

No. 19-8632

IN THE
SUPREME COURT OF THE UNITED STATES

Sandra Rumanek - PETITIONER

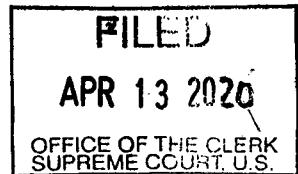
vs.

ORIGINAL

Sherry R. Fallon, et al - RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT



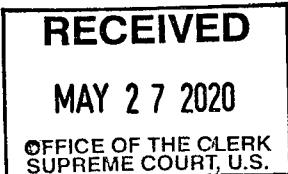
PETITION FOR WRIT OF CERTIORARI

Sandra Rumanek

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Questions presented:

1. Does the law shielding judges, officers of the court and state actors from personal liability in a civil rights suit, in effect, facilitate and thus encourage bad actors in those positions to conspire to successfully obstruct justice, violate the civil rights of a party and commit fraud on the Court for financial and/or professional gain, as evidenced in *Rumanek v. Fallon et al.* D. De. No. 17-00123?
2. Is the law shielding judges from such personal liability in violation of the 1st, 4th, 5th, 8th, 9th and 14th amendment rights of their victims? Is it in contravention of “rule of law?”
3. Is Delaware state judges’ secret alteration of verbatim court proceeding transcripts as provided for and used under Delaware Codes § 4101 and 4101 and 561(d) in order to obstruct justice in the federal courts – as evidenced in *Rumanek v Fallon et al* – fraud on the court and a usurpation of this Court’s authority? Is the same in violation of the 1st, 4th, 5th, 8th, 9th and 14th amendment rights of plaintiffs and/or defendants it is used against? See D. De. No. 17-00123 Tenth Amended Complaint at No.’s 203-234.

4. Does plenary review of lower court decisions, by definition, protect corrupt judges and those who conspire with them to obstruct justice and commit fraud on the Court?

5. Is not any party without a background in the law *functionally* cognitively disabled when attempting to vindicate their civil rights in the face of corrupt judges/state actors/officers of the court colluding to deny them the same? Does the Court in effect discriminate against those with cognitive disability in such circumstances, thereby denying them equal protection of the laws?

6. Does the Court, in effect, deny *pro se in forma pauperis* parties who are not trained in the law equal protection of the laws and thereby discriminate based on socio-economic status? Is such discrimination legal under the U.S. Constitution and/or rule of law?

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Respondents

Sherry R. Fallon (U.S. Magistrate Judge for the District of Delaware)
David G. Culley
Timothy M. Holly
Mary I. Akhimien
Matthew F. Boyer
Nicholas W. Woodfield
Bernard G. Conaway
R. Scott Oswald
Sandra F. Clark
Joseph J. Rhoades
Louis J. Rizzo, Jr.
Kevin Healy
Charles E. Butler (State of Delaware Superior Court Judge)
Richard R. Cooch (State of Delaware Superior Court Judge)
Delaware State Police Officer Spillan, IBM 770 and various unknown DE State Police
Delaware Attorney General Matthew Denn
Susan Judge
Patrick O'Hare
Annette Furman
Lisa Amatucci
Robert Cruikshank (Intake Supervisor, U.S. District Court for the District of Delaware)
John Cerino (Clerk of the Court, U.S. District Court for the District of Delaware)
State of Delaware
United States of America
Independent School Management, Inc.

RELATED CASES

Rumanek v Coons and Theodore No. N11C-04-108 (2011) Delaware Superior Court. Judgment entered Sept. 13, 2013

Sandra Rumanek v. Independent School Mgmt. Inc., No. 1:12-00759 U.S. District Court for the District of Delaware. Judgment entered Jan. 27, 2014. JNOV motion denied May 30, 2014.

Rumanek v. Coons and Theodore No. 550, 2013 Delaware Supreme Court, Order affirming Judgment entered Feb. 25, 2014.

Sandra Rumanek v. Independent School Mgmt. Inc., No. 14-1472 U.S. Court of Appeals for the Third Circuit. Judgment entered July 21, 2015. Rehearing petition denied Aug. 17, 2015.

In re Sandra Rumanek No. 15-7000, U.S. Supreme Court. Petition denied Jan. 11, 2016

Sandra Rumanek v. Independent School Mgmt. Inc., No. 1:12-00759 U.S. District Court for the District of Delaware. Order denying Rule 60 motion of fraud on the Court, Nov. 21, 2017.

Sandra Rumanek v. Independent School Management Inc., No. 17-3639, U.S. Court of Appeals for the Third Circuit. Opinion entered Aug. 3, 2018. Rehearing denied Aug. 28, 2018.

In re Sandra Rumanek, No. 18-op-1200, U.S. Court of Appeals for the Third Circuit. Opinion entered Aug. 3, 2018. Rehearing denied Aug. 27, 2018. Clerk's Order denying Motion to Vacate May 21, 2019 Clerk Order, May 29, 2019.

Sandra Rumanek v. Sherry Fallon et al., No. 1:17-00123, U.S. District Court for the District of Delaware. Order closing case entered Sept. 17, 2018.

In re Sandra Rumanek, No. 18-6500, U.S. Supreme Court. Petition denied Jan. 7, 2019.

In re Sandra Rumanek, No. 19-op-1341 U.S. Court of Appeals for the Third Circuit, petition denied March 13, 2019. Rehearing denied May 1, 2019. Clerk's Order denying Rumanek's May 5 letter Motion to consider 19-op-1341 her appeal and commence the same, May 29, 2019.

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Appendix B *Sandra Rumanek v. Sherry Fallon et al.*, No. 19-2290, U.S. Court of Appeals for the Third Circuit. Order dismissing appeal, Feb. 11, 2020. Rehearing denied Feb. 26, 2020.

Appendix C *Sandra Rumanek v. Sherry Fallon et al.*, No. 17-00123, Order 92 dismissing defendant Sherry Fallon, Jan. 11, 2018.

Appendix D *Sandra Rumanek v. Sherry Fallon et al.*, No. 17-00123, Memorandum and Order to close case, Sept. 18, 2018.

Appendix E *Sandra Rumanek v. Independent School Management, Inc.*, No 12-00759, Doc. 219, Reply/Motion in Support of her Rule 60 Motion DI 205

Appendix F *Sandra Rumanek v. Sherry Fallon et al.*, No. 17-00123, Doc. 134, Motion to Accept Tenth Amended Complaint

Appendix G *Sandra Rumanek v. Sherry Fallon et al.*, No. 17-00123, Doc. 17-1, Second Amended Complaint, pgs. 31-38

Appendix H *Sandra Rumanek v. Sherry Fallon et al.*, No. 17-00123, Doc. 130, Amended Omnibus Motion and Brief...for acceptance of "Ninth Amended Complaint with added Defendants State of Delaware and United States of America and Constitutional Challenges for the Court's Certification"; and Doc. 126-1, Ninth Amended Complaint, pgs. 118-119

Appendix I *Sandra Rumanek v. Independent School Management, Inc.*, Court of Appeals for the Third Circuit, No. 14-1472, informal brief, filed July 30, 2014

Appendix I *Sandra Rumanek v. Independent School Management, Inc.*, No. 12-00759, Doc. 200-1, Amended Affidavit of Sandra S. Rumanek, filed Nov. 29, 2016

Citations

Rule of Law	pg. 8, 12
<u>Roche v. Evaporated Milk Assn.</u> , 319 U.S. 21, 26	pg. 9
<u>La Buy v. Howes Leather Co.</u> , 352 U.S. 249, 257	pg. 9
<u>Stump v. Sparkman</u> , 435 U.S. 349, 356	pg. 10
<u>Bradley v. Fisher</u> , 80 U.S. 335, 354	pg. 10
<u>Forrester v. White</u> , 484 U.S. 219, 225	pg. 10
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<u>Pierson v. Ray</u> , 386 547, 553	pg. 10
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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner Sandra Rumanek respectfully prays that a writ of certiorari issue to review the opinions and orders below.

The opinions and orders of the United States court of appeals appear at Appendices A and B to the petition and are unpublished.

The opinions and orders of the United States district court appear at Appendices C and D to the petition and are unpublished.

Jurisdiction

The dates on which the U.S. Court of Appeals dismissed Rumanek's appeals are Feb. 6, 2020 and Feb. 11, 2020. Rumanek's petitions for rehearing were denied on Feb. 25, 2020 and Feb. 26, 2020.

The jurisdiction of this Court is invoked under § 262 of the Judicial Code, 28 U.S.C. § 2101(e), 28 U.S. C. § 1251, 28 U.S.C. § 1651, 28 U.S.C. § 1361, and 28 U.S.C. § 455(a)(b)(1)(2)(4)(e).

Concise Statement of the Case:

A *concise* statement of this case is exceedingly difficult. Rumanek refers the Court to **Appendix D**, *Rumanek v. Fallon et al*, No. 1-17-00123 Memorandum and Order of Chief Judge Christopher Conner (MDPA), Docs. 139 and 140. And Rumanek summarizes the case with the following from her operative Tenth Amended Complaint in the matter, Doc. 135-1, at para. 248, pgs 121-122:

"The defendants' violations of Rumanek's First, Fifth, Eighth and Fourteenth amendment rights and her right to equal protection under the Title VII and ADA laws with the intent and/or result of obstruction of justice; directly and unjustly produced the loss of her Title VII and ADA retaliation case against her former employer ISM, directly and unjustly produced her monetary "award" of \$1 in Rumanek v. Coons and Theodore, directly and unjustly produced her loss in the appellate courts – and in the case of defendants Fallon, Butler, Holly, Culley, Cruikshank, Akhimien, Boyer, Cerino, Rhoades, Denn, Judge, O'Hare, Furman and Amatucci, and some or all of the other defendants, have attempted to do so in this matter.

"See 18 U.S.C. § 1961 et seq, sections 1503, 1512, 1513 §1983

"The defendants' unconstitutional acts against Rumanek for attempting to uphold her rights under [sic] laws and constitution of the United States, and their exploitations of and attempted exploitations of her cognitive disability in violation of her right to equal protection of the laws and her right to be free of cruel and unusual punishment have caused Rumanek extreme financial hardship, humiliation, embarrassment, and mental and physical suffering."

Final judgment has not been issued in *Rumanek v. Independent School Management, Inc. (ISM)* D. De. 1-12-00759, nor in *Rumanek v. Fallon et al*, D. De. 1-17-00123.

Judge Conner has not issued an order on Rumanek's Aug. 11, 2017 Motion, Doc. 219, in 1-12-00759, in which Rumanek incorporated 1-12-00759 with 1-17-00123 and

moved the Court to grant her Rule 60 motion.

See Appendix E: 1-12-00759, Doc. 219

Nor has Judge Conner issued an order on Doc. 134 in 1-17-00123, Rumanek's "Brief and Omnibus Motion in Opposition to Defendant Cruikshank's Motion to Dismiss DI 133 and anticipated Motion to Dismiss by Defendant John Cerino, and to accept Rumanek's Tenth Amended Complaint."

See Appendix F: 1-17-00123, Doc. 134; and Appendix D, last page

It is for this Court to decide the constitutional challenges Rumanek has raised.

Rumanek first challenged three Delaware statutes as unconstitutional in her 1-17-00123 Second Amended Complaint, Doc. 17-1, para. 231-233, alleging the State of Delaware and its Attorney General Matthew Denn have clothed Delaware judges "*with the power to annul or evade the civil rights Rumanek – and anyone who comes before its Courts – is provided under the U.S. Constitution by the secret use of Delaware Codes § 4101, § 4102 and the abuse allowed under § 561(d), as evidenced here. (id)*"

See Appendix G: 1-17-00123, Doc. 17-1, para. 203-237

The laws, as noted, were enacted by the Delaware legislature in 1953, and as Rumanek additionally alleges at para. 231 in her operative Tenth Amended

Complaint, she is not the only victim. The integrity of this Court's decisions is in question:

"Transcript tampering – as "allowed" and used under Delaware Codes § 4101 and 4101 and 561(d) – calls into question the validity of the appellate process in the Delaware State Courts and for those appealed in the Federal Courts, the validity of the appellate process in the U.S. Supreme Court as well.

"The statutes and the judges, other state actors and the Attorney General's use of them to secretly alter transcripts in order to prevent reversal of judgment and/or successful complaints of civil rights violations and/or successful appeals of civil and criminal verdicts and/or post-conviction remedies are unconstitutional by design. "Rumanek's transcript(s) were illegally altered with the intention of obstructing justice.

"Attorney General Matthew Denn is attempting to cover up the corrupt conspiracy and is a part of it. Denn's corrupt intention is the same as the other Defendants' in this matter – to obstruct justice. Rumanek is not the only victim.

"See 18 U.S.C. § 1961 et seq, sections 1503, 1512, 1513; 42 U.S.C. § 1983"

See docket 1-17-00123, Doc. 135-1 at para. 231

Rumanek added the United States and the State of Delaware as defendants in her 1-17-00123 Ninth Amended Complaint, Doc. 126-1, and stated the challenges presented as the questions in this petition, at pgs. 118-119 of the complaint:

"The Delaware statutes referenced herein are unconstitutional. The statutes are used by Delaware judges, lawyers, and prosecutors to deprive the civil rights of those they so choose.

"The law protecting judges from suit, or providing only limited damages, is unconstitutional. The three judges – at minimum – who have and are conspiring to deprive Rumanek's rights did so because, with counsels' cooperation, they stood little chance of being caught and because the law sets them apart. That is unconstitutional: It denies equal protection, equal rights for all citizens, under the law.

"The EEOC, knowingly and with callous disregard for Rumanek's protected status as a witness in a former colleague's racial discrimination complaint and her right to equal protection of the laws under the ADA and Title VII anti-retaliation statutes, did not uphold Rumanek's rights and file a complaint against ISM. The EEOC further violated Rumanek's rights to equal protection under the law.

"The U.S. Court of Appeals for the Third Circuit, knowing that Rumanek has a cognitive disability – showing that legal 'status' to Rumanek for the first time, in its opinion – did not provide her counsel. Did they expect Rumanek to understand that opinion and respond in a timely manner to prevent the deprivation of her right to equal protection of the laws? Or was that of no consequence. The Third Circuit Court violated Rumanek's right to equal protection of the laws.

"That Rumanek is 'here' now is something of a minor miracle.

"The justice system is horribly flawed: The people who can most easily violate the civil and equal protection rights of others, and get away with it, are the same people charged with protecting those civil rights, upholding them. Pro se in forma pauperis parties and parties who are cognitively disabled, like Rumanek, are most vulnerable. The justice system inadequately polices itself (id). The Courts effectively discriminate based on socioeconomic status. The Courts effectively discriminate based on cognitive ability. The Courts do not provide equal protection of the laws: That is unconstitutional."

Rumanek requested the district court certify the challenges – at pg. 8 in Doc. 130, Rumanek's Amended Omnibus Motion and Brief in support of acceptance of her Ninth Amended Complaint "with added Defendants State of Delaware and United States of America and Constitutional Challenges for the Court's Certification." The Ninth Amended Complaint and Omnibus Motion and Brief in Support were docketed March 26, 2018.

Judge Conner denied Rumanek's Motion.

See Appendix H: 1-17-00123, Doc. 130, and Doc. 126-1, pgs. 118-119; and see Appendix D, last page

The constitutional challenges are at pg. 127 of Rumanek's operative Tenth Amended Complaint, DI 135-1.

Rumanek first raised the issue of U.S. Magistrate Judge Sherry Fallon's violation of 28 U.S.C. § 455 in her appeal of Fallon's judgment in 1-12-00759; Third Circuit appeal No. 14-1472, informal brief at pgs. 31-32.

See Appendix I: *Rumanek v. Independent School Management, Inc.*, No. 14-1472 informal brief, docketed July 30, 2014

The Third Circuit's 15-pg. Opinion filed July 21, 2015 did not address it. Nor did it address the clear attorney misconduct and obstruction of justice by Fallon and counsel detailed throughout Rumanek's brief (*id.* (see docket)

The panel cited applicable law but did not issue a ruling based on the laws (*id.*).

Rumanek raised her cognitive disability in her informal brief. The Third Circuit 'acknowledged' it by referencing case law with the legal definition of cognitive disability.

The court did not appoint counsel for Rumanek.

Rumanek filed a petition for writ with this Court, 15-7000, and it was denied.

See Appendix J: 1-12-00759, Rumanek's Amended Affidavit, Doc. 200-1, filed Nov. 29, 2016, at pgs. 15-16

Reasons Why the Writ Should Issue:

"Rule of law is a principle under which all persons, institutions, and entities are accountable to laws that are:

- *Publicly promulgated*
- *Equally enforced*
- *Independently adjudicated*
- *And consistent with international human rights principles.*

"The courts play an integral role in maintaining the rule of law, particularly when they hear the grievances voiced by minority groups or by those who may hold minority opinions. Equality before the law is such an essential part of the American system of government that, when a majority, whether acting intentionally or unintentionally, infringes upon the rights of a minority, the Court may see fit to hear both sides of the controversy in court."

See <https://www.uscourts.gov/educational-resources/educational-activities/overview-rule-law>

Part of the Strategic Plan for the Federal Judiciary is to *"preserve and enhance its core values as the courts meet changing national and local needs."* Those core values are; rule of law, equal justice, judicial independence, accountability, excellence and service.

<https://www.uscourts.gov/statistics-reports/strategic-plan-federal-judiciary>

The laws pertaining to *Rumanek v. Fallon et al*, and *Rumanek v. Independent School Management, Inc.*, and *Rumanek v. Coons and Theodore*, Delaware Superior Court No. N11C-04-108 (2011)) are *"publicly promulgated."* They have not been *"equally enforced"* nor have they been *"independently adjudicated."* The decisions reached are neither *"reasoned"* nor were they *"made through publicly visible processes."* They are not *"based faithfully on the law."* Rumanek has most certainly

not been treated with "*dignity and respect*." Her cognitive disability has been exploited by the respondents in denial of her right to due process of law. There has been no "*accountability*." Thus, the process and outcomes of these matters, such as they are, are not "*consistent with international human rights principles*," nor the U.S. Constitution and laws pertaining thereto. Rumanek has unceasingly attempted to vindicate her civil rights and obtain justice in the courts. *id*

In *Roche v. Evaporated Milk Assn.*, the Court determined that a writ has traditionally been used "*to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.*" *Roche v. Evaporated Milk Assn.*, 319 U.S. 21, 26 – Supreme Court 1943

The Court has a duty to respond to Rumanek's constitutional challenges. The Court has a duty to uphold the U.S. Constitution, statutes and laws pertaining thereto.

In *La Buy v. Howes Leather Co.*, this Court reiterated that mandamus should issue when its Rules are violated.

"As this Court pointed out in *Los Angeles Brush Corp. V. James*, 272 U.S. 701, 706 (1927)'...[W]here the subject concerns the enforcement of the...[r]ules which by law it is the duty of this Court to formulate and put in force,' mandamus should issue to prevent such action thereunder so palpably improper as to place it beyond the scope of the rule invoked."

La Buy v. Howes Leather Co., 352 U.S. 249, 257 – Supreme Court 1957

These are such cases.

Rumanek questions whether it is "*a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, [should] be free to act upon his own convictions, without apprehension of personal consequences to himself.*" See Stump v. Sparkman, 435 U.S. 349, 356 – Supreme Court 1978

When the 'personal convictions' of judicial officers, as here, are to trample the rule of law, violate a party's inalienable civil rights and right to equal protection of the laws – there is no "proper administration of justice." It is a fraud on the Court. And it can be hidden. *id* Justice requires that "personal" liability should be assumed – and "equally enforced."

See also Bradley v. Fisher, 80 U.S. 335, 354 – Supreme Court 1872; Forrester v. White, 484 U.S. 219, 225 – Supreme Court 1988; ex parte Virginia, 100 U.S. 339 – Supreme Court 1880; Pierson v. Ray, 386 U.S. 547, 553 – Supreme Court 1967; Chambers v. Nasco, Inc., 501 U.S. 32, 44, 50 – Supreme Court 1991; Hazel-Atlas Glass Co. v. Hartford Empire Co., 322 U.S. 238, 246 – Supreme Court 1944

This Court receives approximately 8,000 petitions per year, about half from *pro se* appellants. The Court, admittedly, cannot address them all – despite the merits of some portion of the remaining 99%:

"The Court grants and hears argument in only about 1% of the cases that are filed each Term. The vast majority of petitions are simply denied by the Court without comment or explanation. The denial of a petition for a writ of certiorari signifies only that the Court has chosen not to accept the case for review and does not express the Court's view of the merits of the case."

<https://www.supremecourt.gov/casehand/guideforIFPcases2019.pdf>

Respectfully, it appears the cause of justice in the state and federal courts is not just falling through the cracks; it is falling into an abyss.

Would not the number of petitions to this Court and the Circuit courts be far smaller if judges and state actors in lower courts felt *compelled* to consistently adhere to the “rule of law” and the due process and equal protection rights of the parties that come before them. Would justice far more often prevail if judges were not answerable to a *lesser* degree and consequence than an employer, a prison guard, or a public official conspiring with private persons who deny a party’s constitutional rights.

See Smith v. Wade, 461 U.S.30, S. Ct. 1983; *Adickes v. SH Kress & Co.*, 398 U.S. 144, S. Ct. 1970. *See Appendix D; See Rumanek v. Fallon et al*, Tenth Amended Complaint and Exhibits.

In *Rochin v. California*, this Court notes that one of the three appellate judges below stated: “[T]he record in this case reveals a shocking series of violations of constitutional rights” and decisions of the California Supreme Court “have been looked upon by law enforcement officers as an encouragement, if not an invitation, to the commission of such lawless acts.” *Rochin v. California*, 342 U.S. 165, 167 – S. Ct. 1952.

This Court decided in favor of Rochin finding that the outcome of the case below had been “obtained by methods that offend the Due Process Clause.” *Rochin* at 174. The same is true here, in both the state and federal courts of Delaware.

without this Court's action.

Delaware is the "home of the vast majority of top U.S. companies, including more than two thirds of the Fortune 500 and 80 percent of all firms that go public," according to its Secretary of State, Jeffrey Bullock. And is thus the "worldwide leader in corporate jurisprudence." <https://corp.delaware.gov/stats/>

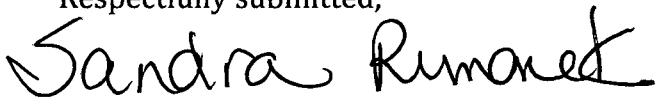
It is unclear to Rumanek whether these matters are intended to or can be "independently adjudicated" by the Third Circuit. On Oct. 1, 2018, less than two weeks after Chief Judge Christopher Conner, MDPA "closed" *Rumanek v. Fallon et al*, Third Circuit Chief Judge D. Brooks Smith issued a press release announcing Joseph R. Biden, former Delaware U.S. Senator (1972-2009), Vice President (2009-2017), now presidential candidate, was being honored with a first-ever award from the Third Circuit, named after him, for being a "*friend, supporter, and defender of an independent federal judiciary.*" The announcement states Biden's "*connections to the Third Circuit are broad and deep.*" As a Senator, former Senate Judiciary Committee chairman, and presiding officer of the Senate as VP, Biden "*had a role in the confirmation of 1,896 Article III judges, 166 of whom went on to serve the district courts and the court of appeals of the Third Circuit.*"

[https://www.ca3.uscourts.gov/sites/ca3/files/Biden Award News Release 10-1-18.pdf](https://www.ca3.uscourts.gov/sites/ca3/files/Biden%20Award%20News%20Release%2010-1-18.pdf)

The exceptional circumstances of these matters warrant the exercise of this Court's discretionary powers. Consideration by this Court is necessary to secure and maintain judicial adherence to the laws and Constitution of the United States, and this Court's Rules and decisions. Consideration by this Court is necessary to uphold the rights guaranteed under the United States Constitution.

Conclusion

The petition for a writ of certiorari should be granted.

Respectfully submitted,
 Date 