BRIEF #3789:1ST AMENDMENT RIGHTS OF LAWYERS. FORMERLY COMBINED TABLE OF AUTHORITIES #3601 PRESENTED AT TRIAL SEPT 21 1999 IN PEOPLE V PALASCHAK. VENTURA CASE #43885

Attorney Douglas Palaschak
Box 23465 Ventura CA 93003
lawyerdude@mindspring.com
http://lawyerdude.8m.com
Dedicated Fax: 775-383-7885
805-643-3205 -

Analysis #3789 (formerly 3601): The 1st Amendment Rights of Lawyers

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A tribute to 3 brilliant and dedicated lawyers:

Professor David Harrell, a brilliant and dedicated scholar.

May this brief please **Professor David Harrell**. Harrell has been a professor of law for 20 years. He also is a research analyst for the court of appeal in Ventura, California. I can think of no case in this brief that was not fully discussed in Professor Harrell's Constitutional Law class or Harrell's Ethic class. Professor Harrell testified as my expert witness at my trial in Ventura on September 22 or 23, 1999. His testimony was persuasive and 12 jurors unanimously voted me **not guilty**. I never thought that I would actually be defending myself for writing a petition, but I am grateful to Professor David Harrell for providing me with the knowledge to defend myself.

Ventura Lawyer Steve Powell - the jury remembered his name and believed him.

Also testifying at my trial was **Ventura Lawyer Steve Powell 805-658-8955** who I ran into at the metal detector on the morning of trial. Steve Powell (not to be confused with my friend Lawyer Steve Pell also of Ventura) was persuasive in his testimony and at least one juror mentioned him by name when the prosecutor and I interviewed the jury after they voted me not guilty. Powell is a true polite gentleman, a very talented lawyer, and a compassionate defender of our rights.

Ventura Lawyer Robert Schwartz - best cross examination I have ever seen.

Powell's partner is **Ventura Lawyer Robert Schwartz 658-8955** who successfully defended me in 1991 in my trial for having eaten LSD. In that trial Schwartz performed the most brilliant cross examination that I have ever seen. He came to trial with legal pads already filled with questions along the left side. He had 2 more columns - for answer and for re-cross. He was so good that one lying witness simply got up out of the witness chair and left the courtroom saying "I don't have to put up with this".

One of the pleasures of being a lawyer is knowing such noble and brilliant lawyers as those people that I have listed.

Steve Comando 805-647-3837: My choice for Private Investigator

I had to defend myself because the jail made me choose between having assistance of counsel or having access to the law library and a private investigator. In retrospect, the library and Private Investigator **Steve Comando 805-647-3837** were more useful. I strongly recommend Steve Comando. The public defender and Conflict Defense systems in Ventura are fatally flawed, but so is every public defender office I have ever dealt with - and most are much worse than Ventura.

BRIEF #3789:1ST AMENDMENT RIGHTS OF LAWYERS. FORMERLY COMBINED TABLE OF AUTHORITIES #3601 PRESENTED AT TRIAL SEPT 21 1999 IN PEOPLE V PALASCHAK. VENTURA CASE #43885

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I contend that disbarment must be prohibited or curtailed because it is used as a tool to chill the speech of dissidents like me. 3

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BRIEF #3789:1ST AMENDMENT RIGHTS OF LAWYERS. FORMERLY COMBINED TABLE OF AUTHORITIES #3601 PRESENTED AT TRIAL SEPT 21 1999 IN PEOPLE V PALASCHAK. VENTURA CASE #43885

About 1450 Gutenberg invented the printing press and within 100 years Star chamber circa 1556 passed statutes requiring a license to print. 6

Our 1st amendment is written against a background of licensing of the right to print and licensing of lawyers is nothing more than licensing the right to print where it is most important - and licensing the right to speak - and the first amendment says that these right and the right to petition for redress of grievances shall not be abridged. The state bar act abridges them and is unconstitutional. 6

The Supreme Court of California talks about its inherent power to discipline lawyers. There is no such inherent power!! However, we do have an inalienable rights - - and the California Supreme Court oversteps its bounds when it attempts to curtail my right to speak. 6

This oppression in the name of the bar's inherent power is a product of the age of robber barons. 6

Scope of this Treatise: 1999 Trial; Upcoming 2001/2 Trial. 6

Everybody (hyperbolically speaking) living now mistakenly believes that the bar may abridge speech despite the clear wording of the California and U.S. constitutions - but if we had lived as long as corporate ficta we would never have let this happen; things like this happen by generation - after the last remaining mortal human objector has died. 7

Bar's only legitimate function is testing and admission - and maybe disbarment for something grievous. 8

Lawyers may not lawfully be compelled to be super-citizens - because citizens merely define themselves by how well they serve corporate ficta! Furthermore, it is a denial of equal protection. 8

Issue #1 **Any attempt by the state bar or the court to restrain Palaschak's speech constitutes unlawful prior restraint in violation of *Near v Minnesota*** (1931) 75 L. Ed. 1357; 283 U.S. 697; 51 S. Ct. 625. 8

Issue #4 **Any subsequent criminal prosecution violates the 1st amendment.** 9

Issue #5 **The state bar act is unconstitutional as an abridgement of freedom of speech and press.** 9

Issue #6 **The state bar act as applied to Palaschak violates a multitude of constitutional precepts.** 9

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Oppressive Admission to the federal court is controlled by federal local rules - an example of power grabbing and oppression at the highest level. Congress shall make no law abridging speech - and the judges shall make no laws period. Also, the federal constitution does not give anybody the right to prohibit speech or regulate the practice of law in the federal courts - and to the extent that California constitution requires membership in the state bar such violates the nobility clause - and others - and maybe was only added in the constitution of 1949. 14

Debunking Legal Fictions: You have a right to eat and distribute illegal pills and to do other private things - including writing things for people - and you have a right to speak in public - even in court. Penumbra doctrine - also known as double delta theory in integral calculus. . . 14

Debunking legal fictions: Ignorance of the Law is a Defense. Related Defense is "I contest the Law" 14

State Bar Taint is an Unconstitutional Bill of Pains and Penalties - Like a Bill of Attainder 14

Just as in Criminal cases, each litigant is entitled to show the court what is behind the judicial decisions that would be an element in curtailing his rights at the instant hearing. All presumptions of regularity are legal fictions. 15

Issue #7 **Palaschak contends that his 1992 misdemeanor conviction and subsequent disbarment were unlawful and void ab initio being fruits of the forbidden tree. The presumption of regularity has been destroyed by subsequent actions of Matz - and for other reasons - and the issues is always there because ___ says that the evidence shall not be used for any reason.** 15

The Lawyer's Right to effective assistance of counsel at Bar Hearings 15

Issue #8 Palaschak's purported suspension and/or disbarment are void ab initio because the equal protection clause and Argersinger imply that B&P 6085 be interpreted to require appointment of counsel for those who cannot afford it. Palaschak demanded appointment of counsel at his bar hearing and pseudo hearing officer David Wesley erred in ruling that indigents are not entitled to appointed counsel in bar cases. 15

Issue #9 Even the test books are confused (or perhaps obsequious to the bar) and list in the annotations to 6085 cases that were overruled by the U.S. Supreme court specifically an by implication. A 1902 case, Vaughn comes to mind. 16

Issue #11 The bar denied Palaschak his right to confront and cross examine witnesses by banishing him from the hearing for 1.5 days during which time it took testimony from witnesses. 16

Issue #12 Over Palaschak's objection the bar hearing officer, an employee of the prosecutor used evidence stolen from Palaschak's office 16

Issue #13 The bar failed to comply with discovery. Palaschak submitted detailed and significant special interrogatories that were arrogantly ignored. 16

Counsel of choice 16

Palaschak is uniquely qualified to handle the issue of unlawful disenfranchisement by virtue of his having sued the California Supreme court in federal court on precisely this issue for another client - which is precisely why Palaschak is disenfranchised today - retaliation by the Supreme Court who should have recused itself due to conflict of interest, personal interest, and the implied bias, and the appearance of impropriety and actual impropriety. 17

Issue #14 Palaschak's disenfranchisement is a badge of honor because it was imposed unlawfully by the California Supreme Court after he sued them. At every step of the way he has vindicated just licensing issues in the face of oppression by corporate ficta. It is his unlawful disenfranchisement that gave him the motivation to research the issue for 8 years. His disenfranchisement is precisely what makes him the lawyer best equipped for this task! 18

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Things that were illegal for lawyers before the 1st amendment - and even after for a while. 21
Seditious libel - Speaking out against the government. 21

California Supreme Court had a personal interest in the case. Palaschak was counsel for a lawyer who sued the California Supreme Court. The court retaliated and purported to take Palaschak's license but the taking was void ab initio for a multitude of constitutional infirmities. 21
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Keyishian v Board of Regents (1967) 17 L Ed 2d 629, 385 U.S. 589. Pedler registration. 22
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In Re Ming 469 F 2d 1353 (7th Cir. 1971) Even federal court rules must render due process. 23
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Argersinger v Hamlin (1974) 32 L Ed 2d 530 Follow up to Gideon. Amplifies Gideon. Cited in Weinreb. Argersinger continues to lower the threshold at which constitutional protections accrue. 15, 18

Baird v State Bar of Arizona (1970) 27 L Ed 2d 639, Annotation @953 Subject: Overbreadth. Bar applicant refused to answer question in bar application regarding his past to age 16 regarding membership in organizations advocating overthrow of government. Note that Judge McMecarch or whomever in Mariposa county refused to take the loyalty oath part of the oath specifically quoted in the California constitution. 21

Bates v Arizona (1977) 53 L Ed 2d 810. Legal Clinic Advertised. Subject: Overbreadth and 1st amendment. The 6th most pertinent case here. 21

Bates v Little Rock 4 L Ed 480.Freedom of expression includes the right to advocate. 1

Bell v Burson (1971) 26 L Ed 90, 401 US 535 State cannot take a driver license (or presumably and bar license) without a hearing. Used in motion 3596 at page 3. . . . . 9, 24

Birbrower v Superior Court of Santa Clara County (1998) 70 Cal Rptr 2d 304, 17 C 4th 119, 949 P2d 1. New York lawyer was permitted to collect part of his fees for work done in California? This was not a 1st amendment issue - but a fee collection case. 24

Bradwell v. People of State of Illinois, (U.S. Ill. 1872) 83 U.S. 130, 21 L.Ed. 442, 16 Wall. 130. Myra Bradwell was denied permission to practice law in Illinois because she was a married woman. Supreme court affirmed. 20

Brandenburg v Ohio (1969) 23 L Ed 2d 430, 395 US 444, 89 S Ct 1827. Clarence Brandenburg was Ku Klux Klan member. Clear and Present Danger test was finally used to overrule an obstruction to speech. Used in brief 3596 at page 7 and 8. Brandenburg is cited all the major constitutional law treatises and the following treatises: 21 L Ed 2d 976 The *Supreme Court and the right of free speech and press*, 38 L Ed 2d 835 *The Supreme Court's development of the "clear and present danger"rule and the related rule concerning advocacy of unlawful acts as limitations on the constitutional right of free speech and press*, 45 L Ed 2d 725 *Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights,* 86 L Ed 758 *Right of petition and assembly under the Federal Constitution's First Amendment - Supreme Court cases*, 96 ALR Fed 26, 20 ALR4th 327. 24

Bridges v California (1941) 314 US 263, 62 S Ct 194. Contains the test: “Extremely Serious and Very Imminent” (clear and present danger - how clear and how present). Newspaper editorial talked about a present case in violation of court gag order. Cited for contempt of court. Overruled as I recall. Cited in brief #3596 at page 6. 24

Brief in ***In Our Defense***. The endnotes of ***In Our Defense*** contain an excellent brief regarding the search and seizure issues in a politically motivated raid. 10, 23, 25

Brotherhood of Railroad Trainmen v Virginia ex.rel. Virginia State Bar (1964) 12 L Ed 2d 89, 377 US 1, 84 S Ct 1113. Court struck down an injunction barring union from directing its members to certain favored lawyers. 6

Brown v Board of Education. In NAACP Justice Douglas, the court's strongest liberal called a spade a spade. He said that this statute was designed to combat the trend of the Negroes to integrate schools and vindicate their rights that the Supreme Court enunciated in 1954 in Brown v Board of Education. 4

Cohen v California (1971) 30 L Ed 2d 124. "Fuck the draft" written on the back of jacket in court hallway. Overbreadth was the basis of this decision. 22

Condon, Estate of (__1998) 65 Cal App 4th 1138, 76 Cal Rptr 2d 922. Not supervening. 21

Craig v Boren (1976) 50 L Ed 2d 397. Relaxed standing to challenge denial of equal protection. Vicarious standing to defend fundamental rights. Compare to private attorney general. 25

Craig v Harney (1946) 91 L Ed 1546, 331 U.S. 367. Regarding clear and present danger test: Mere possibility of danger is not enough. Used in briefs at 3567.1, 3569.1, 3596.6. Case is on point because it was about a Newspaper being critical of a layman as judge. Hey, I criticized a judge for Melvin Loser and was prosecuted for it also. 25

Cronic, U.S. v Harrison (1984) 466 U.S. 648, 665 Cited by Alderman and Kennedy book ***In Our Defense*** page 402, 259. Companion case defining the standard for competence is ***Strickland v Washington*** 466 U.S. 688. 18

Crow, In Re (1959) 3 L Ed 2d 1025-27. Annotation 3 L Ed 2d. Non criminal disbarment. Attorney disbarred in Ohio. U.S. Supreme Court issues OSC. He responded. Douglas dissents that they should have appoint a committee. 24

Debs v U.S. (1919) 63 L Ed 566, 249 U.S. 211. Predecessor to ***Brandenburg*** in 1969. 1917 draft interference case. Used in brief at 3596.7 25

Dellinger et al. Dellinger was the lead named defendant in the Chicago 7 along with the late Jerry Rubin, Abie Hoffman, et al., defended by the late Attorney William Kunstler, who was one of many lawyers punished for their outspoken views and vigilant defense work. 11

Doran v Salem Inn (1975) 45 L Ed 2d 648. **Overbreadth.** 3 stripper bars. Ballet Africanus. Leading case. Joe Redner, famous owner of the leading stripper bar in Tampa recognized the name of this case which I chatted with him in Jan 2000. 22

Erznoznik v City of Jacksonville ( ) 45 L Ed 2d__. **Overbreadth.** Baby's butt argument regarding drive in theater. The statute was declared unconstitutional because it was so broad as to include the depiction of a baby's butt which the court felt, would not be offensive to anybody. 22

Ficker v Curran 950 F Supp 123, affirmed 119 d 3d 1150 overturned Maryland's ban on direct mail solicitation of persons accused of jailable traffic offenses. 20

Ficker v Curran 950 F Supp 123, Affirmed at 119 F3d 1150. Overbreadth regarding bar acts regulating attorneys. Attorney solicitation law was held unconstitutional. Used in brief 3596 at page 10. 22

Garland, Ex Parte. (1866?) 18 L Ed 366, 4 Wall 333@ 377 is one of only 20 cases where the supreme court mentions ***"Bill of Pains and Penalties***." A lawyer who had served in the confederacy and subsequently pardoned was challenged by __ when he wanted to practice law again. The supreme court ruled that __ which purported to bar his practice was a ***bill of pains and penalties*** - and therefore unconstitutional.

. . . . 14

Gentile v State Bar of Nevada (1991) 115 L Ed 2d 888. **Clear and Present Danger test controls here.** Gentile gave a press conference about a high profile case that he was handling. The bar tried to discipline him. The U.S. Supreme Court declared that **the Nevada bar act was unconstitutional**! Palaschak contends herein that the California bar act is unconstitutional for a multitude of infirmities, many arising since the 1986 attack on human lawyers by Diane Yu, a genetically weak socialist, a shill for corporate ficta and the enemy of individualism which is the essence of America. 25

Gideon v Wainwright (1963) 372 U.S. 335. Henry Fonda portrayed Gideon in the movie ***Gideon's Trumpet.*** Defendants are entitled to appointed counsel even in non-capital cases. The court extended this right even further in ***Argersinger***. 15, 19

Gluth v Kangas (1988) 773 F Supp 1309 @ 1321 (D Ariz) **Right to xerox copies in jail**. "Draconian" copying by hand is not required. Jails and prisons must provide copying service - but Illinois jail denied Palaschak copying rights (while allowing other prisoners copying services - but only after Palaschak began litigating. Cited in Palaschak brief #3591 at page 0.1. 25

Goodin, ***People v*** (1902) 136 Cal. 455; 69 P. 85. The government ran a road for years through Goodin's ranch. When the government straightened the road, Goodin reclaimed the land on which the old crooked road had run. Then he was accused of destroying state property - the old pavement. Goodin won. . . 14

Griffin v Illinois (1956) 100 L Ed 891, 351 US 12, 79 S Ct 585, ***55 ALR2d 1055 - Indigent's right to appointed counsel on first appeal of right.*** You have a **right to a free transcript** on your 1st appeal. Traffic court thwart this right in California by making you jump through a hoop and attempting to make you agree to a settled statement on appeal - which precludes you from later thinking up issues that are apparent to the skilled lawyer looking at a real transcript. 19

Griswold v Connecticut (1965) 14 L Ed 2d 510, 381 U.S. 479, 85 S. Ct. 1678. **Penumbra. Relaxed standing. Vicarious standing**. Cited in Palaschak briefs #3567 at page 1 and #3596 @ 2. Dr. Griswold **gave illegal drugs (birth control pills) to his patients**. He used relaxed standing to defend his pill distribution by saying that the privacy rights of his patients in their procreative (or not) liberty permitted him to give them the pills. **Justice Douglas's legacy to the free world!** 9, 14

Hackin v Arizona (1967)19 L. Ed. 2d 347; 389 U.S. 143; 88 S. Ct. 325. There was no written majority opinion. Douglas's strong a cogent dissent shames the majority in this case. Lawyer Hackin having been denied admission to the Arizona bar nonetheless defended a guy who was denied counsel by the court because the proceeding was, hypertechnically, civil in nature, habeas corpus. Hackin stepped forward where bar volunteers failed to do so, defended the otherwise defenseless, and was prosecuted for practicing without a license. Maybe he failed to write a good brief - although he persuaded Justice Douglas. . . . 23

Hackin V Lockwood (1966) 361 F2d 499. District court held that Arizona's ABA requirement is constitutional. The court in a cowardly deceptive gutless oppressive bureaucratic fascist fashion skirted the issue by holding that requiring graduation from an accredited school is constitutional - avoiding completely the issue that ABA requirements were instituted at the behest of Carnegie, a paradigm robber baron, and foisted upon the public in the age of the robber barons with the obvious effect of promoting corporate ficta and limiting the practice of law and even the teaching of law to the wealthy. We can see the folly now in retrospect with the multitude of non-ABA schools in California. . . . 23

Houston v Hill (1987) 96 L Ed 2d 390. **Overbreadth**. Charles Alan Wright argued this case. "Interview" with police as they were chasing a suspect. Defendant said "Why don't you pick on somebody your own size!"

The statements were not fighting words or obscenity. The Supreme Court ruled in favor of the guy shouting at police as they were chasing a suspect. It is okay to be provocative. Any non-speech was pre-empted by state statute. Extrapolation from Houston case: With regard to laws against attorneys speaking without license: Any non-truth is pre-empted by fraud statutes. Any truth is protected by the 1st amendment. The supreme Court said that the city "had numerous opportunities to narrow and has not done so." Similarly the state bar act suffers from overbreadth and the implied and also explicit ambiguity of defining what constitutes the practice of law. 22

Kelley, Luan. California case. This lawyer received her 2nd DUI. The state bar ignored the lack of nexus and ignore the double jeopardy clause - and the preemption by the DMV. The bar suspended her bar license. 21

Keyishian v Board of Regents (1967) 17 L Ed 2d 629, 385 U.S. 589. **Overbreadth.** Ordinance required solicitors to register with the police. Ruled unconstitutional. 22

Konigsberg v State Bar of California, et. al. (1957)1 L. Ed. 2d 810 , 353 U.S. 252, 77 S. Ct. 722. The state bar of California oppressed political dissidents then - and it does so now with Palaschak and other patriots 8

Kunstler, In Re (1974) 1974 U.S. App. Lexis 6968. See ***My Life as a Radical Lawyer***, autobiography of Attorney William Kunstler. Kunstler successfully defended **the Chicago 7** who were prosecuted by an overzealous U.S. Attorney in Chicago in opposition to the will of then **U.S. Attorney General Ramsey Clark** (who later in 1995 successfully defended People's Lawyer Steve Yagman if Santa Monica in his attack by another over zealous bureaucrat attempting to punish Yagman for his criticism of Federal **Judge Keller** and others. The oppression of Yagman utilized the tool of the standing committee for discipline of the U.S. district court for the central district of California. In 1993, before Yagman's case, Palaschak attempted to communicate with this committee. The court refused to disclose the names of the committee members or how the committee could be reached. The committee acts secretly - and now we know why. Yagman's case revealed that the committee was then controlled by the personal attorney for Judge Real, then the presiding judge - and a judge who hated Attorney Yagman. In other words, the committee had a conflict of interest. 11

Lilburne's case. (1648) Lilburne was granted the right to a lawyer. See ***Visions of Liberty***, Ira Glasser, 1991, Little, Brown, New York, page 160. In 1637, a **Puritan activist named John Lilburne** imported and distributed various political tracts and was brought before the **Star Chamber**. Lilburne refused to be examined under oath, claiming that it violated "the law of the land" and invoking the **Magna Carta**. Condemning the oath as a procedure that was fundamentally unfair, Lilburne said that he would not take it even "though I be pulled to pieces by wild horses." Lilburne was held in contempt of court, publicly whipped, fined, and jailed in solitary confinement. He wasn't released until 1641. But his crusade for fair procedures and his willingness to absorb severe punishment rather than forsake principle inflamed the public - on both sides of the Atlantic - and Lilburne became a great symbol. He suffered, but not without effect: In 1645 Parliament set aside the judgment again Lilburne, finding that it had indeed violated "the law of the land and Magna Carta." **In 1648 he was granted damages for his unjust imprisonment.. .** Lilburne led the Levelers. He was arrested again and again and died in prison at age 43. . .. . . At his very last trial he won the **then unprecedented** right to receive a copy of the charges again him **and to be represented by a lawyer** [a right demanded by defendant Palaschak herein (at his bar hearings - and he was forced to give up his right to assistance of counsel in order to obtain his right to go to the law library) and a right demanded by Palaschak's client, Melvin Looser who was imprisoned without benefit of counsel for being unable to pay a $104 fine]. 18

Marbury v Madison (1803) 2 L Ed 60, 5 U.S. 137. A void act is void ab initio. 11

McSurely v McClellan (1976) 553 F2d 1277, 1282, note 9 (D.C. Cir. 1976)(en banc) discusses a safekeeping order for the personal diaries and other seized items of McSurely. McSurelys's case is the subject of chapter 4 of ***In Our Defense***, cited elsewhere herein. 10, 23, 25

McSurely v Ratliff (1967) 282 F Supp 848 (E.D. Ky. 1967) declares Kentucky's anti sedition law unconstitutional. The McSurely's injury is reported in chapter 4 of ***In Our Defense*** cited elsewhere herein 10, 22, 25

McSurely v Ratliff (1968) 398 F2d 817 (6th Cir 1968). The case ordering the return of the documents of McSurelys. The McSurelys story is the subject of chapter 4 of In Our Defense cited elsewhere herein. 10, 23, 25

Ming, In Re 469 F 2d 1353 (7th Cir. 1971) Even federal court rules must render due process. 23

NAACP v Alabama 2 L Ed 1488 Freedom of Expression includes the right to advocate. 1

NAACP v Button (1963) 9 L Ed 2d, 371 US 415, 83 S Ct 328. The NAACP Legal Defense Fund brought suit in federal court in the eastern district of Virginia in 1957. These suits sought an injunction against enforcement of 5 statutes. Lawyers at the meetings risked disbarment and laymen risked criminal prosecution under the challenged statute for merely advising Negroes that they could file a lawsuit. NAACP won. This is a boring but fairly thorough opinion. 1, 4

Near v Minnesota (1931) 75 L. Ed. 1357; 283 U.S. 697; 51 S. Ct. 625. Any attempt by the state bar or the court to restrain Palaschak's speech constitutes **unlawful prior restraint** in violation of ***Near. Konigsberg*** relied on ***Near*** argument in his successful argument before the U.S. Supreme Court in the blacklisting days. 8

Newman v Piggie Park (1968) 19 L Ed 2d 1263. One who " obtains. . .not for himself alone but also as a "private attorney general" vindicating a policy that congress considered of the highest priority." 17

Ohralik v Ohio state bar 56 L Ed 2d 444, 436 US 447, 98 S Ct 1912. Ohralik in his brief at 56 L Ed 876 cited Louisville Var v Hubbard 282 Ky 734, 739, 139 Sw2d 773, 775, Bates v State Bar of Arizona 53 L Ed 2d 810, Virginia State Board of Pharmacy v Virginia Citizens Consumer council 48 L Ed 2d 346, *NAACP v Button* 9 L Ed2d 405, State v Rubon (1930) 201 Wes 30,32, 229 NW 36, 37, Cole v Arkansas 92 L Ed 644, US v O'Brien 20 L Ed 2d 672. 6

Ohralik v Ohio state bar 56 L Rf 2d 444, 436 US 447, 98 S Ct 1912. Ohralik was an ambulance chaser entitled to the same first amendment rights but he lost on appeal while Primus won because she took no money. Does your right to speech end if you are paid for it? No. 5

Palaschak v RJR Nabisco, Case #____1988. Ventura County 9

Palaschak, ***People v*** (1995) 9 Cal. 4th 1236; 893 P.2d 717; 40 Cal. Rptr. 2d 722 . The decision cannot be considered final for 5 reasons: #1 Palaschak continues to suffer current injury of disbarment as a result of this bad decision; #2 Palaschak's Habeas Corpus Petition in this case was intercepted by sheriff's deputies and not mailed; #3 The Supreme Court's own appointed lawyer never met with Palaschak in the case, submitted the brief without Palaschak's approval; #4 Counsel failed to submit the entire transcript of the suppression hearing; #5 the prosecution's main witness, Former DEA Officer David Matz, whose account of the raid was alone inconsistent was subsequently (in September 1999) arrested for shoplifting; #6 a material police officer witness resigned from the force after failing to answer Palaschak's subpoena.

Also, Palaschak's disbarment stemming from this case came after Palaschak sued Justice Lucas for a lawyer client. Lucas and the entire court had a conflict of interest in the disbarment. Palaschak was not notified of disbarment proceedings and therefore had no notice and opportunity to be heard. Misdemeanor single incident drug use has never been a reason for disbarment. Palaschak's case is way different from that of ***Luan Kelley*** cited elsewhere herein. Kelley endangered people by her driving. But Kelley should not have been disbarred either - absent showing of a impairment to her competence. . . 10

Piper , N. Hampshire v (1985) 84 L Ed 2d 205; 470 U.S. 274. Kathryn Piper, a Vermont resident passed the New Hampshire bar. New Hampshire attempted to ban her from practicing until she moved across the river into Hampshire. Briefs of amici curiae urging the U.S. supreme court to defy the constitution and uphold this oppressive and unconstitutional rule were filed by Rehnquist and the following 12 backwards and oppressive states: Iowa Tennessee Virginia, Hawaii (by Tany Hong, Attorney General), Indiana, Kansas, Missouri, Nevada, Ohio, Wisconsin, Wyoming, North Carolina, Texas. Kathryn Piper won. She vindicated this privilege and immunity of citizenship as late at 1985!åÅàXÅb 20

Primus, In Re (1978) 56 L Ed 2d 417, 436 US 412, 98 S Ct 1893. Subject of annotation at Lawyer's Edition 2nd 56:841 entitled Licensing and Regulation of Attorney as restricted by rights of free speech, expression, and association which is the closest treatise on point regarding free speech rights of lawyers. Her Supreme Court brief is at 56 L Ed 2d 838. Edna Primus was a lawyer in private practice who volunteered her time to the ACLU. South Carolina stupidly argued that solicitation, like advertising, invades the privacy of other's 4

Procunier v Martinez (1974) 40 L Ed 2d 224, 416 US 396, 84 S Ct 1800 **Mail is a right** 26

Rapp v Disp. Bd. Of Hawaii Supreme Court (Feb 1996) 916 F Supp 1525 pro se lawyer Rapp desired to speak with jurors after their verdict. Hawaii disciplinary rules prohibited this without the court's permission. Rapp sued for declaratory and injunctive relief against the Hawaii Supreme Court (as did Palaschak's client against the California Supreme Court) and prevailed. He obtained a preliminary injunction prohibiting enforcement of the rule. 20

Spanos* v. *Skouras Theaters Corp., 364 F.2d 161, 170 (en banc) (CA2 1966)."We are persuaded, however, that where a right has been conferred on citizens by federal law, the constitutional guarantee against its abridgment must be read to include what is necessary and appropriate for its assertion. In an age of increased specialization and high mobility of the bar, this must comprehend the right to bring to the assistance of an attorney admitted in the resident state a lawyer licensed by 'public act' of any other state who is thought best fitted for the task, and to allow him to serve in whatever manner is most effective, subject only to valid rules of courts as to practice before them. (Citation omitted) . . .Indeed, in instances where the federal claim or defense is unpopular, advice and assistance by an out-of-state lawyer may be the only means available for vindication." Cited in dissent in ***Leis v Larry Flynt*** implying what Dr. Bevan knows for certain - there is a wide spectrum of legal help available - mostly incompetent for his difficult task. 18

Spevack v Klein (1967) 17 L Ed 2d 574, 385 U.S. 511; 87 S. Ct. 625. Constitutional rights accrue at bar hearings because it looks, feels, and smells like a criminal process. The defendant is being punished, sometime the 2nd time, for some act. 16

Supreme Court of New Hampshire v Piper (1985) 84 L Ed 2d, 470 US 274, 105 S Ct 1272. State may not deny bar membership to non residents. 26

Thomas v Collins 89 L Ed 430 Freedom of expression includes the right to advocate. 1

U.S. v Houston 273 F 915, 916. Any next friend can apply for a writ of habeas corpus. cited by Douglas in ***Hackin v Arizona*** 19 L Ed 2d 347. 24

United Transportation Union v State Bar of Michigan (1971) 28 L Ed 2d 339, 401 US 576, 91S Ct 1076 the court vindicated the rights of the Teamsters to associate and refer members to its own chosen lawyers. 6

Vaughan, In re (1922) 189 C 491, 209 P 353. Cited falsely in annotations to B&P 6082. It was overruled by implication in ***Spevack.*** "Proceeding for disbarment of attorney is not such a criminal prosecution as entitles defendant to decline to testify on ground that he cannot be compelled to be witness against himself, although he may decline to answer questions which would tend to incriminate him" is a lie. 16

Statutes cited herein:

Cal Bus & Prof § 6085. Rights of defense to charges Any person complained against shall be given fair, adequate, and reasonable notice and have a fair, adequate, and reasonable opportunity and right:
(a) To defend against the charge by the introduction of evidence.
(b) To receive any and all exculpatory evidence from the State Bar after the initiation of a disciplinary proceeding in State Bar Court, and thereafter when this evidence is discovered and available. This subdivision shall not require the disclosure of mitigating evidence.
(c) **To be represented by counsel.**
(d) To examine and cross-examine witnesses.
(e) To exercise any right guaranteed by the California Constitution or the United States Constitution, including the right against self-incrimination.
He or she shall also have the right to the issuance of subpoenas for attendance of witnesses to appear and testify or produce books and papers, as provided in this chapter. 15

Rules of court cited herein:

Annotations from *Supreme Court Reports, Lawyer's Edition.* This superb set of treatises is now in jeopardy due to the monopolistic action of Thompson publishing who purchased both West Publishing and its main competition, Bancroft Whitney, and emasculated this set of books by making these superb annotations unavailable from Lexis by requiring that Lexis users pay a surcharge. Thus even though Thompson was ordered to divest itself of this part of the booty, it persists in impairing free trade.

Pertaining to Overbreadth, Clear and Present Danger Test and 1st Amendment Rights of Lawyers:

86 L Ed 2d 578 ***Right of Petition and Assembly under Federal Constitution's First Amendment - Supreme Court's Views***. Annotation to ____

56 L Ed 2d 841. ***Licensing and Regulation of Attorneys as Restricted by Rights of Free Speech, Expression, and Association under the First Amendment.***

45 L Ed 2d 734-759 (35 pages) ***Supreme Court's Views as to Overbreadth in connection with 1st Amendment Rights.*** Annotation pertaining to ***Erznoznik*** case regarding baby's butt hypothetical.

38 L Ed 2d 853. ***Clear and Present Danger Test regarding Advocacy of Unlawful Acts.***

33 L Ed 2d 865-926. (61 pages) **Contains much good verbiage:** ***The Supreme Court and the First Amendment Right of Association.*** Annotation to ***Healy. SDS.***

27 L Ed 2d 953 re Baird

16 L Ed 2d 1231. ***Indefiniteness of Language as Affecting Validity of Criminal Laws.***
Pertaining to Criminal Rights in general as outlined in *Argersinger* et al.
103 L Ed 2d 1000 Petty versus serious crimes. Defined.
98 L Ed 2d 1074 Right to Compulsory Process
98 L Ed 2d 1115 Right to Confront Witness
45 L Ed 815 Right to Jury trial when accused of contempt of court
30 L Ed 2d 914 Right to Redress of grievances
18 L Ed 2d 1420 Right to counsel.

Where cited in brief:
L Ed 2d 100:1049 *State Regulation of judicial proceedings as violating commerce clause (Art 1, section 8, clause 3) of Federal Constitution - Supreme Court Cases.* 5

Lawyer's Edition 2d. 3:1960-65. Annotation re ***In Re Crow*** 3 L Ed 2d 1960-65 24

ALR Annotations
ALR2d Vol 55, page 1055 - ***Indigent's right to appointed counsel on first appeal of right.*** 19

Annotations from Supreme Court Digest - another fine treatise to be destroyed by Monopolists West and Thompson.
See**: Overbreadth**

Other Treatises cited herein:

Friedman, Professor Lawrence. ***A History of America Law*** page 639. Myra Bradwell was denied admission to the Illinois bar in 1869 due to her gender. About he same time Clara Foltz became the first woman to practice in California despite a statute restricting the practice of law to "any white male citizen". See the bibliographies therein.e the bibliograp 20

Glasser, Ira (of the ACLU) ***Visions of Liberty***,, 1991, Little, Brown, and Company, New York, page 159 et. seq. Talks about ***Lilburne's case*** from 1648 wherein Lilburne successfully argued for appointed counsel. Available at Port Hueneme library. 19

In Our Defense. Avon Paperbacks. New York. 1991. Available at Barnes and Noble. $13.50. **Contains bibliography and case numbers.** Kennedy and Alderman discuss Harrison Cronic in detail in the book ***In Our Defense*** on pages 259 et seq. They devote another chapter to the McSurelys case. 10, 18

Kunstler, Attorney William, ***My Life as a Radical Lawyer***, the autobiography of Attorney William Kunstler. Kunstler was sentenced to prison for 4 years for his successful defense of the Chicago 7. His sentence was overturned on appeal. 11

My Life as a Radical Lawyer biography of Attorney William Kunstler who defended the Chicago 7 n 1968 thereby freeing them. Angry oppressive Judge Julius __ sentenced Kunstler to 4 years in prison for defending the Chicago 7. Overturned on appeal. 12

Weinreb, ***Leading cases in Constitution rights of defendants*** - or something like that. 1982 edition. Stolen by jail guards. 19

The Magna Charta, Constitutions and other ancient bills of rights cited herein:

Equal protection clause of the 5th and 14th amendments. 15

Magna Carta. Signed in a field at Runnymede in 1215 at the point of a sword. The phrase "trial of one's peers" comes from this document which contains other assertions of rights of freemen and patriots which oppressive states and their courts scorn. The Puritan Political Activist Lilburne invoked the Magna Charta in his successful demand for appointed counsel circa 1648. The trend for 800 years has been increased recognition of the rights specified in the Magna Carta. Will this court reverse that trend? 18, 19

BRIEF #3789:1ST AMENDMENT RIGHTS OF LAWYERS. FORMERLY COMBINED TABLE OF AUTHORITIES #3601 PRESENTED AT TRIAL SEPT 21 1999 IN PEOPLE V PALASCHAK. VENTURA CASE #43885

The genesis of this Analysis - my 1999 arrest for writing a petition

I did not expect that I would ever in this country be arrested for writing a petition, but that is what happened to me on 14 May 1999 at my farm in Illinois. FBI agent Timothy Eley and LaSalle County, Illinois, Sheriff Tom Templeton and 3 other armed men were rummaging through my living room and kitchen when my brother Jerry Palaschak and I arrived home from the tractor store at about noon.

I did not ever expect be called to defend myself or anybody for having written a petition, but that is exactly what happened to me in 1999. On 24 September 1999 a jury of 12 of my peers took only 2 hours to unanimously vote me not guilty of the charges. I filed suits in many courts to protest my arrest but the judges all ignored their oath to uphold the 1st amendment. I am proceeding against Agent Timothy Eley and others in Federal Court in Los Angeles.

On my business cards in 1975 were the words of Thomas Jefferson: "The price of Liberty is Eternal Vigilance." How true are those words! In 1997 I wrote a petition for my friend Melvin Looser in California. In 1999 I was arrested on my farm in Illinois by the FBI for having written this petition for Melvin Looser. I was held on a bail of $1/ 4 million. I spent 4 months in jail. During that time I reviewed the cases that are listed in this brief. I argued my case before a jury of 12 (plus 2 alternates) which took only 2 hours to deliberate and unanimously vote me **not** guilty.

> "Freedom of expression embraces more than the right of an individual to speak his mind. It includes also his right to advocate and his right to join with his fellows in an effort to make that advocacy effective." - *NAACP v Button (1963)* 9 L Ed 415 at 429 citing Thomas v Collins 89 L Ed 430, NAACP v Alabama 2 L Ed 1488, Bates v Little Rock 4 L Ed 480.

Court decisions clearly hold that the right to petition includes the right to petition **all 3 branches of governments - legislative, executive, and judicial**. Oppressive bar rules prompted the bar to send me a letter when I criticized a judge for setting an extremely high bail in the Rick James (She's a SuperFreak, SuperFreak, This girl is funky) case. I don't know if I even replied but I knew then that the 1st amendment protected me. It was only recently that I found the court decision that says so - and I don't recall it now.

Briefs, Motions, and Jury Instructions that I filed in my 1999 case:

I filed many motions both in Illinois and in California. (See my handwritten Letter and Brief Index.) None of them were taken seriously except my "astronaut motion". Judge Clark ruled in that motion that I may indeed call myself an astronaut if I so choose. I contend that I am more appropriately trained to be an attorney and therefore I may call myself an attorney (which I am) with or without the permission of the state bar which has attempted to strip me of my credentials because I don't accept their constantly changing oppressive dogma written by their employees with their student council mentality and sophomoric know-it-all

attitude despite never having actually worked for a paying human individual client. Diane Yu is the epitome of this plague on our previously free society.

Judge Steele at the trial court in Ventura rejected all of my approximately 14 jury instructions which were based on leading cases in constitutional law and the first amendment.

Partial List of Motions written in defense of writing a petition

I have put some briefs up on my website and I am loading more each day onto the website at http://lawyerdude.50megs.com .

3422	date	Petition for Writ of Habeas Corpus to Judge Ryan in Illinois.
3433	date	Habeas Corpus Petition to Illinois Supreme Court. Mailed Tuesday morning, 29 June 1999 at 7 a.m. via priority mail in a brown envelope. 54 pages plus 20 pages of exhibits.
3596	14 Sept 1999	Overbreadth Motion
3569		Authorities in support of overbreadth motion.

List of My Proposed Jury Instructions

The proposed jury instructions are part of the court record and are unavailable to me at this time although I have written to the trial court explaining my situation and the need for the proposed jury instructions.

Ventura Judges Select Other Judges Who are Weak, Poorly Educated, and Biased

Mr. Looser is a disabled veteran of two wars. He was unable to pay a $100 traffic ticket. A Ventura Court Commissioner named Covarrubius was browbeating Looser and threatening him with jail - which is unconstitutional as announced by the U.S. Supreme court in several cases during the 1970's. I have listed those cases in this brief and in the petition #2871 that I wrote for Melvin Looser. Obviously Commissioner Covarrubias did not know that law - and that is not surprising to me because Covarrubias practiced only Worker's Compensation Law - which is not much law at all. In fact, you don't even have to be a licensed lawyer to do what Covarrubias did. Covarrubias was obviously chosen to be a commissioner because is weak and goes along with the establishment. Another recent appointee to be Commissioner was Dave Long, who was permitted to go to law school without ever going to college based on his 17 years experience working for the establishment as an insurance adjuster. These 2 judges don't have a grasp of human individual rights; they are poorly educated shills of the establishment who were selected to do the dirty illegal work of traffic court in the oppressive style of the oppressive, lazy, deceitful, smug, and partially blind John Hunter (who continued to be judge long after the people rejected him at the polls) and the now deceased Judge Fred Jones who was formerly an FBI agent.

Ventura Judges are Disproportionately Former Employees of the District Attorney

Many Ventura judges are former deputy district attorneys. This is a problem throughout America.

The California Bar has attempted to abridge our right to speak and write

The state bar act violates the first amendment.

Our Law Schools haven't a clue because they have some pathetically weak faux professors

Somebody should have challenged the state bar act in ethics class - but our students are weak and the teachers are weaker. I see now that the word "ethics" is an instrument of oppression that the bar uses to deceive the public into accepting their dogma which is merely the age old oppression of the individual by the group.

Best examples of weak, pathetic faux professors here in Ventura:

#1 Steve Pell. He took the job to make friends and make money. His brain is as dull as his monotone voice.

#2 Mike from Steve Pell's office. An incredibly dull, weak person. Mike copies my advertising script incidentally.

#3 Judge Art Gutierrez. Although the bar exam is based on federal rules of evidence Gutierrez taught the state rules because he obviously did not know the federal rules. Now he is a judge because they needed a Mexican on the Ventura bench. He was also a public defender. He sought 3 positions where brilliance is not required. He says that he was a clerk in a liquor store before law school. He is the epitome of the Peter Principle and an example of the stupidity of affirmative action hiring.

Licensing of the right to speak is proscribed by the 1st amendment

Stanford Professor Lawrence Friedman says in his classic ***History of American Law*** (which book is cited as authority by the U.S. Supreme Court in their opinions) says that the only legitimate purpose of a bar association is to test for competence. My research keeps leading me back to Professor Friedman's truth. Ironically a firm policy of the California Bar is that they do not disbar or discipline for incompetence. Presumably a lawyer who has once passed the bar exam is presumed competent.

I contend that disbarment must be prohibited or curtailed because it is used as a tool to chill the speech of dissidents like me.

> **California Constitution, article 6, section 9: "The state bar of California is a public corporation. Every person admitted and licensed to practice law in this state is and shall be a member of the State Bar except while holding office as a judge of a court of record."**

This statute (wrongfully escalated to constitutional status by the power grabbing California bar) defines the membership of the bar. My research shows that the legislative intent behind this ambiguous statute is **not** that lawyers may not be disbarred - although that is what it seems to say. I nonetheless contend that once admitted you should not be disbarred. The Supreme Court in (Theard?) says that disbarment is serious and should not be done for trivial reasons - something that our California Bar should take to heart.

Remember that bar organizations were originally conceived to combat a corrupt judiciary in the days of Tamany Hall. (Source: ***History of American Law*** by Professor Lawrence Friedman) And today, we lawyers, a few of us, continue to fight corruption such as the over-reaching of the California Supreme Court which took action against me after I pointed out their wrongdoings on behalf of a client in federal court. The California Supreme Court should have recused it self in my case - and should have invited me to participate in the proceedings.

Our 1st Amendment Right to Association: United Transportation Workers (Teamsters) v Michigan Bar **and that line of reasoning holds that the bar may not interfere with people who are trying to vindicate the civil rights of their associates.**

Leading Cases Vindicating our self-evident right to associate and communicate

NAACP v Alabama (1958) 2 L Ed 1488, 357 US 449, 78 S Ct 1163. The attorney general of Alabama sought to enjoin the NAACP from riling up those pesky Negroes. The Negroes won. Notice that in this old case they even wanted the membership lists - like in the communist cases.

NAACP v Button (1963) 9 L Ed 2d, 371 US 415, 83 S Ct 328. The NAACP Legal Defense Fund brought suit in federal court in the eastern district of Virginia in 1957. These suits sought an injunction against enforcement of 5 statutes. Lawyers at the meetings risked disbarment and laymen risked criminal prosecution under the challenged statute for merely advising Negroes that they could file a lawsuit. NAACP won. This is a boring but fairly thorough opinion. Justice Douglas, the court's strongest liberal called a spade a spade. He said that this statute was designed to combat the trend of the Negroes to integrate schools and vindicate their rights that the Supreme Court enunciated in 1954 in Brown v Board of Education.

NAACP v Button is right before Wong Sun in Lawyer's Edition. Both are from a fruitful era of the court when our rights were being vindicated. Wong Sun is the case that I cited in my LSD brief - but my appointed lawyers dropped the ball. It is about testimony of a co-conspirator, absence of consent, coercion, and defending against police abuse in drug cases.

Primus, In Re (1978) 56 L Ed 2d 417, 436 US 412, 98 S Ct 1893. Subject of annotation at Lawyer's Edition 2nd 56:841 entitled Licensing and Regulation of Attorney as restricted by rights of free speech, expression, and association which is the closest treatise on point regarding free speech rights of lawyers. Her Supreme Court brief is at 56 L Ed 2d 838. Edna Primus was a lawyer in private practice who volunteered her time to the ACLU. South Carolina stupidly argued that solicitation, like advertising, invades the privacy of other's - as though Primus's client was not desperately in need of a free lawyer. In the summer of 1973, welfare mothers were sterilized or threatened with sterilization as a condition of continued Medicaid relief. Mary Williams had been sterilized by the

authorities via Dr. Clovis Pierce. Primus informed Mary Williams by letter that the ACLU would take her case and sue Dr. Pierce. This letter was the smoking gun - sorta like Palaschak's brief telling Melvin Looser that the court could not send him to jail for being poor. In October 1974 the secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of South Carolina filed a formal complaint that Edna Primus had engaged in solicitation in violation of the Canons of Ethics. (Back in 1973 Black's Law Dictionary published the ABA Canons of Ethics and many of us thought that the ABA ethics were the last word. Since then each state has carved out its own niche of oppression. Edna Primus replied that the 1st amendment and 14th amendment gave her immunity for her letter. After a hearing on 9 Jan 1976 the full board approved a private reprimand. On March 17, 1977 the Supreme Court of South Carolina put its rubber stamp on the deal - likely without any input from Primus. On July 9, 1977 Primus brought action in the U.S. Supreme court. Her action is based primarily on a 1963 case ***NAACP v Button*** - and in view of the clarity of the right to association spelled out by the court in 1963 I wonder why South Carolina would bring this disciplinary action but for their bureaucratic macromegalomaniac personality. (See Palaschak's theory on macropsychology - which says that bureaucracies have their own personalties which are bad from the perpetual life of the bureau and the exaggerated sense of useful purpose and wisdom. Their mistake is the bureaucracies have no wisdom or insight.) Observe that all the lawyers being disciplined in these cases were representing people who were typical of groups of people gaining their rights. Examples Primus represented a welfare mom; in ***NAACP v Button*** it was Negroes who were gaining their rights; in the union cases it was unions against the monopolies; in Palaschak's case it is poor victims of traffic court and the very lawyers like Primus who, in California, are subjected now to a barrage of trivial, merit less attacks by the bar (representing the moneyed interests) sometimes for acts having no nexus to the practice of law. Example: Palaschak's traffic tickets and having eaten LSD. Rehnquist dissented in this opinion. The companion case is *Ohralik v Ohio state bar* 56 L Rf 2d 444, 436 US 447, 98 S Ct 1912. Ohralik was an ambulance chaser entitled to the same first amendment rights but he lost on appeal while Primus won because she took no money. Does your right to speech end if you are paid for it? No.

Related inadequate treatise: L Ed 2d 100:1049 *State Regulation of judicial proceedings as violating commerce clause (Art 1, section 8, clause 3) of Federal Constitution - Supreme Court Cases*.

Primus's brief cites 8 cases, namely, ***NAACP v Button***, Brotherhood of Railroad Trainmen v Virginia, United Mine Workers V Illinois State Bar, United Transportation Union v State Bar of Michigan, NAACP v Alabama, Buckley v Valeo, US v Cook (1872) 21 L Ed 538, Hamling v US 41 L Ed 2d 590, Thompson v Louisville 4 L Ed 2d 654.

Ohralik v Ohio state bar 56 L Ed 2d 444, 436 US 447, 98 S Ct 1912. Ohralik in his brief at 56 L Ed 876 cited Louisville Var v Hubbard 282 Ky 734, 739, 139 Sw2d 773, 775, Bates v State Bar of Arizona 53 L Ed 2d 810, Virginia State Board of Pharmacy v Virginia Citizens Consumer council 48 L Ed 2d 346, *NAACP v Button* 9 L Ed2d 405, State v Rubon (1930) 201 Wes 30,32, 229 NW 36, 37, Cole v Arkansas 92 L Ed 644, US v O'Brien 20 L Ed 2d 672.

Brotherhood of Railroad Trainmen v Virginia ex.rel. Virginia State Bar (1964) 12 L Ed 2d 89, 377 US 1, 84 S Ct 1113. Court struck down an injunction barring union from directing its members to certain favored lawyers.

***United Transportation Union v State Bar of Michigan* (1971)** 28 L Ed 2d 339, 401 US 576, 91S Ct 1076 These were the teamsters. The court vindicated the rights of the Teamsters to associate and refer members to its own chosen lawyers.

Alien and Sedition cases and communist sympathizer cases - Reagan was a snitch.

About 1450 Gutenberg invented the printing press and within 100 years Star chamber circa 1556 passed statutes requiring a license to print.

History is a study of the rich trying to oppress the poor.

Our 1st amendment is written against a background of licensing of the right to print and licensing of lawyers is nothing more than licensing the right to print where it is most important - and licensing the right to speak - and the first amendment says that these right and the right to petition for redress of grievances shall not be abridged. The state bar act abridges them and is unconstitutional.

I must put these authorities on the computer. I printed them longhand.

The Supreme Court of California talks about its inherent power to discipline lawyers. There is no such inherent power!! However, we do have an inalienable rights - - and the California Supreme Court oversteps its bounds when it attempts to curtail my right to speak.

This oppression in the name of the bar's inherent power is a product of the age of robber barons.

A study of the use of the words "inherent power to discipline lawyers" shows that they began to be used during the age of the robber barons during an age when drugs and alcohol became illegal and when the IRS began to tax us - in short, in the age of oppression.

Scope of this Treatise: 1999 Trial; Upcoming 2001/2 Trial.

This treatise lists the authorities that I found in my research in jail in Ventura from July through September 1999 while awaiting trial for "advertising or holding oneself out to be entitled to practice law" while one's license from the California bar is suspended or revoked. My purpose is to put the articles in a

retrievable form. My purpose then was also to assist court reporters as they reported my oral arguments citing these cases; the list save them from asking me to spell each case name for them. My treatise and discussion of these articles although sometimes typewritten was not on my computer, of course, because although I demanded a computer - and the press releases for the Ventura jail brag about their state-of-the-art law library - in fact I was denied access to a computer or word processor. I cited many of these cases in my written requests for Jury Instructions.

In 1999 I put all the authorities into one list for use by the court reporter regarding spelling and citation of cases that I planned to mention in my argument.

In the year 2000 I demanded (using this brief) to speak in court without retaliation - and who would think that in our supposed free country a lawyer would need to defend his right to speak? Like a frog in a cooking water we have grown accustomed to something harmful. An implicit tactic of corporate ficta is the utilization of their perpetual life by patient and stealthy encroachment because they know that one generation will forget the lessons of the previous human generation. Case in point: This generation has forgotten our right to speak was unlawfully abridged by the state bar act of previous generations.

Everybody (hyperbolically speaking) living now mistakenly believes that the bar may abridge speech despite the clear wording of the California and U.S. constitutions - but if we had lived as long as corporate ficta we would never have let this happen; things like this happen by generation - after the last remaining mortal human objector has died.

I recognize that I may lose credibility if I say that all lawyering is protected activity - but, on the other hand, everybody know that the 1st amendment protects speech and writing. Generally speaking, all that a lawyer does is write, speak, read, and listen.

If you think a little harder you will realize that a lawyer does 2 other things:

#1 he is a proxy for the litigant. For example, he may plead “not guilty” for the defendant or speak on behalf of a litigant who is geographically distant from the court;

#2 he is a fiduciary; for example: he receives the check from the insurance company and pay the client.

Both of these non-speech activities have their own life outside the bar because both of these functions are routinely done by non-lawyer (and have been for centuries) - and both have their own remedies for wrongs.

Ancient and continuing Proxy function outside the bar.

As to the function of proxy, that position is called “attorney” and historically was the person who spoke for the principle when he could not be there in person - in the days when geographical distance was more of an obstacle than it is today. Even today we have “attorney-of-fact” registration in the hall of records to record who is the actual person entitled to be proxy for another - and these people don’t run into objection from the bar. They can manage property and other affairs including writing of checks. The organized bar

has attempted to limit the participation by proxy of person who have not joined their compulsory club, but if the person is weak and harmless, often the court will let him speak, especially if there is a language difference - - or if there is any other reason for which a proxy would benefit the court.

If we were to be in the business of policing proxies then we would first abolish the position of public defender because most of the malpractice action lies there.

The fiduciary function outside the bar

Bankers, stock brokers, attorneys-in-fact, co-signers on joint checking accounts, spouses, and the 16 year old who runs the cash register at McDonalds - these people all perform fiduciary functions - and none need be bar members.

Bar laws are exemplary of much of what is wrong with bad legislation

The codes do not match the common law

When the state bar codifies the common law regarding disbarment it writes lazily and draws the distinctions with a camera instead of a sharp pencil

The codes attempt to modify the common law in a way that everybody partially ignores

Remedy of disbarment is used too rashly today - if it should be used ever.

I challenge you to show me a case where a person should be disbarred. I can show you at least two where the person should not have been disbarred - and there seems to be a pattern of not inviting disbarment candidates to the disbarment hearing.

Bar's only legitimate function is testing and admission - and maybe disbarment for something grievous.

The definition of moral turpitude should remain what it has always been - not devalued as bar prosecutors would like it to be.

Lawyers may not lawfully be compelled to be super-citizens - because citizens merely define themselves by how well they serve corporate ficta! Furthermore, it is a denial of equal protection.

Issue #1 **Any attempt by the state bar or the court to restrain Palaschak's speech constitutes unlawful prior restraint in violation of *Near v Minnesota*** (1931) 75 L. Ed. 1357; 283 U.S. 697; 51 S. Ct. 625. Konigsberg made a Near argument in his successful argument before the U.S. Supreme Court in the blacklisting days. See ***Konigsberg v State Bar of California, et. al.*** (1957)1 L. Ed. 2d 810 , 353 U.S. 252, 77 S. Ct. 722. The Near argument is applicable and determinative today also.

Issue #2 Any person (a prospective client for example) has standing to challenge the infringement of Palaschak's rights just as Dr. Griswold challenged the infringement of his patient's rights in ***Griswold v Connecticut***. Conversely Palaschak has a right under ***Griswold*** to

vicariously assert the speech rights of other humans.

Issue #3 Corporate ficta has learned more by virtue of perpetual life than we humans can learn during our short non-perpetual life. Bills of Pains and Penalties is the issue of this decade. Just as some folks took several decades to learn that McCarthy's blacklisting and Viet Nam were instruments of oppression foisted by corporate ficta on those whose idea of freedom differed from their, so now today Bills of Pains and Penalties (and other hidden complicated dirty tricks and rigged games) are used to further their agenda. If is to be expected that the bar will use an ever evolving arsenal of instrument of oppression.

Issue #4 Any subsequent criminal prosecution violates the 1st amendment.

Issue #5 The state bar act is unconstitutional as an abridgement of freedom of speech and press.

Issue #6 The state bar act as applied to Palaschak violates a multitude of constitutional precepts.

Brief non-exhaustive summary of Palaschak's oppression by the state bar:

Palaschak's problems with the bar arose from a 1988 car crash where Palaschak was not at fault and both drivers drove away. Palaschak eventually sued R J Reynolds, the owner of the truck, and recovered. See ***Palaschak v RJR Nabisco***, Case #____. Palaschak was uninsured at the time. Some years later the DMV purported to suspend Palaschak's driver license on the basis of that crash - action forbidden by ***Bell v Burson***[1]. Palaschak's purported disbarment was begun on false accusation in 1990 by a fat bar prosecutor named Victoria Molloy that Palaschak had discriminated against fat people in hiring. After losing that case, Prosecutory Molloy subjected Palaschak to disproportionate scrutiny and eventually sought a 3 year suspension based on Palaschak's alleged wilful failure to have always appeared in court in his own personal traffic tickets - something that only happens to a lawyer like Palaschak who is in the business of combating the institutionalized and system deprivation of human rights in traffic court. Bar action for failure to appear constituted double jeopardy. Based on Palaschak's political writings and office procedure manual, Molloy maliciously attempted to have Palaschak declared mentally unfit to practice law. The state bar appointed a lawyer for Palaschak without telling Palaschak that this very lawyer had written the law permitting the bogus attempt to declare Palaschak mentally unfit. Once again Palaschak prevailed. Actually, this was Palaschak's 3rd victory - because the state bar had unlawfully suspended Palaschak's license in violation of In Re Ming while Palaschak's misdemeanor LSD case was on appeal - but before Palaschak could argue the Ming issue, Palaschak won at the court of appeal while homeless due to the unlawful disenfranchisement

[1] Bell v Burson (1971) 29 L.Ed.2d 90, 402 U.S. 535, 91 S.Ct. 1586. Driver license may not be taken without a hearing.

of Palaschak while Palaschak was in jail for 9 months on traffic counts which normally would have justified only 30 days in jail if Palaschak had been guilty which he was not.

In 1993 Palaschak's law office was raided and his computers, personal diaries, cash, checks, files, letters, and well, most of his office property was kept for 14 months by the same prosecutor, Glenn Kitzman (actually a nice guy), who obtained the 1999 federal warrant knowing that his 1999 declarant was lying - and that he, Kitzmann, had an official court tape recording the proved that Palaschak was innocent. In 1994 Kitzmann returned all Palaschak's belongings - except for the completed bankruptcy petitions which, although ready to mail, were passed on to new attorneys. Palaschak's 1993 raid was much like that in the case of the McSurelys to which Caroline Kennedy and Ellen Alderman devote an entire chapter in their book ***In Our Defense***[2]***.*** See ***McSurely v Ratliff*** (1967) 282 F Supp 848 (E.D. Ky. 1967) declaring Kentucky's anti sedition law unconstitutional. See ***McSurely v McClellan*** (1976) 553 F2d 1277, 1282, note 9 (D.C. Cir. 1976)(en banc) discussing a safekeeping order for the personal diaries and other seized items of McSurely. The case ordering the return of the documents of McSurelys is ***McSurely v Ratliff*** (1968) 398 F2d 817 (6th Cir 1968). The endnotes of **In Our Defense** contain an excellent brief regarding the search and seizure issues in a politically motivated raid.

The California Supreme Court took up the misdemeanor LSD case and reversed the lower court decision. See ***People v Palaschak*** (1995) 9 Cal. 4th 1236; 893 P.2d 717; 40 Cal. Rptr. 2d 722 . The decision cannot be considered final for 5 reasons:

#1 Palaschak continues to suffer current injury of disbarment as a result of this bad decision;

#2 Palaschak's Habeas Corpus Petition in this case was intercepted by sheriff's deputies and not mailed;

#3 The Supreme Court's own appointed lawyer never met with Palaschak in the case, submitted the brief without Palaschak's approval;

#4 Counsel failed to submit the entire transcript of the suppression hearing;

#5 the prosecution's main witness, Former DEA Officer David Matz, whose account of the raid was alone inconsistent was subsequently (in September 1999) arrested for shoplifting;

#6 a material police officer witness resigned from the force after failing to answer Palaschak's subpoena.

Also, Palaschak's disbarment came after Palaschak sued Justice Lucas for a lawyer client. Lucas and the entire court had a conflict of interest in the disbarment. Palaschak was not notified of disbarment proceedings and therefore had no notice and opportunity to be heard.

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[2] Alderman, Ellen, and Kennedy, Caroline. ***In Our Defense***. Avon Books. New York. 1991. ISBN0-380-71720-4. Available in paperback from Barnes and Noble. $13.50.

but the Supreme Court's decision is invalid because their own attorney ignored Palaschak's case, failed to file a complete transcript, and argued only 2 of the 30 to 100 valid issues. After Palaschak was counsel for another lawyer for whom Palaschak sued the California Supreme Court, this same California Supreme Court which should have recused itself allegedly purported to disbar Palaschak for his first discipline - even though the bar recommended only a 3 year suspension. Palaschak was jailed for 60 days for the LSD case at which time he wrote a Petition for Writ of Habeas Corpus and thought that he mailed it to the Supreme Court - but it was intercepted by Ventura Sheriff Deputies. Suffering from repeated bouts of poverty, homelessness, and seizures of his automobiles, Palaschak returned to the relative peace of his family farm in Illinois where he farmed for 3 years until being falsely arrested by the FBI on a charge arising from the Ventura District Attorney office who has harassed Palaschak for many years. The prosecution had an official court tape recording the proved that Palaschak was innocent - and yet it offered known perjury of a police officer to obtain the FBI warrant. Palaschak was held on $500,000 bail, extradited to California and acquitted by a jury who deliberated only 1.5 hours. In the week before Palaschak's trial, a Ventura police officer was arrested for shoplifting at Petco. This officer David Matz was the officer whose inconsistent lying testimony in Palaschak's LSD trial prevented the evidence from being suppressed. Palaschak plans to reopen that case. Upon returning to Illinois, Palaschak discovered that his angry brother had moved in laws into his home and had taken Palaschak's personal possessions. Palaschak went to work using his engineering degree designing parts for nuclear reactors but was fired when he was persistent in complying with title 10 CFR by insisting that dimensional mistakes in the drawings be corrected.

Fundamental constitutional Law: A void act is void ab initio. *Marbury v Madison*.

Marbury v Madison (1803) 2 L Ed 60, 5 U.S. 137 is cited by Palaschak in brief #3596 at page 3.

Brief Remembrance of Outspoken People's Lawyers Previously attacked by the bar

Attorney William Kunstler was sentenced to 4 years in prison by angry Judge Julius Hoffman for his successful defense of the Chicago 7 in 1968. He won on appeal. See In Re Kunstler __ (CA7 Chicago circa 1969). See also Dellinger et al. Dellinger was the lead named defendant in the Chicago 7? See ***My Life as a Radical Lawyer***, the autobiography of Attorney William Kunstler.

Attorney Steven Yagman was purportedly suspended by the secretive standing committee on discipline of the U.S. district court for his out of court writings regarding Judge Keller's alcoholism on the bench. Yagman prevailed - but then the California state bar whacked Yagman for a year.

Attorney Melvin Belli was prosecuted for appearing on a television commercial promoting his favorite brandy.

Attorney Marvin Mitchelson was prosecuted after his rise to fame in the palimony case involving Lee Marvin.

List of Players in the Battle to Free the Human Lawyers

On the Side of Freedom

Former U.S. Attorney General Ramsey Clark, counsel for Steven Yagman, wanted to prosecute the police for busting heads at the Democratic Convention in 1968.

Attorney Steve Yagman of Santa Monica, California

Attorney Gentile of Nevada

Attorney Douglas Palaschak of California

Attorney William Kunstler, now deceased. His biography is ***My Life as a Radical Lawyer***

Attorney Harold Perry made emancipation of human lawyers his life's work, but failed to buy a computer and lost touch with the world.

Our Opposition: The Oppressors, the shills of corporate ficta and instruments of oppression

Diane Yu. Never had a human client in her life. Political appointee from a political family. She is the modern yellow peril - epitome of a race without respect of individualism and human rights. In 1983 she was in charge of grading the bar exam and it was graded wrong for the first time in history. In 1986 she began a crusade to castrate male lawyers resulting in the state bar pseudo court where the prosecution hired the pseudo judges. Palaschak challenged the constitutionality of this court in a lawsuit against the California supreme Court. The court retaliated and purported to disbar Palaschak but such a disbarment is void ab initio.

List of the Top Ten most pertinent cases:

#1 ***Condon, Estate of*** (1998) 65 Cal Ap 4th 1198, 76 Cal Rptr 922. Not supervening.

#2 ***Yagman v Standing Committee of Bar Examiners.*** Yagman criticized the judges in newspaper.

#3 ***NAACP v Button.*** Non bar members gave legal advice.

#4 ***Newman v Piggie Park*** (1968) Use of term "Private Attorney General"

#5 ***United Transportation Workers Union (Later named Teamsters) V State Bar of Michigan.*** Union gave legal advice.

#6 ***Schware v Board of Bar Examiners***.

#7 ***Bates v Arizona*** Legal Clinic Advertised

#8 ***Craig V Boren*** (1976). Overbreadth. One defendant asserted rights to the other.

#9 ***Gentile v State Bar of Nevada***. Lawyer gave press conference about clients case.

Notes about my coded shorthand used herein.

Sometimes I used a shorthand to indicate where I refer to a case in one of my numbered briefs or motions. Example: 3596.8 means that I refer to the cited case in motion #3596 at page 8.

The Methodology of Oppression of Human Lawyers by Corporate Ficta

Depublish Cases where individualists win. Publish cases which further corporate agenda.

Example: In Palaschak's case, his victory at the court of appeal was ordered depublished. Then the California Supreme Court appointed its own lying shill lawyer for Palaschak, heard the case without the entire transcript, reversed the court of appeal, and published the decision.

Depublication is ultra vires legislation by a court and violates stare decisis.

Depublication is euphemism created by the oppressive Lucas court to disguise and ancient instrument of oppression - censorship. Logically, after centuries of law we would rarely run into a word that has not been used before. The word "depublication" isn't even in the dictionary. After centuries of law Lucas needed a euphemism - a new word to disguise censorship - because everybody know about censorship - so Lucas calls it "depublication". The court has no business fostering its own agenda by abuse of the depublication rules. The court has no business entering the world of publication decisions. The court achieved that purpose by holding that unpublished decisions may not be cited as binding precedent. This is an abuse of power for at least 2 reasons: #1 Rules of decisions is a legislative subject - and courts may not legislate; #2 We all know about stare decisis; stare decisis is natural and logical - and the court may no more regulate stare decisis than it could regulate gravity.

The efforts of Hyperlaw to eliminate monopolistic activities of West Publishing.

Hyperlaw's website is chock full of authoritative information reporting the extensive litigation between Hyperlaw and demon West Publishing. There is a lot to talk about in this subject area. I refer you to the Hyperlaw web site.

The Age of Communication is freeing us from biased reporting of decisions.

In bygone days, the cost of reporting a decision via paper to a lawyer was more than the cost today. Today most decisions are reported via internet at a cost of virtually zero. In bygone days, the court achieved its societal goal of wide dissemination of its opinions by making a deal with a publisher. In exchange for monopolistic rights to the decision, the publisher assured publication nationwide. There is no longer a need for this deal with the devil.

Effect Depublication by shuffling the forum

For many years complaints about lawyers were heard by a panel of 3 lawyer peers. The decision could be appealed as any ruling by an administrative agency. The result was that decisions about lawyers appeared in the published cases - and rightly they should - so that everybody could see what was happening. Then in 1989 the state bar and the supreme court violated the California constitution and created a state bar pseudo court with its own appellate panel. The result was that the standards of behavior established through decades of decisions were now secretly ignored. The state bar pseudo court hired by state court prosecutors served its employer by changing the standard. The decisions remain hidden from the public because they decisions are not where they were before. The bar and the supreme court effected depublication by causing

the decisions to be made my non-judicial bodies and therefore not reported in the case reporters.

Oppressive Admission to the federal court is controlled by federal local rules - an example of power grabbing and oppression at the highest level. Congress shall make no law abridging speech - and the judges shall make no laws period. Also, the federal constitution does not give anybody the right to prohibit speech or regulate the practice of law in the federal courts - and to the extent that California constitution requires membership in the state bar such violates the nobility clause - and others - and maybe was only added in the constitution of 1949.

The result is that lawyers have rights in federal court that vary from state to state and are controlled by the judges in those local courts. Judges have no legislative authority and their attempt to grab it is unconstitutional.

Debunking Legal Fictions: You have a right to eat and distribute illegal pills and to do other private things - including writing things for people - and you have a right to speak in public - even in court. Penumbra doctrine - also known as double delta theory in integral calculus.

Griswold v Connecticut (1965) 14 L Ed 2d 510, 381 U.S. 479, 85 S. Ct. 1678. Penumbra. Relaxed standing. Vicarious standing. Cited in Palaschak briefs #3567 at page 1 and #3596 @ 2. Dr. Griswold gave illegal drugs (birth control pills) to his patients. He used relaxed standing to defend his pill distribution by saying that the privacy rights of his patients in their procreative (or not) liberty permitted him to give them the pills. Justice Douglas's legacy to the free world!

Debunking legal fictions: Ignorance of the Law is a Defense. Related Defense is "I contest the Law"

In ***People v Goodin*** (1902) 136 Cal. 455; 69 P. 85. The government ran a road for years through Goodin's ranch. When the government straightened the road, Goodin reclaimed the land on which the old crooked road had run. Then he was accused of destroying state property - the old pavement. Goodin won.

State Bar Taint is an Unconstitutional Bill of Pains and Penalties - Like a Bill of Attainder

Ex Parte Garland (1866?) 18 L Ed 366, 4 Wall 333@ 377 is one of only 20 cases where the supreme court mentions ***"Bill of Pains and Penalties***." A lawyer who had served in the confederacy and subsequently pardoned was challenged by __ when he wanted to practice law again. The supreme court ruled that __ which purported to bar his practice was a ***bill of pains and penalties*** - and therefore unconstitutional.

Just as in Criminal cases, each litigant is entitled to show the court what is behind the judicial decisions that would be an element in curtailing his rights at the instant hearing. All presumptions of regularity are legal fictions.

Issue #7 Palaschak contends that his 1992 misdemeanor conviction and subsequent disbarment were unlawful and void ab initio being fruits of the forbidden tree. The

presumption of regularity has been destroyed by subsequent actions of Matz - and for other reasons - and the issues is always there because ___ says that the evidence shall not be used for any reason. Palaschak would have challenged the use at his bar hearing of any testimony stemming from Officer David Matz's raid at Palaschak's office in 1991 but it was never offered when Palaschak was there. The Supreme Court never had a complete transcript not a brief of the suppression issues. Now today, after David Matz proved his dishonesty to the world by shoplifting from Petco in 1999 the door is opened to ask the questions that we could not in 1992.

The Lawyer's Right to effective assistance of counsel at Bar Hearings

Issue #8 Palaschak's purported suspension and/or disbarment are void ab initio because the equal protection clause and Argersinger imply that B&P 6085 be interpreted to require appointment of counsel for those who cannot afford it. Palaschak demanded appointment of counsel at his bar hearing and pseudo hearing officer David Wesley erred in ruling that indigents are not entitled to appointed counsel in bar cases. Palaschak's appellate rights at the hearing were denied by the subsequent seizure of his car and temporary banishment from the hearings - not to mention bias due to Palaschak's having sued the bar and the supreme court for another lawyer.

Palaschak demanded counsel at his bar hearing and was denied counsel, the judge incorrectly ruling that the statute did not provide for appointed counsel but his logic is patently defective as follows: The U.S. Supreme Court in ***Gideon***, ***Argersinger*** and their progeny has ruled that the **equal protection clause** is what mandates appointment of counsel for indigents. Obviously the constitution, like B&P 6085, does not in its wording prescribe appointment of counsel, but since the wording is the same and the equal protection clause applies to both, the result is that appointed counsel is required by Cal Bus & Prof Code § 6085.

> "§ 6085. Rights of defense to charges Any person complained against shall be given fair, adequate, and reasonable notice and have a fair, adequate, and reasonable opportunity and right . . .(c) **To be represented by counsel. . . ."**[3]

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[3]Full text of 6085: § 6085. Rights of defense to charges Any person complained against shall be given fair, adequate, and reasonable notice and have a fair, adequate, and reasonable opportunity and right:
(a) To defend against the charge by the introduction of evidence.
(b) To receive any and all exculpatory evidence from the State Bar after the initiation of a disciplinary proceeding in State Bar Court, and thereafter when this evidence is discovered and available. This subdivision shall not require the disclosure of mitigating evidence.
(c) **To be represented by counsel.**
(d) To examine and cross-examine witnesses.
(e) To exercise any right guaranteed by the California Constitution or the United States Constitution, including the right against self-incrimination.

Issue #9 Even the test books are confused (or perhaps obsequious to the bar) and list in the annotations to 6085 cases that were overruled by the U.S. Supreme court specifically an by implication. A 1902 case, Vaughn comes to mind.

Issue #10 A state bar hearing punishes a lawyer for his acts and is therefore quasi criminal and the entire panoply of criminal protections accrue. ***Spevack v Klein*** (1967) 17 L Ed 2d 574, 385 U.S. 511; 87 S. Ct. 625.

> "The self-incrimination clause of U.S. Const. amend. V, has been absorbed in U.S. Const. amend. XIV, and it extends its protection to lawyers as well as to other individuals, and it should not be watered down by imposing the dishonor of disbarment and the deprivation of a livelihood as a price for asserting it." - ***Spevack v Klein***

Issue #11 The bar denied Palaschak his right to confront and cross examine witnesses by banishing him from the hearing for 1.5 days during which time it took testimony from witnesses.

Issue #12 Over Palaschak's objection the bar hearing officer, an employee of the prosecutor used evidence stolen from Palaschak's office, a completely innocent information form from a client or job application taken to the police by the bar's witness, an emotionally troubled hysterical woman, the theft having been kept secret from Palaschak until the bar produced its administrative record.

Issue #13 The bar failed to comply with discovery. Palaschak submitted detailed and significant special interrogatories that were arrogantly ignored.

Counsel of choice

Twenty opinions of the U.S. Supreme court support the litigants 6th amendment right to counsel of choice. Only one opinion, ***Leis v Larry Flynt***, discusses the rights of out of state attorneys to handle an Ohio case but the lawyers and the court failed miserably by failing to see the obvious 1st amendment right of a person (any person) to speak in this country anywhere. The bar act is an abridgment of speech - just another one of the many abridgments of speech that the bar acts have foisted upon lawyers in the age of the robber barons. The U.S. Supreme court failed us in this case. Although it failed to grant certiorari and hear oral arguments, in nonetheless ruled against Larry Flynt. I cannot understand this anymore than I can understand the California Supreme Court calling me the "appellant" in People v Palaschak where the state appealed to the California Supreme Court which acted rashly without a complete transcript or a valid brief.

He or she shall also have the right to the issuance of subpoenas for attendance of witnesses to appear and testify or produce books and papers, as provided in this chapter.

> **A defendant's interest in adequate representation is "perhaps his most important privilege" protected by the Constitution. *Powell* v. *Alabama*,** 287 U.S. 45, 70. - Dissent in ***Leis v Larry Flynt et.al***. (1979) 58 L Ed 2d 717, 439 U.S. 438, 99 S Ct 698

Palaschak is uniquely qualified to handle the issue of unlawful disenfranchisement by virtue of his having sued the California Supreme court in federal court on precisely this issue for another client - which is precisely why Palaschak is disenfranchised today - retaliation by the Supreme Court who should have recused itself due to conflict of interest, personal interest, and the implied bias, and the appearance of impropriety and actual impropriety.

Although Palaschak is not an out of state lawyer, he is a **wrongfully disenfranchised lawyer** who has brooded and pondered the **unlawful disenfranchisement** issue since 1992 - 8 years. During that time he litigated in behalf of **wrongfully disenfranchised lawyers** and **disenfranchised non-lawyers**. Indeed **disenfranchisement is Palaschak's expertise**. **Unlawful disenfranchisement is precisely the issue facing Dr. Bevan**. **Palaschak's right to speak and Dr. Bevan's right to have Palaschak speak are both protected political speech the highest classification of protected speech**. The constitution says that this right **shall not be "abridg[ed]".** And of course, the court grants relaxed standing to those advocating the rights of others - and even grants them the status of private attorney general, one who. . .

> "obtains. . .not for himself alone but also as a ***"private attorney general"*** vindicating a policy that congress considered of the highest priority." - ***Newman v Piggie Park*** (1968) 19 L Ed 2d 1263.

Although the Supreme court strangely did not talk about the 1st amendment, it did offer some logic equally applicable to this situation of Dr. Bevan and his wrongfully disenfranchised expert:

> "We are persuaded, however, that where a right has been conferred on citizens by federal law, the constitutional guarantee against its abridgment must be read to include what is necessary and appropriate for its assertion. In an age of increased specialization and high mobility of the bar, this must comprehend the right to bring to the assistance of an attorney admitted in the resident state a lawyer licensed by 'public act' of any other state who is thought best fitted for the task, and to allow him to serve in whatever manner is most effective, subject only to valid rules of courts as to practice before them. Cf. Lefton v. City of Hattiesburg, 333 F.2d 280, 285 (5 Cir. 1964). Indeed, in instances where the federal claim or defense is unpopular, advice and assistance by an out-of-state lawyer may be the only means available for vindication." ***- Spanos* v. *Skouras Theaters Corp***., 364 F.2d 161, 170 (en

banc) (CA2 1966).

Issue #14 **Palaschak's disenfranchisement is a badge of honor because it was imposed unlawfully by the California Supreme Court after he sued them. At every step of the way he has vindicated just licensing issues in the face of oppression by corporate ficta. It is his unlawful disenfranchisement that gave him the motivation to research the issue for 8 years. His disenfranchisement is precisely what makes him the lawyer best equipped for this task!**

Dr. Bevan's Right of Effective Assistance of Counsel

Argersinger v Hamlin (1974) 32 L Ed 2d 530 Follow up to ***Gideon.*** Amplifies Gideon. Cited in Weinreb.

Cronic, U.S. v Harrison (1984) 466 U.S. 648, 665. Cited by Alderman and Kennedy book ***In Our Defense*** page 402, 259. Companion case defining the standard for competence is ***Strickland v Washington*** 466 U.S. 688. Kennedy and Alderman discuss Harrison Cronic in detail in the book ***In Our Defense*** on pages 259 et seq.

Lilburne's case. (1648): The right to counsel in this country was afforded to at least one defendant nearly 2 centuries prior to the 6th amendment as explained by Ira Glasser of the ACLU in his book ***Visions of Liberty***:

In 1637, a **Puritan activist named John Lilburne** imported and distributed various political tracts and was brought before the **Star Chamber**. Lilburne refused to be examined under oath, claiming that it violated "the law of the land" and invoking the **Magna Carta**. Condemning the oath as a procedure that was fundamentally unfair, Lilburne said that he would not take it even "though I be pulled to pieces by wild horses." Lilburne was held in contempt of court, publicly whipped, fined, and jailed in solitary confinement. He wasn't released until 1641. But his crusade for fair procedures and his willingness to absorb severe punishment rather than forsake principle inflamed the public - on both sides of the Atlantic - and Lilburne became a great symbol. He suffered, but not without effect: In 1645 Parliament set aside the judgment again Lilburne, finding that it had indeed violated "the law of the land and Magna Carta." **In 1648 he was granted damages for his unjust imprisonment.. .**

Lilburne led the Levelers. He was arrested again and again and died in prison at age 43. . .

. . . At his very last trial he won the **then unprecedented** right to receive a copy of the charges again him **and to be represented by a lawyer** [a right demanded by defendant

herein]. - quotation from ***Visions of Liberty***[4] by Ira Glasser.

Criminal rights of Defendants Generally

Weinreb, ***Leading cases in Constitution rights of defendants*** - or something like that. 1982 edition. Stolen by jail guards in Illinois after Ventura extradition agent Al Wiegand refused to permit Palaschak to bring his law books with him.

Gideon v Wainwright (1963) 372 U.S. 335. Henry Fonda portrayed Gideon in the movie ***Gideon's Trumpet.*** Defendants are entitled to appointed counsel even in non-capital cases. The court extended this right even further in ***Argersinger***.

Griffin v Illinois (1956) 100 L Ed 891, 351 US 12, 79 S Ct 585, ***55 ALR2d 1055 - Indigent's right to appointed counsel on first appeal of right.*** You have a right to a free transcript on your 1st appeal. Traffic court thwart this right in California by making you jump through a hoop and attempting to make you agree to a settled statement on appeal - which precludes you from later thinking up issues that are apparent to the skilled lawyer looking at a real transcript.

Overbreadth pertaining to the rights of attorneys and others.

History of Oppression of Lawyers by Corporate Ficta and other tyrants

In England the power of the press was recognized - and taken from the people. We must remember that although we take our orderly system of courts from England, England is an older country infected with the disease of imperialism and oppression. It is like comparing America's older diseased east coast to the newer freer west coast. In the 1500's or 1600's England forbade all printing on unlicensed printing presses. John Stuart Mills protested. In America we had the trial of Peter Zenger for seditious libel. Zenger's jury acquitted him and then the judge put the jury in jail! The first amendment is meant to prohibit any abridgment of printing or speaking - and that is obvious from the historical context - and now the current 5 generations have obviously forgotten and they have permitted the lawyer licensing acts to abridge the speech rights of lawyers. These bar acts are a product of corporate ficta and the robber barons as evinced by the date of their inception.

Backpedaling by the bar: Things that were illegal even for licensed lawyers during the window of bar oppression

[4] ***Visions of Liberty***, Ira Glasser (of the ACLU), 1991, Little, Brown, and Company, New York, page 159 et. seq. Talks about Lilburne's case from 1648 wherein Lilburne successfully argued for appointed counsel. Available at Port Hueneme library.

Being a woman. Myra Bradwell was denied admission to the Illinois bar in 1869 due to her being a married woman. The U.S. Supreme Court affirmed the denial of Bradwell. *Bradwell v. People of State of Illinois*, (U.S. Ill. 1872) 83 U.S. 130, 21 L.Ed. 442, 16 Wall. 130. About he same time Clara Foltz became the first woman to practice in California despite a statute restricting the practice of law to "any white male citizen". See A History of America Law by Professor Lawrence Friedman, page 639 and the bibliographies therein.

Being black. See ***History of American Law***, page 639. California only permitted white males to practice law at first.

Living in another state - ***Piper, N. Hampshire v*** (1985) 84 L Ed 2d 205. Kathryn Piper, a Vermont resident passed the New Hampshire bar. New Hampshire barred her from practicing until she moved across the river into Hampshire. Briefs of amici curiae urging the U.S. supreme court to defy the constitution and uphold this oppressive and unconstitutional rule were filed by Rehnquist and the following 12 backwards and oppressive states: Iowa Tennessee Virginia, Hawaii (by Tany Hong, Attorney General), Indiana, Kansas, Missouri, Nevada, Ohio, Wisconsin, Wyoming, North Carolina, Texas. Kathryn Piper won her right to travel in interstate commerce as late at 1985!

Advertising

Talking about a case with the press.

Soliciting

Okay, advertising is permitted, but not direct mail solicitation. Wrong. *Ficker v Curran* (1996) 950 F Supp 123, affirmed 119 d 3d 1150 overturned Maryland's ban on direct mail solicitation of persons accused of jailable traffic offenses.

Talking to jurors: Rapp v Disp. Bd. Of Hawaii Supreme Court (Feb 1996) 916 F Supp 1525 pro se lawyer Rapp desired to speak with jurors after their verdict. Hawaii disciplinary rules prohibited this without the court's permission. Rapp sued for declaratory and injunctive relief against the Hawaii Supreme Court (as did Palaschak's client against the California Supreme Court) and prevailed. He obtained a preliminary injunction prohibiting enforcement of the rule.

Speaking in court after being convicted of failure to appear on traffic tickets and eating LSD. This is Palaschak's situation.

Things that were illegal in England without a license

Printing!

Things that were illegal for lawyers before the 1st amendment - and even after for a while.

Seditious libel - Speaking out against the government.

The lawyers are enjoying more freedom as a result of having challenged the various bar acts. They

have litigated to be able to advertise, to associate, to recommend lawyers, and otherwise speak and write. Palaschak now says that lawyers should be able to speak in court without license!

California Supreme Court had a personal interest in the case. Palaschak was counsel for a lawyer who sued the California Supreme Court. The court retaliated and purported to take Palaschak's license but the taking was void ab initio for a multitude of constitutional infirmities.

In Palaschak's case his license is still intact because the act of taking it was void ab initio. The California Supreme Court reportedly purported to take away Palaschak's license after Palaschak sued the California Supreme court for a client lawyer whose license had been unlawfully suspended by the Supreme Court unconstitutional creation, the state bar pseudo court.

Methods of Oppression: Punishing the lawyer for the sins of the client

Double Jeopardy and the beginning of the recent attack on human lawyers by corporate ficta

Kelley, Luan. California case. This lawyer received her 2nd DUI. The state bar ignored the lack of nexus and ignore the double jeopardy clause - and the preemption by the DMV. The bar suspended her bar license.

Overbreadth cases pertaining to lawyers and others

Condon, Estate of (__1998) 65 Cal App 4th 1138, 76 Cal Rptr 2d 922. Not supervening.

Baird v State Bar of Arizona (1970) 27 L Ed 2d 639, Annotation @953 Subject: **Overbreadth**. Bar applicant refused to answer question in bar application regarding his past to age 16 regarding membership in organizations advocating overthrow of government. Note that Judge McMecarch or whomever in Mariposa county refused to take the loyalty oath part of the oath specifically quoted in the California constitution.

Bates v Arizona (1977) 53 L Ed 2d 810. Legal Clinic Advertised. Subject: **Overbreadth** and 1st amendment. The 6th most pertinent case here.

Cohen v California (1971) 30 L Ed 2d 124. "Fuck the draft" written on the back of jacket in court hallway. **Overbreadth** was the basis of this decision.

Doran v Salem Inn (1975) 45 L Ed 2d 648. **Overbreadth.** 3 stripper bars. Ballet Africanus. Leading case. Joe Redner, famous owner of the leading stripper bar in Tampa recognized the name of this case which I chatted with him in Jan 2000. Redner is facing enforcement of an overbroad statute to stop

lap dances in his night clubs.

Erznoznik v City of Jacksonville ( ) 45 L Ed 2d__. **Overbreadth.** Baby's butt argument regarding drive in theater. The statute was declared unconstitutional because it was so broad as to include the depiction of a baby's butt which the court felt, would not be offensive to anybody.

Ficker v Curran 950 F Supp 123, Affirmed at 119 F3d 1150.Attorney solicitation. **Overbreadth regarding bar acts** regulating attorneys. Attorney solicitation law was held unconstitutional. Used in brief 3596 at page 10.

Houston v Hill (1987) 96 L Ed 2d 390. Pick on somebody your own size. **Overbreadth**. Charles Alan Wright argued this case. "Interview" with police as they were chasing a suspect. Defendant said "Why don't you pick on somebody your own size!" The statements were not fighting words or obscenity. The Supreme Court ruled in favor of the guy shouting at police as they were chasing a suspect. It is okay to be provocative. Any non-speech was pre-empted by state statute. Extrapolation from Houston case: With regard to laws against attorneys speaking without license: Any non-truth is pre-empted by fraud statutes. Any truth is protected by the 1st amendment. The supreme Court said that the city "had numerous opportunities to narrow and has not done so." Similarly the state bar act suffers from overbreadth and the implied and also explicit ambiguity of defining what constitutes the practice of law.

Keyishian v Board of Regents (1967) 17 L Ed 2d 629, 385 U.S. 589. Pedler registration. **Overbreadth.** Ordinance required solicitors to register with the police. Ruled unconstitutional.

McSurely v Ratliff (1967) 282 F Supp 848 (E.D. Ky. 1967). Anti communist law. Raid. Court declared Kentucky's anti sedition law unconstitutional. Case arose from overbreadth, an unjustified raid based on an overbroad statute. See ***McSurely v McClellan*** (1976) 553 F2d 1277, 1282, note 9 (D.C. Cir. 1976)(en banc) discussing a safekeeping order for the personal diaries and other seized items of McSurely. The case ordering the return of the documents of McSurelys is ***McSurely v Ratliff*** (1968) 398 F2d 817 (6th Cir 1968). The endnotes of **In Our Defense** contain an excellent brief regarding the search and seizure issues in a politically motivated raid.

Hackin v Lockwood (1966) 361 F2d 499. District court held that Arizona's ABA requirement is constitutional. The court skirted the issue by holding that requiring graduation from an accredited

school is constitutional - avoiding completely the issue that ABA requirements were instituted at the behest of Carnegie, a paradigm robber baron, and foisted upon the public in the age of the robber barons with the obvious effect of promoting corporate ficta and limiting the practice of law and even the teaching of law to the wealthy. We can see the folly now in retrospect with the multitude of non-ABA schools in California.

Hackin v Arizona (1967)19 L. Ed. 2d 347; 389 U.S. 143; 88 S. Ct. 325. Overbreadth case. There was no written majority opinion. Douglas's strong and cogent dissent shames the majority in this case. Lawyer Hackin having been denied admission to the Arizona bar nonetheless defended a guy who was denied counsel by the court because the proceeding was, hypertechnically, civil in nature, habeas corpus. Hackin stepped forward where bar volunteers failed to do so, defended the otherwise defenseless, and was prosecuted for practicing without a license. Maybe he failed to write a good brief - although he persuaded Justice Douglas.

Deprivation of License Requires Prior Due Process; It is a property interest.

In Re Ming 469 F 2d 1353 (7th Cir. 1971) Even federal court rules must render due process. Disciplinary proceeding. The Executive Committee of the United States District Court for Northern District of Illinois issued suspension order, and appeal was taken. The Court of Appeals, Pell, Circuit Judge, held that if a conviction itself is to be used to show commission of underlying acts which are of such nature as to form basis for disbarment or suspension, conviction must have reached finality, or at least to the extent of exhaustion of direct appeals. In addition, the Court held that failure to afford hearing prior to issuing order of suspension based on misdemeanor conviction violated due process. **Reversed.** If a conviction itself is to be used to show commission of underlying acts which are of such nature as to form basis for disbarment or suspension, conviction must have reached finality, at least to the extent of exhaustion of direct appeals. U.S. Dist. Ct. Rules, N.D. Ill., General Rule 8. District courts are free to adopt their own local rules defining grounds for disbarment and suspension and the procedures to be followed; however, such rules must meet the essential requirements of due process. License to practice law constitutes a type of "new property" the divestment of which cannot be affected without affording substantial due process, including the opportunity to be heard and to confront and cross-examine adverse witnesses. Failure to afford hearing prior to issuing order of suspension based on misdemeanor conviction violated due process.

Bell v Burson (1971) 26 L Ed 90, 401 US 535 State cannot take a driver license without hearing. Used in motion 3596 at page 3.

In Re Crow (1959) 3 L Ed 2d 1025-27. Annotation 3 L Ed 2d. Essentially overruled by ***Ming***. Non criminal disbarment. Attorney disbarred in Ohio. U.S. Supreme Court issues OSC. He responded. Douglas dissents that they should have appoint a committee.

Annotation re ***In Re Crow*** 3 L Ed 2d 1960-65

Lawyers Practicing in California with no California Bar License

Birbrower v Superior Court of Santa Clara County (1998) 70 Cal Rptr 2d 304, 17 C 4th 119, 949 P2d 1. New York lawyer was permitted to collect part of his fees for work done in California? This was not a 1st amendment issue - but a fee collection case.

The multitude of classes of non lawyers permitted to practice law in California

Any next friend can apply for a writ of habeas corpus. ***U.S. v Houston*** 273 F 915, 916 cited by Douglas in ***Hackin v Arizona*** 19 L Ed 2d 347.

Enrolled agents (EA's) and CPAs have the exact same practice rights before the IRS as lawyers. I wonder how this came about. Probably so the IRS employees could appear there; its a denial of equal protection. Some of us are equal to lawyers and some are not. Attorney-client privilege was extended to EAs and CPAs in the IRS Reform and Restructuring Act of 1998. Except for criminal cases, EAs and CPAs now stand on equal footing with attorneys.

Non lawyers can be executors and administrators in probate court.

Non lawyers can appeal decisions of the workers compensation board on behalf of clients?

Non lawyers can appeal decision of social security board on behalf of clients?

Cases Applying the Clear and Present Danger Test to Lawyers and others

Brandenburg v Ohio (1969) 23 L Ed 2d 430, 395 US 444, 89 S Ct 1827. Clear and present danger not there for Klan speech. Clarence Brandenburg was Ku Klux Klan member. Clear and Present Danger test was finally used to overrule an obstruction to speech. Compare to Debs case circa 1914 where clear and present danger test was not fully ripe. Used in brief 3596 at page 7 and 8.

Bridges v California (1941) 314 US 263, 62 S Ct 194. **Extremely Serious and Very Imminent** test. Contains the text: "Extremely Serious and Very Imminent" (clear and present danger - how clear and how present). Newspaper editorial talked about a present case in violation of court gag order. Cited for contempt of court. Overruled as I recall. Cited in brief #3596 at page 6.

Craig v Harney (1946) 91 L Ed 1546, 331 U.S. 367. Criticism of judge not clear and present danger. Regarding **clear and present danger test**: Mere possibility of danger is not enough. Used in briefs at 3567.1, 3569.1, 3596.6. Case is on point because it was about a Newspaper being critical of a layman as judge. Hey, I criticized a judge for Melvin Loser and was prosecuted for it also.

Debs v U.S. (1919) 63 L Ed 566, 249 U.S. 211. 1917 draft objector. Predecessor to ***Brandenburg*** in 1969. 1917 draft interference case. Used in brief at 3596.7

Gentile v State Bar of Nevada (1991) 115 L Ed 2d 888. Nevada bar act unconstitutional. **Clear and**

Present danger test controls here. Gentile gave a press conference about a high profile case that he was handling. The bar tried to discipline him. The U.S. Supreme Court declared that **the Nevada bar act was unconstitutional**! Palaschak contends herein that the California bar act is unconstitutional for a multitude of infirmities, many arising since the 1986 attack on human lawyers by Diane Yu, a genetically weak socialist, a shill for corporate ficta and the enemy of individualism which is the essence of America.

McSurely v Ratliff (1967) 282 F Supp 848 (E.D. Ky. 1967). Hysterical raid held illegal. Anti sedition act unconstitutional. Kentucky's anti sedition law is unconstitutional. Mc Surely's statements are protected by the clean and present danger test. An overbroad statute combined with ignorant officials caused an unjustified raid. See ***McSurely v McClellan*** (1976) 553 F2d 1277, 1282, note 9 (D.C. Cir. 1976)(en banc) discussing a safekeeping order for the personal diaries and other seized items of McSurely. The case ordering the return of the documents of McSurelys is ***McSurely v Ratliff*** (1968) 398 F2d 817 (6th Cir 1968). The endnotes of **In Our Defense** contain an excellent brief regarding the search and seizure issues in a politically motivated raid.

Relaxed Standing to Defend Fundamental rights such as Equal Protection. Vicarious Standing.

Craig v Boren (1976) 50 L Ed 2d 397. Relaxed standing to challenge denial of equal protection. Vicarious standing to defend fundamental rights. Compare to private attorney general.

Cases Pertaining to Rights of Prisoners to Access to the Courts

Gluth v Kangas (1988) 773 F Supp 1309 @ 1321 (D Ariz) **Right to xerox copies in jail**. "Draconian" copying by hand is not required. Jails and prisons must provide copying service - but Illinois jail denied Palaschak copying rights (while allowing other prisoners copying services - but only after Palaschak began litigating. Cited in Palaschak brief #3591 at page 0.1.

Procunier v Martinez (1974) 40 L Ed 2d 224, 416 US 396, 84 S Ct 1800 **Mail is a right**.(Added 7 August 2001) This was a class action. Procunier, Director of California Dept. of Corrections told prisoners that mail was a privilege and not a right - until somebody litigated this case. I read about this case in Lawrence Friedman's 1993 book entitled Crime and Punishment in American History.

Revisisions and additions yet to be made.

There are 20% more cases to be added from my handwritten 1999 brief in folder #99-1:

Procunier v Martinez. (1974) Before this case, California told prisoners that mail was a privilege - not a right.

Train of cases: United trans v Michigan bar; UMW v Illinois bar; Brother hood v Virginia bar

List of cases that have not yet been transcribed from the original handwritten brief:

Marbury v Madison (1803) 2 L Ed 60, 5 US 137, a void act is void ab initio

Bradwell v. People of State of Illinois, (U.S. Ill. 1872) 83 U.S. 130, 21 L.Ed. 442, 16 Wall. 130.)

Powell v Alabama

Ruffalo (1968) 20 L Ed 2s 117, 390 US 544, 88 S Ct 1222 and 20 L Ed 2d 1436 Attorney's right to practice in federal court as affected by his disbarment or suspension in sate court of other federal court.

Schware

Shuttlesworth v Birmingham

Strickland

maybe *Supreme Court of New Hampshire v Piper* (1985) 84 L Ed 2d, 470 US 274, 105 S Ct 1272.

Theard

U.S. v Guest

U.S. v Harrison Cronic

U.S. v Russell

William v Illinois

Wolf v Colorado

Yagman v Standing Committee. *Standing Committee on Discipline of the United States District Court for the Central District of California v Stephen Yagman, defendant* (9th Circuit, 1995) 55 F.3d 1430; 1995 U.S. App. LEXIS 12948; 95 Cal. Daily Op. Service 3958; 95 Daily Journal DAR 6873. See also the other preceding Yagman cases.

Younger v Harris

(ex part young - Minnesota)

Zenger, Peter

The following annotations citing Brandenburg need a home: ***Brandenburg v Ohio*** (1969) 23 L Ed 2d 430, 395 US 444, 89 S Ct 1827. Clarence Brandenburg was Ku Klux Klan member. Clear and Present Danger test was finally used to overrule an obstruction to speech. Used in brief 3596 at page 7 and 8. Brandenburg is cited all the major constitutional law treatises and the following treatises: 21 L Ed 2d 976 The *Supreme Court and the right of free speech and press*, 38 L Ed 2d 835 *The Supreme Court's development of the "clear and present danger"rule and the related rule concerning advocacy of unlawful acts as limitations on the constitutional right of free speech and press*, 45 L Ed 2d 725 *Supreme Court's views as to overbreadth of legislation in connection with First Amendment rights,* 86 L Ed 758 *Right of petition and assembly under the Federal Constitution's First Amendment - Supreme Court cases*, 96 ALR Fed 26, 20 ALR4th 327.

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