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**FILED**

JUL 26 2011

**DISCIPLINARY BOARD**

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**FREDRIC SANAI**

Lawyer (Bar No. 32347).

Proceeding No. 04#00044

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND HEARING OFFICER'S  
RECOMMENDATION

In accordance with Rule 10.13 of the Rules for Enforcement of Lawyer Conduct (ELC), the undersigned Hearing Officer held the hearing on February 28, 2011 through March 11, 2011, and on May 31, 2011 through June 1, 2011. Respondent Fredric Sanai (Fredric) appeared at the hearing represented by his brother Cyrus Sanai who I admitted pro hac vice after Fredric was unable to retain Washington counsel. Disciplinary Counsel Linda B. Eide and Scott G. Busby appeared for the Washington State Bar Association (the Association). For a comprehensive summary of the procedural events that have occurred since the commencement of this matter in July of 2004, see the Association's Supplemental Closing Argument. BF 281

FORMAL COMPLAINT FILED BY DISCIPLINARY COUNSEL

The Amended Formal Complaint filed by Disciplinary Counsel charged Fredric Sanai with the following counts of misconduct:

1 Count 1 – filing multiple, meritless post-dissolution motions and/or other requests for  
2 relief in the trial and appellate courts, in violation of Rules of Professional Conduct (RPC) 3.1  
3 and/or RPC 3.2 and/or RPC 4.4 and/or RPC 8.4(d).

4 Count 2 – filing and/or preparing lis pendens notices to cloud title to real property  
5 ordered sold under his parents’ dissolution decree and/or filing additional litigation used as a  
6 basis for filing additional lis pendens notices and/or otherwise attempting to delay or impede the  
7 sale of property ordered sold under the dissolution decree, in violation of RPC 3.4(c) and/or  
8 RPC 8.4(j) and/or RPC 4.4 and/or RPC 8.4(d) and/or RPC 8.4(a).

9 Count 3 – suing the judges and the court commissioner who denied his post-dissolution  
10 motions and/or other requests for relief, in violation of RPC 3.1 and/or RPC 4.4 and/or RPC  
11 8.4(d).

12 Count 4 – signing and/or filing lis pendens notices in violation of the May 15, 2003  
13 federal court order, in violation of RPC 8.4(j) and/or RPC 3.4(c) and/or RPC 8.4(d).

14 Count 5 – filing defamation actions against Sassan, Sullivan and MMPSM in state and  
15 federal court, while ELC 2.12(b) or its predecessor RLD 12.11(b) provided that  
16 communications to the Association are privileged and “no lawsuit predicated thereon may be  
17 instituted against any grievant,” in violation of RPC 3.1 and/or RPC 8.4(l) and/or RPC 4.4  
18 and/or RPC 8.4(d).

19 Count 6 – failing to serve other parties to the action with copies of his subpoena for  
20 records from Redmond General Insurance Agency, in violation of RPC 3.4(c) and/or RPC  
21 8.4(d).

22 Count 7 – filing similar claims multiple times and/or in multiple jurisdictions and/or by  
23 making multiple requests for similar relief and/or failing to appear for deposition and/or  
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1 otherwise prolonging the proceedings, in violation of RPC 3.2 and/or RPC 4.4 and/or RPC  
2 8.4(d).

3 Count 8 – filing an action and/or appeal seeking to relitigate the dissolution decree  
4 property distribution and using the partition action as the basis for yet another lis pendens filing  
5 clouding title to the real property ordered sold under the decree, in violation of RPC 3.1 and/or  
6 RPC 3.2 and/or RPC 3.4(c) and/or RPC 8.4(j).

7 Count 9 – repeatedly violating court orders or rules and/or repeatedly filing pleadings,  
8 motions, appeals or other papers without merit and/or filing similar claims in multiple forums  
9 and/or otherwise delaying enforcement of his parents’ dissolution decree and/or forcing his  
10 father to defend in multiple courts on multiple grounds, in violation of RPC 8.4(n).

11 HEARING

12 At the hearing conducted from February 27 through March 11, 2011 and May 31  
13 through June 2, 2011, witnesses were sworn and presented testimony, and over 300 voluminous  
14 exhibits were admitted into evidence. Having considered the evidence and argument of counsel,  
15 the Hearing Officer makes the following findings of fact, conclusions, and recommendation.

16 FINDINGS OF FACT

17 1. Respondent was admitted to the practice of law in the State of Washington on  
18 June 13, 2002, and in Oregon on May 18, 1998.

19 2. As an introductory matter, the number and volume of pleadings filed by Fredric  
20 in or relating to his parents’ Washington State dissolution action since his admission to practice  
21 in Washington is nothing short of mind-numbing. Most of those pleadings called for some sort  
22 of response. As a result, most of the several subject cases and appeals filed by Fredric as a party  
23 or representative have an extraordinary number of docket entries. By way of just two examples,  
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1 there are 820 docket entries in the original Snohomish County dissolution action (EX 3) and 790  
2 docket entries in the first of several federal cases (EX191). These findings can only impart a  
3 sense of Fredric's relentless pursuit of his father and the fraud Fredric suspects was perpetrated  
4 upon his mother. Only upon close examination of the numerous complaints, lis pendens filings,  
5 motions, responses and orders referenced as exhibits herein can one appreciate the full nature  
6 and impact of Fredric's actions.

7 FACTS REGARDING THE DISSOLUTION

8 3. In January 2001, Fredric's mother, Viveca Sanai (Viveca), filed for dissolution  
9 from her husband of forty years and Fredric's father, Sassan Sanai, M.D. (Sassan), under  
10 Snohomish County Superior Court Cause No. 01-3-00054-5. The couple had five surviving  
11 adult children, two sons, Fredric and Cyrus Sanai (Cyrus), both lawyers, and three daughters,  
12 Ingrid Sanai Buron (Ingrid), Daria Sanai (Daria) and Astrid Sanai (Astrid).

13 4. Robert Prince (Prince) represented Viveca. Kenneth Brewe (Brewe) represented  
14 Sassan until September 13, 2001, when William Sullivan (Sullivan) of Marsh Mundorf, Pratt,  
15 Sullivan and McKenzie (MMPSM) replaced him.

16 5. Following a November 2001 trial before the Honorable Joseph A. Thibodeau, on  
17 April 15, 2002, Judge Thibodeau entered Findings of Fact and Conclusions of Law (FFCL) and  
18 a Decree of Dissolution. He named the couple's accountant, Philip Maxeiner as "special  
19 master" and required him "to list the family home and the vacant lot located on Talbot Road  
20 immediately." Each party would receive half the proceeds from the real estate sales. EXs 5, 6.  
21 Viveca Sanai had called Maxeiner a "special master" in her proposed FFCL and proposed  
22 decree. Sassan Sanai had objected to that term. EXs 4A, 4B.

23 6. On April 26, 2002, Viveca filed a pro se Notice of Appeal under Court of Appeals  
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1 Cause No. 503740-I challenging the FFCL and the Decree. She also filed a "Notice of  
2 Supersedeas Without Bond." EX 3 (Docket) at sub-number 254.

3 7. On May 15, 2002, John and Linda Neimi signed a full price Purchase and Sale  
4 Agreement for the vacant lot. Viveca's actions prevented a planned June 2002 closing. EXs 16,  
5 41 (Neimi Declarations). While Fredric repeatedly asserted that Linda Neimi worked for the  
6 real estate agency that listed the lot, there is no credible evidence to that effect and she did not  
7 have her real estate license when she agreed to buy the lot. TR 1219 (Sullivan), EXs 312, 313.

8 8. After Viveca's attempted supersedeas without bond, Judge Thibodeau issued an  
9 order requiring \$50,000 and \$72,000 bonds to stay the sale of the vacant lot and family home.  
10 EX 10. Viveca responded with supersedeas bonds of a purported private surety. Sassan  
11 objected.

12 9. Fredric obtained his license to practice law in Washington so that he could  
13 represent his mother. EX 175 at 2, fn. 1. At a June 25, 2002 hearing, when Fredric first  
14 appeared for his mother, Judge Thibodeau required cash or commercial surety bonds and  
15 ordered the stay lifted on the vacant lot sale unless Viveca posted the required bond by July 2,  
16 2002. EX 20.

17 10. Viveca did not post the required bond. Instead, on July 2, 2002, Fredric filed a  
18 "Lis Pendens Notice" against the lot in the dissolution action. EX 22. It was recorded the same  
19 date under No. 200207020603. EX 2 (Title Report) at 95.

20 11. Fredric also signed a "First Amended Lis Pendens" recorded August 30, 2002  
21 under No. 200208300704 against the lot, and another recorded August 7, 2002 under No.  
22 200208070472 against the house. EX 2 at 99, 102.

23 12. Meanwhile, on June 28, 2002, Fredric wrote the Neimis identifying himself as  
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1 Viveca's "co-counsel" claiming Maxeiner "has no legal authority to sell the property" and  
2 promising that "[a]ny attempt to drag my client [Viveca] into litigation will receive an  
3 appropriate response." EX 21. On July 5, 2002, Fredric filed a Motion for Reconsideration of  
4 the June 25, 2002 order, which effectively stayed the lot sale. EX 23, EX 20 at 2.

5 13. Fredric's lis pendens filings against the lot kept the Neimis from obtaining title  
6 insurance and blocked their anticipated closing on the lot. Since making their \$325,000 full  
7 price offer for the vacant lot in May 2002, their \$15,000 earnest money remained with the  
8 realtor. The Neimis had "cashed in sufficient investments to pay the purchase price in full  
9 without the need to secure financing." They remained ready to close the sale at any time.  
10 However, they wanted to build on the lot. To secure financing for the construction, they needed  
11 title insurance. The title insurance company would not issue a policy "so long as the lis pendens  
12 is in existence." EXs 41, 42 (Neimi and Purfeerst Declarations), TR 215-219 (Sullivan).

13 14. While Fredric claimed that the reason for a lis pendens was to give "actual notice  
14 of the underlying litigation which could affect the title to the real property" and that "the  
15 purpose of the lis pendens is not to obstruct the sale or anything else, it doesn't obstruct  
16 anything," TR 1897-98, this testimony was not credible. His letter to the Neimis provided  
17 actual notice of his position. But the letter alone could not block the vacant lot sale to the  
18 Neimis. The lis pendens filing accomplished that. RCW 4.28.328 provides in part that "lis  
19 pendens" means an "instrument having the effect of clouding the title to real property . . ."

20 15. On July 30, 2002, Fredric filed a motion for an order to show cause why a new  
21 trial should not be granted based on "new evidence" that Sassan had wiretapped conversations  
22 from the family home. As "new" evidence, Fredric stated that Viveca had learned Sassan had  
23 illegally wiretapped her calls when Sassan allegedly disclosed that to Cyrus back on  
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1 December 24, 2000. EX 24. That was not “newly discovered evidence which by due diligence  
2 could not have been discovered in time to move for a new trial under rule 59(b)” as required by  
3 Rule 60(b)(3) of the Civil Rules (CR).

4 16. On August 19, 2002, Fredric filed a Motion for Permission to File Audiotape,  
5 Protective Order, and Order Sealing Audiotapes. He claimed that Viveca had recently  
6 discovered tape recordings “regarding Respondent’s medical practice and patients.” EX 25 at 2.  
7 That same day, he filed a Motion for Protective Order and Order to Seal Court File and Motion  
8 for Sanctions Under CR 11 And/Or Terms. EX 26. He sought sanctions against Brewe for his  
9 August 2001 submissions to the court in opposition to Viveca’s then pending request to  
10 continue the trial date due to her health. Fredric noted the sanctions motion for  
11 September 20, 2002. EX 28.

12 17. On September 11, 2002, Fredric responded to Sullivan’s motion to disqualify him  
13 and asked the court to disqualify Sullivan. EX 29.

14 18. Brewe responded to Fredric’s motion for sanctions against him citing the lack of  
15 legal and factual support for the motion. For example, he noted that Viveca was not Sassan’s  
16 “patient” as defined by RCW 70.02.010 for the condition leading to her requested continuance.  
17 Accordingly, Sassan did not disclose “health care information.” In addition, Brewe noted that  
18 the motion was not filed promptly after the allegedly offending conduct as required and that  
19 Fredric failed to appear for the September 20, 2002 motion hearing. Brewe moved for sanctions  
20 against Fredric. EXs 30, 32, 33.

21 19. Sassan moved to strike the lis pendens filed by Fredric. On September 20, 2002,  
22 Fredric opposed that motion and sought sanctions.

23 20. At a September 27, 2002 hearing, Judge Thibodeau called Fredric’s lis pendens  
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1 filing "a misuse of that statutory scheme, because you have an adequate remedy at law." EX 37  
2 (transcript). Judge Thibodeau's order on this issue required Viveca to lift the lis pendens unless  
3 the Court of Appeals issued a stay. It prohibited Viveca or Fredric from filing another lis  
4 pendens "in this lawsuit related to the undeveloped lot." It also prohibited Viveca or Fredric  
5 from "taking any further action to delay or obstruct the sale of the vacant lot." EX 35.

6 21. Judge Thibodeau also disqualified Fredric immediately from representing Viveca,  
7 EX 34 (Order), citing, among other things, "this record," his pending suit against his father, and  
8 that "[h]e's actually bringing more heat to this case than anything else." EX 37 (transcript).

9 22. Another September 27, 2002 order denied Fredric's motion for a new trial; denied  
10 his motion for a protective order, denied his motion to disqualify Sullivan and denied Fredric's  
11 motion for reconsideration regarding bonds, except it allowed Viveca to remain in the family  
12 home without bond, pending appeal. EX 36. The Court awarded Sassan \$1,000 in terms based  
13 on Fredric's protective order motion, which Judge Thibodeau described in his oral ruling as  
14 "frivolous." EX 37. I find the motion, EX 25, was frivolous.

15 23. On October 11, 2002, Judge Thibodeau found Fredric's motion for sanctions  
16 against Brewe "frivolous" and awarded \$500 in terms under Rule 11 of the Rules of Civil  
17 Procedure (CR). EX 38.

18 24. I find the motion against Brewe was frivolous for the reasons stated in Brewe's  
19 response to the motion. Fredric brought the motion to embarrass and burden Brewe and Sassan.

20 25. Viveca filed a "pro se" Notice of Appeal of the October 11, 2002 and September  
21 27, 2002 orders, EX 39, which the Court of Appeals eventually assigned Cause Nos. 51303-6-I  
22 and No. 51707-4-I. See EX 94.

23 26. As outlined in Sullivan's November 6, 2002 Motion asking Judge Thibodeau to  
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1 execute a release of the lis pendens as soon as the Court of Appeals ruled, EX 40, Fredric filed  
2 six or more motions in the appellate courts seeking to block the vacant lot sale. As described  
3 below, none succeeded.

4 27. Court of Appeals Commissioner Ellis denied Fredric's June 26, 2002 motion, EX  
5 67, on June 28, 2002. EX 68 ("Viveca may not unilaterally determine that no bond is necessary  
6 and then proceed as if no bond is required....") Ellis found Fredric presented "no conceivable  
7 basis" for his requested terms of \$20,000 and no demonstrated basis for emergency relief. On  
8 July 1, 2002 a panel of judges denied Fredric's motion of that date to modify Commissioner  
9 Ellis's ruling. EXs 69, 70.

10 28. Commissioner Verellen denied Fredric's October 3, 2002 motion the next day,  
11 noting that the motion failed to demonstrate that the injury from sale of the lot outweighed the  
12 injury from the loss of the sale to the currently interested purchaser. EXs 73, 74.

13 29. Commissioner Verellen denied Fredric's October 7, 2002 "reapplication" motion  
14 that same day. Again, he pointed out that "the key to a stay is a balancing of the relative harms"  
15 and the "voluminous materials" failed to establish that the vacant lot was unique, that the price  
16 was below fair market value or that Viveca would be harmed if the proceeds were deposited  
17 with the special master. EXs 75, 76 at 2.

18 30. Commissioner Craighead denied Fredric's October 16, 2002 motion and  
19 October 21, 2002 "supplement" on November 4, 2002. Citing the Rules on Appeal (RAP), she  
20 found that "the motions are not properly before me" and that "[c]ounsel misunderstands the  
21 appellate process." EXs 77, 80, 84 at 1, 2. Nevertheless, Fredric filed an additional motion on  
22 November 8, 2002, EX 85, which was denied by a panel of Division I judges on February 11,  
23 2003. EX 95.

1 31. Fredric also challenged his disqualification by motions in the Court of Appeals.  
2 EXs 73, 85, 90. None succeeded. EXs 84, 85, 96. He continued to seek protective orders or  
3 sanctions in connection with his father's alleged improper disclosure of health care information  
4 by motions in the Court of Appeals. EXs 71, 79, 85, 92. None succeeded. EXs 71, 84, 95, 96.  
5 He repeated motions to seal the file in the Supreme Court, EX 119 and see EX 112 (Docket at  
6 July 1, 2003). None succeeded. EXs 122, 123.

7 32. I find Fredric's repeated motions to impede the lot sale, and otherwise challenge  
8 every trial court ruling, were frivolous and brought to delay the proceedings and embarrass,  
9 burden and harass his father.

10 33. On December 20, 2002, citing the "continuing appeals of every ruling of this  
11 court...greatly prolonging the matter and costing substantial attorney's fees," Judge Thibodeau  
12 sanctioned Viveca \$2,500 to be paid to Sassan from Viveca's share of the net proceeds from the  
13 sale of the vacant lot. The December 20, 2002 order also provided that the Court would issue a  
14 release of the lis pendens once the Court of Appeals ruled. EX 44. Fredric as "Appellate  
15 Attorney for Petitioner Viveca Sanai" filed a Notice of Appeal from that ruling on January 16,  
16 2003. EX 45.

17 34. Following the February 11, 2003 Court of Appeals order that denied Fredric's  
18 requested stay of the trial court order requiring the lis pendens release, on February 13, 2003,  
19 Judge Thibodeau released Fredric's July 2, 2002 lis pendens recorded under No. 200207020603.

20 35. As Sullivan traveled the short distance from the Snohomish County Superior Court  
21 to the Auditor's Office, he passed Viveca. The release he had just obtained was recorded at  
22 4:18 p.m. on February 13, 2003. He asked the auditor's office staff to check for recent filings  
23 against the vacant lot and discovered a new lis pendens signed by Cyrus citing the second  
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1 federal wiretap case discussed below and recorded at 4:10 p.m. that day. EX 2 at 107, 138. The  
2 second federal wiretap case (02-02560) was filed by Cyrus and Fredric as the only plaintiffs on  
3 December 24, 2002, EX 274, after Fredric had lost several motions in the Court of Appeals  
4 attempting to stay the lot sale.

5 36. On January 27, 2003, Fredric sought discretionary review of the lis pendens issue.  
6 EX 91. On March 11, 2003, a Court of Appeals panel determined the issue was not appealable  
7 and did not meet the requirements for discretionary review under the RAP. EX 96.

8 37. Meanwhile, at the trial court, on March 10, 2003, Judge Thibodeau ordered Viveca  
9 to vacate the family home by May 10, 2003, or face sanctions of \$250 per day. He awarded  
10 Sassan \$1,000 in terms against Viveca to be deducted from her share of the net proceeds from  
11 the sale of the lot or home. EX 48.

12 38. On April 14, 2003, Fredric sought direct review of the March 10, 2003 order in the  
13 Washington Supreme Court. EX 113. On May 5, 2003, Fredric "refiled" the motion for  
14 revision of the trial court's supersedeas/lis pendens ruling. EX 114 at 2.

15 39. On May 7, 2003, Supreme Court Commissioner Crooks denied relief referencing  
16 not only that "the children have taken up arms against the father" in a "continuous stream of  
17 litigation," but also that Fredric provided only a "sparse record." The May 7, 2003 ruling asked  
18 the parties to brief whether Fredric could continue to represent Viveca given that Judge  
19 Thibodeau's disqualification order had never been stayed. EX 115A. Fredric's motion seeking  
20 clarification was denied. EX 117.

21 40. On June 10, 2003, Commissioner Crooks denied another motion for supersedeas  
22 and motion to modify. EXs 120, 121, 122. He also ruled that because the trial court  
23 disqualification order was never stayed, Fredric lacked authority to act for Viveca and  
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1 accordingly, he dismissed the pending motions. Fredric moved to modify that ruling. See EX  
2 112 (docket at July 10, 2003). On September 5, 2003, Department II of the Supreme Court  
3 unanimously denied all pending motions and sanctioned Fredric and Viveca \$1,000. EX 123.

4 41. On December 22, 2003, the Court of Appeals decided the main appeal, affirming  
5 Judge Thibodeau except that firearms awarded to a third party were awarded to Sassan as bailee  
6 for a third party. EX 104. Citing the “one and one half years of posttrial litigation and  
7 motions,” which the Court characterized as “inappropriate, untimely, and unduly repetitive” and  
8 errors in Viveca’s opening brief (signed by Fredric, EX 97), the Court imposed \$10,000 in  
9 sanctions against Viveca for her “extreme intransigence” and for “abusing the appellate  
10 process.”

11 42. The Washington Supreme Court declined discretionary review of the appeal and  
12 the United States Supreme Court denied certiorari. EXs 104 at 9, 107.

13 43. Judge Thibodeau hoped that a May 26, 2005 hearing would resolve remaining  
14 dissolution issues given that a sale was pending on the family home. Instead, an understandably  
15 frustrated Judge Thibodeau recognized that Fredric, Cyrus and Viveca’s actions had caused him  
16 to lose his “sense of neutrality” and he recused himself from the case. EX 62 at 21, 22. He  
17 found that Fredric, Viveca and Cyrus had acted “in concert” and “in bad faith.” EX 62 at 16,  
18 23.

19 44. In June 2005, the Snohomish County Auditor’s Office recorded the sale of the  
20 family home. EX 2 at 16.

21 45. Prince withdrew from representing Viveca in the trial court in April 2006. He had  
22 never represented her on appeal. Following a period when Viveca represented herself, while  
23 Fredric and Cyrus were forbidden by court orders from representing her, EX 64, Michael Bugni  
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1 appeared for Viveca.

2 46. Following a Fall 2007 hearing on post-dissolution issues, Snohomish County  
3 Superior Court Judge Kenneth Cowsert found “no newly discovered assets or fraud” and denied  
4 another new trial request. He found that Maxeiner “has not mismanaged this matter and shall be  
5 awarded his fees.” EX 64A. Sassan received \$51,000 in sanctions for Viveca’s holdover in the  
6 family home in violation of the March 10, 2003 order. EX 64B at 4 (December 7, 2007 Order).  
7 The family home sold on June 6, 2005 generating net sale proceeds in excess of \$800,000.  
8 From Viveca’s share the court deducted \$15,485.55 for the sanctions awarded against her [and  
9 Fredric, EX 159] in the partition action described below. EX 64B at 8-9.

10 47. By January 2008, Maxeiner had received five writs of garnishment seeking to  
11 collect sanctions imposed against Viveca [and Fredric] by Judge Zilly in federal court as  
12 described below and totaling \$314,434.29. He asked for direction from the Snohomish County  
13 Superior Court and then paid that amount into the registry of the County Court as ordered by  
14 Judge Cowsert. EX 64C, 64D. Fredric and the other federal plaintiffs had challenged the  
15 garnishments alleging that Maxeiner was illegally and corruptly appointed special master, but  
16 “[t]here is no evidence in the record to support Sanai’s allegations of corruption.” EX 64F at 5.

17 48. Viveca, pro se, appealed Judge Cowsert’s December 7, 2007 Order and “all prior  
18 non-appealable orders.” EX 64E (June 15, 2009 Court of Appeals unpublished opinion). The  
19 appellate court found her challenge to Maxeiner’s appointment “unavailing” even when cast in  
20 due process terms because she had not objected before the trial court. It found no abuse of  
21 discretion in Judge Thibodeau’s decision to disqualify Fredric and awarded Sassan his  
22 attorney’s fees for a frivolous appeal. EX 64F.

23 49. I find the motions for protective order or to seal the file allegedly brought to  
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1 protect the confidentiality of Viveca's or the alleged private surety's health care information  
2 were frivolous for the same reasons that Fredric's motion against Brewe was frivolous. Ex 32,  
3 32, 33. Although Fredric acted as Viveca's counsel until disqualified, he never represented the  
4 private surety. TR 593. While his avowed purpose in repeatedly bringing such motions was to  
5 protect the confidentiality of Viveca's and the private surety's health care information, Fredric  
6 repeatedly put the information in the public record to do so. Fredric brought the protective  
7 order and like motions regarding Viveca's and the private surety's health care information to  
8 embarrass and burden Sassan.

9 50. Fredric's often-repeated motions for supersedeas or related relief were brought to  
10 delay implementation of the decree and to burden Sassan. In addition, he did not articulate an  
11 appropriate reason for claiming lis pendens relief under RCW 4.28.320 for the reasons stated by  
12 Judge Thibodeau, the Court of Appeals, and Judge Zilly. Thus, I find the requests for  
13 supersedeas and the lis pendens filings were frivolous. Fredric argued that Viveca should be  
14 allowed to use a private surety, but he asserted that Viveca should not risk her own cash because  
15 it would be "too risky." EX 77 at 6.

16 51. Fredric's post judgment motion practice in the Snohomish County Superior Court,  
17 the Court of Appeals, and the Washington State Supreme Court violated practice norms.

18 52. In all instances, Fredric acted intentionally. He caused actual serious harm to the  
19 Neimis, who liquidated assets to purchase the vacant lot, kept thousands in earnest money with  
20 the real estate broker as they waited in vain for the lot sale to close, and ultimately lost the  
21 opportunity to build their dream home on the Edmonds vacant lot when they abandoned the lot  
22 purchase. Fredric caused actual serious harm to his father, who was forced to defend the  
23 plethora of motions. He burdened the courts at every level with his frivolous filings. He  
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1 delayed resolution of his parents' dissolution. In deciding the main appeal, the Court of  
2 Appeals sanctioned Viveca \$10,000 for "extreme intransigence" and for Fredric's  
3 "inappropriate, untimely and unduly repetitive" motions.

4 53. In the spring of 2003, following the Court of Appeals refusal to supersede or stay  
5 the vacant lot sale, Fredric, as Viveca's lawyer, filed a Complaint in King County against  
6 Sassan and his professional services corporation, Internal Medicine and Cardiology, Inc. (IMC)  
7 seeking to obtain the vacant lot and house for Viveca (the partition action). EX 145.

8 54. Fredric used the partition action as the basis for additional lis pendens filings  
9 including a May 20, 2003 Notice of Lis Pendens signed by Fredric and recorded May 20, 2003  
10 under No. 200305200939 and an Amended Notice of Lis Pendens signed by Fredric on July 1,  
11 2003 and recorded on July 7, 2003 under No. 200307070619. EX 2 at 156, 166.

12 55. While the Neimis had abandoned the lot purchase in April 2003, EX 120 at 32, a  
13 new deal for sale of the vacant lot had been set to close on or about July 18, 2003. The sale did  
14 not close because the lis pendens precluded clear title and title insurance. EX 150 at 9-10.

15 56. On August 11, 2003, Judge Thibodeau released the lis pendens, held Viveca in  
16 contempt of court, and ordered her to pay \$5,000 for obstructing the lot sale by filing the lis  
17 pendens signed by Fredric and recorded under No. 200307070619. EX 50. A sale on the  
18 vacant lot was recorded the next day. EX 2 at 46.

19 57. Viveca appealed the August 11, 2003 contempt finding and lost. The Court of  
20 Appeals rejected her argument that only the court in which the underlying action is filed may  
21 release the lis pendens. It noted that RCW 4.28.320 does not so state, and Viveca cited no  
22 authority in support of her position. Also, the partition action was filed in the wrong county [by  
23 Fredric] and thus could not affect title to property in Snohomish County. Finally, the Court  
24

1 cited Judge Thibodeau's order prohibiting Viveca or her counsel from taking "any further  
2 action" to delay the vacant lot sale, and the superior court's inherent power to enforce its own  
3 orders. EX 126 (Sanai v. Sanai, 127 Wash. App. 1013 (Div. I, May 2, 2005)(unpublished  
4 opinion)).

5 58. I find that Fredric acted intentionally in signing and/or filing lis pendens and that  
6 he caused serious actual harm in that he not only delayed resolution of his parents' dissolution,  
7 but he also thwarted the Neimis' efforts to buy the vacant lot after they made a full price offer  
8 and liquidated assets to satisfy their obligations at the anticipated closing. He delayed the  
9 closing for the subsequent purchaser in the summer of 2003. He brought the lis pendens with  
10 no substantial purpose other than to delay the lot sale or burden his father or the prospective  
11 purchasers of property ordered sold under his parents' dissolution decree. He violated practice  
12 norms.

13 59. On September 27, 2002, Judge Thibodeau had prohibited Viveca or Fredric from  
14 filing another lis pendens or taking any further action to delay or obstruct the sale of the vacant  
15 lot. Fredric's subsequent lis pendens filings against the vacant lot on May 20, 2003 and July 7,  
16 2003 knowingly and willfully disobeyed Judge Thibodeau's order. Judge Thibodeau held  
17 Viveca in contempt of court. Fredric assisted in the contemptuous conduct by filing the  
18 partition action that served as the basis for further lis pendens and by signing and/or filing the lis  
19 pendens notices. He also assisted in contemptuous conduct by joining Cyrus in filing the  
20 second federal wiretap case, which Cyrus used as the basis for additional lis pendens filings. I  
21 find Fredric's argument that a lis pendens filing does no more than give public notice of a  
22 pending law suit affecting property to be ingenuous and in violation of minimal practice norms.



1                    FACTS REGARDING LAWSUIT AGAINST JUDICIAL OFFICERS

2            60.     Four days after Justice Alexander's September 5, 2003 Order dismissing Fredric's  
3 Supreme Court motions, Fredric and Viveca filed suit under 42 U.S.C. §1983. See EX 130  
4 (Docket for Case No. C03-2781C in the United States District Court for the Western District of  
5 Washington at Seattle).

6            61.     Fredric's First Amended Complaint, filed September 16, 2003, named as  
7 Defendants Commissioner Crooks, Snohomish County Superior Court Judge Thibodeau, and  
8 Court of Appeals Judges Applewick, Baker and Ellington. He alleged civil rights violations  
9 based on Judge Thibodeau's decision disqualifying Fredric and the other Defendants' denial of  
10 requests for relief from that decision. He sought "an injunction to compel the Defendants to  
11 allow Viveca to be represented by Fredric Sanai...." EX 131 at 11.

12           62.     Also, on September 16, 2003, Fredric and Viveca filed an Ex Parte Application for  
13 Temporary Restraining Order and Motion for Preliminary Injunction (TRO) again seeking to  
14 stay "all proceedings in the dissolution action" and to effectively overturn the rulings  
15 disqualifying Fredric from representing his mother. As he admitted in the "Facts" section of  
16 that Application, "[t]his action arises from the post-final judgment proceedings in a divorce  
17 case." EX 132 at 3. Division 1 had scheduled oral argument for September 25, 2003, in the  
18 main dissolution appeal prompting the TRO request seeking a ruling from the federal court  
19 requiring the state court to let Fredric represent Viveca at oral argument and to restrain all  
20 proceedings in the dissolution. Id.

21           63.     In his attached Declaration, EX 132 at 25, Fredric identifies himself as not only a  
22 Plaintiff, but also as "counsel to Viveca Sanai."

23           64.     The Washington State Attorney General's Office appeared for the jurists and  
24

1 moved to dismiss the complaint and the original and subsequent TRO motions.

2 65. On September 24, 2003, the Honorable Robert S. Lasnik denied the first TRO  
3 motion, noting that “Because Plaintiffs now seek this Court’s last minute assistance in a matter  
4 that could have easily been taken care of well in advance of the September 25, 2003 oral  
5 argument, the Court concludes that Plaintiffs’ motion for a temporary restraining order lacks  
6 merit.” EX 133 at 4. He also pointed out that “in essence” Plaintiffs sought a writ of  
7 mandamus with the federal court directing the state court’s actions, which the federal court  
8 “may not issue.” Id. at 5, n. 8.

9 66. On October 2, 2003, Fredric moved for summary judgment and again included a  
10 plea for injunctive relief. EX 134. Defendants’ Opposition included a cross motion to dismiss.  
11 EX 135.

12 67. Lucy Isaki, then with the Attorney General’s office, represented the jurists. She  
13 testified for the Association in this disciplinary hearing. On cross-examination, Respondent’s  
14 Counsel asked her if “it is improper to argue that there is a causal connection between an  
15 asserted financial interest and a judge’s decisions made in the case.” She testified as follows:

16 I think without proof of all of the necessary facts it’s improper to argue that. I  
17 think it goes too far.

18 TR at 159-60.

19 68. Before the Court decided the cross-motions, on December 1, 2003, Fredric filed  
20 yet another Ex Parte Application of Fredric Sanai and Viveca Sanai for Temporary Restraining  
21 Order and Motion for Preliminary Injunction admitting “[t]his motion is a re-application for a  
22 temporary restraining order and motion for restraining order which was made to this Court and  
23 denied by Judge Lasnik on September 24, 2003.” EX 136 at 2.

24 69. On December 12, 2003, Chief United States District Court Judge John C.

1 Coughenor dismissed the case for lack of subject matter jurisdiction. He also dismissed the  
2 pending injunction request(s) and concluded as follows:

3 In sum, Plaintiffs' attempt to obtain review of unfavorable decisions of the  
4 Washington state courts by wrapping their state law-based challenges in the fabric  
5 of federal constitutional claims must fail under the Rooker-Feldman doctrine.  
6 The fact that Plaintiffs did not present, although they could have, their current  
7 constitutional arguments to the state court judges does not alter the application of  
8 Rooker-Feldman's jurisdictional bar.

9 EX 137 at 11 (footnote omitted).

10 70. On December 15, 2003, Fredric moved for reconsideration. EX 139. On  
11 January 8, 2004, Fredric signed a Notice of Appeal as "Counsel for Viveca Sanai & pro se."  
12 EX 140.

13 71. Despite the earlier rulings denying his requests for a TRO and despite the court's  
14 December 12, 2003 order dismissing the case, on January 16, 2004, Fredric again requested a  
15 TRO pending appeal. EX 141.

16 72. "Despite the continuing colorfulness of Plaintiffs' arguments," EX 142 at 1  
17 (January 23, 2004 Order), Judge Coughenor denied Fredric's Motion for Reconsideration and  
18 his fourth TRO bid. He concluded: "Here, Plaintiffs seek nothing more than review of the  
19 disqualification orders issued by the state court judges. Clearly, this Court is not a proper forum  
20 for such de facto appellate challenge." Id. at 11.

21 73. The Ninth Circuit assigned the case No. 04-35041. On August 17, 2005, a Ninth  
22 Circuit panel issued a Memorandum Opinion deciding several pending Sanai matters.

23 74. It held that the district court properly applied the Rooker-Feldman doctrine to  
24 dismiss Fredric and Viveca's challenge to the state court's disqualification of Frederic Sanai as  
counsel for Viveca Sanai. Sanai v. Sanai, 141 Fed.Appx. 677 (9<sup>th</sup> Cir. August 17, 2005)  
(unpublished opinion), cert. denied 126 S.Ct. 2022, 74 USLW 3475 (May 15, 2006). EX 143.

1       75.     The Rooker-Feldman doctrine bars federal courts from acting as de facto appeals  
2 courts from state court decisions. “If a federal plaintiff asserts as a legal wrong an allegedly  
3 erroneous decision by a state court, and seeks relief from a state court judgment based on that  
4 decision, Rooker-Feldman bars subject matter jurisdiction in federal district court.” Noel v.  
5 Hall, 341 F.3d 1149, 1164 (9<sup>th</sup> Cir. 2003).

6       76.     I find that the suit against the judges was frivolously asserted. Fredric identified  
7 himself as not only a plaintiff, but also as Viveca’s lawyer. I find that he brought the action to  
8 embarrass and burden the judicial officers sued. His TRO motions were without merit and  
9 designed to delay the dissolution proceedings. Finally, the litigation was outside practice  
10 norms. While it is true that such suits may be justified under extraordinary circumstances, those  
11 circumstances were completely absent from Fredric’s cases against the judges.

12       77.     I find that Fredric acted intentionally and that he caused actual serious harm in that  
13 his repeated TRO and other filings burdened the courts and the defendant judicial officers with  
14 meritless claims.

#### 15                   FACTS REGARDING STATE AND FEDERAL WIRETAP LAWSUITS

16       78.     California Litigation. On March 16, 2001, while the dissolution action remained  
17 pending, Fredric, Cyrus, Viveca, Ingrid and Daria sued Sassan in Los Angeles County Superior  
18 Court under Cause No. BC246941 for over \$1,000,000 alleging, among other things, that  
19 Sassan had invaded their privacy by wiretapping their conversations from the family home. The  
20 Complaint identified Sassan as a Washington State resident at all relevant times. EX 167.

21       79.     On July 12, 2001, the trial court granted Sassan’s motion to quash the summons  
22 against him based on the California court’s lack of personal jurisdiction over him. EX 168  
23 (minute entry).

1 80. Fredric and other Plaintiffs appealed that decision and lost. EX 169 (Sanai v.  
2 Sanai, 2003 W.L. 733994 (Cal. App. 2 Dist., March 4, 2003) (unpublished opinion).

3 81. Washington State Court. On August 20, 2002, while the California case was on  
4 appeal, Fredric, Cyrus, Viveca, Daria and Ingrid sued Sassan, IMC and IMC employee Mary  
5 McCullough (McCullough) in King County Superior Court under Cause No. 02-2-23981-1,  
6 alleging wiretapping. EX 171 (Complaint). Unlike the California litigation, Plaintiffs claimed  
7 wiretapping occurred not only from the family home in Snohomish County, but also from the  
8 IMC office in King County.

9 82. Fredric alleged that Sassan and McCullough “obtained and installed in the  
10 corporate office of IMC telephone electronic equipment and devices designed to intercept the  
11 content of incoming and outgoing telephone calls.” EX 171 at 5.

12 83. But he and the other plaintiffs never produced any evidence of wiretapping having  
13 ever occurred at the offices of IMC. TR 738 (Gibbs), EXs 175, 177.

14 84. On October 4, 2002, after a hearing, the Honorable Palmer Robinson issued an  
15 Order on Show Cause allowing Plaintiffs to obtain a Writ of Attachment against \$50,000 of  
16 Sassan’s interest in the net proceeds from the vacant lot or family home sale, provided that  
17 Plaintiffs first obtain a commercial surety bond for \$200,000. EX 175. Plaintiffs never posted a  
18 bond or obtained a Writ of Attachment.

19 85. As part of the Order on Show Cause, the Court noted that while Plaintiffs claimed  
20 over \$6 million in damages and sought a pre-judgment writ of attachment for \$12 million they  
21 sought to have the writ conditioned only on “their giving an unsecured ‘personal undertaking’ in  
22 the amount of \$3,000.” EX 175 at 2.

23 86. After hearing testimony from Fredric, Viveca and Cyrus, Judge Robinson found  
24

1 “no evidence presented that the tapes had ever been played for or listened to by any third  
2 person” and “no evidence that any telephone calls to, from, or within Dr. Sanai’s place of  
3 business had been intercepted or tape recorded.” The asserted basis for venue in King County  
4 had been that improper wiretaps had been conducted at IMC, which is located about one-quarter  
5 mile within King County. TR 622-23. The wiretapping at IMC allegation had not appeared in  
6 the California complaint. EX 167.

7 87. On October 18, 2002, Plaintiffs filed a First Amended Complaint. It added  
8 Sullivan and MMPSM as defendants. EX 176. Specifically, the Third Cause of Action alleged  
9 all defendants had violated Ch. 70.02 RCW by disclosing confidential health care information  
10 about Viveca. This repeated allegations Judge Thibodeau had rejected only days earlier in the  
11 dissolution case. In fact, the Snohomish County Superior Court’s October 11, 2002 order had  
12 sanctioned Fredric and Viveca \$500 for bringing such “frivolous” allegations against Sassan’s  
13 prior lawyer.

14 88. The amended complaint also added defamation claims against Sassan, Sullivan and  
15 MMPSM based on grievances Sullivan and Sassan had filed against Fredric with the  
16 Association.

17 89. On November 21, 2002, the Association wrote to Fredric advising him that Rule  
18 2.12(b) of the rules for Enforcement of Lawyer Conduct (ELC) [formerly Rule 12.11(b) of the  
19 Rules for Lawyer Discipline (RLD)] provides that communications to the Association are  
20 “absolutely privileged and no lawsuit predicated thereon may be instituted against any grievant,  
21 witness, or other person providing information.” EX 182 (Ende letter).

22 90. At Defendants’ request, the King County Superior Court transferred the case to  
23 Snohomish County Superior Court, EX 177, where it received Cause No. 03-2-06858-4.  
24

1 91. On May 8, 2003, Plaintiffs filed a Second Amended Complaint under the  
2 Snohomish County case number. EX 183.

3 92. By this time, Plaintiffs had filed wiretapping allegations against Sassan and  
4 defamation allegations against Sassan and Sullivan in federal court, too. The amended  
5 complaint in state court retained the factual predicate for the wiretapping and defamation  
6 claims, but noted: "Plaintiffs are pursuing their causes of action for illegal wiretapping in  
7 Federal court." EX 183 at paragraph 22; see also EX 183 at paragraph 30 (similar notation  
8 regarding defamation claims). That left only Viveca's claims. However, paragraph 49 of the  
9 amended complaint alleged that Viveca had assigned a portion of her invasion of privacy claim  
10 for disclosure of allegedly confidential health care information to Fredric and the other  
11 Plaintiffs.

12 93. On May 9, 2003, Snohomish County Commissioner Bedle granted Sullivan \$3,000  
13 in terms against Viveca and Fredric under CR 41 and 15. EX 184. After United States District  
14 Court Judge Zilly told Plaintiffs that they must dismiss the state court wiretap claims to lift the  
15 stay he had imposed in the federal wiretap litigation described below, Plaintiffs had tried to  
16 amend their state court complaint to delete certain claims.

17 94. On August 5, 2003, the parties filed a Stipulation and Agreed Order of Dismissal.  
18 EX 186. Fredric and others filed a Notice of Appeal citing both the terms imposed and the  
19 agreed dismissal order. EX 187. The Court of Appeals assigned case number 764123. EX 188  
20 (Docket).

21 95. On October 18, 2004, the Court of Appeals held that fees should not have been  
22 awarded under CR 15 or CR 41. But the lower court had not considered whether an award of  
23 fees might be proper under CR 11. The case was reversed and remanded to allow Defendants to  
24

1 seek sanctions under CR 11. EX 189 (Sanai et al v. Sanai et al, 123 Wash. App. 1046, 2004  
2 WL 2335798 (Div. I 2004) (unpublished opinion), rev. den., 154 Wn. 2d 1021 (July 12, 2005).  
3 Plaintiffs' unsuccessful petition for review in the Supreme Court had received Case No. 764123.  
4 EX 190 (Docket). Fredric testified that he considered the remand "a win" even though it  
5 allowed the trial court to consider CR 11 sanctions against him. TR 711.

6 96. First Federal Wiretap Case (02-02165). On October 18, 2002, the same date they  
7 filed a First Amended Complaint in the King County wiretap action, and while the California  
8 wiretap appeal remained pending, Fredric, Cyrus, Viveca, Ingrid and Daria sued Sassan and  
9 others in federal court under United States District Court for the Western District of Washington  
10 at Seattle Cause No. 02-02165.

11 97. Among other things, they alleged illegal wiretapping by Sassan. Plaintiffs sought  
12 damages exceeding \$16,000,000. Fredric represented Ingrid from at least May 15, 2003, EX  
13 206 at 2, until disqualified. The case was assigned to the Honorable Thomas S. Zilly.

14 98. Plaintiffs immediately sought injunctive relief to "freeze assets." See, e.g., EX 191  
15 (Docket in 02165 at 11/22/02). Judge Zilly denied a requested Temporary Restraining Order  
16 EX 191 (Docket in 02165 at 12/2/02 and 12/4/02). Defendants requested that the federal court  
17 abstain from exercising jurisdiction or stay the federal case until the parallel state court  
18 litigation concluded. EX 196 (Defendants' Motion Requesting This Court's Abstention From  
19 Exercising Jurisdiction and for a Stay of These Proceedings).

20 99. Judge Zilly denied Plaintiffs any injunctive relief. For example, on  
21 December 17, 2002, Judge Zilly ruled Viveca could bring an Employment Retirement Income  
22 Security Act (ERISA) claim in federal court, but that the evidence did not support Fredric's or  
23 any other Plaintiffs' interest in the ERISA account, and he denied Viveca injunctive relief  
24



1 because "plaintiff has not shown a strong likelihood of success on the merits in connection with  
2 her ERISA claim." EX 198 (December 17, 2002 Transcript). He explained:

3           The parties for whatever reason cannot abide by the rulings of the  
4           eminently qualified trial judge in Snohomish County, and this court is not at this  
5           point going to interfere by entering a preliminary injunction that would in effect  
6           have the force and effect of disrupting and otherwise interfering with the rulings  
7           of the trial judge in Snohomish County.

8 Id. at 37-38. Despite that ruling, Fredric persisted in bringing ERISA claims in his own name as  
9 a "derivative beneficiary," TR 693, of his parents' terminated profit sharing plan. Judge Zilly  
10 dismissed all the ERISA claims on summary judgment. The Court sanctioned Fredric and the  
11 other Plaintiffs for bringing such claims against McCullough. EX 272A at 5-7.

12           100. As requested by Defendants, Judge Zilly issued a stay. EX 197 (Minute Order).  
13 On January 22, 2003, Judge Zilly granted the motion to abstain or stay as to the illegal  
14 wiretapping and emotional distress claims given parallel state court litigation. EX 199 (Minute  
15 Order).

16           101. Second Federal Wiretap Case (02-02560). Before the Court could rule on that  
17 motion, on December 24, 2002, Fredric and Cyrus, as the only Plaintiffs, had filed another  
18 complaint under United States District Court for the Western District of Washington at Seattle  
19 Cause No. 02-02560. EX 273 (Docket), EX 274 (Complaint).

20           102. The case was assigned to the Honorable Robert S. Lasnik. In a Second Amended  
21 Complaint, Fredric realleged the libel, slander and tortuous interference claims as Counts 7, 8,  
22 and 9, EX 276, that remained pending in the state court wiretap case as Counts 6, 7 and 8, EX  
23 176.

24           103. Fredric moved to consolidate both cases before Judge Lasnik. EX 277. But Judge  
Lasnik reassigned the case to Judge Zilly because it was related to 02-02165. EX 273 (Docket

1 | at sub-number 10).

2 | 104. Consolidated Federal Wiretap Case (02-02165). Judge Zilly consolidated the cases  
3 | and ordered that all motions or other documents must be filed under 02-02165. EX 273 (Docket  
4 | at sub-numbers 15, 60 (Minute Orders)). He rejected Fredric's request that the cases be  
5 | consolidated under the higher cause number [and thus assigned to Judge Lasnik]. EX 201.

6 | 105. After Judge Zilly denied Plaintiffs' attempts to enjoin the sale of the vacant lot in  
7 | the first filed federal wiretap case (02-02165) as described above, then Cyrus Sanai used the  
8 | second filed federal wiretap case (02-02560) as the basis for lis pendens notices against the lot  
9 | filed February 13, 2003 under Auditor's Number 200302130755, filed March 7, 2003 under  
10 | Auditor's Number 200303070238 ("Amended Lis Pendens") and April 21, 2003 under  
11 | Auditor's Number 200304210011 ("Second Amended Lis Pendens"). EX 2 (Title Report) at  
12 | 138, 142, 147. Cyrus Sanai signed and filed another lis pendens on March 7, 2003 under  
13 | Auditor's File No. 200303070237 against the house. It also cited the 02-02560 case filed by  
14 | Fredric and Cyrus.

15 | 106. After Sassan discovered the February 13, 2003 filing, he moved for its release. EX  
16 | 200. On April 18, 2003, Judge Zilly ordered the release of the February 13, 2003 lis pendens  
17 | filed under Auditor's No. 200302130755. EX 204. Three days later, Cyrus Sanai filed another  
18 | lis pendens.

19 | 107. At a hearing on May 15, 2003, after argument on the pending state and federal  
20 | wiretap claims, the parties stipulated on the record that Plaintiffs would dismiss the Snohomish  
21 | County wiretap case and file a Third Amended Consolidated Complaint by June 6, 2003 to  
22 | consolidate not only the two federal cases, but also any claims remaining under the state court  
23 | wiretap case. EX 206 (May 15, 2003 Transcript at 27 et. seq.).  
24 |

1 108. In addition, Sassan asked Judge Zilly to release the additional lis pendens notices  
2 filed by Cyrus. Fredric was present at the May 15, 2003 hearing when Judge Zilly announced:

3 I'm going to grant the order [striking lis pendens]. The statute, [RCW]  
4 4.28.325 permits filing of a notice of lis pendens in a, quote, action affecting title  
to real property at the time of filing the complaint or any time thereafter, end of  
quote. I'm paraphrasing.

5 But basically, the complaint as alleged in the equitable claim is, in my  
6 opinion, not an action affecting real property. And I'm just not satisfied that the  
representations that have been made would support the Court authorizing a lis  
pendens.

7 ...

8 Well, I'm ordering each of the plaintiffs in this action who I have  
jurisdiction over to cease and desist from any further action to delay or obstruct  
the sale of either of those properties or filing any further lis pendens.

9 Id. at 42-44.

10 109. Plaintiffs immediately appealed the lis pendens release order. EX 191 (Docket at  
11 sub-number 136). On September 22, 2003, the Ninth Circuit Court of Appeals dismissed the  
12 appeal for lack of jurisdiction. EX 191 (Docket at sub-number 240).

13 110. Judge Zilly's written Order on Defendant's Motion to Release Three Lis Pendens  
14 canceled and released three lis pendens signed by Cyrus Sanai, and provided as follows:

15 Plaintiffs herein, and each of them, are prohibited from filing any new  
16 Notice of Lis Pendens affecting the vacant lot owned by Dr. Sassan Sanai and  
Viveca Sanai, having Assessor's Property Tax Parcel Account No.  
17 27040700104100 and having that legal description attached hereto as Exhibit B.

18 Each of the plaintiffs herein shall cease and desist from taking any further  
19 action whatsoever to delay or obstruct the sale of the aforesaid real property.

20 EX 207 (May 19, 2003 Order, emphasis added).

1 111. Just five days after the May 15, 2003 hearing, on May 20, 2003, Fredric recorded a  
2 lis pendens under Auditor's File No. 2003005200939 against the vacant lot based on a Notice of  
3 Lis Pendens he signed on May 20, 2003 as "Attorney for Viveca Sanai" citing a King County  
4 action allegedly filed April 20, 2003.

5 112. Actually, Fredric filed the King County partition case on May 20, 2003, EX 145,  
6 the same date as the lis pendens. EX 2 (Title Report at 156). While Fredric testified the April  
7 date was a typographical error, TR 670, this testimony was not credible. Fredric brought a  
8 motion for clarification of Judge Zilly's ruling, EX 209, without telling the Court that he had  
9 already filed a lis pendens. Judge Zilly denied the motion. EX 210.

10 113. In further defiance of the Court's May 19, 2003 Order, on July 7, 2003, Fredric  
11 recorded another lis pendens against the vacant lot under Auditor's File No. 200307070619  
12 based on an Amended Notice of Lis Pendens signed by Fredric on July 1, 2003, citing King  
13 County Superior Court Cause No. 03-2-25718-4SEA, the partition case. EX 2 (Title Report at  
14 166).

15 114. Sassan moved for contempt and to release the lis pendens filings. The Court  
16 deferred the matter and set oral argument for September 26, 2003. EX 191 (Docket at sub-  
17 number 228).

18 115. During that oral argument, Sullivan outlined Plaintiffs' inconsistent positions in  
19 different courts and asked for contempt sanctions against Fredric and Viveca for filing the  
20 notices of lis pendens after Judge Zilly's May 19, 2003 order. Fredric did not appear. EX 218  
21 (Transcript September 26, 2003).

22 116. The Court outlined its decision as follows:

23 This court held a hearing on May 15<sup>th</sup>. At that time I did enjoin the  
24 plaintiffs from filing lis pendens.

1 The record is clear that on May 29<sup>th</sup> the plaintiffs— I think it was May  
2 20<sup>th</sup>, actually—they filed a new King County action. The action was described as  
an extension of the divorce between the Sanai's.

3 In connection with that proceeding, they filed an ex parte motion to  
4 compel discovery. They argued in the King County action that the partition  
action was an independent action and not a continuation of the divorce  
5 proceedings. They went into Snohomish County and they argued that it was a  
6 separate partition action, not a continuation.

7 They have made a mockery and are making a mockery of the legal system  
8 by making contrary arguments in one court from another, in not getting the relief  
they seek in one court, going to another court and seeking that relief.

9 ...  
10 ..[T]here's a copy of the amended notice of lis pendens. It's signed by  
11 Fredric Sanai. He signs it as attorney for Viveca Sanai. It's dated July 1<sup>st</sup>. It was  
12 filed July 7<sup>th</sup>. That lis pendens was in direct violation of this court's order.

13 Id. at 26-27.

14 117. As a result of the lis pendens signed by Fredric, Judge Zilly found Fredric and  
15 Viveca in contempt of court. He sanctioned them \$2,500 payable jointly and severally into the  
16 registry of court and awarded Sassan \$3,400 in attorney's fees payable jointly and severally.  
17 EX 217 ([October 1, 2003] Order on Defendant Dr. Sassan Sanai's Motion for Contempt,  
18 Sanctions, and Attorney's Fees) (releasing Auditor's File Nos. 200305200939 and  
19 200307070619).

20 118. Plaintiffs appealed the contempt order. See EX 191 (Docket at sub-number 269).  
21 It received Ninth Circuit Court of Appeals Case No. 03-035797. See EX 191 (Docket at  
22 10/08/2003).

23 119. On April 8, 2005, the Ninth Circuit affirmed Judge Zilly's contempt order.

24 The court acted within its authority when it entered the contempt order.  
Appellants' challenge to the contempt order under the Anti-Injunction Act is  
precluded by the collateral bar rule. Appellants had sufficient notice of the  
contemplated contempt finding.

Sanai v. Sanai, 141 Fed.Appx. 677, 678 (9<sup>th</sup> Cir. 2005).

120. On October 3, 2003, Judge Zilly declared a moratorium on new motions given the

1 14 motions pending at that time. See EX 191 (Docket at sub-number 274).

2 121. After Plaintiffs filed the June 6, 2003 amended complaint described below, they  
3 issued subpoenas for Sassan and McCullough's financial information. Fredric signed the eight  
4 subpoenas as "Attorney for Plaintiff Ingrid Sanai Buron." See EX 212 at 16 et. seq.  
5 (Defendants' Motion for Protective Order and to Quash Subpoenas).

6 122. As one example, on June 20, 2003, Fredric as his sister's lawyer, issued a  
7 subpoena to the Whatcom Educational Credit Union in Bellingham, Washington, seeking "[a]ll  
8 account statements in respect of all bank accounts and credit card accounts in the name of Mary  
9 Lynn McCullough from 1/1/90 and onwards." Id. at 45.

10 123. In a motion to quash and for protective order, William Gibbs, as McCullough's  
11 counsel, included his declaration explaining that he had not received notice of the subpoena  
12 until after the credit union had been served and contacted his client, who, in turn, contacted him.  
13 Id. at 11.

14 124. Under Rule 45(b)(1) of the Federal Rules of Civil Procedure (FRCP) "[p]rior  
15 notice of any commanded production of documents... shall be served on each party in the  
16 manner prescribed by Rule 5(b)." Fredric did not provide prior notice as required. Judge Zilly  
17 quashed the Whatcom County subpoena. EX 213. The Court lacked jurisdiction to quash other  
18 subpoenas because they had been issued by other district courts. But Judge Zilly ruled that  
19 "[t]he Court will enter a protective order to limit discovery," and he ordered the parties to  
20 attempt to stipulate to such an order. EX 213. The parties failed to agree. Fredric had  
21 frustrated the "meet and confer" process by providing a telephone number he did not answer,  
22 then accusing Gibbs of failing to call him in a declaration to the court. Gibbs had Fredric's  
23 voicemail message transcribed to refute that. TR 794-95, EX 223 at 10.

1 125. Later, after various discovery matters had been referred to a magistrate for  
2 resolution, United States Magistrate Judge Mary Alice Thieler granted the protective order relief  
3 sought by Defendants as to the additional financial records that Fredric had subpoenaed and  
4 ordered him to withdraw the subpoenas. Further, she ordered Fredric to return any documents  
5 produced by Defendants and ordered Plaintiffs not to retain copies: "Plaintiffs shall not retain,  
6 nor cause to be retained by any person on their behalf, including their attorney or attorneys, any  
7 copy of the records or documents produced upon review of the records such as notes,  
8 memoranda, extractions or summaries . . . ." EX 220 at 4.

9 126. She described the discovery sought by Fredric's subpoenas for McCullough and  
10 Sassan's financial information as "overly broad, unduly burdensome, and not reasonably  
11 calculated to lead to the discovery of admissible evidence." EX 220 ([October 17, 2003] Order  
12 Granting Defendants' Motion for Protective Order Regarding Financial Discovery at 2, 3). She  
13 described the subpoenas for McCullough's financial records as "calculated to result in  
14 annoyance, undue burden and expense, and to invade [McCullough's] privacy."

15 127. In addition, the October 17, 2003 Order provided: "Plaintiffs are hereby  
16 ORDERED not to issue, or cause to be issued, any further or additional subpoenas for financial  
17 records or documents of the type described herein related to any party without prior approval of  
18 the Court." *Id.* at 4.

19 128. Instead of complying with the order, Fredric used the documents produced under  
20 Fredric's subpoenas in the Court of Appeals and state court litigation. *See* EX 222 at 6. In fact,  
21 Fredric stated: "Once Plaintiffs received the discovery, Plaintiffs were free to use it. Magistrate  
22 Judge Thieler's [sic] order to return the discovery was too late. The cat is out of the bag." EX  
23 227 at 6 (January 31, 2004 Response to Motion for Dismissal signed by Fredric as counsel for  
24

1 Ingrid and pro se).

2 129. Despite the orders of Judge Zilly and Magistrate Judge Theiler regarding Fredric's  
3 improper subpoenas to financial institutions, on October 22, 2004, Fredric, as "attorney for  
4 Plaintiff Ingrid Sanai Buron," issued a Subpoena Duces Tecum to the Redmond General  
5 Insurance Agency seeking documents related to a Replevin Bond issued by the insurer for  
6 Sassan including documents regarding the security provided by Sassan to secure the bond and  
7 how he paid for it or received credit for any refund and any documents mentioning  
8 McCullough. EX 232A.

9 130. The subpoena commanded the insurer to deliver requested documents to Fredric by  
10 October 29, 2004. EX 232A at 1. As noted above, FRCP 45(b)(1) requires such subpoenas to  
11 be served on opposing counsel. Once again, Fredric did not provide prior notice as required.

12 131. When McCullough brought a motion for sanctions against Fredric (and against  
13 Cyrus for other alleged misconduct), Fredric admitted that the Defendants were not served  
14 properly with the Redmond General Insurance Agency subpoena, but blamed his mother. She  
15 submitted a declaration stating that she became ill and that while she arranged to serve the  
16 insurer, she failed to mail copies to the parties until a number of days later. EX 236.

17 132. The envelope shows the copy to McCullough's counsel was not mailed until  
18 November 3, 2004, several days after the insurer's response was due. EX 232A at 4. In fact,  
19 the insurer had already produced documents to Fredric by that date. EX 234 (Smith  
20 Declaration).

21 133. On January 3, 2005, Judge Zilly granted Defendants' motion for sanctions relating  
22 to the Redmond General Insurance Agency subpoena issued by Fredric, and he disqualified  
23 Fredric from representing his sister.



1 Plaintiffs' failure to timely notify the Defendants of the subpoena duces  
2 tecum was misconduct. Fredric Sanai was acting as an Officer of the Court.  
3 Plaintiffs' attempt to blame their mother is unacceptable. The Court ORDERS  
4 that Plaintiffs shall return and/or destroy all documents and things obtained from  
5 the Redmond General Insurance Agency, or from any party, as a result of the  
6 subpoena. Those documents and things may not be used by Plaintiffs for any  
7 purpose. In addition, the Court ORDERS that Fredric Sanai may not participate  
8 as counsel in this matter. Plaintiff Ingrid Sanai Buron may no longer be  
9 represented by Fredric Sanai, and must obtain new counsel or assume pro se  
10 status.

11 EX 244 (January 3, 2005 Order at 3). At the disciplinary hearing, Fredric admitted that he  
12 failed to provide notice to the Defendants of the subpoena, but called it "a mistake." TR 690-  
13 91. That testimony was not credible.

14 134. On March 10, 2005, Judge Zilly awarded McCullough \$1,740 in attorney's fees  
15 against Fredric for issuing the Redmond General Insurance Agency subpoena. EX 247 (March  
16 10, 2005 Minute Order).

17 135. On July 5, 2006, Ingrid withdrew as a Plaintiff and Defendants agreed to dismiss  
18 their counterclaims against her. EX 191 (Docket at 764).

19 136. On the June 6, 2003 deadline, Plaintiffs had filed their Third Amended Complaint  
20 (Consolidated) alleging seventeen causes of action. See Stipulation referenced in FF 107 supra.

21 137. The first two causes of action alleged wiretapping in violation of federal law and  
22 invasion of privacy against Sassan, McCullough and IMC on behalf of Fredric, Viveca, Cyrus,  
23 Ingrid and Daria. The third and fourth causes of action alleged illegal wiretapping in violation  
24 of California and Oregon law on behalf of Cyrus and Fredric, respectively. Plaintiffs' fifth  
cause of action alleged negligent infliction of emotional distress based on the alleged  
wiretapping.

138. The ninth and tenth causes of action were filed by Fredric against Sassan, Sullivan  
and MMPSM and repeated defamation claims citing Sullivan's and Sassan's complaints to the

1 Association. EX 211 at 17.

2 139. The seventeenth cause of action alleged ERISA violations. Fredric, Cyrus and  
3 Daria claimed to be beneficiaries of the IMC benefit plan. EX 211 at 29.

4 140. On October 29, 2003, Judge Zilly granted summary judgment dismissing  
5 Plaintiffs' ERISA claims. See EX 191 (Docket at sub-number 331).

6 141. On November 3, 2003, the Court granted summary judgment of dismissal for  
7 Sullivan and MMPSM on the ninth and tenth causes of action, Fredric's defamation claims.  
8 Judge Zilly found no genuine issue of material fact and found Sullivan's statements privileged  
9 on several grounds, including the "WSBA Communications Privilege." EX 221.

10 142. Association disciplinary counsel, Douglas Ende, had warned Fredric about that  
11 privilege in a November 21, 2002 letter. EX 182. Nevertheless, Fredric had repeated the  
12 defamation claims based on the privileged statements to the Association as part of his Third  
13 Amended Complaint in June 2003. EX 211.

14 143. On November 17, 2003, Plaintiffs filed a Notice of Preliminary Injunction Appeal,  
15 which received Ninth Circuit Case No. 03-35932. EX 191 (Docket at sub-number 342). The  
16 Ninth Circuit subsequently dismissed the appeal. EX 290.

17 144. In January 2004, certain Defendants sought summary judgment dismissing  
18 additional claims and moved for sanctions based on Plaintiffs' litigation misconduct. See EX  
19 191 (Docket at sub-numbers 370, 373), EX 222 (Motion), EX 223 (Gibbs Declaration), EX 224  
20 (Keaton Declaration), EX 225 (Schultz Declaration), EX 226 (Sullivan Declaration).

21 145. On May 20, 2004, Fredric and other Plaintiffs filed a Motion for Leave to file a  
22 Fourth Amended Complaint. See EX 191 (Docket at sub-number 464). On July 9, 2004, Judge  
23 Zilly denied the motion. EX 229. Ten days later, Fredric and other Plaintiffs filed a new  
24

1 federal action repeating claims dismissed by Judge Zilly. EX 282 (Docket), 283.

2 146. While suing his father for allegedly wiretapping his telephone calls, Fredric tried to  
3 get evidence against his father by arranging for a fellow Yamhill County Oregon employee to  
4 secretly tape record telephone calls initiated by Daria to Sassan in Washington State and  
5 recorded in Oregon by a Yamhill County Sheriff's Officer using Fredric's office and a tape  
6 recorder and tapes supplied by Fredric. The officer gave the original tapes to Fredric  
7 immediately after each recording session without keeping copies or opening a file. EX 230 at  
8 76, 97, 112-13 (Ludwig Deposition).

9 147. On January 3, 2005, the Judge Zilly ordered Plaintiffs to show cause why their  
10 Complaint should not be dismissed with prejudice because of their continued misconduct,  
11 disregard for orders of the Court, and bad faith litigation tactics. EX 244 (January 3, 2005  
12 Minute Order).

13 148. By May 2005, a majority of the claims asserted in the Third Amended Complaint  
14 had been dismissed, leaving six claims asserted against Sassan, McCullough and IMC. On May  
15 18, 2005, Judge Zilly dismissed more claims when he granted summary judgment motions. EX  
16 248 (May 18, 2005 Order). The Court dismissed the wiretap claims of Fredric and others  
17 against Mary McCullough because "Plaintiffs have provided this Court with no evidence of  
18 Mary McCullough's involvement in the wiretapping of the family home, apart from two  
19 inadmissible hearsay statements allegedly made by Sassan Sanai." EX 248 at 20. The Court  
20 dismissed the wiretap claims of Fredric and others against IMC because "Plaintiffs fail to  
21 provide any evidence of IMC's involvement in any alleged wiretapping." EX 248 at 23. The  
22 Court dismissed Count 4, Fredric's wiretap claims against his father based on Oregon law,  
23 because "Fredric Sanai has presented no evidence to support the Oregon wiretap claims." EX  
24

1 248 at 16. The Court dismissed some claims asserted against Sassan, including defamation  
2 based on Sassan's grievance to the Association. One basis for such dismissal was that "any  
3 communications by Sassan to the WSBA were privileged." Id. at 27. In addition, the Court  
4 dismissed the defamation claims here against Sassan (and earlier as to Sullivan) given the  
5 absolute immunity afforded communications to government agencies under RCW 4.24.510.

6 149. On July 1, 2005, Judge Zilly dismissed with prejudice any remaining claims under  
7 Plaintiffs' Third Amended Complaint for reasons set forth in the Court's order, which included  
8 the following:

9 Plaintiffs' conduct in this litigation has been an indescribable abuse of the legal  
10 process, unlike anything this Judge has experienced in more than 17 years on the  
11 bench and 26 years in private practice: outrageous, disrespectful, and in bad faith.  
12 Plaintiffs have employed the most abusive and obstructive litigation tactics this  
13 Court has ever encountered, all of which are directed at events and persons  
surrounding the divorce of Sassan and Viveca Sanai, including parties, lawyers,  
and even judges. Plaintiffs have filed scores of frivolous pleadings, forcing  
baseless and expensive litigation. The docket in this case approaches 700 filings,  
a testament to Plaintiffs' dogged pursuit of a divorce long past.

14 EX 252 (July 1, 2005 Order at 2).

15 150. The order catalogs Plaintiffs' misconduct including Fredric's disregard of the  
16 Court's order prohibiting further lis pendens filings, forum shopping, and Plaintiffs' discovery  
17 abuses. For example, "[t]he Court finds that Fredric Sanai's failure to properly serve the  
18 [Redmond General Insurance Agency] subpoena was willful and in bad faith." Id. at 5.

19 151. Plaintiffs' discovery abuses included not only the subpoenas discussed above, but  
20 also the refusal of Fredric and other Plaintiffs to appear for their depositions and to respond to  
21 written discovery. See e.g., EX 223 (Declaration of William E. Gibbs in Support of  
22 Defendants' Motion for Dismissal for Plaintiffs' Misconduct). On November 7, 2003, Fredric  
23 emailed defense counsel that depositions scheduled for the following week would be  
24

1 “impossible from a scheduling point of view.” EX 223 at 61 [EX N to the Declaration].

2 152. Also, Fredric wrote opposing counsel that he would not turn over the alleged  
3 wiretap tapes for testing by Defendants’ expert “because of the certainty that Sassan and Mary  
4 will record over or delete the contents of the tapes.” EX 223 at 64 [EX O to the Declaration].  
5 Despite multiple discovery requests and conferences and finally motions to compel, Fredric and  
6 the other Plaintiffs had not produced the equipment through at least mid-February 2005. EX  
7 245 at 5. In fact, Fredric never produced the alleged wiretapping equipment, so Defendants’  
8 expert was never able to examine it. TR 1261 (Ziontz).

9 153. Judge Zilly’s order also released a lis pendens filed by Cyrus in May 2005, and it  
10 held Fredric, Cyrus and Viveca “liable for excessive costs in this litigation pursuant to 28  
11 U.S.C.” Defendants were ordered to submit a motion quantifying their § 1927 attorney’s fees.

12 154. Defendants provided the required documentation as to their attorney’s fees. On  
13 November 4, 2005, Judge Zilly ordered Fredric, Viveca and Cyrus to pay \$273,437 in attorney’s  
14 fees to Defendants citing 28 U.S.C. § 1927, which provides as follows:

15 Any attorney or other person admitted to conduct cases in any court of the United  
16 States or any Territory thereof who so multiplies the proceedings in any case  
17 unreasonably and vexatiously may be required by the court to satisfy personally  
the excess costs, expenses, and attorneys’ fees reasonably incurred because of  
such conduct.

18 EX 261 (November 4, 2005 Amended Order).

19 155. On March 21, 2007, Judge Zilly awarded McCullough \$14,041.50 in attorney’s  
20 fees against Fredric, Cyrus, Viveca and Daria based on their meritless ERISA claims that  
21 included McCullough as a defendant. EX 272A.

22 156. Judge Zilly found Fredric did not have standing to sue on the ERISA claims. Even  
23 Viveca lacked standing “because the plans were validly terminated before Sassan and Viveca  
24

1 | were separated. ...The positions taken by Plaintiffs with regard to their ERISA claims were  
2 | inventive, but wholly lacking in merit.” EX 272A at 5, 6. Judge Zilly also wrote:

3 | Plaintiffs’ purpose in bringing the ERISA claims in this Court was to  
4 | prolong the state court divorce proceedings in a different forum, and to  
5 | punish and harass Ms. McCullough for her assistance of Defendant Sassan  
6 | Sanai. Plaintiffs’ brought the ERISA claims in bad faith, without any  
7 | reasonable basis in law or fact. ...Moreover, the Court finds that  
8 | Plaintiffs’ actions were solely for their own personal benefit.

9 | EX 272A at 6.

10 | 157. In an “emergency motion” seeking to stay Judge Zilly’s July 1, 2005 order, and  
11 | referencing a July 6, 2005 mandamus petition, Fredric told the Court: “As this Court will  
12 | observe if it reads the Petition for Writ of Mandamus, this Court’s July 1, 2005 order is void in  
13 | its entirety and therefore may be ignored by Plaintiffs.” EX 253 at 1. The Ninth Circuit denied  
14 | the writ. EX 255. Fredric also tried to block the July 1, 2005 order with a Preliminary  
15 | Injunction Appeal, EX 254, which Judge Zilly certified to the Ninth Circuit as “frivolous.” He  
16 | also called it an improper dilatory tactic. EX 257 at 2. I agree. Nothing in the July 1, 2005  
17 | order resembles a preliminary injunction. Fredric’s failed attempt to present it as an injunction  
18 | to make it appealable was yet another delaying tactic.

19 | 158. When the Ninth Circuit decided many pending appeals with its August 17, 2005  
20 | Memorandum Opinion, it noted: “On remand, the district court is urged to carefully examine its  
21 | subject matter jurisdiction in this case.” EX 256 at 2. In a November 1, 2005 Minute Order,  
22 | Judge Zilly performed the required analysis and decided to retain jurisdiction. “Finally, as a  
23 | matter of comity, it would be inappropriate to inflict this case on any state court at this late  
24 | date.” EX 258 at 2.

159. Later, the Defendants collected the approximately \$300,000 awarded by Judge  
Zilly from Viveca Sanai’s share of the house sale proceeds as ordered paid into the court

1 registry in the Snohomish County dissolution. TR 1292 (Ziontz), 1357 (Wakefield), 1382  
2 (Smith). See EXs 64C, 64D.

3 160. The 2004 Federal Wiretap Case. On July 19, 2004, just ten days after Judge Zilly  
4 denied Plaintiffs Motion for Leave to file a Fourth Amended Complaint in the consolidated  
5 federal wiretap case, EX 191 (Docket in 02-02165 at sub-number 501), Fredric, Viveca and  
6 Cyrus sued Sassan, Sullivan, MMPSM, McCullough, Maxeiner and "Does 1-10" in the United  
7 States District Court for the Western District of Washington at Seattle under Case No. 04-  
8 01594. The case was assigned to Judge Zilly. EX 282 (Docket).

9 161. In the complaint's first two causes of action, Fredric repeated the defamation  
10 allegations against Sassan, Sullivan and MMPSM. Plaintiffs' third cause of action alleged  
11 ERISA claims against Sassan, McCullough, Sullivan, MMPSM and Does 1-2. EX 283  
12 (Complaint), EX 284 (Amended Complaint).

13 162. On July 27, 2004, the Court issued an Order to Show Cause, requiring Plaintiffs to:  
14 show cause why the Court should not dismiss the claims previously dealt with by  
15 the Court in C01-2165Z, impose sanctions against the Plaintiffs for filing a new  
16 complaint re-alleging claims previously dismissed in C02-2165Z, and stay the  
17 newly asserted claims in this case.  
18 EX 282 (Docket at sub-number 3, Minute Order). Plaintiffs responded.

19 163. On October 8, 2004, Judge Zilly dismissed with prejudice the first two causes of  
20 action for defamation as "substantially identical" to the ninth and tenth causes of action in the  
21 Third Amended Complaint in 02-2165Z, which Judge Zilly had dismissed on  
22 November 3, 2003. See EX 221 (Order in 02-2165Z).

23 164. Finding the third cause of action "nearly identical" to the claim filed in the earlier  
24 case, which Judge Zilly had dismissed on summary judgment, and finding "no basis" for the  
claim, Judge Zilly dismissed the ERISA claim with prejudice. EXs 285, 286 (Minute Order,

1 Order).

2 165. In imposing sanctions under FRCP 11 of \$5,000 each against Fredric, Viveca and  
3 Cyrus, Judge Zilly found:

- 4 • Plaintiffs' first three causes of action are frivolously asserted. They have  
5 been dismissed with prejudice by this Court in C02-2165Z.
- 6 • Plaintiffs' discussion of the necessity for bringing these claims is not  
7 supported by relevant precedent, nor do plaintiffs cite any authority for  
8 their position.
- 9 • Plaintiffs conduct before this Court has been abusive and outrageous.
- 10 • [P]laintiffs continued conduct before this Court has been burdensome,  
11 improper, and disrespectful.

12 EX 286 (Order at 4-6).

13 166. The Order provided that the case would be dismissed if Fredric, Viveca and Cyrus  
14 failed to pay the sanctions into the court registry within 20 days. It also stayed further  
15 proceedings pending the final disposition of 02-2165.

16 167. Plaintiffs appealed the October 8, 2004 Order to the Ninth Circuit, which assigned  
17 Case No. 04-35881. Plaintiffs subsequently lost this appeal. EX 290 (August 17, 2005  
18 Memorandum opinion. "Rule 11 sanction orders are not generally appealable." (citations  
19 omitted)).

20 168. On July 12, 2010, the Ninth Circuit held that Judge Zilly "properly dismissed the  
21 third amended complaint in the first action and the remaining claims in the second action as a  
22 sanction for the appellants' litigation misconduct." EX 297B at 2. Fredric and other Plaintiffs  
23 have asked the United States Supreme Court to review that decision. TR 2111-13.

24 169. Fredric acted intentionally and caused actual serious harm when he knowingly and  
willfully disobeyed Judge Zilly's May 15, 2003 order by signing and/or filing additional lis  
pendens notices against the property ordered sold in the dissolution decree. Judge Zilly held  
Fredric in contempt of court, and I find that Fredric's conduct was contemptuous. His actions



1 | violated practice norms.

2 | 170. Fredric acted intentionally and caused actual serious harm to Sassan, Sullivan and  
3 | MMPSM by filing and refiling defamation claims against Sassan, Sullivan and MMPSM based  
4 | on Sassan's and Sullivan's grievances to the Association despite a court rule specifically  
5 | prohibiting such suits and despite a letter from the Association specifically advising him of the  
6 | relevant court rule. His actions violated practice norms. Especially in view of what Judge Zilly  
7 | characterized as the "WSBA communications privilege," the defamation claims based on  
8 | grievances to the Association were frivolous and brought to harass or burden Sassan, Sullivan  
9 | and MMPSM. Fredric repeatedly published the allegedly defamatory grievance claim even  
10 | after Ende's November 2002 warning letter. EX 182. See EX 183 (May 8, 2003 Second  
11 | Amended Complaint in state court wiretap case; EX 211 (June 6, 2003 Third Amended  
12 | Complaint in consolidated federal wiretap case, 02-02165); EX 274 (December 24, 2002  
13 | Plaintiffs' Third [sic] Complaint in 02-02560); EX 283 and EX 284 (July 19, 2004 Complaint  
14 | and August 8, 2004, First Amended Complaint in federal wiretap case 04-01594).

15 | 171. Fredric acted intentionally and caused actual or potential serious harm when he  
16 | issued the Redmond General Insurance Agency subpoena and when he failed to provide notice  
17 | to the Defendants until after the insurer had already provided the subpoenaed documents. His  
18 | conduct violated FRCP 45 and violated practice norms. Only a year earlier, Magistrate Justice  
19 | Theiler had ordered Fredric not to issue additional subpoenas for financial records without prior  
20 | court approval and had described his earlier request for McCullough's and Sassan's information  
21 | as burdensome and not calculated to lead to the discovery of admissible evidence.

22 | 172. Fredric acted intentionally and caused actual serious harm by filing similar claims  
23 | multiple times in state and federal court thus delaying resolution of the claims and burdening the  
24 |

1 Defendants and the courts. Many of his claims lacked any factual or legal basis or both. For  
2 example, he persisted in alleging wiretapping at IMC without any factual basis for that claim.  
3 While serving as Ingrid's lawyer he issued subpoenas to harass and burden McCullough and  
4 Sassan. He delayed the federal wiretap proceedings by failing to appear for scheduled  
5 depositions and otherwise refusing to provide discovery. His conduct violated practice norms.

6 FACTS REGARDING PARTITION ACTION

7 173. On May 20, 2003, Fredric had filed a state court proceeding in King County  
8 Superior Court under Cause No. 03-2-25718-4SEA. He represented Viveca in her suit against  
9 Sassan and IMC, styled as a Complaint for (1) Partition of Community Property and Equitable  
10 Readjustment [sic] of Interests in Community Property and Quiet Title; (2) Breach of Fiduciary  
11 Duty; (3) Restitution and Quiet Title; (4) Dissolution and Appointment of a Receiver of IMC.  
12 EX 145. Fredric filed the partition action two weeks after Supreme Court Commissioner  
13 Crooks refused to stay post-dissolution orders and five days after Judge Zilly ordered the release  
14 of lis pendens filed based on the federal wiretap case.

15 174. Among other things, the prayed-for relief included "an order awarding to Viveca  
16 all of Sassan's right title and interest in the house and vacant lot and quieting title in favor of  
17 Viveca . . . ." EX 145.

18 175. In an Ex Parte Motion to Permit Deposition Pursuant to CR 30(a) that Fredric  
19 signed on July 7, 2003, he admitted that "[t]his partition action is an extension of the divorce  
20 between Sassan Sanai and Viveca Sanai." EX 146 at 2. He had not provided notice to his  
21 father's lawyer, Sullivan, as claimed in the motion. EXs 146A, 146B, 146C.

22 176. King County Court Commissioner Prochnau telephoned Sullivan, who explained  
23 that he had not been served or otherwise notified of the deposition request. Fredric was not  
24

1 granted the requested order. EX 147 (Minute Entry), EX 148 (Transcript of July 9, 2003  
2 audiotaped hearing).

3 177. In the spring of 2003, nearly one year after their initial offer, the Neimis  
4 abandoned the vacant lot purchase. EX 120 at 32. Maxeiner relisted the lot and soon had  
5 another full price offer. That deal was scheduled to close July 18, 2003, but it did not because  
6 of the lis pendens signed and filed by Fredric based on the partition case. EX 150 (Sullivan  
7 Declaration at ¶¶39-44).

8 178. Fredric signed such lis pendens notices on May 20, 2003 (recorded May 20, 2003  
9 under Auditor's No. 200305200939) for the lot and July 1, 2003 (recorded July 7, 2003 under  
10 Auditor's No. 200307070618) for the house and under Auditor's No. 200307070619 as an  
11 amended notice for the lot. EX 2 at 156, 162 and 166.

12 179. Sullivan had moved to strike the lis pendens and for contempt sanctions before  
13 both Judge Thibodeau in the dissolution case and before Judge Zilly in the consolidated federal  
14 wiretap case. See EX 150 (Sullivan Declaration ¶45).

15 180. The basis for the May and July 2003 lis pendens notices signed by Fredric was the  
16 King County Superior Court action filed by Fredric as Viveca's lawyer under No. 03-2-25718-  
17 4SEA seeking, among other things, "partition of community property and equitable re-  
18 adjustment of interests in community property and quiet title. EX 145 (Complaint) at 4.

19 181. Defendants moved to dismiss the partition case, or in the alternative they sought  
20 summary judgment or change of venue. In response, Fredric asked for a continuance under CR  
21 56(f) to conduct discovery "to see if we could turn up any evidence of tampering with the  
22 telephone wires or recording devices." TR 1523-24 (emphasis added). EX 584 (Motion to  
23 Continue Summary Judgment and for Discovery Pursuant to CR 56(f)). The complaint was  
24

1 frivolously asserted because Fredric filed it without evidence of wiretapping at IMC as a pretext  
2 to file the action in King County, where IMC is located, instead of Snohomish County where he  
3 had already lost several motions in the dissolution proceedings.

4 182. Following a September 12, 2003 hearing, King County Superior Court Judge  
5 Robert H. Alsdorf made findings and transferred the case to Snohomish County reserving to that  
6 court any determination regarding whether “this King County proceeding is indeed a separate  
7 action or is simply an attempt to forum-shop and pursue the same claims in yet another  
8 jurisdiction.” It also deferred to Snohomish County the sanctions issue. EX 154 at 3.

9 183. The order continued: “there is no reason in law or equity or judicial economy that  
10 justifies the expense of this Court re-litigating issues already decided and apparently also  
11 currently being addressed in Snohomish County.” Id. at 2-3.

12 184. The court rejected Fredric’s request for a continuance to conduct discovery  
13 because it found no reason to delay a decision to end “what appears on its face to be unduly  
14 litigious, repetitive and even harassing litigation when the relevant facts either are, or should  
15 have been, fully discovered prior to this date, and the self-serving allegations of chicanery  
16 currently asserted in favor of delay appear only to duplicate charges previously made  
17 unsuccessfully by plaintiff.” Id. at 4.

18 185. Given Fredric’s comment at oral argument that if the court transferred the case to  
19 Snohomish County he would be “forced” to refile it in King County, the Court, on its own  
20 motion, enjoined Fredric and Viveca from any such action unless certain conditions could be  
21 met. Id. at 4-5.

22 186. The Snohomish County Superior Court assigned the transferred case No. 03-2-  
23 10983-3. In October 2003, Sassan renewed his motions to dismiss and for sanctions. See EX  
24

1 155 (Docket at 3, 4).

2 187. On December 16, 2003, Judge Thomas J. Wynne signed an order that dismissed  
3 the case and imposed sanctions against Fredric and Viveca.

4 188. Among other things, Judge Wynne found as follows:

- 5 • The pending action merely continued the dissolution proceedings.
- 6 • “[T]he filing of this action in King County constituted a blatant attempt to forum  
7 shop.”
- 8 • Fredric and Viveca made inconsistent statements to various courts with  
9 “substantial dissembling.”
- 10 • “This court finds this action to be wholly frivolous.”

11 EX 159 (Order on Defendants’ Motion to Dismiss and Motion for Sanctions).

12 189. The Order included a judgment for sanctions for reasonable attorney’s fees and  
13 costs totaling \$13,071.22 entered against Fredric and Viveca jointly and severally.

14 190. Furthermore, the Court entered judgment against Fredric and Viveca, jointly and  
15 severally, for \$2,500 in favor of the Snohomish County Superior Court “to sanction them for  
16 their forum shopping and misrepresentation to the courts and to compensate the court for the  
17 waste of judicial resources this action has caused.” *Id.* at 6.

18 191. Fredric filed a Notice of Appeal.

19 192. On January 23, 2006, Fredric and Viveca lost the appeal of the partition case,  
20 which the Court of Appeals had assigned No. 53611-7-I.

21 193. In a per curiam unpublished opinion, the Court upheld the change of venue to  
22 Snohomish County, the dismissal of the action, and the award of attorney fees to Sassan. Citing  
23 *res judicata*, the court agreed with Sassan that the partition action “raised only claims that were  
24

1 rejected in earlier litigation or were derivative of previous claims and should have been litigated  
2 then.” EX 165 at 2 (Fredric and Viveca Sanai, Appellants v. Sassan Sanai and IMC, 131 Wash.  
3 App. 1014, 2006 WL 158657 (Wn. App. Div. I, 2006) (unpublished opinion).

4 194. The Court of Appeals rejected the claim that venue was proper in King County.  
5 First, the section of the Business Corporation Act Fredric relied upon, RCW 23B.14.300  
6 (judicial dissolution –grounds) is not jurisdictional. Second, Fredric had not alleged one of the  
7 statutory bases for judicial dissolution of Sassan’s professional services corporation. See EX  
8 165 at 1-2 (131 Wash. App. at fn. 3).

9 195. The Court also concluded that the challenge to the award of sanctions was  
10 “without merit.” Noting the trial court’s finding that the partition action was “a blatant attempt  
11 to forum shop,” the Court held the trial court properly imposed sanctions under CR 11 and  
12 RCW 4.84.185.

13 196. Furthermore, the Court agreed with Sassan that the appeal was frivolous, brought  
14 solely for purposes of delay and demonstrated Viveca’s continued intransigence. EX 165 at 3.  
15 “Fees are warranted on both grounds.” Id.

16 197. Fredric acted intentionally and caused actual serious harm by filing the partition  
17 action and by using it as the basis for additional lis pendens filings against the property ordered  
18 sold under his parent’ dissolution decree. The partition action was frivolous. It sought to  
19 relitigate claims that were or should have been brought in the dissolution case. Fredric had no  
20 basis for venue in King County. At the disciplinary hearing, Fredric claimed venue was proper  
21 based on a King County US Bank account application, but he did not have that information until  
22 months after he filed the King County action. EX 145 (May 20, 2003 partition complaint), EX  
23 601(August 20, 2003 letter from US Bank to Fredric). Fredric used the partition case to sign  
24

1 and/or file lis pendens notices in knowing and willful disobedience of Judge Thibodeau and  
2 Judge Zilly's orders forbidding any further lis pendens or other action to delay the real estate  
3 sales. The resulting delay harmed not only Sassan and the prospective purchasers, but also  
4 burdened the courts and resulted in contempt findings and sanctions against Viveca in both state  
5 and federal court and against Fredric in federal court. All of these articulated reasons for  
6 dismissal render Fredric's reliance on Seals v. Seals, 22 Wn. App. 652, 520 P.2d 1301 (1979)  
7 inapposite.

#### 8 FACTS REGARDING UNFITNESS TO PRACTICE

9 198. Throughout the proceedings described above, Fredric violated court rules and court  
10 orders. He persisted in burdening and delaying his opponents and the courts despite courts  
11 finding his pleadings, motions and appeals frivolous and imposing sanctions against him and his  
12 client for his litigation tactics. He acted intentionally and caused actual serious harm. He filed  
13 multiple motions and complaints seeking similar relief. When he did not receive the requested  
14 relief, he refiled the motion or complaint in the same court and/or another court.

15 199. For example, he tried to relitigate the Snohomish County dissolution decree by  
16 filing a frivolous King County partition action. He filed and refiled the wiretap claims in  
17 multiple forums and persisted in filing claims against IMC despite no evidence to support the  
18 claims against it. He filed and refiled the defamation claims despite a court rule and express  
19 warning about the "WSBA communications privilege."

20 200. His actions burdened not only his father and the court system, but also third parties  
21 such as the Neimis and other potential purchasers of the vacant lot, Mary McCullough, Bill  
22 Sullivan and MMPSM. He ignored service requirements for tactical advantage. He employed  
23 abusive litigation tactics for more than four years and even after significant sanctions were  
24

1 imposed on him and/or his client. He frivolously asserted claims without factual or legal  
2 support. He defied court orders. He persisted in asserting claims or theories despite adverse  
3 findings or rulings. His pervasive pattern of misconduct demonstrates an inability or  
4 unwillingness to comply with the law and demonstrates his unfitness to practice.

5 201. As to all counts, I find that Fredric acted intentionally.

6 202. As to all counts, I find that Fredric caused actual serious injury.

7 203. As to all counts, I find that Fredric acted with the intent to benefit himself as a  
8 party, to benefit Viveca and Ingrid while he served as their lawyer, and to benefit his other co-  
9 plaintiffs. Specifically, for Viveca he attempted to upset or delay implementation of the  
10 dissolution decree. For himself, he sought millions in damages and thousands in fees. For  
11 example, after only one day as Viveca's lawyer in the dissolution case, he moved for \$20,000 in  
12 fees. EXs 17, 67 at 2. He estimated he could have earned \$60,000 representing his mother if  
13 Sassan and others had not "injured the business expectancies of Fredric." EX 211 at 22.

14 ADDITIONAL FACTS REGARDING THE CURRENT DISCIPLINARY CASE

15 204. After the disciplinary hearing began on February 28, 2011, Fredric issued  
16 subpoenas to Judge Thibodeau and Judge Zilly. Through counsel, Fredric argued that the  
17 judges who disagreed with Fredric's arguments in the underlying litigation should be required to  
18 testify at the hearing in order to "justify themselves." TR 33 (respondent's counsel). Some of  
19 the judges' lawyers moved to quash the subpoenas. BF 265, 274. Based on In re Disciplinary  
20 Proceeding Against Sanai, 167 Wn.2d 740, 752, 225 P.2d 203 (2009) ("subpoenas asking  
21 judges to justify their reasoning are clearly disfavored, if not outright barred by case law"),  
22 Fredric should have known that such subpoenas were improper. In open hearing on March 10,  
23 2011, I quashed the subpoenas issued for Judge Thibodeau and Judge Zilly and informed  
24



1 Fredric that, "if you're going to subpoena other judges to ask them to come in and testify as to  
2 the rational or reasoning or what went into their decisions, I'm going to prohibit that testimony  
3 if it's in that nature" TR 1649-50. I was unaware that Ninth Circuit Court of Appeals Judge  
4 Beezer also had been served with a subpoena. He appeared for the hearing on March 11, 2011.  
5 In view of my earlier ruling, I excused Judge Beezer from the hearing. But as noted above, it  
6 never should have been issued given that Fredric sought testimony from the judges about their  
7 rulings and after my March 10, 2011 oral ruling, Judge Beezer should have been notified that  
8 his presence was not required.

9 205. After the disciplinary hearing began, Fredric issued a subpoena duces tecum to  
10 Philip Maxeiner, his parents' former CPA. Through counsel, Maxeiner filed objections given  
11 the looming deadlines for his clients' corporate and individual tax returns. BF 273. By order  
12 dated March 14, 2011, I granted a two and one-half month recess in the hearing to allow Fredric  
13 to try to arrange or compel compliance with his subpoena. See ELC 4.7. I set a "drop-dead"  
14 date of 9:00 AM on May 31, 2011 for resumption of the hearing.

15 206. On May 24, 2011, Fredric moved for a "Continuance and Scheduling of  
16 Supplemental Hearing Session." On May 26, 2011, I denied Fredric's motion due to his failure  
17 to show good cause for another continuance and I reiterated my March 14, 2011 order that "the  
18 hearing of this matter will resume at 9:00 AM on May 31, 2011."

19 207. In violation of my order that the hearing would resume the morning of May 31,  
20 2011, Fredric scheduled a show cause hearing on his petition to enforce the subpoena in King  
21 County Superior Court for the morning of May 31, 2011. BF 288 at 24. Hearing testimony did  
22 not resume until Fredric's return in the afternoon of May 31. I find this was the latest in a long  
23 line of delaying tactics and another example of his unilateral disregard for orders that he felt he  
24

1 | could simply ignore. See BF 281 (Association's Supplemental Closing Argument). Fredric had  
2 | been granted a two and one-half month recess to obtain the presence of Maxeiner and, prior to  
3 | that, had seven years to depose his parents' accountant and resolve any discovery issues, but he  
4 | chose to wait until the middle of the hearing to do such discovery.

5 |       208. Based on a US Bank account application, EX 601, Fredric claims to have finally  
6 | proven that his father hid assets during his parents' dissolution because Maxeiner testified he  
7 | had no knowledge of a sole proprietorship account for Sassan. But an account application  
8 | checking the box "sole proprietorship" does not establish that any such account existed or that  
9 | any assets were "hidden" in it. Even if it did, such information, if relevant, should have been  
10 | developed and used ten year ago rather than being asserted now as a basis to delay these  
11 | proceedings, and it does not excuse years of vexatious litigation and repeated frivolous claims.

12 |       209. Moreover, the US Bank account application, EX 601, was attached to an August  
13 | 20, 2003 letter from US Bank's Jessica Haukos. The signature block on that letter identifies  
14 | Haukos as Corporate Legal Department, Legal Records Coordinator for US Bank. In June  
15 | 2003, Fredric had signed a subpoena for US Bank records for Sassan, IMC and McCullough  
16 | directed to Jessica Haukof [sic]. EX 212 at 40-43.

17 |       210. In October 2003, Magistrate Judge Theiler issued a protective order and ordered  
18 | Fredric to withdraw subpoenas, including the US Bank subpoena. Further, she ordered that  
19 | Fredric and the other Plaintiffs "shall not retain...any copy of the records or documents  
20 | produced...." EX 220 at 4. As noted above, Fredric defied that order and used documents  
21 | produced before the protective order issued stating that "the cat is out of the bag." By offering  
22 | the US Bank account application from Jessica Haukos in this proceeding, he continued to defy  
23 | that order.

1           211. Through counsel, Fredric has argued that all of his multijurisdictional lawsuits,  
2 attendant motions and lis pendens filings were appropriate and justified in the pursuit of  
3 uncovering the truth and exposing the fraud allegedly perpetrated by his father upon his mother  
4 in the original Snohomish County dissolution proceeding. Fredric attempts to justify his actions  
5 by quoting Lord Justice Denning: "Fraud unravels everything." Lazarus Estates, Ltd. V. Beasley  
6 1 Q.B. 702 (1956). Unfortunately for our courts and his opponents, he seems to have forgotten  
7 or disregarded a more important initial concept: "Fraud is so easy to claim that the law makes it  
8 hard to prove." House v. Thornton, 76 Wn.2d 428, 457 P.2d 199 (1969). Sufficient proof has  
9 and continues to be lacking. One can certainly empathize with a son's desire to rectify the  
10 perceived injustice allegedly committed by one parent against another. However, regardless of a  
11 lawyer's misguided subjective motivations, they do not justify abuse of the legal process and  
12 disregard of lawful court orders.

13           212. Many of Fredric's pleadings are well written and, at first glance, may have the look  
14 of legitimacy, but when examined critically and in context, they reveal themselves for what  
15 every justice, judge, commissioner and clerk has found them to be. In his tortured pursuit of his  
16 illusive goal, Fredric has attempted to turn each collateral proceeding, including the instant  
17 disciplinary hearing, into either a *de facto* appellate review or virtual *trial de novo* of his  
18 parents' dissolution. And when, in Fredric's opinion, a tribunal has failed to address each and  
19 every one of his arguments to his personal satisfaction, he has felt entitled to disregard such  
20 orders as illegitimate.

21           213. I find that Fredric's vexatious and frivolous court filings and his self-righteous  
22 unwillingness to accept final court orders, even after exhaustion of all legitimate means of  
23 appeal, has resulted in the worst case of continuing lawyer misconduct, short of felonious  
24

1 activity, that I have witnessed in my 36 years as a member of the Washington State Bar.

2 AGGRAVATING AND MITIGATING FACTORS

3 214. As to all counts, I find the following mitigating factor:

4 (a) Remoteness of prior offense: Fredric received a letter of admonition from the  
5 Oregon State Bar nine years ago, albeit only four years after his admission to practice  
6 before that bar. EX 298.

7 215. As to all counts, I find the following aggravating factors applicable:

8 (a) Prior disciplinary offense: On July 29, 2002, the Oregon State Bar  
9 informed Fredric that his conduct “did not comply with the disciplinary rules,”  
10 and “the matter will be concluded with this letter of admonition.” EX 298;

11 (b) Dishonest or selfish motive: Fredric’s actions in violation of the RPCs  
12 were motivated by his self-interest and desire to obtain his personal agenda at the  
13 economic and emotional expense of both his parents, the efficient administration  
14 of Washington State courts and the rule of law.

15 (c) A pattern of misconduct: Fredric’s misguided and obsessive pursuit of  
16 suspected fraud has persisted since his admission to the Washington State Bar on  
17 June 13, 2002, two months after Judge Thibodeau entered Findings of Fact and  
18 Conclusions of law in his parents’ dissolution and it persists through today.

19 (d) Multiple offenses;

20 (e) Bad faith obstruction of the disciplinary proceeding by intentionally  
21 failing to comply with rules or orders of the disciplinary process: See Findings of  
22 Fact 205 through 207 regarding Fredric’s disregard of my repeated order that the  
23 hearing was to reconvene at 9:00 AM on May 31, 2011; and  
24

1 (g) Refusal to acknowledge wrongful nature of conduct.

2  
3 CONCLUSIONS OF LAW

4 Violations Analysis

5 The Hearing Officer finds that the Association proved the following:

6 216. Count 1. The Association proved Count 1 by a clear preponderance of the  
7 evidence. Respondent violated RPC 3.1 (frivolous filings) RPC 3.2 (delaying litigation), RPC  
8 4.4 (embarrass, delay or burden a third person) and RPC 8.4(d) (conduct prejudicial to the  
9 administration of justice) by filing multiple, meritless post-dissolution motions and other  
10 requests for relief in the trial and appellate courts.

11 217. Count 2. The Association proved Count 2 by a clear preponderance of the  
12 evidence. Respondent violated RPC 3.4(c) (knowingly disobey an obligation under the rules of  
13 a tribunal), RPC 8.4(j) (willfully disobey a court order), RPC 4.4 (embarrass or burden a third  
14 person), RPC 8.4(d) (conduct prejudicial to the administration of justice) and RPC 8.4(a)  
15 (violate or attempt to violate the RPC, knowingly assist or induce another to do so, or do so  
16 through the acts of another) by filing and preparing lis pendens notices to cloud title to real  
17 property ordered sold under his parents' dissolution decree, filing additional litigation used as a  
18 basis for filing additional lis pendens notices and by otherwise attempting to delay or impede  
19 the sale of property ordered sold under the dissolution decree.

20 218. Count 3. The Association proved Count 3 by a clear preponderance of the  
21 evidence. Respondent violated RPC 3.1 (frivolous claims), RPC 4.4 (embarrass or burden a  
22 third person) and RPC 8.4(d) (conduct prejudicial to the administration of justice) by suing the  
23 judges and the court commissioner who denied his post-dissolution motions.

1       219. Count 4. The Association proved Count 4 by a clear preponderance of the  
2 evidence. Respondent violated RPC 8.4(j), RPC 3.4(c) and RPC 8.4(d) by signing and filing lis  
3 pendens notices in violation of the May 15, 2003 federal court order.

4       220. Count 5. The Association proved Count 5 by a clear preponderance of the  
5 evidence. Respondent violated RPC 3.1, RPC 8.4(l), RPC 4.4 and RPC 8.4(d) by filing  
6 defamation actions against Sassan, Sullivan and MMPSM in state and federal court based on  
7 communications to the Association, while ELC 2.12(b) or its predecessor RLD 12.11(b)  
8 provided that communications to the Association are privileged and “no lawsuit predicated  
9 thereon may be instituted against any grievant.”

10       221. Count 6. The Association proved Count 6 by a clear preponderance of the  
11 evidence. Respondent violated RPC 3.4(c) and RPC 8.4(d) by failing to serve other parties to  
12 the action with copies of his subpoena for records from Redmond General Insurance Agency.  
13 This was repetitious of misconduct that had resulted in an order one year earlier requiring him  
14 to withdraw improper financial subpoenas.

15       222. Count 7. The Association proved Count 7 by a clear preponderance of the  
16 evidence. Respondent violated RPC 3.2, RPC 4.4 and RPC 8.4(d) by filing similar claims  
17 multiple times and in multiple jurisdictions, making multiple requests for similar relief, failing  
18 to appear for deposition and by otherwise prolonging the proceedings.

19       223. Count 8. The Association proved Count 8 by a clear preponderance of the  
20 evidence. Respondent violated RPC 3.1, RPC 3.2, RPC 3.4(c) and RPC 8.4(j) by filing an  
21 action and appeal seeking to relitigate the dissolution decree property distribution and by using  
22 the partition action as the basis for yet another lis pendens filing clouding title to the real  
23 property ordered sold under the decree.

1        224. Count 9. The Association proved Count 9 by a clear preponderance of the  
2 evidence. Respondent violated RPC 8.4(n) by repeatedly violating court orders or rules,  
3 repeatedly filing pleadings, motions, appeals or other papers without merit, filing similar claims  
4 in multiple forums, otherwise delaying enforcement of his parent's dissolution decree and by  
5 forcing his father to defend in multiple courts on multiple grounds.

#### 6 Sanction Analysis

7        225. A presumptive sanction must be determined for each ethical violation. In re  
8 Anschell, 149 Wn.2d 484, 501, 69 P.2d 844 (2003). The following standards of the American  
9 Bar Association's Standards for Imposing Lawyer Sanctions ("ABA Standards") (1991 ed. &  
10 Feb. 1992 Supp.) are presumptively applicable in this case:

#### 11        **6.2 Abuse of the Legal Process**

12            6.21 Disbarment is generally appropriate when a lawyer knowingly  
13 violates a court order or rule with the intent to obtain a benefit for the  
14 lawyer or another, and causes serious injury or potentially serious injury  
to a party or causes serious or potentially serious interference with a  
legal proceeding.

15            6.22 Suspension is generally appropriate when a lawyer knows that he  
16 or she is violating a court order or rule, and causes injury or potential  
injury to a client or a party, or causes interference or potential  
interference with a legal proceeding.

17            6.23 Reprimand is generally appropriate when a lawyer negligently  
18 fails to comply with a court order or rule, and causes injury or potential  
injury to a client or other party, or causes interference or potential  
interference with a legal proceeding.

19            6.24 Admonition is generally appropriate when a lawyer engages in  
20 an isolated instance of negligence in complying with a court order or  
rule, and causes little or no actual or potential injury to a party, or causes  
little or no actual or potential interference with a legal proceeding.

#### 21        **7.0 Violations of Duties Owed as a Professional**

22            7.1 Disbarment is generally appropriate when a lawyer knowingly  
23 engages in conduct that is a violation of a duty owed as a professional  
24 with the intent to obtain a benefit for the lawyer or another, and causes

1 serious or potentially serious injury to a client, the public, or the legal  
2 system.

3 7.2 Suspension is generally appropriate when a lawyer knowingly  
4 engages in conduct that is a violation of a duty owed as a professional  
5 and causes injury or potential injury to a client, the public, or the legal  
6 system.

7 7.3 Reprimand is generally appropriate when a lawyer negligently  
8 engages in conduct that is a violation of a duty owed as a professional  
9 and causes injury or potential injury to a client, the public, or the legal  
10 system.

11 7.4 Admonition is generally appropriate when a lawyer engages in  
12 an isolated instance of negligence that is a violation of a duty owed as a  
13 professional, and causes little or no actual or potential injury to a client,  
14 the public, or the legal system.

15 Standard 6.2 applies to the RPC 3.1, 3.2, 3.4 and 4.4 violations. Standard 7.0 applies to the  
16 RPC 8.4(a) (d) (j) (l) and (n) violations.

17 226. When multiple ethical violations are found, the “ultimate sanction imposed should  
18 at least be consistent with the sanction for the most serious instance of misconduct among a  
19 number of violations.” In re Petersen, 120 Wn.2d 833, 854, 846 P.2d 1330 (1993).

20 227. Based on the Findings of Fact and Conclusions of Law and application of the ABA  
21 Standards, the appropriate presumptive sanction is disbarment as to each count of the Amended  
22 Formal Complaint.

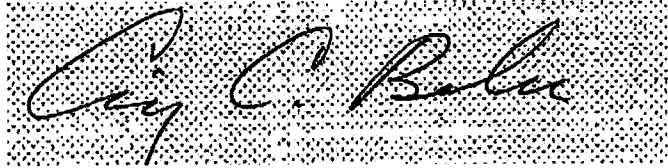
23 228. Because I find only one marginal mitigating factor under Standard 9.32 of the  
24 ABA Standards and several serious aggravating factors under Standard 9.22, I find no reason to  
depart from the presumptive sanction of disbarment for each count.

#### Recommendation

229. Based on the ABA Standards and the applicable aggravating and mitigating  
factors, the Hearing Officer recommends that Respondent Fredric Sanai be disbarred.  
Reinstatement should be conditioned on payment of the costs of this proceeding and any  
outstanding sanctions in the underlying litigation.



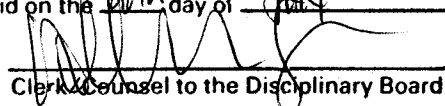
1 Dated this 25th day of July 2011.

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6 Craig C. Beles, Bar No. 6329  
7 Hearing Officer

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17 CERTIFICATE OF SERVICE

18 I certify that I caused a copy of the PDF, COL & HO's Recommendation  
19 to be delivered to the Office of Disciplinary Counsel and to be mailed  
20 to Michelle Sabau ~~Respondent/Respondent's Counsel~~  
21 at 1222 N. Lincoln St. - 4th Floor, Denver, CO 80202 by Certified/first class mail  
22 postage prepaid on the 25th day of July, 2011

23  
24  
  
Clerk/Counsel to the Disciplinary Board