**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF TEXAS**
**AUSTIN DIVISION**

Cause No.: 1:17-cv-00747

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| JOSEPH BASEL, individually, and as next friend for AMERICAN PHOENIX FOUNDATION, INC., Petitioners, | ) | In a removal from the 126th District Court of Travis County, Texas |
| v. | ) | State case no.: D-1-GN-15-002332 |
| STEVE BRESNEN, individually, DAN SHELLEY, individually, and the STATE OF TEXAS, Respondents. | ) | *("Bresnen v. Amer. Phoenix Fndn.")* |
| | ) | Judge Darlene Byrne, presiding |

## Notice of Mr. Barnstone's Willful Criminal Fraud upon the Court; and Motion for Joinder and/or Substitution of the Real Parties in Interest

Come now Petitioners, advising the Court of Mr. Barnstone's various, affirmative criminal fraud upon this Court, and demanding sanctions up to and including revocation of his bar license, and also moving the Court for joinder and/or substitution of the real parties in interest herein, which include at least the Democratic National Committee, the Republican National Committee, the Texas Democratic Party, the Republican Party of Texas, the Travis County Democratic Party, and the Travis County Republican Party, all and the same as provided and stated below, thusly:

### CONSTITUTIONAL CRISIS SITUATION AND FACTUAL BACKGROUND

For our various Democratic and Republican friends being served today, the nutshell summary of this federal **POLITICAL DONOR PRIVACY RIGHTS** case situation is beyond ludicrous.

In short, if the dangerous precedent of the rogue state court is incompetently, or corruptly..., allowed to stand by this Court, then **ALL PRIVATE DONOR INFORMATION OF EVERY NON-PROFIT AND POLITICAL ENTITY IN TEXAS WILL BE DEEMED SUBJECT TO WIDE OPEN, COMPELLED DISCLOSURES, INCLUDING EVERY DETAIL, BY ANY THIRD PARTY, FOR ANY REASON, EVEN TO ABUSE, WITHOUT ANY LIMIT**.

Respondents Bresnen and Shelley, along with their co-conspirators, i.e., Bresnen's state court counsel, Mr. Barnstone, and multiple judges of the Travis County (TX) District Courts, are being imminently charged with various civil, professional, and criminal violations, including knowing, willful and intentional abuses of process, malicious prosecution, tortious invasion of privacy *en masse*, gross malfeasances of office, fraud upon the court, tortious defamation to both personal and business names and reputations, for wanton abuses of taxpayer dollars to perpetrate what essentially amounts to a Democratic false hijack of public resources to commit massive criminal invasions of Republican donors' privacy rights, and all such civil, professional, and criminal violations perpetrated without them ever having *any* legal standing, due to self-admitted (on the state court record) fatal lack of complying with *any* statutory prerequisites, let alone fatal venue.

The Travis County Democratic Party, together along with each and all of its currently listed officers, appear to be the primary criminal culprit entity and persons to be punished, in addition to the aforementioned particular individual officers of the Travis County (TX) District Courts.

MR. BARNSTONE HAS KNOWINGLY DEFRAUDED THIS COURT REPEATEDLY

The simple truth of this entire matter is that, had it not been for Mr. Barnstone's *own* willful, criminal and even outlandish fraud, we would not even be here at all. *See again*, **Exhibit D**. He has never filed (let alone served) any appearance in this matter, hence has ZERO lawful authority in this federal Court, and hence while his feeble attempts to "grandstand" and distract this Court from the bona fide, *de jure* core constitutional issues at bar MUST be stricken from the record, each of the same knowingly fraudulent filings is yet another knowing act of criminal misconduct for purposes of professional discipline, and proof for yet more felony and misdemeanor charges.

In summary (*see* Petitioners' other filings herein, *passim,* with **Exhibit D**), Mr. Barnstone, Texas SBN #00793308, absolutely knew from 'Day One' within the state court case removed:

**(a)** that his criminal co-conspirator, Mr. Bresnan, Texas SBN #02959475, never performed ANY of the Texas state statutory prerequisites to seeking any of the non-profit corporate records of American Phoenix Foundation – especially including the seeking of disclosure of constitutionally protected records of the ENTIRE PRIVATE DONOR INFORMATION of ALL PRIVATE DONORS from the injured Petitioner, American Phoenix Foundation;

**(b)** that his criminal co-conspirator herein, Mr. Bresnan, Texas SBN #02959475, had also ALREADY ADMITTED ON THE STATE COURT RECORD to practically accosting this undersigned Petitioner and former counsel for American Phoenix Foundation within the halls of the Texas state legislature to hand us a written grandiose request letter seeking ostensibly all manner and sort of company records, i.e., as *self-admitted* by Respondent Bresnen within the state court case via evidence of said letters, that he never once visited the business offices of American Phoenix Foundation – a clear statutory prerequisite – that he arrogantly and unlawfully demanded far, far more records details than he *might* have even been entitled to under the relevant Texas Business Code provisions, and that the same so-called "request" letter, being so vastly vague and overbroad, was therefore expressly invalid legally, in the first place, for failing to ever *specify* his (fraudulently acting as a) "private citizen" request as to **which** *particular* records and/or *particular* types of records he was seeking – also a clear statutory prerequisite – and Mr. Barnstone further fully knew, *also evidenced upon the state court record itself*, that his client, Bresnan, completely failed to ever respond to the Deficiency Letter sent by counsel for American Phoenix Foundation;

**(c)** and, that Mr. Barnstone knew his own illegal case filing in (*Democratic*) Travis County was but a pure fraud and sham upon the law, which expressly required any such "business records copies request" action-at-law to be filed in the county of the principal business

offices of the entity in question (American Phoenix Foundation), but of course (*Democrat*) Barnstone and (*Democrat*) Bresnan wanted criminal assistance by *Democratic* judges in the false and fraudulent venue of (*Democrat*-controlled) Travis County, instead of actually following the express law of Texas requiring filing any such action in what would have been properly required venue of (*Republican*-controlled) Hays County and/or (*Republican*-controlled) Williamson County… because Mr. Barnstone knew his entire case was and is a false and fraudulent sham on its pathetic face, because – again – they never followed *any* statutory prerequisites to begin any such case, so they never had any legal standing to ever begin any such case, and they knew the Texas Business Code certainly does not and never would provide them with lawful grounds to enjoy unlimited "fishing expeditions" into the private donor records of Petitioner American Phoenix Foundation – so they needed a few criminal conspirators to assist them in pulling off the legally and factually impossible, i.e., their political friends the *Democratic* judges of Travis County, who would knowingly also criminally rubber-stamp the false and fraudulent maintenance of illegal venue there, too.

FURTHERMORE, Mr. Barnstone has *still* never filed his any Appearance herein, hence he has absolutely zero authority to file anything on behalf of anyone herein, and hence his every same filing herein should and must be stricken from the record by law well established.

The typically very sloppy, slipshod, lackadaisical IOPs and local rules that *incredibly* allow attorneys to actually *bypass* their basic fundamental duty to provide, at the outset, their written representational appearance information – which *at minimum* must [a] particularly list the exact one (1) or more parties by legal name that is/are ostensibly being represented, [b] additionally specify whether such representation is of a general or special appearance, and [c] specify his/her own particular current mailing address for purposes of paper forms of service – are so vastly

unconstitutional on their faces, and wreak all manner of incidental chaos and confusion upon so many other rules and laws, an experienced and competent legal scholar hardly knows where to even begin in enumerating so many fundamental violations of the basics of law… The "legal industry professionals" may be unlawfully allowing themselves all to bypass their basic duties, simply in the name of electronic/digital "progress" and miniscule savings of procedural time, but when it comes to dealing with a real case, done by the book, on paper as required when engaging "mere" citizens, i.e., pro se litigants – the true sovereign Owners of (all) the courts – each and every such attorney is properly required to actually perform their fundamental duty to provide his or her own written Appearance complying with at least the minimum above-listed parameters.

*See* further, the Texas Rules of Civil Procedure, evidenced by Rule 12 thereof, *Attorney to Show Authority*, also Rule 120, *Entering Appearance*, and several other related Rules that clarify attorneys must have a *written* appearance somewhere in the case file/docket, or else all of those Rules become non-sequiturs themselves…

*See* also, for example, the prior case #1:10-cv-00465-SS in this exact same Court known as Department of Texas, Veterans of Foreign Wars of the United States, et al. v. Texas Lottery Commission, et al., wherein Mr. Barnstone filed an actual ***written*** motion for his partner, Mr. Fenoglio to **appear** *pro hac vice* before this exact same Judge, Sam Sparks…

ADDITIONALLY, every single paper presented to this Court by Mr. Barnstone was done by him in willful, knowing and intentional purpose to criminally defraud and deceive this Court, criminally defraud and deceive the proper course of due process herein, obviously to likewise criminally defraud the Petitioners of their fundamental rights, but therefore in the doing to also defraud and deceive the State of Texas, the Texan taxpayer dollars they have misappropriated by and in their wholly fraudulent and manifest abuse of state court processes and so on and so forth.

Mr. Barnstone absolutely knew and knows his wholly sham and false state court case is VOID and could not have ever been filed with a straight face within the legally-required venue County of Hays, Texas. Again, he knew and knows his client, Respondent Bresnan, never performed ***any*** of the statutory prerequisites (and neither did Mr. Barnstone himself, by the way…) to even begin any such action-at-law in the first place. Mr. Barnstone knew and knows the particular sections of the Texas Business Code they've used to criminally harass and abuse the Petitioners repeatedly during the past couple of years provide absolutely no legal basis to do any of that. He knew and knows that they never had any legal basis to literally steal business property by alleged "receivership" into the hands of their partner in crime, Respondent Shelley, as there was never any financial creditor-debtor issues ever involved, whatsoever, between the parties or any other.

Mr. Barnstone knew and knows that the entire state court case is an absolute sham and farce on its face, for multiple basic reasons of relevant law, and therefore every filing he has presented within this Court, knowingly submitting false evidence/statements to this Court that his state court case was or is in any way honest, valid, lawful or similar – each and every time – was just yet another willfully criminal act of attempted federal felony Obstruction of Justice directly here.

*Likewise exactly*, Mr. Barnstone fully knew that his every similar act within the previously filed removal into this same Court, with Judge Yeakel presiding prior, were of the exact same criminal acts of defrauding and deceiving that Court, criminally defrauding and deceiving the proper course of due process *therein*, obviously likewise criminally defrauding the Petitioners of their fundamental rights, but therefore in that prior doing also defrauding and deceiving the State of Texas, the Texan taxpayer dollars they have misappropriated by and in their wholly fraudulent and manifest abuse of state court processes, and so on and so forth… yes, we're *deep* into RICO *already* upon the numerous criminal conspiracies by Messrs. Barnstone, Bresnan and Shelley…

Mr. Barnstone fully knew and knows that *no* provisions of the Texas Business Code either did or could ever possibly provide him and his client (and their local Democratic judge criminal co-conspirators in this nefarious scheme and artifice to defraud everything under the sun) with *any* possible lawful grounds to go after the private political donor information/records of Petitioner American Phoenix Foundation whatsoever, ever, because the law of the State of Texas is clear in these matters and already well established. As previously discussed above, besides fatal standing and fatal venue, *see* the state court record, Mr. Barnstone and his client refused to narrow their inquiry into Petitioner American Phoenix Foundation's records to be consistent with either *Bay Areas Citizens Against Lawsuit Abuse*, 982 S.W.2d 371 (Tex. 1998) or *Texas Resource Center v. Patterson*, 902 S.W.2d 686 (1995). In those cases, a Texas non-profit's 1) donors are protected from public disclosure and subsequent harassment under *Bay Area Citizens*, and 2) non-profits who are funded by other charitable foundations, soliciting less than $10,000 in annual revenues from the public, are exempted from public review requirements, under *Patterson*.

Likewise exactly, Mr. Barnstone fully knew prior within the previous removal in this Court all of the above simple and undeniable truths and facts, and besides completely defrauding and deceiving the prior Court under Judge Yeakel regarding any and all merits arguments, the always dishonest Mr. Barnstone further defrauded the prior Court in regards to ostensible awards of any attorney fees and/or sanctions against the Petitioners, since he obviously also had no valid case.

But even further than that, Mr. Barnstone – being an attorney *already* admitted to the Bar of this particular Court – **knew** that his any ostensible claim for attorney fees and/or sanctions was additionally fatal on its face, within said recently prior removal, for failing the well-established procedural requirements for such types of supplemental award requests, hence even if the motion to remand was fully valid and on the table, no fees could *ever* have been *properly* awarded to

Respondent Bresnan, as Mr. Barnstone knowingly and falsely claimed and obtained fraudulently from his criminal co-conspirator therein, Mr. Yeakel. *See* the procedural requirements under Local Rule CV-7(j) and under F.R.Cv.P. Rule 11(c) just for starters. *See also*, **A Friendly Reminder from Magistrate Judge Austin to Follow the Local Rules Regarding Motions for Attorney's Fees**, available online at http://www.wdtexblog.com/?p=454 (February 7, 2014).

The Fifth Circuit will review a district court's award of attorneys' fees under 42 U.S.C. § 1988 for abuse of discretion. *Merced v. Kasson*, 577 F.3d 578, 595 (5th Cir. 2009). It will also review findings of fact for clear error and conclusions of law *de novo*. *Dearmore v. City of Garland*, 519 F.3d 517, 520 (5th Cir. 2008). For the district court to properly award a defendant attorneys' fees in a § 1983 action, the court must find that (1) the defendant is a prevailing party, and (2) that the plaintiff's claims are frivolous, unreasonable, or without foundation. *Hughes v. Rowe*, 449 U.S. 5, 14, 101 S. Ct. 173, 178 (1980) (citing *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 421, 98 S. Ct. 694, 700 (1978)); *Stover v. Hattiesburg Pub. Sch. Dist.*, 549 F.3d 985, 997 (5th Cir. 2008).

And let us now return in more detailed review of the prior case #1:10-cv-00465-SS in this exact same Court known as Department of Texas, Veterans of Foreign Wars of the United States, et al. v. Texas Lottery Commission, et al., wherein Mr. Barnstone filed an actual ***written*** motion for his partner, Mr. Fenoglio to **appear** *pro hac vice* before this exact same Judge, Sam Sparks…

In that case, Mr. Barnstone himself filed a Section 1983 action within this same Court, with this same Judge presiding, as a constitutional challenge to state statutes, namely "The Bingo Act" codified at Tex. Occ. Code Ann. § 2001.456. Specifically, Mr. Barnstone alleged that the latter two of the statutory sub-section restrictions thereunder, Sections 2001.456(2)–(3), violated "the Charities" right to freedom of speech. In other words, ***prior*** to either of these instant removals

by Petitioners into this Court of his sham, false and fraudulent state court case, Mr. Barnstone already knew – indeed, he affirmatively invoked, on purpose – the perfectly valid jurisdiction of any federal court for the purposes of filing direct constitutional challenges to state statutes....

And yet, while Mr. Barnstone merely used the (often over abused) Section 1983 as his basis for federal jurisdiction to challenge Texas statutes – of which NOBODY, neither at the District Court level or within the Fifth Circuit appeal, within that entire matter, top to bottom (and back again on rehearing *en banc*) ever once even remotely disputed that basic axiom of established federal jurisdiction to challenge state statutes (the defendants in that case moved to dismiss for a variety of reasons, of course, but still, the point is that nobody ever disputed the perfectly valid jurisdiction, every day of the week and twice on proverbial Sunday, for any federal court to have and entertain and address an action filed in direct challenge to some whatever state statutes.

And yet, further..., Section 1983 does *not* either expressly or implicitly include any notion of direct constitutional challenge to state statutes..., but Mr. Barnstone himself, and this very same Judge of this very same Court, as well as all other attorneys involved in that matter, plus also all of the entire en banc panel of the Fifth Circuit, fully accepted the same perfectly valid jurisdiction of this District Court to entertain a direct constitutional challenge to state statutes under Section 1983..., while both of these instant removal cases in this Court were filed under Section 1443 (28 U.S.C. § 1443), which Section is – by its very definition, language and terms – an expressly authorizing federal statute for the purposes of filing direct constitutional challenge to one (1) or more state statutes. That **IS** what Section 1443 is – its sole and express purpose, by definition, is to **authorize federal jurisdiction** for the purpose of challenging state statutes...

In other words, if Mr. Barnstone can file *his* direct challenge to state statutes in this very same federal Court under "mere" Section 1983 (which has no express purpose for challenging state

statutes), then we Petitioners herein can MOST CERTAINLY file the exact same kind of direct constitutional challenge to state statutes in this very same federal Court under Section 1443, and it is Mr. Barnstone who has continually and criminally attempted (and prior obtained) fraudulent Obstruction of Justice, and is once again falsely and fraudulently attempting the same herein, by even remotely trying to pretend – and suggest to this very same Judge and Court by his various criminal and professional violations of law, rules and ethics – that somehow we Petitioners are not equally allowed (and constitutionally guaranteed) the exact same treatment in this exact same Court by this exact same Judge over the exact same challenge of unconstitutionality to state statutes of the exact same State (Texas), and not only all of those identical aspects, but even further that both, Mr. Barnstone's own prior case against The Bingo Act, and also the pair of the instant removals of his sham state court case into this federal Court, are all actions-at-law based upon First Amendment rights regarding political advocacy and such related issues and aspects.

Since this Petitioner's federal constitutional challenges raised herein CANNOT be deemed as frivolous, unreasonable, or without foundation, since the law is extremely very well established that the Privacy of political/non-profit donors is constitutionally protected from disclosure, let alone no State or Commonwealth may enact or maintain statutes that are repugnant facially and/or as applied, then Mr. Barnstone and Mr. Yeakel absolutely knew there was no moment to bother discussing any award of fees or sanctions of any kind, let alone to a Respondent who was not only grossly in error, and falsified sham pleadings, but also couldn't even follow simple procedural rules to ask for any such basic and routine thing. Mr. Barnstone and Mr. Yeakel both willfully and criminally defrauded the same matters, and Mr. Barnstone *once again,* in all the same utter and fatal failures to follow either the established local procedures, or 5th Circuit case law well versed upon the same subjects, and with equal gall and disdain for law, is criminally

attempting the same now and here. EACH of these acts *were*, within the prior removal case in this same Court, and *are* here now *again*, yet additional federal felony charges coming against Mr. Barnstone and friends, to say nothing of clearly the most egregious professional misconduct.

*See again*, **Exhibit D** attached hereto, to begin to understand just how many numerous state felonies and state misdemeanors that Mr. Barnstone, Mr. Bresnan, Mr. Shelley and their various co-conspirators are all to be formally charged with by way of corresponding sworn Informations, and the fact of the very serious matter is that *they are each facing effective life sentences*, now and already, JUST for the many separate willful, knowing and intentional acts and conspiracies they perpetrated by and within the sham state court process.

In addition to those "few" charges mentioned in **Exhibit D**, there shall also be a proverbial "pirate's bounty" of additional Texas felony and misdemeanor charges formally filed, to-wit:

1) Multiple **felony** Counts of FALSE STATEMENT TO OBTAIN PROPERTY, in violation of Texas Penal Code, Title 7, Section 32.32;

2) One or more **felony** Counts of COMMERCIAL BRIBERY, in violation of Texas Penal Code, Title 7, Section 32.43;

3) Multiple **felony** Counts of SECURING EXECUTION OF DOCUMENT BY DECEPTION, in violation of Texas Penal Code, Title 7, Section 32.46;

4) One or more **felony** Counts of BRIBERY, in violation of Texas Penal Code, Title 8, Section 36.02;

5) One or more Class A **misdemeanor** Counts of IMPROPER INFLUENCE, in violation of Texas Penal Code, Title 8, Section 36.04;

6) One or more **felony** Counts of TAMPERING WITH WITNESS, in violation of Texas Penal Code, Title 8, Section 36.05;

7) Multiple **felony** Counts of OBSTRUCTION OR RETALIATION, in violation of Texas Penal Code, Title 8, Section 36.06;

8) Multiple **felony** Counts of PERJURY and AGGRAVATED PERJURY, in violation of Texas Penal Code, Title 8, Sections 37.02 and 37.03;

9) Multiple **felony** Counts of TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE, in violation of Texas Penal Code, Title 8, Section 37.09;

10) Multiple **felony** Counts of TAMPERING WITH GOVERNMENTAL RECORD, in violation of Texas Penal Code, Title 8, Section 37.10;

11) Multiple **felony** Counts of BARRATRY, in violation of Texas Penal Code, Title 8, Section 38.12, and further noting that sub-section (i) thereunder expressly reminds that "*Final conviction of felony barratry is* ***a serious crime for all purposes and acts,*** *specifically including the State Bar Rules and the Texas Rules of Disciplinary Procedure.*" (emphasis added);

12) Multiple **felony** Counts of ABUSE OF OFFICIAL CAPACITY, in violation of Texas Penal Code, Title 8, Section 39.02; *and*,

13) Multiple Class A **misdemeanor** Counts of OFFICIAL OPPRESSION, in violation of Texas Penal Code, Title 8, Section 39.03.

Think some of these might not apply? Think again: Every single element of each above state felony and misdemeanor offense by Barnstone, Bresnan, Shelley and their judicial state actor-conspirators is *already* proven conclusively in black-and-white… indeed, *by their own hands.*

And then, upon removal into this federal Court the first time, Mr. Barnstone was "successful" in "completion of a criminal conspiracy" with Mr. Yeakel herein, perpetrating *yet again* some of the above-listed state crimes under Texas penal laws, but also thereby perpetrating yet another

pirate's bounty of felony and misdemeanor charges under Title 18 of the United States Code, and including no less than *at least* each of these following federal penal accountability processes:

14) 18 U.S. Code § 3 - ACCESSORY AFTER THE FACT (1/2 of the other sentence for **each** act);

15) 18 U.S. Code § 4 - MISPRISION OF FELONY (3 years for **each** act);

16) 18 U.S. Code § 241 - CONSPIRACY AGAINST RIGHTS (10 years for all basics for **each** act);

17) 18 U.S. Code § 242 - DEPRIVATION OF RIGHTS UNDER COLOR OF LAW (1 year for all basics for **each** act);

18) 18 U.S. Code § 371 - CONSPIRACY TO COMMIT OFFENSE OR TO DEFRAUD UNITED STATES (5 years for **each** act);

19) 18 U.S. Code § 872 - EXTORTION BY OFFICERS OR EMPLOYEES OF THE UNITED STATES (3 years if > $1k damages for **each** act);

20) 18 U.S. Code § 880 - RECEIVING THE PROCEEDS OF EXTORTION (3 years for **each** act);

21) 18 U.S. Code § 1001 - STATEMENTS OR ENTRIES GENERALLY (5 years for **each** act);

22) 18 U.S. Code § 1002 - POSSESSION OF FALSE PAPERS TO DEFRAUD UNITED STATES (5 years for **each** act);

23) 18 U.S. Code § 1341 - FRAUDS AND SWINDLES (20 years for **each** act of "mail fraud") (Note: See 18 U.S. Code § 1346 for the definition of "scheme or artifice to

defraud" which clarifies, "For the purposes of this chapter, the term "scheme or artifice to defraud" **includes a scheme or artifice to deprive another of the intangible right of honest services**.") (emphasis added);

24) 18 U.S. Code § 1343 - FRAUD BY WIRE, RADIO, OR TELEVISION (20 years for **each** act of "wire fraud") (Note: See 18 U.S. Code § 1346 for the definition of "scheme or artifice to defraud" which clarifies, "For the purposes of this chapter, the term "scheme or artifice to defraud" **includes a scheme or artifice to deprive another of the intangible right of honest services**.") (emphasis added);

25) 18 U.S. Code § 1505 - OBSTRUCTION OF PROCEEDINGS BEFORE DEPARTMENTS, AGENCIES, AND COMMITTEES (5 years for **each** act);

26) 18 U.S. Code § 1506 - THEFT OR ALTERATION OF RECORD OR PROCESS (5 years for **each** act);

27) 18 U.S. Code § 1512 - TAMPERING WITH A WITNESS, VICTIM, OR AN INFORMANT (20 years for **each** act);

28) 18 U.S. Code § 1621 - PERJURY GENERALLY (5 years for **each** act, includes court officers' every statement whatsoever via their sworn oaths);

29) 18 U.S. Code § 1622 - SUBORNATION OF PERJURY (5 years for **each** act, includes court officers' every statement whatsoever via their sworn oaths);

30) 18 U.S. Code § 1623 - FALSE DECLARATIONS BEFORE GRAND JURY OR COURT (5 years for **each** act);

31) 18 U.S. Code § 1964 - CIVIL REMEDIES (RICO jurisdiction of same matters); and,

32) 18 U.S. Code § 2076 - CLERK OF UNITED STATES DISTRICT COURT (1 year for **each** act) "Whoever, being a clerk of a district court of the United States, willfully refuses or neglects to make or forward any report, certificate, statement, or document as required by law, shall be fined under this title or imprisoned not more than one year, or both."

Of course, that is just a quick sampling from *only* Title 18, whereas there are various other directly applicable penal statutes located within certain other Titles of the United States Code.

**THE COURT SHOULD BE DULY ADVISED AND AWARE THAT MR. BARNSTONE WAS AND IS INTENTIONALLY DEFRAUDING, IN ATTEMPTS TO FALSELY INDUCE THE JUDGE OF THIS COURT TO ENTER INTO CRIMINAL CONSPIRACIES, AS HE DID ALREADY WITH MR. YEAKEL, WHO SHALL, IN FACT, BE FORMALLY IMPEACHED WITH THE U.S. HOUSE SELECT PANEL IN WASHINGTON, DC, CHARGES FILED VIA LOCAL, STATE AND FEDERAL LAW ENFORCEMENT AND ETHICS AUTHORITIES, PLUS HAMMERING RICO SUIT WITH MR. BARNSTONE AND ALL CONSPIRATORS.**

It may be worth noting, that of the seven (7) different officially-published ways to formally begin a full-fledged impeachment proceeding against a federal judge (including also via *Wynns* parliamentary provisions), that three (3) of those are available to be directly triggered by "mere" citizen action, and a novel eighth ($8^{th}$) combination method may also be triggered by citizens.

"The fabrication of evidence by a party in which an attorney is implicated will constitute a fraud on the court." *Rozier v. Ford Motor Co.*, 573 F.2d 1332, 1338 (5th Cir. 1978) (citing

*Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 64 S.Ct. 997, 88 L.Ed. 1250 (1944)). Common examples of "fraud upon the court" include the "fabrication of evidence by counsel," *Greiner v. City of Champlin*, 152 F.3d 787, 789 (8th Cir. 1998), and the "insert[ion of] bogus documents into the record." *Oxxford Clothes XX, Inc. v. Expeditors Int'l of Wash., Inc.*, 127 F.3d 574, 578 (7th Cir. 1997). But, "[b]ecause corrupt intent knows no stylistic boundaries, fraud on the court can take many forms," *Aoude v. Mobile Oil Corp.*, 892 F.2d 1115, 1118 (1st Cir. 1989), and courts take each case on its facts. See *Dictograph Products Co. v. Sonotone Corp.*, 230 F.2d 131, 137 (2d Cir. 1956).

There cannot be any question or dispute to the basic facts that Mr. Barnstone clearly: (a) did knowingly and willfully file a fully fictitious and wholly sham action against your undersigned Petitioners without even having a client with legal standing; (b) also in wholly unconstitutional and manifestly brazen scheme to perpetrate massive criminal invasions of privacy, not only of the Petitioners ourselves, but also wantonly against the established rights of numerous innocent private donors to the Petitioners; (c) also that such sham case was knowingly filed in expressly false and fraudulent venue of his "political persuasion" friends and co-conspirators within Travis County to further the criminal objects of their conspiracy; (d) then upon the first removal to this federal Court, Mr. Barnstone further engaged in all manner of knowingly false and sham filings therein, and without actually submitting any formal written appearance at any time, to criminally induce the prior Judge of this Court and matter to knowingly issue false and fraudulent "orders" against the law, against the facts, and manifestly against any semblance of justice, including knowingly falsified "orders" for Mr. Barnstone in the disguise of fees/sanctions awards; (e) then after criminally obtaining false remand back into the void-sham-abusive state court, he and his co-conspirators repeated and continued all manner of additional constitutional crimes and other

violations of law and rights against we Petitioners; and (f) after the same matters have been again now removed to this Court the second time, that Mr. Barnstone is once again knowingly herein filing willfully false and sham papers to criminally violate (again) a wide variety of federal penal statutes, also again without even first formally establishing his any appearance in the required minimum parameters... and further, (g) that Mr. Barnstone has perpetrated all of those crimes and serious acts of continually repeated gross misconduct also knowingly and directly against his own professional ethics mandates of established law, in his directly related criminal scheme of knowingly filing false and fraudulent attempts to pretend herein, that in this very same Court with the very same Judge that Mr. Barnstone recently litigated a First Amendment constitutional challenge to Texas state statutes as perfectly valid and well-known federal jurisdiction of a daily and routine manner across the entire nation, and that based only upon mere Section 1983 which has no express provisions for statutory challenges, that *somehow*..., the undersigned Petitioners instant case is not valid federal jurisdiction according to clearly fraudulent Mr. Barnstone (read: "please don't actually look at all the many crimes I knowingly committed with my sham and highly abusive state court case"), when we DO have *even better* (**express**) federal authorization for making *our* statutory challenges under Section 1443 for *our* First Amendment constitutional challenge to state statutes, in the exact same federal Court, with the exact same federal Judge??

"The mouths of fools are their ruin; they trap themselves with their own lips."
-- Proverbs 18:7 (NLT)

THERE IS NO QUESTION UNDER LAW THAT BARNSTONE MUST BE PUNISHED

Under ***just*** the many penal violations as perpetrated by Mr. Barnstone and his state court case co-conspirators against Texas law, they are each already facing what amounts to effective life sentences to be executed. Add to that, the many further federal criminal conspiracies by at least

each of the three (3) different lawyers (read: "law-liars") having also willfully involved and engaged themselves fraudulently within this federal Court, now on multiple occasions ("separate criminal episodes") each against their *actual* mandatory duties under both rule and law, and Mr. Barnstone is already facing what effectively amounts to multiple life sentences behind bars, and we Petitioners have no reasonable doubt that he will, in fact, be eventually remanded into the custody of the Texas Department of Criminal Justice and/or the federal Bureau of Prisons, as the mandatory legal duties of each respective prosecutor (Travis County District Attorney and U.S. Attorney) are quite **expressly clear**: they both "*shall* prosecute" all crimes falling under their own respective jurisdictions, or else forfeit their offices, and much more. Period. End of story.

Likewise, the civil lawsuit Counts and corresponding damages against Mr. Barnstone and his co-conspirators shall obviously be cataclysmic in sheer nature. Of this, there is also no question.

However, this Court is also mandated by law to actually act in professional discipline mode, reminding the Judge of this Court *that he is also licensed and regulated by the Texas State Bar* despite being *a United States federal judge* (and how very interesting this fact is, as that opens the door to a quite wide and diverse myriad of constitutional dimensions to be possibly explored in depth at some future date, if and as needed…). In that respect of being a federal judge, living and working within the State of Texas, licensed and regulated by the Texas State Bar, then it is only logical – and *necessarily* true – that each such federal judge within the State of Texas **must** have *at least* the same powers and duties and responsibilities of each given highest state judge currently sitting upon the Texas Supreme Court, i.e., which means the Judge of this Court DOES have (*at least*…) all of the exact same powers, rights, duties, responsibilities – *at least* when it comes to administrative/professional discipline matters regarding any other Member of the Texas State Bar (re: serious gross misconduct of Texas-licensed attorneys), hence we Petitioners argue,

provide, and present the Judge of this federal Court with all of the same *necessarily* attendant powers, rights, standing, duties and responsibilities within all of the respects related to any such professional discipline matters against the same three (3) instant attorneys, Messrs. Barnstone, Bresnan and Shelley... Indeed also – because the Judge of this same federal Court **must** *necessarily* have at least the same administrative/professional powers, rights, duties, standing, and responsibilities as any Texas Supreme Court justice, then it *also necessarily follows* that because any judge of the Texas Supreme Court may do anything (and much more) that any lower state "district" judge may or must perform under triggering circumstances, then this same federal Judge of this Court must also *necessarily* have all such same administrative and professional powers, rights, duties, standing and responsibilities of any lower state district judge... as well.

THEREFORE, and now being so duly advised *ad nauseam*, the Judge of this Court should **(a)** fully obey *his own mandatory legal duties* under the Texas State Bar canons and rules to "report" Mr. Barnstone, Mr. Bresnan, and Mr. Shelley to all of the appropriate Texas ethics investigators and professional discipline administrators, **(b)** further immediately act in that necessarily equal powers, rights, duties, standing and responsibilities as each and every Justice sitting on the Texas Supreme Court to promptly SUSPEND Mr. Barnstone from the "practice" of all law pending investigation(s) and/or REVOKE his same license permanently for overwhelming cause shown and proven by his own hand, and (c) to promptly fine Mr. Barnstone and/or have arrested for any and/or all the above manifest criminal sprees constituting obviously the most serious misconduct.

SEE THE FOLLOWING FROM THE TEXAS GOVERNMENT CODE, TITLE 2:

> Sec. 82.061. MISBEHAVIOR OR CONTEMPT.
>
> (a) An attorney at law may be fined or imprisoned **by any court for misbehavior** or for contempt of the court. (emphasis added)

(b) An attorney may not be suspended or stricken from the rolls for contempt unless the contempt involves **fraudulent or dishonorable conduct or malpractice**. (emphasis added)

Sec. 82.062. DISBARMENT. Any attorney who is guilty of **barratry, any fraudulent or dishonorable conduct, or malpractice** may be suspended from practice, or the attorney's license may be revoked, by a district court of the county in which the attorney resides or in which the act complained of occurred. An attorney may be suspended from practice or the attorney's license may be revoked under this section ***regardless*** of the fact that the act complained of may be an offense under the Penal Code and ***regardless*** of whether the attorney is being prosecuted for or has been convicted of the offense. (emphasis added)

Note that Section 82.061 above *already* allows this federal Court to immediately fine and/or imprison at least Mr. Barnstone, if not also Messrs. Bresnan and Shelley for their incredibly gross and criminally egregious misconduct, right now, as it stands, and as just explained further, this federal Court *must also necessarily have* (at least…) the exact same powers, and clearly the professional duty, as any lower state district court judge under Section 82.062 above to promptly revoke, or at least suspend, the law licenses of Messrs. Barnstone, Bresnan and Shelley.

Please note further that this federal Court has equally corresponding and like powers, rights, duties, standing and responsibilities for all of the same punishments under federal law, as well:

18 U.S. Code § 401 - Power of court

A court of the United States shall have power to **punish by fine or imprisonment, or both**, at its discretion, such contempt of its authority, and none other, as—

(1) **Misbehavior** of any person in its presence or **so near thereto as to obstruct the administration of justice;**

(2) **Misbehavior of any of its officers in their official transactions;**

(3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command. (emphases added)

Mr. Barnstone, if not also Messrs. Bresnan and Shelley, should certainly be sanctioned by this Court under Rule 11 and other established federal authorities and federal recommendations.

The power and arguable duty of this Court to sanction Barnstone for his grievous misconduct is not only well established, but the same is actually **encouraged** for maintaining integrity in the courts. *See*, e.g., *Roadway Express, Inc. v. Piper*, 447 U.S. 752, (1980); *Hall v. Cole*, 412 U.S. 1, 5 (1973); *Browning Debenture Holders' Committee v. DASA Corp.*, 560 F.2d 1078 (2d Cir. 1977); *North American Trading Corp. v. Zale Corp.*, 73 F.R.D. 293 (S.D.N.Y. 1979); *Nemeroff v. Abelson*, 620 F.2d 339 (2d Cir. 1980); *See* also, e.g., 5 Wright & Miller, *Federal Practice and Procedure: Civil §1334* (1969); 2A Moore, *Federal Practice 11.02*, at 2104 n.8; New York State Bar Committee on Federal Courts, *Sanctions and Attorneys' Fees* (1987); T. Willging, *The Rule 11 Sanctioning Process* (1989); American Judicature Society, *Report of the Third Circuit Task Force on Federal Rule of Civil Procedure 11* (S. Burbank ed., 1989); E. Wiggins, T. Willging, and D. Stienstra, *Report on Rule 11* (Federal Judicial Center 1991). For book-length analyses of the case law, *see*, e.g., G. Joseph, *Sanctions: The Federal Law of Litigation Abuse* (1989); J. Solovy, *The Federal Law of Sanctions* (1991); G. Vairo, *Rule 11 Sanctions: Case Law Perspectives and Preventive Measures* (1991).

We the undersigned Petitioners fully expect and insist upon this Court holding Mr. Barnstone and his criminal co-conspirators completely accountable under law for their heinous misconduct, including one or more fine(s), to have *at least* Mr. Barnstone taken into custody for want of bail to answer for his many serious acts of criminally defrauding this Court, if not also Mr. Bresnan and Mr. Shelley in their same regards, and to immediately issue declarations of revocations, or at least of suspensions pending further investigations, of each of their respective law licenses.

MOTION FOR JOINDER OF AND/OR SUBSTITUTION TO REAL PARTIES IN INTEREST

Again, the primary crux herein is that Democratic agents have *criminally* injured Republicans.

This entire matter – both within the sham state court case, as well as in this federal Court – is and has *always* been about "local" (Travis County) and/or "state" (Texas) Democrats conspiring criminally to manifestly misappropriate public/taxpayer-funded resources (state court and staff and resources and paperwork/filing supplies, etc.) and falsely issue all manner of wholly bogus toilet paper "orders" to literally not only steal the Petitioners' various property and records by outlandish fraud, but all of that criminality done primarily to seek out unlawfully obtaining as much detailed information regarding all of the various private donors of Petitioner American Phoenix Foundation as was humanly possible – including constant threats to falsely jail your individual Petitioner, the undersigned Joseph Basel, until such PRIVATE DONOR information was and/or would be finally handed over to them.

Mere description as "false and malicious" prosecution, under this particular situation, is a very grievous *understatement* of the true circumstances in their entire totality.

Regardless, Mr. Barnstone's client, Respondent Bresnan, has always made it quite perfectly clear in public, vis-à-vis numerous and consistent statements to various media outlets publishing the same grossly defamatory articles, such as the Quorum Report which will imminently become

a fellow felony criminal and civil defendant with its friends, Messrs. Bresnan and Barnstone, that he – Respondent Bresnan – intended to obtain POLITICAL DONOR information from Petitioner American Phoenix Foundation via the (sham) state court case. In the vast majority of *all* articles published (by not *just* Quorum Report, but *all* media outlets covering the related stories), the liar, cheat, scoundrel and felon, Mr. Bresnan, CONSISTENTLY reaffirmed **his primary intent**, over and over and over again – to "win victory" in the (sham) state court case by acquiring copies of the information all about the various DONORS of Petitioner American Phoenix Foundation. In every circumstance, in every expressed intent, and also the "why" of why the utterly false and fraudulent state court case has dragged on so long already (because even after their falsified and repeated "contempt" findings, in their wholly sham proceeding..., they still do not have the vast majority of those precious and constitutionally-protected DONOR records yet), it has always been all about at its core, and it continues to be all about at core, the criminal conspiracy by Mr. Bresnan, Mr. Barnstone, and their local Democratic "friends" to literally steal massive amounts and numbers of Republican DONOR information records – presumably to commit *more* crimes against *them* somehow later and/or otherwise cause or induce more unlawful actions run amok...

As the core and crux of this case is all about DONOR PRIVACY RIGHTS of political and non-profit entities and because those DONOR PRIVACY RIGHTS at question belong to various members and/or affiliations of either and/or both, the local (Travis County) Republican Party and/or the statewide Republican Party of Texas, and furthermore as all such crimes and havoc upon law and rights having been, and still continuing to be, perpetrated by agents of either and/or both, the local (Travis County) Democratic Party and/or the statewide Texas Democratic Party, it goes without saying that each and all four (4) of those particularly implicated political entities have solid legal rights to engage this action-at-law, either as direct parties and/or intervenors.

And when it comes to "deciding the fate" of all of those DONOR PRIVACY RIGHTS in the State of Texas, as relates to this Court's final determination of whether the challenged statutes may be used ("applied") in the manner used by Mr. Barnstone and the instant sham state court, then also both of the national major two (2) political party entities, the Democratic National Committee, and the Republican National Committee, most certainly have equal substantial right and legal standing to *at least* intervene if not be joined as "necessary" or "indispensable" parties.

Pursuant to F.R.Cv.P., Rules 17(a)(1) and (a)(3) ["An action must be prosecuted in the name of the real party in interest."], Rules 19 and 20 [required and permissive joinder of parties], Rule 24 [intervention], and Rule 25(c) [substitution of parties], the undersigned Petitioners now and hereby: (1) properly and duly notice all of the same proposed parties; and, (2) move this Court for such joinder and/or substitutions regarding these six (6) assorted real parties in interest here.

## CONCLUSION AND SUMMARY

The entire instant state court case is nothing but a manifest sham and farce upon constitutional rights, against both Texas and federal laws, against both Texas and federal rules of courts, with grievous numbers of serious felony crimes perpetrated against both Texas and federal penal laws.

Everything Mr. Barnstone has filed herein – in both removal actions this year – are also pure shams and frauds upon the Court, and his willful and intentionally-false statements must be used against him via all of the corresponding accountability modes: civil, criminal and professional.

Besides ruling against Mr. Barnstone and his client(s) [we still do not know exactly which parties, and in what form of ostensible representation capacity/capacities per each claimed party, does Mr. Barnstone falsely and fraudulently pretend to "represent" herein, as again, he has never filed and served any form of written appearance yet...], this Court should, and fairly must, hold at least Mr. Barnstone, if not also Respondents Bresnan and Shelley, accountable professionally

for their same manifest criminal misconduct sprees in widespread unconstitutional devastations and injuries galore knowingly falsely and maliciously inflicted, at great length and depth, upon the undersigned Petitioners constantly over the past years ongoing.

The powers, rights, duties, standing and responsibility to punish and sanction the very most wayward attorneys for manifestly numerous acts of misconduct is consistently reaffirmed by a vast and overwhelming number of case and other authorities from the various federal courts.

Our federal constitutional First Amendment challenge to Texas state statutes (either facially and/or as being wrongfully applied) is based upon our even stronger (*express*) federal statutory jurisdiction and authority to lodge and prosecute such constitutional challenges to state statutes, which is exactly why Mr. Barnstone is proven even further the liar, cheat, scoundrel and fraud by knowingly misleading statements to this Court when his recently prior and very similar case in this same exact Court did NOT have such a strong statutory foundation, as under Section 1983.

Yet again moreover, this instant constitutional challenge could also easily fall under Section 1983, and this Court would still find itself with clear duty to rule in favor of the undersigned Petitioners upon our constitutional challenge to the provisions of the Texas Business Code now so challenged. *See again*, the undersigned Petitioners' Notice of Special Pro Se Rights, at 2:

> Moreover, "*the court is under a duty to examine the complaint to determine if the allegations provide for relief on* ***any*** *possible theory.*" (emphasis added) *See, e.g., Bonner v. Circuit Court of St. Louis*, 526 F.2d 1331, 1334 (8th Cir. 1975) (quoting *Bramlet v. Wilson*, 495 F.2d 714, 716 (8th Cir. 1974)), and etc.

We, the undersigned Petitioners, are absolutely entitled to very substantial forms of justice declared and issued in remedy by this Court and jointly and severally against the Respondents, including declaring the state court case proceedings entirely void for total lack of due process.

Because the entire gravamen and crux of this matter rests upon the constitutional dimensions of political/non-profit donor PRIVACY RIGHTS as between the two major political parties, and as various criminal sprees perpetrated wildly by agents and/or Members of the local and/or state Democratic parties, committed *en masse* against numerous innocent private donors and Members of the local and/or state Republican parties, each of the above-listed and below served political party units should be under direct consideration by this Court to effect joinder and/or substitution of parties, provided the Court at least allows each such entity with opportunity to address this very manifest situation involving so much vast criminal misconduct by said agents/Members.

**WHEREFORE**, Petitioners Joseph Basel and American Phoenix Foundation together move the Court for swift issuance and execution of serious and severe sanctions against at least Mr. Barnstone if not also against Mr. Bresnan and Mr. Shelley, including substantially appropriate fines, prompt placing into federal custody for want of bail to answer for his/their very serious number of willfully gross acts of professional misconduct, suspension/revocation of his/their bar license as provided by law, also moving for joinder of and/or substitution to the real parties in interest regarding the primary crux issue of political/non-profit donor privacy rights, which are in fact the one or more various Democratic and/or Republican party entities as aforementioned, and we do now also further pray for all other relief true, lawful, just and proper in these premises.

Respectfully submitted,

Joseph Basel
301 County Road 461
Coupland, TX 78615
Tel: (320) 288-6640
Email: basel.joe@gmail.com
*Pro Se Petitioner Party of Record*

VERIFICATION

I hereby declare, verify, certify and state, pursuant to the penalties of perjury under the laws of the United States, and by the provisions of 28 USC § 1746, that all of the above and foregoing representations are true and correct to the best of my knowledge, information, and belief.

Executed at Coupland, Texas, this 6th day of October, 2017.

Joseph Basel

CERTIFICATE OF SERVICE

I hereby certify: that on this 6th day of October, 2017, a true and complete copy of the above notice of fraud upon the court, et seq., by depositing same in first class postage prepaid mail, USPS or equivalent postal carrier, has been duly served upon each of the following as a *courtesy* only, since there is no duty to serve non-appearing parties/counsel:

*(Respondent Bresnen)*
Steve Bresnen, SBN #02959475
1801 Lavaca Street, Suite 13L
Austin, TX 78701

*(Respondent Shelley)*
Dan Shelley, SBN #18193900
305 West 13th Street
Austin, TX 78701

*(Respondent State of Texas)*
c/o TX-AG Kenneth Paxton
P.O. Box 12548
Austin, TX 78711-2548

*(State court counsel for Bresnen)*
Anatole Barnstone, SBN #00793308
John Stephen Fenoglio, SBN #06904600
713 West 14th Street
Austin, TX 78701

and, I also certify that each of the following potential parties of joinder and/or substitution, today in the same manner have been served their corresponding true copy of the same above paper:

Democratic National Committee
c/o Chairman Tom Perez
430 South Capitol Street SE
Washington, DC 20003

Republican National Committee
c/o Chairwoman Ronna McDaniel
310 First Street SE
Washington, DC 20003

Texas Democratic Party
c/o Chairman Gilberto Hinojosa
1107 Lavaca Street, Suite #100
Austin, TX 78701

Republican Party of Texas
c/o Chairman James Dickey
P.O. Box 2206
Austin, TX 78768

Travis County Democratic Party
c/o Chairman Vincent Harding
1311 B E. 6th Asdf
Austin, TX 78702

Travis County Republican Party
c/o Chairman Matt Mackowiak
9420 Research Blvd., Suite 200-2G
Austin, TX 78759

and, I also certify that each of the following involved principals with various legal duties related herein have been each served their corresponding copy of the same, today, in the same manner:

Federal Tort Claims Act Section
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 888
Benjamin Franklin Station
Washington, DC 20044

Constitutional Tort Staff
Civil Division
U.S. Department of Justice
P.O. Box 7146
Ben Franklin Station
Washington, DC 20044

U.S. Attorney General Jeff Sessions
Office of the United States Attorney General
c/o U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Linda A. Acevedo
Chief Disciplinary Counsel
State Bar of Texas
14651 N. Dallas Parkway, Suite 925
Dallas, TX 75254

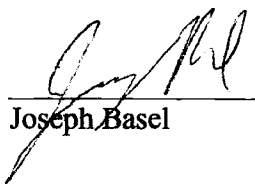
Chief Circuit Judge Carl E. Stewart
U.S. District Courthouse
300 Fannin Street, Suite 5226
Shreveport, LA 71101-3074

U.S. Attorney Richard L. Durbin, Jr.
Office of the United States Attorney
816 Congress Avenue, Suite 1000
Austin, TX 78701

Judicial Conference Committee on
Judicial Conduct and Disability
Attn: Office of General Counsel
Administrative Office of the U.S. Courts
One Columbus Circle, NE
Washington, DC 20544

Fifth Circuit Executive Paul Benjamin ("Ben") Anderson, Jr.
Office of the Circuit Executive
John Wisdom U.S. Court of Appeals Bldg
600 Camp Street
New Orleans, LA 70130

State Commission on Judicial Conduct
P.O. Box 12265
Austin, TX 78711-2265



Joseph Basel

CAUSE NO.: D-1-GN-15-002332

| | | |
|---|---|---|
| STEVE BRESNEN,<br>Plaintiff, | § | IN THE DISTRICT COURT |
| v. | § | 126TH JUDICIAL DISTRICT |
| AMERICAN PHOENIX FNDN., INC., et al.,<br>Defendants. | § | TRAVIS COUNTY, TEXAS |

**Motion to Dismiss, or in the Alternatives, Motion for Change of Venue to Williamson County, and/or Motion to Set Mandatory Evidentiary Hearing on Local Bias and Prejudice; and, Notice of Tort Claims**

Comes now alleged Defendant, Joseph Basel, in support of alternative defense motions to the Court, also duly advising the Clerk, all counsel and parties of the same, and also duly noticing all persons of the direct relevance of 42 USC § 1985, Conspiracy to Interfere with Civil Rights, also of parallel 42 USC § 1986, Action for Neglect to Prevent, and of these below tort claims, thusly:

BACKGROUND, FACTS, AND NOTICE OF TORT CLAIMS

Defendant hereby incorporates by reference all pleadings, all filings, and all other papers of any kind, including all Exhibits thereto, already entered and existing within the directly related Western District of Texas federal court case #1:2017cv00409, and the same with new removal case today filed in the same federal court, each and every such paper fully the same as if they had each and every same one been fully restated in their individual entireties herein (H.I.).

The named joint tortfeasors at direct faults either therein and/or herein include the following:

(1) Steve Bresnen, SBN #02959475, as the core nexus and lead initiator and perpetrator of all state and federal crimes and of all professional misconduct committed within all these matters;

(2) Anatole Barnstone, SBN #00793308, as counsel for Steve Bresnen, SBN #02959475, for knowingly, willfully, and intentionally defrauding within either and/or both state/federal cases;



Exhibit D
Page 1 of 14

(3) J. Stephen Fenoglio, SBN #06904600, as counsel for Steve Bresnen, SBN #02959475, for knowingly, willfully, and intentionally defrauding within either and/or both state/federal cases;

(4) Each and every judicial officer having ever engaged and/or participated in this matter, as incompetent, malicious, fraudulent, and criminally abusive judges of the Travis County courts;

(5) Dan Shelley, SBN #18193900, for non-sequitor filing as a *pro se* litigant while claiming to act as counsel ostensibly representing the instant business, American Phoenix Foundation, and knowingly, willfully, and intentionally defrauding either and/or both state/federal cases;

(6) Prior "defense" attorneys herein, Cheryl Hindera, SBN #24007367, and Lori Hansel, SBN #00785938, for clearly, completely and miserably neglecting and failing – indeed, for knowingly defrauding and sabotaging – their own client (myself, Joseph Basel) within the same conspiracy;

(7) This same 126th Judicial District of Texas entity, for all of the above and below; *and*,

(8) The County of Travis, Texas, for all of the above and below.

Federal Respondents Bresnen and Shelley are being imminently charged along with their co-conspirators, i.e., Bresnen's same said attorneys, and said multiple judicial officers of the Travis County District Court, regarding the instant manifest travesty of abusive injustices, with various civil, professional, and criminal violations, including knowing, willful and intentional abuses of process, malicious prosecution, tortious invasion of privacy, gross malfeasances of office, fraud upon the court, tortious defamation to both personal and business names and reputations, wanton abuse of taxpayer dollars to perpetrate what essentially amounts to a Democratic hijack of public resources to commit massive criminal invasions of Republican donors' privacy rights, and more.

Within the exact same, directly-related prior W.D.TX case #1:2017cv00409, this undersigned Defendant's Verified Petition for Warrant of Removal clearly and duly advised all above officers of the manifestly flagrant violations of well-established federal constitutional rights involved by

this instant state court under removal, i.e., this ENTIRE instant state court case was – and is – a complete and total fraud, directly on its face, for multiple conclusive reasons, including *at least:*

(a) "Plaintiff" Bresnan never had, and still has never had, any required factual legal standing to *even begin* any such instant state court case, as he wholly failed statutory prerequisites;

(b) Even notwithstanding the above, all joint tortfeasors and their state court co-conspirators absolutely knew that any venue for such state case was, by clearly well-established law duly advised them, *solely proper* ***only*** in the County of operations of the business firm or enterprise in question, and therefore that attempted venue within Travis County against the repeated objections of the instant Defendant was *expressly* and manifestly unlawful;

(c) Even notwithstanding the above, all joint tortfeasors and their state court co-conspirators absolutely knew that, considering the "900 hours of video" issues involved regarding mass media publications already saturated throughout Travis County and even the immediately surrounding areas, and also directly involving many Members of the Texas Congress who work and play daily within Travis County, any venue for any such state case was most definitely improperly attempted within Travis County due to *manifest* bias and prejudice;

(d) Even notwithstanding the above, all joint tortfeasors and their state court co-conspirators absolutely knew that nobody could ever even remotely possibly (lawfully) utilize any statutes or any other ostensible law in order to force any entity to disclose private donor information – except *only* possibly under the most unusually relevant financial creditor claims and of which they all knew there were absolutely none of any such issues involved;

(e) Even notwithstanding the above, all joint tortfeasors and their state court co-conspirators absolutely knew that this instant state court case was a pure sham and fraud upon its face

as nothing but an unlawful and unauthorized witch hunt and fishing expedition for purely political purposes – to criminally invade opposite political party donor privacies *en masse*;

(f) Even notwithstanding the above, all joint tortfeasors and their state court co-conspirators absolutely knew that the entire statutory basis of this instant state court action by Bresnan, Texas Business Organizations Code §22.353 and its pair of immediately adjacent statutory sections, most certainly did not, and could never, authorize any of their falsified actions to conspire in any of the various shams, farces, frauds and crimes generally described above;

(g) Even notwithstanding the above, all joint tortfeasors absolutely knew, already but even more so after being duly advised in corresponding particulars, that the very same W.D.TX case #1:2017cv00409 was a clearly valid removal action filed under special civil rights Section 1443, that Section 1443 clearly and expressly authorizes direct intervention into the state court case matters in order to assure a federal forum for constitutional challenge, i.e., they all absolutely and clearly knew of all of the above manifest violations of law and that Texas Business Organizations Code §22.353 and its pair of immediately adjacent statutory sections could never be used ("applied") in the sham manner as attempted here, and that the facial constitutional challenge to such misapplication was directly on-point;

(h) Hence, all joint tortfeasors and their state court co-conspirators absolutely knew that each and every single one of this instant state court's orders was and were a sham, a farce, and a fraud on their faces – regardless whatever they pretended to "order" or otherwise say – and further therefore, they also absolutely knew that each and every single paper they proffered within this Court was a willful, knowing and intentional fraud upon this Court, consistently replete with affirmative, material misrepresentations intended to defraud the due course and process of Justice, i.e., also comprising all manner of crimes against both,

the Texas Penal Code, and also Title 18 of the United States Code, as well as numerous "serious" acts of *affirmative and knowing* Misconduct against the Texas Disciplinary Rules of Professional Conduct, of which each and every attorney, and also each judge within this instant state case, are also duly bound thereby, in addition to the same judges' own many parallel violations committed against the Texas Code of Judicial Conduct;

(i) Even notwithstanding the above, all joint tortfeasors and their state court co-conspirators absolutely knew they were each required to report each and every act of Misconduct by any other legal professional to the proper authorities, including not only to professional disciplinary authorities, but also to law enforcement in these particular situations; *and*,

(j) Even notwithstanding the above, all joint tortfeasors and their state court co-conspirators absolutely knew, that because of each of their own numerous acts of crime and serious Misconduct, they were each mandatorily required to withdraw/recuse from the given case, i.e., upon multiple separate occasions for each of them individually, they all knew that they were mandated to voluntarily and officially exit their presence out of this instant state court case removed and/or the very same W.D.TX case #1:2017cv00409, respectively.

Pursuant to Texas Penal Code, Title 2, Chapter 7, Criminal Responsibility for Conduct of Another, also to Texas Penal Code, Title 4, Chapter 15, Preparatory Offenses, and to the various equal and equivalent sections under Title 18 of the United States Code, all joint tortfeasors and their state court co-conspirators are already guilty and liable for affirmative acts towards and/or also neglects to prevent aiding, abetting, and/or attempting to conceal the various felony and misdemeanor crimes perpetrated by any other officer of either of these same courts against various and multiple sections of the Texas Penal Code (state crimes herein) and also of such various crimes against Title 18 of the United States Code (federal crimes herein), because within

a criminal conspiracy the law is well-established that any contributing act performed by any individual of the conspiracy is chargeable unto the other individuals within the same conspiracy regardless whether they even knew of the given separate act, as well as also being additionally guilty and liable in regards to all of their own affirmative individual and/or joint criminal acts and/or omissions perpetrated in these matters, as follows next, to say nothing of serious causes of action like abuse of office, abuse of power, official misconduct, false and malicious prosecution, gross negligence, tortious interference with rights, violations of civil rights, intentional inflictions of emotional distresses, breaches of duties to prevent harm, breaches of fiduciary duties, and so forth.... and of which any two (2) or more particular types of triggering predicate acts (and there are many such predicate acts involved herein) shall also invoke RICO/Racketeering charges too.

Naturally also, each and every judge ever having acted in any manner within this fraudulent instant state court case should and must now by law be removed from office pursuant to any of the alternative provisions mandated under Article XV of the Texas Constitution, see also Texas Government Code, Section 24.021, Section 33.038, and etc., see also Article V, Section 1-a(6) and Section 24 of the Texas Constitution, and likewise, the instant state court clerk should also likely by law be similarly removed from office pursuant to Article V, Section 9 and Section 24 of the Texas Constitution, see also Texas Government Code, Section 51.322 and etc., while obviously also all of the willfully dishonest and criminally-acting attorneys herein, i.e., Bresnan, Barnstone, Fenoglio, Hindera, and Hansel, should and must be law be disbarred permanently and forever from the practice of law (and with the standard reciprocal notices sent unto the state bar associations of all other 49 sister States and Commonwealths as well as the District of Columbia) pursuant to Texas Government Code, Section 82.061 and Section 82.062, as well as per others.

Because each and every single same above named individual person engaged therein and/or herein, i.e., all aforementioned joint tortfeasors and their state court co-conspirators, is also a duly sanctioned *officer* of the courts, and therefore every statement (written or oral) presented to any court (state or federal) is also automatically deemed to be given under their sworn oaths to uphold the Federal Constitution and all statutes and other laws, and/or otherwise as legally deemed swearing to the truth of every averment and statement presented to a court of law, and also therefore likewise every act and/or omission to act is automatically deemed to be performed or affirmatively refused under their sworn oaths to uphold the Federal Constitution and all statutes and other laws, then and therefore each and every single one of the same joint tortfeasors and their state court co-conspirators is also absolutely and conclusively guilty of knowing they were and have deceived and defrauded this state Court and/or that federal court (i.e., knowing, intentional material misrepresentations) about such clearly invalid/void state court orders, hence all said same tortfeasors and their state court co-conspirators are conclusively and already guilty beyond any reasonable doubt of perpetrating Perjury either therein and/or herein, in numerous direct violations of Texas Penal Code Title 8, Section 37.02. And because such statements have been made intentionally within either this state Court and/or that federal court (any "official proceeding") and are directly material, each such criminal charge is automatically enhanced to Aggravated Perjury as a 3rd degree felony charge under Texas Penal Code Title 8, Section 37.03. And because all same tortfeasors and their state court co-conspirators, by *knowing* the state court orders are clearly unconstitutional and false, yet *knowingly* continue to perpetrate the criminal act of "makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent to affect the course or outcome of the investigation or official proceeding" (any state or federal court), then each same tortfeasors and their state court co-conspirators are also clearly

**guilty** of another 3rd degree felony per Texas Penal Code Title 8, Sec. 37.09(a)(2) TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE. *See also*, Texas Penal Code Title 8, Sec. 37.10(a)(2) together with (a)(5) TAMPERING WITH GOVERNMENTAL RECORD, which is a state jail felony enhancement under (c)(2) thereof due to obvious and clear intent of each same and all joint tortfeasors and their state court co-conspirators to willfully and intentionally defraud and illegally harm both this undersigned Defendant and/or also APF and/or also the APF donors.

Necessarily also therefore, each above named court officer herein is further **guilty** beyond any reasonable doubt of Class A misdemeanors perpetrated in criminal violation of Texas Penal Code Title 8, Sec. 36.04 IMPROPER INFLUENCE, of also various state and federal Obstruction charges, of also criminal conspiracy to defraud the State of Texas and also the taxpaying citizens, and so forth and so on, *and we're barely just getting started here with numerous such crimes…*

Because each and all same tortfeasors and their state court co-conspirators falsely engaged at any level of any court therein and/or herein and/or hereunder to fraudulently use such "official proceedings" to commit multiple and numerous crimes, which acts are each *themselves yet another act* of very serious and gross Misconduct against the various duly known and very well established Texas Disciplinary Rules of Professional Conduct of all the same Texas-licensed attorneys and judges herein engaged, so therefore again each *already* knew and knows they were mandatorily required to immediately recuse/disqualify as judge, or as attorney to immediately withdraw their own representational appearance of any party from these matters, and therefore again each same such tortfeasor also already knew and knows of their own mandatory duty to report the serious Misconduct of *other* legal professionals of which they have direct knowledge.

*See*, same said Rules, *id.*, *passim*, particularly emphasizing **Rule 8.04 Misconduct**, also **Rule 8.03 Reporting Professional Misconduct**, and also **Rule 1.15 Declining or Terminating Representation**, of which paragraph **(a)** clearly commands withdrawal by *every* attorney herein.

Naturally, the County of Travis, the opposing law firm business entities involved, and any governmental and/or other applicable supervisory entity herein, will also be held jointly civilly liable and criminally negligent and/or otherwise criminally responsible via specific provisions of Texas Business Code such as Sec. 301.010 thereunder, including noting that law firms or any similar entities can easily be held liable for the knowingly unlawful acts of their any underling and/or partner attorneys, officers, and any/all other associated legal professionals, pursuant to the various provisions of ethics rules, established common law aspects of vicarious liability per the provisions of Restatement (Third) of the Law Governing Lawyers § 58 (2000), liability under respondeat superior per the various provisions of Restatement (Third) of Agency, breach of fiduciary duties to opposing and third parties, and so forth and so on, ad nauseam, endlessly available for the grievous and heinous acts herein, and then relentless post-judgment supplemental actions until the awarded damages are completely paid in full, with interest, because damages for fraud can never be erased or bankrupted out of, see, e.g., state and federal statutory laws like Section 523(a) of the federal Bankruptcy Code, etc., and various SCOTUS case law upon that very subject, such as Grogan v. Garner, 498 U.S. 279 (1991), Cohen v. De La Cruz, 523 U.S. 213, 118 S.Ct. 1212, 140 L.Ed.2d 341 (1998), and etc.

There can be no *reasonable* question of immediate and conclusive incumbency of this Court to promptly QUASH **all** of the instant state court "orders" knowingly fraudulently issued without having any valid cause, any valid jurisdiction, any valid venue, nor any valid plaintiff with valid legal standing, whatsoever, i.e., every "order" of the entire instant state court case, and/or simply

declare the ENTIRE state court case as **void** *ab initio* for clear and unambiguous total lack of any due process, and there further can be no *reasonable* question that each and every above named officer of the Travis County court system should and must be removed from their offices "for willful or persistent violation of rules promulgated by the Supreme Court of Texas, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct [*or of the Disciplinary Rules of Professional Conduct as regarding each tortfeasor attorney herein, or of similar as to clerks of the courts cited herein*], or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice."

Indeed, Travis County District Clerk, Velva L. Price, is hereby noticed regarding failing to comply with and obey her clear requirements under Texas Government Code, Title 2, Chapter 51 CLERKS, Subchapter J CERTAIN FRAUDULENT RECORDS OR DOCUMENTS, Section 51.901 FRAUDULENT DOCUMENT OR INSTRUMENT, i.e., **striking** all of the same from the instant state court docket as clearly void *ab initio*, recalling any other issuances, and so forth.

Removal was expressly valid and fully cognizable in federal court, and each and every officer of this Court, *being duly advised the same on more than one occasion*, who has proffered even one single iota of any writing to the any already duly known contrary, is already guilty of willful gross misconduct of professional ethics rules and/or canons, and already guilty of willfully attempted obstruction(s) of justice, denial(s) of honest services, tortious interference(s) with honest services, fraud(s) upon the court, various state and federal crimes involving knowingly and materially aiding or abetting false/fraudulent state court records, various state and federal crimes involving knowingly harboring, aiding, abetting, materially assisting and/or passively

assisting criminal acting criminally within his direct presence and awareness, and of course also, all of variously corresponding criminal conspiracies to commit all of the same, and so forth.

MOTION TO DISMISS THIS CASE

1. Undersigned realleges all paragraphs *supra* together with all incorporations of papers.

2. Again, Plaintiff Bresnan never had any bona fide factual legal standing to even begin this wholly fraudulent and sham action, because he completely failed all the statutory prerequisites.

3. Again, the Texas Business Code absolutely does not provide either Plaintiff Bresnan or this Court with any authority, whatsoever, to conduct any of the sham and fraudulent acts that the officers of this Court have been routinely, consistently, criminally and abusively engaged in.

4. Again further, every officer of this Court knows well and already knew well that the sole and exclusively proper venue, upon defense reservation as was, in fact, duly claimed from the outset, could have only been in, and also therefore was only valid in, the County of Williamson.

5. This entire case is absolutely, wantonly and abhorrently void *ab initio*, repugnantly so, and this Court is duty bound to dismiss this case in its entirety, except only the duty to properly provide immediate and reasonable remedy and/or remedies for all of the false and fraudulent damages that it has caused both this Defendant and also American Phoenix Foundation (APF).

ALTERNATIVE MOTION TO CHANGE VENUE TO WILLIAMSON COUNTY

6. Undersigned realleges all paragraphs *supra* together with all incorporations of papers.

7. In an alternative to motion for dismissal in entirety above, is this motion for change of venue to Williamson County based upon state law venue requirements for this type of action, which must be, and which also must have always been, as was further always duly claimed and reserved pursuant to law, solely and exclusively within the County of location of headquarters of the business enterprise being sued under the relevant provisions of the Texas Business Code.

8. Hence, if this Court chooses this alternative of the motions herein, to grant change of venue based upon location of operational headquarters of American Phoenix Foundation, then transfer of venue must be to Williamson County as required by well-established Texas law.

9. If not outright dismissal as per the first alternative motion, the requirement to transfer venue is mandatory, clear-cut, plain, and consistently upheld by the Texas Supreme Court and the sister Texas Courts of Appeal by routine issuances of orders alerting lower judges that their "conditional writs" will immediately follow if their "informal" but routinely plain opinions compelling said lower court to order the given venue transfer does not happen soon thereafter.

ALTERNATIVE MOTION FOR CHANGE OF VENUE ON LOCAL BIAS AND PREJUDICE

10. Undersigned realleges all paragraphs *supra* together with all incorporations of all papers.

11. Upon alternative motion for this Court to consider instead, the undersigned then moves for change of venue based upon inordinate and established bias and prejudice of local judges.

12. Upon such motion, this Court, if in any doubt of granting, must then next and first set an evidentiary hearing upon the alleged local bias and prejudice, for not less than forty-five (45) days next hence, to provide minimal period of time in which the parties may engage in all forms of discovery regarding such allegations of bias and prejudice within the instant courts and/or other aspects of this County, such as constitutionally-compliant jury pools for one example, or more details upon events like attorney Fenoglio herein being criminally charged with Bribery.

13. The minimum period of 45 days towards the corresponding evidentiary hearing on bias is, again, very well established, *see* e.g., *City of La Grange v. McBee*, 923 S.W.2d 89 (1996), etc.

14. Naturally, there are even still yet many more additional causes, aspects and issues that the undersigned, falsely injured Defendant may, can and also would bring to bear in further support of such a motion, if and as needed, in order to sustain that motion for relief.

## CONCLUSION

15. There is indeed a variety of serious constitutional issues regarding lack of jurisdiction herein, not only presently, if any, but clearly even that of the original action processed herein.

16. Accordingly, without constitutionally-compliant jurisdiction basis, nor standing of any plaintiff, with which to even begin such a fraudulent case, the Court must now dismiss in total.

17. Alternatively, this Court may choose to transfer venue to Williamson County as is and as was always required under the clear and well-established law of the State of Texas duly advised.

18. Alternatively, if this Court doesn't want to grant either of those two motions, then a full evidentiary hearing – with full discovery rights attendant to such hearing allowed without limit – must be set for no less than 45 days next, so that the allegations of bias and prejudice may be fully exposed and proven and heard on the record, in order to sustain that third motion for relief.

**WHEREFORE**, the undersigned, Joseph Basel, now notifies the Court, the Clerk, and all parties and counsel of the variety of issues as aforementioned, accordingly moves the Court for any corresponding relief in those alternatives, and prays for all true, just and proper relief within these premises, and lastly, provides notice of official written claims upon the above described and various torts hereby made in demanding lump sum payment of twenty-five million United States dollars ($25,000,000 USD in state law tort claims hereby now made and demanded), with additional claims quite very possible herein, and this Court is hereby demanded to recognize and support that this Defendant, Joseph Basel, and American Phoenix Foundation, are each and both absolutely entitled to IMMEDIATE SUBSTANTIAL RELIEF provided in any and all lawful ways, shapes and/or forms reasonable and necessary issued forthwith and without further delay, if and only after the federal court currently engaged fails its similar and equivalent legal duties.

Respectfully submitted,

Joseph Basel
301 County Road 461
Coupland, TX 78615
Tel: (320) 288-6640
Email: basel.joe@gmail.com

CERTIFICATE OF SERVICE

I hereby certify: that on this 10th day of August, 2017, a true and complete copy of the foregoing *alternative motions to dismiss, change venue, and/or set evidentiary hearing upon local bias, with tort claims*, by depositing same via first class postage prepaid mail, has been duly served upon each of the following:

*(federal Respondent Bresnen)*
Steve Bresnen, SBN #02959475
1801 Lavaca Street, Suite 13L
Austin, TX 78701

*(federal Respondent Shelley)*
Dan Shelley, SBN #18193900
305 West 13th Street
Austin, TX 78701

*(State court counsel for Bresnen)*
Anatole Barnstone, SBN #00793308
John Stephen Fenoglio, SBN #06904600
713 West 14th Street
Austin, TX 78701

*(federal Respondent State of Texas)*
c/o Attorney General Kenneth Paxton
P.O. Box 12548
Austin, TX 78711-2548
[CERTIFIED MAIL RRR]

and likewise, in the same manner, served also upon the following persons with related duties:

Linda A. Acevedo
Chief Disciplinary Counsel
State Bar of Texas
14651 N. Dallas Parkway, Suite 925
Dallas, TX 75254

Margaret Moore, District Attorney
Travis County District Attorney's Office
P.O. BOX 1748
Austin, TX 78767

State Commission on Judicial Conduct
P.O. Box 12265
Austin, TX 78711-2265

Joseph Basel