

No. _____

In The
Supreme Court of the United States

Sergei Vinkov,

Petitioner,

v.

Brotherhood Mutual Insurance Company, an Indiana
Corporation, United States District Court for the Central
District of California,

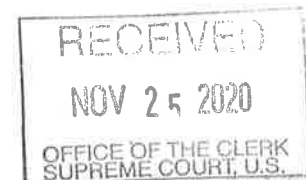
Respondents

**EMERGENCY APPLICATION
TO ASSOCIATE JUSTICE ELENA KAGAN
FOR A TEMPORARY STAY OF DISCOVERY AND TRIAL
IN CASE NO. 5:19-CV-01821 SB (SP), BROTHERHOOD MUTUAL
INSURANCE COMPANY, INDIANA CORPORATION VS SERGEI
VINKOV IN THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA
PENDING THE FILING AND DISPOSITION OF A PETITION
FOR A WRIT OF CERTIORARI**

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QUESTION PRESENTED

"Does US Const., amend. I preclude lower courts from adjudicating an insurer's claims and defenses against a volunteer director of a religious organization, which involve the issues of the internal governance of a religious organization?"

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INTRODUCTION

Pursuant to Sup. Ct. Rule 22, 23, 33.2 and the Order allotting the assignments between the members of this Court (Order List: 592 U.S., 11/20/2020), the Applicant Sergei Vinkov ("Vinkov") respectfully requests Associate Justice Hon. Elena Kagan for an emergency relief in the form of an ordered stay of discovery and trial in Case No. 5:19-cv-01821 SB (SP), Brotherhood Mutual Insurance Company, an Indiana Corporation ("Insurer") in the United States District Court for the Central District of California ("District Court") due to the filing and disposition of a petition for certiorari within this Court challenging the lawfulness of the denial of application for a qualified immunity and the application for the ecclesiastical abstention doctrine dated 07/07/2020 and authored by Hon. Judge Cormac J. Carney¹, a member of the US Government in its judicial branch. The Court of Appeal for 9th Circuit ("9th Circuit") rejected the mandatory and discretionary review of the lower court's usurpation of power.

The stay aims to support the US Constitution and the public confidence in the US judiciary; to secure the fairness of the judicial process and the due process clause, eliminate the burden of repetitive

¹ He was a presiding judge over the case, but during the pending appeal in the 9th Circuit the case was transferred to a new member of the US Government - Hon. Stanley Blumenfeld Jr. (PN1381-116: Stanley Blumenfeld, 09/15/2020 - Confirmed by the Senate by Yea-Nay Vote. 92 - 4. Record Vote Number: 172.); See also Order of the Chief Judge (#20-116) approved by Judge Philip S. Gutierrez dated 09/25/2020, creating calendar of Judge Stanley Blumenfeld, Jr. Judge Stanley Blumenfeld, Jr. did not tackle the merits of the case and did not opine on the decisions of his predecessors within the case.

Judge Cormac J. Carney, being a Harvard graduate, received a domestic and international spotlight due to publicly disclosing the absence of a college degree by his Executive Clerk Kory K. Gray during the public discussion of national protests over the killing of George Floyd in June 2020.

and multiplied actions in the courts of lower jurisdictions, protect Vinkov's constitutional rights and lawful remedies to immunity from a lawsuit; defend the national security of the USA and prevent judicial activism² and corrupted decisions in the lower courts.

RELATED PROCEEDINGS WITHIN THIS COURT

This Court has a pending petition directly related to this application, Docket No.: 20-506, Sergei Vinkov vs. Mark Smith, et al. Docketed October 16, 2020.

DECISIONS BELOW

1) The 9th Circuit denied Vinkov's requests for mandatory and discretionary interventions:

a) Dismissal of Appeal in Case No. 20-55687, "Brotherhood Mutual Insurance C v. Sergei Vinkov; dated 08/19/2020. Decision is not reported, but lodged in **App. 4**³.

b) Denial of Reconsideration of Dismissal of Appeal in Case No. 20-55687, "Brotherhood Mutual Insurance C v. Sergei Vinkov; dated 11/03/2020; Decision is not reported, but lodged in **App. 2**.

c) Ordered Filing of Petition in *Re Sergei Vinkov* Case No.: 20-73264, dated 11/03/2020, Decision is not reported, but lodged in **App. 3**.

d) Ordered Denial of Petition in *Re Sergei Vinkov* Case No.: 20-73264, dated 11/19/2020, Decision is not reported, but lodged in **App.**

² Elizabeth Slattery, June 13, 2013, How to Spot Judicial Activism: Three Recent Examples, the Heritage Foundation, available on: <https://www.heritage.org/the-constitution/report/how-spot-judicial-activism-three-recent-examples>

³ App. - Appendix.

1.

2) The District Court refused to comply with the US Constitution and US Supreme Court precedents in:

a) Denied Motion for Protective Order in Case No.: 5:19-cv-01821-CJC-SPx, Brotherhood Mutual Insurance Company v. Sergei Vinkov, dated 10/05/2020⁴; Decision is not reported, but lodged in **Exhibit G in App.7.**

b) Denied Motion for Judgment on the Pleadings in Case No.: 5:19-cv-01821-CJC-SPx, Brotherhood Mutual Insurance Company v. Sergei Vinkov; Decision is not reported, but lodged in **App. 5.**

JURISDICTION

The Applicant's nearest deadline to file petition for certiorari is April 2, 2021 and he meets requirements of Order List: 589 U.S. 3/19/2020; Sup. Ct. Rule 14.5 of this Court (a 150-day extended deadline runs from the denial of the timely filed Motion for Reconsideration on 11/03/2020 - **App.2.**). This Court has jurisdiction over the application under 28 USC §1254(1); 28 USC §1257(a)⁵; 28 USC §§ 2101(f).

Additionally, this Court has discretions "to aid ... respective jurisdictions and agreeable to the usages and principles of law." under 28 USC § 1651 (the All Writs Act is a controlling authority for cases,

⁴ Objections were timely filed on 10/09/2020. However, a new presiding judge Stanley Blumenfeld did not adopt the ruling of judge Sheri Pym yet. See **Exhibit H in App.7.**

⁵ Vinkov assumes that the US General Attorney needs to be served, because the lawfulness of the acts of the members of the US Government (judicial branch) are at issue.

when other remedies do not exist *Carlisle v. United States*, 517 U.S. at 416, 429 (1996)). A mandamus relief may appropriately be granted to correct errors beyond those falling within the "technical definition of jurisdiction," but also errors "amounting to a judicial usurpation of power" or a "clear abuse of discretion (*Cheney v. U.S. Dist. Ct.*, 542 U.S. 367, 381 (2004)).

LEGAL STANDARD

A stay during a pending petition for a writ of certiorari is warranted upon three grounds, which this Application satisfies:

- (1) "a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari";
- (2) "a fair prospect that a majority of the Court will conclude that the decision below was erroneous"; and
- (3) "a likelihood that irreparable harm will result from the denial of a stay." *Conkright v. Frommert*, 556 U.S. 1401, 1402 (2009).

CASE STATEMENT

The dispute is centered around the application of exclusionary clauses of an insurance contract. The Insurer alleges that Vinkov is not insured under the provisions of the insurance contract, Vinkov contends that he is insured and the Insurer wrongfully disclaims to defend the defamation lawsuit brought against Vinkov in the State of California jurisdiction during the insurance period (06/25/2016-06/25/2019) on behalf of the Church contractor, wherein Vinkov held a governing seat as a volunteer director. (See the pending petition is

No.: 2-506 in this Court). Thus, the case resolution involves constitutional provisions, federal and state statutes regulating the insurance business and numerous case laws assisting the adjudication statutory and common law claims (defenses).

The Case in District Court contains declaratory relief action regarding duty-to-defend coverage and tortuous counterclaim for bad faith and prompt payment (**App. 6**). The parties presented by the Applicant Vinkov - a foreign national (Russia) lawfully residing in the State of California and serving as a board director of Trinity Lutheran Church of Hemet, California (ECLA) in 2018-2019, and an Insurance Company from Indiana. The entire dispute is narrowed to resolve the pure legal question of law – the application of exclusionary clauses of the issued insurance contract, which the lower court denied determine under Fed. R. Civ. P. 12 standard. The three major doctrines (The Qualified Immunity; The Ecclesiastical Absentee; The Vagueness and Ambiguity) were used to attack the Insurer's pleadings (the complaint and its answer to the counterclaim), precluding the District Court entertain the Insurer's complaint and establish valid defenses to the counterclaim for bad faith and prompt payment claims. No party has raised a genuine dispute of a material fact that would require a trial. However, the Judge Hon. Carney demonstrated judicial activism, stating that the insured's denial to settle the case undermines the bad claims against the insurer (**App. 5 in Dkt 75 at**

5:12-18). This statement was not supported by any binding or persuasive authorities. Vinkov's further legal research has not discovered the laws, supporting such legal conclusion and he immediately initiated the procedures of an appellate intervention to correct the decision of the lower court. Moreover, Judge Carney demonstrated interferences of his judicial duties with legislature functions (he was appointed for his office to adjudicate, not legislate; any act taken by government officials which alters the form of government other by amendment may fall in description of 5 USC §7311), he neglected numerous constitutional provisions, binding authorities from his analysis to save the case from dismissal (App. 5) ⁶. Accordingly, the further proceedings reveal a threat and vulnerability to the US Government and US national security here⁷. (App. 1-4).

OUTLINE OF ANTICIPATED PETITION

The upcoming petition will rely on the invitation of supervisory discretions of this Court; the necessity to settle the open question of law and establish the unity on inter-Circuits practice in the application of constitutional provisions to insurance contracts and

⁶ Judge Carney demonstrated a similar judicial activism in case 07/06/20 (Case No.: 5:20-cv-01070-CJC-SPx, Mark Smith et al v. Sergei Daniel Vinkov et al., remanded), where the cert deadline was January 10, 2020 (9th Circuit *sua sponte* dismissed Vinkov's appeal (Case No. 20-55778, "Mark Smith, et al v. Sergei Vinkov" 08/19/20). It appears Vinkov physically cannot conduct the necessary research, draft and write the third petition for this Court. Judge Carney declined to apply a 30-day window to remove from the state to the federal jurisdiction and determine the supplemental jurisdiction.

⁷ Michael Berens John Shiffman In Montgomery, Alabama, Thousands of U.S. judges who broke laws or oaths remained on the bench, June 30, 2020, Reuters Investigates, available <https://www.reuters.com/investigates/special-report/usa-judges-misconduct/>.

protect the US Constitution from the unconstitutional pattern of conduct by lower courts.

The current application requests protection from discovery and trial due to the wrongdoings of the District Court overcoming its discretions by retaining a subject-matter jurisdiction (The complaint seeking the declaratory relief must involve a controversy that is substantial and concrete (*Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227, at 240-41 (1937))), failing to apply a qualified immunity (Volunteer Protection Act (VPA) of 1997 (42 USC §14503(a)(1)), which may operate as a jurisdictional bar, and failing to examine properly the pleadings allowing the case to move forward. Moreover, the Applicant is surprised that the 9th Circuit in this Union allows its judicial officers to practice an unconstitutional pattern of conduct (App. 1-4), demonstrate disobedience to the US Supreme Court Precedents (the order denying dismissal based on the immunity from a lawsuit is immediately appealable under the collateral order doctrine, See *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985); *Gillespie v. U.S. Steel Corp.*, 379 U.S. 148, 149-50 (1964))⁸ and its own precedents; as well as disregard the Acts of the US Congress and the US Constitution (US Const., art. VI and 28 USC §453 , 28 USC §1291; 28 USC §2201; Orders having effects as a preliminary injunction is appealable - *East Bay Covenant v. Trump*, 932 F.3d 742

⁸ Vinkov assets protections from lawsuit under 42 U.S.C. § 14501 et seq - Volunteer Protection Act; and the ecclesiastical abstention doctrine rooted in the First Amendment (*Watson v. Jones*, 80 U.S. 679 (1871)). The pleadings did not frame any violations of civil or criminal laws precluding the application of immunity. (App.6).

(9th Cir. 2018)).⁹

It is well-settled that the lower court maintains inherent authority to correct its own errors *sua sponte*. It is well-settled that "courts "should" correct a forfeited plain error that affects substantial rights" *Rosales-Mireles v. United States*, 138 S. Ct. 1897, 201 L.Ed.2d 376 (2018) (quoting *United States v. Olano*, 507 U.S. 725, 735 (1993)), the lower courts (9th Circuit and District Court) did not exercise its discretions to do so, but only multiplied their wrongdoings. It appears that the judicial officers in the US Government misuse absolute judicial immunity as a free pass for the egregious judicial misconduct. Moreover, until this day the US Supreme Court has not established the legal standard allowing the circumvention of the absolute immunity in judicial performance in lower court involving corrupted decisions, obvious non-compliance with binding authorities, the violation of the judicial oath to support the US Constitution (28 USC §453; 5 USC §7311(1)) and other doubtful high-intellectual activities not detectable by the members of public without the legal education and without a profound legal research and analysis.

The Motion for Judgment on the Pleadings absorbed a wide range of grounds of reviewability by the court of a higher jurisdiction (writ, appeal, certified appeal). However, all judicial officers abandoned their duties and oath (5 USC § 3331), demonstratively rejected to follow the binding authorities its 9th Circuit and the US Supreme

Court (App. 1-10), causing the necessity to seek the intervention of this court to enforce the rule of law within the lower courts.

REASONS TO GRANT STAY

1. Lower Courts Did not Grant a Stay of Discovery During the Challenge of Denied Qualified Immunity and Application of the Ecclesiastical Abstention Doctrine

The Motion for Judgment on the Pleadings operates as a motion to dismiss. The denied Motion is still being challenged by the aggrieved party Vinkov within this court. Thus, the final resolution of motion to dismiss the case has not been reached yet. Persuasive authorities favor to stay, See *Johnson v. New York Univ. School of Educ.*, 205 F.R.D. 433, 434 (S.D.N.Y. 2002) (granting motion to stay discovery until resolution of motion to dismiss). However, the request for a protective order (a temporary stay and the extension of the timeline for discovery) was declined by District Court during the pending appeal (App. 7), and a stay of discovery was not supported by the 9th Circuit, although having authorities allowing to do so (for example,); *Rivera v. Nibco, Inc.*, 364 F.3d 1057, 1065 (9th Cir. 2004) is holding that the issuance of a protective order for good cause may be necessary to protect the rights of persons to resort to the courts for redress of grievance.)

The general purpose of Fed. R. Civ. P. 26(c)(1)(H) is to protect the parties from fraud and to prevent one party from acquiring an unfair advantage over the other. This can sometimes be achieved by a

simultaneous exchange of sensitive information so that neither party is privy to the other party's information first. *Friction Div. Pro. v. E.I. DuPont de Nemours*, 658 F. Supp. 998, 1003 (D. Del. 1987) (citations omitted).

Therefore, the participation in discovery is not practicable and impossible for *Pro Se* Party without a legal degree and involved in disputes in numerous jurisdictions. The *Pro Se* party physically cannot handle multiple proceedings simultaneously without missing deadlines and conducting a comprehensive legal research to articulate legal points in the proceedings in which he was involved against his will.

**2. Judicial Officers of Lower Courts had Conspicuously
Disregarded Governing US Supreme Court Precedents
and Rejected to Comply with US Constitution¹⁰**

This application requests to pay attention to the numerous acts of disobedience to the US Constitution, binding authorities and ethical canons on the part of a judicial officer. The attachments to this petition may be briefly summarized as follows:

Judge Cormac Carney's performance demonstrated a willful disobedience to the US Constitution (Case and Controversy Clause, Establishment and Religious clause, Due Process Clause); federal laws (Declaratory Relief Act (28 USC § 2201), Volunteer Protection Act (42 USC §14503(a)(1)), Judicial Oath (28 USC § 453)); binding

¹⁰ The words limits preclude to produce the full list of violations within the main body of this Application. Special exhibits may be prepared in reply to the response if the Court orders the response.

precedents of 9th Circuit (**App. 5-6; 10**); mandatory precedents of the US Supreme Court (*Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Pacific Mut. Life Ins. Co. v. Haslip* (1991) 499 U.S. 1, 19 [113 L. Ed. 2d 1, 20-21, 111 S. Ct. 1032]) and Fed. R. Civ. P. 12.

Associate Justices Barry G. Silverman, Margaret McKeown and Daniel Bress (**App. 2; 4; 8-10**) willfully failed to follow the Acts of Congress (28 USC §1292(a)(1); 28 USC §1291), binding authorities of the US Supreme Court (See cases on collateral order doctrine - *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 106 (2009)) and the 9th Circuit precedents (Orders having effects as a preliminary injunction are appealable - *East Bay Covenant v. Trump*, 932 F.3d 742 (9th Cir. 2018);) and forfeited the judicial oath to support the US Constitution (28 USC §453).

**3. Pro Se Litigant Does not Have any Other Legal Options
to Resist the Decisions of the Judicial Officers
Conflicting with the Law of this Nation Without
Intervention of This Court**

This Court intervention is necessary to terminate and prevent the corruption among judicial officers of lower courts. The corruption by judicial officers may be determined as receiving payments from the national budget for producing decisions directly conflicting with the established laws (Acts of the Congress and Case laws of the US Supreme Court). The records of the 9th Circuit and District Court

evidence that at least 6 members of the US Government issued decisions based on their compliance with the US Constitutions and binding authorities raised from its interpretation. The governmental websites state that all judicial officers who produced the unlawful decisions are still members of the US Government in its judicial branch and still receive the funding from the US national budget.

There are no congressional acts ¹¹ which legitimate the governmental payment for producing decisions conflicting the established law enacted by any branch of the US Government. Therefore, the receipt of payment for the activities which they were not entitled to perform and which may fall within the description of corruption under 18 USC §1951(b)(2)("extortion") are unjustified. The wrongful acts of lower court officers deprive Vinkov of his financial resources and unreasonably force him to handle an improper lawsuit in the US Government, artificially creating workload for their dockets; See more in *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir.2001) - courts are not required to make "unreasonable inferences" or "unwarranted deductions of fact" to save a complaint

¹¹ This statement is based on open sources of distribution of US legislature. Vinkov is not authorized to access the Classified Legislation of US Government, subsequently he is not capable to reach an opposing point. Moreover, Vinkov has not find his name in the openly available lists of enemies of US Government. Vinkov's country of origin is still be a leader in the lists of enemies of USA in accordance to the public opinion of Americans (2019 year is an extreme spike among US population considering Russia as top enemy for USA, See more Rj Reinhart, February 27, 2019, Far Fewer Americans See North Korea as Greatest U.S. Enemy, Official Website of Gallup, Inc. available on <https://news.gallup.com/poll/247151/far-fewer-americans-north-korea-greatest-enemy.aspx>). It may partially explain the prejudicial conduct of judicial officers in the lower courts toward Vinkov as a Russian immigrant, because the judges are not only the members of US Government, but and members of American society has their own views on the litigant's character and struggles to restrains their own views and prejudices.

from a motion to dismiss). The official duty includes the compliances with the judicial oath (US Const., art. VI and 28 USC §453 ; *Patrick O. Gudridge*, *The Office of the Oath*, 20 Const. Comment. 387 (2003); *Edward J. Melvin, C.M.* (1982) "Judicial Activism - The Violation of an Oath," *The Catholic Lawyer*: Vol. 27 : No. 4 , Article 3.), the compliance with which they failed to demonstrate (App. 1-10).

Moreover, the lower courts are not eligible to opine on the judicial officer's decisions of a higher jurisdiction, and the executive branch does not have a legal standard to apply a preventive and remedial procedure to resist corrupted decisions.

Accordingly, creating unique circumstances, this case warrants the immediate intervention of the US Supreme Court to preserve the public confidence in the US Judiciary and prevent further offences to the US Constitution and this Constitutional Republic by the acts of members of its Government.

4. Upcoming Petition has a Probability to be Granted and Vinkov Has Chances to Prevail in the Cert. Proceedings

The judicial profiles of the current judgeship of this Court suggest that its majority is capable to establish the landmark decision relying on the triangulating analysis from academic, governmental and private law practice perspectives. Unlike the judges of lower courts bound by the acts of the Congress (28 USC §1292(a)(1); 28 USC §1291), the interventions of this Court is a pure discretionary remedy (In *National Football League v. Ninth Inning, Inc.* 592 U. S. ____

(2020) Justice Kavanaugh, respecting denial, clarified: "the denial of certiorari should not necessarily be viewed as agreement with the legal analysis of the Court of Appeals"; *Davis v. Ermold* 592 U. S. ____ at 4 (2020) - the problem created by SCOTUS is fixable only by its own decision). Accordingly, Vinkov fully depends on the will of the current generation of this Court, because only God's will is higher in this Constitutional Republic.

Objectively thinking, the probability to receive a granted review of the petition is quite low (See Chief Justice's Year-End Reports on the Federal Judiciary, 2019 Year-End Report¹²). Moreover, this Court does not have its own agency (army) to enforce its decisions in lower courts, and cannot intervene with every case passed with violations of the US Constitution and federal laws¹³. However, Vinkov's petition has chances to be reviewed because it has a synergetic effect for the entire nation:

a) it can activate a supervisory power of this Court and discretions to protect the US Constitution against unconstitutional acts of lower courts (for example, the application of a Supreme Court precedent is mandatory for all judges of lower courts, regardless of

¹² 73 [total cases argued in 2018 term] / 6,442 [total cases filed in 2018 term] = 0.01. See on: <https://www.supremecourt.gov/publicinfo/year-end/2019year-endreport.pdf>.

¹³ Addressing these issues to Grand Jury, Federal Bureau of Investigation and Judicial Ethics Committees are futile, because they do not have a legal standard to investigate the allegations regarding non-tangible things like violations of the judicial oath and non-compliance with decisions of this Court without formal documents confirmed by this Court. At the same time, lower court judges are not allowed to opine on the decisions of the judges from higher jurisdictions, even though they might not have followed the US Constitution and records might reveal the violations of the required principle of judiciary. Thus, only the decision from this Court may resolve this vicious circle of injustice within this Union.

their own feelings and views See, e.g., *Bosse v. Oklahoma*, 137 S. Ct. 1, 2 (2016)). The well-known and long-running decision *Marbury v. Madison*, 5 U.S. 137, 138 (1803) (Government's act is entirely void, if it conflicts with US Constitutions) does not clearly expand on the avoidance of unconstitutional acts produced by other branches of the US Government (executive and judicial) and for the purposes to preserve the design of this Constitutional Republic, the intervention of this Court is necessary.

b) it can resolve the accumulated controversies in the decisions of this Court (for example, the determination of the doctrine of the qualified immunity as a jurisdictional bar or affirmative defense, See a conflict within the decisions of this Court: Qualified immunity is "an immunity from suit..." *Mitchell v. Forsyth*, 472 U.S. 511, 526, 105 S.Ct. 2806, 86 L.Ed.2d 411 (1985); but in *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982) - "from liability".);

b) it can settle open questions of law and eliminate many inconsistencies in the manner in which lower courts apply the ecclesiastical abstention doctrine to foreign members of American religious organizations;

c) it can clarify the statutory and constitutional protections for foreign nationals in this Union (US Const., amend. I, 42 USC §14503(a)(1);

d) it can provide a legal standard for accountability of judicial

officers of lower court to preserve the constitutionality of the US Government and its national security to prevent the judicial activism within the judicial branch of the US Government¹⁴.

Despite the fact that the review is a solely discretionary vehicle to settle conflicts in the law and split between courts, the absence of review will unfairly prejudice American people to wait for another decade (like segregations issues - *Brown v. Bd. of Educ.* - 347 U.S. 483, 74 S. Ct. 686 (1954) overruled *Plessy v. Ferguson* - 163 U.S. 537, 16 S. Ct. 1138 (1896)) for another generation of justices to resolve the controversies which periodically appear before this court, or for a foreign national to be able to articulate the issues before this Court again.

**5. Vinkov is Already Suffering Harm from Wrongdoings of
Lower Courts and This Court has Discretion at Least
Temporary to Terminate These Harms Until the Final
Disposition of the Cert. Proceedings**

The lower courts repeatedly violated Vinkov's constitutional freedoms and rights (US Const., amend. XIV; US Const., amend. V; US Const., amend. I; *Bridges v. Wixon*, 326 U.S. 135 (1945) - non-citizens living in the US are entitled to free speech protection and due process - *Ferreras v. Ashcroft*, 160 F. Supp. 2d 617, 629 (S.D.N.Y. 2001)).

¹⁴ *Smith, Michael T.* The Enemy Within: Fears of Corruption in the Civil War North (a Nation Divided: Studies in the Civil War Era). University Press of Virginia, 2011. Print.- quote: " Republican U.S. senator John P. Hale [date of service 07/30/ 1855- /03/03/1865] announced on the floor of Congress that "the liberties of this country are in greater danger today from corruptions, and from the profligacy practiced in the various departments of the Government, than they are from the enemy in the open field." "

The violation of constitutional freedoms is a sufficient proof of irreparable harms. The continuous wrongdoings of the lower courts will not be separately reviewable if the case is dismissed at early stages of the litigation, and offences of the US Constitution by judicial officers of lower courts will not be redressed.

6. Vinkov Will be Prejudiced by the Lack of Stay and

Respondents will not Suffer Irreparable Harms

The Respondents are presented by the Insurer, a private corporation, which initiated the lawsuit, and US agencies allowing a suit with the violation of the US Constitution and federal laws. There is no prejudice for the Respondents from staying discovery during the pending challenge of lawfulness of decisions of the lower courts under the anticipated Petition.

The Applicant Vinkov is already suffering prejudice from the acts of the judicial officers of lower courts, who refused to follow the decisions of the courts of a higher jurisdiction, comply with the due process clause ("[T]he right to procedural due process is "absolute". *Carey v. Piphus*, 435 U.S. 247, 259, 266 (1978)) and failed to adhere to the rule of law (US Const., amend. XIV). Moreover, the improper decisions of the lower courts put at risk an immigration status of Vinkov, and it is still unknown how many financial resources will be necessary to reach justice. Vinkov faces a risk of violation of the lower court orders and deadlines without a stay (Trial Set on 07/06/2021).

Vinkov is also substantially prejudiced to maintain several actions simultaneously in different jurisdictions without holding any legal degree and while using English as a second language. Vinkov needs additional time and a temporary stay relief to conduct additional research to present the review of the inter-Circuits practice with analogous or closely related circumstances. Due to the COVID-19 restrictions imposed by the California Government, most nearly located law libraries are not available for visits (Riverside, Temecula, San Diego). The remote accesses to the electronic subscription to legal databases do not provide useful and highly valuable secondary material (for example, New Appleman on Insurance Law Library Edition; Publisher: LexisNexis).

CONCLUSION

Based on the foregoing, the Court should order a stay of discovery in the lower court until the final disposition of petition for certiorari.

Respectfully submitted,

Sergei Vinkov

Pro Se



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November 25, 2020

APPENIDICES

Appendinx 1

Case: 20-73264, 11/19/2020, ID: 11898916, DktEntry: 8, Page 1 of 1

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 19 2020

In re: SERGEI VINKOV.

No. 20-73264

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

SERGEI VINKOV,

Petitioner,

D.C. No.

5:19-cv-01821-CJC-SP

Central District of California,
Riverside

v.

ORDER

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF
CALIFORNIA, RIVERSIDE,

Respondent,

BROTHERHOOD MUTUAL INSURANCE
COMPANY, an Indiana corporation,

Real Party in Interest.

Before: CLIFTON, IKUTA, and LEE, Circuit Judges.

Petitioner has not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition, as amended, is denied.

Petitioner's motion for a stay of discovery (Docket Entry Nos. 2 and 3) is denied as moot.

No further filings will be accepted in this closed case.

DENIED.

No. 20 - _____

No. _____

In The
Supreme Court of the United States

Sergei Vinkov,

Petitioner,

v.

Brotherhood Mutual Insurance Company, an Indiana
Corporation, United States District Court for the Central
District of California,

Respondents

I, Kenneth Hastings, at the time of service, was over 18 years of age and not a party to this action. My address of business is Hastings Legal Services LLC, 41715 Enterprise Cir. N. Suite 208, TEMECULA, Riverside County, CA 92590, Phone 951-296-2669, (<https://www.hastingsls.com/>), which is located in the county where the service described below took place. My electronic address is: ken@hastingsls.com.

I do swear or declare that on this date, November 25, 2020, as required by US Supreme Court Rule 29 I have served the enclosed paper copies and an electronic version of the documents:

(i) EMERGENCY APPLICATION TO ASSOCIATE JUSTICE ELENA KAGAN FOR A TEMPORARY STAY OF DISCOVERY AND TRIAL IN CASE NO. 5:19-CV-01821 SB (SP), BROTHERHOOD MUTUAL INSURANCE COMPANY, INDIANA CORPORATION VS SERGEI VINKOV IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA PENDING THE FILING AND DISPOSITION OF A PETITION FOR A WRIT OF CERTIORARI;

(ii) PROOF OF SERVICE (not executed)

on parties' counsels, and on every other person required to be served, by depositing an envelope containing the above documents in the United States Postal Service by first-class mail (including express or priority mail), postage prepaid. The names and addresses of those served are as follows:

(i) Jeffrey B. Wall, Acting Solicitor General of United States, and William P. Barr, Attorney General of the United States Department of Justice, 950 Pennsylvania Avenue, NW Washington, DC 20530-0001, Phone: 202-514-2217, email: SupremeCtBriefs@USDOJ.gov

(ii) Brotherhood Mutual Insurance Company, an Indiana corporation, c/a attorneys from Daley and Heft LLP, 462 Stevens Avenue Suite 201,

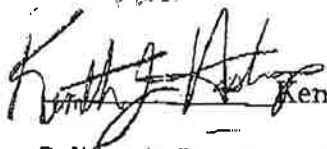
Solana Beach, CA 92075, Phone: (858) 755-5666

1. David Phillip Berman dberman@daleyheft.com,
jwelle@daleyheft.com
2. Lee H Roistacher lroistacher@daleyheft.com,
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pcartwright@daleyheft.com
3. Robert W Brockman , Jr rbrockman@daleyheft.com,
hgrady@daleyheft.com

(iii) Honorable STANLEY BLUMENFELD JR., First Street
Courthouse, 350 W. 1st Street, Courtroom 6C, 6th Floor, Los Angeles,
California 90012, c/o Courtroom Clerk Victor Paul Cruz
victor_cruz@cacd.uscourts.gov

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 25, 2020


Kenneth Hastings,
California Registered Process Server