to determine whether the order of discipline is constitutional and lawful

Due process issues exist as Jefferson did not have **a full and fair opportunity to litigate,** more obvious, she had a conflicted prosecutor, special master and review board panelist. Jefferson **did not have fair notice** of the facts to implicate Rule 3.3, 4.2, 8.1 or 8.4. Jefferson **was not represented by counsel** and no one said that she could have counsel, needed counsel for these proceedings or had to be represented by counsel.

Both **special master and review board panelist were conflicted** and bias in their decision making.

Georgia **denied Jefferson a mandatory Rule 4-213 hearing** after she made three timely speedy trial requests under the rules. Georgia **denied Jefferson a Rule 4-219 review board hearing**, plus the Supreme Court of Georgia **denied Jefferson oral argument upon request and denied her an OCGA 15-19-32 trial by jury**. Although the Supreme Court of Georgia order states they are a judicial branch of government and do not have to honor the law to grant a trial, they did not conform to standards set by the judicial branch of government, either. Georgia's order contravenes more than four (4) United States Supreme Court cases that are precedent in attorney disciplinary proceedings.

Georgia **denied Jefferson an opportunity to confront and cross-examine witnesses**. Plus, Georgia **denied all of her discovery request upon the Bar and grievant**, too.

Disturbing, Jefferson also **suffered denial of an adequate opportunity to make all available factual and legal arguments** in her case, and her responses and pleadings were not read as evidenced by the state bar order to disbar, which states she 'did not respond to discovery or testify at the sanction hearing' and she is thereby subject to an order of disbarment by virtue of default.

Next, Jefferson testified at the September 18, 2017 sanction hearing, that was **not timely noticed on September 11, 2017.**

Next, the order to disbar states that Jefferson lied to the federal court in her challenges to the private citizen warrants when she said there existed a police report filed against her. The order asserts that no such police report was ever filed against Jefferson. These gross errors are adverse inferences that the court relied upon to petitioner's detriment to deprive her of a license to practice law. Compelling, the Bar **failed to meet and could not meet its standard of proof** required to establish professional misconduct by clear and convincing or preponderance of the evidence and that is why they continued to deny petitioner due process and a hearing.

Finally, the proceedings **denied Jefferson the range of evidentiary issues in a quasi-criminal bar** proceeding as determined by the U.S. Supreme Court in *In re Ruffalo*, 390 U.S. 544 (1968), because the Bar denied her the

opportunity to present evidence to be considered by the state or to review evidence against her. In fact, days before her discovery was due from the State, the special master entered his order of sanction against her by virtue of default.

An Infirmity of Proof Establishing Misconduct

This case demonstrates a denial of due process and an infirmity of proof establishing misconduct Therefore, the record is devoid of evidence to support or implicate rule 8.1, 3.3, 4.2, or 8.4 and the email from Judge Batten also proves the same.

II. There is a fair prospect that this Court will reverse the Supreme Court of Georgia's decision upholding the conflicted review board panelist report and recommendation to disbar the petitioner

The order of disbarment violates due process, equal protection, and self-incrimination rights accorded petitioner under the U.S. Constitution and Georgia, civil rights under 42 U.S. C. 1983, and contravenes supreme court precedent in Spevack v. Klein, 385 U.S. 511 (1967), In re Ruffalo, 390 U.S. 544 (1968), and the use of active market participants not supervised by the State Bar of Georgia or the Supreme Court of Georgia to protect attorneys from anticompetitive acts and conduct that deprive due process and equal protection during disciplinary actions violates constitutional rights. See also, North Carolina Board of Dental Examiners v FTC, 135 S. Ct. 1101 (2015).

The issues that befall the petitioner and other attorneys subject to disciplinary action in Georgia outweighs the harm to Georgia and their State Bar

from having to delay enforcement of the October 7, 2019 order of disbarment under default judgment. Rule 4-213 prescribes,

> (a) Within 90 days after the filing of petitioner's answer to the formal complaint or the time for filing of the answer, whichever is later, the Special Master shall proceed to hear the case.

In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses. Where the "evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealously," the individual's right to show that it is untrue depends on the rights of confrontation and cross-examination." See Goldberg v. Kelly, 397 U.S. 254, 269(1970). See also ICC v. Louisville & Nashville R.R., 227 U.S. 88, 93 -94 (1913), Greene v. McElroy, 360 U.S. 474, 496 -97 (1959). Mathews v. Eldridge, 424 U.S. 319, 343-45 (1976). This entire proceeding was reviewed by pleadings, and the denial of a hearing proves its impact on the outcome of this case – gross errors of facts and misapplication of law within the October 7, 2019 order of discipline.

<u>Jurisdictionally Speaking</u>

The lack of uniformity across this country and within the State of Georgia violates due process. Georgia choses to rely upon the American Bar Association standard in ethics cases only for disciplinary/sanction guidance, but not to ensure due process.

Alabama requires a mandatory hearing under Rule 12 (e) in disciplinary actions**.** **Florida** appoints a county or circuit judge and requires a mandatory hearing in attorney disciplinary proceedings. **Texas** attorneys have a trial in the district court and appeals by the Board.

In **Michigan**, a hearing is held in the county where the attorney resides or the primary office of practice is elected by the attorney based upon his homestead. Georgia denied Jefferson a trier of fact from her homestead. Conflicted special master, Patrick Longan is from Middle Georgia, Jefferson's homestead is Metro-Atlanta. In **Pennsylvania**, their supreme court held *In re Schlesinger*, that the use of committees [now called active market participants] to review cases of professional misconduct without affording the attorney a hearing is a denial of due process. 404 Pa. 584 (1961). **New York** requires hearings. See 22 N.Y.C.R.R. sec. 603.4 €, 691.4(1), 806.4 (f) and 1022.19) f). New York also requires "proof that the lawyer had a full and fair opportunity to litigate clause." In **Nevada**, this court held, In **Gentile v. The State Bar of Nevada**, 111 S. Ct. 2720 (1991), that disciplinary Rule 7-107, which sanctioned an attorney from speaking to the press was void for vagueness.

The **ABA Clark Commission** requires due process in every disciplinary proceeding, that includes fair notice of the charges, a right to counsel, right to cross examine witnesses, right to present arguments to the adjudicators, right of appeal including filing of briefs and presentation of oral arguments before the court pursuant to the state rules, and a clear and convincing evidence model.

Finally, this Court held that the conduct of hearing officers by a person who, while he had not investigated the case heard, was also an investigator who must judge the results of others' investigations just as one of them would someday judge his, raised a substantial problem which was resolved through statutory construction. {App. A. 11-13}. Wong Yang Sung v. McGrath, 339 U.S. 33 (1950) Williams v. Pennsylvania, 136 S. Ct. 1899, 1908 (2016). Gibson v. Berryhill, 411 U.S. 564 (1973). O.C.G.A. sec. 15-19-32 is the legislative intent in Georgia, contrary to the holding by the Georgia Court to deny relief via a trial by jury. Plus, the order is replete with incorrect facts and misapplication of law regarding the applicability of disciplinary orders of *Sam Levine* and *Valarie Redding* to this case. Georgia denied petitioner reappointment of special master, and hearings, but granted *Levine*. *Redding* received a motion for summary judgment hearing followed by a motion to strike her answers. Petitioner only received a sanction hearing limited to discovery and not whether there existed any genuine issues of material fact to support discipline. [See Pet. For Writ of Certiorari at 35-37].

III. Applicant will suffer irreparable harm absent a stay

Notwithstanding the financial, social, and civic impact that the order of discipline has upon the petitioner; said order is also a violation of her civil and constitutional rights. On October 7, 2019, the same day of disbarment of petitioner, the Supreme Court of Georgia denied discipline of a white female attorney, *In re Denise Hemmann*. She has appeared before the court five times for allegedly violating the rights of clients since 2010. Notwithstanding, petitioner's order of

disbarment is contradicted by the Georgia Court's recent holding in *Re Joel S. Wadsworth* S19Y1329, where the court held on November 4, 2019 that he should not be disbarred because the evidence did not support a finding even though he defaulted and never filed any response to the bar complaint. See Mandamus Appendix E. "Bad Faith, Disparity and Discrimination" filed December 28, 2018 and App. F. Motion to Vacate and Set Aside.

Similarly argued, under the equal protection component of the Fifth Amendment's Due Process Clause, the decision whether to prosecute may not be based on an arbitrary classification such as race or religion. Oyler v. Boles, 368 U.S. 448, 456

It is as much the duty of the prosecutor [or the Judge] to refrain from improper methods calculated to produce a wrongful conviction (discipline) as it is to use every legitimate means to bring about a just one. 318 U. S. 248. Viereck v. United States, 318 U.S. 236 42.

IV. The balance of equities and relative harms weigh strongly in favor of granting a stay

Granting the stay ensures civil and constitutional protections for petitioner and all lawyers in Georgia. Moreover, this case will set precedent or standards that will govern the nation. Both the Georgia and United States Constitutions prohibit the state from depriving "any person of life, liberty, or property, without due process of law." United States Const., amend. XIV, sec. 1; see also Ga. Const., supra.

CONCLUSION

A stay of the October 7, 2019 order of discipline and any other orders that flow from said order, is essential to protect petitioner and all Georgia attorneys facing disciplinary actions by the Georgia Bar from violation of civil and constitutional rights associated with use of default judgments from discovery, self-incrimination under the Fifth Amendment, or disciplinary action with biases regarding race from irreparable harm while petitioner seek certiorari. Without interim relief, Georgia will continue to ultimately usurp this Court's supervisory power and inherent authority and violate rights before this Court has an opportunity to consider Jefferson's petition for certiorari and correct the Supreme Court of Georgia's extraordinary decision to uphold a report and recommendation that violates due process, equal protection, and self-incrimination and contravenes four U.S. Supreme Court decisions.

WHEREFORE, Petitioner prays the Court grants this application.

December 3, 2019

Respectfully submitted,

/s/Sherri Jefferson

[redacted]

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478-922-1529