

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

CIVIL RIGHTS COMPLAINT FORM FOR
PRO SE (NON-PRISONER) LITIGANTS IN ACTIONS UNDER
28 U.S.C. § 1331 or § 1346 or 42 U.S.C. § 1983

Christopher Chestnut,

(Write the full name of each Plaintiff filing this complaint. If there is insufficient space to list the names of all Plaintiffs, please write "see attached" in the space above and attach an additional page with a full list of names.)

Case No.: 4:19cv271RH-MJF
(To be filled in by the Clerk's Office)

v.

John Tomasino,

Clerk for The Florida Supreme Court
(Write the full name of each Defendant who is being sued in this complaint. If there is insufficient space to list the names of all Defendants, please write "see attached" in the space above and attach an additional page with a full list of names.)

Jury Trial Requested?
 YES NO

See Attached /

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I. PARTIES TO THIS COMPLAINT

A. Plaintiff(s)

1. Plaintiff's Name: Christopher Chestnut

Address: 301 W Bay St., Suite 1400/1470

City, State, and Zip Code: Jacksonville, FL 32202

Telephone: 888-374-4448 (Home) 352-256-6151 (Cell)

2. Plaintiff's Name: _____

Address: _____

City, State, and Zip Code: _____

Telephone: _____ (Home) _____ (Cell)

(Provide this information for any additional Plaintiffs in this case by attaching additional pages, as needed.)

B. Defendant(s)

State the name of the Defendant, whether an individual, government agency, organization, or corporation. For individual Defendants, identify the person's official position or job title, and mailing address. Indicate the capacity in which the Defendant is being sued. Do this for *every* Defendant:

1. Defendant's Name: See attached

Official Position: _____

Employed at: _____

Mailing Address: _____

Sued in Individual Capacity Sued in Official Capacity

2. Defendant's Name: _____

Official Position: _____

Employed at: _____

Mailing Address: _____

Sued in Individual Capacity Sued in Official Capacity

(Provide this information for all additional Defendants in this case by attaching additional pages, as needed.)

II. BASIS FOR JURISDICTION

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution” and federal law. Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain Constitutional rights.

SECTION I. B. DEFENDANT PARTIES TO THIS COMPLAINT

1. JUSTICE CHARLES CANADY

Official Position: Florida Supreme Court Justice
Employed At: The Florida Supreme Court
Mailing Address: 500 S Duval St.
Tallahassee, FL 32399
Sued in Official Capacity

2. JUSTICE RICKY POLSTON

Official Position: Florida Supreme Court Justice
Employed At: The Florida Supreme Court
Mailing Address: 500 S Duval St.
Tallahassee, FL 32399
Sued in Official Capacity

3. JUSTICE JORGE LABARGA

Official Position: Florida Supreme Court Justice
Employed At: The Florida Supreme Court
Mailing Address: 500 S Duval St.
Tallahassee, FL 32399
Sued in Official Capacity

4. JUSTICE C. ALAN LAWSON

Official Position: Florida Supreme Court Justice
Employed At: The Florida Supreme Court
Mailing Address: 500 S Duval St.
Tallahassee, FL 32399
Sued in Official Capacity

5. JUSTICE BARBARA LAGOA

Official Position: Florida Supreme Court Justice
Employed At: The Florida Supreme Court
Mailing Address: 500 S Duval St.
Tallahassee, FL 32399
Sued in Official Capacity

6. JUSTICE ROBERT LUCK

Official Position: Florida Supreme Court Justice
Employed At: The Florida Supreme Court
Mailing Address: 500 S Duval St.
Tallahassee, FL 32399
Sued in Official Capacity

7. JUSTICE CARLOS MUNIZ

Official Position: Florida Supreme Court Justice
Employed At: The Florida Supreme Court
Mailing Address: 500 S Duval St.
Tallahassee, FL 32399
Sued in Official Capacity

8. JOHN A. TOMASINO

Official Position: Clerk of Court
Employed At: The Florida Supreme Court

Mailing Address: 500 S Duval St.
Tallahassee, FL 32399
Sued in Official Capacity

Are you bringing suit against (*check all that apply*):

- Federal Officials (*Bivens case*) State/Local Officials (*§ 1983 case*)

III. STATEMENT OF FACTS

Provide a short and plain statement of the *facts* which show why you are entitled to relief. Describe how *each* Defendant was involved and what each person did, or did not do, in support of your claim. Identify when and where the events took place, and state how each Defendant caused you harm or violated federal law. Write each statement in short numbered paragraphs, limited as far as practicable to a single event or incident. ***Do not make legal argument, quote cases, cite to statutes, or reference a memorandum.*** You may make copies of the following page if necessary to supply all of the facts. Barring extraordinary circumstances, no more than five (5) additional pages should be attached. ***Facts not related to this same incident or issue must be addressed in a separate civil rights complaint.***

See attached

SECTION III. STATEMENT OF FACTS

This is a lawsuit for equitable relief pursuant to Section 1 of the Civil Rights Act as codified by 42 U.S.C. § 1983 against the individual Justices of the Florida Supreme Court in their official capacity and the Clerk of the Florida Supreme Court in his official capacity. The Justices acted individually and collectively as state actors to deprive Plaintiff Chestnut of his *Fifth* and *Fourteenth Amendment* Constitutional rights. Specifically, the Justices entered an order to disbar Plaintiff Chestnut without a hearing, order to show cause or opportunity to be heard otherwise in deprivation of his due process rights. Plaintiff Chestnut seeks an immediate order for prospective declaratory and injunctive relief by this federal district court that voids the illegal order to disbar and enjoins the Florida Supreme Court from imposing the sanction as ordered on May 3, 2019.

On or about May 3, 2019, Justices Charles Canady, Justice Ricky Polston, Justice Jorge Labarga, Justice C. Alan Lawson, Justice Barbara Lagoa, Justice Robert Luck, and Justice Carlos Muniz signed an order to disbar Plaintiff entered by John A. Tomasino (Clerk of The Florida Supreme Court), all acting in their official capacities. The order is invidiously discriminatory because it failed to articulate a valid reason or nexus to the qualifications, conduct, or character of Plaintiff Chestnut and the imposition of the most severe sanction of disbarment. The Florida Supreme Court failed to issue Plaintiff an Order to Show Cause as to why the sanction of disbarment should not be imposed prior to entering the Order to Disbar Plaintiff. The Florida Supreme Court failed to provide a hearing on the Order to Disbar prior to entering the order.

At all times material hereto, Plaintiff Chestnut had a property and liberty interest in his Florida Law License. Plaintiff Chestnut was licensed to practice law only in the State of Florida. Plaintiff Chestnut is a member of a protected class under § 1983 as an African American male. Prior to May 3, 2019, Plaintiff Chestnut a member of the Florida Bar in good standing, and was issued a license to practice law upon admission to The Florida Bar in 2006. Plaintiff Chestnut had a prior disciplinary sanction of Public Reprimand issued in *SC14-1870*. Prior to May 3, 2019, Plaintiff Chestnut had received no interim sanction or discipline by The Florida Bar or any bar association for any other state.

Procedural History of *SC16-797* & *SC17-307*

1. The Order to Disbar Plaintiff Chestnut relied upon the Findings of Fact and Recommendation for Sanction in *SC16-797*, *SC16-1480* and *SC17-307* which all were consolidated into a common case number of *SC16-797* on or about April 29, 2019.
2. Plaintiff Chestnut filed a *Notice of Intent to Seek Review of Report of Referee* in *SC16-797* on or about June 17, 2017.
3. In *SC16-797*, Plaintiff Chestnut filed an appellate Answer Brief (10.17.17) and Reply Brief were filed (11.23.17), oral hearing was denied, and no written opinion was ever filed by the Florida Supreme Court.
4. In *SC17-307*, Plaintiff Chestnut filed a *Cross Notice of Intent to Seek Review of Report of Referee* (6.14.18), The Florida Bar filed an Initial Brief (6.21.18), on (7.16.18) Plaintiff filed a Motion for Extension of Time to File Cross Initial/ Answer Brief on the Merits (7.25.18), the Florida Supreme Court denied that motion for extension on (7.25.18), and the Florida Supreme Court denied Plaintiff's motion to Supplement the Record on (7.27.19).
5. The Florida Supreme Court denied Plaintiffs Writ of Prohibition (filed 4.3.18) concerning the Referee's disqualifying conduct four months after its filing on August 3, 2018.
6. On August 20, 2018, The Florida Supreme Court Clerk of Court dismissed Plaintiff's *Cross- Notice of Intent to Seek Review of the Referee's Report*, effectively dismissing his appeal without a hearing.² Plaintiff filed a Motion for Reinstatement (10.8.19), the Supreme Court denied Plaintiff's Motion for Reinstatement.

Social Political and Racial Makeup of Florida Appellate Court .

Justices Muniz, Lagoa, and Luck were appointed by Gov. DeSantis (Republican) in 2019. The remaining four Justices were appointed by previous Republican Governors). Presently, there are no sitting Justices appointed by or under a Democrat Governor. There are presently no African American Justices on the Florida Supreme Court for the first time in nearly four decades From 2011 to 2018 Gov. Rick Scott appointed 32 of the 64 total judges sitting on five district court of appeals in Florida, none were African American.

Prior history of due process deprivation to Plaintiff that would have been proffered had a proper hearing been allowed.

The Order is in part based upon the Report of Referee in *SC17-307*. Had due process been followed a hearing would have revealed the following due process violations regarding *SC17-307*:

- a. The Referee, Judge Ohlman, was technically disqualified pursuant to *Fla. R. Jud. Admin.* § 2.330, and had lost jurisdiction over the case prior to entering his Report of Referee, thus, the Report of Referee its findings and recommendations are null and void and insufficient for a basis for disbarment;
- b. The Supreme Court of Florida refused to rule on the Writ of Prohibition filed by Respondent seeking help, a deprivation of due process;
- c. Plaintiff Chestnut, was not provided an opportunity to confront his accusers, as the trial was stopped on day two of the four day trial in violation of due process, nor was discovery by Plaintiff allowed;
- d. All three counts were out of state cases and required to be charged under the foreign jurisdictions rule of professional regulation pursuant to Rule 3-4.6(b)(2)³, Rules Regulating the Florida Bar, but guilt was found under the Florida Bar Rules.⁴
- e. Plaintiff Chestnut's appeal was dismissed by the Supreme Court without an Order to Show Cause or ten-day warning of dismissal pursuant to *Fla. R. App. P.* §9.410;

The Supreme Court has also relied upon *SC16-797* in the order to disbar Plaintiff Chestnut. Had a hearing been conducted the following due process violations would have been revealed:

- f. The Referee, Judge Neal, violated due process by excluding Plaintiff Chestnut's evidence post-trial, absent the requisite *Kozel* hearing, in deprivation of due process, then entered a finding of guilt.⁵ Judge Neal also precluded Plaintiff Chestnut from

³ *Rule 3-4.6 (b)(2), Rules Regulating The Florida Bar* requires that: The Florida Bar and the Referee are to apply the law of the foreign jurisdiction when exercising disciplinary authority over a Florida Bar member for alleged conduct that occurred in a jurisdiction other than the State of Florida.

⁴ *See, Holland v. Gross*, 89 So. 2d 255, 2158 (Fla. 1956)(misapplication of law to established facts renders decision of trial court made in nonjury setting clearly erroneous).

discovery and evidence in defense of solicitation allegations, after advising at the Emergency Suspension Hearing in *SC16-1589* that he would do so.

- g. Additionally, Judge Neal, violated *Equal Protection*, in Count II, *Baker v. Chestnut*, by finding Plaintiff Chestnut (African American Attorney) guilty of an illegal contract and excessive attorney fee for a straight 40% contingency fee contract in contrast to the pre-approved Florida Bar sliding scale contingency fee contract, because the 40% fee contract was not approved at hearing. However, a similarly situated white attorney was not prosecuted for a straight 40% contingency fee agreement and fee taken without a hearing in *Mahany v. Wright's Healthcare & Rehab. Ctr.*, 194 SO. 3d 399 (Fla. 2d DCA 2016)(finding a fee approval after a hearing before a judge was preferred but not required).
- h. Furthermore, Judge Neal found guilt against Plaintiff Chestnut, on these charges of excessive fee and illegal contract, Kim Yozgat and Evan Small (both white attorneys), were the attorneys with day to day supervision of that case at the time the contract was drafted, were on the phone with the Bakers when the contract was signed, and are the attorneys that drafted and sought fee approval; yet were not prosecuted or found guilty of the acts.

Plaintiff Chestnut has suffered immediate and irreparable harm by the taking of his law license and liberty to earn a living by a final order of the Supreme Court of Florida without the requisite due process as provided by law license to practice law.

IV. STATEMENT OF CLAIMS

State what rights under the Constitution, laws, or treaties of the United States have been violated. Be specific. If more than one claim is asserted, number each separate claim and relate it to the facts alleged in Section III. If more than one Defendant is named, indicate which claim is presented against which Defendant.

See attached

V. RELIEF REQUESTED

State briefly what relief you seek from the Court. Do not make legal arguments or cite to cases/ statutes. If requesting money damages (*either actual or punitive damages*), include the amount sought, explaining the basis for the claims.

Plaintiff seeks Federal District Court Order
Declaring the Order to Disbar Plaintiff Chestnut
Void in violation of due process and to
enjoin the Florida Supreme Court from imposing
the sanction of disbarment.

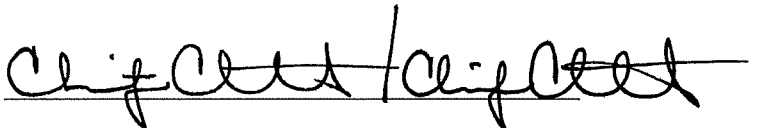
IV. STATEMENT OF CLAIMS

1. Plaintiff Chestnut had a right under the *Fifth* and *Fourteenth Amendment*, not to be deprived of property or liberty of employment via his Florida license to practice law without due process of law. A license to practice law is considered real property. Prior to a state actor effectuates a taking of property under the color of state law, there must be an opportunity to be heard. The Florida Supreme Court Justices violated Plaintiff Chestnut's due process rights when each Justice individually signed an Order to Disbar in their official capacity without first affording Plaintiff Chestnut an opportunity to be heard.
2. Furthermore, the Florida Supreme Court Justices in their order were required to declare a "valid" reason and nexus between act, character, or qualification and justification for imposing the harshest sanction of disbarment and they failed to do so.
3. The order signed by the individual Justices of the Florida Supreme Court caused violated Plaintiff Chestnut's Equal Protection rights under the Fourteenth Amendment, as Plaintiff Chestnut is a member of a protected class as a Black Attorney and similarly situated white attorneys were afforded an opportunity to be heard prior to disbarment, and similarly situated white attorneys were not subject to an equally harsh sanction of disbarment for the same alleged conduct.
4. As a direct and proximate cause of the aforementioned conduct by the Florida Supreme Court Justices, Plaintiff Chestnut has incurred immediate and irreparable harm of: loss of his only license to practice law, loss of employment, deprivation of liberty, loss of income, and loss of reputation.

VI. CERTIFICATION

As required by Federal Rule of Civil Procedure 11, I certify by signing below that to the best of my knowledge, information, and belief, this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to timely notify the Clerk's Office if there is any change to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date: 6/13/19 Plaintiff's Signature: 

Printed Name of Plaintiff: Christopher Chestnut

Address: 301 W. Bay Street, Suite 1400/1470
Jacksonville, FL 32202

E-Mail Address: Chris.Chestnut@Chestnutfirm.com

Telephone Number: 352-256-6151

(Additional signature page(s) must be attached if there is more than one

Plaintiff.)

Chif. [Signature]

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