

Docket No. 19-1286

IN THE
SUPREME COURT OF THE UNITED STATES

In Re Nina Shahin

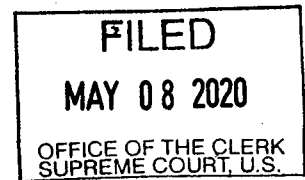
Petitioner

vs.

Honorable Leonard P. Stark
Judge of the US District Court for the District of
Delaware and

Honorable Charles W. Welch, III
Judge of the Delaware Court of Common Pleas
in and for Kent County

Respondents.



PETITION FOR WRIT OF PROHIBITION AND/OR
WRIT OF MANDAMUS FILED UNDER
PROVISIONS OF RULE 20 OF THE SCOTUS
RULES OF PROCEDURE

Nina Shahin

In *Pro se* Representation
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Dover, DE 19904
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QUESTIONS PRESENTED FOR REVIEW

Questions presented for review are closely related to the legal issues raised by the Respondent # 1 in his decision of 03/15/2018 (**Appendix M**). Those issues are discussed in detail on pages 35 – 46 and here are the questions that are the quintessential to the topics discussed on those pages. 42 U.S.C. § 1983:

1. How “narrow” Statute of Removal should be interpreted, especially in situations like the Petitioner’s?
2. Does the Petitioner’s situation meet the standards of “obtaining justice” and “local influence and prejudice” to avoid limitation of transfers to defendants only?
3. Did the Petition for Writ of Mandamus filed with the Third Circuit Court of Appeals meet that standard? Note, the Court’s claim that “Shahin does not challenge the District Court’s remand orders, and we therefore do not consider whether we would have jurisdiction over such a challenge” (**Appendix E**, page 5) is a lie. That decision was entered on 05/02/19 and appeal with the

Court in this case was filed on 04/11/2019!

4. Does Petitioner's 'Notice of Removal' fall under provisions of 28 U.S.C. § 1446(b) (30-day limitation)?

5. Does the presiding Judge of the CCP have the power to interpret Petitioner's Complaint regarding legal basis under which it had been filed without pretrial 'Stipulations' that clarify that point and disregard her 'Response' to his mandate to respond to the Defendant's claims of "immunity?"

6. Does the Defendant (Officer Dale Boney) have to agree to the removal of the case to the federal district court?

7. Since the State courts considered exclusively the issue of the Defendant's "immunity" under the State law, was there no "issues" to transfer to the federal courts by disregarding Petitioner's civil and constitutional claims under 42 U.S.C. § 1983?

LIST OF PARTIES

Names of some of the parties appear in the caption of the case on the cover page. Mentioned above Judges were involved in the case in which original Defendants were Dover Police Officer, Dale Boney, and State Farm Mutual Automobile Insurance Co., but the transfer case and this Petition involves only the Defendant-Respondent, Officer Dale Boney.

CORPORATE DISCLOSURE STATEMENT

Pursuant to the Supreme Court Rule 29.6 the petitioner states that she is not an incorporated entity or publicly traded company, nor she is a parent, subsidiary, or an affiliate of a publicly traded company, and, therefore, there is no publicly traded company owning 10% or more of the corporation's stock involved in this case on the part of the petitioner.

LIST OF ALL PROCEEDINGS

- *Nina Shahin v. Dover Police Officer Dale Boney, C.A.*

No.: CPU5-14-000682, Delaware Court of Common Pleas in and for Kent County, judgment entered Apr. 13, 2016.

- *Nina Shahin v. Dover Police Officer Dale Boney*, C.A. No. 2014-CU-514000682, Court of Common Pleas in and for Kent County, judgment entered Jul. 19, 2016.
- *Nina Shahin v. Dale Boney and State Farm Automobile Insurance Co.*, C.A. No. K17A-12-004 NEP, judgment entered Jun. 6, 2018.
- *Nina Shahin v. Dover Police Officer Dale Boney and State Farm Automobile Insurance Co.*, C.A. No. K17A-12-004 NEP, judgment entered on Jul. 17, 2018.
- *Nina Shahin v. Dover Police Officer Dale Boney*, C.A. No. K17A-12-004, judgment entered on Feb. 26, 2019.
- *Nina Shahin v. Dale Boney, et al.*, US District Court for the District of Delaware, No. 17-413-LPS, judgment entered on Mar. 13, 2018.
- *Nina Shahin v. Court of Common Pleas of the State of Delaware v. Dale Boney et al.*, US Court for the District of Delaware, No. 17-413-LPS, judgment entered on Mar. 12, 2019.
- *In Re: Nina Shahin*, Third Circuit Court of Appeals, No. 19-1682, judgment entered on May 2, 2019.
- *Nina Shahin v. Dale Boney, Dover Police Officer et al.*, Third Circuit Court of Appeals, No. 19-1829, judgment Entered on Sep. 11, 2019.

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**CITATIONS OF THE OPINIONS AND ORDERS
ENTERED IN THE CASE**

United States Court of Appeals for the Third Circuit
Order of 09/11/2019

“To the extent that Shahin removed her action pursuant to 28 U.S.C. § 1441, we lack jurisdiction to review the District Court’s order remanding the matter to state court or denying reconsideration because the District court remanded for lack of subject matter jurisdiction.

...
Shahin has not shown that she has been “denied or cannot enforce [her] specified federal rights in the state courts,” Davis v. Glanton, 107 F.3d 1044, 1050 (3d Cir. 1997) (quotation marks omitted), as is necessary to remove under § 1443.” (**Appendix C, page 2**)

United States Court of Appeals for the Third Circuit
Opinion and Judgment in the Petitioner's Petition for
Writ of Mandamus of 05/02/2019

However, in this case, Shahin is seeking only to advance her civil actions. ...Accordingly, Shahin has failed to demonstrate a right to relief under CVRA.¹

¹ Shahin does not challenge the District Court's remand orders, and we therefore do not consider whether we would have jurisdiction over such a challenge. See generally In re Fed.-Mogul Glob., Inc., 300 Fr.3d 368, 388 (3d Cir. 2002)

(Appendix E, pages 4-5) NOTE: This decision was entered on 05/02/2019 and the appeal in this case filed with that Court on 04/11/2019 (sic!)

US District Court for the District of Delaware
Memorandum entered on 03/12/2019

"Plaintiff's displeasure with this Court's ruling does not meet the requisites for reconsideration. Plaintiff's motions fail on the merits because she had not set forth any intervening changes in the controlling law; new evidence; or clear errors of law or fact made by the court in its two orders to warrant granting reconsideration. *See Max's Seafood Café*, 176 F.3d at 677. Nor does she address the fact that her claims were fully adjudicated in State Court. Nonetheless, once again the Court has considered the filing of the parties and the evidence of record. Plaintiff has failed to demonstrate any of the grounds to warrant reconsideration. For these reasons, the motion will be denied."

(Appendix G. page 3)

Delaware Supreme Court
Decision entered on 02/26/2019

“The complaint arose out of a traffic ticket that Shahin received from Officer Boney when Shahin was involved in a minor traffic accident in the parking lot of a grocery store in Dover. ...Upon *de novo* review, we find no error in the Court of Common Pleas’ dismissal of the complaint against Officer Boney for failure to state a claim, and we find no error in the Court of common Pleas’ denial of Shahin’s Motion to alter or amend the judgment. Shahin’s complain did not allege that Officer Boney caused personal injury, property damage, or death. For that reason, officer Boney was immune from liability under the county and Municipal Tort Claims Act. (10 *Del.C.* § 4011(c)).”

(Appendix H, pages 2 and 4)

Delaware Superior Court

Order entered on 06/06/2018

“Plaintiff-Below/Appellant Nina Shahin (hereinafter “Appellant”), appeals from an order of the Court of Common Please (hereinafter the “CCP”). In that order the CCP ***granted denied*** Appellant’s Court of Common Pleas Civil Rule 60(b) motion for relief. This Court find no merit to Appellant’s appeal and affirms the CCP’s order.

The record reflect that on September 3, 2013, Dover Police officer Dale Boney (hereinafter “Appellee”) issued Appellant a traffic citation in connection with a traffic accident in a grocery store parking lot. “

(Appendix K, pages 1-2)

US District Court for the district of Delaware

Memorandum Opinion entered on 03/13/2018

“Shahin’s removal fails for a number of reasons....Fourth, the Court of Common Pleas construed Shahin’s Complaint (see D.I. 19-1 as raising a civil tort

action finding no claim of violation of federal law pursuant to 42 U.S.C. § 1983, and gave no weight to Shahin's argument in that regards."

(Appendix M, pages 8-9)

Delaware Court of Common Pleas in and for Kent county
Court's decision entered on 07/19, 2016

"The Court disregarded the plaintiff's 42 U.S.C. § 1983 claim because it was improper and outside the scope of the court's Order....

Finally, the Court wishes to address the plaintiff's request to transfer the case to the United States District court for the District of Delaware pursuant to 10 *Del.C.* §1902. (Removal of actions from courts lacking jurisdiction) In threatening and disrespectful language, the plaintiff demands transfer of the case "to avoid accusation of violating the Plaintiff's constitutional rights of 'due process. and 'equal protection,' because of his [the Court's] professional dishonesty and collusion with professional attorney representing Defendants and bias and discrimination against the national minority, *pro se* litigant [sic]." The plaintiff's request is denied. The plaintiff's claim has been adjudicated and based on the fact of the complaint and the law, the court had subject matter jurisdiction over the plaintiff's claim. Furthermore, the plaintiff *failed to follow the proper procedure for bringing her claim in federal court.* Therefore, the request must be denied."

(Appendix R, pages 11-12)

JURISDICTION

Jurisdiction of this Court is invoked under provisions of

28 U.S.C.A. § 1651(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution

Amendment VI 'Rights to Fair Trial'

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.

Amendment XIV 'Civil Rights'

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S.C. § 1983 '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, subject, 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 proceedings for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's juridical 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.

All Writs Act, 28 U.S.C.A. § 1651 'Writs'

(a) The Supreme Court and all courts established by Act of Congress may issue all writs or appropriate in aid of their respective jurisdictions and agreeable to the usage and principles of law.

28 U.S. Code § 1404 'Change of Venue'

(a) For the convenience of parties and witnesses, in the interest of justice a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.

28 U.S. Code § 1441 'Removal of Civil Actions'

(a) GENERALLY.-

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United

States for the district and division embracing the place where such action is pending.

28 U.S. Code § 1443 'Civil Rights Cases'

Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the united States, or of all person within the jurisdiction hereof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.

Delaware Code, Title 11 'Crimes and Criminal Procedure,' Chapter 5 'Specific Offenses,' Section 1269 'Tampering with Physical Evidence; Class G Felony.'

A person is guilty of tampering with physical evidence when:

(1) Intending that it be used or introduced in an official proceeding or prospective official proceedings the person:

a. Knowingly makes, devises, alters or prepares false physical evidence;

Delaware Code, Title 11 'Crimes and Criminal Procedure,' Chapter 15 'Organized Crime and Racketeering,' Section 1502 'Definitions,'

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them

in this section, except where the context clearly indicates a different meaning:

(9) "Racketeering" shall mean to engage in, to attempt to engage in, to conspire to engage in or to solicit, coerce, or intimidate another person to engage in:

a. Any activity defined as "racketeering activity" under 18 U.S.C. § 1961(1)(A), (1)(B), (1)(C) or (1)(D); or

b. Any activity constituting any felony which is chargeable under the Delaware Code or any activity constituting a misdemeanor under the following provisions of the Delaware Code:

...

10. Chapter 5 of Title 11 relating to tampering with jurors, evidence and witnesses;

3. 18 U.S.C. § 1512 'Tampering with a witness, victim, or an informant'

(c) Whoever corruptly-

(1) Alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding;

...

(h) There is extraterritorial Federal jurisdiction over an offense under this section.

Shall be fined under this title or imprisoned not more than 20 years, or both.

Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100 (1941)

[Footnote 2]

See H.Rept. No. 1078, 49th Cong., 1st sess., p.1"

"The next change proposed is to restrict the right to remove a cause from the State to the Federal court to the defendant. As the law now provides, either plaintiff or defendant may remove a cause. This was an innovation on the law as it existed from 1789 until the passage of the act of 1975."

"In the opinion of the committee, it is believed to be just and proper to require the plaintiff to abide his selection of a forum. If he elects to sue in a State court when he might have brought his suit in a Federal court, there would seem to be, ordinarily, no good reason to allow him to remove the cause. Experience in the practice under the act of 1975 has shown that such a privilege is often used by plaintiffs to obtain unfair concession compromises from defendant who are unable to meet the expenses incident to litigation in the Federal courts remote from their homes."

"The committee, however, believe that, when a plaintiff makes affidavit that, from prejudice or local influence, he believes that he will not be able to obtain justice in the State court he should have the right to remove the cause to the Federal court. The bill secures that right to a plaintiff."

**IN THE SUPREME COURT OF THE UNITED
STATES**

**PETITION FOR WRIT OF PROHIBITION AND/OR
WRIT OF MANDAMUS**

Petitioner, Nina Shahin, is therein applying pursuant to Section 1651, Title 28, United States Code, Rule 21(a) of the Federal Rules of Appellate Procedure, and Rule 20 of the Supreme Court of the United States Rules of Procedure for a Writ of Mandamus or, in the alternative, for a Writ of Prohibition, directed to the above-named respondents: Honorable Leonard P. Stark, Judge of the US District Court for the District of Delaware and Honorable Charles W. Welch, III, Judge of the Delaware Court of Common Pleas ("CCP") in and for Kent County. In support of this application Petitioner states that she, as a national minority (of Ukrainian national origin and *pro se* litigant), was never able to enforce any provisions of federal laws and especially antidiscrimination ones that were supposed to protect her civil and constitutional rights even by filing numerous Petitions for Writ of

Certiorari with this Court (06-1334, 08-676, 09-9281, 09-10032, 09-10505, 10-8580, 11-5563, 11-5564, 11-5565, 12-7103, 12-7105, 12-7106, 11-7107, 12-7337, 12-7338, 12-7339) or Petition for Writ of Mandamus with the Third Circuit Court of Appeals and the Orders and Opinions of the Courts (Federal and State) that denied those rights in this particular case are provided below:

I. Orders and Opinions Below:

1) On March 13, 2018, Respondent #1 duly made and entered memorandum opinion and an order remanding the case to the Delaware Court of Common Pleas in and for Kent County for allegedly having no jurisdiction over the case. Copy of that decision is presented in **Appendix M**. Petitioner's Motion for Reargument was denied by that Respondent on March 12, 2019 and copy of that decision is presented in **Appendix G**. Please note, that the Respondent titled the case in that latter decision as *Nina Shahin v. Court of Common Pleas of the State of Dale Boney et al.* (page 1 of **Appendix G**)

2) Respondent # 2 in his decision of April 13, 2016 which he entered without any hearing on the motion granted Defendant, Dale Boney's, 'Motion to Dismiss.' Copy of that decision is presented in **Appendix T**. Judge's denial of Petitioner's Motion to amend that judgment and transfer the case to the US District Court was made on July 19, 2016 and copy of that decision is provided in **Appendix R**.

[x] *For the case from the Third Circuit Court of Appeals:*

- Petitioner's appeal to the Third Circuit Court of Appeals was denied for alleged "lack of subject matter jurisdiction" on September 11, 2019 and copy of that decision is presented in **Appendix C**. Petitioner's Petition for panel rehearing to that Court with evidence of abuse of judicial discretion, denial of access to justice, discrimination and corruption was ignored because Petitioner proved in that Petition that the Judge who signed the decision falsified and misrepresented the law and precedent cited in the decision. Copy of that Petition

is provided in **Appendix B**. Instead, Clerk of Court issued a certified copy of that Court's Order one month later, on October 24, 2019, with a power of "mandate." Copy of that letter is provided in **Appendix A**.

- Third Circuit Court of Appeals Opinion and Judgment was dated May 2, 2019, denying Petitioner's Writ of Mandamus. Copies of the documents in **Appendix E**.

[x] For the case from the Delaware Supreme Court:

On February 26, 2019, Delaware Supreme Court affirmed decision of the Delaware Superior Court. Copy of that decision is provided in **Appendix H**.

[x] For the case from Delaware Superior Court:

- Court's Order dated June 6, 2018 affirmed the decision of the Court of Common Pleas. Copy of that decision is in **Appendix K**.

II. Statement of Facts.

A) Basic Underlying Facts Supported by Documentary Evidence:

Facts necessary for understanding of the issues presen-

ted by this application are as follows:

On September 3, 2013, Petitioner, Nina Shahin, after shopping at Safeway grocery store in Dover, DE, located at 190 John Hann Brown Road, in Dover, DE, started to move her car out of the parking lot in front of the store where her car was parked in the handicapped parking spot. When she was almost out of her parking lot a car operated by Cheryl Calicott-Trawick and located just opposite of the Petitioner's car started to move out and hit the Plaintiff's car at the right rear end bumper. When Petitioner got out and observed the accident it became apparent to her that it was completely Ms. Calicott-Trawick's fault because she started to move her car out without looking at her back mirror and hit the Petitioner's car. But when the Petitioner asked her what exactly she wanted Ms. Calicott-Trawick replied that she wanted information about Petitioner's insurance. Petitioner replied that she had to call police and get a report. Since Petitioner's car was blocking the

road Petitioner moved her car back into her parking space. Ms. Calicott-Trawick's car remained at the position of the impact because the car hardly moved out of the parking spot. When police officer, Dale Boney, arrived, Petitioner gave him all her documents and police officer disappeared in the store. By that time Petitioner's husband whom she called immediately after the accident arrived before Officer and was a witness of everything happened after the Officer's arrival. When the officer was still in the store, Ms. Calicott-Trawick came out and moved her car back into her parking space as if it had never moved out. When police officer came out of the store he gave a parking violation ticket to the Petitioner although it was completely Ms. Calicott-Trawick's fault. During court hearing at the Justice of the Peace Court Petitioner proved that police officer's report was falsified by presenting fraudulent evidence because Petitioner's car had damages not on the left side, as report indicated, but on the right side, and,

therefore, the officer's sketch of the accident was completely fraudulent. Court found the Petitioner "not guilty." State Farm Mutual Automobile Insurance Company ("State Farm") accepted police officer's report as true and even conducted recorded telephone interview with an 'eye witness' (Nicki Walls, Safeway store employee) who provided the same fraudulent information during that interview that she had provided to the Officer Dale Boney and later failed to appear in the Court's hearing thus committing a crime of perjury. State Farm continued to provide fraudulent information including mixing up the Petitioner's car (which they insured) with Ms. Calicott-Trawick's car (insured by All State Insurance Company) presenting a photo of that car as the Petitioner's. On one year anniversary (i.e., 09/03/2014) of the accident Petitioner filed her lawsuit against Officer Dale Boney and State Farm in the Court of Common Pleas in and for Kent County. During court proceedings attorney representing State Farm who was

also a member of the Delaware State Bar Association Executive Committee (Reneta L. Green-Streett) provided fraudulent information about Petitioner's insurance coverage and after Petitioner brought that fact to the Court's attention and filed Motion for Sanctions against her was replaced with a President of the Bar Executive Committee, Miranda D. Clifton.

Officer's actions in falsifying evidence fall under the following provisions of the Delaware and federal laws:

1. Delaware Code, Title 11 'Crimes and Criminal Procedure,' Chapter 5 'Specific Offenses,' Section 1269 'Tampering with Physical Evidence; Class G Felony.'

A person is guilty of tampering with physical evidence when:

(1) Intending that it be used or introduced in an official proceeding or prospective official proceedings the person:

a. Knowingly makes, devises, alters or prepares false physical evidence;

2. Delaware Code, Title 11 'Crimes and Criminal Procedure,' Chapter 15 'Organized Crime and Racketeering,' Section 1502 'Definitions,'

The following words, terms and phrases, when used in

this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(9) "Racketeering" shall mean to engage in, to attempt to engage in, to conspire to engage in or to solicit, coerce, or intimidate another person to engage in:

- a. Any activity defined as "racketeering activity" under 18 U.S.C. § 1961(1)(A), (1)(B), (1)(C) or (1)(D); or
- b. Any activity constituting any felony which is chargeable under the Delaware Code or any activity constituting a misdemeanor under the following provisions of the Delaware Code:

...

10. Chapter 5 of Title 11 relating to tampering with jurors, evidence and witnesses;

3. 18 U.S.C. § 1512 'Tampering with a witness, victim, or an informant'

(c) Whoever corruptly-

(1) Alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding;

...

(h) There is extraterritorial Federal jurisdiction over an offense under this section.

Shall be fined under this title or imprisoned not more than 20 years, or both.

B) History of Judicial Process.

1) Delaware Court of Common Pleas.

The lawsuit at the Court of Common Pleas in and for Kent County was filed on this accident anniversary on September 3, 2014. On September 17, 2014, attorney representing the Defendant, Officer Dale Boney, Daniel A. Griffith, filed his 'Motion to Dismiss' Petitioner's complaint. Mr. D.A. Griffith made the main point in that Motion that the Petitioner "is a frequent *pro se* litigant" which apparently according to his logic should have been the reason to deny all Petitioner's claims.

It is important to make this point because Petitioner in her "frequent litigation" attempted to defend her civil and constitutional rights in a pattern of systematic discrimination and violation of her civil and constitutional rights to no avail in the Delaware corrupt judicial system that is screwed against minorities, the poor, and especially *pro se* litigants to protect professional attorneys whose interests and professional mis-

conduct are always defended and covered up by presiding judges regardless of the material underlying facts or rules of law, precedent and procedure.

The second point of that Motion was that Officer Dale Boney was immune from claims for damages under provisions of Delaware County and Municipal Tort Claims Act, 10 *Del.C.* § 4010 *et seq.* claiming also that in spite of the fact that the Officer's duties were performed "with wanton negligence or willful and malicious intent" he did not personally caused "property damage, bodily injury or death" and, therefore, is completely immune from any tort claims irrespective of felonies he committed by falsifying evidence.

On September 23, 2014, Petitioner filed her 'Objections' to that Motion specifically indicating that her characterization by professional attorney as "frequent *pro se* litigant" was made with intent to insult and humiliate Petitioner in a systematic pattern of harassment that

started by Dover Police in 2012 with her illegal arrest, illegal incarceration, beatings and torture in prison as a result of which she came out as a complete invalid unable to walk. In **Exhibit A** to that 'Objections' were attached 47 photos of her injuries stretching from her forehead to her toes all over her body, photos made by a forensic nurse immediately upon Petitioner's release from prison. Petitioner also proved with supporting evidence actual lies and misrepresentations made by another Defendant, State Farm, who even did not understand which vehicle was Petitioner's and which they actually insured by mailing to her photos of the other driver's vehicle with the claim that it was hers. On May 1, 2015 Mr. D.A. Griffith wrote a letter to the Court urging the Court "to list the September, 2014 [Defendant's] Motion to Dismiss Plaintiff's Complaint for Disposition" with another insulting characterization of the Petitioner's complaint as "frivolous on its face and subject."

Only on July 31, 2015, (mailed to the Petitioner on August 10, 2015) or eleven months after the lawsuit had been filed presiding Judge, Honorable Charles W. Welch, III finally acknowledged that there were “a number of pleadings” in that case that needed to be considered with a promise to schedule a hearing if it is necessary. Then, on December 15, 2015, or fifteen months after the lawsuit had been filed, Honorable Judge asked Petitioner to provide additional arguments regarding Officer’s alleged immunity within twenty days. Petitioner provided that response on December 29, 2015, arguing that the Officer is liable to the Petitioner under provisions of 42 U.S.C. § 1983. In particular, Petitioner argued with reference to the decisions of the US Supreme Court:

“In *Monroe v. Pape*, U.S. 167, 180 (1961), United States Supreme Court held that acts performed by a police officer in his capacity as a police officer are acts taken “under color of law.” As the Supreme Court stated in *United States v. Classic*, 313 U.S. 299, 326 (1941), “[m]isuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed

with the authority of state law, is action taken “under color of state law.” While qualified immunity is available to an official sued in his personal capacity, there is no qualified immunity available to an official capacity suit (see *Hafer v. Melo*, 112 S.Ct. 358, 361-62 (1991) (personal and official capacity suits distinguished). Plaintiff sued Dale Boney in his official capacity as Dover Police Officer and not in his individual capacity as just Dale Boney, so he has no any qualified or unqualified immunity whatsoever.”

Attorney, D.A. Griffith’s ‘Reply’ to that Petitioner’s ‘Answer’ was filed on January 26, 2016. In that document attorney made the following points:

- Petitioner did not make any valid claims under provisions of federal law because she did not “set forth which right, privilege, or immunities the Defendants are alleged to have violated” and failed to “give notice of the claim and the grounds upon which it rests.” See *Birla v. New Jersey Board of Nursing*, 2013 U.S. Dist. LEXIS 70275 (decided May 16, 2013, D.N.J. 2013).
- If the Petitioner would have “asserted a violation of

federal law, Defendants would have been entitled to removal of this action to the United States District Court for the District of Delaware.”

- Even if the Petitioner had a valid claims under 42 U.S.C. § 1983 they would have been barred by a two-year statute of limitations. Petitioner, therefore, facing dismissal of her tort claim “seeks to recast her Complaint based on a time-barred theory.”

In response Petitioner would like to provide the following comments to those points: 1) Petitioner did not mention in her Complaint either tort theory or civil rights under 42 U.S.C. § 1983. She mentioned that she was a victim of a crime committed by police officer under “color of law” which is *a priori* a civil rights claim. Moreover, no any pretrial in this case had ever taken place nor the required ‘Pretrial Worksheet and Stipulation’ form to clear all facts, issues of law, presentation of evidence and existence of witnesses had ever been presented to the Petitioner which is another

evidence that the 'due process' and 'equal protection' constitutional rights were grossly violated by the presiding Judge. As far as the statute of limitation is concerned, it is only the evidence that the presiding Judge did absolutely nothing in this case for almost two years apparently with the purpose to make Petitioner's claims under civil rights statute subject to those time barring claim although time of her filing a lawsuit in the CCP was timely. Moreover, in his decision Judge claimed that because of that delay Petitioner did not suffer any negative consequences (Sic!) Honorable Judge issued his decision on April 13, 2016 (copy is provided in **Appendix T**). In that decision Judge falsified underlying material facts including claim that "Boney falsified a witness because a witness failed to appear at the Justice of the Peace Court hearing" or that the Defendant committed a felony and granted his Motion to Dismiss under alleged immunity provided by the County and Municipal Tort Claims act with claim that

Petitioner's complaint "contained no claim of a violation of federal law pursuant to 42 U.S.C. § 1983." Fact of falsifying evidence by police officer is a violation of civil rights and act of discrimination against a national minority which the Judge intentionally did not want to see! In view of those violations and time-barred claims by attorney, Petitioner on August 19, 2016, filed her Motion-"Election" for initiation of the process to transfer the case to federal court for the District of Delaware. In his letter dated January 23, 2017 Honorable Judge Charles W. Welch, III wrote the following:

"The Court disregarded the plaintiff's § 1983 claim because it was improper and outside the scope of the Court's order (and case). Next, the plaintiff requested to transfer the case to the United States District Court for the District of Delaware pursuant to 10 *Del.C.* § 1902. The Plaintiff's request was denied due to the fact that the plaintiff's claim had been adjudicated and the plaintiff failed to follow proper procedure for bringing a claim in Federal Court."

On April 8, 2017 Petitioner filed at the US District Court a Request for transfer of the case from Court of Common Pleas to that Court. On July 27, 2017 Mr. D.A.

Griffith wrote a letter to the Judge of that Court titling the case as *Nina Shahin v. City of Dover* and making false claims that 10 Del.C. § 1902 applies only to transfers of litigation among Delaware state courts without any supporting evidence that the Delaware legislature intended that provision for transfers due subject matter jurisdictional problems be limited only to Delaware courts. Then he cited *Rooker-Feldman* doctrine to the Petitioner's case although that doctrine did not apply to her case.

In view of all falsifications and lies submitted to the Court by the attorney representing State Farm, presiding Judge in his letter of March 29, 2017 requested Petitioner to provide additional information regarding authenticity of documents presented by the attorney. In view of his acknowledgement that the attorney provided wrong information he asked Petitioner to clarify different issues. In her response dated April 11, 2017 Petitioner expressed mistrust to

the Judge's actions because of his failure to sanction attorneys for their lies to the court and allowing substitution of counsel for State Farm. Copy of the letter was mailed also to the Delaware Bar Association in view of the fact that both State Farm attorneys were members of its Executive Committee with a request to clarify those attorneys' compliance with the Delaware Lawyers Rules of Professional Conduct but she has never received a response. Judge, though, feeling insulted, mandated Petitioner to "Shaw Cause" for her use of "abusive" language towards the Judge. His letter-demand was dated April 13, 2017, mailed five days later but accepted by USPS on April 19, 2017 and contained mandate of a 20-day response. Petitioner was at that time overseas and responded upon her arrival on May 10, 2017 and demonstrated "gross violations of her constitutional rights" by the presiding Judge. Since the Judge indicated that Petitioner failed to initiate a proper procedure for transfer of the case to federal court

but did not describe what that “proper procedure” was. Petitioner filed her Motion-“Election” for initiation of that process in which she described with reference to the law and precedent all the legal background for the transfer including references to the decisions of the US Supreme Court (copy of the Motion is in **Appendix Q**).

And finally, after all violations of the rules of the CCP Court (i.e., timely ‘Answer’ and production of wrong documents) by the original attorney representing State Farm it was established that the Petitioner did not have insurance coverage for the damages caused by the other party to accident. In such circumstances the insurance of that party should have been involved as the one providing mandatory insurance for covering damages caused by that party. That insurance company was All State Insurance Co. and Petitioner on April 11, 2017 filed Motion for Joinder of that Insurance as ‘Indispensible Party.’ In his June 12, 2017 communication presiding Judge made a complete mess of the Rule 19(a)

of CCP Rules of Civil Procedure. His conclusion demonstrates either his complete professional incompetence or intentional disregard of the Petitioner's claims, material facts of the case, and the applicable rules of law and procedure.

"In this case, you claim that State Farm breached its insurance agreement with you it denied your claim for reimbursement for damage to your automobile. As the only parties to that agreement are already parties in this matter, the Court is fully capable of granting complete relief without the necessity of joining additional parties pursuant to Rule 19(a)(1). Furthermore, Rule 19(a)(2) is inapplicable in this instance because All-State Insurance Company is not "claim[ing] an interest relating to the subject of the action...² (reference to Ct. Com. Pl. Civ. R. 19(a)(2)) Rather, it appears that you are seeking to initiate new litigation against All-State entirely through your case for breach of contract with State Farm. Such an action would not be the appropriate joinder of a party."

There was no any breach of contract with State Farm and Petitioner never made such a claim. State Farm made fraudulent claims about the circumstances of the accident following the lead of the Officer Boney and there was no any contractual relationship in those communications but misunderstanding, negligence and

fraud committed by professional attorney, who originally represented State Farm. Since it was eventually established that Petitioner had no coverage for such damages caused by other party, that party's insurance had legal obligation to pay because of mandatory provisions of any auto insurance policy to cover damages caused by that party. Yet, under wrong pretences the Judge denied that joinder of the insurance that had legal responsibility to pay claiming "breach of contract with State Farm" which was pure fraud.

2) Appeal to the Delaware Superior Court.

On December 18, 2017 Petitioner filed her appeal with the Delaware Superior Court and on February 12, 2018 she filed her Opening Brief. In her 'Argument' section Petitioner argued 3 points: 1) Violations of her civil rights; 2) Collusion of the CCP Judge with professional attorneys to cover up their misconduct; and 3) Whether actions of attorneys and the judge fell under provisions of crime of 'racketeering.' Petitioner in that Brief

provided ample documentary evidence of systematic harassment by Dover Police starting with her 2012 illegal arrest, illegal incarceration, beatings and torture in prison; 2013 falsification of evidence by Officer Dale Boney; 2014 staged "accident" in which Dover Police officer (Katelyn Spoon-Roth) came to the Petitioner's house and threatened her with arrest, and in the court hearing jury of 11 cops in absence of any evidence (even police report was denied to them) found Petitioner "guilty;" after that 2013 parking accident and 2014 staged "accident," Petitioner's car became a bull's eye for Dover Police. When the judicial process of that June 2014 staged "accident" was dragged through every month of 2014 year (August 26, September 10, October 7, November 10, and December 10, 2014), on December 10, 2014 hearing when Petitioner was in the courtroom Dover police cited her for violating handicapped parking with the citation fixed to the wiper on a windshield across from a handicapped permit hanging from a back

view mirror; In that 2014 "accident" appointed to her case public Defender (Stephanie C. Blaisdell) pressured Petitioner to accept all fraudulent charges and lied to her about the availability of a subpoenaed evidence (video tape from a Verizon store that had 360 degree camera near the place of the staged "accident.") When Petitioner presented evidence to the Judge (Anne Hartnett Reigle) about that lie Petitioner was stripped of the Defender all together in violation of the provisions of Rule 44(d) of the CCP Rules of Criminal Procedure and the jury was selected exclusively of the cops who were more than 50% in the jury pool(!) later the Judge fraudulently claimed that Petitioner did not object that jury although Petitioner specifically asked the Judge to record her objections and the Judge assured her that her objections were recorded. To prove her lies Petitioner had to pay \$ 900 for the transcript, money she did not have and the next stage when the Judge usually denies access to the tape of recording claiming that the case

had already been adjudicated; fifth incident of Dover Police harassment occurred during forcible and illegal “probation” imposed by the Judge, Anne Hartnett Reigle, in that 2014 staged “accident” because that section of the Motor Vehicle Code does not provide for any probation. But per terms of that probation Petitioner was obligated to report any case of her contact with police. In March of 2015 Petitioner after shopping at local ACME store was stopped by Dover Police officer on suspicion of burglary at that store and had to report that incident to probation officer. The next month Dover Police Officer, J. Willson, gave her a ticket for allegedly not yielding to emergency vehicle. The only people who violated that particular law (i.e., 21 *Del.C.* §2118) were the driver of the emergency vehicle who approached the congested intersection without siren and Petitioner could not see or hear that vehicle and jumped into the intersection luckily avoiding collision and the Police Officer himself who jumped the

red light to give her citation. Documentary evidence to support all those cases of harassment that violated her civil right guaranteed by XIV Amendment of the United States Constitution was provided in 28 Exhibits. Professional attorney who substituted original attorney, Daniel A. Griffith, after Petitioner added another Defendant (i.e., City of Dover when Mr. D.A. Griffith in his communication with District Court titled the case as *Nina Shahin v. City of Dover*) Scott G. Wilcox, representing Officer Dale Boney failed to file his 'Answering Brief by the due date because of "excusable negligence" which was, of course, excused by the presiding Judge, Noel Eason Primos. Judge's decision dated 06/06/2018 is provided in **Appendix K** and is a perfect example of how Delaware Judges falsify material underlying facts. The entire description of the Defendant's felony of falsifying evidence is couched in the following words: "The record reflects that on September 3, 2013, Dover Police officer Dale Boney

(hereinafter “Appellee”) issued Appellant a traffic citation in connection with a traffic accident in a grocery store parking lot. (Sic!) Implication of that statement is that the Officer was right in giving the citation.

3) Appeal to the Delaware Supreme Court.

On August 16, 2018 Petitioner filed her appeal to the Delaware Supreme Court. Decision of that Court is attached in **Appendix H**. The same story was repeated as in the Superior Court. Judge who signed the decision (Karen Valihura) described the parking lot accident as “minor traffic accident” (apparently, because of the Petitioner’s error) and again shielded the Defendant, Officer Boney, from liability under provisions of County and Municipal Tort Claims. There is no even mentioning of the Petitioner’s claims under civil rights provisions of 42 U.S.C. § 1983!

4) Process in the US District Court for the District of DE.

On April 8, 2017 Petitioner filed a ‘Request’ to transfer the case to the US District Court for the District of

Delaware by paying \$ 400 transfer fee. Mr. Daniel A. Griffith filed his Motion to Dismiss Petitioner's 'Request' for transfer under Fed. R. Civ. P. 12(b)(6) claiming that Petitioner failed to raise any federal claims in her complaint and the case is subject to *Rooker-Feldman* doctrine and the officer is immune under provisions of Delaware County and Municipal Tort Claims Act, 10 *Del.C. § 4010 et. seq.* Because all claims professional attorney submitted to the Court were false or fraudulent Petitioner filed Motion for Sanctions against the attorney. Moreover, in the attorney's communications with the Court dated 07/27/2017 attorney titled the case as *Nina Shahin v. City of Dover*. In view of that fact Petitioner on 08/07/2017 filed Motion for Leave of Court to Amend her Original Complaint to add a new Defendant – City of Dover - with charges against that Defendant under provisions of 42 U.S.C. § 1985. After those events Mr. D.A. Griffith was replaced with another attorney, Scott G. Wilcox, (usual process to

invalidate Petitioner's Motion for Sanctions). Decision of the Judge of the District Court is presented in **Appendix M** and his main argument in that decision (although numbered as fourth) was that Petitioner did not raise civil rights claims in her original Complaint but only tort claims. Other Judge's legal arguments were the same as in the case appealed to this Court in March of that year (i.e., *Shahin v. Sam's East., Co., et al.*): 1) removal statutes are construed narrowly and in case of doubt should be remanded back to the State court; 2) Removal by Plaintiff is not "contemplated by 28 U.S.C. §1446(a); 3) removal by Petitioner was beyond 30 days allowed by §1446(b); 5) all defendants must agree to the transfer which did not happen; 6) "there is no claim against Boney to transfer." These are the issues that Petitioner would argue in this case as the most important and misrepresented or even falsified by the presiding Judge (as usual in Delaware court system in the case of minorities, the poor, and *pro se* litigants.)

Petitioner filed her Motion for Reconsideration of that decision and the Judge denied it on 03/12/2019 titling the case *Nina Shahin v. Court of Common Pleas of the State of Dale Boney, et al.*, (Appendix G).

5. Third Circuit Court of Appeals.

Process in the Third Circuit Court of Appeals went through two differences channels: a) Petition for Writ of Mandamus and b) Appeal of the decision of the US District Court to the Third Circuit Court of Appeals.

a) Petition for Writ of Mandamus.

On March 26, 2019, when it was obvious to the Petitioner that her civil and constitutional rights were violated at all levels of judicial system and she was a victim of crimes under circumstances that were criminal and even mafia-style racketeering (especially in the Delaware Supreme Court with the Chief Justice induced retaliation with award of attorneys' fees to attorneys who committed fraud) she submitted her Petition for Writ of Mandamus Pursuant to 18 U.S.C. § 3771(d)(3)

'The Crime Victims' Rights Act' with Appendix of documents in Support of that Writ. The Writ was based on different lawsuits filed by the Petitioner in State courts and among them the latest against of City of Dover for discrimination in real estate assessment, Officer Dale Boney and Sam's East., Inc. and Synchrony Bank, cases in which Petitioner was deprived of any real judicial process with discovery, questioning of witnesses and competent and impartial evaluation of all evidence by presiding Judges. The first case is the current case and is closely related to the pattern of Dover Police harassment that started in 2012 with Petitioner's illegal arrest, illegal incarceration, beatings and torture in prison as a result of which she came out as a complete invalid unable to walk. Petitioner's charges included felonies' of 'obstruction of justice' and 'racketeering' committed by the presiding Judges, and 'perjury' and 'fraud' committed by professional attorneys. Those were criminal acts for which nobody wanted to initiate

investigation or prosecution, but the Petitioner was a victim. Appendix to the Petition had documentary evidence of complete corruption of the judicial system including 47 photos of Petitioner's injuries all over her body from forehead to her toes made by a forensic nurse after Petitioner's release from prison, list of jury pool in Petitioner's criminal prosecution for "staged accident" in which more than 50% of the jury were cops and for every one she removed from the jury prosecutor installed another one because the pool was inexhaustible. Petitioner provided evidence of the Honorable Judge, Anne Hartnett Reigle complete dishonesty and incompetence with intentional obstruction of justice in that particular case. Appendix also included original of the Petitioner's Petition for Writ of Certiorari to this Court against PNC Bank (place where Petitioner was illegally arrested in 2012) filed on July 24, 2017 but declined for recording due to missing deadline for submission and returned back to the Petitioner. All

that evidence proved multiple criminal offences committed by different State officials from police officers to judges at all level of State investigational, prosecutorial, and judicial systems. In the processing of that Petition requirements of the Third Circuit Court L.A.R. 21.1 (b) (notification of the US Attorney) was disregarded and the 5-day requirement of 18 U.S.C. §3771(d)(3) violated. Third Circuit Court of Appeals decision dated 05/02/2019 (well after 5-day requirement) is presented in **Appendix E**.

b) Appeal of the District Court Decision to the Third Circuit Court of Appeals.

Appeal in this case to the Third Circuit Court of Appeals was made on April 11, 2019. On April 26, 2019 Administrative Assistant of the Court, Maria Winans, indicated in her communication that “Under 28 U.S.C. Section 1447(d)(enclosed), an order remanding a case to the state court from which it was removed is not reviewable on appeal or otherwise.” Petitioner filed her

'Objections' to that communication with the Court on 05/06/2019 (**Appendix D**). On 09/11/2019 Third Court of Appeals dismissed Appellant's appeal "for lack of subject matter jurisdiction" (**Appendix C**). Petitioner filed her Petition for Panel Rehearing (**Appendix B**) that specifically indicated that the decision of the Court of Appeals was nothing short of abuse of judicial discretion, denial of access to justice to a national minority and *pro se* litigant, discrimination and corruption because reference to the cited law was misrepresented and/or falsified. Third Circuit Court of Appeals has never considered that Motion because the Court had no arguments to justify those falsifications. Instead, on 10/24/2019, Court Clerk issued a certified copy of the same decision to be treated as a MANDATE which was clear evidence that the Court indeed abused its discretion, was corrupt and discriminatory towards national minority and *pro se* Petitioner. (**Appendix A**). Petitioner's complaints against professional attorneys to

the Delaware Bar Association were always dismissed with claims that in her judicial cases such obligation is vested with the presiding Judges who actually always provided cover-up for misbehaving attorneys with usual “substitutions of counsel.” Petitioner’s complaints against presiding Judge to the Delaware Court on the Judiciary were always dismissed because they were related to her cases and the reason for dismissal was always that Petitioner did not agree with the Judge’s decision and she should have chosen a path of appeals not complaints. As Petitioner clearly demonstrated her appeals are futile in a system of permanent corruption and collusion of presiding Judge with professional attorneys. Characterization of Delaware court system is well reflected in the Citizens for Pro-Business Delaware advertisement printed in local newspaper (*Delaware State News*) on October 27, 2019. (**Appendix X**) The issue of denial of access to justice is especially acute for

minorities, the poor and *pro se* litigants as the Petitioner.

III. Statement of Issues Presented.

1. Narrow Interpretation of Removal Statutes.

As Respondent # 1 presented in his 'Memorandum Opinion' of March 13, 2018, number one issue was that "removal statutes are construed narrowly and doubts about removal are resolved in favor of remand." In this case when the Dover Police Officer falsified evidence and his actions are considered as felony under provisions of state and federal law, 18 U.S.C. § 1512 'Tampering with a witness, victim, or an informant' specifically indicates in subsection (h) that this felony has exclusive federal jurisdiction.

2. 28 U.S.C. § 1446(a) Limits Removal to Defendants Only.

Honorable Judge Leonard P. Stark in his Memorandum Opinion as number 2 issue claimed that under 28 U.S.C. 1441(a) the right of removal is afforded to the "defen-

dant” or “defendants” with reference to the case of *Gross V. Deberardinis*, 722 F. Supp. 2d 532, 534 (D.Del. 2010). Judge in this case skipped reference to the case of US Supreme Court in *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 104 (1941). It is important to note that this case of the US Supreme Court looked into the history of the transfer provision going back to 18th Century (“Judiciary Act of 1789”) with subsequent modifications in 1867, 1875, and 1887. The strict interpretation of the Statute was introduced by Act of 1887, 24 Stat.552., *Id.* at 106. But even that stricter amendment had provision for the plaintiff to remove the case to federal court if the plaintiff “had reason to believe and did believe that, from prejudice or local influence, he was unable to obtain justice in said State court, the district court shall, on application of the other party, examine into the truth of said affidavit and the grounds thereof, and, unless it shall appear to the satisfaction of said court that said party will not be able

to obtain justice in said State Court, it shall cause the same to be remanded thereto..." *Id.*, [Footnote 1] at 109. Another Honorable Judge of the same US District Court (Gregory M. Sleet) stated in his Memorandum Opinion: "Under 28 U.S.C. §1404(a), a district court has "broad discretion to determine, on an individualized, case-by-case basis, whether the convenience and fairness consideration weigh in favor of transfer." *Jumara v. State Farm Ins. Co.*, 55 F.3d 873, 883 (3d Cir. 1995)¹. The court engages in a two-step inquiry. It first determines whether the action could have been brought originally in the proposed transferee forum and then asks whether transfer would best serve the convenience if the parties and witnesses as well as the interests of justice. *Smart Audio Techs., LLC v. Apple, Inc.*, No. 12-

¹ Honorable Judge Gregory M. Sleet states that standards in at least another two of his decisions: *W.R. Berkley Corp. v. Niemela*, Slip Copy (2017), WL 4081871 and *Blackbird Tech. LLC, d/b/a Blackbird Technologies v. Tuffstuff Fitness International, Inc. and the Gym Source, Inc.* Civ. A. No. 16-733-GMS.

134-GMS, 910 F. Supp.2d 718, 2012 WL 5865742, at *1 (D. Del. Nov. 16, 2012). It is the defendant's responsibility to demonstrate that transfer is appropriate at each step, *Jumara*, 55 F.3d at 879-80, and, "unless the balance of convenience of the parties is strongly in favor of defendant, the plaintiff's choice of forum should prevail." *Shuttle v. Armco Steel Corp.*, 431 F.2d 22, 25 (3d Cir. 1970); *see also Smart Audio Techs.*, 2012 WL 5865742, at *3, 910 F. Supp.2d 718. *See W.R. Berkley Corp. v Niemela*, Slip Copy 2017 WL 4081871. Petitioner's Petition for Writ of Mandamus to the Third Circuit Court of Appeals and her two Petitions written under provisions of Delaware Constitution for impeachment of three Delaware Judges including the Chief Justice, Anne Hartnett Reigle and the one presiding over this case but was refused by her Senator who claimed that all against whom Petitioner wrote her Petition for Impeachment are his "childhood friends is

sufficient evidence that Petitioner could not get access to justice in Delaware courts either state or federal.

3. Filing of 'Notice of Removal' by Petitioner was Beyond 30 days allowed by § 1446(b).

Taking into consideration that the Appellant's Notice of Transfer is filed under provisions of civil rights statute or 28 U.S.C. § 1443 does 30-day limitation apply to this case?

4. "CCP Construed Shahin's Complaint as Raising a Civil Tort Action Finding no Claim of Violation of Federal Law Pursuant to 42 U.S.C. § 1983."

This issue numbered as "fourth" in the Respondent's # 1

Memorandum Opinion (page 8 in **Appendix M**) is the most complicated one because it was obfuscated by both Respondents in their decisions and raises many questions: 1) What authority has the CCP to "construe" Petitioner's Complaint as filed under civil tort provisions? Complaint did not make reference to any law provisions but provided only facts that portrayed Petitioner as a victim of crime "under color of law." It

appears that there are at least two different types of tort: tort of deceit known as “fraud” and tort of negligence. In this particular case “tort” is not as simple as “negligence” but is actual “fraud” and a crime punishable by law and not simple “civil wrong” and entitles the victim for compensation as a victim of crime. Then, after Officer Boney filed his Motion to Dismiss because he was allegedly entitled to immunity, Petitioner in her ‘Objections’ filed on September 23, 2014 (**Appendix V**) provided examples of a systematic Dover Police harassment of the Petitioner that started in 2012 with her illegal arrest, illegal incarceration (when she was unconscious), beatings and torture in prison, her inability to enforce relevant and controlling antidiscrimination laws and other “biases” of the state courts that protect the rich and punish the poor and specifically indicated that immunity under the cited state law does not cover “acts” that “were performed with wanton negligence or willful and malicious intent”

(page 13, **Appendix V**). Then, in response to the Respondent's # 2 order dated December 15, 2015 (more than a year after Petitioner had filed her lawsuit) Petitioner specifically indicated that her claims fall under provisions of 42 U.S.C. § 1983. *So, although Petitioner did not mention her claims under 42 U.S.C. § 1983 in her Complaint should that fact cancel her rights to claims under that Statute?*

Petitioner would like to remind that the attorney who represented Officer Dale Boney claimed that if the Petitioner had filed her claims under that statute Defendant had the right to transfer the case to the federal court!

5. "All Defendants" Who Have Been Properly Joined and Served Must Join in or Consent to the Removal of the Action.

Petitioner did not find in the cited case (i.e., *Auld v. Auld*, 553 F. App'x, 807 (2014) reference to any consent that should have been obtained from the Defendants in

the case of civil rights statute! The other Respondent's #1 argument with reference to the case of *Anderson v. Toomey, L.P.*, 2008 WL 48381839 that "only defendant may remove to federal court" belongs to the issue # 1 above and simply repetitive here.

6. Respondent # 1 Claimed at # 6 Issue That There Is Nothing Left to Remove."

Taking into consideration that all Courts dismissed Petitioner's Complaint under "immunity" provision and no claims under provisions of 42 U.S.C. § 1983 had been considered that Judge's claims is dishonest, to say the least, and, abuse of judicial discretion, to say the most. In conclusion Petitioner would like to emphasize the following facts and legal issues:

- Respondent # 2 in his decision of 07/19/2016 (**Appendix R**, page 10) claimed that "The Court disregarded the plaintiff's 42 U.S.C. § 1983 claim because it was improper and outside the scope of the Court's order." It

was not clear though why it was "improper" but clear that it was "outside the Court's order" because of lack of subject matter jurisdiction. Judge's claim that the first mention of "42 U.S.C. § 1983 was addressed in the Petitioner's Response to the Court's Order for additional argument concerning the defendant's immunity defense under the County and Municipal Tort Claims Act" but then in contradiction he claimed that "The proper course was for the plaintiff to file a motion to amend pleadings" although no any reference to the law, precedent or rules of Court were mentioned to support that claim. Respondent # 2 ordered Petitioner to respond to the Defendant's claim of immunity and she specifically indicated that under provisions of 42 U.S.C. § 1983 Defendant does not have such immunity but the Judge considered that claim invalid, REALLY? Plaintiff did so in her 'Motion-Election" for Initiation of the Process to Transfer the Case to Federal Court for the District of

DE under 10 *Del.C.* §1902 and 42 U.S.C. § 1983' filed on 08/19/2016 which is a way "Motion to Amend Pleadings."

- In Petitioner's "Motion-"Election" (**Appendix Q**) Petitioner made reference to several decisions of the United States Supreme Court that indicated that local governments have no immunity from damages flowing from their constitutional violations, and may not assert the good faith claims of its agents as a defense to liability; *Owen v. City of Independence, MO*, 445 U.S. 621 (1980), *Monell v. Dept. of Social Services of New York*, 436 U.S. 658, 699-700 (1978). The issue was very important since Petitioner added City of Dover to the list of Defendants in the case because of the attorney's whim.

- 42 U.S.C. § 1983 specifically indicated that liability exists for "deprivation of any rights, privileges, or immunities secured by the Constitution and law" and the facts of this case clearly demonstrate that the Dover Police Officer, Dale Boney, who fabricated the evidence

and issued citation to the Petitioner, although the other party was at fault in the accident in violation of 'due process' and 'equal protection' provisions of the Fourteenth Amendment of the United States Constitution. Even if the actions of the Officer were based on the fraudulent testimony of a witness he had his own eyes and could have examined the location of damages on both cars which he failed to do. He later claimed in the Justice of the Peace Court that Petitioner refused to talk to him which was a lie and petitioner's husband who was present there is a witness of that lie. In that regard his conduct was "arbitrary, or conscience shocking, in constitutional sense" *Collins v. City of Harker Heights, Texas*, 503 U.S. 115, 128. (1992). Moreover, in constituting the Due Process Clause, the United State Supreme Court has held that negligent acts by state actors do not effect a "deprivation" for purposes of the Due Process Clause if the state provides a meaningful post-deprivation remedy, such as, for

example, a tort remedy in its own courts. *See Hudson v. Palmer*, 517, 533 (1984). In this case the Court's Order in response to which Petitioner's 'Motion-"Election"' had been filed specifically denied the Plaintiff a "tort remedy" under the state law making a transfer to a federal court a legal and constitutional necessity.

IV. Statement of Relief Sought.

The same Third Circuit Court of Appeals ruled in another case, (see *Shuttle v. Armco Steel Corp.*, 431 F.2d 22, 23 (3d Cir. 1970)) - "The use of the mandamus power conferred on this court by the All Writs Act, 28 U.S.C. §1651, can be the indicated remedy to correct an erroneous transfer. *Van Dusen v. Barrak*, 376 U.S. 612, 84 S. Ct. 805, 11 L. Ed. 2d 945 (1964);"

Since both US District Court for the District of Delaware and the Third Circuit Court of Appeals failed in its legal functions, Petitioner, therefore asks this Court for the following remedies:

1) Remand the case back to the US District Court for the District of Delaware for proper judicial proceedings with process of discovery that includes subpoena of a witness ("eye witness" of the accident) and determining the Officer's liability under provisions of 42 U.S.C. §1983 and the City of Dover under 42 U.S.C. § 1985.

2) Mandate the Judge of the Delaware Court of Common Pleas Honorable Charles W. Welch, III to transfer the case regarding Officer Dale Boney to US federal Court for the District of Delaware and grant Petitioner's Motion for Joinder of Indispensible Party, All State Insurance Company that provided insurance to the person who committed the accident – Ms. Calicott-Trawick.

V. Reasons Why Writ Should Issue.

The reasons the Writ requested herein should issue are as follows: i) there are issues raised in ## 1-6 above that were not clearly defined in the law or precedent and were interpreted in different ways by courts including

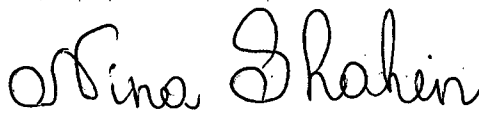
Third Court of Appeals in its different decisions; ii) judicial processes in State and Federal court system grossly violated Petitioner's constitutional rights, pattern that has been going on since Petitioner, a Ukrainian national minority, with her husband of Egyptian national origin, entered this country legally in 1989 in all aspects of their lives: employment, financial rights, credit opportunity, violations of her constitutional rights under Amendments IV, VI, VIII, and XIV to the United States Constitution; iii) Petitioner filed numerous Petitions for Writ of Certiorari to this Court which all have been denied in cases which she now understands had been filed in State Courts under provisions of federal laws or, in other words, in the courts that lacked subject matter jurisdiction. Petitioner, herefore preys for the last chance for this Court to honor her civil and constitutional rights.

VI. Appendix provides copies of documents that incorporate by reference herein Appendices from A to X as indicated in Table of Contents.

Wherefore, Petitioner respectfully prays that a Writ of Mandamus or, in the alternative, a Writ of Prohibition, be issued by this Court directed to Respondents, the Honorable Lenard P. Stark, Judge of the United States District Court for the District of Delaware, for accepting the transfer of the Petitioner's case to that Court and to Honorable Charles W. Welch, III, Judge of the Delaware Court of Common Pleas in and for Kent County to issue Order for transfer of the case to the US Federal Court for the District of Delaware in relation to the Defendant, Officer Dale Boney, and for granting Petitioner's Motion for Joinder of Indispensible Party, All State Insurance Company to the lawsuit and any further relief as the Court may deem proper.

Date: May 8, 2020

For the Petitioner,



NINA SHAHIN, CPA, MAS, MST