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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

ERIC R. CERWONKA, PsyD.                   \*     CASE NO.  
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   \*  
VERSUS   \*  
   \*  
   \*  
LOUISIANA STATE BOARD OF               \*  
EXAMINERS OF PSYCHOLOGISTS         \*

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**SUIT FOR DAMAGES FOR VIOLATION OF CIVIL RIGHTS**

NOW INTO COURT comes Eric R. Cerwonka, a resident of full age of majority of the State of Louisiana, Lafayette Parish and the City of Lafayette, Louisiana, appearing herein as Plaintiff, and respectfully avers as follows:

1.

Made Defendant herein is the Louisiana State Board of Examiners of Psychologists, a board of appointed individuals charged with governance of the practice of psychology in the State of Louisiana.

2.

This matter is brought under 28 U.S.C. §1331, Federal Question, as well as 28 U.S.C. §1343(a)(3), Jurisdiction under 42 U.S.C. §1983.

3.

Eric R. Cerwonka is a psychologist licensed as such in the State of Louisiana as well as the State of New York having been practicing as such for a number of years in both states and Louisiana principally for the last 15 years.

4.

Eric Cerwonka has been a full-time employee as a psychologist for the Veterans Administration and has had a private psychology practice in Lafayette, Louisiana, with the consent of his employer at the Veterans Administration.

5.

At all times pertinent hereto, Eric Cerwonka was duly licensed in both states, Louisiana and New York, and had never had his license suspended or questioned in any way.

6.

Eric Cerwonka's background and education are sterling, and his experience and capabilities as a psychologist are outstanding. In the course of his work for the Veterans Administration, he has provided critically needed psychological help to many seriously ill veterans who have profited greatly from Dr. Cerwonka's treatment.

7.

In 2016, despite having no substantial evidence of any kind, from any source, that Plaintiff herein was incompetent, unskilled, or otherwise guilty of any actions which should cause his disciplinary action from the Board, the Board in fact began an investigation of Cerwonka based almost exclusively at the outset upon information provided to the Board by an outside civil claimant, as well as that claimant's attorney, who had decided to file a civil lawsuit against Dr. Cerwonka and who claimed to have filed criminal charges against Dr. Cerwonka.

8.

The criminal charges referred to hereinabove were never accepted by local authorities, the case was closed, the civil case is ongoing, but nothing in it has proven

anything to the present time. With all of this in mind, the Board continued its investigation independently and, in fact, obtained items of evidence haphazardly and even illegally in order to attempt to prosecute Cerwonka and/or have him surrender his license to practice in the State of Louisiana.

9.

Among other things, the Board acted on an interim basis, before any hearing of any kind had ever taken place, once it found that Dr. Cerwonka was not going to surrender his license voluntarily, and within minutes, through a staff employee, not by any vote of the Board itself, which is required in order to take Board action under the Louisiana statute involved, temporarily removed Dr. Cerwonka's license to practice and, thus, took away from him private property without due process of law, the result of which was loss of his ability to practice in the State of Louisiana, the shutting down of his private practice, and eventually, based upon this action by the Board, loss of his job with the Veterans Administration based strictly and solely upon the termination of his license by the Louisiana Board.

10.

In addition, the Board then presented as to Cerwonka various conclusions without any basis for same, without any details, and without advising Cerwonka exactly what he was being charged with. This, again, denied Cerwonka's Constitutional rights under the United States Constitution, Fourteenth Amendment Due Process Clause, and the Louisiana Constitution, Article 1, Section 7.

11.

With no specifics alleged by the Board, Cerwonka was denied a proper opportunity to exercise his Constitutional rights of defense of himself and, according to counsel for

the Board, even at a hearing in which Dr. Cerwonka attempted on an interim basis to get an emergency reinstatement of his license, counsel advised the Court that, "I can give no details as I do not have them." This, after the Board decided that there was such an emergency that it was going to and did suspend the license of Dr. Cerwonka, without due process of law.

12.

Further, the adverse action taken against Dr. Cerwonka in suspension of his license on an "emergency" basis was taken by the Board against Dr. Cerwonka for the reason that he exercised his Constitutional First Amendment Right of Free Speech and, thus, violated his Constitutional rights thereof.

13.

Despite the fact that the Board originally put on evidence at an evidentiary hearing in the early part of 2017, no evidence was ever put on to prove any charges against Dr. Cerwonka involving sexual activities including sexual intercourse with a patient, rape, or any other sexual activities whatsoever.

14.

The Board additionally presented evidence at the Board hearing which eventually led to termination of Dr. Cerwonka's license, which evidence was illegally obtained and included privileged, private, patient information, attempts at getting private patients of Dr. Cerwonka to provide evidence, photographs taken of items in glass containers claimed to be illegal substances, and with no evidence whatsoever as to what was in those jars, as well as claims that Dr. Cerwonka had obtained illegal substances from overseas, none of which was ever proven, save and except that there was proof of dietary supplements

having been obtained, items which were not controlled substances nor prescription items of any kind.

15.

The Board additionally charged Dr. Cerwonka with sending hundreds of emails which were of sexual nature and did not prove the content of any one of those items and knew it could not do so.

16.

The Board charged Dr. Cerwonka with impairment while he was at work and had no evidence whatsoever of this either. It knew well in advance that it had no such evidence.

17.

At the evidentiary hearing leading directly to the termination of Dr. Cerwonka's license, the Board was represented by counsel, comprised of an Administrative Law Judge, a Baton Rouge Attorney who was the law partner in the same firm as the counsel for the Board who also participated in the hearing and in fact asked questions. The Administrative Law Judge ruled on evidentiary matters and, thus, was a judicial body at the hearing with his own law partner representing one of the sides in the hearing.

18.

Additionally, at the hearing referenced hereinabove, the prosecuting attorney for the Board, an attorney from an outside firm in Baton Rouge, was an attorney who had represented Dr. Cerwonka in a hotly contested custody battle just a few years before and, despite the objection of Dr. Cerwonka of a conflict of interest, this attorney continued to represent the Board as prosecutor, would not recuse himself from it, and actually used evidence which he had obtained from prior representation of Dr. Cerwonka as evidence

in the hearing of this matter. This matter was presented to the hearing officer who overruled the objection of Dr. Cerwonka that counsel be removed from the hearing.

19.

Additionally, the Board concluded that Dr. Cerwonka was guilty of multiple charges, many of which had never been brought against him by the Board, including an attempt to convince the Board that Dr. Cerwonka had been practicing psychology without a license which had been summarily removed from him, illegally, by the staff member of the Board. In that attempt, the Board illegally brought forth HIPAA protected reports on medical procedures and medical opinions of a private person, outside of the Veterans Administration or any relevance to this matter, and presented that to the Board in violation of HIPAA and patient privacy in general.

20.

In its Conclusions of Law as part of its Finding leading to the termination of Dr. Cerwonka's Louisiana license, the Board indicated that Dr. Cerwonka had engaged in "gross malpractice, repeated malpractice, or gross negligence in the practice of psychology" and that he engaged in "immoral, unprofessional or desirable conduct as defined in the rules and regulations of the Board," engaged in sexual intimacies with individuals who he was treating, and demonstrated repeat violations of the regulations governing the practice of psychology in Louisiana. All of this was charged based upon either no evidence or illegally obtained evidence. The rights of Dr. Cerwonka were violated in the entire prosecution and his attempt at competent defense, with the Board using illegal means to temporarily remove Dr. Cerwonka's license in an attempt at politically quashing his objections to Board actions and preventing, from an economic standpoint, his appeal of the Board's decision.

21.

When the matter came on appeal to the 19<sup>th</sup> Judicial District Court, East Baton Rouge Parish, Louisiana, the presiding judge, Hon. R. Michael Caldwell, advised counsel for Dr. Cerwonka as well as counsel for the Board at the initial appearance before the Court that the merits of the prosecution by the Board aside, the entire procedure by the Board was so fraught with Constitutional violations against Dr. Cerwonka that it could not stand and would have to be set aside and dismissed by the Court. After repeated pleas by Board counsel to brief the matter, and briefs having been prepared and filed, argument on the issues took place. The Court continued with its assertion and, in fact, set aside the entire prosecution of the Board as being Constitutionally flawed in multiple ways and ordered that should the matter be brought before the Board again, the Board would have to be certain that the Administrative Law Judge as well as the counsel for the Board could not be in the same law firm, and that the prosecuting attorney for the Board would have to be changed from the person who prosecuted previously. In sum, the judge was directing the Board to act in a legal and Constitutional way or not to come back at all.

22.

All of the above having taken place, the presiding judge in the first level of appeal, Judge Caldwell, having taken the virtually unheard of but helpful approach of advising all that Constitutional flaws were so great that the matter before him simply could not stand, no matter what the merits were; the Board, rather than take the advice as it should have, decided to appeal the dismissal by Judge Caldwell rather than taking the appropriate course and simply vacating the prosecution or going back and starting over again. It is believed that the Board has not done this because of the fact that it is anxious to collect the outrageous Court costs charged to Dr. Cerwonka in the Board's original decision,

some \$130,000.00, to silence Dr. Cerwonka's criticism of the Board makeup as it stands, to remove Dr. Cerwonka's rights of political objection to the Board makeup as well as Board actions itself, and to keep Dr. Cerwonka from further obtaining private insurance work in Louisiana by being able to advise people, "The matter is on appeal."

23.

The actions of this Board have led to considerable damage to Dr. Cerwonka, who has lost his job with the V.A., who has lost many private patients, who has lost much insurance company and Social Security work in the State of Louisiana, all as a result of Board actions referenced hereinabove. Further, Dr. Cerwonka's reputation in the field of psychology has been damaged perhaps irreparably, including with the loss of his job with the Veterans Administration, the loss of his health care benefits which he desperately needs as he has serious ongoing medical conditions and the need for regular health care and even surgery. Despite all of this, the Board takes the actions that it takes which are another indication of its arbitrariness, lack of responsibility, violation of the Constitutions of the United States and the State of Louisiana, and violation of the law in Louisiana regarding the Board.

WHEREFORE, Plaintiff, Eric R. Cerwonka, prays that this Complaint be filed herewith and after due proceedings had there be judgment in his favor and against the Louisiana Board of Examiners of Psychologists for damages in accord with the law and proofs.

Respectfully submitted,

BROWN SIMS, P.C.

BY:           /s/ L. Lane Roy



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COUNSEL FOR: **ERIC R. CERWONKA**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 31st day of August, 2017, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all known counsel of record by operation of Court's electronic filing system.

/s/ L. Lane Roy  
L. LANE ROY

I, ERIC CERWONKA, swear that all of the above facts are true and correct to the best of my knowledge and belief.

  
Eric Cerwonka

8-29-17  
Date