

Right to Assistance of Effective Counsel

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Introduction

State prosecutors like to go after people for “unauthorized practice of law.” Unfortunately the fear of prosecution denies defendants of their right to the assistance of counsel. Much of this problem arises from the monopolistic stranglehold the bar associations have on most court proceedings. They want only licensed attorneys to “practice law,” meaning to represent clients as agents.

I’m writing this paper to encourage attorneys and citizens to fight against this injustice. The reader will understand the need for this more clearly by seeing the difference between a counselor and an attorney, and why a competent counselor is often a better choice than a competent attorney. I also intent to suggest ways to fight against judicial corruption that perpetrates the myth that only licensed attorneys may serve as counselors to defendants in criminal proceedings.

You will notice some case law to support the points I make, but you might feel disappointed at not seeing the most important cases: those in which defendants accused of the unauthorized practice of law won their appeals. Surely some such defendants must exist, don’t you think? Yes they do. Unfortunately, in nearly every case, the judge issued a gag order to keep from embarrassing the court and the bar associations. The gag orders impose harsh penalties on winning defendants who take their stories to the press, and it also keeps the winning appeals out of case law. Of course, such orders violate the state constitution guarantee that court records are open in all but the most delicate cases (like those regarding children and undercover operatives).

Definitions

As for the difference between counselors and attorneys, let's look at the definitions.

Counsel: n. Advice; opinion or instruction ... Those who give counsel in law; any counselor or advocate, or any number of counselors, barristers, or sergeants; as the plaintiff's counsel, or the defendant's counsel.

Counselor: Gan. Any person who gives advice; One who is consulted by a client in a law case; one who gives advice in relation to a question of law; one whose profession is to give advice in law and manage causes for clients.

Attorney: A professional person authorized under license by the Supreme Court to practice law; conducts lawsuits or gives legal advice. Licensing requires membership of good standing in the bar association, and that requires a law degree from an accredited college of law as well as successful completion of the certification test known as a bar exam.

Thus, a counselor differs from an attorney. An attorney may serve as a counselor, but a counselor may not serve as an attorney. A counselor speaks for and gives advice to the client while leaving the client in total control of the case. An attorney represents the client as though he were the client, speaking in his stead, and being in total control of the case.

Also, the attorney generally has a far better education than the counselor in the overall practice of law, including the proper procedure to use when dealing with courts.

But that does not mean a counselor has no knowledge of law. In many cases, a knowledgeable counselor actually knows more about the actual laws relating to the issue at hand than does the typical attorney.

Because of their agency, attorneys must submit to the regulations of the bar association under edict from the state constitution and state Supreme Court. Counselors suffer no such obligation.

Right to Counsel as A Right of Contract

Since Counselors serve not as agents, but rather as advisors under contract, the state has no entitlement to regulate them.

“Powers prohibited of States. *No State shall enter into any Treaty, Alliance, or Confederation; grant [Letters of Marque](#) and [Reprisal](#); coin Money; emit [Bills of Credit](#); make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of [Attainder](#), [ex post facto](#) Law, or Law impairing the Obligation of Contracts, or grant any [Title of Nobility](#).”* **U.S. Constitution, Article 1, Section 10, Clause 1.**

Thus, any law that prohibits a counselor and client from entering into and fulfilling the terms of a contract violates the U.S. Constitution because it impairs the obligation of contracts.

Constitutions Guarantee Assistance of Counsel, Not of Attorney

We have other good reason to want a counselor instead of a mere attorney. The bills of rights in the constitutions of the U.S. and Florida guarantee assistance of “counsel” in all criminal prosecutions. They do not guarantee assistance of a “licensed attorney”.

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.” **U.S. Constitution, Amendment VI.**

“In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties the trial will take place. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.” **Florida Constitution, Article I, Section 16. Rights of accused and of victims. (a)**

The unambiguous language of neither Constitution restricts the Assistance of Counsel to those counselors with membership in any state bar association, and case law underscores that fact.

“The defendant has the fundamental Right to the effective assistance of Counsel of their choice, to stand by, and to advise the defendant while proceeding In Propria Persona.” - **People v. Hill, (1969) 70 C.2d 678, 76 Cal.Rptr. 225, 452 P.2d 329, cert. denied 406 U.S. 971; People v. Zamora, (1944) 66 Cal.App.2d 166, 152 P.2d 180.**

"[T]he right to counsel is the right to the effective assistance of counsel." - **McMann v. Richardson, 397 U.S. 759, 771 n.14 (1970).**

Our Republic’s founders deeply embedded into American law the Right to Counsel (meaning to have counsel of one’s choice or have no counsel at all) into American law. The United States Supreme Court set forth this principle in [Faretta v. State of California, 422 U.S. 806 \(1975\)](#), as it did nearly 40 years earlier.

"If this requirement of the Sixth Amendment is not complied with, the court no longer has jurisdiction to proceed." **Johnson v. Zerbst, 304 U.S. 458, 468 (1938).**

Equal Rights of the Accused and Not-Accused to Counsel

We should remember that both the accused and the not-accused have equal right under the law to assistance of advisors or counselors. Denying that right to the accused constitutes unequal treatment under the law. This shows why arraignment, prior to accusation, cannot proceed

without the presence the defendant's choice of counsel, for until counsel of choice exists in the courtroom, the court has no jurisdiction.

"The due process clause of the Fifth Amendment guarantees to each citizen the equal protection of the laws and prohibits a denial thereof by any Federal official." - **Bolling v. Sharpe, 327 U.S. 497**

Legislature and Courts May Not Abridge Constitutional Rights

Since the constitution clearly acknowledges one's right to counsel, and commands everyone to honor that right, no judge, no court, and no legislature may lawfully abridge that right by the requirement of a license to practice law, a membership in a bar association, or any other artifice, ruse, monopolistic tool, or rationale.

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." - **U.S. Constitution, Amendment IX.**

The U.S. Constitution reigns supreme over all other laws, conventions, rules, orders, treaties, customs, practices, opinions, or judicial recalcitrance.

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." - **U.S. Constitution, Article VI, Clause 2.**

Judges and Congresses Obligated by Oath to Uphold Constitution

Judges and prosecutors hold a sacred obligation to enforce the constitution by ensuring the courts and others honor rights guaranteed therein.

"[A]ll ... judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution;" **U.S. Constitution, Article VI, Clause 3**

Florida's Supreme Court has long recognized the above obligation.

"The Bill of Rights was provided as a barrier, to protect the individual against arbitrary exactions of ... legislatures, (and) courts ... it is the primary distinction between democratic and totalitarian way." **Re Stoller, Supreme Court of Florida, en banc, 36 So.2d 443, 445 (1948).**

So has the United States Supreme Court.

"Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them." **Miranda v. Arizona, 384 U.S. 436, 491 (1968)**

And so, no court or legislature can override those rights.

“In the United States, Sovereignty resides in the people, who act through the organs established by the Constitution.” - Chisholm v. Georgia, 2 Dall. 419, 471; Penhallow v. Doane's Administrators, 3 Dall. 54, 93; McCullock v. Maryland, 4 Wheat 316, 404, 405; Yick Wo v. Hopkins, 118 U.S. 356, 370

“... Congress cannot invoke the sovereign power of the people to override their will as thus declared.” - Perry v. United States, 294 U.S. 330, 353 (1935)

Conflict of Interest if Judge and Counsel Members of Bar

Any judge who has been a bar member and denies a defendant assistance of effective counsel of choice thereby demonstrates conflict of interest. Judges and prosecutors are required by law to be members of the bar. The bar is a secret society that necessarily places its members in collusion with one another in order to preserve the integrity and reputation of that society, to the exclusion of its goals of ensuring justice and upholding the constitution. An attorney who exposes corrupt fellow bar members stands in dire jeopardy of ejection from the bar and denial of the license to practice law because of bringing dishonor on the profession. Naturally, the close association of bar members creates a “good-old-boys” network that, like the Mafia, tends to protect its own, turning blind eyes and deaf ears to judicial malfeasance. For this reason, attorneys (whether judges, prosecutors, or defense counselors) have an intense motive not to make trouble for one another. This prejudice often results in the crushing defeat defendants’ rights, and that is why the Canons of Judicial Ethics prohibits it.

“A judge should abstain from performing or taking part in any judicial act in which his personal interests are involved. If he has a personal litigation in the court of which he is judge, he need not resign his judgeship on that account, but he should, of course, refrain from any judicial act in such controversy.” - Canons of Judicial Ethics, No. 29.

Judges Powerless to Deny or Enforce Counsel

The U.S. Constitution confers no power upon the federal or state governments to limit, condition, regulate, or qualify the people’s right to effective counsel in a criminal proceeding. Instead, it guarantees counsel, without qualification, to the people. Since the governments don’t have that power, it resides with the people.

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” - U.S. Constitution, Amendment X.

Since no court or legislature retains the power of determination as to the qualifications of counsel, it cannot delegate that power to any other entity, such as a bar association. Therefore, the regulation of the practice of law stands subordinate to the people’s right to counsel.

Court Must Defend, Not Defeat Civil Rights

Denial of the defendant's choice of a non-attorney for counsel also violates the defendant's civil rights, under color of law. That violates US law and imposes liability upon all other officials party to it - see [Owen v. City of Independence, 445 US 622, 657 \(1980\)](#).

“Civil action for deprivation of rights. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.” **42 USC 1983.**

“ (1) Preventing officer from performing duties - If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

(2) Obstructing justice; intimidating party, witness, or juror - If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges - If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in

this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.” 42 USC 1985.

*“**Action for neglect to prevent.** Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.” 42 USC 1986.*

Judicial Branch Not in Control of Counselors

The Florida Constitution gives authority over Attorneys (but not counselors) to the state's Supreme Court.

*“**Attorneys; admission and discipline.** The supreme court shall have exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted.” - Florida Constitution, Article V. Judiciary, Section 15.*

The Florida Supreme Court gives a measure of authority over attorneys to the Florida Bar. Even though the bar does not attempt to discipline judges, it could and should because judges are both attorneys and members of the bar. And, its regulations do provide for the discipline of its members.

*“**Respondent.** A member of The Florida Bar or an attorney subject to these rules who is accused of misconduct or whose conduct is under investigation.” Florida Bar Regulations, RULE 3-2.1 DEFINITIONS (m)*

“Violation of the oath taken by an attorney to support the constitutions of the United States and the State of Florida is ground for disciplinary action. Membership in, alliance with, or support of any organization, group, or party advocating or dedicated to the overthrow of the government by violence or by any means in violation of the Constitution of the United States or constitution of this state shall be a violation of the oath.” Florida Bar Regulations, RULE 3-4.7 OATH

Voters and Officers of Court Swear to Uphold Constitution

All attorneys, to serve as officers of the court, must swear an oath before the Florida Supreme Court will grant them a license to practice law. The applicant signs the oath, and the Board of the Florida Bar retains it as a public record and proof of compliance with the U.S. and Florida constitutions. The Florida bar oath sets forth the general principles which should ever control the lawyer in the practice of the legal profession. On admission to the bar, the lawyer is sworn to obey the oath, and may be disbarred if he does not.

*"I do solemnly swear: I will support the Constitution of the United States and the Constitution of the State of Florida; I will maintain the respect due to courts of justice and judicial officers; I will not counsel or maintain any suit or proceedings which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land; I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law; I will maintain the confidence and preserve inviolate the secrets of my clients, and will accept no compensation in connection with their business except from them or with their knowledge and approval; I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged; I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone's cause for lucre or malice. So help me God." - **Oath of Admission to The Florida Bar** [Updated: 07-01-2005]*

Every Florida citizen must swear an oath of allegiance in the voter registration process.

'Oath.--Each eligible citizen upon registering shall subscribe the following: "I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, and that I am qualified to register as an elector under the Constitution and laws of the State of Florida." **Florida Constitution, Article VI. Suffrage and elections, Section 3.**

The Florida Constitution requires public officers to swear an oath of allegiance and post a surety bond that enforces the oath and compensates citizens in the event of violation of the oath.

"Public officers. Each state and county officer, before entering upon the duties of the office, shall give bond as required by law, and shall swear or affirm: "I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the state; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter. So help me God.", and thereafter shall devote personal attention to the duties of the office, and continue in office until a successor qualifies." - **Florida Constitution, Article 1. General provisions. Section 5. (b)**

The laws of the state require such an oath in order to comply with and conform to the demands of the U.S. Constitution's requirement that all federal, state, and local officials swear an oath of allegiance to support the Constitution.

“This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding. The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.” - U.S. Constitution, Article VI.

Thus, state governments and officials cannot take actions or pass laws that interfere with the Constitution. In 1819 the U.S. Supreme Court corroborated this by ruling that the Constitution gives it the power to invalidate any state actions that interfere with the Constitution and the laws and treaties passed pursuant to it. That power is not itself explicitly set out in the Constitution but the Supreme Court declared it to exist in the decision of McCulloch v. Maryland.

Judicial Qualifications Commission Can Punish Bad Judges

Any judge who violates his oath of office as an attorney or judge thereby removes his jurisdiction in the case before him and makes himself liable for discipline by the bar association, prosecution before the Florida Judicial Qualifications Commission, and a damages lawsuit for violation of defendant's or the public's civil rights. Judges have broad power and latitude in their courts, but when they fail to uphold the US and State Constitutions, and fail to honor and enforce the honoring of the rights guaranteed therein, they also have broad latitude to fall crashing to the earth in the shame of disbarment, ejection from office, criminal conviction, and serious financial loss.

“Discipline; removal and retirement. - *A judicial qualifications commission is created. (1) There shall be a judicial qualifications commission vested with jurisdiction to investigate and recommend to the Supreme Court of Florida the removal from office of any justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, (without regard to the effective date of this section) demonstrates a present unfitness to hold office, and to investigate and recommend the discipline of a justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966 (without regard to the effective date of this section), warrants such discipline. For purposes of this section, discipline is defined as any or all of the following: reprimand, fine, suspension with or without pay, or lawyer discipline. The commission shall have jurisdiction over justices and judges regarding allegations that misconduct occurred before or during service as a justice or judge if a complaint is made no later than one year following service as a justice or judge. The commission shall have jurisdiction regarding allegations of incapacity during service as a justice or judge...”* - **Florida Constitution, Article V, Section 12(a). Judicial Qualifications Commission.**

Attorneys Required by Oath to Oppose Corrupt Judges

Bottom line, judges have zero latitude when it comes to upholding the constitution, and therefore, they cannot abridge a defendant's right to select counsel of choice in a criminal court. Judges only exercise such latitude because cowardly attorneys refuse vigorously and unrelentingly to

- Oppose corrupt judges
- Accuse them of prejudice and violations of oath of office
- Insist that they have thereby relinquished jurisdiction
- Warn them that they will be hauled before the Judicial Qualifications Commission on formal charges of dereliction of duty and violating civil rights by interfering with the execution of the lawful private contract between counsel and client
- Accurately reporting the incident to the press
- File a formal complaint with the bar association.

Attorneys' efforts to keep in line those erring, arrogant judges who over-reach their authority can pay big dividends if successful. First of all, the citizens and the state benefit immensely from the preservation of justice. Normally, corrupt judges exercise enormous adverse influence on society and bring grave disrepute to the courts and the law because their corruption enjoys such deep entrenchment, and they injure the lives and fortunes of dozens, hundreds, or thousands of citizens before the system finally brings them to justice or they retire. Crusading against such judges can result in well-deserved elevation of an attorney's reputation, not to mention dramatic increase of income and opportunity to serve as a righteous judge someday.

Congress Can Impeach and Remove Corrupt Judges

The State House of Representatives affords an additional avenue for bringing down bad elected officials, including judges: impeachment. The House hears the charges, then by consent of two-thirds of the members voting, hands the charges to the Senate for trial under leadership of Chief Justice of the Florida Supreme Court presiding. By consent of two-thirds, the Senate convicts and orders the offender removed from office.

“Impeachment. - (a) *The governor, lieutenant governor, members of the cabinet, justices of the supreme court, judges of district courts of appeal, judges of circuit courts, and judges of county courts shall be liable to impeachment for misdemeanor in office. The house of representatives by two-thirds vote shall have the power to impeach an officer. The speaker of the house of representatives shall have power at any time to appoint a committee to investigate charges against any officer subject to impeachment.* (b) *An officer impeached by the house of representatives shall be disqualified from performing any official duties until acquitted by the senate, and, unless impeached, the governor may by appointment fill the office until completion of the trial.* (c) *All impeachments by the house of representatives shall be tried by the senate. The chief justice of the supreme court, or another justice designated by the chief justice, shall preside at the trial, except in a trial of the chief justice, in which case the governor shall preside. The senate shall determine the time for the trial of any impeachment and may sit for the trial whether the house of representatives be in session or not. The time fixed for trial shall not be more than six months after the impeachment. During an impeachment trial senators shall be upon their oath or affirmation. No officer shall be convicted without the concurrence of two-thirds of the members of the senate present. Judgment of conviction in cases of impeachment shall remove the offender from office and, in the discretion of the senate, may include disqualification to hold any office of honor, trust or profit. Conviction or acquittal shall not affect the civil or criminal responsibility of the officer.* – **Florida Constitution, Article III. Legislature, Section 17.**

Lobbying the [House Judiciary Committee](#) to recommend the impeachment of a bad judge requires much effort, but at least it gives citizens a path other than the secret deliberations of the Judicial Qualifications Commission whose deliberations.

Frankly, I believe some Florida philanthropists should pool together some money and form a lobbyist group to which citizens abused by judicial corruption can appeal for help in pressuring the legislature and Judicial Qualifications Commission to act fast to remove bad judges. Obviously, lawyers themselves won't do it, in spite of the fact that all law schools teach their students that their profession is "self-regulating." If it were, no judges would be denying defendants' Right to Counsel, would they?

Civil RICO Lawsuits Against Evil Judges

A final avenue for remedying denial of Right to Counsel can be found in federal RICO statutes, and in your pursuing them as a Private Attorney General in the broad public interest. One need not be an attorney-at-law to prosecute a RICO suit, as Paul Mitchell of <http://supremelaw.org> is demonstrating. Civil RICO specifically has a "further purpose [of] encouraging potential private plaintiffs diligently to investigate".

*"Both statutes [RICO and Clayton Act] bring to bear the pressure of **'private attorneys general'** on a serious national problem for which public prosecutorial resources are deemed inadequate; the mechanism chosen to reach the objective in both the Clayton Act and [RICO](#) is the carrot of treble damages." **Agency Holding Corp. v. Malley-Duff & Associates, 107 S.Ct. 2759, 483 U.S. 143, 151 (1987)***

*"In rejecting a significantly different focus under RICO, therefore, we are honoring an analogy that Congress itself accepted and relied upon, and one that promotes the objectives of civil RICO as readily as it furthers the objects of the Clayton Act. Both statutes share a common congressional objective of encouraging civil litigation to supplement Government efforts to deter and penalize the respectively prohibited practices. **The object of civil RICO is thus not merely to compensate victims but to turn them into prosecutors, 'private attorneys general,' dedicated to eliminating racketeering activity.** ³Id., at 187 (citing *Malley-Duff*, [483 U.S.](#), at 151) The provision for treble damages is accordingly justified by the expected benefit of suppressing racketeering activity, an object pursued the sooner the better. **Rotella v. Wood et al., 528 U.S. 549 (2000).***

*"The **'private attorney general'** concept holds that a successful private party plaintiff is entitled to recovery of his legal expenses, including attorney fees, if he has advanced the policy inherent in public interest legislation on behalf of a significant class of persons. *Dasher v. Housing Authority of City of Atlanta, Ga., D.C.Ga., 64 F.R.D. 720, 722. See also Equal Access to Justice Act.*" - **Black's Law Dictionary, Sixth Edition***

RICO, defined in [18 USC 1962](#) and punished in [18 USC 1964](#), requires two violations of the same law so as to demonstrate a systematic intent of racketeering. Judges who routinely and systematically trounce civil rights, such as by denying assistance of counsel of choice, or by denying access to electronic recordings of courtroom proceedings, might easily find themselves in jeopardy by a civil RICO lawsuit.

Conclusion

Judges have substantial but limited power and often overreach their constitutional authority by denying the public the right to counsel of their choice and denying people the right to provide limited assistance of counsel without being licensed to practice law.

The corruption at all levels of the judiciary, and the terrible expense of litigation, make it very difficult to fight against and remove bad judges who routinely and systematically stomp on individual civil rights.

However, vehicles for discipline and removal of bad judges do exist. All Americans should learn how those vehicles work, learn what their individual rights are, and boldly press forth to bring corrupt judges to justice, using every available avenue.

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