In The United States District Court
For The District Of Columbia

BRET D. LANDRITH,	)
SAMUEL K. LIPARI,	)
Plaintiffs,	)
v.	) Case No. 1:12-cv-01916- ABJ
HON. JOHN G. ROBERTS, JR.,	)
Chief Justice of the United States,	)
Defendant.	)

PLAINTIFFS' ANSWER TO DEFENDANT'S MOTION TO DISMISS

Comes now the plaintiffs, BRET D. LANDRITH and SAMUEL K. LIPARI, appearing *pro se* and make their response to the defendant's dismissal pleadings ECF No. 9 and ECF No. 14. The plaintiffs have on 4/24/2013 served a separate motion under the FRCP personally to the defendant and to each of his counsel giving them 21 days to withdraw ECF No. 14. Should the defendant not withdraw ECF No. 14, this court will have continuing jurisdiction over the parties even if it sustains the dismissal. See *Sprague v. Ticonic National Bank,* 307 U.S. 161, 170, 59 S.Ct. 777, 781, 83 L.Ed. 1184 (1939). The plaintiffs will also separately seek leave of the court to correct what the defendant suggests is defect in the Third Count for injunctive relief and provide a proposed Second Amended Complaint. See *Hajjar-Nejad v. George Washington Univ*. at pg. 18 (D.D.C., 2012) holding that a plaintiff is required to seek leave to amend upon notice of deficiencies by an opponent's motion to dismiss.

STATEMENT OF POINTS

1. Chief Justice JOHN G. ROBERTS, JR. is being sued for injunctive relief regarding the enforcement and application of 28 USC § 360 of Chapter 16 which the Complaint ECF No. 1 and the Amended Compliant ECF No. 11 allege violates their

rights and the rights of parties in federal courts, and for which 28 U.S.C. § 331 gives Chief Justice JOHN G. ROBERTS, JR. specific authority to enforce.

2. Chief Justice JOHN G. ROBERTS, JR. is being sued for declaratory relief regarding federal courts, not state courts, Chief Justice JOHN G. ROBERTS, JR. materially misrepresents the plaintiffs' Amended Complaint as seeking to make or declare "state court attorney disciplinary proceeding include an evidentiary hearing" ECF 14 at pg. 3.

3. The Kansas District Court orders attached to Chief Justice JOHN G. ROBERTS, JR.'s motions to dismiss ECF No. 9 and ECF No. 14 do not purport to restrain either plaintiff from filing the present action in this court or have any Rule 12(b)(1) application.

4. The orders in *Landrith v. Kansas Atty. Gen.* 2012 WL 5995342 (D. Kan. 2012) were timely appealed by LANDRITH, a similar sanction was *sua sponte* ordered by Judge Eric F. Melgren (the former US Attorney) against LANDRITH in *Landrith v.Bank of New York Mellon, et. al,* Case No. 12-CV-02352 (D. Kan. 2013) as a response to a Rule 59(e) Plain error motion which is also now timely appealed.

5. The orders in *Med. Supply Chain, Inc. v. Neoforma, Inc.,* 419 F. Supp. 2d 1316 (D. Kan. 2006) ECF No. 11 pg. 13 ¶¶ 43-45; pgs. 44-45 ¶¶ 126-128, pgs. 36-39 ¶¶ 126-128, pg. 48, ; *Landrith v. Kansas Atty. Gen.* 2012 WL 5995342 (D. Kan. 2012) ECF No. 11 pg. 32-33 ¶¶ 109-110, pgs. 36-39 ¶¶ 126-128 , *Landrith v.Bank of New York Mellon, et. al,* Case No. 12-CV-02352 (D. Kan. 2013) ECF No. 11 pgs. 36-39 ¶¶ 126-128 , and *Bowers v. Mortg. Elec. Registration Sys., Inc.* (D. Kan., 2013) ECF No. 11 pg. 39 ¶¶ 129-130; are proffered in the Amended Compliant ECF No. 11 as evidence in support of the plaintiffs' allegations that the conduct of Chief Justice JOHN G. ROBERTS, JR.'s

identified employees and agents violated specific First Amendment, Sixth Amendment, Due Process, and Equal Protection rights to maintain the policy in 28 USC § 360 as it is enforced with knowledge that the policy is violating the plaintiffs' constitutional rights and causing the foreseeable violation of constitutional rights of parties in the federal courts.

6. The Amended Compliant ECF No. 11 alleges that after Chief Justice JOHN G. ROBERTS, JR. became aware of the plaintiffs' claims in the original Compliant ECF No. 1. Chief Justice JOHN G. ROBERTS, JR.'s identified employees and agents including Attorney General Eric Holder who reports to Chief Justice JOHN G. ROBERTS, JR for matters concerning the business of the courts under 28 U.S.C. § 331, and who enforces Chief Justice JOHN G. ROBERTS, JR.'s secret USA PATRIOT ACT policy to protect federal judges (ECF No. 11 pg. 35-36 ¶¶ 120-125) redoubled their efforts to violate specific First Amendment, Sixth Amendment, Due Process, and Equal Protection rights of the plaintiffs while Chief Justice JOHN G. ROBERTS, JR.'s identified agents including US Attorney for the District of Columbia filed the Motion to Dismiss ECF No. 9 as an Abuse of Process, intentionally misrepresenting the controlling case law for this jurisdiction and the material facts applicable to the plaintiffs' claims for the purpose and ulterior motive of maintaining Chief Justice JOHN G. ROBERTS, JR.'s policy to violate the plaintiffs' constitutional rights and protect the Code of Silence that has the known and foreseeable effect of injuring the rights of parties in the federal courts.

STATEMENT OF AUTHORITIES

Chief Justice JOHN G. ROBERTS, JR. argues for dismissal based on lack of subject-matter jurisdiction under Rule 12(b)(1) by misrepresenting the precedent for this

jurisdiction and the material facts related to authority cited by the plaintiffs and the facts alleged in the plaintiffs' pleadings ECF No. 1 (Complaint) and ECF No. 11 (Amended Complaint). Chief Justice JOHN G. ROBERTS, JR. also argues for dismissal based on Rule 12(b)(6) for failure to state a claim despite the amended complaint stating as an allegation each element for injunctive relief along with supporting averments of facts giving plausibility to each element at the pleading stage under Rule 8:" the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable" *King v. Holder,* at pg. 5 (D.D.C., 2013).

A. Defendant's Contention That This Court Lacks Subject Matter Jurisdiction over Plaintiffs' Law Suit

Neither of the defendant's motion ECF No. 9 or ECF No. 14 differentiate the controlling precedent *Pulliam v. Allen,* 466 U.S. 522 (1984) support for the plaintiffs' claims under the Constitution except to argue that 42 U.S.C. § 1983 was amended (ECF No. 9 at pg. 10) and to incredulously suggest that the Northern District of New York had over ruled the Supreme Court restoring immunity from prospective injunctive relief in *Bracci v. Becker,* 2013 WL 123810 (N.D.N.Y. Jan. 9, 2013) (ECF No. 9 at pg. 10 and specifically reasserted in ECF No. 14 at pg. 7).

The plaintiffs do not bring any claims under 42 U.S.C. § 1983 and while Congress amended 42 U.S.C. § 1983's application to the judicial acts of state judges in Federal Courts Improvement Act of 1996, Pub. L. No. 104-317, § 309(c), 110 Stat. 3847, 3853 (1996), no constitutional amendment was made or even attempted. No change of law has altered the basis for the Supreme Court's determination judges are not immune from prospective relief.

While inapplicable to evaluating the plaintiffs claims, post FCI Act of 1996 cases find that the change in 42 U.S.C. § 1983 does not apply to prospective injunctive relief actions to enjoin the unconstitutional enforcement of a rule or statute under 42 U.S.C. § 1983:

> "When acting in its enforcement capacity, the Louisiana Supreme Court, and its members, are not immune from suits for declaratory or injunctive relief. See *Supreme Court of Virginia v. Consumers Union of the U.S.,* 446 U.S. 719, 100 S.Ct. 1967, 64 L.Ed.2d 641 (1980) (holding that the Virginia Supreme Court and its chief justice may be sued for acts committed in their enforcement capacities). Moreover, the FCIA of 1996 only precludes injunctive relief for suits against a judicial defendant acting in his "judicial capacity."

Leclerc v. Webb, 419 F.3d 405 (Fed. 5th Cir., 2005). See also *Dubuc v. Michigan Bd. of Law Examiners,* 342 F.3d 610 at 616 (6th Cir., 2003). This renders the defendant's inapplicable state judge/42 U.S.C. § 1983 argument wholly frivolous.

The Amended Complaint (ECF No. 11 at pg. 21, ¶ 68) points to the Tenth Circuit in *Martinez v. Winner*, 771 F.2d 424 at 436 (C.A.10 (Colo.), 1985) specifically holding federal judges are subject to prospective injunctive relief after *Pulliam*.

The court in *Bayliss v. Madden*, 204 F.Supp.2d 1285 at 1290-91 (D. Or., 2001) determined that a federal judge was not immune from prospective injunctive relief to require the holding of a hearing.

Chief Justice JOHN G. ROBERTS, JR. did not differentiate these cases and to the extent the out of jurisdiction case *Bracci v. Becker,* 2013 WL 123810 could be alleged to apply beyond actions against state judges for monetary damages resulting from assignment of cases, a judicial function (*Bracci* at pg. 11-12 where the *Bracci* court also relies on *Martinez v. Winner*, 771 F.2d 42), it cannot be treated by this court as controlling authority displacing *Pulliam* which binds this court as stare decisis.

Stormont-Vail Regional Medical Center v. Bowen, 645 F.Supp. 1182 at 1186-7 (D.D.C., 1986).

This court would also be reversed if it did not go beyond Chief Justice JOHN G. ROBERTS, JR.'s characterization of the rule in *Bracci* as judicial immunity applies to everything except conduct in the clear absence of jurisdiction. The Fourth Circuit determined that a trial court needs to determine the function the judge is being sued in *Livingston v. Guice,* 68 F.3d 460 (C.A.4 (N.C.), 1995) before applying immunity.

Chief Justice JOHN G. ROBERTS, JR. has made no argument in ECF No. 9 or ECF No. 14 for new law on why this court should abandon the rule from *Pulliam v. Allen,* 466 U.S. 522, 541-42 that judges are subject to preliminary injunctive relief and this court has no authority to do so.

Chief Justice JOHN G. ROBERTS, JR. has made no argument in ECF No. 9 or ECF No. 14 concerning *Stump v. Sparkman*, 435 U.S. 349, 362-63, 98 S.Ct. 1099, 55 L.Ed.2d 331 (1978) cited in ECF No. 1 at pg.6, ¶ 20 and ECF No. 11 at pg.6, ¶ 20 by the plaintiffs' subject matter jurisdictional statement, and holding that judicial immunity does not apply to non judicial function conduct.

Chief Justice JOHN G. ROBERTS, JR. has made no argument in ECF No. 14 addressing the plaintiffs' subject matter jurisdictional authority cited at ECF No. 11 pg.7, ¶ 20.2 concerning this court's prior precedent is that the specific injunctive relief sought by the plaintiffs (ECF No. 11 pg.43 ¶ 1) identifying judicial ethics complaints by name instead of an anonymous number) is administrative conduct not judicial conduct subject to immunity:

> "This court does not apply judicial immunity to defendants "performing administrative/managerial functions" regardless of the character of the agent.

> *Atherton v. District of Columbia Office of Mayor*, 567 F.3d 672 at 683-4 (D.C. Cir., 2009) , the assignment of numbers or names (the nature of the injunctive relief sought by the plaintiffs) is determined by this court to be a ministerial act not protected by judicial immunity *Powell v. Nigro,* 601 F.Supp. 144 at 148-9 (D.D.C., 1985)."

Amended Complaint ECF No. 11 pg.7, ¶ 20.2.

Chief Justice JOHN G. ROBERTS, JR. also made no argument in ECF No. 9 or ECF No. 14 concerning *Supreme Court Of Virginia v. Consumers Union of United States, Inc*., 446 U.S. 719, 100 S. Ct. 1967, 64 L.Ed.2d 641 (1980) cited in ECF No. 1 at pg.6, ¶ 20 and ECF No. 11 at pg.6, ¶ 20 by the plaintiffs' subject matter jurisdictional statement and providing for subject matter jurisdiction where a Chief Justice is sued in his enforcement capacity for injunctive relief and where the Supreme Court held that:

> '…the court **and its chief justice were properly held liable in their enforcement capacities**. Since the state statute gives the court independent authority on its own to initiate proceedings against attorneys, the court and its members were proper defendants in a suit for declaratory and injunctive relief, just as other enforcement officers and agencies are. Pp. 734-737." [Emphasis Added]

Supreme Court Of Virginia v. Consumers Union of United States, Inc., 446 U.S. 719 at Syl. 2, 100 S. Ct. 1967, 64 L.Ed.2d 641 (1980).

The plaintiffs' Complaint ECF No. 1, Pg. 7 ¶22 and Amended Complaint ECF No. 11 pg.8 ¶ 22 expressly stated material facts prohibiting the application of *In re Marin,* 956 F.2d 339, 340 (D.C. Cir.) where Chief Justice JOHN G. ROBERTS, JR.'s court did not exercise judicial power over the plaintiffs and the injunctive relief is sought in a ministerial/administrative capacity and expressly disclaimed relief against Chief Justice JOHN G. ROBERTS, JR. in his judicial capacity or against his court. This material misrepresentation was pointed out to the defendant in the Amended Complaint

ECF No. 11 pg. 31 ¶¶ 103-105 and also in ECF No. 13 (Response To Fox Order) at pg.2, ¶ 1 :

> "104. This court denied mandamus relief against the Clerk of the United States Supreme Court, a court Melvin Marin was before, to make the clerk do a judicial function act *In re Marin,* 956 F.2d 340 citing among other reasons, Marin could seek the relief in the Supreme Court which had supervisory authority over its clerk. 105. To save the court and the parties from wasteful process and delay of relief, the plaintiffs' complaint and this complaint expressly states (Doc. 1 Pg. ¶22) "Neither plaintiff has appeared before the defendant in his capacity as a judge or justice" and in Count I "The defendant is liable to the plaintiffs for prospective injunctive relief restraining his ministerial and executive administration of the Judicial Conference of the United States, where the Chief Justice Hon. JOHN G. ROBERTS, JR. functions in a ministerial capacity as the chief executive" (Doc. 1 Pgs. 22-23) to give notice that *In re Marin,* 956 F.2d 339 (D.C. Cir.) is inapplicable."

Amended Complaint ECF No. 11 pg. 31 ¶¶ 103-105.

The defendant Chief Justice JOHN G. ROBERTS, JR. in his motions to dismiss ECF No. 9 and ECF No. 14, misrepresents the plaintiffs' complaint as seeking to enjoin or control how federal judges rule and misrepresents in ECF No. 14 that the plaintiffs Amended Complaint seeks to enjoin state bar admission committees. The Amended Complaint is specific in the injunctive relief sought:

> "1. The plaintiffs seek to have the defendant Chief Justice Hon. JOHN G. ROBERTS, JR. change the official policy of the National Judicial Conference so that parties ethics complaints against judicial branch officials are posted online with the name of the judicial branch official against whom the complaint is made for the purpose of other litigants and their representatives to better evaluate patterns of where a judicial branch official deviates from "black letter law" in their decisions and determinations."

Amended Complaint ECF No. 11 pg. 43 at ¶ 1. The injunctive relief sought neither purports to order federal judges on how to rule on cases and seeks no order applicable to any state disciplinary proceeding, state tribunal or state court.

Similarly, the declaratory relief sought orders specifically a "US District Court" to have an evidentiary hearing concerning admission to a "US District or Appeals Court":

> "1. The plaintiffs seek to have the court declare that vilifying parties for bringing actions under the Civil Rights Acts including 42 USC § 1981; the Sherman Antitrust Act 15 U.S.C. §§ 1 *et seq.,and* RICO 18 U.S.C. § 1961 *et seq.* before any discovery has been permitted violates their rights.
> 2. The plaintiffs seek to have the court declare that the constitution under the Supremacy Clause requires a state court's discipline or disbarment action against an attorney for bringing federal actions under the Civil Rights Acts including 42 USC § 1981; the Sherman Antitrust Act 15 U.S.C. §§ 1 *et seq.,* and RICO 18 U.S.C. § 1961 *et seq.* or federal claims in state court under federal statutory law is **subject to an evidentiary hearing in a US District Court when requested to retain or obtain admission in a US District or Appeals Court."** [Emphasis Added]

Amended Complaint ECF No. 11 pg. 50 at ¶¶ 1, 2. The declaratory relief seeks no order applicable to any state disciplinary proceeding, tribunal or state court, thus the *Rooker-Feldman* doctrine defense raised by Chief Justice JOHN G. ROBERTS, JR. is wholly frivolous and inapplicable.

The defendant Chief Justice JOHN G. ROBERTS, JR. in his Supplemental And Renewed Motion To Dismiss ECF No. 14, at pg. 7 continues to misrepresent the material facts related to *McBryde v. Committee to Rev. Cir. Council Conduct* and the plaintiffs' claims. In *McBryde v. Committee to Rev. Cir. Council Conduct*, 83 F.Supp.2d 135 at 149 (D.D.C., 1999) where Fifth Circuit Chief Judge Henry A. Politz was a defendant in his official capacity as chairperson of the Fifth Circuit judicial conference review committee (*McBryde* 83 F.Supp.2d 149, *id*).

The facts are that Judge McBryde had brought both statutory and constitutional claims :

> " Before turning to the merits of Judge McBryde's remaining claims — which range from **constitutional challenges to the validity of the Act** as it was applied to him, to very specific claims that certain aspects of the investigation violated the Act and the Complaint Rules…" [Emphasis Added]

McBryde 83 F.Supp.2d 157-8, *id.* The court determined the finality clause 28 U.S.C. § 372(c)(10) "must be construed so as to bar Judge McBryde's statutory claims"

McBryde 83 F.Supp.2d 158, *id.* However the court did sustain Judge McBryde's First Amendment constitutional claim: "The Court shall enter judgment for Judge McBryde on his claim that the confidentiality clause, as it has been applied to him, violates the First Amendment." *McBryde* 83 F.Supp.2d 178, *id.*

The defendant Chief Justice JOHN G. ROBERTS, JR. in his motions to dismiss ECF No. 9 and ECF No. 14, materially misrepresents *McBryde v. Committee to Review Circuit Council*, 264 F.3d 52 (D.C. Cir., 2001). McBryde having obtained declaratory relief under the First Amendment did not appeal the claim he prevailed on and the government did not counter appeal:

> "Finally, he posed a First Amendment challenge to the Act's restrictions on disclosing the record of the proceedings. On cross motions for summary judgment, **the district court agreed with Judge McBryde's First Amendment argument**, *McBryde v. Committee to Review Circuit Council Conduct and Disability Orders*, 83 F. Supp. 2d 135, 171-78 (D.D.C. 1999), but rejected the rest. Only Judge McBryde appealed; here he repeats the essence of his remaining arguments." [Emphasis Added]

McBryde v. Committee to Review Circuit Council, 264 F.3d at 55 (D.C. Cir., 2001). The plaintiff obtained declaratory relief in equity under the First Amendment of the constitution, not under a statute as the defendant Chief Justice JOHN G. ROBERTS, JR. continues to misrepresent to this court. Both the District for the District of Columbia and the District of Columbia exerted subject matter jurisdiction over Judge McBryde's claims as a private plaintiff against the Chief Judge of the Fifth Circuit Court of Appeals judicial council. That is the precedent of this court and the *stare decisis* that restrains the court from granting Chief Justice JOHN G. ROBERTS, JR.'s dismissal motion over subject matter jurisdiction pursuant to Rule 12(b)(1).

Finally, *Marbury v. Madison*, 1 Cranch 137, 177 (1803) reveals that Chief Justice JOHN G. ROBERTS, JR.'s arguments are spurious. The plaintiffs must start in a court of original jurisdiction such as the District Court for the District of Columbia and not in a higher appeals court as Marbury attempted. *Marbury v. Madison* also clearly establishes jurisdiction under the constitution subjects judges to liability. *In re Marin,* 956 F.2d 339, 340 (D.C. Cir.) does not deviate from this precedent for the simple fact that Marin was under the jurisdiction of the higher court and he sought to impermissibly enjoin the clerk of that court from a lower court. As Chief Justice JOHN G. ROBERTS, JR.'s dismissal motion repeatedly points out, the plaintiffs are not under jurisdiction of Chief Justice JOHN G. ROBERTS, JR.'s Supreme Court and Chief Justice JOHN G. ROBERTS, JR. is not in any of the cases described in the complaints.

B. Defendant's Contention That Plaintiffs Fail to State a Claim upon Which Relief Can Be Granted

Chief Justice JOHN G. ROBERTS, JR. is in error at ECF No. 14, at pg 10 regarding any Fed. R. Civ. P. Rule 12(b)(6) failure under of the Amended Complaint because"they cite no law demonstrating that the injuries they allege equate to constitutional violations" ECF No. 14, at pg 10*, id*. The complaint and Amended Compliant identify a statutory basis for relief, 28 U.S.C. § 1331. Section 1331 provides jurisdiction for the exercise of the traditional powers of equity in actions arising under federal law and the Constitution. No more specific statutory basis is required. See John F. Duffy, Administrative Common Law in Judicial Review, 77 Texas L.Rev. 113, 147-48 (1998) ("[A] litigant having no other statutory authority for judicial review may unabashedly point to Section 1331 as the basis for injunctive relief against agency officers....").

The District Court for the District of Columbia was previously reversed for dismissing a complaint brought under the Constitution and 28 U.S.C. § 1331: *Bolling v. Sharpe*, 347 U.S. 497, 74 S.Ct. 693, 98 L.Ed. 884 (1954) (holding that the Fifth Amendment and § 1331 created a remedy for unconstitutional racial discrimination in the D.C. public school system). It is clearly established law that the plaintiff may seek relief directly under the constitution. *Bell v. Hood*, 327 U.S. 678, 681-83 (1946)(federal court has jurisdiction to entertain complaint seeking recovery directly under the Constitution).

Chief Justice JOHN G. ROBERTS, JR.'s motions for dismissal (ECF No. 9 and ECF No. 14) are directing this court to violate the plaintiffs' clearly established federal constitutional rights by depriving them of their right to redress under the Constitution and 28 U.S.C. § 1331. Chief Justice JOHN G. ROBERTS, JR. asks this court to commit misconduct that even a District of Columbia police officer could not lawfully do:

> "[T]he Court "must first determine whether the plaintiff has alleged the deprivation of an actual constitutional right. If the [C]ourt establishes the violation of a constitutional right, it must then proceed to determine whether that right was clearly established at the time of the alleged violation[*]." Int'l Action Ctr.,* 365 F.3d at 24 (quoting *Wilson v. Layne*, 526 U.S. 603, 609, 119 S.Ct. 1692, 143 L.Ed.2d 818 (1999))"

Olaniyi v. District of Columbia, 416 F.Supp.2d 43 at 52 (D.D.C., 2006). In his concurring opinion in *Bivens v. Six Unknown Named Agents*, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971) Justice Harlan cited "the presumed availability of federal equitable relief, if a proper showing can be made in terms of the ordinary principles governing equitable remedies" as a factor distinguishing equitable relief from money damages. *Bivens*, 403 U.S. at 400, 91 S.Ct. 1999. **Equity thus provides the basis for relief—the cause of action, so to speak—in appropriate cases within the court's**

jurisdiction."[Emphasis added] *Simmat v. U.S. Bureau of Prisons*, 413 F.3d 1225 at 1232 (Fed. 10th Cir., 2005).

The Complaint and Amended Complaints seek injunctive relief ordering Chief Justice JOHN G. ROBERTS, JR. to further correct the judicial complaint reporting policy he created in response to the Constitutional Due Process rights violations the Implementation of the Judicial Conduct and Disability Act of 1980

A Report to the Chief Justice The Judicial Conduct and Disability Act Study Committee Stephen Breyer, *Chair* September 2006 (ECF No. 11 pgs. 32-33, ¶¶ 106-9) identified and which the plaintiffs' Complaint and Amended Complaints allege continue to violate the rights of parties because of the ineffective discipline of federal judges and the foreseeable violations to the plaintiffs' First Amendment rights (ECF No. 11 pgs. 40-48, incorporating by reference ¶¶ 1-133).

Chief Justice JOHN G. ROBERTS, JR. cannot reasonably refute that he has this power under (as his Motion to Dismiss ECF No. 14 pg. 11 misrepresents) when 28 U.S.C. § 331 expressly grants it to him and he has previously exercised it in response to the Justice Breyer 2006 Report to change the way the complaints were publicized:

> "The Conference **may also prescribe and modify rules for the exercise of the authority** provided in chapter 16 of this title. **All judicial officers and employees of the United States shall promptly carry into effect all orders of the Judicial Conference** or the standing committee established pursuant to this section." [Emphasis added]

28 U.S.C. § 331. The statute's reference to "chapter 16" includes the specific rule 28 USC § 360 - Disclosure of information section (b) Public Availability of Written Orders which Chief Justice JOHN G. ROBERTS, JR. previously modified:

> "(b) Public Availability of Written Orders.— Each written order to implement any action under section 354 (a)(1)(C), which is issued by a judicial council, the

> Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor."

28 USC § 360 (b) Public Availability of Written Orders. And, which the plaintiffs Complaint and Amended Complaint demand he further modify to protect against continuing conduct violating the Due Process and First Amendment rights of parties in the federal courts.

This happens to be the same chapter of the same statute over which the District for the District of Columbia previously exercised subject matter jurisdiction under the Constitution and the First Amendment in sustaining Judge McBryde's claim in *McBryde v. Committee to Rev. Cir. Council Conduct*, 83 F.Supp.2d 135 at 149 (D.D.C., 1999). Facts related to the plaintiffs' claims that Chief Justice JOHN G. ROBERTS, JR. also materially misrepresented to this court in his motions to dismiss ECF No. 9 and ECF No. 14.

The court in *Brandon v. Holt*, 469 U.S. 464, 105 S.Ct. 873, 83 L.Ed.2d 878 (1985) reveals that a Code of Silence among government officials defeats disciplinary procedures and renders safe guards for the public interest and the rights of citizens ineffective:

"**Due to a code of silence induced by peer pressure** among the rank-and-file officers and among some police supervisors**, few—if any—formal complaints were ever filed by police personnel**. Furthermore, **when complaints were filed by citizens, little disciplinary action was apparently taken against the offending officer. Instead, a standard form letter, bearing Mr. Chapman's signature, was mailed to each complainant**, assuring the person that appropriate action had been taken by the Police Department, even if such action had not in fact been taken. This tended to discourage follow-up measures by the complaining citizen. Perhaps, Mr. Chapman's belief that it was better to take no disciplinary action than to act and later be reversed by a review board was responsible for this obviously inadequate solution. **The end result was twofold: 1) Mr. Chapman's procedures were highly conducive to 'covering up' officer**

misconduct; 2) the Police Director and many of his supervisors were totally insulated from knowledge of wrongdoing by officers as a result of policies in effect during that period of Mr. Chapman's relatively new administration." Id., at 1361." [Emphasis added]

Brandon v. Holt, 469 U.S. 464 at fn. 6, 105 S.Ct. 873, 83 L.Ed.2d 878 (1985).

The court's description of police conduct reporting supports the likelihood that plaintiffs' injunctive relief will remedy the constitutional violations complained of.

The Complaint and Amended Complaint give adequate notice to Chief Justice JOHN G. ROBERTS, JR. of the "Code of Silence" flourishing in the federal courts and the gravamen regarding the constitutional injury to the plaintiffs and other parties before the federal courts where their First Amendment, Sixth Amendment, Due Process and Equal Protection rights are injured. The complaint describes acts in furtherance of the Code of Silence and specific incidents as supporting averments of fact for the allegation's plausibility:

> "In addition to violence officially observed but unreported, the evidence makes clear that if violence is not officially observed, the inmates' fear of being retaliated against for "snitching" severely limits any possibility that inmate witnesses will make any report. The magistrate found that among inmates there is a code of silence, enforced with threats of reprisal, which discourages reporting to officials. The practical effect of this code was illustrated by specific incidents."

Shrader v. White, 761 F.2d 975 (C.A.4 (Va.), 1985).

The Complaint and Amended Complaint detail the misconduct of US Attorneys (District of Kansas USA Barry R. Grissom ECF No. 11 pgs. 20-21, ¶¶ 67- 69; pg. 24 ¶84; pg. 30 ¶100; US Attorney General Eric Holder ECF No. 11 pg. 34 ¶116; pgs. 36, ¶¶ 123-124; and the Amended Complaint clarifies that which Chief Justice JOHN G. ROBERTS, JR. is responsible not only for the conduct of his agents the Assistant US

Attorney and US Attorney for the District of Columbia defending him in this action but also for the conduct of and the conduct of Attorney General Eric Holder:

> "123. When **US Attorney General Eric Holder is carrying out these violations of the plaintiffs' First Amendment Rights as part of a judge protection policy**, he is reporting to the defendant Chief Justice JOHN G. ROBERTS, JR. by statute. 124. Chief Justice JOHN G. ROBERTS, JR. **through his agent Attorney General Eric H. Holder, Jr. and the USDOJ in direct response to the plaintiffs' present lawsuit** redoubled their disruptive surveillance of the plaintiffs, even stopping their phone service and committed other acts to interfere with SAMUEL K. LIPARI's medical supply business **to violate the plaintiffs' First, Fourth and Fifth Amendment rights for the purpose of defending Chief Justice JOHN G. ROBERTS, JR. through extrajudicial means**." [Emphasis added].

Amended Complaint ECF No. 11 pg. 36, ¶¶ 123, 124. The statutory basis for Chief Justice JOHN G. ROBERTS, JR.'s supervisory authority and control over Attorney General Eric Holder regarding the operations of the business of the federal courts is also 28 U.S.C. § 331:

> "…The Attorney General shall, upon request of the Chief Justice, report to such Conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party…"
>
> 28 U.S.C. § 331.

The plausibility of this allegation in the plaintiffs Amended Complaint is further supported with the additional facts and averment that the reporting on "matters relating to the business of the courts" included warrantless wire surveillance and interference with SAMUEL LIPARI'S business email, political campaign and Medical Supply websites (ECF No. 11 pgs. 40-48, incorporating by reference ¶¶ 1-133 that includes Blocking of LIPARI's business account email pg. 34 ¶¶114-6; Censorship of LANDRITH and LIPARI's online publishing of the public documents filed in this court pgs. 34-35 ¶¶117-9; Censorship of LIPARI's online document database pg. 39 ¶ 131) in furtherance of an

unpublished addition to the USA PATRIOT ACT or more properly a policy of the Judicial Conference under Chief Justice JOHN G. ROBERTS, JR. :

> "120. The **plaintiffs were told of the secret part or unpublished part of USA PATRIOT Act to address citizens posting information about the courts on the Internet** by Michael Lynch who was working with Judge Duff of the Northern District of Illinois and Sidney J. Perceful to uncover what Judge Duff and Perceful believed was a massive network for the corrupt procurement of court rulings in several states by an organized crime enterprise. " [Emphasis added]

Amended Complaint ECF No. 11 pg. 35, ¶120).

The Amended complaint ECF No. 11 at pgs. 46-7 Alleges the plaintiffs are in imminent danger of having their Constitutional rights violated without being able to enjoy the Equal Protection benefits of United States Citizenship because of the Code of Silence among judges that have no realistic prospect of being disciplined for participating in the felonies 18 USC §§ 241, 242, and 245; Sherman Antitrust monopolization violating U.S.C. §§ 1 *et seq.*; and racketeering in violation of RICO 18 U.S.C. § 1961 *et seq.* with the members of the racketeering enterprises described in the plaintiffs' litigation by ruling contrary to clearly established federal precedent and by vilifying the plaintiffs for following the controlling precedent in a knowing and deliberate practice to cover up the judges' unlawful participation in the enterprises. This conduct by federal judges not subject to publication of complaints makes it futile for the plaintiffs to attempt to obtain relief in federal court even for such clearly established claims as LANDRITH's deprivation of food stamp benefits or interference with his to get a job; LIPARI's personal right to conduct business and enforce contracts as a sole proprietor under his constitutional property rights. These allegations show the plaintiffs are in imminent danger of First Amendment, Sixth Amendment, Due Process and Equal Protection injury if the injunctive relief is not granted.

The plaintiffs' Amended Complaint has met the requirements that his court has recognized for prospective injunctive relief against federal officials in judicial function positions in *Fletcher v. U.S. Parole Com'n*, 550 F.Supp.2d 30 (D.D.C., 2008). The Amended Complaint shows the plaintiffs have standing based on an "injury or threat of injury" that is "both real and immediate, not conjectural or hypothetical." *City of Los Angeles v. Lyons*, 461 U.S. 95, 101-02, 103 S.Ct. 1660, 75 L.Ed.2d 675 (1983) (internal quotation marks and citations omitted). While the Amended Complaint details past exposure to illegal conduct, the Amended Complaint sufficiently supports the *City of Los Angeles* required standing to pursue future injunctive relief. *Id*. (citing *O'Shea v. Littleton*, 414 U.S. 488, 495-96, 94 S.Ct. 669, 38 L.Ed.2d 674 (1974)). "[S]tanding to seek the injunction requested depend[s] on whether he [is] likely to suffer *future injury*" from the challenged action. *Id*. at 105, 103 S.Ct. 1660 (emphasis added). The Amended Complaint contends that the plaintiffs face future imminent injury from continued implementation of the anonymous judicial ethics complaint reporting and non public judicial censure while the plaintiffs' complaint unlike the former prisoner's complaint in *Fletcher* lawfully conduct their business entering the market for hospital supplies or trying to work and enjoy their right to property.

Every post complaint injury identified in the Amended Complaint is alleged to be at the direction of Chief Justice JOHN G. ROBERTS, JR. or his agents. And each act is identified with the person or agency under Attorney General Eric Holder that is responsible. The plaintiffs' Complaint and Amended Complaint provide averments of supporting facts for each element to state an injunctive relief. The supporting facts do not plead the plaintiffs out of a claim and are also not inconsistent or impractical to the

plausibility of the complaints' allegations. The claims therefore meet the Rule 8 pleading standard in this jurisdiction currently established in *Jefferies v. District of Columbia* (D.D.C., 2013):

> "While only a "'short and plain statement of the claim showing that the pleader is entitled to relief'" is necessary, the "plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action[;].factual allegations must be enough to raise a right of relief above a speculative level." Twombly, 550 U.S. at 555 (2007) (quoting Conley, 355 U.S. at 47) (quoting Fed. R. Civ. P. 8(a)(2))."

Jefferies v. District of Columbia at 55-56 (D.D.C., 2013).

The plaintiffs are entitled to declaratory relief regarding LIPARI's rights to conduct business and communicate in the medical supply market and for LANDRITH to obtain a hearing in a US District Court where he would otherwise be qualified: "[A] federal court will not give preclusive effect to a judgment that does not satisfy constitutional requirements of due process. *Kremer v. Chemical Constr. Corp*., 456 U.S. 461, 480-83 (1982).

The denial of admission to federal courts which have widely different admission requirements ranging from the District of New Jersey's requirement of admission to the State of New Jersey Bar, to the Western District of Oklahoma which specified no state bar admission, to American Samoa which requires a law degree, without a hearing on the State of Kansas Disbarment expressly on its face disbarring the plaintiff LANDRITH for bringing the minority race civil rights clients James L. Bolden, Baby C and David M. Price claims under federal law where LANDRITH's advocacy was protected violates the United States Supreme Court cases *Drew v. Tidwell* Case no. 01-6900 , and *Selling v. Radford*, 243 U.S. 46.

> "The Supreme Court has identified three circumstances in which a federal court should not impose reciprocal disbarment on the basis of state court disbarment: (1) absence of due process in the state procedure, (2) substantial infirmity in the proof of lack of private and professional character, or (3) "some other grave reason" sufficient to indicate that reciprocal disbarment was inconsistent with "principles of right and justice." *Selling v. Radford*, 243 U.S. 46, 50-51, 37 S.Ct. 377, 61 L.Ed. 585 (1917); see *In re Edelstein*, 214 F.3d 127, 131 (2d Cir.2000)."
>
> *Drew v. Tidwell*, Case no. 01-6900 at ¶9 (USSC 2002).

Admission to practice law before a state's courts and admission to practice before the federal courts in that state are separate, independent privileges. "The two judicial systems of courts, the state judicatures and the federal judiciary, have autonomous control over the conduct of their officers, among whom, in the present context, lawyers are included. " *Theard v. United States*, 354 U.S. 278, 281 (1957). Thus, for example, "disbarment by federal courts does not automatically flow from disbarment from state courts." *Id*. at 282; accord *In re Ruffalo*, 390 U.S. 544, 547 (1968). This is true even when admission to a federal court is predicated upon admission to the bar of the state court of last resort. See *Selling v. Radford*, 243 U.S. 46, 49 (1916); see also *Theard*, 354 U.S. at 281 ("While a lawyer is admitted into a federal court by way of a state court, he is not automatically sent out of the federal court by the same route."). Once federal admission is secured, a change in circumstances underlying state admission -- such as a shift in domicile -- is "wholly negligible " on the right to practice before a federal court. *Selling*, 243 U.S. at 49.

B. Post-Complaint Claim of Abuse of Process.

The defendant Chief Justice JOHN G. ROBERTS, JR. in ECF No. 14 at pg. 11 ratifies and adopts the conduct the original Complaint ECF No. 1 complained of, in addition to adopting and incorporating the Motion to Dismiss ECF No. 9's

misrepresentations of law and material fact the plaintiffs identify in their Amended Complaint ECF No. 11.

The Amended Complaint alleges that the actions of others reporting to Chief Justice JOHN G. ROBERTS, JR'.s including Attorney General Eric Holder's extrajudicial surveillance, censorship of the plaintiffs' political and business web page publishing, and disruption of the plaintiffs telephone and email communications in which Attorney General Eric Holder is alleged to be carrying out Chief Justice JOHN G. ROBERTS, JR'.s secret or unpublished USA PATRIOT Act policy (ECF No. 11 pg. 35-36 ¶¶ 120-125) to protect federal judges and their rulings from public knowledge under 28 U.S.C. § 331 and which the Amended Complaint alleges was "redoubled" after the filing of the plaintiffs original Complaint ECF No. 1.

The Amended Complaint is written so that facts related to this widespread extrinsic fraud by Chief Justice JOHN G. ROBERTS, JR'.s agents is the ulterior motive to support Abuse of Process under the District of Columbia pleading standard. And are the "act[s] outside of "the regular prosecution of the charge" Chief Justice JOHN G. ROBERTS, JR'.s Motion to Dismiss ECF No. 14 at pg. 11 states are not within the Amended Complaint.

The plausibility that the extrinsic fraud, obstruction of justice and violations of the plaintiffs' constitutional rights is the" ulterior motive" and connected with the Motion to Dismiss ECF No. 9's misrepresentations of law and material fact is supported in the Amended Complaint ECF No. 14 by the allegations of facts related to the communications with Chief Justice JOHN G. ROBERTS, JR.'s counsel, the US Attorney for the District of Columbia policy (ECF No. 11 pg. 25-34 ¶¶ 85-113).

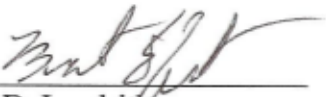
This jurisdiction recognizes that Abuse of Process is closely related to the sham exception of the Noerr-Pennington Doctrine. See *Nader v. The Democratic Nat. Committee*, 555 F.Supp.2d 137 at 157-158 (D.D.C., 2008) and *United States v. American Tel. & Tel. Co*., 524 F. Supp. 1336 at 1362-64 (D.D.C., 1981). The Amended complaint identifies the objectively baseless arguments made by the defendant Chief Justice JOHN G. ROBERTS, JR.s' Motion to Dismiss ECF No. 9 and connects them with the objectively baseless and unlawful warrantless wire tapping, interdiction of communications and obstruction of justice ("motive to subvert the legal process for wrongful ends" from *Nader v. The Democratic Nat. Committee*, 555 F.Supp.2d 137 at 157-158) employed by Chief Justice JOHN G. ROBERTS, JR.s' agents to maintain the policy supporting the Code of Silence and its foreseeable and certain injury to the constitutional rights of parties in the federal courts and those of the plaintiffs.

Since the precedent for this jurisdiction requires the plaintiffs to seek leave to amend their complaint upon notice of a deficiency by the opposing counsel and before the validity of the claimed deficiency is evaluated by the court, the plaintiffs will in a separate motion provided the court a proposed Second Amended Complaint placing the averments for Abuse of Process with the charge of Abuse of Process and the injunctive relief based on Chief Justice JOHN G. ROBERTS, JR.'s continuing Abuse of Process sought by the plaintiffs.

CONCLUSION

Whereas for the above stated reasons, the plaintiffs BRET D. LANDRITH AND SAMUEL K. LIPARI respectfully request that the court deny the defendant Chief Justice JOHN G. ROBERTS, JR'.s Motions to Dismiss ECF No. 9 and ECF No. 14.

Respectfully submitted,



Bret D. Landrith
Plaintiff appearing *pro se*

Samuel K. Lipari
Plaintiff appearing *pro se*

CERTIFICATE OF SERVICE

The plaintiff's hereby certify that they have served the defendant's counsel by email and by ship to print copy on [redacted] 2013.

Ms. Claire Whitaker,
Assistant U.S. Attorney
Judiciary Center Building
555 Fourth St., N.W., Rm. E4204
Washington, D.C. 20530
Claire.Whitaker@usdoj.gov
Attorney for Defendant Hon. JOHN G. ROBERTS, JR.

BRET D. LANDRITH
Apt. 209, 5308 SW Tenth St.
Topeka, KS 66604
bret@bretlandrith.com
1-913-951-1715
Plaintiff appearing *pro se*

SAMUEL K. LIPARI
803 S. Lake Drive
Independence, MO 64064
saml@medicalsupplyline.com
1-816-365-1306
Plaintiff appearing *pro se*

In The United States District Court
For The District Of Columbia

BRET D. LANDRITH,	)
SAMUEL K. LIPARI,	)
Plaintiffs,	)
v.	) Case No. 1:12-cv-01916- ABJ
HON. JOHN G. ROBERTS, JR.,	)
Chief Justice of the United States,	)
Defendant.	)

ORDER DENYING DEFENDANT'S MOTION TO DISMISS

Upon consideration of Defendant's Motion to Dismiss, the opposition and reply thereto, and for the reasons set forth in said motion, it is this _____ day of _____, 2013, ORDERED, that said motion is denied, and it is

FURTHER ORDERED, that this case is set for pretrial conference.

_____
UNITED STATES DISTRICT JUDGE

Copies to Defendant*:*

RONALD C. MACHEN JR.
UNITED STATES ATTORNEY
555 4th Street, N.W. E-4216
Washington, D.C. 20530

Counsel for the Defendant
HON. JOHN G. ROBERTS, JR