

Charles Rodrick  
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Scottsdale, AZ 85266  
(480) 250-3838

Bradley Perry, Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street  
Phoenix, AZ 85016

RE: Formal Ethics Complaint Against:  
Daniel R. Warner – SBN #026503  
8283 N. Hayden Rd., Suite 229  
Scottsdale, AZ 85258  
(480) 331-9397

Dear Mr. Perry,

The factual basis for this complaint arises from Daniel R. Warner (*hereafter*, “Warner”) and his law firm Kelly Warner Law (*hereafter*, “Firm”) continued misconduct associated with previous client Charles Rodrick (*hereafter*, “Rodrick”). These contacts have extended through a period exceeding four (4) and half years. This complaint is solely focused on the recently revealed information concerning the dealings of Warner and the Firm with their business associate Richart Ruddle (*hereafter*, “Ruddle”). It has been reported that an investigation has been initiated by the State Bar of Arizona (*hereafter*, “SBA”) concerning this business relationship. My complaint is specifically focused on a “fake” lawsuit that directly affected my constitutionally protected rights that were violated by Warner working in collaboration with Ruddle. This involved the knowing fraudulent filing in Maryland Circuit Court City of Baltimore, Ruddle v. Kirschner, case no. 24-C-15-005620 (*See*, Exhibit A). Although the court filings involve a case in Maryland, it is a “fake” lawsuit and the relevance is based on Warner’s ethical obligations that are governed by the SBA. Also, Rodrick is a resident of Arizona and the case in question involved an illegal censoring scheme of content posted by Rodrick on the Arizona based website RipOffReport.com (*hereafter*, “ROR”).

Warner has violated his ethical duties and obligations as an attorney as defined by the Arizona Duties and Obligations as pursuant to Rule 41(a), 41(b), 41(c), 41(d), 41(e), 41(g) and 41(h), Ariz. R. Sup. Ct.. Also, Arizona Rules of Professional Conduct contained within Rule 42, Ariz. R. Sup. Ct., by engaging in repeated instances in violation of ER 3.1, ER 3.2, ER 3.4, ER 4.1, ER 4.4, ER 7.1, ER 8.3 and ER 8.4.

**Rule 41. Duties and Obligations of Members. Rules of the Supreme Court of Arizona:**

- (a) Those prescribed by the Arizona Rules of Professional Conduct adopted as Rule 42 of these rules.

- (b) To support the constitution and the laws of the United States and the State of Arizona.
- (c) To maintain the respect due to courts of justice and judicial officers.
- (d) To counsel or maintain no other action, proceeding or defense than those which appear to him legal and just, excepting the defense of a person charged with a public offense.
- (e) To be honest in dealings with others and not make false or misleading statements of fact or law.
- (g) To avoid engaging in unprofessional conduct and to advance no fact prejudicial to the honor or reputation of a party or a witness unless required by the duties to a client or the tribunal.
- (h) To support the fair administration of justice, professionalism among lawyers, and legal representation for those unable to afford counsel.

**Rule 42. Arizona Rules of Professional Conduct. Rules of the Supreme Court of Arizona:**

**ER 3.1 – Meritorious Claims and Contentions.** “A lawyer shall not bring or defend a proceeding, or assert or convert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous, which may include a good faith and nonfrivolous argument for an extension, modification or reversal of existing law.”

**ER 3.3 – Candor Toward the Tribunal.** “(a) A lawyer shall not knowingly: (1) make a false statement of fact or law to the tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer; (3) offer evidence that the lawyer knows to be false.”

**ER 3.4 – Fairness to Opposing Party and Counsel.** “A lawyer shall not: (a) unlawfully obstruct party’s access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act; (b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law....”

**ER 4.1 – Truthfulness in Statements to Others.** “(a) make a false statement of material fact or law to a third person....”

**ER 8.3 – Reporting Professional Misconduct.** “(a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority, except as otherwise provided in these Rules or by law.”

**ER 8.4 – Misconduct.** “It is professional misconduct for a lawyer to: (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; (b) commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects; (c) engage in

conduct involving dishonesty, fraud, deceit or misrepresentation; (d) engage in conduct that is prejudicial to the administration of justice....”

The seriousness and scope of the misconduct perpetrated by Warner over an extended period of time calls for an extensive review of the entire circumstances outlined below. It is requested that the Review Department order that Warner be disbarred from the practice of law in this State and his name be stricken from the roll of attorneys.

The allegations herein regarding Warner and the Firm’s misconduct are summarized as follows:

**1) Warner’s has knowingly engage in unethical and likely illegal conduct that violated the dictates of the SBA and the U.S. Constitution to circumvent the legal expression of factual information that is derogatory to his and the Firm’s legal practices.**

It has been well documented that Rodrick adamantly believes Warner and his Firm actively engage in business practices that violate many of the ethical Code of Professional Conduct that are overseen by the SBA for a licensed attorney in the State of Arizona. These opinions of Rodrick were documented in his SBA complaint filed in 2015, file no. 15-2075. Although Rodrick believes the findings of the SBA in regard to the complaint of 2015 were completely illogical, non-responsive to the number of issues raised, ignored the stated function of the SBA and focused on only the single issue of “Barri Grossman.” The irony of the SBA ruling that “Barri Grossman” was solely responsible for the defamatory content posted on the Firm’s website concerning previous client Rodrick, which could not and was not denied by Warner. It is certainly evident and telling the lack of due diligence and serious review of the FACTS submitted in the complaint to the SBA as the recent discovery of a pattern of “fake” parties such as Defendants and Plaintiffs that would be falsely verified with “forged” documentation of notarization stamps and Notaries in filings submitted to many courts by Warner and the Firm. That is truly the definition of ironic. But I digress – the current complaint is **COMPLETELY** independent of those issues ignored by the SBA, to the general public and judiciary process detriment in 2015.

Although the SBA inexplicitly gave Warner and the Firm a “free pass” for their extensively documented unethical business practices, Rodrick was entitled to exercise his First Amendment right to express and share his experiences however and with whomever he choose to do so. He elected to utilize the Arizona based website ROR with a posting on May 25, 2015, Report: #1231611 (See, exhibit B). It is not surprising that such a posting exposing over the Internet the TRUTH to the business practices of Warner in regard to the experience realized by Rodrick was NOT well received in the offices of the Firm. Such displeasure by Warner and the Firm does not invalidate the truthfulness and/or the constitutionally protected right of Rodrick to express his opinions. In fact, it is worthy of note that **IF** Rodrick’s post had included false and fabricated claims that would have constituted defamation (or even defamation per se), Warner and the Firm claim as their particular expertise in their law practice to be

Internet Law. It is only reasonable conjecture that a defamation lawsuit could have and would have been filed by a practicing Arizona law firm (Kelly/Warner), against an Arizona resident (Rodrick), for online content posted about an Arizona resident (Warner), on an Arizona based business website (ROR), if there was any basis for such legal action. This is **NOT** what occurred.

What did occur was Warner colluding with business associate Ruddle to file the fraudulent lawsuit in Maryland (*See*, Exhibit A) on November 10, 2015. The fraudulent lawsuit was filed by Ruddle as the Plaintiff, even though his name did not appear anywhere, in the ROR posting of Rodrick (who had no idea of Ruddle as a person or business associate of Warner) and it named a “fake” Defendant Jake Kirschner who obviously had nothing to do with the authoring and posting in dispute. As Rodrick was not aware of the filing, as the scheme is designed for this very purpose, and the Defendant is “fake” and somehow agrees to a stipulation for an injunction to restrict the posting of and/or “indexing” by Google of the ROR derogatory post about Warner. The unsuspecting Maryland court naturally/understandably “rubber stamped” the Injunction. The fraudulent legal scheme was successful as the Rodrick post on ROR would have the content “redacted” to restrict any review of the FACTS of Warner’s business practices (*See*, Exhibit C). Simply put – this is fraud. This is an assault upon the integrity of the judicial system. This is a violation of a plethora of the Arizona Supreme Court rules dictated for attorneys to respect and practice the Arizona Rules of Professional Conduct and Duties and Obligation. This is an attack upon the foundation of the U.S. Constitution and the First Amendment afforded to Rodrick no matter Warner’s animosity toward Rodrick.

The events and circumstances detailed above represent clear ethical violations of the following: **Rule 41 (a), (b), (c), (d), (e), (g) and (H). Rule 42: ER 3.1 – Meritorious Claims and Contentions, ER 3.3 – Candor Toward the Tribunal, ER 3.4 – Fairness to Opposing Party and Counsel, ER 4.1 – Truthfulness in Statements to Others, ER 8.3 – Reporting Professional Misconduct and ER 8.4 – Misconduct.**

**2) The fraudulent legal scheme of the “fake” lawsuit in Maryland was intentionally designed to hide its existence from Rodrick.**

It is important to detail the full scope of the **diabolical intent** (criminal?) in regard to the manner in which Warner and the Firm devised the implementation of the fraudulent legal scheme. With a thorough understanding of how the judicial process operates in the “real” world, the “fake” lawsuits are intentionally designed and implemented in a manner that discovery of the fraud by the “real” victims, such as Rodrick, would be highly unlikely. The “victims” would never know of the existence, let alone the outcome, of a legal action that had been adjudicated in some unknown jurisdiction to their detriment.

In the case of the “fake” lawsuit filed in Maryland to remove factually derogatory online content about Warner and the Firm, Rodrick to this day would have no idea of its existence and that his content had been illegally censored without articles appearing online exposing the fraud that occurred. It was the work of highly respected legal scholar of First Amendment issues, Professor Eugene Volokh of the UCLA Law School, which would result in Rodrick being alerted to the situation. Professor Volokh posted an article on his legal blog, The Volokh Conspiracy published on the WashingtonPost.com, on March 30, 2017 entitled “Libel takedown injunctions and fake notarizations.”<sup>1</sup> In the article Professor Volokh would document the business relationship between Warner and the Firm to Ruddle’s business for “Online Reputation Services.” He would detail a number of fraudulent “libel” lawsuits intended to remove content and/or have Google “deindexed” from the search algorithms which would effectively make such content **NOT** findable online. These fraudulent lawsuits would involve “fake” Defendants, Plaintiffs and even notarizations (forged legal documents). The discovery of the Professor’s post was actually not discovered until late April of 2017 when Rodrick learned of an article posted online by the USA Herald. On April 20, 2017 the USA Herald posted the article entitled “Arizona Attorney Daniel Warner Under Investigation for Alleged Legal Fraud.”<sup>2</sup> In this article Rodrick, unbeknownst to him, had been directly identified and his association to the fraudulent lawsuit filed in Maryland by Warner’s business associate Ruddle. He learned that the fraudulent lawsuit had named a “fake” Defendant Kirschner as the author of the Warner content posted with ROR in order to have the factual rendition of Rodrick’s dealings with Warner and the Firm removed and/or at least censored from public review. It is worth noting for the SBA that in researching for information about a “Jake Kirschner,” due to the unusual spelling, the only likely candidate was a teenager from Wisconsin who had died from cancer a year earlier. The strategy being that there would not be a “real” living person to dispute the lawsuit. Such conduct is reprehensible, exploiting the name of a teenager who had tragically died of leukemia a year earlier.<sup>3</sup>

It is worth noting that it was through Professor Volokh that Rodrick had become aware of an investigation being conducted by the SBA. It was only due to the many direct communications with the Professor, discussing the fraudulent lawsuit scheme and using “fake” litigants, such as what occurred in the Maryland lawsuit involving Rodrick’s online posted content with ROR, he learned of the fraud that had occurred. It was within these conversations that the Professor disclosed his filing an official complaint with the SBA concerning these matters. Rodrick recognized not only the appropriateness, but the necessity, for him to officially memorialize the facts associated with his dealings with Warner and the Firm by filing this complaint with the SBA. The importance is such unethical and likely criminal conduct being perpetrated by Warner and the Firm must be

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<sup>1</sup> E.g. - [https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/03/30/libel-takedown-injunctions-and-fake-notarizations/?utm\\_term=.094ad96af170](https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/03/30/libel-takedown-injunctions-and-fake-notarizations/?utm_term=.094ad96af170)

<sup>2</sup> E.g. - <http://usaherald.com/arizona-attorney-daniel-warner-investigation-alleged-legal-fraud/>

<sup>3</sup> E.g. - <http://www.sheboyganpress.com/story/news/local/2014/11/17/south-students-remember-classmate-died-leukemia/19196089/>

exposed and properly addressed by the appropriate authorities, whether that is the SBA or Federal Law Enforcement Agencies such as the FBI, in order to protect the integrity and public trust in our institutions, such as the Judicial Branch, for the protection of our democracy. If there are no check and balances to enforce the veracity associated with the judicial process, there is no meaning to the concept of the “Rule of Law.” The alternative is an unavoidable outcome resulting in utter chaos for our society.

The events and circumstances detailed above represent clear ethical violations of the following: **Rule 41 (a), (b), (c), (d), (e), (g) and (H). Rule 42: ER 3.1 – Meritorious Claims and Contentions, ER 3.3 – Candor Toward the Tribunal, ER 3.4 – Fairness to Opposing Party and Counsel, ER 4.1 – Truthfulness in Statements to Others and ER 8.4 – Misconduct.**

**3) The implications of the Warner fraudulence have been recognized by ethical legal practices advocates, courts and law enforcement.**

There are a number of additional respected authorities who have taken notice of the fraudulent business practices of Warner and the Firm in filing “fake” lawsuits involving non-existent Defendants, Plaintiffs and Notaries. The SBA may have become aware of the situation due to the work of Professor Volokh, just as Rodrick did, but other parties in the legal profession have also taken notice. Another source of information in uncovering the extent and scope of this legal scheme is attorney Paul Levy of the Public Citizen Litigation Group in Washington, D.C. Mr. Levy has been thoroughly investigating the outbreak of this new legal scheme utilizing “fake” lawsuits to obtain court orders to remove derogatory content found on the Internet. He was instrumental in discovery the involvement of Ruddle in the implementation of this illegal scheme due to his involvement with a case that had been adjudicated in U.S. District Court of Rhode Island. In that case, that involved a “fake” defendant, it would be proven with substantial evidence that the lawsuit had been filed by Ruddle for a “real” Plaintiff, although not informed of the lawsuit or having obtained his signature which had been forged on the legal filings, and the Defendant was non-existent. What is relevant to this case to Warner is as part of the settlement which would include a full admission of responsibility by Ruddle; he was also required to identify additional cases he had perpetrated in other jurisdiction, such as Maryland and Florida, and the names of attorneys he had worked with in those efforts. Both Warner and the Firm were identified by Ruddle as having been involved in the filing of “fake” lawsuits associated with his Internet “Reputation Services” business. Mr. Levy has documented, with online posts, the details associated with his investigations and legal arguments before the courts concerning this situation identifying Ruddle, Warner and the firm.<sup>4</sup> A very helpful online resource that has tracked this fraudulent legal scheme story is provided by

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<sup>4</sup> E.g. - <http://pubcit.typepad.com/clpblog/2017/03/richart-ruddle-settles-anti-slapp-claims-makes-restitution-but-the-guilty-companies-remain-unpunished.html>

Mathew Valor at the website Defiantly.net which has organized the media coverage available.<sup>5</sup>

What also came from the exposure of the legal scheme that was being perpetrated upon the courts, that should be of extreme interest to the SBA, was the recognition that there are criminal conduct implications involved by the parties participating in such filings. It was in the U.S. District Court for the District of Rhode Island (Providence) that the Honorable Chief Judge William E. Smith addressed the “embarrassment” he felt for having been so duped by this legal scheme. He would go on to not only question the legality of such conduct, but also entertain the likelihood that it constituted criminal conduct. The Judge would call upon the U.S. Attorney General of Rhode Island to look into the matter immediately (*See*, Exhibit D). This in fact did occur as an Assistant U.S. Attorney is overseeing the investigation being conducted by the FBI. This investigation has reached into Arizona to review Warner and the Firm’s involvement, and is ongoing. This is a FACT.

The events and circumstances detailed above represent clear ethical violations of the following: **Rule 41 (a), (b), (c), (d), (e), (g) and (H). Rule 42: ER 3.1 – Meritorious Claims and Contentions, ER 3.3 – Candor Toward the Tribunal, ER 3.4 – Fairness to Opposing Party and Counsel, ER 4.1 – Truthfulness in Statements to Others, ER 8.3 – Reporting Professional Misconduct and ER 8.4 – Misconduct.**

- 4) **The conduct of Warner and the Kelly/Warner Law firm should be an Red Alert wake up call to the duties and responsibilities of the SBA to not only protect the public from legal malfeasance, but the credibility of the overall relevance of the judicial process.**

If licensed SBA attorneys can file “fake” lawsuit in order to obtain Court Orders to be used to illegally cause actions of others against their will and best interest, which is validated with actual court authority for enforcement; what stops an unlicensed pro se litigant from employing the same strategy without the restraints of the ethical rules of the SBA to achieve the same outcome? This is potential chaos. This would potentially be the fundamental destruction of the validity of our all important institution that governs our overall society – the Judicial Branch of Government. It is not a time for the SBA to sugar coat the unethical, illegal and very damaging misconduct of “one of their own” (Warner). The actions of Warner and the Firm are serious violation of the principles purported to be governed by the SBA. Just a simple review of the SBA website confirms the stated doctrine and purpose of the oversight authority.<sup>6</sup> Does the SBA abide by its own standards of “Mission, Vision and Core Values,” or is it only rhetoric to misdirect the public and avert oversight by government authority? It is time for the SBA “to put up or shut up.”

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<sup>5</sup> E.g. - <http://defiantly.net/media-press-coverage-of-profile-defenders-shady-lawsuit-removal-scheme/>

<sup>6</sup> E.g. - <http://www.azbar.org/aboutus/mission-vision-andcorevalues/>

What matters for the general public is that the SBA does in fact enforce its stated duty to protect and serve the dictates as enacted by the Arizona Supreme Court: **Rule 41: Duties and Obligations of Members** and **Rule 42: Arizona Rules of Professional Conduct**.

## **CONCLUSION**

The SBA is charged with the responsibility for protecting the public from problematic attorneys. As part of this duty, the SBA should ensure that the public has ready access to information about attorney misconduct, so it can make informed decisions about who to retain when seeking counsel.

For these reasons, the SBA should conduct an In-depth investigation into the allegations outlined in detail in this complaint in regards to attorney Warner and the Kelly/Warner Law firm. The damages realized by Rodrick due to the extensive misconduct of Warner and the Kelly/Warner Law firm are significant and must be thoroughly reviewed to determine the amount of culpability that can be associated with their malpractice. I submit this complaint and ask that the SBA take action against Warner in the form of disbarment, and also make public the various acts of misconduct described herein.

Thank you in advance for your consideration and anticipated cooperation.

**RESPECTFULLY SUBMITTED** this 2<sup>nd</sup> day of June 2017,



Charles Rodrick