

Chadwick James Yancey, *Sui Juris*
Citizen of California
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Wildwood 96076
California, USA

In Propria Persona

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IN SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF TRINITY

RYAN BURGESS,)	No. 15CV073
PLAINTFF,)	
)	DEFENDANT’S MEMORANDUM IN
)	SUPPORT OF MOTION TO COMPEL:
)	Cal.Gov. Code (2004), Section 11515; and,
)	Cal.Evid. Code (2004), Sections 451, 453, 459.
v.)	
)	
CHADWICK JAMES YANCEY)	
Defendant.)	

COMES NOW Defendant above named, seeking specific relief in the form of an ORDER to compel specific compliance with the outstanding SUBPOENAS previously served on Mr. Stroud and Ms. Ludwig.

Notice of California Laws Concerning the Licensing of Attorneys

Defendant is a competent witness over the age of 18 years of age, has personal knowledge of the facts stated herein, and does solemnly state that:

1.a. I am a natural born adult, white American Man, one of the People of the United States of America currently living within the territorial boundaries of California.

1.b. I am not a trained or licensed attorney. Of necessity, I am acting within my right to defend my life, liberty and property as set out in the California Constitution at Article I, Section 1, to wit:

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

2. I rely on the same materials as are available to attorneys and to the Court at the local law library. I present the California laws concerning the licensing requirements for persons wishing to engage in the business/occupation/profession of being an attorney in California.

3.a. The California Constitution, Article VI, Section 9, reads in pertinent part:

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.

3.b. The California Constitution, Article VI, Section 9, in plain English clearly states that "admitted" and "licensed" are two (2) separate and distinct conditions, and that to "be a member of the State Bar" is a third separate and distinct condition.

4.a. The earliest California law which addresses the licensing of attorneys in California which I have found is set out in *Laws of California (1850-1853)*, S. Garfielde and F. A. Snyder, Compilers, Press of the Franklin Printing House, Boston, Mass., 1853, Chapter XLIX, Page 205, entitled "AN ACT concerning Attorneys and Counsellors at Law. -- [Passed February 19, 1851.]" Said Act reads (in part, emphasis added):

Section 2. Every applicant for admission as Attorney and Counsellor shall produce satisfactory testimonials of good moral character, and undergo a strict examination, in open Court, as to his qualifications, by **one of the Judges of the Supreme Court** of this state.

Section 3. If upon examination he be found duly qualified, **the Court shall admit him** as Attorney and Counsellor in all the Courts of this state, and **shall direct an order to be entered to that effect upon its records**, and that a **certificate of such record be given to him** by the Clerk of the Court, which **certificate** shall be his **license**.

...

Section 5. Every person, on his admission, **shall take an oath or affirmation to support the constitution of the United States and of the state**, and to discharge the duties of Attorney and Counsellor to the best of his knowledge and ability. **A certificate of such oath or affirmation shall be endorsed on the license.**

4.b. Bouvier's Law Dictionary, Baldwin's Students Edition, Page 540 reads:

INDORSE To write on the back. Bills of exchange and promissory notes are indorsed by a party writing his name on the back. See INDORSEMENT. Writs in Massachusetts are indorsed in some cases by a person writing his name on the back, in which case he becomes liable to pay the costs of such suit.

4.c. The original requirements set out in *Laws of California supra* are currently continued in California Business and Professions Code ("CBPC") Sections 6064 (in part, emphasis added) and 6067 (emphasis added) as read together:

Section 6064. [T]he Supreme Court may admit such applicant as an attorney at law in all courts of this State and may direct an order to be entered upon its records to that effect. **A certificate of admission thereupon shall be given to the applicant** by the clerk of the court.

Section 6067. Every person on his admission **shall take an oath to support the Constitution of the United States and the Constitution of the State of California**, and faithfully to discharge the duties of any attorney at law to the best of his knowledge and ability. A certificate of the oath **shall be indorsed** upon his license.

4.d.1. CBPC Section 6064 plainly states the requirement for "an attorney at law" to possess a "certificate of admission" given by the Clerk of the California Supreme Court.

4.d.2. CBPC Section 6067 plainly states the dual mandatory requirement that "any [*sic*] attorney at law" shall take an oath and possess a "license" indorsed with a "certificate of the oath".

4.e. *RULES REGULATING ADMISSION TO PRACTICE LAW IN CALIFORNIA* set out the requirements for a person to complete prior to applying to be admitted by the California Supreme Court, read as follows (emphasis added):

Section 1. To be eligible for certification by the Committee to the Supreme Court of California to practice law in California, all applicants must meet the following requirements:

(a) Be of the age of at least 18 years;

(b) **Be of good moral character** pursuant to the provisions of Rule X;

(c) Complete the general education requirements pursuant to the provisions of Rule VII prior to commencing the study of law;

(d) Register as a general applicant or attorney applicant;

(e) Complete the legal education requirements prescribed by Rule VII prior to taking the California Bar Examination;

(f) Qualify for and pass or establish exemption from the First-Year Law Students' Examination in accordance with the provisions of Rule VIII;

(g) Pass the California Bar Examination and such examination in professional responsibility or legal ethics as determined by the Committee and as specified in Rule VIII; and,

(h) Be in compliance with California court ordered child or family support obligations pursuant to Welfare and Institutions Code Section 11350.6.

West's Ann.Cal.Court Rules (2004), Vol. 23, Pt. 3, Rule II.

5.a. CBPC Section 6103 plainly states (in part, emphasis added):

Section 6103. ... **[a]ny violation of the oath taken by him, or of his duties** as such attorney, constitute causes for **disbarment or suspension**.

5.b. CBPC Section 6068 plainly reads (in part, emphasis added):

Section 6068. It is the **duty** of an attorney to do **all** of the following:

(a) **To support the Constitution and laws of the United States and of this state.**

(b) To maintain the respect due to the courts of justice and judicial officers.

(c) To counsel and maintain those actions, proceedings, or defenses only as appear to him or her legal or just,

(d) To employ, for the purpose of maintaining the causes confided to him or her **those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement** of fact or law. ...

5.c. I reasonably infer from the foregoing information that, to fulfill their duties as attorneys as set out in CBPC Section 6068, attorneys must have in their possession at minimum: (1) a "certificate of admission" issued by the Clerk of the California Supreme Court (treated as their "license"); (2) indorsed with their "certificate of the oath"; and, (3) evidence issued by *The State Bar of California* of their current active membership status therein *i.e.* in good standing.

6.a. At *The State Bar of California* website, under *MCLE RULES AND REGULATIONS* we find:

1.0 PURPOSE

Continuing legal education is required of all members of the State Bar of California on active status not specifically exempted from this requirement to assure that, throughout their careers, California attorneys remain current regarding the law, the obligations and standards of the profession, and the management of their practices.

2.0 MINIMUM CONTINUING LEGAL EDUCATION REQUIREMENT ...

All members of the State Bar of California on active status shall demonstrate their compliance with the continuing legal education requirement at the end of each compliance period and, except as otherwise provided, shall complete at least 25 hours of approved continuing legal education activities every 36 months ...

13.0 CONSEQUENCES OF NON-COMPLIANCE

A member failing to comply with the requirements after the 60 day period for compliance has expired shall be enrolled as an inactive member by the Board of Governors or an officer of the State Bar or his or her designee.

6.b. According to instructions previously found at *The State Bar of California* website, a purported attorney can request a "certificate of standing" from *The State Bar of California*:

In order to receive a certificate of standing (required for admission to other jurisdictions) send a written request and a check for the correct amount payable to the State Bar of California to:

State Bar of California
Membership Records
180 Howard Street
San Francisco, CA 94105

Requests for regular certificates must be made in writing and there is a fee of \$25 for one to five certificates per attorney member payable in advance. Please include the bar number to ensure the certificate is for the correct person. The certificate can not be faxed, but will be mailed within 10 working days of receipt of the request.

If you are applying for admission to another state, you may be asked to provide information as to whether or not complaints or grievances have been filed against you. This information is not available at present. A regular certificate, not including information on complaints or grievances, may suffice.

Some jurisdictions also require a certificate from the Supreme Court of California. These may be obtained from the Supreme Court with a written request and a fee of \$1.00. Send your request, payment and self-addressed envelope to:

California Supreme Court
State Building
350 McAllister Street
San Francisco, CA 94102

6.c. It clearly appears at *The State Bar of California's* own website that the acquisition by attorneys of their evidences of licensure, if they do not already possess them, is neither unreasonably expensive nor unreasonably inconvenient.

6.d. I have no reason to believe nor to agree that a "certificate of standing" issued by *The State Bar of California* is legally equivalent to, nor functionally identical to, a "certificate of admission" issued by the Clerk of the California Supreme Court and indorsed with an attorney's "certificate of the oath".

7.a. CBPC Section 6128 reads (in part, emphasis added):

Section 6128. Every attorney is guilty of a **misdemeanor** who either:

(a) Is guilty of **any deceit or collusion**, or consents to **any deceit or collusion**, with **intent to deceive** the court or **any party**.

(b) Willfully delays his client's suit with a view to his own gain.

(c) Willfully receives any money or allowance for or on account of any money which he has not laid out or become answerable for. ...

7.b. I reasonably infer that a person purporting to be licensed to practice law in California, without having the evidences of said licensure available upon request of any party, would be committing such "deceit or collusion" as expressly proscribed in CBPC Section 6128(a).

8. The California Supreme Court has held, in various cases, with specific relevance to attorneys, as follows (information in brackets and emphasis added):

(a) The taking of it [the oath of allegiance] is now made a prerequisite to the exercise of the privilege [of practicing law]. ... In no sense is it a "punishment for crime," for the refusal to take the oath is not made a crime. A person may thus refuse who has never been guilty of any treasonable act, and has no intentions of that kind; and if he is prevented from practicing, it is by his own voluntary course. ... We do not see how this conclusion is to be avoided, **unless it can be shown that traitors in act and intention have a constitutional right to practice law.** ...

The right to practice law is not an absolute right, derived from the law of nature. It is the **mere creature of the statute**, and when the license is issued and the official oath taken, which authorizes the attorney to exercise the right, it confers but a statutory privilege, subject to the control of the Legislature. Such is the legal effect of all statutory privileges, unless they are of the nature of contracts or vested rights of property. (The People v. Livingston, 6 Wend. 531; Oriental Bank v. Freez, 18 Maine, 109; 2 Story on Constitution, Section 1, 398; Calder v. Bull, 3 Dall. 386, 394.)

... As we have already shown, it [**practicing law**] **does not rise to the dignity of a public office**, and even if it did, it could not be considered as a "contract" or a "vested right of property" within the Constitution. ... It is clear that as an officer of Court he has no vested right of property or contract within the meaning of the Constitution, nor has he in any other view that can be taken of his right

The right of the Courts to exclude attorneys for **loss of moral character, malpractice, or offenses not punishable as a crime**, is established beyond all question, and it has never been claimed that such action was prohibited by the Constitution. ... **The possession of a "good moral character" has always been deemed an essential qualification for an attorney**; and the Legislature might well deem a person who was unwilling to take the oath of allegiance as lacking in that necessary quality, and as unworthy of the high honors and the great privileges and responsibilities attached to the profession. ... The powers and privileges of a lawyer are extensive, and of great importance to the public interests. **The Legislature and the Courts have always carefully guarded the profession against being degraded or corrupted**, that it may command the confidence and respect of the public. The safety of the Government and the security of popular rights depend, in a great degree, upon the purity of the bench and the bar.

If treason is allowed to find its advocates among their members, the very existence of the Government and the liberties of the people are endangered. It is therefore the solemn duty of the legislative authority to provide the necessary means to purge the profession of every taint or suspicion of treason. ...

The Government owes **the duty of protection to the people in the enjoyment of their rights**, and the people owe **the correlative duty of obedience and support** to the Government. The one is dependent upon the other. **The Government cannot justly claim obedience when it refuses protection. The citizen cannot demand protection without he renders the equivalent of obedience and support.**

The right [to practice law] is subject to the condition that the attorney shall possess a blameless moral character, and it is forfeited upon a breach of that condition. The public have a right to demand that no person shall be permitted to aid in the administration of justice whose character is tainted with dishonesty, corruption, crime, and, we will add, disloyalty, or treasonable acts. And his name will be stricken from the roll by the Court, by a summary proceeding, in such cases, whether provided for by statute or not, as it is **a duty which the Court owes to the public**

The practice of the law is a privilege to which the Legislature may attach such conditions as it may deem proper, and **a breach of the conditions is a forfeiture of the right**

We have carefully considered the constitutional objections to this law, and we see nothing in the Constitution of this State prohibiting [*sic*] the Legislature from requiring public officers, **or those exercising special privileges, like attorneys at law**, to take an expurgatory oath of the character of that prescribed by this act, and it is clearly within their general legislative powers, unless prohibited. ... **The statute substantially makes the refusal to take the oath operate as a voluntary withdrawal from the profession**, leaving it open for the attorney to be readmitted at any time by taking the oath, and thus complying with the new condition upon which that right depends.

Cohen v. Wright, 22 Cal. 293, 317-327 (1863).

(b) An officer, as defined by Webster, is "a person commissioned to perform any public duty." An attorney at law is not such an officer; and, in our opinion, he is not an officer in the constitutional sense of the term, and does not hold a public trust.

Ex parte Yale, 24 Cal. 241, 244 (1864).

(c) We reiterate that the purpose of this inquiry is to determine how best to protect the public's right to representation by attorneys who are worthy of trust. (In re Bogart, 9 Cal.3d 743, 749 (1973), 108 Cal.Rptr. 815, 511 P.2d 1167). It is not the intended victim of petitioner's deceit that is critical here, but the fact that petitioner was willing to lie under oath to deceive anyone. [Citation omitted.] Such a willingness to deceive another person is, under any circumstances, inconsistent with the proper conduct of a member of the State Bar. [Cite omitted.]

As the superior court stated to petitioner at the probation and sentence hearing: "... people who occupy prominent positions dealing with public confidence have a duty to not misuse their position and their power, whether it is a detriment to the estate involved or not. The very appearance of it, the likelihood of it appearing, is a matter of public concern, interest, and they need to be protected from it."

In Re Kristovich, 18 Cal.3d 468, 476 (1976), 134 Cal.Rptr. 409, 556 P.2d 771.

(d) Under section 6102, subdivision (c), an attorney must be summarily disbarred, regardless of mitigating circumstances, if (1) an element of his offense involves the intent to deceive or defraud (Section 6102, subd. (c)(1)); (2) the attorney committed the offense while practicing law (Section 6102, subd. (c)(2)).

...

We have frequently considered the act of misleading a court as sufficient grounds in and of itself for discipline. (Di Sabatino v. State Bar, 27 Cal.3d 159, 162-163 (1980), 162 Cal.Rptr 458, 606 P.2d 765;)

In Re Utz, 48 Cal.3d 468, 482, 484 (1989), 256 Cal.Rptr. 561, 769 P.2d 417.

(e) Attorneys must possess good moral character. (Bus. & Prof. Code, Sections 6060, subd. (b), 6062, subd. (b); see *id.*, Section 6064). Good moral character includes traits of "honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the laws of the state and the nation and respect for the rights of others and for the judicial process." (Rules of Admission, Rule X, Section 1.) Persons of good moral character also do not commit acts or crimes involving moral turpitude -- a concept that embraces a wide range of deceitful and depraved behavior. (See In re Strick, 34 Cal.3d 891 (1983), 901-903, 196 Cal.Rptr. 509, 671 P.2d 1251; In re Fahey, 8 Cal.3d 842 (1973), 849, 106 Cal.Rptr. 313, 505 P.2d 1369, 63 A.L.R.3d 465; Hallinan v. Committee of Bar Examiners, 65 Cal.2d 447, 452 (1966), 55 Cal.Rptr. 228, 421 P.2d 76.

In Re Gossage, 23 Cal.4th 1080, 1095 (2000), 99 Cal.Rptr.2d 130, 5 P.3d 186.

9.a. CBPC Section 6126 reads (in part, emphasis added):

Section 6126. (a) Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active member of the State Bar, or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of so doing, is guilty of a **misdemeanor** punishable by up to one year in a county jail or by a fine of up to one thousand dollars (\$1,000), or by both that fine and imprisonment. Upon a second or subsequent conviction, the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by the imposition of a lesser sentence or a fine.

...

(d) The penalties provided in this section are **cumulative to each other and to any other remedies or penalties** provided by law.

9.b. CBPC Section 6127 reads:

Section 6127. The following acts or omissions in respect to the practice of law are contempt's of the authority of the courts:

(a) Assuming to be an officer or attorney of a court and acting as such, without authority.

(b) Advertising or holding oneself out as practicing or as entitled to practice law or otherwise practicing law in any court, without being an active member of the State Bar.

Proceedings to adjudge a person in contempt of court under this section are to be taken in accordance with the provisions of Title V of Part III of the Code of Civil Procedure. [Footnote 1: Code of Civil Procedure, Section 1209 *et seq.*]

9.c. CBPC Section 6240 plainly reads:

Section 6240. Every person who practices, offers to practice, or advertises any business, trade, profession, occupation, or calling, or who uses any title, sign, initials, card, or device to indicate that he or she is qualified to practice any business, trade, profession, occupation, or calling for which a license, registration, or certificate is required by any law of this state, without holding a current and valid license, registration, or certificate as prescribed by law, is guilty of a misdemeanor.

10.a. A California appellate court has held:

A private person may arrest another for "a public offense committed or attempted in his presence" (Penal Code, Section 837). The term "public offense" includes misdemeanors (Penal Code, secs. 15, 17; Burks v. United States, 287 F.2d 117; People v. Sjosten, 262 Cal.App.2d 539, 543, 68 Cal.Rptr. 832), and the person making the arrest may summons others to aid him in the arrest (Penal Code, Section 839).

People v. Campell, 27 Cal.App.3d 849, 853-854 (1961), 104 Cal.Rptr. 118.

10.b. The California Penal Code, Section 837 plainly reads:

Section 837. A private person may arrest another:

1. For a public offense committed or attempted in his presence.
2. When the person arrested has committed a felony, although not in his presence.
3. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it.

11.a. I reasonably infer from the foregoing information that persons claiming to be licensed attorneys in California who should fail, refuse, or be unable to produce, upon the demand of any client/potential client/adverse party, their California Supreme Court "certificate of admission" indorsed with their "certificates of the oath," together with their "certificates of standing" from *The State Bar of California*, would be in violation of the California Constitution and the statutes of California as set out above, and have already knowingly agreed to be sanctioned and to forfeit their privilege of practicing law.

11.b. I know of no legal excuse or exemption for a person purporting to be a California-licensed attorney without tangible evidence of such status to be exempted from: (1) summary sanctions, suspension, and/or disbarment in accordance with CBPC Section 6103; (2) Citizen's arrest pursuant to Penal Code Section 837 for violating CBPC Section 6126, if done in my presence; and, (3) the penalties provided in CBPC Sections 6126 and 6167.

12. It is my private policy that, while I would regret having to help such purported attorneys suffer the known and reasonably foreseeable legal consequences of their actions or omissions, I will do my best to comply with the Constitution and statutes of California and to ensure that each purported attorney I must "do business with" does so also.

I certify within the laws of California that the foregoing is true, correct, and complete.

Signed: /s/ Chadwick J. Yancey

At: Hayfork California

Dated: 12-14-15

PROOF OF SERVICE

I, Chadwick James Yancey, *Sui Juris*, hereby certify, under penalty of perjury, under the laws of the **United States of America**, without the “**United States**” (federal government), that I am at least 18 years of age, a Citizen of ONE OF the **United States of America**, and that I personally served the following document(s):

**DEFENDANT’S MEMORANDUM IN
SUPPORT OF MOTION TO COMPEL**

via first class U.S. Mail, with sufficient postage affixed, upon the following recipients:

Travis E. Stroud
Natalie Ludwig
TravisStroudLaw
1305 Solano Street
Corning 96021
California, USA

Courtesy Copy:

Office of the District Attorney
Trinity County District Attorney
P.O. Box 310
Weaverville 96093
California, USA

Dated: 12/14/2015

Signed: /s/ Chadwick J. Yancey

Printed: _____
Chadwick James Yancey, Defendant *In Propria Persona*
(not “*Pro Se*” [*sic*])