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JOSEPH DI SALVO

8 UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION
10

11 JOSEPH DI SALVO,
12 Plaintiff and Petitioner

13 v.

14 SANTA CLARA COUNTY OFFICE OF
15 EDUCATION; SANTA CLARA OFFICE OF
EDUCATION BOARD OF TRUSTEES;
16 CLAUDIA ROSSI; KATHLEEN M. KING;
ROSEMARY KAMEI; and PETER ORTIZ

17 Defendants and Respondents
18

CASE NO.

CIVIL RIGHTS COMPLAINT AND
PETITION FOR WRIT OF MANDAMUS;
DEMAND FOR JURY TRIAL

42 U.S.C. § 1983: 1st & 14th Amendments;
Code Civ. Proc., § 1094.5: Right to Fair
Hearing

19 Plaintiff and petitioner Joseph Di Salvo (“Plaintiff”) alleges:
20

21 **INTRODUCTION**

22 1. This is an action brought by Plaintiff, Joseph DiSalvo, a Trustee of the Santa Clara
23 Office of Education against several fellow trustees and the Santa Clara Office of Education
24 (“SCCOE”) and its Board of Trustees (“Board”) (collectively “Defendants”) for injunctive relief
25 and damages arising from the Defendants violation of Plaintiff’s rights under the First, Fifth and
26 Fourteenth Amendments to the United States Constitution, his rights under California Code of Civil
27 Procedure Section 1094.5 and his right to a fair hearing under California common law. The action
28 arises from a censure resolution, totally lacking in factual support, adopted by Defendants on

1 July 15, 2020 without affording Plaintiff a fair hearing and for the purpose of retaliation against
2 Plaintiff for exercising his First Amendment rights.

3 **JURISDICTION AND VENUE**

4 2. This is an action for injunctive relief and damages pursuant to 42 U.S.C. § 1983
5 based upon the continuing violations of Plaintiff’s rights under the First, Fifth and Fourteenth
6 Amendments to the United States Constitution. Jurisdiction exists pursuant to 28 U.S.C. § 1331
7 and § 1343 based on 42 U.S.C. §1983 and questions of federal constitutional law. Supplemental
8 jurisdiction over Plaintiff’s state law claims is pursuant to 28 U.S.C. §1367.

9 3. Venue is proper in the Northern District in that the events and conduct
10 complained of herein all occurred in the Northern District.

11 **PARTIES**

12 4. Plaintiff is a natural person and a resident of Santa Clara County, California.
13 Plaintiff is a duly elected member of the Board. Plaintiff represents the residents of Board Area
14 No. 4. Plaintiff is employed as an instructor at San Jose State University where he teaches a
15 class in Justice Studies, Race, Gender, Inequality and the Law.

16 5. Defendant and respondent SCCOE is a California local public school agency
17 organized under the laws of the State of California. As its governing body, Defendant Board is
18 an agent and instrumentality of SCCOE.

19 6. Defendants and respondents Claudia Rossi (“Rossi”), Kathleen M. King (“King”),
20 Rosemary Kamei (“Kamei”), and Peter Ortiz (“Ortiz”) are each natural persons and elected
21 members of the Board who voted in favor of the censure motion that is the subject of this
22 lawsuit. Plaintiff is informed and believes that each of these individuals is a resident of Santa
23 Clara County, California.

24 **FACTUAL ALLEGATIONS**

25 7. Plaintiff has served with distinction as an elected member of the SCCOE Board of
26 Trustees for over twelve (12) years including past service as the board president. During that
27 period of time, Plaintiff has been a supporter of charter schools within Santa Clara County and a
28 fierce advocate for the parents and students served by the SCCOE.

1 8. Defendant Rossi is a member of the SCCOE Board of Trustees. Defendant Rossi was
2 elected president of the Board of Trustees by vote of the four defendants in December 2019.
3 Defendant Rossi is an avowed opponent of charter schools and, in that context, is associated with
4 Bay Area Collective Keeping Privatizers Away From Public Schools, an organization that acts to
5 oppose charter schools within Santa Clara County with the stated goal to “end the destructive
6 practice of the privatization industry and their billionaire backers.” In addition, Defendant Rossi is
7 sponsoring Plaintiff’s announced opponent in the November 2020 general election for board trustee.

8 9. As an opponent of charter schools Defendant Rossi has engaged in an obnoxious and
9 provocative manner when dealing with charter schools and their proponents and supporters and has
10 challenged Plaintiff on a number of occasions in public Board sessions including, among other
11 things, making unfounded accusations of Brown Act violations by Plaintiff. Despite the fact that
12 Board Bylaws call for the recusal of a member who has made statements that in the mind of
13 reasonable people could create a perception that the member’s ability to hear and act upon a matter
14 before the board with impartiality and integrity has been compromised, Defendant Rossi continues
15 to vote on matters related to charter schools within the jurisdiction of the SCCOE.

16 10. The Superintendent of the SCCOE is MaryAnn Dewan. Plaintiff is informed and
17 believes that Superintendent Dewan is closely aligned with Defendant Rossi and the other
18 individual defendants and that, in an effort to damage Plaintiff’s reputation and his political future
19 and to deprive him of a seat on the Board of Trustees and to silence his voice on the Board,
20 instituted a totally unfounded investigation of Plaintiff related to alleged gender-based harassment
21 of SCCOE employees. As Superintendent Dewan and Defendant Rossi knew, the alleged claims on
22 which the investigation was based did not amount to harassment as that term is commonly used
23 much less as that term is defined in SCCOE policies.

24 11. SCCOE Non-Discrimination Policy 4030 prohibits discrimination or harassment of
25 employees based on actual or perceived race, religion, color, national origin, ancestry, and marital
26 status among other characteristics. That Policy defines “harassment” as unwelcome conduct so
27 severe and pervasive that it adversely affects an individual’s employment opportunities or has the
28 purpose or effect of unreasonably interfering with the person’s work performance or creates an

1 intimidating, hostile or offensive work environment. Nothing involving the two complaint on which
2 the investigation was purportedly based comes anywhere close to meeting that definition.

3 12. Board Bylaw 9006 of the Board of Trustees provides that if a Board member is
4 perceived to be acting in a manner inconsistent with the Board's Code of Conduct as set forth in
5 Board Bylaw 9005 the Board president is directed to discuss the matter with the Board member and,
6 depending on the severity of the conduct, give the member a private warning or bring a motion for
7 public censure to be voted on by the entire board. The Bylaws are silent with respect to the amount
8 of notice to be provided to a member in the event of a motion for censure, the rights of the member
9 to review the evidence supporting the motion, the rights of the member to confront the witnesses
10 against the member, and silent also with respect to the burden of proof to be met in order to uphold
11 a censure motion. Nonetheless, Board Bylaw 9005 directs the Board to govern responsibly and to
12 maintain the highest standards of integrity and honesty. That Bylaw also directs the Board to act
13 fairly and impartially in accordance with due process principles (admittedly this direction is related
14 to appellate matters that come before the Board but is a general recognition of the need for due
15 process) and further provides that board members are subject to censure for actions which
16 undermine principles of due process.

17 13. On Thursday July 9, 2020 Defendant Rossi sent Plaintiff a letter referencing a Report
18 of Investigation of Gender Harassment purportedly prepared by an independent investigator and
19 demanded that Plaintiff meet with Defendant Rossi, Superintendent Dewan and counsel for the
20 SCCOE the following morning at 11 a.m. and stated that a lack of response would be considered an
21 election not to participate in the process outlined in Bylaw 9006 (a true and correct copy of
22 Defendant Rossi's letter is attached hereto marked Exhibit A). A summary of the investigative
23 report was included with Defendant Rossi's letter (a true and correct copy of the summary report is
24 attached hereto marked Exhibit B). Plaintiff responded to Defendant Rossi's demand the following
25 morning and informed Defendant Rossi that he and his wife had spent the entire week in Southern
26 California dealing with an emergency involving the mental and physical health of their son and
27 would be driving back to San Jose on Friday and would not be able to talk at 11 a.m. Defendant
28 Rossi, ignoring the health crisis that Plaintiff had just gone through with his son, replied by insisting

1 that the conference take place at 4 p.m. that day. Plaintiff responded that he had not had an
2 opportunity to review the report or discuss its contents with counsel and requested that the
3 conference be moved to the following week. Defendant Rossi, ignoring the requirement set out in
4 Board Policy 9005 that she meet with the board member to discuss the issue before taking further
5 action, responded by asserting that since Plaintiff would not be participating in a conference on that
6 day that a motion of censure would be placed on the Board meeting agenda for the following
7 Wednesday, July 15, 2020. Requests by Plaintiff and his attorney to move the motion to the
8 following board meeting on August 5, 2020 to allow Plaintiff and his attorney the opportunity to
9 review the summary report and to prepare a response were rejected by Defendant Rossi through the
10 law office of Atkinson, Andelson, Loya, Ruud & Romo.. Plaintiff is informed and believes that the
11 Atkinson firm had an undisclosed conflict in providing advise to the Board since one of its
12 attorneys was involved in an interaction with Plaintiff that substantially influenced the
13 investigator's findings and that it was that firm that employed the investigator to conduct the
14 supposedly independent investigation (see, California State Bar Rule 1.7(b) a lawyer shall not
15 without the informed written consent of the client represent a client if there is significant risk the
16 lawyer's representation of that client will be materially limited by the lawyer's responsibilities or
17 relationships with a third person or by the lawyer's own interests).

18 14. Defendant Rossi's July 9, 2020 letter stated, in part, that the investigative report
19 supported a finding that Plaintiff had engaged in gender harassment and gender biased
20 discrimination involving SCCOE *employees*, that harassment was a form of *employment*
21 discrimination, that harassment was a violation of the law protecting *employees*, and that the Board
22 had an obligation to create an environment for *employees*, job applicants and visitors that was safe
23 and free of intimidation and harassment. In other words, according to Defendant Rossi's letter, the
24 Plaintiff had engaged in acts of harassment toward SCCOE *employees*.

25 15. On July 15, 2020 Defendant Rossi made a motion to censure Plaintiff and presented a
26 draft resolution to be adopted by the Board finding that certain allegations regarding harassment
27 and discrimination were true and censuring Plaintiff and ordering that he undergo training to
28 prevent gender bias (a true and correct copy of the resolution is attached hereto marked Exhibit C).

1 16. Over objection by Plaintiff, the Board took up the motion for censure on July 15,
2 2020 and voted by a 4 – 3 majority to adopt the censure resolution with the four individual
3 defendants (the same four trustees who had voted to place Defendant Rossi in the position of
4 president) voting to adopt the resolution. At no time were any of the Board members provided with
5 anything other than the resolution itself and the comments of Defendant Rossi to support the
6 motion. The Board was not provided with the investigation report nor was it provided with the
7 summary of the investigative findings which had been provided to Plaintiff. The Defendants even
8 went so far as to deny Plaintiff’s request that the Board at least review the video clips of board
9 meetings on which much of the investigative report was based. Despite not seeing any of the
10 evidence on which the matters set forth in the resolution were ostensibly based, the four individual
11 defendants voted to censure Plaintiff. As the Defendants were aware, their actions violated Board
12 ByLaw 9006 which expressly states that a member should devote sufficient time, thought and study
13 to proposed actions and to base decisions on *all* available facts and to vote in accordance with
14 honest conviction and not be swayed by partisan bias of any kind (Board ByLaw 9006). As will be
15 shown below, nothing in the investigative report in any way supports the findings regarding
16 harassment of SCCOE employees contained in the Board Resolution. In short, the individual
17 defendants engaged in nothing more than a kangaroo court intended to disparage Plaintiff’s
18 reputation and to prevent him from continuing to serve on the Board of Trustees and to silence his
19 voice. Plaintiff’s request to view the full investigative report have been denied by counsel for the
20 SCCOE on the grounds of attorney-client privilege and work product privilege despite the fact that,
21 to the extent that they might apply, those privileges have been waived by the dissemination of the
22 summary of report of that investigation.

23 17. Like Defendant Rossi’s letter, the resolution adopted by the Board stated that the 14th
24 Amendment to the United States Constitution prohibited discrimination against *employees* on the
25 basis of sex, that the Equal Employment Opportunity Commission prohibited gender based
26 employment discrimination against *employees*, that Article 1 Section 8 of the California
27 Constitution prohibited *employment* discrimination, that gender based harassment consisted of slurs,
28 taunts, stereotyping, name-calling, threats, intimidation, attacks or other hateful conduct.

1 Significantly, the resolution also pointed out that the SCCOE superintendent was mandated to
2 **promptly** investigate any claim of harassment made by an *employee*. The resolution further stated
3 that the SCCOE policies prohibited discrimination and harassment against any *employee*. In other
4 words, the resolution was expressly related to gender-based harassment and discrimination against
5 SCCOE *employees*. As will be discussed below, the investigative report failed to show any gender-
6 based harassment against any SCCOE employee by Plaintiff. The vote to censure Plaintiff and to
7 adopt the resolution regarding gender-based harassment of employees of SCCOE was unsupported
8 by any evidence whatsoever.

9 18. In her remarks to the Board in support of her motion, Defendant Rossi commented on
10 the investigation and on the proposed resolution and made it clear that the investigation was a
11 response to supposed claims of gender-based harassment by two SCCOE employees and that the
12 independent investigator had found gender-based harassment by Plaintiff directed against SCCOE
13 employees. In other words, the Board was informed by Defendant Rossi that Plaintiff had been
14 found to have harassed SCCOE *employees* and that it was the duty of the Board to protect SCCOE
15 *employees* in order to provide a safe working environment. In fact, there was no evidence of
16 gender-based harassment of SCCOE employees in the investigation and Defendant Rossi knew or
17 reasonably should have known that Plaintiff had not engaged in any harassing conduct of any
18 SCCOE staff member,

19 19. The investigation was a sham intended for no other purpose than to embarrass
20 Plaintiff and to destroy his reputation and his future political future. It also has the potential to
21 damage Plaintiff's teaching career.

22 20. According to Defendant Rossi as stated in her letter to Plaintiff (Exhibit A), in her
23 proposed resolution (Exhibit C) and in her comments to the Board in support of the resolution,
24 Superintendent Dewan began the investigation based on two complaints by SCCOE staff of gender-
25 based harassment by Plaintiff. The resolution of censure put forward by Defendant Rossi and
26 adopted by the Defendants was based almost entirely on alleged gender-based harassment of
27 SCCOE employees by Plaintiff. A review of the summary of the investigation and the underlying
28 facts makes it abundantly clear that Plaintiff did not engage in any acts of gender based harassment

1 of SCCOE employees and that the alleged complaints of gender-based harassment were simply a
2 ruse by which Defendant Rossi and the Superintendent could cause an investigation which would
3 be influenced in large part by Defendant Rossi’s own bias against Plaintiff.

4 21. One of the more striking examples of the deception practiced by Defendant Rossi
5 and the Superintendent and adopted by the Defendants is found in an analysis of the initial
6 complaint of alleged gender-based harassment, The investigation was ostensibly based on a
7 complaint by an employee of SCCOE who retired from SCCOE in the summer of 2019 made
8 “shortly before she retired.” Although much is made throughout the presentation by Defendant
9 Rossi to the Board regarding the legal mandate which requires the Superintendent to “promptly”
10 investigate allegations of harassment and discrimination, no explanation is provided for the five
11 month delay between the alleged complaint and the institution of the investigation in January 2020.
12 Plaintiff is informed and believes that the Superintendent commenced the investigation at the urging
13 of Defendant Rossi following Defendant Rossi’s election as Board President in December 2019.
14 Not surprisingly, the alleged complainant refused to participate in the investigation and the
15 investigator determined that the evidence did not sustain the allegation that Plaintiff harassed the
16 employee. Had the Defendants been provided with the summary of the investigation they would
17 have seen that this claim was unsupported.

18 22. The only other claim of alleged harassment of an SCCOE employee involved an
19 SCCOE employee whose job responsibilities included negotiating a contract with the Service
20 Employees International Union (“SEIU”). According to the Summary of Investigative Findings
21 (Exhibit B) the “harassment” complaint involved comments that Plaintiff made in his role as a
22 member of the Board of Trustees at a meeting of the Board on September 18, 2019 and at a meeting
23 on November 6, 2019. Those meetings, like all the Board meetings, were recorded and the
24 Defendants could have reviewed the video evidence before voting on Defendant Rossi’s censure
25 motion but chose not to do so and refused Plaintiff’s request to review the evidence. At the
26 September 18 meeting following public comments by members of the SEIU regarding the lack of
27 pay raises and the cost of health care, Plaintiff requested information regarding comparison
28 information from other school districts. At no time did Plaintiff interact with or comment about the

1 complaining employee or her job performance. At the November 6 meeting following public
2 comment by retired teachers who were threatened with a substantial reduction in their pension
3 payments from the California State Teachers Retirement System (“CalStrs”) and the threat that they
4 would be forced to repay substantial sums of money they had already received, Plaintiff commented
5 on the need for greater transparency regarding the CalStrs payments and again mentioned the
6 transparency issue in connection with the SEIU matter he brought up at the September 18 meeting.
7 At no time during that board meeting did Plaintiff interact with or comment about the complaining
8 employee or her job performance.

9 23. Again, as with the initial complaint referred to in the investigative summary, there is
10 no explanation provided regarding the delay by the Superintendent in investigating the complaints
11 (four months in the case of the September board meeting and over two months in the case of the
12 November board meeting). Moreover, the investigative summary does not conclude that Plaintiff
13 “harassed” the employee, rather, the most the investigator could say was that Plaintiff’s comments
14 at the board meetings when he asked for information so that he could be a fully informed board
15 member “...negatively impacted Witness G’s ability to fulfill her work duties because he
16 questioned her work in a critical manner.” Putting aside the fact that there was absolutely no
17 evidence to support a conclusion that Plaintiff at any time “questioned her work in a critical
18 manner”, nothing in the report even remotely approaches evidence of harassment either as that term
19 is commonly understood or as it is defined in SCCOE Nondiscrimination Policy 4030 cited and
20 relied upon by the Defendants in their censure of Plaintiff. Had the Defendants been provided with
21 the summary of the report they would have seen that this complaint, like the initial complaint, was
22 simply unsupported.

23 24. The investigative report does refer to complaints by Defendant Rossi herself
24 regarding events which occurred at a board meetings on June 17, 2015 (a full five years before the
25 investigation), September 6, 2017 (approximately three years before the investigation) and at a
26 board retreat in January, 2020. But none of those incidents involved anything related to employee
27 harassment but rather were the kind of give and take to be expected when a school board is dealing
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1 with issues as charged as those related to charter schools. Defendant Rossi thus became the
2 complainant, the prosecutor, the judge and the jury in her handling of this matter.

3 25. The only other complaint of gender bias contained in the report involved an
4 interchange between Plaintiff and, Meredith Brown, as attorney from the same firm that is now
5 advising the board with respect to the censure motion (the same firm that refused the request by
6 Plaintiff to continue the motion to permit him time to respond). That complaint, although apparently
7 not put forward by Ms. Brown herself, involved a difference of opinion between Plaintiff and Ms.
8 Brown regarding a legal matter and does not fall within any definition of harassment. However, as
9 evidence of the apparent bias held by the investigator, in discussing the difference of opinion
10 regarding the legal opinion of Ms. Brown and a differing opinion Plaintiff had received from
11 another attorney, the investigator gratuitously noted that the other attorney was a male and that
12 “DiSalvo also questioned Brown whether a male lawyer would agree with her legal opinion”— in
13 fact, as the investigator well knows, no such statement or question was ever made or asked by
14 Plaintiff. In any event, nothing in the interaction between Plaintiff and Meredith Brown is in any
15 way related to gender-based harassment of SCCOE employees, the ostensible object of the
16 Resolution.

17 26. The censure motion and resolution were brought to embarrass Plaintiff and to damage
18 his reputation and to prevent him from speaking out regarding various issues, including but not
19 limited to, issues related to charter schools, As Defendants well knew, there was no evidence to
20 support a claim that Plaintiff at any time harassed or discriminated against an SCCOE employee.
21 Plaintiff was denied his First Amendment free speech rights and due process rights as well as the
22 right to a fair hearing.

23 **FIRST CAUSE OF ACTION**
24 **42 U.S.C. § 1983 – First and Fourteenth Amendments**
(By Plaintiff against Defendant)

25 27. Plaintiff incorporates the foregoing allegations as though fully set forth.

26 28. 42 U.S.C. § 1983 provides that: “Every person who, under color of [law] subjects . . .
27 any . . . person within the jurisdiction thereof to the deprivation of any rights, privileges, or
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1 immunities secured by the [United States] Constitution and laws, shall be liable to the party injured
2 in an action at law, suit in equity, or other proper proceeding for redress.”

3 29. The First Amendment to the United States Constitution, as incorporated against the
4 states by the Fourteenth Amendment, guarantees freedom of speech. The Fourteenth Amendment
5 prohibits any state from depriving any person of life, liberty, or property without due process of
6 law. The right to procedural due process includes the right to timely notice of the case against
7 oneself and the right to be heard on the matter by a neutral arbiter. Every individual has cognizable
8 liberty and property interest in his or her professional reputation.

9 30. Plaintiff was not accorded adequate notice or a full and fair opportunity to be heard
10 before a neutral arbiter prior to the Board’s decision to censure him. Moreover, the Defendants
11 abdicated their responsibility to afford Plaintiff his due process rights when they failed and refused
12 to consider the evidence that purportedly supported the censure motion and resolution.

13 31. The Board’s decision to censure Plaintiff was in part intended to retaliate against him
14 for exercising his right of free speech, and more particularly for his advocacy of charter schools
15 among other issues.

16 32. The Board’s failure to accord Plaintiff adequate notice and a full and fair opportunity
17 to be heard on the issue of censure was intentional, and was motivated at least in part by a desire to
18 harm his professional reputation and reelection prospects during an election year.

19 33. In censuring Plaintiff and in depriving of him of adequate notice and of a full and fair
20 opportunity to be heard, the members of the Board were acting or purporting to act in the
21 performance of their official duties.

22 34. The foregoing conduct by the Board violated Plaintiff’s federal constitutional rights
23 under the First and Fourteenth Amendments by punishing him for the exercise of his freedom of
24 speech and by depriving him of a liberty and property interest without due process of the law.

25 35. The Board’s conduct caused Plaintiff to suffer damages in that it has harmed his
26 reputation and damaged his prospects for reelection and damaged his political career and his
27 teaching career.

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1 36. In doing the things herein alleged, the individual Defendants acted with oppression,
2 fraud and malice.

3 **SECOND CAUSE OF ACTION**
4 **Writ of Administrative Mandamus**
5 **Code Civ. Proc., § 1094.5 – Right to a Fair Hearing**
6 **(By Plaintiff against Defendant)**

7 37. Plaintiff incorporates the foregoing allegations as though fully set forth.

8 38. Everyone has a right at common law to receive a fair hearing in connection with a
9 decision of an administrative nature affecting his or her rights or interests, including in connection
10 with censure proceedings. (*Salkin v. Cal. Dental Assn.* (1986) 176 Cal.App.3d 1118.) Like
11 procedural due process, the right to a fair hearing includes the right to timely notice of the case
12 against oneself and the right to be heard on the matter by a neutral arbiter. A cause of action exists
13 under Code of Civil Procedure Section 1094.5 to enforce this right when it has been violated in an
14 administrative proceeding.

15 39. Through the Board’s conduct in censuring Plaintiff without adequate notice and a full
16 and fair opportunity to be heard, Defendant abused its discretion and violated its duty to accord
17 Plaintiff a fair hearing. As a result, Plaintiff has suffered immediate, severe, and irreparable harm
18 to his professional reputation and reelection prospects during an election year.

19 40. The Defendants abdicated their responsibility to act in a fair and impartial manner
20 when they refused Plaintiff’s request for time to respond to the censure motion and when they acted
21 without viewing or considering the evidence upon which the censure motion and resolution was
22 based.

23 41. Plaintiff has no plain, speedy, and adequate remedy in the ordinary course of law, and
24 in addition or in the alternative to relief under 42 U.S.C. § 1983, issuance of a peremptory writ of
25 mandamus is needed to mitigate or rectify harm already suffered by Plaintiff and to avoid further
26 harm to his professional reputation. Defendant has the capacity to correct its violations of the right
27 to a fair hearing, but has failed and refused to do so.

28 **WHEREFORE**, Plaintiff prays:

1. For compensatory damages according to proof;

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- 2. For punitive damages in an amount that the trier of fact deems just and proper;
- 3. That the Court issue judgment and a peremptory writ ordering Defendant to set aside all actions relating to Plaintiff's censure and to provide him with a full and fair opportunity to be heard on the matter before Defendant Board;
- 4. Attorneys' fees and costs of suit; and
- 5. For other and further relief as the Court finds proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

DATED: AUGUST 4, 2020

BERLINER COHEN, LLP

BY: 
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ERIK RAMAKRISHNAN
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JOSEPH DI SALVO