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Correction the attached letter:¹ The “Ultimatum” referenced herein was provided to CUSD employees a few days this meeting, not beforehand.

The Gavel Project (Anti-Woke 501(c)(3)): thegavelproject.com



¹ This correction was publicly announced a short time after publishing this letter.



June 2, 2022

Ms. Erica Dennings,
Senior Trial Counsel
Office of the Chief Trial Counsel
The State Bar of California
180 Howard Street,
San Francisco, CA 94105

Re: Case Nos. UPL – 22-NA- 2271, 22-NA-2294 & 22-NA-2295
Complainants – Kenneth Fitzgerald, Brian Trottier & Kenan Guitekin

CEASE AND DESIST NOTICE

Dear Ms. Dennings:

On Wednesday, May 27, I received a “CEASE AND DESIST NOTICE” (*see* “Notice,” attached) from the Office of Chief Trial Counsel for the State Bar of California. This Notice, apparently drafted by you, threatens me with criminal prosecution for the unauthorized practice of law.

The Notice explains:

All three complainants filed their complaints on behalf of the Coronado Unified School District Board in the County of San Diego. On February 17, 2022, you appeared at the Board meeting and during an open forum session whereby parents and speakers are allowed to address the Board, you introduced yourself as an attorney representing a student. You spoke about your displeasure with the mask mandate issued by the Board involving the students. You threatened to sue the Board and each member. You then urged students to violate the public health orders by refusing to wear the masks. You presented yourself in an attorney like capacity.

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Based on these facts, you allege that I have violated California Business and Professions Code section 6125, which provides that “[n]o person shall practice law in California unless that person is an active member of the State Bar.” The Notice indicates that engaging in the “unauthorized practice of law is a crime, punishable by up to one year in county jail or by a fine of up to one thousand dollars (\$1,000), or both.”

I do not dispute the foregoing *factual allegations* (those from the Notice, under the heading Summary of Alleged Conduct, found in the first paragraph on the top of page 2). I reject your conclusion, however, that such violates any laws. Here’s a [link](#) to a video of my statement to the CUSD board from the February 17 meeting. This video is available on my public Instagram account, it has been for months.

The Notice further claims:

The practice of law includes, but is not limited to, the following activities: (1) performing services in court cases/litigation; (2) giving legal advice and counsel; and (3) preparing legal instruments and contracts that secure legal rights – even if the matters involved do not have anything to do with lawsuits or the courts. (*People v. Merchants Protective Corp.* (1922) 189 Cal. 531, 535.)

The unauthorized practice of law occurs when someone who is not licensed as a member of the State Bar engages in any of these activities, unless specifically permitted to do so by law. It also occurs when an unlicensed person holds himself or herself out as being entitled to do these activities, even if the person does not actually represent that he or she is a licensed California attorney. (*Business & Professions Code, §§ 6126, subdivision (a) and 6126.7.*)

Regarding your demand that I Cease and Desist from speaking on behalf of clients at school board meetings, my answer is simple: No thank you.

There is nothing illegal about my statement to the Coronado Unified School District Board of Trustees on February 17. I made this statement as an Attorney, speaking to an abusive school board on behalf of a victim—my client—for whom I had already retained a licensed California Attorney.

Had your office spoken with someone *from* the Coronado Unified School District, you would have quickly realized such to be the case. A quick look at my social media accounts would have revealed the

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same. My client, [REDACTED], provided various CUSD employees multiple copies of a Cease-and-Desist Notice (a copy of which is available on my website) days before my February 17 statement.

It is of note, that three of the sitting CUSD school board Trustees are licensed Attorneys in the State of California. All of them were present on February 17. Strangely, none of these interested parties filed a complaint against me for the unauthorized practice of law—despite having ample time to do so. Your Notice concedes this point, by noting that the complaints were filed “on behalf of” rather than “by” the CUSD board.

I advise you to look closely at the Ultimatum on my website (thegavelproject.com). It’s substantively identical to the letters provided by [REDACTED] to CUSD employees during her protests earlier that week (the week of February 17). One letterhead belongs to The Gavel Project and the other to California Parents United. This Ultimatum was prepared by me (a licensed Arizona Attorney)—working with a licensed California Attorney, Tracy Henderson, [REDACTED]’s lawyer. Tracy is also President of California Parents United and the California Parents Union (an organization seeking to combat teachers’ unions across the state of California).

Instead of properly investigating, your office appears to have accepted the complainants’ allegations on their face and attributed the worst possible motives to my conduct.

Notably, all allegations against me were brought by citizens, facially unrelated to CUSD or The Gavel Project. These random people weren’t harmed by my statements. They are not aggrieved parties in any sense. They are irrelevant bystanders—upset with what I said.

The bar complaints made against me are effectively hit pieces—aimed at destroying The Gavel Project and harming my family. Rather than dismissing these claims as frivolous (which they are), you seem to have recklessly accepted the allegations without considering the motives of the complainants.

As you are likely aware, The Gavel Project is a Nonprofit 501(c)(3) Public Charity. Although we are not a political organization, we openly disagree with many progressive (*i.e.*, Leftist, Marxist, SJW, Anti-American, Woke, etc.) policies. The organization is not shy about its opposition to such poisonous ideals, which it views as irrational and antithetical to the interests of society.

As part of our work, The Gavel Project opposes tyrannical public health orders lacking legal foundations (such as vaccine and mask mandates for children, which are neither safe nor effective). We especially oppose State actions (such as health guidelines masquerading as mandates) when such are constitutionally void and physically harmful to children.

Moreover, we oppose Critical Race Theory (whether directly in curriculum or indirectly through teaching methodologies), the sexual grooming of children through prurient “sex education” materials pushed by leftist teachers and organizations, and gender affirming policies—especially those involving irreversible bodily changes. We also stand for parents’ rights, health freedom, and civil liberties (especially free speech).

All three complainants are progressive ideologues. Their claims are frivolous. The statements and actions of the complainants clearly demonstrates this to be the case.

For example, complainant Kenneth Fitzgerald is a leftist, who openly promotes Marxism and Marxist organizations such as BLM. In his Letter to the Editor of the Coronado Times (dated August 8, 2020), Kenneth exuberantly proclaims, “finally, most people want to be woke[.]” Again, The Gavel Project is an openly anti-woke organization, and we advertise this fact on our website. Kenneth’s perspective is clearly at odds with The Gavel Project’s mission, to judge people based on the content of their character rather than the color of their skin.

In his op-ed, written in the wake of George Floyd’s death, Kenneth openly calls for a “necessary reckoning” to address America’s “institutional racism,” which Kenneth claims is an inherent part of our society. The article critiques a Petition then circulating throughout the Coronado community to “reject solidarity with BLM, as BLM is a Marxist organization, not an educational institution.”

To Kenneth’s great dismay, the drafters of the petition take issue with BLM’s openly Marxist call to “disrupt the Western-prescribed nuclear family structure requirement *by* supporting each other as extended families and ‘villages’ that collectively care for one another, especially our children, to the degree that mothers, parents, and children are comfortable.”

From this, Kenneth critiques proponents of the Petition arguing that they mischaracterize BLM’s objectives. He notes that “BLM *does not list destruction of* the nuclear family as one of its goals. It merely advocates for community-based caring for non-nuclear families.” Technically, Kenneth is correct, BLM doesn’t expressly list “destroying the nuclear family” on its website. Kenneth’s argument, however, is illogical. He obfuscates the means (promoting policies favoring the interests of single parent households) and the ends (the goal of disruption of the nuclear family structure). He further conveniently ignores the fact that disruption of a nuclear family structure often results in its destruction.

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In essence, Kenneth is a Social Justice Warrior seeking to disrupt (perhaps the word “destroy” is more appropriate) The Gavel Project by filing baseless complaints against me. My actions—appearing at a school board meeting on behalf of a client for whom I had already hired a California lawyer—are legally protected by California law and are, in fact, harmless to Kenneth.

Another claimant, Brian Trottier, happens to be the same person who accosted me at the February 17 school board meeting. Following my statement, I walked away from the podium and sat down next to my client. A few moments later, struggling to breathe through his multiple masks, Brian Trottier angrily accosted me, thereby disrupting the meeting. He did so by standing over my chair and getting in my face. I have witnesses that can corroborate Brian’s wild behavior.

Towering over me, Brian then angrily threatened to call the police and have me arrested for assault and battery, which he alleged resulted from my merely announcing that I was unvaccinated and indoors (this is partially visible on the aforementioned Instagram video, watch to the end). In response, I invited Brian to call the police. Although they never showed up, Brian placed the call. I have evidence from the Coronado Police Department demonstrating that he called to have me arrested for assault and battery, merely for being maskless in the same room.

I further have evidence of Brian openly bragging on social media about his intent to harm me—by filing bar complaints. I wrote about this on my Substack months ago. Notably, this is the second state in which Brian has filed a false bar complaint against me—due to my statements on February 17. Brian also happens to be Vice President of the Coronado Democratic Club. He is a nonpracticing attorney, he was educated at an ivy-league school, and he makes a living as a crony capitalist government contractor (yet another issue The Gavel Project is focused on solving). Clearly, Brian’s complaint was inspired.

Online, Brian has mischaracterized me as an ambulance chaser—even though I run a public charity (recognized as a 501(c)(3) by the IRS). At the time he filed his complaint (I must assume it was after April 4), Brian was aware Gavel Project does exclusively pro-bono work. He was also aware that my family continues paying out-of-pocket to help victims of abuse. My family pays for pro bono legal services for children that aren’t ours in a state that we don’t live in. My wife has literally returned to work so The Gavel Project can pay its California attorneys to represent our clients.

Hiring qualified attorneys, licensed in the state where our clients are located, is a standard practice for The Gavel Project. I have never claimed to be an attorney—licensed in the State of California, and I’ve never implied such to be the case.

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Finally, complainant Kenan Guitekin is a criminal defense attorney from the San Diego area. Until January of 2022, he worked as a Deputy Public Defender in the San Diego County Public Defender's Office. That's the same office where CUSD Trustee Whitney Antrim is employed. A bit of research reveals that the two are married.

As an aside, it should also be noted that Mr. Guitekin has a bad habit of speaking at CUSD meetings without publicly disclosing his relationship to his wife—CUSD Board Trustee, Whitney Antrim. I witnessed this behavior on February 17. Based on his statements, one might think that Ms. Antrim speaks through her husband in violation of the Brown Act—on a regular basis. Clearly, Attorney Guitekin's behavior, publicly supporting the positions of his wife without explaining this unobvious relationship, presents a conflict of interest deserving of a full investigation by your office.

The State Bar of California Website provides:

An attorney who doesn't live, work, or conduct regular business in California can petition the court to represent their client under a title called "Pro Hac Vice." This Latin term means "for this occasion."

Lawyers licensed in another state *must formally petition a California court* for permission to appear on behalf of a client on a particular case.

...

The submitted *application must consist of documents filed with the state court where the attorney would like to appear*. The documents *must include* the following information:

- *Court case name and number*
- *Court name*
- Declaration by the out-of-state attorney with his or her name, email address, home address, and business address where they are licensed to practice
- Declaration of bar licensing status in the attorney's home state
- Name, phone number, address, and bar number of the California attorney of record

Because I am licensed in Arizona and because I contract with California attorneys to represent The Gavel Project's clients, I have the right to respectfully petition a California court to appear *pro hac vice*. So far, such has been impossible and unnecessary given the statutory time restrictions related to the California Tort Claims Act and the nature of The Gavel Project's work. Currently, The Gavel Project

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has only a handful of clients in your State (although we also have clients in other states). Our California clients are pursuing claims (with the help of California attorneys that we have retained on their behalf) against various school districts, elected officials, and various employees in California.

Given that the California Tort Claims Act requires claims against such entities and individuals be submitted to the government agency one seeks to sue before a lawsuit can be filed, our clients haven't had the opportunity to appear before a tribunal in California. Consequently, applying for *pro hac vice* status has thus far been impossible. Filing a lawsuit against CUSD without first complying with the California Tort Claims Act would necessitate filing a complaint—knowing that I lack standing (*i.e.*, a frivolous suit). In effect, you're asking me to do the impossible. There is no court to petition and, therefore, I can provide neither a *court name* nor *case number* as required by your *pro hac vice* process.

Should my appearance before a tribunal become necessary or desirable (after the Tort Claim Act process has concluded), I will respectfully petition the appropriate authority for limited admission to practice with the guidance of an attorney licensed in your state.

To protect my interests and promote transparency among those that you serve (the People of California), I'm publishing this response. From my perspective as a visiting attorney, the State Bar of California's handling of this matter has been entirely unprofessional and inappropriate. Some might characterize the conduct of your office as outrageous. You should have followed the lead of the State Bar of Arizona.

Three similar complaints were filed against me with the State Bar of Arizona back in March. Each was dismissed, immediately, after a basic inquiry into the circumstances revealed the baseless nature of nearly identical allegations.

Moreover, the State Bar of Arizona provided me the basic courtesy of notifying me each time a complaint was filed against my license. This facilitated transparency and Due Process. Comparatively, this is the first time the State Bar of California has provided me with notice of two out of the three bar complaints filed against me.

When Kenneth Fitzgerald originally complained on March 24, I thankfully received some correspondence from your office. At that time, your office asked that I confirm my status as an out of state Attorney, including the State where I am licensed and my Bar Number. I provided this information without objection.

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A basic investigation into the circumstances of these allegations would have revealed the foregoing facts and led you to the conclusion that the claims against me are frivolous. Instead of exercising due diligence and acting professionally, your office waited until months after my allegedly wrongful statements were made before issuing a Cease and Desist Notice.

Be advised, delivery of this Notice has traumatized my family, especially my wife. As a member of the Office of Chief Trial Counsel for the State Bar of California, you are acting as an Agent of the State. As an entity, your employer (the California government) holds a monopoly on violence. I am keenly aware of this fact.

By threatening me with criminal sanctions, you threaten to deprive me of my life and liberty. You also threaten to deprive my wife of her husband and children of their father. Your threats are entirely based on the claims of clearly biased actors, and you act without having exercised proper due diligence to corroborate anything. Your assertion—that I am engaged in the unauthorized practice of law—lacks both a factual and legal basis.

As an Attorney licensed in another state, I am permitted to contract with California licensed Attorneys and to work jointly with them in representing our mutual clients. What changed between your understanding of the situation between April 4 (when I heard back from your Investigator confirming receipt of my status as an Arizona Attorney) and the present? Why is providing my Arizona License Number no longer a satisfactory response to your investigation? Why specifically did your assumptions about my conduct change? The available evidence strongly suggests that your motivation in issuing this Notice far exceeds the State Bar of California’s mission to “protect the public.”

The overall import of your actions suggests that you disagree with the content of my statements for inappropriate reasons. Be advised, I will not be silenced.

Cease and desist. Further harassment of myself, my family, or my organization by you or your office will likely result in legal actions against you, personally.

Respectfully,



Ryan Heath
President, CEO, Mandate Attorney, & Civil Rights Activist