

OFFICE OF THE DISCIPLINARY COUNSEL

NEW MEXICO ATTORNEY DISCIPLINARY BOARD

H. Gary Brown
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VIA First Class Mail
504-756-1987

August 24, 2022

New Mexico Attorney Disciplinary Board
2440 Louisiana Blvd. NE
Suite 280
Albuquerque, New Mexico 87110
(505) 842-5781

IN RE: C. Bryant Rogers
P.O. Box 1447
Santa Fe, NM 87504-1447

ETHICAL CONDUCT COMPLAINT

One, H. Gary Brown, the Undersigned Affiant, hereinafter known as I, me, myself or one, H. Gary Brown, does hereby solemnly affirm, declare and state, under penalty and perjury, including first hand witness and testimony as follows:

1. Affiant is competent to state the matters set forth herewith.
2. Affiant has personal knowledge of the facts stated herein
3. All the facts stated herein are true, correct, and complete in accordance with Affiant's best firsthand knowledge and understanding, and if called upon to testify as witness Affiant shall so state.

This Affidavit and all attached documents are made part of the Public Record, and will be used in administrative and judicial proceedings at law or equity.

4. C. Bryant Rogers, hereinafter known as “Rogers,” in the course of conducting his business and interests, has violated Rule 16-401 Truthfulness in statements to others of the New Mexico Code of Professional Conduct.
5. Rule **16-401** of the New Mexico Rule of Professional Conduct prohibits a lawyer from making any false statement of material fact or law to a third person.
6. Case # 3:22CV256-DPJ-FKB in the U.S. Federal District Court for the Southern District of Mississippi (Northern Division) located in Jackson, Mississippi involving Plaintiffs, Howard Brown and Brandon Sibley with Defendants, CHOCTAW RESORT DEVELOPMENT ENTERPRISE, ET AL. is where you will find such violation.
7. Plaintiffs have exposed multiple untruthful statements by Defendants’ Counsel, C. Bryan Rogers, with what the Plaintiffs believe to be a malicious intent to obfuscate, stonewall, and mislead the court about the facts of the case.
8. Specifically, Rogers begins a two-sided argument in his reply brief for his motion to dismiss **(Document 11)** as evidenced by his title stating, “REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION **OR, IN THE ALTERNATIVE**, FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED UNDER U.S.C. § 1983.”
 - a. Page 3 of document 11, written by opposing counsel, starts at ¶ 6; “ In an effort to avoid the legal consequences of “under color of state law requirement,” Plaintiffs suggest in Doc. 9 submission ¶ 9 that: ‘It is a FACT, that the Mississippi Band of Choctaw Indians, by and through their Chief Cyrus Ben, issued an ordinance that coincided with the actions of many state governors’ mandates, state health department’s advice, suggestions

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from the CDC, and recommendations by federal agencies that did little more than to suggest, advise, and recommend, not force, as plead in the Plaintiffs' Complaint.

- b. Defendants' Counsel replies in the 1st ¶ on page 4 (**Document 11**) of the aforementioned brief and states; "Initially, nowhere do such allegations appear in the Complaint; **but even if** Plaintiffs had included these allegations in their Complaint they would not be sufficient to show the Tribal Council's enactment of Ordinance 50-A or Chief Cyrus Ben's issuance of and tribal staff's enforcement of the Chief's Executive Order implementing that ordinance, via promulgation of the Covid-19 mask mandate, challenged by Plaintiffs were the product of some kind of "conspiracy" with state actors, nor would;"
9. Plaintiffs pled on page 14 of their complaint under the 2nd Federal Questions exactly, "**2nd Federal Question:** Can the advice, guidelines, recommendations, and encouragement from corporate, federal, and state agencies, such as the CDC and the Mississippi State Health Department supersede the United States Constitution which incorporates substantive and procedural due process? Plaintiffs contend, no."
10. Therefore, the Plaintiffs are entitled to injunctive relief against Defendants to enjoin them from enforcing un-constitutional actions against the Plaintiffs or anyone else.
11. The issue stated above in number eight (8) of this document is clearly a violation of New Mexico's Rules of Professional Conduct 16-401, however, if we are being honest with ourselves, it also violates 16-303 (Candor towards Tribunal), 16-103 (Diligence), and 16-101 (Competence) to say the least.

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12. It appears that good faith warnings to counsel by affiant have fallen on deaf ears and that the affiant needs to start concerning himself with the violations of Rule 16-501 (Law Firms and Associations) as a way of curbing the bad behavior by counsel.

There are MANY untruthful statements, by Rogers, that have been uncovered in the course of conducting the business of the above-mentioned case and this bar grievance is the second attempt of many to come for Mr. Rogers as his conduct can only be described as destructive.

Thank you for your time and consideration in this matter; should you need to contact me for any housekeeping matters my phone number is 504-756-1987 or for electronic receipts hgarybrown@gmail.com.

This Declaration is dated this twenty-fourth day of August in the year, two thousand and twenty-two.

This instrument was prepared by one, H. Gary Brown

Howard Gary Brown – Affiant

VERIFICATION OF BAR GRIEVANCE

STATE OF LOUISIANA

EAST BATON ROUGE PARISH

BEFORE ME personally appeared Howard Gary Brown who, being by me first duly sworn and identified in accordance with Louisiana law, deposes and says:

1. My name is Howard Gary Brown.
2. I have read and understood the attached foregoing request for admissions and production filed herein, and each fact alleged therein is true and correct of my own personal knowledge.

FURTHER THE AFFIANT SAYETH NAUGHT.

H. Gary Brown, Affiant

SWORN TO and subscribed before me this 24th day of August, 2022.

Notary Public

My commission expires:

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