19-0001

No.

IN THE

SUPREME COURT OF THE UNITED STATES

KAREN KHAN,

Petitioner

v.

UNITED STATES,

Respondent

On Petition For Writ of Certiorari

To The United States Court of Appeals for the Federal Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1.1. Federal Circuit's Application of the Plausibility Standard to Weigh Evidence Against Plaintiff Conflicts With This Court's Precedent In *Twombly* and *Iqbal* As It Nullifies Procedural Due Process Under The Fifth Amendment To The U.S. Constitution;

2.1. U.S. Court of Federal Claims Has Concurrent Jurisdiction With A U.S. District Court Over a RICO Action Against The U.S. Pursuant To This Court's Precedent In *Tafflin v Levitt;*

Preface to question 3.1.:

Complaint, Plaintiff's Opening and Reply Briefs at the Federal Circuit and Federal Circuit decision[s] elucidate that Plaintiff has been a victim of consistent, organized, and systemic class-based animus against women. Plaintiff was first denied equal protection of the laws when she took a stand against injustice, in defense of a mother who was a victim of domestic violence, including through and by the New York State Court[s]. Plaintiff, was then denied equal protection of the laws by DOJ and FBI, including in conspiracy with churches, when she continued her fight against class- based animus against women. ***AND the question is;***

3.1. A Declaratory Judgment Is A Proper Vehicle For This Court To Uphold A Woman's Equality To A Male Man Under God's Word And The Fifth and Fourteenth Amendments To The U.S. Constitution To Effectively Abolish The Class-Based Invidiously Discriminatory Animus Against Women Entrenched In America's Culture;

Preface to question 4.1.:

Plaintiff has been denied equal protection of the laws by the NYS Courts and DOJ and FBI. This "official lawlessness" is continuing through the NYS Court of Appeals decision, which upheld monetary sanctions against the Plaintiff and her client, for lawfully seeking redress of wrongs done at the NYS Supreme Court, Dutchess County. DOJ Motion to Dismiss, at the Claims Court, made it a more likely than not event, that FBI had exerted its unlawful influence on the NYS Court of Appeals, in issuing a blatantly lawless decision. ***AND the question is;***

4.1. Is This Case A Proper Vehicle For This Court To Permissibly Fashion A Remedy To Vindicate Federal Rights Under Fifth And Fourteenth Amendments To The U.S. Constitution When As In The Present Case There Is An Ongoing Violation Of Equal Protection Of The Laws;

Rule 14.1 (b) Statement
All parties are identified in the Caption of the Petition.

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Petition for a Writ of Certiorari

KAREN KHAN respectfully petitions for a writ of certiorari to review the Decision dated February 5, 2019 and Order, en banc dated April 10, 2019, of the U.S. Court of Appeals for the Federal Circuit, in this case.

Decisions and Orders Below

Federal Circuit Decision [Appx. 1.1] is available at *Khan v. United States*, 759 Fed. Appx. 952 (Fed. Cir. 2019); Federal Circuit declined to publish its Order, en banc [Appx.1.2]; Federal Circuit issued its Mandate on April 17, 2019 [Appx.1.3]; The U.S. Court of Federal Claims Opinion and Order [Appx.2.1] is available at *Khan v. U.S.*, WL 3385331 (Fed. Cl. 2018).

Jurisdiction

The Decision and Judgment of the Federal Circuit was entered on February 5, 2019, and an Order, En Banc denying rehearing and rehearing en banc was entered on April 10, 2019. This Court's jurisdiction is invoked under 28 U.S.C. section 1254(1).

Constitutional, Statutory, and Regulatory Provisions Involved

U.S.C.A. Const. Art. I § 8, cl. 1 [Appx. 5.1.]; U.S.C.A. Const. Amend. V-Due Process [Appx. 5.2.]; U.S.C.A. Const. Amend. XIV, § 1-Due Proc [Appx. 5.3.]; U.S.C.A. Const. Amend. XI [Appx. 5.4.]; 5 C.F.R. § 2635.101 [Appx. 5.5.]; 5 U.S.C.A. § 702 [Appx. 5.6.]; 18 U.S.C.A. § 1961 [Appx. 5.7.]; 18 U.S.C.A. § 1962 [Appx.

5.8.]; 18 U.S.C.A. § 1964 [Appx. 5.9.]; 18 U.S.C.A. § 2510 [Appx. 5.9.1.]; 18 U.S.C.A. § 2511 [Appx. 5.9.2.]; 18 U.S.C.A. § 2512 [Appx. 5.9.3.]; 18 U.S.C.A. § 2513 [Appx. 5.9.4.]; 18 U.S.C.A. § 2515 [Appx. 5.9.5.]; 18 U.S.C.A. § 2516 [Appx. 5.9.6.]; 18 U.S.C.A. § 2517 [Appx. 5.9.7.]; 18 U.S.C.A. § 2518 [Appx. 5.9.8.]; 18 U.S.C.A. § 2519 [Appx. 5.9.9.]; 18 U.S.C.A. § 2520 [Appx. 6.1.]; 28 U.S.C.A. §1331 [Appx.6.2]; 28 U.S.C.A. § 1343 [Appx. 6.3.]; 28 U.S.C.A. §1491 [Appx. 6.4.]; 28 U.S.C.A. §1631 [Appx.6.5]; 28 U.S.C.A. §2201 [Appx. 6.6.]; 28 U.S.C.A. §2202 [Appx. 6.6.1.]; 28 U.S.C.A. § 2679 [Appx. 6.7.]; 42 U.S.C.A. § 1983 [Appx. 6.8.]; 42 U.S.C.A. § 1985 [Appx. 6.8.1.]; 42 U.S.C.A. § 1986 [Appx. 6.8.2.]; 42 U.S.C.A. § 2000e [Appx. 6.8.3.]

STATEMENT OF THE CASE

A. Statutory Background

Plaintiff filed a Constitutional, Civil Rights and a RICO action with the U.S. Court of Federal Claims. Plaintiff in her Response to Defendant's Motion to Dismiss, at the Claims Court, conceded that U.S. district court is the proper venue for her Constitutional and Civil Rights action under 28 U.S.C. §1331 and 28 U.S.C. §1343 (a), and requested the Claims Court to transfer her Constitutional and Civil Rights actions, under 28 U.S.C. §1631. Plaintiff continues to assert that Claims Court has concurrent jurisdiction with a U.S. district court over her RICO action, under 18 U.S.C. §1964 (c).

B. Factual Background

Petitioner/Plaintiff, *pro se*, is an attorney, admitted to the bar of the State of New York, since 2005, and to the U.S. Court, Southern District of New York,

since 2014. Since 2010 and 2011, FBI has been engaged in disruptive and obstructive activities towards Plaintiff's person and property, including her law practice. These disruptive activities are in furtherance of its conspiracy to impede, hinder, defeat, and obstruct the due court of justice, with intent to deny Plaintiff equal protection of the laws. Plaintiff has been deprived of life, liberty, and property because of FBI's continued interferences in her personal and professional life. Plaintiff and her client, in January 2011, filed an initial complaint with Civil Rights Division, DOJ, for a blatant and egregious violation of their civil rights, by the State of New York. Prior to filing a complaint with DOJ, Plaintiff and her client, had also filed a complaint with the NYS Attorney General,[1] in 2010. An expert on matrimonial and civil rights cases, in May 2011, wrote a letter to DOJ strongly corroborating Plaintiff and her client's Complaint. Plaintiff also filed separate Complaint[s] with DOJ in 2015. The premise of the Complaints was blatant and gross violations of the Fourteenth Amendment, by New York State Courts. Plaintiff and her client had requested DOJ, as relief, a reversal of the New York State Court of Appeals, lawless, capricious and arbitrary, decision dated February 23, 2010, as it is an ongoing violation of federal law, until reversed.

Supreme Court Dutchess County, New York, had perpetuated domestic violence against Plaintiff's client while also denying Plaintiff equal protection of the laws, in her lawful representation of her client. It

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[1] Eric Schneiderman was the then A.G. who resigned from his office, within hours, after four women accused him of physical abuse, in May 2018. This story was published by 'The New Yorker' on May 7, 2018. [Public Information accessible via internet search]

amongst other factors, perpetrated an unconscionable stipulation, upon Plaintiff's client, under threat of loss of custody and incarceration. Plaintiff's client and her children had been victims of domestic violence which was corroborated by a Social Services indicated report. Plaintiff's client filed a Motion to set aside the coerced stipulation. Supreme Court lawlessly imposed monetary sanctions on the Plaintiff and her client, while making *false accusations* against them. Plaintiff and her client appealed. A separate Amicus Curiae brief, by Schiff Hardin LLP., was also filed, at the appellate level. The New York State Court of Appeals, through a lawless, capricious, and arbitrary Order dated February 23, 2010, upheld these monetary sanctions, without any substantiations, in passionate defense of 'perpetrators of domestic violence.'

All through these years Plaintiff has endured a cycle of ongoing harassments, disruptions and obstructions, perpetrated by FBI. As though this cycle of abuse in itself was insufficient, DOJ and FBI in furtherance of its conspiracy to impede, hinder, defeat and obstruct the due course of justice engaged in human trafficking,[2] with intent to deny Plaintiff equal protection of the laws. Two FBI agents, Misters Michael Rourke and Cruze Rey, have personally met with Plaintiff, in an attempt to enter into a relationship with her. Plaintiff has stated that though she does not consider unethical *per se*, these agents

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[2] The term 'Human Trafficking' has been used in the Complaint to mean, "the illegal practice of procuring or trading in human beings for the purpose of prostitution, forced labor, or other forms of exploitation." Any kind of coercion and or injurious manipulations including through psychological warfare, upon a woman, to capture her in a relationship[s] is tantamount to human trafficking and prostitution of a woman within or without a marriage.

meeting up with her, she cannot be coerced into any relationship[s]. FBI has not hesitated to justify its perversions, by conveying messages through church pastors and church personnel.

Complaint, elucidates FBI's lawlessness, which includes obstructions and interceptions in Plaintiff's law practice/business; harassing phone calls; emails and messages sent to her through various channels; sending a sexually explicit letter; linking her business website with a porn site; instigating misconduct through immigration judges; writing fake derogatory online reviews -- and are in conspiracy between FBI and DOJ, FBI within the FBI and FBI and private church personnel. Plaintiff sustained, in her person and property severe injuries including deprivation of her constitutional rights, and these to an even greater extend, in 2017 into 2018 and current. Myra Armstead, a controlling member of Faith Assembly of God Church, informed Plaintiff that "intelligence" is involved. Diedre Hays, whom Plaintiff met at a New York State Women's Bar Association conference, in 2015, informed Plaintiff that FBI is chasing her.

Plaintiff in November 2016 filed a Complaint against FBI including FBI agent Michael D. Rourke, with Civil Rights Criminal Investigation Unit. Plaintiff via email dated March 9, 2017, requested Jeffrey Veltri-Chief, Civil Rights, Criminal Investigation Unit [FBI], to meet up with her. Plaintiff received no response from FBI Chief, or an interest in addressing Plaintiff's concerns. To the contrary, FBI has continued its unlawful activities and perversions.

Plaintiff contacted U.S. Representatives and a Senator, in March 2017, and on request from Senator's office contacted some organizations, for assistance in this matter, but FBI intercepted. [Discovery should reveal these interceptions]. Plaintiff also filed

a criminal complaint, in April 2018, against named FBI agents, with the U.S. Attorneys Office, Southern District. FBI has been successful in covering up its lawlessness, evidently.

The named agents and those aligned with them have freely conducted their methodical and repetitive lawlessness, under FBI's internal policy, the Counter Intelligence Program, COINTELPRO, to exert its perverted control, including through injurious manipulations, on the Plaintiff, with intent to deny her equal protection of the laws. FBI is desperately attempting to preserve the *status quo* of its corruption and perversions, against women, including the Plaintiff. Plaintiff is convinced that she is not FBI's only woman victim--FBI has proven itself to be engaged in human trafficking, while being able to exert its unlawful influence, including on the courts.

C. Proceedings Below

Plaintiff filed a Complaint with the U.S. Court of Federal Claims on April 26, 2018. Plaintiff also filed a Motion for an Injunction. Defendant filed a Motion for Leave to Respond to Plaintiff's Motion for Temporary and Permanent Injunction Concurrent with its Response to Plaintiff's Complaint. Defendant then filed a Motion to Dismiss, under FRCP 12 (b). Defendant's Motion to Dismiss at the Claims Court and its Brief at the Federal Circuit elucidated that it was on notice of a constitutional, civil rights, and a civil RICO action ["none of Ms. Khan's claims are based on a money-mandating statute or contract; instead, they are based on the civil rights statutes, torts and civil RICO..."][3] Further, Claims Court Order dated July 12, 2018, and the Federal Circuit's decision dated

[3] Def. Brief Fed. Cir. at 6.

February 5, 2019, indicate that both Courts were on notice of a constitutional, civil rights and a RICO action.

Claims Court issued an Order dated July 12, 2018, which in Plaintiff's perception, provided her a road map on how to pursue her appeal. Plaintiff followed this road map, closely, in her briefs at the Federal Circuit. Plaintiff provides hereunder a few examples, of many, as basis for her assertion.

Claims Court favorably cited *Papasan v. Allain*, 478 U.S. 265 (1986), which sets astounding precedents. First, ongoing constitutional violations -- [of equal protection of laws] -- is precisely the type of continuing violation for which a remedy may permissibly be fashioned; Second, the U.S. Supreme Court, is not precluded in its review of a complaint from taking judicial notice of relevant information on its own motion. [Although this case comes to us on a motion to dismiss under FRCP 12(b), we are not precluded in our review of the complaint from taking notice of items in the public record,... At Footnote 1]; Third, the court is bound "to take the well-pleaded allegations in the complaint as true."

Claims Court determined that Plaintiff had set out her Complaint in "considerable detail" whereby upholding the Complaint as well-pleaded. [Appx.2.1.at 012].

Claims Court cited *Ingram v. Madison Square Garden Center, Inc.*, 482 F. Supp. 414 (S.D.N.Y. 1979) [Civil Rights] and *4 K & D Corp. v. Concierge Auctions, LLC*, 2 F. Supp. 3d 525 (S.D.N.Y. 2014) [RICO] to rule that district courts can hear Civil Rights and RICO claims, but neither of these two cases establish a U.S. district court's exclusive jurisdiction over Civil Rights and RICO claims. *Ingram*, establishes that when plaintiffs allege a continuous and present practice of

discrimination rather than a single, isolated act, the statute of limitations is no bar. Further, of utmost importance, *Ingram,* held that a Plaintiff can maintain two actions, under two statutes, out of the same set of facts, when the two statutes are completely independent. Whereas, *Concierge Auctions* [RICO] provided a requirement for presentation, on appeal, i.e. to draw a distinction between the Federal Government and its employees. Further, *Concierge Auctions,* held that to constitute a mail or wire fraud violation, it is not necessary to show that defendants actually mailed or wired anything themselves; it is sufficient if they caused it to be done.

Federal Circuit issued a decision dated February 5, 2019, adverse to the Plaintiff. It, in an egregious error, weighed evidence against Plaintiff when it stated, "Ms. Khan alleges that the "FBI has used different channels...[to] convey its perversions..." Ms. Khan cites to emails and photographs as support of her allegations...but none of these documents evidences any communications by the Government...Ms. Khan's complaint, in fact, falls short of the "plausibility" standard set out by the Supreme Court in *Twombly* and *Iqbal*, and Ms. Khan has advanced no basis for thinking that the deficiency could be cured by amendment" [Appx.1.1. at 006]. Federal Circuit, however, accurately concluded that NYS Supreme Court had conducted "domestic violence." Plaintiff filed a timely Petition for a Rehearing and a Rehearing En Banc with the Federal Circuit. Petition reiterated that every part of the Complaint corroborates the other and the referenced documents, and vice versa. In addition, at least two persons had also informed Plaintiff that 'intelligence' is involved, and FBI is chasing her. Furthermore, though Plaintiff had anticipated making further corroborations through

discovery, she provided the Federal Circuit with additional astounding basis for issuing a decision which will abolish the organized and systemic class-based invidiously discriminatory animus against women [or in other words "America's tribal culture"], in this Country, [4] as follows;

- Plaintiff filed a Complaint, in May 2017, with the Office of the U.N. High Commissioner for Human Rights, pursuant to Human Rights Council Resolution 5/1 on the basis of U.S. Government's gross failure to fulfill its Human Rights obligations and commitments under International law and its Federal Laws. Plaintiff requested the Commission to appoint a highly qualified expert, including to monitor FBI's emails to Plaintiff's email accounts, i.e. karenkhan@kknylawfirm.org and karenkhanlaw@hotmail.com. A highly qualified expert is continuing to monitor FBI's emails to her email accounts, since 2017.
- Pursuant to Federal Rules of Evidence, Rule 614, a Federal Court may call a witness on its own or at a party's request. Plaintiff is aware, through various emails she has received, that she has at least a couple of friends[5] in the FBI, of which one is Frank Newcomer. FBI agents will testify when given the necessary safeguards and protections, by the Court.
- Evidence cannot be sealed either in a RICO or a Civil Rights action.

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[4] Plaintiff requested the Federal Circuit to address the issues "in favor of this Country" based upon her understanding that government corruption cannot be in any country's favor.

[5] Plaintiff refers to these agents as her 'friends,' because these have not participated in FBI's lawlessness and perversions, against the Plaintiff. These 'friend' agents will certainly, stand with the Plaintiff, when called by the Court, as witnesses.

Federal Circuit issued an Order, En Banc dated April 10, 2019, denying Plaintiff's Petition for a Rehearing and Rehearing En Banc, upon consideration. Federal Circuit denied Plaintiff equal protection of the laws, based upon its class-based animus against women-- that there were women judges involved does not by itself bespeak of non-bias against women. Including the present case elucidates that certain women, in this Country, play a vital role in the perpetuation of the organized and systemic class-based animus against women. No judge can endorse or enforce human trafficking or prostitution of any woman, as the Federal Circuit has blatantly and revoltingly done, in an egregious error. Plaintiff has lawfully litigated issues which when lawfully addressed will abolish official lawlessness, against women, including in the Federal Government.

Reasons for Granting the Petition

Federal Circuit Decision dated February 5, 2019, and its Order, En Banc dated April 10, 2019, have so far departed from the accepted course of judicial proceedings as to call for an exercise of this Court's supervisory power, to restore the integrity of the judicial system. Second, Federal Circuit's said decision is in conflict with the U.S. Supreme Court's precedent setting Decisions, *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); as well as its own precedent setting Decision, *McZeal v. Sprint Nextel Corp.*, 501 F.3d 1354 (Fed. Cir. 2007), on the issue of "plausible" pleading standard; And *Tafflin v. Levitt*,493 U.S. 455 (1990), on the issue of Claims Court jurisdiction over a RICO action, against the U.S. Furthermore, this Court should grant Certiorari because the present

case raises precedent setting questions of exceptional importance, as follows;

1.1. Federal Circuit's Application of the Plausibility Standard to Weigh Evidence Against Plaintiff Conflicts With This Court's Precedent In *Twombly* and *Iqbal* As It Nullifies Procedural Due Process Under The Fifth Amendment To The U.S. Constitution

The Fifth Amendment to the U.S. Constitution states, no person shall be * * * deprived of life, liberty, or property, without due process of law.

The Fifth Amendment places constitutional limitations upon the judicial power of the courts, in that no person shall be deprived of life, liberty or property without due process of law. It is intended to secure an individual from the arbitrary exercise of powers. Under our system of government, the people are the sovereign. *U.S. v. Lee,* 106 U.S. 196 (1882). A fundamental requirement of due process is 'the opportunity to be heard.' *Grannis v. Ordean,* 234 U.S. 385 (1914). It is an opportunity which must be granted at a meaningful time and in a meaningful manner. *Armstrong v. Manzo,* 380 U.S. 545 (1965).

To have a property interest..., a person must have more than an abstract need or desire for it or a unilateral expectation of it, and he must have a legitimate claim of entitlement to it, it is a purpose of ancient institution of property to protect those claims upon which people rely in their daily lives, reliance that must not be arbitrarily undermined, and it is a purpose of the constitutional right to a hearing to provide an opportunity for a person to vindicate those

claims. *Board of Regents of State Colleges v. Roth*, 408 U.S. 564 (1972).

Due Process Clause requires compliance with fair procedures when the government deprives an individual of certain "liberty" or "property" interests. *Kerry v. Din*, 135 S.Ct. 2128 (2015). Further, Due Process Clause limits the extent to which government can substantively regulate certain "fundamental" rights, "no matter what process is provided." *Kerry v. Din*, Supra.

1.1.A. Plaintiff Has Constitutional Property Right[s] As Follows:

i. Specific guarantees in the Bill of Rights have penumbras; an individual's 'freedom' and 'independence' are two of these. Second, to show a property interest protected by the Due Process Clause, ... a plaintiff must establish a legitimate claim of entitlement, created and defined by existing rules ***or*** understandings that stem from an independent source. *Ace Partners, LLC v. Town of East Hartford*, 883 F.3d 190 (2d. Cir. 2018). Plaintiff has a property interest in her "freedom" and "independence" because she is 'entitled' to these. Here is why. Certain statutory laws are promulgated, based upon an "individuals" entitlement over his/her physical and spiritual 'freedom' and 'independence,' i.e. to provide protections against rape, racketeering activity, violations of civil rights or a persons' freedom[s] of worship etc. And if we flip the coin, we can say we are 'entitled' to our 'freedom' and 'independence' because these statutory laws guarantee these. Statutory provisions, such as mentioned above, which guarantee our 'freedom' and 'independence' guarantee these through their inbuilt 'procedural due process,' mechanism-- thus triggering constitutional safeguards.

Without a basic understanding as to our origin it would be somewhat difficult, if not impossible, to understand the notion of "freedom" and "independence." God's Word states that we [men and women] are made in the likeness of God. God is altogether Free and Independent-- yet He is completely and altogether [no mortal words can explain] holy and righteous, because He has no value for sin— and thus He is the only One who can define sin. And God also says, "...*that* I have set before you life and death, ... **therefore choose life**, that both thou and thy seed may live: that thou mayest love the LORD thy God, *and* that thou mayest obey his voice, and that thou mayest cleave unto him, for he *is* thy life..."[6] God did not create us into robots but He has given us a free will, in His likeness. Although God never imposes or forces our relationship with Himself--He nonetheless must-see justice done i.e. preservation and restoration of each person's independence and freedom. Laws and regulations, in this Country, are made to protect from encroachment another person's 'freedom' and 'independence,' regardless of sex, religion, or social status etc., fortunately. However, if a person violates these laws to the detriment of another, then s/he chooses to be lawless. Lawlessness unchecked will consequently result in injustice and oppression of others or in other words violations of 'independence' and 'freedom' constitutes a "grievous loss" to its victim[s]. No person has an entitlement over another woman, including the Plaintiff, however, every woman, including the Plaintiff, has an entitlement over her own freedom and independence. Hence, Plaintiff has a property interest in her 'freedom' and 'independence'-- and since Government is

[6] Deuteronomy 30:19-20 [Appx.5.0.]

the violator the Fifth Amendment is triggered, as these are, including her statutory entitlements. See *Goldberg v. Kelly*, 397 U.S. 254 (1970)

ii. Plaintiff has a right to her privacy which is one of the Bill of Rights penumbra. *Griswold v. Connecticut*, 381 U.S. 479 (1965)

iii. Plaintiff has a 'property interest' in her practice of law or her law license, of which she cannot be deprived except through strict procedures prescribed by the Appellate Division, State of New York, and not based upon any persons 'discretion.' An obstruction of her law practice/business is equivalent to deprivation of her law license.

iv. A cause of action for damages is a property right, and thus cannot be taken without due process of law. *Mullane v. Central Hanover Bank & Trust Co.*,339 U.S. 306, 313 (1950).

1.1.B. Plaintiff Has Constitutional Liberty Right[s] As Follows:

The Fifth Amendment...described...as protection against all governmental invasions 'of the sanctity of a man's home and the privacies of life.' *Griswold v. Connecticut*, 381 U.S. 479 (1965). Plaintiff seeks protection for a liberty interest sufficiently important for procedural protection to flow "implicit[ly]" from the design, object, and nature of the Due Process Clause. *Kerry v. Din*, Supra. The word "liberty" contained in... amendment embraces not only the right of a person to be free from physical restraint, but the right to be free in the enjoyment of all his faculties as well. *Grosjean v. American Press Co.*, 297 U.S.233 (1936).

This Court in *Wisconsin v. Constantineau*, 400 U.S. 433 (1971) has recognized a liberty interest that requires due process protection and that is "where a

person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and opportunity to be heard are essential. Only when the whole proceedings leading to the pinning of an unsavory label on a person are aired can oppressive results be prevented." And further in *Paul v. Davis*, 424 U.S. 693 (1976) this Court has required that a due process claimant show harm to "some more tangible interest," in addition to reputation.

1.1.C. The Lower Courts Have Twisted This Court's Plausibility Standard

Federal Circuit has used the term 'plausible' as a statement that the U.S. Government and more specifically the FBI and the involved DOJ officials, are incapable of wrongdoing, which concept completely defies all relevant laws. The U.S. Government without accountability [and accountability or democracy is not best defined exclusively by elections every four years], most surely has become a safe breeding place for the lawless, similarly to the Catholic Church becoming a safe breeding place for pedophiles—until accountability sets in. No FBI agent or any other person has an entitlement over the Plaintiff or any other woman. And likewise, the 'institutionalized church' is a safe breeding place for the class-based animus against women, welcoming to FBI perversions and lawlessness through infiltrations, contrary to Biblical principles and the U.S. Constitution. In fact, Federal Circuit's decision is an endeavor to conceal FBI lawlessness/ corruption as opposed to providing justice for its victim[s]. In doing so, Federal Circuit also conflicted with its own precedent, in *McZeal v Sprint Nextel Corp.*, 501 F.3d 1354 (Fed. Cir. 2007) which clarified U.S. Supreme Court's ruling, in *Bell Atlantic Corp. v.*

Twombly, 550 U.S. 544 (2007), and held that language used in *Twombly* does not suggest that it changed the pleading requirement of Federal Rule of Civil Procedure 8 as articulated in *Conley*, but in fact, it favorably quoted *Conley*. Further, *McZeal*, 501 F.3d 1354 (Fed. Cir. 2007) held that a complaint that contains enough detail to allow the defendants to answer ... meets the notice pleading required to survive a Rule 12(b)(6) motion. Nothing more is required. Where pleadings are sufficient, yet it appears almost a certainty to the court that the facts alleged cannot be proved to support the legal claim, a motion to dismiss for failure to state a claim must nevertheless be overruled. Under a motion for summary judgment, the court can instead consider affidavits or depositions, answers to interrogatories and the material outside the pleadings. If these documents reveal that no genuine issue of fact exists, then a summary judgment properly disposes of the case. *McZeal v Sprint Nextel Corp.*, Supra, upholding the ruling in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) [And, of course, a well-pleaded complaint may proceed even if it strikes a savvy judge that actual proof of those facts is improbable, and "that a recovery is very remote and unlikely."]

Complaint, far exceeded the "plausibility" standard set in *Twombly*, in which the U.S. Supreme Court simply held and demonstrated that when a conduct in question is lawful, *per se* [its lawfulness being based upon prior rulings and writings of leading commentators], it cannot 'plausibly' be questioned in the absence of even a suggestion of a preceding unlawful agreement or conspiracy. The questioned conduct, in the present case, is unlawful *per se*, regardless of a showing of a preceding agreement or conspiracy. It is crucial for this case to proceed to discovery, [a process that is due to Plaintiff, at á minimum] so the trial

court can have access to the U.N. report; court witnesses, including Frank Newcomer; and all other relevant evidence as FBI records cannot be sealed under a RICO and a Civil Rights action.

2.1. U.S. Court Of Federal Claims Has Concurrent Jurisdiction With A U.S. District Court Over A RICO Action Against The U.S. Pursuant To This Court's Precedent In *Tafflin v. Levitt*

18 U.S.C. §1964 (c) states, "Any person injured in his business or property by reason of a violation of section §1962 of this chapter ***may*** sue therefor in any appropriate United States district court..." Whereas, 18 U.S.C. §1964(a) states, "The district courts of the United States ***shall*** have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders..."

The lower courts with regards to the Claims Court jurisdiction over RICO actions, against the U.S., continue to ignore and conflict with this Court's precedent in *Tafflin v. Levitt*, 493 U.S. 455 (1990) and its own precedent decisions, such as *Contreras v. U.S.*, 64 Fed.Cl. 583 (2005), *aff'd,* 168 Fed.Appx. 938 (Fed. Cir. 2006). For example, *Stanwyck v. United States*, 127 Fed.Cl. 308 (2016), and *Tempelman v. USA*, 2007 U.S. Claims LEXIS 452 (2007), held that RICO claims are within the exclusive jurisdiction of U.S. district courts. Whereas in *Tafflin v. Levitt,* Supra, with regards to §1964 (c), this Court held, "[t]he statute does not state nor even suggest that such jurisdiction shall be exclusive. It provides that suits of the kind described 'may' be brought in the federal district courts, not that they must be. [I]f Congress' liberal construction mandate is to be applied anywhere, it is in § 1964, where RICO's

remedial purposes are most evident. Thus, the presumption of concurrent jurisdiction can be rebutted by an explicit statutory directive, by unmistakable implication from legislative history, or by a clear incompatibility. The legislative history provides no evidence that Congress ever expressly considered the question of jurisdiction; indeed, the evidence establishes that its attention was focused solely on whether to provide a private right of action." Since the U.S. district courts and the Court of Claims are federal courts, with often concurrent jurisdiction, including under the Tucker Act, the question of incompatibility does not arise.

The use of the word "may" in §1964 (c) denotes discretion. The strong presumption that "may" is permissive and discretionary, and not mandatory, has long been established. When, within the same statute, Congress uses both 'shall' and 'may,' it is differentiating between mandatory and discretionary tasks. *Contreras v. U.S.*, Supra. Therefore, §1964 (c) makes it discretionary, for a litigant, to file a RICO claim in any appropriate U.S. district court and §1964 (a) makes it mandatory for a U.S. district court to take jurisdiction over and adjudicate a RICO claim when one is filed at a U.S. district court. Federal Claims Court, however, is also given mandatory jurisdiction over a RICO action, against the U.S., since it is given concurrent jurisdiction, under the Tucker Act, as discussed hereunder.

2.1.A. A RICO Claim Against the U.S. is not Barred by Sovereign Immunity

Sovereign Immunity should not be an issue, certainly, in the present RICO claim, as liability for

damages will pass through to RICO persons.[7] The arguments in favor of federal sovereign immunity are those relating to judicially compelled payments from the Treasury fund, as either required by, or consistent with, the U.S. Constitution at the federal level. This is not because of the dignity of the sovereign, or a view that the sovereign is above the law, but because the law of the Constitution commits appropriations to the Congress and specifically prohibits payments out without an appropriation. That a court cannot compel payments from the Treasury, absent statutory authority, does not necessarily mean that the court cannot enter a judgment satisfiable only from public funds; but, in the absence of some form of legislative commitment in advance to satisfy those judgments, entry of such a judgment may prove inefficacious, in light of Congress' power over appropriations of public funds.[8]

Further, there is no provision in the U.S. Constitution analogous to the Eleventh Amendment, which could potentially shield the Federal Government from being sued as a RICO Enterprise.[9] If we assume that it is a rule that the government cannot be sued without its consent, it is a rule that-unless consent is presumed from the Constitution-stands in tension with *Marbury v. Madison* an assertion that the "essence of civil liberty" is that the law provide remedy for the violations of rights.[10] Judicial remedies not

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[7] As explained under next subheading 2.1.B, "Congress has Consented to Plaintiff's RICO Claim."

[8] Vicki C. Jackson, Suing the Federal Government: Sovereignty, Immunity, and Judicial Independence, 35 Geo. Wash. Int'l L. Rev. 521-609 (2003) at 538-539. See also fn. 73 at 538

[9] Id., at 538 footnote 73, on concept.

[10] Id., at 523.

only protect individual rights but can function as an important mechanism of government accountability.[11]

"...Sovereign immunity" has never been a complete immunity from litigation for the government; it has never barred all remedies for governmental wrongs, even some remedies that could affect the treasury or government property. Indeed, today, federal sovereign immunity functions largely as a clear statement rule for the interpretation of jurisdictional statutes and remedial provisions.[12] When [the citizen here], in one of the courts of competent jurisdiction, has established his right to property, there is no reason deference to any person, natural or artificial, not even the United States, should prevent him from using the means which the law gives him for the protection and enforcement of that right.[13] Federal government is a 'legitimate Enterprise' which is being operated and managed by RICO persons. Congress wanted to reach both "legitimate" and "illegitimate" enterprises. The former enjoys neither an inherent incapacity for criminal activity nor immunity from its consequences. The fact that § 1964(c) is used against respected businesses allegedly engaged in a pattern of specifically identified criminal conduct is hardly a sufficient reason for assuming that the provision is being misconstrued. *Sedima v. Imrex Co.*, 473 U.S. 479 (1985)

Any "person" as that term is broadly defined in RICO, whether associated with organized crime or not, can commit a RICO violation. And any person injured in his business or property by such a violation may then sue the violator for damages in federal court.

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[11] Id., at 523

[12] Id., at 527

[13] Id., at 533.

It is the violation of the statute which controls, not the status of the violator. *Lode v. Leonardo*, 557 F.Supp. 675 (D.C.Ill.1982)

A legal distinction between the Federal Government and its employees was made in *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971) and is also made in 5 CFR 2635.101 [Appx.5.5.] Qualified immunity is defeated if an official knew or reasonably should have known that the action, he took within his sphere of official responsibility would violate the statutory or constitutional rights of the [plaintiff], or if he took the action with the malicious intention to cause a deprivation of constitutional rights or other injury. *Harlow v Fitzgerald*, 457 U.S. 800 (1982); *Atherton v. District of Columbia Office of Mayor*, 567 F.3d 672 (D.C. Cir. 2009).[14] Thus, for example, if a vengeful federal officer takes retaliatory action against an individual for speaking out, he or she is subject to an action for damages on the authority of *Bivens*. *Hartman v. Moore*, 547 U.S. 250 (2006). The only executive branch official having absolute immunity from liability for damages arising out of performance of duties is President. *Cameron v. I.R.S.*, 773 F.2d 126 (7th Cir. 1985).

Biven's is relevant, in a RICO claim, to make a legal distinction between RICO persons and RICO Enterprise, i.e. the Federal Government. Furthermore, as a *Biven's* type remedy is recoverable against individuals, it is more effective deterrent than a FTCA remedy against the United States. *F.D.I.C. v. Meyer*, 510 U.S. 471 (1994).

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[14] Cert. denied, 130 S. Ct. 2064, 176 L. Ed. 2d 418 (2010) and cert. denied, 130 S. Ct. 3275, 176 L. Ed. 2d 1209 (2010).

2.1.B. Congress has Consented to Plaintiff's RICO Claim

28 U.S. Code § 1491 (a) (1) provides, "The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States ***founded*** either upon the Constitution, or any Act of Congress or any regulation of an executive department, *or* ***upon any express or implied contract with the United States***, or for liquidated or unliquidated damages in cases not sounding in tort." The Court of Claims judicial power is derived from the Congressional power '...to pay the debts and provide * * * for the general welfare of the United States', Article 1, § 8, Cl. 1 of the U.S. Constitution.

A suit against the Federal Government, as a RICO enterprise, is a pre-requisite to recovery of damages against RICO persons, who are in a contractual relationship with the Federal Government through their employment contracts.[15] There is no statutory language which restricts the Court of Claims from taking jurisdiction over a RICO claim, such as the present case. As soon as the Court of Claims will assume jurisdiction on the basis of employment contracts between the Federal Government and RICO persons, the RICO statute will substitute the Tucker Act. The Tucker Act and its companion, the Little Tucker Act,

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[15] FBI agents are in a contractual relationship with the Government, including through an "Employment Agreement" or Form FD-291, which is accessible at fbi.gov. In addition, DOJ 'employees' are considered hired and not appointed for which information is available at opm.gov, under policy.

do not themselves create substantive rights, but instead confer jurisdiction. They are displaced when a statute imposing monetary liability on the United States provides its own, specific remedial scheme. *U.S. v. Bormes*, 568 U.S. 6 (2012). The specific remedial scheme of the RICO Act will pass the monetary liability of the Federal Government [i.e. RICO Enterprise], to the past and present contractual employees of the Federal Government i.e. RICO "Persons." The remedial scheme of RICO is set up similarly to the corporate legal doctrine of 'piercing the corporate veil,' which enables a court to hold a company's owners, shareholders or members liable for the company's debts. This same concept was established in *Dow Jones & Co., Inc. v. Ablaise Ltd.*, 606 F.3d 1338 (Fed.Cir.2010),[16] that it is well-settled law, absent a piercing of the corporate veil, a parent company is not liable for the acts of its subsidiary. When a federal statute [in this case RICO] includes a specific directive, courts must defer to the Congressional will.[17] The U.S. Supreme Court in, *Sedima, S.P.R.L. v. Imrex Co.,* 473 U.S. 479 (1985), stressed that Congress directed that RICO should be "liberally construed to effectuate its remedial purposes." Further, the Court in *Sedima*, cautioned lower courts not to restrict the statute through artificial rules and warned federal judges that, to the extent RICO might be too broad or otherwise flawed, only Congress — and not the judiciary — may rewrite it.[18]

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[16] Cited by the Federal Circuit, in the present case.

[17] Piercing the Corporate Veil: The Alter Ego Doctrine Under Federal Common Law- 95 Harv. L. Rev. 853 (1982)

[18] Proximate Cause in Civil Racketeering Cases: The Misplaced Role of Victim Reliance. 59 Wash. & Lee L. Rev. 83, at page 4 and footnote 64.

Since the Tucker Act supplies a waiver of immunity for claims of this nature, the separate statutes and regulations, in this case the RICO Act, does not need to provide a second waiver of sovereign immunity, nor need they be construed in the manner appropriate to waivers of sovereign immunity. *U.S. v. Mitchell*, 463 U.S. 206 (1983).

Furthermore, pursuant to Article 1, §8, Cl. 1 of the U.S. Constitution, Court of Claims will provide for the general welfare of the United States, by ordering the RICO Enterprise to recover ordered damages from the RICO persons and pay these to the Plaintiff, within an ascertained time period. The case title will remain unchanged.[19] The Federal Government, however, should not be permitted to indemnify RICO persons for their racketeering activities.

2.1.C. RICO Act is Money-Mandating

18 U.S.C. 1962 (c) states, "It ***shall be unlawful for any person employed by*** or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity..." And 18 U.S.C. 1962 (d) states, "It ***shall be unlawful for any person to conspire*** to violate any of the provisions of subsection (a), (b), or (c) of this section." 18 U.S.C. §1964 (c) states, "any person injured in his business or property by reason of a violation of section 1962 of this chapter ***may*** sue therefor in any appropriate United States district

[19] For example, see *4 K & D Corp. v. Concierge Auctions, LLC*, 2 F. Supp. 3d 525 (S.D.N.Y. 2014) indicating case title is solely comprised of the RICO Enterprise, although other defendants are named in the complaint as RICO persons.

court and ***shall* recover threefold the damages** he sustains and the cost of the suit, including a reasonable attorney's fee,...." When, within the same statute, Congress uses both 'shall' and 'may,' it is differentiating between mandatory and discretionary tasks. *Contreras v. U.S.*, 64 Fed. Cl. 583 (2005).

The language of the RICO statute is broad and open-ended. It extends liability to "any person employed by or associated with any enterprise," *18 U.S.C. § 1962(c)*, where "person" is defined to include "any individual or legal entity capable of holding a legal or beneficial interest in property," *§ 1961(3). Donahue v. FBI*, 204 F. Supp. 2d 169 (2002). Purpose and history of RICO Act and substance of its provisions demonstrate clear congressional intent that Act be interpreted to apply to activities that corrupt public or governmental entities. *U.S. v. Angelilli*, 660 F.2d 23 (2d Cir. 1981). The language of *18 U.S.C.S. § 1961(4)*, defines "enterprise," as unambiguously encompassing governmental units. *U.S. v. Angelilli*, Supra.

A money-mandating law or regulation is one "that either entitles the plaintiff to a payment of money from the government, or places a duty upon the government, the breach of which gives the plaintiff a money damages remedy." *Stanwyck v. United_States*, 127 Fed.Cl. 308 (2016). In determining whether the Court of Federal Claims has jurisdiction, all that is required is a determination that the claim is founded upon a money-mandating source and the plaintiff has made a non-frivolous allegation that it is within the class of plaintiffs entitled to recover under the money-mandating source; there is no further jurisdictional requirement that the court determine whether the additional allegations of the complaint state a non-frivolous claim on the merits. *Spencer v. U.S.*, 98 Fed. Cl. 349 (2011).

Additionally, the jurisdictional test set under *Bowen v. Massachusetts*, 487 U.S. 879 (1988), is met based upon the form of relief requested under RICO, at the Claims Court-- which is exclusively compensatory damages as substitute for losses suffered.

Last, Plaintiff will waive her right to a jury trial, on Claims Court taking jurisdiction over the present RICO action.

3.1. A Declaratory Judgment Is A Proper Vehicle For This Court To Uphold A Woman's Equality To A Male Man Under God's Word And The Fifth and Fourteenth Amendments To The U.S. Constitution To Effectively Abolish The Class-Based Invidiously Discriminatory Animus Against Women Entrenched In America's Culture

Plaintiff in addition to seeking recovery of damages under Civil Rights and RICO statutes, asserts a constitutional claim for declaratory relief. Any court of the United States, upon filing of the appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree. 28 U.S.C.§2201; 28 U.S.C.§2202; 5 U.S.C. § 702; 28 U.S.C. § 2679(b)(2)(A). See *James v. Caldera*, 159 F.3d 573 (Fed. Cir.1998).

This Court is requested to make a declaratory judgment that establishes a woman's equality to a male man, under God's Word pursuant to Genesis 1:26-27 and Genesis 5:1-2,[20] and as explained through

[20] Genesis 1: 26-27, states, "And God said, "Let us make man in our image, after our likeness: and let them have dominion over

Bible verses.[21] In doing so, the Court will justly abolish America's erroneous strategy to misuse religion for

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the fish of the sea...and over all the earth...So God created man in his *own* image, in the image of God created he him; male and female created he them. Genesis 5: 1-2, states, "...In the day that God created man, in the likeness of God made he him; male and female created he them; and blessed them, ***and called their name Adam***, in the day when they were created.

[21] If the Bible is read with God given lenses, then it is evident that women are created in the image and likeness of God [Genesis 1:26-27; 5:1-2] God is Spirit [John 4:24] and our spirits are on His image. A woman and a man can best manifest the likeness of God, when they walk in a right relationship with God [Romans 4:13- Those who do not know the God of the Bible, or walk with Him, also manifest God's likeness, particularly through creativity and characteristics such as kindness and compassion]. Both have equal access to God through Christ [John 4:23-24]. We reflect God's likeness, when we can love with purity [1 Corinthians 13:1-13], heal, hope, restore, be kind [Galatians 5:22-26], have supernatural knowledge [1 Corinthians 12:7-11], and call those things that are not as though they were [Romans 4:17]. Our independence and freedom are also God given, are in His likeness, and to these we have an entitlement. In the absence of each person's entitlement to his/her independence and freedom, rape will no longer be rape, or crime will no longer be crime and "racketeer activity" will no longer be "racketeer activity." Life of Jesus, on earth, is perfect theology [John 1:1-5; John 1:14-18]. Jesus rebuked the religious and called them hypocrites [Matthew 23:23-24], but He often stopped and took time to speak with women, including the Samaritan woman at Jacobs well [John 4:1-26] and the woman caught in the act of adultery [John 8:1-11] Not only so, but Jesus' ministry was supported by women, who helped with their own means [Luke 8:1-3. Although Jesus did not need any kind of financial support, from any person. Matthew 17:27; Matthew 14:13-21; John 6:1-14; Matthew 15:32-39].

the preservation of its objectionable, morally revolting and dangerous culture, which in fact is to deny women the equal protection of the laws. Since this class-based animus against women is entrenched in American culture, apparently due to FBI lawlessness and perversions, including through its infiltration of churches, therefore, it is now necessary for this Court to right this wrong. In doing so, the Court will not only uphold the U.S. Constitution but will also assist such morally revolting churches to follow God as opposed to FBI lawlessness and perversions.[22]

Under Amendments Fifth and Fourteenth to the U.S. Constitution, to hold, with reference to women, Life, liberty, and property within the meaning of the guaranty, include all personal rights and their enjoyment, embracing the use and enjoyment of the faculties. *Rosenblum v Rosenblum*, 181 Misc. 78 (1943) citing *Grosjean v. American Press Co.*, 297 U.S. 233 (1936); *Meyer v. Nebraska*, 262 U.S. 390 (1923).

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[22] A U.S. based organization, Christians for Biblical Equality [cbeinternational.org], also confirm the entrenched class-based animus against women, in churches. For one example, see its Mutuality publication of Winter 2014, "GENESIS – it all starts here." This publication contains an article, "On Paul's Use of Creation Narratives," which will provide this Court further basis to establish and declare a woman's equality to a male man under God's Word, which holds a man and a woman equal. All articles in this publication hit the nail on the head. The Court may inquire further on any question it may have, on this issue, from this organization as their publications on said issue are academic. This class-based animus against women cannot be abolished other than by a Declaration, by this Court, so that FBI and its warped COINTELPRO, through which it perpetuates dangerous class-based animus, against women, under the guise and deception of "national security," is rendered ineffective as a fallacy.

No person has an entitlement over another woman, including on the Plaintiff. Plaintiff has a fundamental right to her physical autonomy and bodily integrity, and cannot be coerced or manipulated into any relationship[s]; she has a fundamental right to remain single for as long as she decides, free from any harassments; to choose her own life partner, as and when she decides, free from any interferences or harassments; it is her fundamental right to be in the occupation of her choice and to conduct business, within the bounds of law, free from any harassments and racketeer activity; she has a right to worship, free from any interference and harassments. A woman is completely 'independent' and 'free' under God's Word and the U.S. Constitution, on an equal footing with a male man, and hence any discriminatory notion against women, under the deception and guise of 'religion' or 'national security' must be abolished, in the interest of preventing abuse of women. This Court is respectfully requested that it make a loud[est] declaration of a woman's equality, which will resound not only in this Country, but throughout the world. Amid this clash, on the rights of women, the laws are not silent. God's Word and the U.S. Constitution uphold women's equality-- the Government should have no lawful purpose to hinder such a declaration.

4.1. Is This Case A Proper Vehicle For This Court To Permissibly Fashion A Remedy To Vindicate Federal Rights Under Fifth And Fourteenth Amendments To The U.S. Constitution When As In The Present Case There Is An Ongoing Violation Of Equal Protection Of The Laws

Ongoing constitutional violations -- [of equal protection of laws] -- is precisely the type of continuing violation for which a remedy may permissibly be fashioned. *Papasan v. Allain*, 478 U.S. 265 (1986). The New York State Court of Appeals decision dated February 23, 2010, is an ongoing constitutional violation of equal protection of the laws, against the Plaintiff and her client. Plaintiff, therefore, seeks this Court to fashion a remedy that it deems just and proper. This Court pursuant to the precedent set in *Papasan*, can retrieve the complete case file, from the Duchess County Clerk, New York. On reviewing the case file the Court will find that Plaintiff's claims of equal protection, injustice and lawlessness are not without merit. In *Papasan*, the U.S. Supreme Court held that an equal protection claim is not barred by the Eleventh Amendment and stated that *Young's* applicability has been tailored to conform as precisely as possible to those specific situations in which it is "necessary to permit the federal courts to vindicate federal rights and hold state officials responsible to 'the supreme authority of the United States.'" Remedies designed to end a continuing violation of federal law are necessary to vindicate the federal interest in assuring the supremacy of that law. *Papasan v. Allain*, Supra.

5.1. Federal Circuit Committed An Egregious Error Because It Is In Defiance of All Relevant Statutory Provisions And Court Holdings On The Subject Of All Material Elements Required To Sustain Recovery Under Civil Rights And Civil RICO Statutes

i. Civil Rights- Elements

The essential elements of a 42 U.S.C. § 1985 claim, are: (1) a conspiracy; (2) to deprive plaintiff of equal protection...; (3) an act in furtherance of the conspiracy; and (4) an injury or deprivation resulting therefrom. *Griffin v. Breckenridge*, 403 U.S. 88 (1971).[23]

Complaint sets forth facts elucidating a conspiracy between DOJ and FBI; FBI within the FBI and FBI with private church personnel; based upon a class-based animus against women; and in furtherance of their conspiracy did acts, which caused injury to Plaintiff's person and property.

5.1.A. This case implicates at least a "three-way" Circuit Split, on whether intra-corporate conspiracy doctrine applies to §1985 conspiracies

There is a division in the courts of appeals, respecting the validity or correctness of the Intracorporate-conspiracy doctrine with reference to § 1985

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[23] See also, *Tilton v. Richardson*, 6 F.3d 683 (10th Cir. 1993); *Knight v. City of New York, 303 F.Supp.2d 485 (S.D.N.Y. 2004) Love v. Bolinger, 927 F.Supp.* 1131 (S.D.Ind.1996); *Founding Church of Scientology, Inc. v. Director, FBI*, 459 F. Supp. 748, (D.D.C. 1978).

conspiracies. *Ziglar v. Abbasi*, 137 S.Ct. 1843 (2017) citing *Hull v. Shuck*, 501 U.S. 1261 (1991). In, *Bowie v. Maddox*, 642 F.3d 1122, (D.C.Cir. 2011), the court discussed that at least seven circuits have held that Intracorporate conspiracy doctrine is applicable in civil rights conspiracies; in some jurisdictions, where civil rights conspiracy consists of "a series of discriminatory acts," the doctrine does not apply; and two circuits have held that Intracorporate conspiracy doctrine does not preclude liability for a civil rights conspiracy, by individual officers and employees of a single corporate entity. This Court, in *Great Am. Fed. Sav. & Loan Ass'n v. Novotny*, 442 U.S. 366 (1979), assumed but did not decide that the directors of a single corporation can form a conspiracy within the meaning of § 1985 (3). In a more recent decision, *Ziglar v. Abbasi*, Supra, the U.S. Supreme Court stated, nothing in this opinion should be interpreted as either approving or disapproving the Intracorporate-conspiracy doctrine's application in the context of an alleged § 1985(3) violation. Further, this Court stated that it might determine, in some later case, that different considerations apply to a conspiracy respecting equal protection guarantees, as distinct from a conspiracy in the anti-trust context.

Since the present case implicates conspiracy respecting equal protection guarantees, the Court should determine that an intra-corporate conspiracy doctrine does not apply. FBI conspired to hinder, impede and obstruct justice and injure Plaintiff through its internal policy, COINTELPRO, with intent to deny her equal protection of the laws. Second, Defendant falsely claimed that FBI agents covertly met with

Plaintiff,[24] although Plaintiff had provided real names of FBI agents who met with her. Federal Circuit referred to these 'visits' as "personal visits" [Appx.1.1. at 002]. These agents, however, had information on the Plaintiff through their employment, as FBI agents. For example, FBI agent, Mr. Cruze Rey, had information on who the Plaintiff is and the flight she would be on, for her trip to Colorado. When employees of a corporation act outside course of their employment, they and corporation may form *conspiracy* under civil rights statute. *Johnson v. Hills & Dales General Hosp.*, 40 F.3d 837 (6th Cir. 1994); *Spector v. Board of Trustees of Community-Technical Colleges*, 463 F.Supp.2d 234 (2006); *Gibbons v. McBride*, 124 F.Supp.3d 1342 (S.D. Ga. 2015); *Abrams-Jackson v. Avossa*, 2017 WL 1153895 (S.D. Fla .2017).

Complaint also met additional element of §1985 (2) showing injury to Plaintiff's person and property for lawfully enforcing and attempting to enforce, rights of her client and in so doing, rights of women as a class, to equal protection of the laws. Furthermore, Complaint satisfied elements of §1985(3), as it alleges that FBI entered into Plaintiff's residential, business, and online premises under disguise, without consent and without warrant, with intent to deny her equal protection of the laws.

Any woman, including the Plaintiff, who is FBI's or any other Government officials' victim, should have an effective legal recourse, under 42 U.S.C. §1985, so that FBI lawlessness against women can be effectively abolished.

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[24] See Defendant's Brief Fed. Cir., at page 3 and Def. MTD at Fed.Cir.J.A. 018.

ii. **RICO- Elements**

To sustain a civil damage claim under RICO, for conducting or participating in the conduct of enterprise's affairs through a pattern of racketeering activity, the plaintiff must allege (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity (5) that caused injury to business or property. *Ace Pro Sound and Recording, LLC v. Albertson*, 512 F.Supp.2d 1259 (2007); DeFalco *v. Bernas*, 244 F.3d 286 (2001) (quoting *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479 (1985).

Complaint sets forth FBI's methodical and repetitive acts, that have resulted in complete obstruction of her practice/business. A plaintiff can maintain two actions, under two statutes, out of the same set of facts, when the two statutes are completely independent. *Ingram v. Madison Square Garden Center, Inc.*, 482 F. Supp. 414 (S.D.N.Y. 1979)

6.1. Is Civil Rights Statute 42 U.S.C. §1985 Money Mandating Against The U.S. Pursuant to U.S. Supreme Court Precedent In *Monell v. Department of Social Services of City of New York* AND Money-Mandating Read In Conjunction With 28 U.S.C. §1343 (a)(1) and (2) and 42 U.S.C. § 2000e(a)

6.1.A. FBI Violated the Laws Pursuant to its Internal Policy, COINTELPRO

The Federal Government is directly liable for damages because it has violated, including the U.S. Constitution, under FBI's Counter Intelligence Program, COINTELPRO. A cause of action against Federal Government is a federal analog to suits brought

against a state or local government. On principle see *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) [In ... settings where Bivens does apply, the implied cause of action is the "federal analog to suits brought against state officials]; *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978)[State-law immunities do not override a cause of action [under 42 U.S.C. 1983], which imposes civil liability on any person who deprives another of his federally protected rights]; *Wilson v. Barcella*, 2007 U.S. Dist. LEXIS 22934 (D.C.Tex.2007) ["A Bivens claim is for constitutional damages caused by federal actors in their official capacities and mirrors [section 1983] actions against state actors"]; *Butz v. Economou*, 438 U.S. 478 (1978) "[Our 'constitutional design,' would be stood on its head if federal officials did not face at least the same liability as state officials guilty of the same constitutional transgression.]"

Government bodies, ... can be sued directly for civil rights violations for monetary, declaratory, or injunctive relief where, ... the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers. *Monell v. Department of Social Services of City of New York*, 436 U.S. 658 (1978). Although the touchstone of a civil rights action against a government body is an allegation that official policy is responsible for a deprivation of rights protected by the Constitution, ... governments, like every other "person," by the very terms of the statute, may be sued for constitutional deprivations visited pursuant to governmental "custom" even though such a custom has not received formal approval through the body's official decision making channels. *Monell v. Department of Social Services of City of New York*, Supra.

6.1.B. This Case Implicates a Two-Way Circuit Split on Whether Sovereign Immunity is Waived When a Statute Reads Person to Include Government or Government Agency

The term "person" in 42 U.S.C. §1985 includes government and government agencies, and thereby sovereign immunity is explicitly waived, for damages against the Government. *Bormes v. United States*, 759 F.3d 793 (7th Cir. 2014) held that when a statute [FCRA] defined "person" to include the federal government, and the remedy provision applied to "any person," sovereign immunity is waived for damages against the government. Whereas, *Daniel v. National Park Service*, 891 F.3d 762, 776 (9th Cir. 2018) held that when a statute [FCRA] broadly defines person to include "government or governmental subdivision or agency" and separately provides remedial provision against "any person" who violates the statute, sovereign immunity is not waived for damages against the government. This Court should rule in favor of a waiver of sovereign immunity, in a civil rights action, for reasons discussed hereunder;

A Contrast Between FCRA and Civil Rights Statute

FCRA- Argument Against Waiver of Sovereign Immunity- *Daniel v. National Park Service*, 891 F.3d 762 (9th Cir. 2018)	Civil Rights Act 1871- 42 U.S.C. §§1985, 1986 - Argument For A Waiver of Sovereign Immunity
The court pointed out that treating the United States as a "person" would subject the sovereign to criminal penalties (§ 1681q), permit the sovereign to be investigated by its own agencies and state governments (§ 1681s), and permit punitive damages (§ 1681n). *Dumas v. GC Services, L.P.*, WL 529260 (S.D. Mich. 2019)	42 U.S.C.§1985 and 28 U.S.C. §1343 (a) (1) and (2) are money-mandating, as recovery of damages is the exclusive remedy, provided therein. Recovery of damages is an apt remedy for violation[s] of civil rights under 42 U.S.C. §1985(3), "...the party so injured or deprived may have an action for the recovery of damages; 28 U.S.C. §1343 (a) (1), "to recover damages for injury to his person or property...by any act done in furtherance of any conspiracy mentioned in §1985;" 28 U.S.C. 1343 (a) (4), "to recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights..." Civil Rights Statute would not subject the U.S. to criminal penalties.

The court cited Supreme Court precedent that "courts have been 'reluctant to read 'person' to mean the sovereign where ...such a reading is decidedly awkward. *Id.*	42 U.S.C. §1985 & §1986 are remedial provisions for violations of the U.S. Constitution, including the Fifth Amendment. Hence, 'government' should be considered explicitly embedded within the term 'person.' Recovery of damages would also be in conformity with *Monell,* therefore, to read 'person' to include government, in a civil rights action, is not in any manner decidedly awkward.
The court also noted that there is an explicit waiver of sovereign immunity elsewhere in the FCRA. *Id.*	The waiver of Sovereign Immunity as under 42 U.S.C. §2000e(a) which reads the term "person" to include government and government agencies, endorses the above argument. See *Bormes v. United States,* 759 F.3d 793 (7th Cir. 2014); *Bowers v. Navient Solutions, LLC,* WL 7568368 (N.D. Ala. 2018). Furthermore, Congress has not explicitly preserved the U.S. Sovereign Immunity with respect to claims under §1985 & §1986, thus the term 'person' when it reads to

	include government, unequivocally waives sovereign immunity. *Ingram v. Experian Information Solutions, Inc.*, WL2507694 N.D.Miss.2017). Last, §1985 provides a remedy against one or more '*conspirators*.' Since FBI and DOJ can form a conspiracy, including an intra-corporate conspiracy, U.S. cannot be exempt from liability under §1985 & §1986.
The legislative history also makes no reference to such a broad waiver of sovereign immunity. *Id.*	The Act [1871] also unquestionably was intended to provide a remedy, to be broadly construed, against all forms of official violations of federally protected rights. *Monell v. Department of Social Services of City of New York*, 436 U.S. 658 (1978). Where a power is remedial in its nature there is much reason to contend that it ought to be construed liberally, and it is generally adopted in the interpretation of laws. *Monell,* Supra, citing 1 *Story on Constitution,* sec. 429." Globe App., at 68.

7.1. This Case Is An Ideal Vehicle For This Court To Establish Solid Legal Foundations Under Amendment Fifth To The U.S. Constitution For Acceptable Surveillance Practices While Upholding Its Own Ruling In *Ziglar* That National-Security Concerns Must Not Become A Talisman A "Label" Used To "Cover A Multitude Of Sins" Especially When "Danger Of Abuse" Against Women Is Even More Heightened Given The Judiciary's Failure To Define "Security Interest" In Domestic Cases

FBI has appointed agents to monitor and harass Plaintiff, to ensure that she does not take a stand against or expose lawlessness, against women, which is organized and systemic. FBI, in doing so, has continuously exposed its perversions, corruption, despicable conduct, and cheap arrogance, including by interfering in Plaintiff's personal and professional life. It is the Plaintiff's prerogative whom she will befriend and whom she will not. These agents cannot impose and coerce any relationship upon the Plaintiff; cannot begin to use Plaintiff's associations as their informants and messengers; cannot download messages through Microsoft Edge; cannot send her emails under disguise, with the exception of those Plaintiff has expressly permitted; these cannot intercept her emails or phone calls; these cannot harass her through phone calls; these cannot meddle with her websites etc. In short, these agents cannot do, including all that has been narrated in the present Complaint. FBI has far exceeded permissible limits and have gone far beyond legitimate surveillance activities with the intent to deprive Plaintiff of her constitutional rights of liberty and property and equal protection of the laws. The

constitutional provision that no person shall be deprived of liberty, or property, without due process of law, is intended as a limitation upon the power of the government in its dealings with the citizen and relates to that class of rights whose protection is peculiarly with the province of the judicial branch of the government. *U.S. v. Lee*, 106 U.S. 196 (1882).

FBI, in the present case, has also violated the statutory provisions of 18 U.S.C. §§2510–2520, which allows law enforcement agencies to conduct electronic surveillance of suspected criminal activities. But "[t]his authority is not a blank check." Before law enforcement may resort to a wiretap, they must submit affidavits showing, inter alia, probable cause and necessity. *U.S. v. Espudo*, 2013 WL 655490 (S.D. Cal. 2013) citing *U.S. v. Garcia–Villalba*, 585 F.3d 1223, 1227 (9th Cir.2009).

Constitution delegates to the Judiciary the duty to protect an individual's fundamental constitutional rights. Hence when a protection of those rights and a determination of security needs conflict, the court has a role to play.[25] Since FBI is engaged in the exploitation of women, as evidenced in the present case, under the guise of 'national security' the court should define 'security interest,' and completely abolish FBI lawlessness against women. Proper surveillance practices, with solid legal foundations, will serve to enhance national security.

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[25] See Justice Breyer and Justice Ginsburg dissenting opinion in *Ziglar v. Abbasi*, 137 S.Ct. 1843 (2017)

CONCLUSION

For the foregoing reasons, the Petitioner prays that this Court grant Certiorari.

I declare under penalty of perjury that the foregoing is true and correct to the best of Plaintiff's knowledge. Signed this 24th day of June 2019.

Respectfully Submitted,

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