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TO: Monterey County District Attorney Dean D. Flippo

FROM: A. Benjamin Amadio; Certified Student #24128

DATE: December 21, 2009

RE: Prosecutorial Misconduct Case No. 0303309, Pebble Beach Art
Heist, and Requested Investigation

Cc: Deputy District Attorney Meredith Sillman

Enclosed: Art Heist Law Enforcement Packet

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This memorandum is being provided as a courtesy to the Monterey County District Attorney's Office (DA's Office) to provide evidence of illegal actions by agents of the DA's Office, the Monterey County Sheriff's Office (SO); (the Bad Actors), in the prosecution of Ms. Ratcliff Case Number 0303309 and public prosecution of Mr. Amadio and Dr. Kennaugh; victims in the Pebble Beach Art Heist of September 25, 2009 (Art Heist).

The California Bar Association suggests putting the DA's Office on notice of wrongdoing so the DA's Office has the opportunity to investigate its agents, the Bad Actors, and have the opportunity take appropriate steps to investigate, prosecute, and report the wrongdoing of the Bad Actors. Should the DA's Office choose to do nothing we will have no choice but to report such wrongdoing to appropriate authorities and professional associations as well as request dismissal of all charges levied against Ms. Ratcliff.

Statements and conclusions contained within this memorandum are supported by tangible evidence, which has been intentionally withheld by the Bad Actors. This evidence includes exculpatory evidence which has the effect of exonerating Ms. Ratcliff, Mr. Amadio, and Dr. Kennaugh (the Victims). Instead the Bad Actors have chosen to lie, present false evidence, and to use their wealth and power to discredit the victims. So damaging that without action by the DA's Office irreparable harm will result.

Charges against Mrs. Ratcliff should never have been filed. Malicious and false allegations levied against Mr. Amadio and Dr. Kennaugh never would have been made by the Bad Actors had all evidence in this memorandum not been purposefully excluded. Evidence regarding the art heist to the Bad Actors on at least five separate occasions. Despite this the Bad Actors held an international news conference attacking Mr. Amadio and Dr. Kennaugh with the intent of defaming them and tainting the potential jury pool should charges for any reason be brought against the victims. For example the SO stated that the victims were "running some sort of criminal enterprise, not cooperating, lying, etc". The Bad Actors have continued to push charges against Ms. Ratcliff despite an ex-parte plea agreement to which she fully preformed, in which the Bad Actors gained exculpatory evidence, as well as other evidence that substantially prejudices Mrs. Ratcliff.

The illegal and improper action by the Bad Actors requires the DA's Office "as expressed by The United States Supreme Court numerous times" to dismiss case number 0303309 against Ms. Ratcliff with prejudice. Additionally, the California Model Rules for Professional Conduct and California Business and Professional Code compel the District Attorney's Office to issue a public statement of such extent that counteracts

the damage caused by malicious statements made by the SO and its agents against Mr. Amadio and Dr. Kennaugh. I.e. a public press conference recanting statements made by the SO.

We hope that the DA's Office takes seriously the allegations made within this memorandum. We request immediate dismissal with prejudice of all charges levied against Ms. Ratcliff in Case Number 0303309, as well as the DA's Office recanting the of malicious statements made by the Bad Actors and SO against Mr. Amadio and Dr. Kennaugh.

Because of the actions taken against Mrs. Ratcliff, Mr. Amadio, and Dr. Kennaugh by the Bad Actors they have suffered irreparably harm, their constitutional rights have been trampled, and they have been publically tried, accosted, and humiliated. You are in a position to help remedy the wrongdoing of the Bad Actors and help the victims of the Bad Actors to begin the process of rebuilding their lives.

As suggested by the United States Supreme Court, other Federal and California State Courts of Appeal, and the California Bar Association we request an investigation of the Bad Actors for their wrongdoing, abuse of the judicial system, and other illegal conduct.

II. FACTS SUPPORTING VOLUNTARY DISMISSAL WITH PREJUDICE OF CASE 0303309; INVESTIGATION OF DISTRICT DEPUTY DISTRICT ATTORNEY GARY THELANDER, THE MONTEREY COUNTY SHERIFF'S OFFICE, SHERIFF DEPUTY DON RATCLIFF, SHERIFF DETECTIVE STEVENS, AND SEASIDE POLICE DEPARTMENT

A. Facts Leading Up to The Arrest

On or about mid April 2009 Helen Sage Ratcliff (Ms. Ratcliff) met Angelo Benjamin Amadio (Mr. Amadio). Mr. Amadio at that time was a third year law student at Monterey College of Law. Ms. Ratcliff told Mr. Amadio that she was 23 years old, when in fact she was only 18. Over the following two weeks Ms. Ratcliff and Mr. Amadio became good friends and began dating. During that time Mr. Amadio learned that Ms. Ratcliff had suffered childhood sexual abuse at the hands of Cole Fox (Mr. Fox). Mr. Amadio also learned that Mr. Fox recently plead guilty to charges for having unlawful sex with a minor "Ms. Ratcliff" and was convicted in the Superior Court of California County of Monterey Case Number CRSS081809A.

For approximately two years prior to meeting Mr. Amadio, Ms. Ratcliff had been in and out of psychotherapy treatment due to the abuse suffered at the hands of Mr. Fox, and her family. Ms. Ratcliff had been mentally and physically abused by her father Don Ratcliff, mother Karen Chickering, and step father Nick Chickering (parents). The abuse ranges from early childhood starvation to abandonment. Ms. Ratcliff, for her entire life, has been exposed to a seriously dysfunctional family. This can be seen in the fact that for approximately two decades Ms. Ratcliff's parents battled in and out of court for legal custody of their children.

In the third week of April 2009 Ms. Ratcliff expressed the desire to have independent medical treatment outside of the undue influence of the parents. Ms. Ratcliff's parents are extremely wealthy and use their money and connections to influence the judgment of others. This includes medical professionals, private attorneys, the DA's Office, and the SO. At all costs the parents force their will upon everyone, even if they are not right. Because of the undue parental interference Ms. Ratcliff has never received proper medical treatment. Ms. Ratcliff expressed the desire to find new and independent psychotherapists outside of the undue influence of her parents, their money, and connections. Mr. Amadio promised to help her.

Mr. Amadio at that time was conducting research for and was an agent of Attorney Shawn Mills (Attorney Mills). Mr. Amadio expressed Ms. Ratcliff's desire to seek independent psychotherapy to Attorney Mills. Attorney Mills permitted Mr. Amadio "acting as an independent paralegal" to inform Ms. Ratcliff she had the right to revoke all prior HIPAA releases provided to her current psychotherapists. The third week of April 2009, Ms. Ratcliff revoked all prior HIPAA consent provided to her medical providers who were instructed to send any requests violating Ms. Ratcliff's HIPAA protected rights to his office first. To date no such request has ever been received.

Following Ms. Ratcliff revoking HIPAA “prohibiting her parents communication with her psychotherapists” the parents launched a malicious campaign attacking the character of Mr. Amadio. This attack included broadcasting to all of Ms. Ratcliff's friends that Mr. Amadio was another Mr. Fox, a rapist, drug addict, killer, who would either kill and or harm Ms. Ratcliff, sell her into the sex slave trade, or alternatively sexually assault Ms. Ratcliff. All allegations made against Mr. Amadio by the parents were done falsely, and in no way reflect Mr. Amadio's character, but the opposite. Now Mr. Amadio in both the professional world and public eye has been labeled some sort of criminal and sex offender. Stigma that is unwarranted, false, and difficult to overcome.

The parents stole Mr. Amadio's driver's license, number, and address's from the license. The parents then hired an attorney, Mary Martinelli (Mrs. Martinelli), of Sacramento to conduct an illegal background check into Mr. Amadio. Mrs. Martinelli and the parents contacted numerous individuals including some of Mr. Amadio's business associates and clients telling them, “Mr. Amadio is going to kill, rape, drug, and sell Ms. Ratcliff into the sex slave trade.” In essence, every single business associate of the parents and all of Ms. Ratcliff's friends, parents of her friends, and some of Mr. Amadio's associates were told that Mr. Amadio was this evil person who will do unspeakable things to Ms. Ratcliff. Despite the fact that none of what Mrs. Martinelli and the parents said was true the father being a Deputy at the SO, the stepfather allegedly being a retired CIA employee, and Mrs. Martinelli being a partner at a very large law firm gave their false statements credibility.

Following rejection by Mr. Amadio's business associates and friends to discuss anything regarding Mr. Amadio, his businesses, and character, with Mrs. Martinelli the parents via Mrs. Martinelli attempt to steal Mr. Amadio's social security number. Mrs. Martinelli asked Ms. Ratcliff to look for his social security card or “tax returns somewhere in his files” so she could give it to an ex-FBI agent to do a complete background check. Mrs. Martinelli wanted more than a basic background check, which had been provided to the parents showing that Mr. Amadio and Dr. Kennaugh had no criminal record and were of no risk to Ms. Ratcliff.

Mr. Amadio had known Ms. Ratcliff less then two weeks yet was now embroiled in a family dispute because Mr. Amadio was keeping his promise to helping Ms. Ratcliff receive independent medical treatment. The parents continued to tell and write to Ms. Ratcliff's closest friends, medical professionals, the SO, DA's Office, and private attorneys, that they feared that they would never see Ms. Ratcliff again because she and Mr. Amadio were soon going to Boston and Mr. Amadio was going to drug and kill her or sell her into the sex slave trade.

During this time, Mr. Amadio received numerous threats by email from the parents. On April 21, 2009 Mr. Ratcliff sent Ms. Ratcliff and email stating that... “Mr. Amadio is devious and a predator of young females” which was completely untrue despite the fact

the Mr. Ratcliff may have believed what he said to be true. Deputy Don Ratcliff, as will be shown below, was relying on disinformation from the other two parents, one of which is his ex-wife who he had spent two decades locked in legal battles over custody due to her bi-polar disorder and other psychological issues resulting in abuse and neglect of the children. The parents had emailed Ms. Ratcliff in an attempt to convince her that Mr. Amadio was not who he said he was “a semi successful business person now completing law school” stating that he was blue collar, living in Seaside which “no successful business person would do...” did not own the home he lived in. Mr. Amadio was not being attacked because of who he was, but that the parents believed he was not good enough “blue collar” for their daughter Ms. Ratcliff.

On April 25, 2009 at 12:24, Mr. Amadio received another threatening email stating “Sage is not going east with you without the severest of consequences.” “...Mr. Amadio’s character and values were in question.” Statements later broadcasted almost verbatim by the SO in regards to the art heist. A second email at the same time requested Mr. Amadio contact Ms. Ratcliff’s psychotherapists, as they did not approve and stated, “her therapists do not support her going east... you most assuredly jeopardize her life and health”. What is not mentioned is that the parents had contacted the therapists and told them that they feared Mr. Amadio was going to kill Ms. Ratcliff, drug, rape, or sell her into the sex slave trade. Which certainly would affect any opinion to the listener regarding Mr. Amadio. Mr. Amadio replied that he would not violate Ms. Ratcliff’s trust and contact her therapists without Ms. Ratcliff’s express consent in line with HIPAA. Mr. Amadio replied to the On April 25, 2009 email at 7:44 PM the same day expressing to the parents “not to make another threat...” At all times Attorney Mills was informed on the ongoing and escalating situation between the parents and Mr. Amadio.

On April 30, 2009 Ms. Ratcliff received a letter from her parents throwing her out of their home stating...

“...your decision to undermine a background check for this character demonstrates a complete lack of judgment and understanding of your parents good faith efforts to protect you. Mr. Amadio’s almost hysterical reaction to a background check is hardly reassuring... Don’t come back here, and don’t expect any support, **none**.”

Ms. Ratcliff, homeless, took an Amtrak train that evening to Salinas, CA . Mr. Amadio retrieved her because he and Ms. Ratcliff planned on going to Boston “Mr. Amadio’s second home” on May 1, 2009. The purpose was so Ms. Ratcliff could seek out and receive confidential medical treatment without the undue influence of her parents.

B. The Arrest

On May 1, 2009 at approximately 2:00 PM The SO arrested Ms. Ratcliff. This occurred hours prior to Ms. Ratcliff's scheduled departure to Boston, MA. Deputy Don Ratcliff requested Ms. Ratcliff be arrested prior to her departure because he feared she would be killed or sold into the sex slave trade. Ms. Ratcliff has been charged with eight felonies based on the SO Report for allegedly forging and depositing four of Deputy Don Ratcliff's checks without permission. Superior Court of California County of Monterey Case Number 0303309.

The SO report itself expresses serious doubt as to the legitimacy and reasons for Deputy Don Ratcliff seeking to have his daughter arrested.

Deputy Don Ratcliff incorrectly states due to a misdiagnosis because of parental interference in Ms. Ratcliff's medical treatment. "...that Ms. Ratcliff is bi-polar..." "...He did not report the fraud sooner "checks were allegedly taken and deposited on or about March 27, 2009 complaint p. 1" because he wanted to handle the matter without involving the police..." But Helen had been dating a man named "Mr. Amadio"... he felt Helen "was being taken advantage and the relationship was inappropriate." That he recently learned of Helen planning to go to Boston... he believed Helen might end up remaining in Boston... That he kicked Helen out of his house..." SO Report p. 1

Deputy Don Ratcliff states... "he did not believe he had the ability to rehabilitate Helen without outside assistance. I asked if he was pressing charges to keep his daughter from going to Boston, but he knew it was not realistic Helen would be arrested before her trip. Don told me her flight did not depart until sometime in the evening on 05/01/09." *Id* at p. 2 ¶ 3.

"Don told me he feared for Helen's safety with Angelo.... that Helen was a past victim of sexual assault (unrelated to this case) and worried Angelo might cause her further psychological or physical harm... he did not have any specific facts or evidence to support his fear, other than his paternal instinct." *Id* at p. 2 ¶ 4.

The Bank "Wells Fargo" did not suspect the checks to be fraudulent and did not call Deputy Don Ratcliff because "... they were deposited directly into her account... there were no "red flags"... both had used the bank frequently in the past... so the bank employee believed the checks to be genuine." *Id* at p. 3 ¶ 1-2.

Ms. Ratcliff was arrested at Mr. Amadio's home while returning from a jog. Mr. Amadio told the arresting Deputy and "unknown individual" with the Deputy, presumably a SO Detective, that as long as they were "ONLY" at his home to conduct a Welfare Check he would tell them where she was. This was not included in the SO Report. That he was an agent of her attorney Shawn Mills and if they were there for any other reason they should contact Attorney Mills. That the parents has been harassing Mr. Amadio for the past two weeks, attempted to steal his identity and look into his financial background.

Mr. Amadio was assured that the SO was present to conduct a welfare check as Deputy Don Ratcliff was in fear for his daughter's safety. Based on this Mr. Amadio disclosed the approximate time Ms. Ratcliff was expected to return. Upon her return she was arrested. The Deputy told Mr. Amadio of Ms. Ratcliff's arrest and proceeded to ask Mr. Amadio if he was part of the alleged crime. Mr. Amadio essentially replied "how is that possible I did not even know her when the checks were allegedly stolen and deposited." The Deputy then asked to see Mr. Amadio's bank statement to which Mr. Amadio replied "this is what the parents have been trying to get, if you want it subpoena it." The Deputy explained that he wanted to be certain Mr. Amadio did not receive funds from Ms. Ratcliff as Deputy Don Ratcliff had accused. Mr. Amadio replied "how would my bank statement reflect any cash deposit from Ms. Ratcliff as you told me she cashed the checks. How would a cash deposit reflect who gave me the money... if you want to see my bank records subpoena it and contact my attorney Shaun Mills."

Once in transport Ms. Ratcliff noticed a large file in the possession of the arresting Deputy and another individual who appeared to be a SO Detective. The file contained Mr. Amadio's picture, and appeared to contain illegally gained information from the parents. This office has yet to receive a copy of this file as we have been told it is part of an ongoing investigation.

Ms. Ratcliff did assert her rights and refused to communicate with the SO following her arrest, stating that Attorney Mills represented her.

C. Post Arrest

On May 1, 2009 in the early evening Mr. Amadio was threatened at gunpoint "by who he and Ms. Ratcliff believe to be friends of the parents "either current or ex-CIA as the step father has connections in intelligence community or by friends of Deputy Don Ratcliff from the SO." In essence not help Ms. Ratcliff or he would be killed". Mr. Amadio called the FBI to report the incident and ultimately the Seaside police department who did not take the threat seriously. Mr. Amadio wrote down details following the threat to which the Seaside Police Department refused to review. Additionally, Mr. Amadio offered to provide evidence of the threatening email from the parents I.e. "Sage will not be going east with you without the severest of consequences." The Seaside Police Department refused to review this evidence, stating "Do you seriously want me to believe a SO Deputy would jeopardize his job and freedom over this..."

The Seaside Police Department did contact Deputy Don Ratcliff where they proceeded to laugh about the allegations Mr. Amadio had reported against the parents. It is clear from this fact that cronyism and the protection of fellow officers takes precedence over legitimate complaints and threats to lives of Monterey County residents.

Mr. Amadio was contacted numerous times by the Seaside Police Department to "come in for a one on one interview". The Seaside Police Department was unaware that Mr. Amadio had been informed that the Seaside Police Department intended on charging

Mr. Amadio with filing a false police report. Mr. Amadio in reply told the Seaside Police Department that he was aware of their true intentions of protecting fellow officers and not protecting citizens... that if they wanted an interview it could be done either at Mr. Amadio's home or at Attorney Millis Office, either way with his attorney present. Seaside Police refused.

In the limited report, which this office did not receive, but was provided by a citizen the report, incorrectly states that Mr. Amadio refused interviews and the case is closed as a result. Seaside Police Report Number 2009-0505033. Oddly the limited report provided instructs this office to contact the SO and Det. Stevens as he is handling the investigation. We are deeply concerned that exculpatory evidence has been excluded from the report. We are even more concerned that a good friend of Deputy Don Ratcliff "Det. Stevens" is now investigating a complaint filed against his own friend. This appears to be is a serious conflict of interest. How can a detective from the SO investigate a complaint filed against his friend in the City of Seaside, CA reported to the Seaside Police Department, who also refused to review and receive both circumstantial evidence and exculpatory evidence of the parent's guilt threatening Mr. Amadio and Ms. Ratcliff?

On May 2, 2009, Ms. Ratcliff was bailed out of county jail by Mr. Amadio and promptly flew to Boston. Mr. Amadio and Dr. Kennaugh bailed Ms. Ratcliff out in fear of her then existing mental state and need for independent psychotherapy care. Mr. Amadio and Dr. Kennaugh feared that Ms. Ratcliff would commit suicide while detained and felt both ethical and moral reasons compelled not only bailing her out, but also bringing her to Boston. Ms. Ratcliff later confirmed that had she remained in county she would have committed suicide.

Ms. Ratcliff returned from Boston, as promised, on or about May 11, 2009. Ms. Ratcliff was safe, relaxed, and ready to tackle her legal problems. He parents were clearly not correct as Mr. Amadio had not killed, raped, drugged, or sold her into the sex slave trade.

On the evening of May 15, 2009, hours prior to Ms. Ratcliff's scheduled arraignment her parents told her that she had to fire her attorney. The reasoning is that the parents apparently had meetings with the DA stemming all the way back to the week prior to Ms. Ratcliff's arrest. "This is confirmed in emails from the parents to Ms. Ratcliff." In essence Ms. Ratcliff was told that if she wanted the charges to be dropped that she had to take the deal "worked out the week prior to her arrest" that the parents and DA "Deputy District Attorney Gary Thelander (Mr. Thelander) had worked out." At no point in time was attorney Mills informed of such meetings nor of such a deal.

The following morning May 15, 2009, at approximately 10:00 AM, Ms. Ratcliff was arraigned. She retained the services of Attorney Paul Meltzer (Mr. Meltzer) at a cost of \$15,000.00. Following the arraignment without the presence of either Attorney Mills or Mr. Meltzer the Mr. Thelander, the parents, and other family of Ms. Ratcliff "aunts, and grandparents" met with Mr. Thelander in his office. Mr. Thelander first met with Ms.

Ratcliff ex-parte in which Ms. Ratcliff was led to believe that if she attended Second Nature Entrada (Entrada) “a treatment camp that repairs damaged parent child relationships, and allegedly treats abused young adult” and completes the program successfully then the charges would be dropped. The parents then joined the ex-parte meeting the result of which is that Ms. Ratcliff agreed to attend Entrada for approximately 6 weeks and upon successfully completion of Entrada then the charges would be dropped.

Ms. Ratcliff successfully completed Entrada in the top five percent of all graduates yet they charges have not been dropped. Ms. Ratcliff was told the program would only take six weeks yet it took approximately eleven weeks. Upon completion and learning the charges would not be dropped and in fear of breaching the agreement, Ms. Ratcliff was then transferred from UT to OR to Dragonfly Transitions (Dragonfly), which was never part of the deal. Ms. Ratcliff’s parents have refused to pay for additional treatment, as a result Ms. Ratcliff has once again been forced out and Mr. Amadio forced to help. Ms. Ratcliff spent 202 days doing what was requested of her of which all of her time spent at Dragonfly was against her will and not part of the agreement. She was told she had to complete Dragonfly or the DA would put her back in jail.

D. Conspiracy Between The Parents, The Personal Relationship with Deputy DA Gary Thelander, And SO

The parents have a close and personal friendship with Mr. Thelander, the SO, and worked with each other to illegally arrest Ms. Ratcliff and to falsely attack Mr. Amadio and Dr. Kennaugh. This is supported in writings from medical providers as indicated in Ms. Radcliff’s medical file reflecting conversations between the medical providers and Mr. Thelander as well as letters and email contained in Ms. Ratcliff’s medical record from the parents. The personal relationship between the parents and Mr. Thelander dates back to when Ms. Ratcliff reported her being sexually assaulted by Mr. Fox. The following are excerpts from email and medical files belonging to Ms. Ratcliff.

“The legal proceedings are ongoing, and her treatment at Second Nature is part of these proceedings.” Medical File Notation from Entrada Under Mental Health History.... And Gary Thelander is the Monterey County DA handling the Cole Fox case.
Id.

“...we believe Sage may be in danger with Angelo Amadio and hope to have him removed from her life... We ask the court to require her to participate in the health care plan we have researched extensively and submitted herein as part of her probation. We ask the court to provide a restraining order against Angelo Amadio for Sage’s protection.” Request to Mr. Thelander from the parents.

“...I have been flying the helicopter a lot for the Search and Rescue team (SAR) and Sheriff... I am very impressed with the dedication and gung ho qualities of this group of

deputy sheriff's... I am a sworn in deputy now..." Note within the Entrada medical file to Ms. Ratcliff from Deputy Don Ratcliff dated May 21, 2009.

"You should know that your mom and I are talking everyday, sometimes many times... Nick has been my biggest supporter, and your mom's." *Id.*

"...after your hearing with an excellent attorney representing you and you and our meeting with the DA in his offices, where you were reassured you had options besides being stuck with felony convictions and having to serve jail time..." Note within the Entrada medical file to Ms. Ratcliff from Karen Chickering undated.

"I have to respond to your accusations that your parents acted with unfair judgment and distrust of Angelo... I can only reflect that this relationship feels like I have been here before; I heard you talk about Cole Fox in the very same insistent, big girl please at how wonderful this guy was, how he's the best friend you've ever had... Try to understand that because I was divested by what happened in your relationship with Cole, I cannot accept this friendship with Angelo.... Once already you were deeply traumatized and violated by a man several years older than you, and I do not want to take part in the chance that that will happen again... this whole affair makes me feel sick and frightened." *Id.*

"...As your father said in the DA's office: "you are part of us, and therefore we can't imagine not having you in our lives."" *Id.*

"I gave it my very best to talk you out of flying to Boston... with a man you had known two weeks, who your parents found to be a very bad man... a suspected predator..."
"You had to make your own mistakes even if it ruined or cost you your life. I **saw no other alternative**. I told you that I was not the man in the movie we had seen ("Taken"), and I did not have the skills to save you from fate. I believed there was a serious risk you would end up a sex slave..." Note within the Entrada medical file to Ms. Ratcliff from Deputy Don Ratcliff dated May 21, 2009.

Clearly, Deputy Don Ratcliff had reason to file false charges against his daughter as he "saw no other alternative." *Id.*

"...the next day a Seaside Police Detective called me... He told me he believed Angelo had filed a false police report and would pin it on him if he could prove it... He laughed and so did I. You believed your parents had hired a hitman." Impact Letter to Ms. Ratcliff within the Entrada medical file from Deputy Don Ratcliff dated May 24, 2009.

"You will never know how fortunate you were at your arraignment May 12 that the Deputy District Attorney took you and your family aside to his office. Without that, you would not be at 2nd Nature, you would be in and out of jail. Fate was on your side at that moment, you get another chance." *Id.*

"Gary Thelander is a Deputy District Attorney ("DDA") for Monterey County. He is

a **powerful man** in the Monterey Superior Court. **He offered you the opportunity to attend 2nd Nature as an alternative to further court proceedings** and to avoiding the felonies on your record. **If he is satisfied that you are following through on a program of health as recommended by your parents... he will not file any charges against you.** Gary, as a DDA, has that power.” Note within the Entrada medical file to Ms. Ratcliff from Deputy Don Ratcliff dated June 5, 2009.

“Your mom hired one of the best defense attorneys in... (Gary told me he is the best defense attorney he knows). This attorney has little that he can do at this point, except communicate with Gary and be present at your scheduled court appearance on your behalf. Sage, you requiring that your attorney not communicate with your parents was a short sighted thing for you to do, as it has greatly inhibited his ability to work on your behalf – Please rescind that restriction now by sending me or your mom or your attorney a letter to that effect.” *Id.*

At this point in time, Ms. Ratcliff was told by therapists at Entrada that if she did not sign a consent form waiving attorney client privilege between her and her parents that she would go back to jail. Under this coercion Ms. Ratcliff signed waiver in the belief that she would otherwise be sent back to jail for not cooperating with her Deputy Officer father and the Mr. Thelander of the District Attorney’s Office.

What I promised is still true today... you only need worry about your own health... not the court... or other legal consequences... The is of course dependent on you forging ahead with 2nd Nature Entrada... *Id.*

“What happened to you with Cole Fox and more recently with Angelo, does not have to squelch your goals and dreams... It may seem like you have lost so many years in the mess of Cole Fox and Angelo... Though it sounds cliché, it is really true... I have to admit that I am still concerned that you hold out hope for a friendship with Angelo.” Note within the Entrada medical file to Ms. Ratcliff from Karen Chickering dated June 14, 2009.

“I am still worried about you with Angelo... I have the impression you are not over him, and so he can still harm you... Having that “sword” removed from your stomach must be a wonderful feeling! Now don’t ever let it get re-inserted for GOODNESS SAKE!!” Note within the Entrada medical file to Ms. Ratcliff from Deputy Don Ratcliff dated June 29, 2009.

“...I made an assumption about Angelo, which turned out to be wrong... we understood his goals were not ours. We were operating on our parental instincts.” Note within the Entrada medical file to Ms. Ratcliff from Karen Chickering undated.

“Mom filled out the “Entrada” application from Sage as if she was Sage...” Email from Lori at Entrada to Tara Cook May 13, 2009.

“Rick is aware of Felony charge pending against Sage. The charge relates to her stealing money from her father by forging his name on checks and using his credit card.

Dad will not seek to drop charges unless/until Sage completes a full course of treatment. DA is cooperating and in favor of her enrollment.” *Id.*

“If the DA let’s me come to 2nd Nature, I will come. Otherwise I may be looking at jail time. If I do not complete the program, I am told that I will go back to jail because I broke the agreement.” Entrada Medical File Application Filled Out By Karen Chickering in Ms. Ratcliff’s Name date unknown but was faxed to The Chickering Company May 13, 2009 at 9:09 AM.

The above quotes reflect a clear and malicious attack upon Mr. Amadio and provide serious doubt as to the charges levied against Ms. Ratcliff. The parents had motivation for falsely accusing Mr. Amadio of being a rapist, criminal, murderer, he was not cooperating with them and was providing Ms. Ratcliff the tools to take care of herself I.e. Independent medical treatment. The parents have used the DA attack Ms. Ratcliff and Mr. Amadio. The parents have used the SO to do the same.

E. Post Ex-Parte Plea Agreement

Ms. Ratcliff graduated Entrada in the top five percent of all graduates. Yet upon return 13 weeks later “she was promised no more then six weeks by the Mr. Thelander” that she must now go from UT where Entrada is located to OR for additional treatment at Dragonfly Transitions. Ms. Ratcliff was told that if she did not go the charges would not be dropped. This was never part of her original agreement when she went to Entrada. Ms. Ratcliff has spent a total of 202 days out of state, without phone, or regular email, or the ability to communicate with those who could have helped her. Mr. Thelander did this intentionally and her parents as indicated in the referenced medical record and email above.

Ms. Ratcliff begins protesting her confinement at Dragonfly in which her parents then again decided to cut her off. This occurred fourteen hours prior to her November 12, 2009 Prelim Setting, and was done as an attempt to make her miss her scheduled appearance. Ms. Ratcliff was able to reach Mr. Amadio who understood the importance of her required appearance. Mr. Amadio drove 950 miles round trip to ensure Ms. Ratcliff make her 10:00 hearing on time. Ms. Ratcliff was returned safely “to the surprise of her medical providers see above as Mr. Amadio has been portrayed as a criminal, rapist, killer, sex slave seller, etc.” Her medical providers state “we are surprised you returned, your parents thought you were going to be sexually abused, etc.” Again these statements are unduly influencing Ms. Ratcliff’s medical care. To date Ms. Ratcliff has never received proper medical treatment due to her parent’s undue influence and interference with her psychotherapists.

Because Ms. Ratcliff’s parents “are not happy with recent decisions in her life” those

that are against the family, such as exposing their lies and malicious attacks upon anyone that attempts to help her, they have cut her off permanently. Ms. Ratcliff was forced to leave Dragonfly on December 1, 2009.

Prior to leaving Dragonfly Ms. Ratcliff expected stipulation to settle Cole Fox's criminal restitution to be reached. It was. However, to date Mr. Thelander has placed the interests of Deputy Don Ratcliff above the needs of the rape victim herself Ms. Ratcliff and refused to agree to stipulation. Ms. Ratcliff has suffered serious financial loss such as missing work for almost a year, requires the stipulated criminal settlement to begin independent medical treatment, and the healing process. All factors and reasons the CA legislature considered valid reasons for requiring criminal restriction when adding the requirement to the CA Constitution.

Mr. Thelander is allowing multi-millionaire, Deputy Don Ratcliff, to demand full reimbursement under criminal restitution allegedly for Ms. Ratcliff's medical expenses including Entrada and Dragonfly. Despite the fact that Ms. Ratcliff only went to Entrada and Dragonfly because she believed it to be part of her plea agreement and was instructed to do so by her parents and Mr. Thelander. Deputy Don Ratcliff via Mr. Thelander are using the criminal system to violate Ms. Ratcliff's constitutionally protected right of criminal restitution. Deputy Don Ratcliff is of the means to pursue reimbursement against Cole Fox through the civil court system. Ms. Ratcliff is able to pursue any damage not received through criminal restitution civilly as well. Allowing Deputy Don Ratcliff to seek full reimbursement for alleged expenses related to Cole Fox is a grave abuse of the criminal court system and victim restitution. This is just another example of Mr. Thelander's personal relationship with Deputy Don Ratcliff and their lack of concern for constitutionally protected rights of the persons of the State of California and the United States.

E. The Pebble Beach Art Heist and Relevant Facts

May 2009, Ms. Ratcliff and Mr. Amadio plan trip to Boston to help Ms. Ratcliff see independent psychiatrist for her issues regarding childhood sexual assault by unrelated third party and parental abuse. May 2009, Ms. Ratcliff's stepfather, acting with Ms. Ratcliff's mother and father Deputy Don Ratcliff, sent email to Mr. Amadio stating that "Sage will not be going east without the severest of consequences." May 2009, after "severest consequences" email, Mr. Amadio was threatened with gun to back of his head, a police report was filed with Seaside Police department who did not take complaint seriously. Report Number 2009-0505033. Believe Sheriff's Office responsible or CIA associates of the stepfather. See above for details.

May 1, 2009, Don Ratcliff had daughter Ms. Ratcliff charged with felony embezzlement the same day Mr. Amadio was threatened at gunpoint, following the "severest consequences email." See details above.

From May to August 2009, Law Office works on cancelling HIPAA releases and gets Sage independent counseling against protests of Ms. Ratcliff's parents.

June 21, 2009, Mr. Amadio moves into rental home at 4027 Sunridge Road, Pebble Beach, CA; rented from Carmel Rentals; Dr. Kennaugh to follow in July 2009. July 2009 Mr. Amadio discovers that Carmel Rentals will not honor its promise to allow a burglar alarm to be installed; Carmel Rentals repeatedly refuses to fix broken windows and doors that will not lock properly.

July to September 2009, Law office which writes three letters to Carmel Rentals, 2 letters sent certified, all complaining about lack of services and breach of contract; still not allowed to put in burglar alarm; broken window in bedroom still not fixed

June to July 2009, Todd Griffiths packs up Dr. Kennaugh and Mr. Amadio's household in Boston, Mass. July 2009 Mr. Amadio flies to Boston and he and Todd drive the most valuable art across the country, in a climate controlled professional moving truck; Gentle Giant movers move rest of art and furnishings in a professional moving truck.

July 2009, Dr. Kennaugh and remainder of art and furniture arrive in Pebble Beach. David St. John, insurance broker for health, life and casualty insurance, meets with Dr. Kennaugh and Mr. Amadio in their Pebble Beach house and selects Farmers Insurance to write casualty insurance (rental coverage, interior contents and special riders for art). Jerry Seagreaves of Farmers meets with Mr. Amadio and Dr. Kennaugh numerous times at their Pebble Beach house to begin the process of providing a casualty policy to be issued by Farmers Insurance.

From July to September 2009, David St. John begins interactive process to get Mr. Amadio and Dr. Kennaugh health insurance; Jerry Seagreaves begins process to get rental coverage and riders for art

August 2009, Jerry Seagreaves finds that continuing the AIG riders to cover the artwork will be the most efficient process for obtaining casualty insurance. From August to September 2009 Jerry Seagraves orders background information on policies from AIG; no response or delayed response to requested documentation

August 17, 2009, Mr. Amadio and Dr. Kennaugh's AIG coverage is cancelled due to non-payment of the July 2009 bill, which was never transferred as requested to the Pebble Beach house unbeknownst to Mr. Amadio and Dr. Kennaugh.

September 2009, Angelo retrieves artwork provenance (chain of title) from storage in Boston and brings banker's box to Pebble Beach for Jerry Seagraves to inspect. September 2009, Jerry Seagreaves inspects banker's box containing provenance for paintings to be insured and certifications for loose gemstones to be insured.

From August to September 2009, Todd Griffiths' educational and rental stipend cancelled by Dr. Kennaugh (Eagle Foundation grant) when Mr. Amadio discovers Todd Griffiths lied on his grant application and had been previously convicted of theft and served 5 years in prison.

I. Events of September 25 2009, the date of the art heist in Pebble Beach

Mr. Amadio and Dr. Kennaugh schedule an appointment with realtor to look for rental or purchase property in Santa Cruz, CA and leave Pebble Beach around noon to look at property in Santa Cruz. Emily Santner (Ms. Santner) arrives home at the Pebble Beach house at approximately 4:00 p.m. and gets ready to go to work at La-La Grill around 6:00 p.m. Ms. Santner leaves the Pebble Beach house around 5:45 p.m. to arrive at work at 6:00 p.m.

Mr. Amadio and Dr. Kennaugh return home to the Pebble Beach house driveway at approximately 6:52 p.m. Tim Crawford, business associate delaying parking of the vehicle in the garage and entering the Pebble Beach home, called Dr. Kennaugh on cell phone. Mr. Amadio parks car in garage and Dr. Kennaugh enters house after call concludes and immediately notices a laptop computer and Tom-Tom navigation unit on the ground by the dining nook, not the table where they are normally placed.

Dr. Kennaugh looking towards the center of room and sees 3 framed paintings missing (Rembrandt & Renoir). Mr. Amadio then enters home and is told by Dr. Kennaugh, "we've been robbed!" Computers and hard drives, containing the province of artwork were also stolen. Banker's box upstairs with artwork provenance and gem certifications

is stolen. [Mr. Amadio and Dr. Kennaugh uncertain as to how much art work was taken since most of art was unframed and in proper storage boxes, no inventory list because computer, hard drives, and Banker Box were stolen which contained the formal inventory list to check against.]

Mr. Amadio finds envelope of \$3,100 cash missing from his room. Mr. Amadio calls the SO, although with reservations since Don Ratcliff works there. Sheriff's Office arrives; female officer refuses to fully enter Emily's bedroom where thieves came into the home because "she is allergic to cats." Approximately 20-40 minutes later two more SO Deputy's arrive one works in the Search and Rescue division "the same as Don Ratcliff."

Bedroom window has screen pushed in; this is the broken window that Carmel Rentals failed to fix. SO takes report but failed to take documentation in folder detailing art work stolen. SO tells Mr. Amadio and Dr. Kennaugh "not to touch anything" until they return as it could taint the crime scene prohibiting a proper inventory check of missing art. The SO does not return until 4 days later, September 29, 2009; no calls from SO during that time.

Mr. Amadio and Dr. Kennaugh offered a \$1M reward for the return of the paintings, no questions asked, or a \$5M reward for the capture of the thieves. Mr. Amadio and Dr. Kennaugh stated clearly from September 25, 2009 forward, they did not have the estimated \$27.5M in paintings insured (so no insurance fraud is possible!)

II. Events after September 25, 2009 art heist

Det. Stevens "friend of Don Ratcliff" arrives at Pebble Beach house at 10 a.m. on September 29, 2009, 4 days after theft. Det. Stevens first question had to do with Ms. Ratcliff, not the art theft, leading to the assumption that Don Ratcliff has undue influence within the SO. Det. Stevens asks Mr. Amadio how much money he was making for helping Ms. Ratcliff with her legal matters and if the Law Office would file a potential civil suit against Cole Fox, SO, and others (including Don Ratcliff) and how much was Mr. Amadio going to make.

Det. Stevens began asking questions about a defunct MA corporation, Manx Puppies, that Mr. Amadio and Dr. Kennaugh was involved with. One person in Salinas, CA had complained on the internet about the dog he purchased 2 years ago, although he did not make a warranty claim or notify the company in writing of any issues, and wrote multiple false and malicious complaints online using aliases.

Det. Stevens, while in the upstairs office, started to look in the Law Office's private client files. Mr. Amadio and Christopher Marohn ordered him to stop. The box was clearly marked "**CONFIDENTIAL ATTORNEY CLIENT WORK PRODUCT**".

The SO repeatedly asked Mr. Amadio and Dr. Kennaugh to prove the artwork's existence, even though their box of provenance (chain of title) was stolen. SO refused to acknowledge photographs of the artwork in their home and past art gallery and refused to contact a single witness to verify the authenticity and existence of the art. Det. Stevens was told about the unlocked guesthouse and unlocked garage, that Mr. Amadio and Dr. Kennaugh believed someone had been entering the home over the prior two weeks. But they had no evidence of this other than the fact that the guest house appeared to have been used, slept in, and the shower was once wet but had not been used in a few weeks.

Mr. Amadio and Dr. Kennaugh told Det. Stevens the morning after the theft that they discovered a key in one of the motorcycles and Mercedes in the garage. This was unusual as the keys are kept in the house, separate from the garage. Det. Stevens told Mr. Amadio and Dr. Kennaugh that this was impossible and not believable, then stated "if the art existed" implying Mr. Amadio and Dr. Kennaugh were not being honest.

Mr. Amadio and Dr. Kennaugh learn through the landlord's realtor that apparently a lock box for the Pebble Beach house containing keys had gone missing. Not knowing this, Mr. Amadio and Dr. Kennaugh never requested the locks be changed.

The SO was provided a folder with information about the stolen artwork for the second time; more information had been located since the theft; and Det. Stevens only took part of the file with him. The fingerprint expert dusted the window in the bedroom with the screen pushed in on September 29, 2009 but did not dust a sliding door that had been moved, nor did they dust around the paintings still remaining that were adjacent to the ones which had been stolen.

News crews, including ABC, arrived at the Pebble Beach house on the morning of September 29, 2009. While Det. Stevens and the fingerprint expert were present, Christopher Marohn found a ransom note on the floor next to one of the paintings; it said basically "if you tell the police we will kill you" and "we want \$10M" for the return of the paintings. This office believes either the note had fallen from an obvious location and was behind the area next to where the Rembrandt's and Renoir were placed or alternatively the note was placed by the SO to discredit Mr. Amadio and Dr. Kennaugh.

Upon Christopher Marohn finding the ransom note, Mr. Amadio and Dr. Kennaugh immediately notified the Det. Stevens. The SO then broadcast the contents of the ransom note on their police scanner. Vicki St. John heard from the news crews that they picked up on the police scanner broadcast of the ransom note and they begin asking Mr. Amadio and Dr. Kennaugh about the ransom note. Mr. Amadio and Dr. Kennaugh do not answer any questions pertaining to the ransom note.

The FBI was called but had no jurisdiction since there was no proof the artwork had crossed state lines or left the country. The SO gave numerous press releases and news conferences using phrases like "if the paintings really existed" and "hoax" and "investigation of a possible criminal enterprise."

Mr. Amadio and Dr. Kennaugh working with the Law Office, put together extensive information on the paintings, possible suspects in the robbery and witnesses that could testify that the art really existed. Christopher Marohn provided this information to the SO the week prior to the Sheriff's Office press conference stating that Angelo and Ralph were not cooperating. The SO was also provided this information by Vicki St. John prior to the SO holding the press conference stating that Mr. Amadio and Dr. Kennaugh were not cooperating.

The SO did not (and has not) contacted or called anyone of the suspects, witness, or art verification lists provided, other than Todd, but did say "Todd had an alibi." Suspects include the parents of Ms. Ratcliff, including Deputy Don Ratcliff.

On October 9, Vicki St. John conducted a press conference on behalf of Angelo and Ralph, and distributed an updated list of paintings stolen (which was provided prior to the news conference to Det. Stevens by fax and by email to Det. Stevens from Attorney Mills. Det. Stevens complained the following week the "art images were too fuzzy to help their investigation." Yet, he was provided a .PDF of the images on October 9 and full color images and history had been provided the week before.

The SO accused Mr. Amadio and Dr. Kennaugh of refusing to cooperate even though they provided information to the Sheriff's office on five separate occasions either directly, through the Law Office, and then by fax. Mr. Amadio, Dr. Kennaugh, David St. John, Vicki St. John, and Christopher Marohn continued to get constant calls from the press during the month of October 2009.

Mr. Amadio and Dr. Kennaugh met with an insurance investigator from Farmers on October 20, 2009 to discuss the theft of various household items (covered under renter's insurance) and the art work (some of which may be covered under the general renter's insurance up to the policy limit of \$500,000, which in effect would reduce their \$27.5M "2002 estimate" loss to \$27M loss). Vicki St. John contacted Jerry on October 21, 2009 to get the background information on the art insured through AIG (insured for 8 ½ years after AIG did full authentication and appraisals) To date, no paintings have been recovered or other demands made.

Vicki St. John contacted the San Francisco U.S. Attorney General's Office and the FBI and asked them to investigate possible corruption and cronyism in the Monterey Police Department; she is awaiting their reply.

In mid-October 2009, the SO suspended a 20+-year veteran (who is going to run for office) after he came out in favor of abolishing the helicopter program (Don Ratcliff is part of the helicopter program) and putting more "feet on the street." He had no blemishes on his long record prior to this incident. To date, the SO has not changed its position, interviewed people on the suspect list or the art verification list. The SO continues to look for evidence to discredit and embarrass Mr. Amadio and Dr. Kennaugh. Mr. Thelander made a public statement in the Salinas Courthouse that he

had a special interest in the art heist.

Vicious personal attacks upon Mr. Amadio and Dr. Kennaugh, the SO's failure to investigate the art theft "at all" is being done as a favor for Deputy Don Ratcliff. The intent of which is to cause damage to the merits of Ms. Ratcliff's criminal defense and to support at all costs the SO, and to bring and prosecute at all costs Mr. Amadio and or Dr. Kennaugh as reflected by Mr. Thelander's statement above regarding his special interest in this case despite evidence of wrongdoing to the contrary. It is deeply troubling that following threats made to Mr. Amadio and subsequent report with the Seaside Police Department that Det. Stevens of the SO has been placed in charge of investigating his friend at the SO Deputy Don Ratcliff.

III. THE UNITED STATES SUPREME COURT, OTHER FEDERAL AND STATE APPELLATE COURTS, AND THE CALIFORNIA BAR ASSOCIATION COMPELL THE DISTRICT ATTORNEY'S OFFICE TO INVESTIGATE THE MONTEREY COUNTY SHERIFFS OFFICE, THE SEASIDE POLICE DEPARTMENT INCLUDING DETECTIVE STEVENS AND DEPUTY DON RATCLIFF, DEPUTY DISTRICT ATTORNEY GARY THELANDER, AND ALL OTHER BAD ACTORS

The (prosecutor) is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, thereafter, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffers. He may prosecute with earnestness and vigor... indeed, should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one. (HYPERLINK

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A. Bad Faith Is Not Required To Establish Prosecutorial Misconduct

Prosecutorial bad faith is not required for a finding of prejudicial misconduct. The prosecutor's bad faith is not crucial to finding misconduct. The standard is an objective one. (HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1996268345&fn=_top&sv=Split&tc=-1&pbcc=E2899102&ordoc=2016334499&findtype=Y&db=4040&vr=2.0&rp=%2ffind%2fdefault.wl&mt=7" *People v. Alvarez* (1990) 14 Cal.4th 155.) The California Supreme Court stated in *People v. Hill* (1988) 12 Cal. 4th 800, 823. We observe that the term prosecutorial 'misconduct' is somewhat of a misnomer to the extent that it suggests a prosecutor must act with a culpable state of mind. A more apt description of the transgression is prosecutorial error.

B. DISMISSAL IS AN APPROPRIATE REMEDY FOR PROSECUTORIAL MISCONDUCT THAT OCCURS BEFORE TRIAL

In HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&serialnum=1993210144&fn=_top&sv=Split&referenceposition=1579&pbcc=E2899102&tc=-1&ordoc=2016334499&findtype=Y&db=4041&vr=2.0&rp=%2ffind%2fdefault.wl&mt=7" *People v. Merritt* (1993) 19 Cal.App.4th 1573, 1579, the defendant moved to dismiss his case based upon prosecutorial misconduct. In the *Merritt* case, the trial court denied, without prejudice, Merritt's motion to dismiss after conducting an evidentiary hearing, instead choosing the remedy of recusal. The Court of Appeal placed the burden squarely on the district attorney, in proceedings relating to misconduct: It is settled that when it appears the state has engaged in misconduct, the burden is on the People to show, by a preponderance of the evidence, that sanctions are not warranted because the defendant has not been prejudiced by the misconduct.

Thus, where, as here, it appears that the district attorney has engaged in misconduct that influenced the filing of the criminal complaint or the conduct of proceedings before trial, the prosecution must present affirmative evidence to rebut the presumption that sanctions are warranted.

In the case at hand Ms. Ratcliff was sent hundreds of miles away at the bequest of her father SO Deputy, and Mr. Thelander, personal friend of the father, parents. Mr. Thelander participated in arrangement of her confinement, convinced Ms. Ratcliff ex-parte that if she agreed to go away that charges would be dropped. Despite this bad faith conduct and Ms. Ratcliff's full performance the State continues its prosecution against her.

IV. BECAUSE OF PROSECUTORIAL MISCONDUCT AND EXCLUSION OF EXCULPATORY EVIDENCE DISMISSAL OF CASE NUMBER 123123 IS REQUIRED BECAUSE MS. RATCLIFF HAS BEEN IRRIPARIABLY PREJUDICED BY THE FAILURE OF DEPUTY DISTRICT ATTORNEY GARY THELANDAR AND THE SO TO PROVIDE THE GREATEST LOYALTY TO THE SYSTEM OF JUSTICE AND CONTINUED PARTICIPATION IN MISCONDUCT THAT SHOKS THE CONSCIOUS

In this case it appears that the parents, the SO, Det. Stevens, the Seaside Police Department, and Mr. Thelander involved have a special, non-work related, relationship (The Relationship). It appears the relationship caused the DA's Office to take improper steps in this case and bring charges against Ms. Ratcliff, of which were highly unlikely had evidence not been purposefully withheld. The prosecution has failed to preserve and collect relevant evidence with the intent to keep the defense from having necessary information to defend the case. Finally, the prosecution has intentionally harassed and falsely imprisoned Ms. Ratcliff by forcing her to move to another state following treatment at Entrada, to OR, where she was once again subjected to public humiliation, lack of proper medical treatment, regular phone use, internet, or otherwise to communicate with her attorney's.

The most fundamental of relationships existent in our justice system - the relationship between attorney and client. While it is, perhaps, unnecessary to detail, ours is a system that places the responsibility to speak for the state or for the accused in the hands of attorneys cast in an adversarial role. An individual who is confronted with an accusation by the state finds himself confronted by "the prosecutorial forces of organized society, and immersed in the intricacies of substantive and procedural criminal law." (HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1972127138&fn=_top&sv=Split&tc=-1&findtype=Y&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pb=D87922CB" *Kirby v. Illinois* (1972) 406 U.S. 682, 689 [32 L.Ed.2d 411, 417-418, 92 S.Ct. 1877]; see also HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&referenceposition=430&fn=_top&sv=Split&tc=-1&docname=188CAAPP3D422&ordoc=1988068646&findtype=Y&db=226&vr=2.0&rp=%2ffind%2fdefault.wl&pb=D87922CB" *Boulas v. Superior Court* (1986) 188 Cal.App.3d 422, 430 [HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1987002094&fn=_top&sv=Split&tc=-1&findtype=Y&ordoc=1988068646&db=227&vr=2.0&rp=%2ffind%2fdefault.wl&pb=D87922CB" 233 Cal.Rptr. 487].) "The purpose of the appointment of counsel is to ensure that the accused 'not be *406 left to his own devices' when confronting these forces." (*Id.*; HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1986112488&fn=_top&sv=Split&tc=-1&findtype=Y&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pb=D87922CB" *Moran v. Burbine* (1986) 475 U.S. 412, 430 [89 L.Ed.2d 410, 427, 106 S.Ct. 1135].)

A. Violation of Ms. Ratcliff's Sixth Amendment Right to Counsel

The right to the assistance of counsel guaranteed by the Sixth and Fourteenth Amendments is indispensable to the fair administration of our adversarial system of criminal justice.” ([HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&serialnum=1985159881&fn=_top&sv=Split&referenceposition=168&findtype=Y&tc=-1&ordoc=1988068646&db=780&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd87922CB"](http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&serialnum=1985159881&fn=_top&sv=Split&referenceposition=168&findtype=Y&tc=-1&ordoc=1988068646&db=780&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd87922CB) *Maine v. Moulton* (1985) 474 U.S. 159, 168-169, fn. omitted [[HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&serialnum=1985159881&fn=_top&sv=Split&referenceposition=483&findtype=Y&tc=-1&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd87922CB"](http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&serialnum=1985159881&fn=_top&sv=Split&referenceposition=483&findtype=Y&tc=-1&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd87922CB) 88 L.Ed.2d 481, 491, 106 S.Ct. 477, 483].) While the right to counsel has continued to evolve to accommodate a complex society, “[w]hatever else it may mean, the right to counsel granted by the Sixth and Fourteenth Amendments means at least that a person is entitled to the help of a lawyer at or after the time that judicial proceedings have been initiated against him. ...” ([HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1977118753&fn=_top&sv=Split&tc=-1&findtype=Y&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd87922CB"](http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1977118753&fn=_top&sv=Split&tc=-1&findtype=Y&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd87922CB) *Brewer v. Williams* (1977) 430 U.S. 387, 398 [51 L.Ed.2d 424, 436, 97 S.Ct. 1232].)

In the instant case, it is unchallenged that proceedings had begun. Ms. Ratcliff had been charged with eight felonies, following her arraignment the DA's Office via Mr. Thelander held an ex-parte meeting lasting anywhere from 15-20 minutes in which ten Ms. Ratcliff was alone and convinced to leave the state for an outdoor wilderness program if which was successfully completed charges would be dropped. Ms. Ratcliff did leave, and was without the indispensable advice of her counsel when making the agreement to do so. Because of this her right to counsel as granted by the Sixth and Fourteenth Amendments were violated.

Regardless of the interpretation placed upon the conversation and its consequences by the parties, it is clear that law enforcement officers “her father” and Mr. Thelander entered into a negotiation with the defendant Ms. Ratcliff, who was represented by an attorney “Mr. Meltzer and or Mr. Mills,” and the negotiation included consequences with respect to the charges upon which appellant was represented. Viewed in the light most favorable to the People, Ms. Ratcliff did not receive the best benefit of representation, which would likely have been dismissal of all charges as not all evidence had been provided exonerating or casting serious doubt on the charges levied. For example the parents numerous letters contained in Ms. Ratcliff's medical record indicating the reasons for having her arrested was their fear she would be killed or sold in to the sex slave trade, and that the father was not like the father in the movie “taken” and would

not be able to rescue her. This doubt is also reflected in the face of the SO report in which the reporting officer on several occasions questions the real reason Deputy Don Ratcliff wanted Ms. Ratcliff arrested prior to traveling East. Had Ms. Ratcliff's attorney been present and provided all exculpatory evidence is likely charges would have been dropped. Despite this Ms. Ratcliff took lesser of a bargain, a plea to leave for six weeks, and upon completing of the wilderness program at Entrada, then charges would be dropped. Thirteen weeks later, Ms. Ratcliff completed the program in the top five percent of all graduates, yet her parents and Mr. Thelander refused to drop the charges, and forced Ms. Ratcliff to continue treatment in OR, total time was not six weeks as promised. Ms. Ratcliff was denied freedom based on this ex-parte plea agreement for two hundred and two days. This finding is pivotal to the ultimate determination of this case.

"Once the right to counsel has attached and been asserted, the State must of course honor it. This means more than simply that the State cannot prevent the accused from obtaining the assistance of counsel. The Sixth Amendment also imposes on the State an affirmative obligation to respect and preserve the accused's choice to seek this assistance." (HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&serialnum=1985159881&fn=_top&sv=Split&referenceposition=484&findtype=Y&tc=-1&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd=D87922CB" *Maine v. Moulton*, *supra*, 474 U.S. at pp. 170-171 [88 L.Ed.2d 481, 492, 106 S.Ct. 477, 484-485].)

Where a defendant is *represented* by an attorney he is entitled to no less Sixth Amendment protection than a defendant who simply *requested* an attorney. For purposes of the Sixth Amendment, law enforcement officers will be assumed to know that a defendant is represented by counsel in a case to the same extent as the court is aware that the accused is represented. "Studied ignorance" *408 generated by a failure to inquire will not be treated as equivalent to innocent or blameless conduct by law enforcement officials.

It is undisputed that Ms. Ratcliff was represented by Attorney Meltzer at the time of her arraignment and during the time she was contacted, we must impute the court's and the district attorney's knowledge to the SO and Deputy Don Ratcliff.

Where an individual is represented by counsel, the relationship between him and the state is dictated by the constitutional protections of the Sixth Amendment. "The Sixth Amendment guarantees the accused, at least after the initiation of formal charges, the right to rely on counsel as a 'medium' between him and the State." (*Maine v. Moulton*, *supra*, 474 U.S. at p. 176 [88 L.Ed.2d at p. 496, 106 S.Ct. at p. 487].) (HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&serialnum=1985159881&fn=_top&sv=Split&referenceposition=487&findtype=Y&tc=-1&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd=D87922CB" *Moulton*, *supra*, 474 U.S. at p. 176 [88 L.Ed.2d at p. 496, 106 S.Ct. at p. 487].)

In this regard, the attorney plays a vital role, not just as a voice for an accused but as an agent “through which the demands and commitments of the sovereign are communicated to the citizen.” (*Brewer v. HYPERLINK*

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It is evident that in a system wherein the negotiating process plays such a major role that, as they would in any negotiating process, the experience, acumen and leverage of each side's representative is of paramount importance to the final agreement. It does not take any breadth of imagination to recognize the advantage that an experienced attorney or police detective may have in the negotiating process as opposed to an individual accused of a crime. Where a defendant is represented by counsel at the time of negotiations concerning his case, the state may not exploit this advantage by circumvention of the defendant's counsel without a violation of the defendant's Sixth Amendment rights. *Id.*

“Knowing exploitation by the State of an opportunity to confront the accused without counsel being present is as much a breach of the State's obligation not to circumvent the right to the assistance of counsel as is the intentional creation of such an opportunity.” (*HYPERLINK* "[http://web2.westlaw.com/find/default.wl?tf=-](http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&serialnum=1985159881&fn=_top&sv=Split&referenceposition=176&findtype=Y&tc=-1&ordoc=1988068646&db=780&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd87922CB)

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While the defendant might be no better off if his attorney negotiated for him or, perhaps, might even be worse off, the defendant is “entitled to have him try.” (*HYPERLINK*

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1&docname=57CAAPP3D437&ordoc=1988068646&findtype=Y&db=226&vr=2.0&rp=%2ffind%2fdefault.wl&pbcc=D87922CB" *People v. Moore* (1976) 57 Cal.App.3d 437, 442 [HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1976102230&fn=_top&sv=Split&tc=-1&findtype=Y&ordoc=1988068646&db=227&vr=2.0&rp=%2ffind%2fdefault.wl&pbcc=D87922CB"129 Cal.Rptr. 279].)

In the instant case: The prosecutor and SO have an affirmative obligation not to act in a manner that circumvents and thereby dilutes the protection afforded by the right to counsel." (HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&serialnum=1985159881&fn=_top&sv=Split&referenceposition=493&findtype=Y&tc=-1&ordoc=1988068646&db=471&vr=2.0&rp=%2ffind%2fdefault.wl&pbcc=D87922CB" *Maine v. Moulton*, *supra*, at p. 171 [88 L.Ed.2d at p. 493].) However, the parents and Mr. Thelander choose to do just that by failing to tell either Attorney Mills or Mr. Meltzer of there planned meeting with Ms. Ratcliff, one which had been agreed to amount the Bad Actors for a week prior to Ms. Ratcliff's Arrest.

As expressed by Justice Douglas in HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1959104138&fn=_top&sv=Split&tc=-1&findtype=Y&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pbcc=D87922CB" *Spano v. New York* (1959) 360 U.S. 315 [3 L.Ed.2d 1265, 79 S.Ct. 1202]: to a represented defendant what use is the right to counsel at every stage of a criminal case if, while he is awaiting trial, the state can directly negotiate the case with the accused until he agrees to a disposition? In the context of a negotiation as to disposition, when the state knowingly chooses to negotiate directly with a represented defendant on the case he is represented on, the state is seizing an opportunity in violation of the defendant's Sixth Amendment right to counsel.

B. Ms. Ratcliff's Sixth Amendment Rights To Counsel Has Been Violated, Shocking The Conscience

Where a defendant's Sixth Amendment right to counsel has been violated by negotiation directly with a represented defendant such conduct "shocks the conscience" and compels a dismissal. (HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1952118934&fn=_top&sv=Split&tc=-1&findtype=Y&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pbcc=D87922CB" *Rochin v. California* (1952) 342 U.S. 165 [96 L.Ed. 183, 72 S.Ct. 205, 25 A.L.R.2d 1396].) Appellant maintains that HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&fn=_top&sv=Split&tc=-1&docname=188CAAPP3D422&ordoc=1988068646&findtype=Y&db=226&vr=2.0&rp=%2ffind%2fdefault.wl&pbcc=D87922CB" *Boulas v. Superior Court*, *supra*, 188 Cal.App.3d 422 is determinative of the issue of sanction or remedy under circumstances such as these.

Boulas was informed that “a deal could only be made if Boulas were to replace Attorney S. with counsel who would be acceptable to the district attorney.” (*Id.* at p. 426.) Shortly thereafter, Boulas fired Attorney S. without disclosing the reason he was discharging him. Here Mr. Thelander helped the parents remove Ms. Ratcliff’s current legal counsel Mr. Mills and his agent Mr. Amadio by Mr. Thelander advising the parents to hire Mr. Meltzer, because “he is the best attorney he knows” and transporting Ms. Ratcliff out of state in an ex-parte plea agreement, which was not honored. This conduct by the Bad Actors shocks the conscience and must not be permitted.

“The intentional undermining of an individual’s right to counsel of his own choosing cannot be countenanced under any rational standard of justice. It is the duty of the judiciary to ensure that an accused’s constitutional rights be protected in every case. *Id.*

“No relief, such as suppression or reversal of conviction, would remedy the violation. Furthermore, considering the extent and seriousness of the conduct of those in positions of authority and public trust, we find the grave sanction of dismissal to be the sole appropriate remedy for intentional and calculated violation of Boulas’s rights. We find the government conduct in the present matter to be outrageous in the extreme, and shocking to the conscience; we are, thereby, compelled to order the dismissal of the present case.” (*Id.* at p. 434.)

In concluding that dismissal was the appropriate remedy, the *Boulas* court carefully considered *United States v. HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1981101937&fn=_top&sv=Split&tc=-1&findtype=Y&ordoc=1988068646&db=708&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd=87922CB" Morrison* (1981) 449 U.S. 361 [66 L.Ed.2d 564, 101 S.Ct. 665].

Supreme Court stated: “Cases involving Sixth Amendment deprivations are subject to the general rule that remedies should be tailored to the injury suffered from the constitutional violation and should not unnecessarily infringe on competing interests.” (HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&serialnum=1981101937&fn=_top&sv=Split&tc=-1&findtype=Y&ordoc=1988068646&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd=87922CB" *Id.* at p. 364 [HYPERLINK "http://web2.westlaw.com/find/default.wl?tf=-1&rs=WLW9.11&referencepositiontype=S&serialnum=1981101937&fn=_top&sv=Split&referenceposition=568&findtype=Y&tc=-1&ordoc=1988068646&db=471&vr=2.0&rp=%2ffind%2fdefault.wl&pbcd=87922CB" 66 L.Ed.2d at p. 568].) In analyzing other cases where there was a violation of right to counsel, the court noted that their remedy analysis was consistent with past positions they had taken. “Our approach has thus been to identify and then neutralize the taint by tailoring relief appropriate in the circumstances to assure the defendant the effective assistance of counsel and a fair trial.

The premise of our prior cases is that the constitutional infringement identified

has had or threatens some adverse effect upon the effectiveness of counsel's representation or has produced some other prejudice to the defense.

In light of *Morrison* a finding of prejudice is necessary before a remedy is applied or a sanction is imposed. A demonstration that the Sixth Amendment violation “threatens some adverse effect upon the effectiveness of counsel's representation or has produced some other prejudice to the defense.”^{HYPERLINK}

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A Defendant's Sixth Amendment right to counsel is violated where governmental agents initiate contact and negotiate an agreement directly with a defendant who is represented, concerning the case in which he is represented. Attempt to comply with that agreement in good faith, prejudices the defendant.

To diminished the effectiveness of the attorney's representation or irreparably torn asunder the attorney-client relationship warranting a finding of prejudice.

As in *Boulas* There was an effort to subvert the attorney client relationship. Excluding the attorney, the People have enhanced their negotiating position and taken advantage of the defendant stripped of his trained representative. Because Ms. Ratcliff was forced to switch attorneys from Mills to Meltzer on the promise that the charges would be dropped and because Ms. Ratcliff was given an ex-parte plea agreement to which she fully preformed she was prejudiced and the DA's office must drop all charges against her to avoid the severest sanction of all dismissal for prosecutorial misconduct. This is required because Ms. Ratcliff enters and negotiated an agreement ex-parte with the DA's Office, who initiated contact with Ms. Ratcliff, while represented, where in good faith she preformed, forever prejudicing her.

C. MRS. RATCLIFF HAS EARNED THE BENEFIT OF THE BARGAN AND CHARGES MUST BE DROPPED AT ONCE IN ORDER TO PREVENT FURTHER VIOLATION OF MRS. RATCLIFF'S CONSTITUTIONALLY PROTECTED RIGHTS

In evaluating a sanction the impact that the sanction would have on the interests of justice and the reasonable expectations of the community. “[R]emedies should be tailored to the injury suffered from the constitutional violation and should not unnecessarily infringe on competing interests.” (*United States v.* ^{HYPERLINK}

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As stated above Ms. Ratcliff graduated in the top five percent of all graduates at Entrada. Full performance is clearly reflected in how well she did. Further, successfully completing Entrada was the only condition to which Ms. Ratcliff agreed.

V. THE DISTRICT ATTORNEY OFFICE SHOULD ISSUE A PUBLIC RECANTAL OF THE CHARGES AGAINST MS. RATCLIFF, AND FALSE ALLIGATIONS AGAINST MR. AMADIO, AND DR. KENNAUGH

The conduct of the DA's Office amounts to Prosecutorial Misconduct because said conduct has been egregious, deceptive, and reprehensible violating my clients US Constitution and CA Constitutional rights. (*People v. Samayoa* (1997) 15 Cal.4th 795, 841.) DA's... are held to an elevated standard of conduct. It is the duty of every member of the bar to maintain the respect due to the courts and to abstain from all offensive personality. (Bus. & Prof. Code §§6068, subs. (b) and (f).) A DA is held to higher standard than other attorneys because of the unique function he or she performs in representing the interests, and in exercising the sovereign power, of the state. (*People v. Kelly* (1977) 75 Cal.App. 3d 672, 690.) As the United States Supreme Court has explained the prosecutor (DA) represents sovereignty whose obligation to govern impartiality is as compelling as its obligation to govern it all. (*Berger v. United States* (1935) 295 U.S. 78, 88.)

In addition to the DA's Office committing prosecutorial misconduct by refusing to sign the restitution settlement agreement The DA's Office has committed intentional prosecutorial misconduct. The DA's Office not motivated by the desire to avoid the high likely hood of my clients acquittal in a separate matter, in which my client is represented by different counsel, in violation of *People v. Batts* (2003) 30 Cal. 4th 660).

VI. CONCLUSION

For the reasons stated above and to avoid continued constitutional violations the DA's Office should honor it's agreement with Ms. Ratcliff and dismiss all charges against he with prejudice. Additionally, to be in compliance with CA Rules of Professional Conduct the DA's Office should recant statements recently made by the SO and investigate the Bad Actors based on the evidence presented within this memorandum.

