

**AMENDED ALD-148

April 22, 2021

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **21-1317**

SANDRA HARMON, Petitioner

VS.

DEPARTMENT OF FINANCE, Sussex Co, Delaware, et al.

(D. Del. Civ. No. 1-18-cv-01021)

Present: MCKEE, GREENAWAY, JR. and BIBAS, Circuit Judges

Submitted are:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect, for determination under 28 U.S.C. Section 1915(e)(2), or for summary action under Third Circuit L.A.R. 27.4 and I.O.P. 10.6.;
- (2) Appellant's Motion for Appointment of Counsel;
- (3) Appellees' Motion to Dismiss the Appeal for Lack of Jurisdiction;
- (4) Appellant's Response to Motion to Dismiss;
- (5) Appellant's argument in support of the appeal;
- (6) Appellant's Response to Court's March 2, 2021 letter advising of possible dismissal;
- (7) Appellees' Response to Court's March 2, 2021 letter advising of possible dismissal;
- (8) Appellees' Supplemental Response to Court's March 2, 2021 letter advising of possible dismissal;
- (9) Appellant's Letter Marked Urgent dated 03/11/2021 with Exhibit in Reply to Appellee's Response;

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- (10) Appellant's Letter Marked Urgent dated 03/11/2021 labeled Corrected in Reply to Appellees;
- (11) Appellant's Reply to Response by Appellees to Legal Division Letter;
- (12) Supplement to Appellant's Reply to Appellees' Response to Letter advising of Possible Jurisdictional Defect;
- (13) Appellant's Emergency Motion for Ex Parte Interim Relief While Appeal is Pending;
- (14) Appellant's "Motion to add my Children and Sisters below to this case as Appellants & Complaintants upon my death due to my recent CT scan results showing cancer in both my colon and lungs or the immediate appointment of counsel to protect me & my children interest in my private property", filed April 19, 2021

****(15) Appellees' response in opposition thereto, filed April 22, 2021; and**

****(16) Appellant's reply, filed April 22, 2021**

in the above-captioned case.

Respectfully,

Clerk

ORDER

The Appellees' motion to dismiss for lack of appellate jurisdiction is granted. The jurisdiction of federal courts of appeal generally is limited to review of "final decisions of the district courts of the United States." 28 U.S.C. § 1291. "A 'final decision' is 'one which ends the litigation on the merits and leaves nothing for the court to do but execute

the judgment.”” Weber v. McGrogan, 939 F.3d 232, 236 (3d Cir. 2019) (citation omitted). As the District Court decision *denied* the Defendants’ motion to dismiss, it did not finally resolve the merits of the case. Nor is the order appealable under the collateral order doctrine, see Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 546 (1949), as the order does not meet the criteria for application of that doctrine. See Blaylock v. City of Philadelphia, 504 F.3d 405, 408 (3d Cir. 2007) (explaining that “an interlocutory order of a district court may be treated as a ‘final decision’ [under § 1291] if it: ‘(1) conclusively determine[s] the disputed question, (2) resolve[s] an important issue completely separate from the merits of the action, and (3) [is] effectively unreviewable on appeal from a final judgment.’” (citation omitted)). If Harmon is aggrieved by the District Court’s order, she may appeal that order at the end of the litigation. Harmon argues that the District Court’s February 2, 2021 order was final, because the docket was mistakenly marked “closed” afterward. But “an administrative closure . . . has no jurisdictional significance” and “does not result in a final order.” See Penn W. Assocs., Inc. v. Cohen, 371 F.3d 118, 128 (3d Cir. 2004) (internal citations and quotation marks omitted). Harmon’s motions for appointment of counsel, for emergency relief pending the appeal, and her motion to add her children and sisters to the appeal, are denied.

By the Court,

s/Joseph A. Greenaway, Jr.
Circuit Judge

Dated: 9 June 2021

AWI/CC: SH
KJC
WFK



A True Copy:



Patricia S. Dodsweit, Clerk
Certified Order Issued in Lieu of Mandate

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SANDRA HARMON, :
: Plaintiff, :
: v. : Civil Action No. 18-1021-RGA
: DEPARTMENT OF FINANCE, Sussex :
: County, Delaware, et al., :
: Defendants. :
:

ORDER

At Wilmington this 1st day of February, 2021, consistent with the memorandum
opinion issued this date,

IT IS HEREBY ORDERED that:

1. Defendants' motion to dismiss (D.I. 7) is **DENIED**.
2. Plaintiff's motion for summary judgment (D.I. 13) remains **DISMISSED**.

/s/ Richard G. Andrews
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SANDRA HARMON, :
: Plaintiff, :
: v. : Civil Action No. 18-1021-RGA
: DEPARTMENT OF FINANCE, Sussex :
: County, Delaware, et al., :
: Defendants. :

Sandra Harmon, Hartsville, South Carolina. Pro Se Plaintiff.

Kevin J. Connors, Esquire, and Artemio C. Aranilla, II, Esquire, Marshall, Dennehey, Warner, Coleman & Goggin, Wilmington, Delaware. Counsel for Defendants.

MEMORANDUM OPINION

February 1, 2021
Wilmington, Delaware

/s/ Richard G. Andrews
ANDREWS, U.S. District Judge:

Plaintiff Sandra Harmon appears *pro se*. She commenced this lawsuit on July 11, 2018, under 42 U.S.C. § 1983, alleging Defendants had violated her constitutional rights. (D.I. 1).

I. BACKGROUND

As described by the United States Court of Appeals for the Third Circuit, Harmon owned real property in Rehoboth Beach, Delaware. In January 2018, Sussex County commenced a monition action against Harmon to collect delinquent sewer and water bills and costs incurred when it demolished her fire-damaged home. Harmon claims that she paid the sewer and water bills, but that Sussex County and the individual defendants never consulted with her about the demolition costs, failed to give her notice of the monition action, charged excessively high interest on the demolition costs, and sold the property at a sheriff's sale without providing her with a reasonable time to pay the outstanding costs.

(D.I. 41-1 at 2).

On October 30, 2017, prior to the commencement of this action, Plaintiff filed a lawsuit alleging violations of her rights under the First and Fourteenth Amendments to peaceful enjoyment of the Rehoboth Beach property and unlawful tactics by Sussex County government officials. *Harmon v. Sussex Cty.*, Civ. No. 17-1917-RGA (D. Del.). On September 12, 2019, the Court granted Defendants' motion for summary judgment in Civ. No. 17-1917-RGA, and found that there was no evidence of record: (1) to support a plausible inference of selective enforcement of the laws and no evidence that Plaintiff was treated differently from similarly situated individuals; (2) that Plaintiff's substantive and procedural due process rights were violated with regard to the sale of the

Rehoboth Beach property; (3) to support Plaintiff's allegations of a conspiracy to deprive African Americans of their beach property; and (4) that Defendants interfered with the use of the Rehoboth Beach property. (*Id.* at D.I. 76, 77). Plaintiff appealed, and the United States Court of Appeals for the Third Circuit affirmed the decision on April 8, 2020. (*Id.* at D.I. 90).

On January 12, 2018, also before this action was commenced, the Sussex County Department of Finance filed a monition action against Plaintiff and the other owners of the Rehoboth Beach property for delinquent sewer and water bills and the demolition lien. *Department of Finance of Sussex County v. Harmon Heirs*, Civ. A. No. S18T-01-002 (Del. Super.) at BL-1.¹ On June 8, 2018, Plaintiff filed a motion to dismiss and motion for injunctive relief in the monition action and asserted violations of her constitutional rights. *Id.* at BL-10. Plaintiff sought dismissal on the grounds that Defendants violated her right to due process, there was a dispute over the water and sewer bills, and the county had made no attempt to arrange for payment of demolition costs. *Id.* On June 18, 2018, the Superior Court denied the motion and ordered that the sale could proceed as scheduled on June 19, 2018. *Id.* at BL-28. The Superior Court advised Plaintiff that she could file an objection to the sale should she elect to do so. *Id.* The Rehoboth Beach property was subsequently sold at the sheriff's sale.

¹ The Court has access to the Superior Court docket via Bloomberg Law. "BL" is how Bloomberg Law refers to docket entries.

Plaintiff filed this action pursuant to 42 U.S.C. 1983 on July 11, 2018.

(D.I. 1). In the instant case, Plaintiff alleges Defendants violated her right to due process and equal protection by “engaging in arbitrary conduct with respect to the selling of [her] property at Sheriff’s Sale on June 19, 2018.” (D.I. 1 at 2). She alleges the property was unlawfully sold and the conduct of Defendant Jason Adkins - counsel for the “Sussex County Administration” -- was discriminatory, racist, and violates RICO. (*Id.* at 2-4).

On August 10, 2019, the Court granted Defendants’ motion to dismiss on the grounds of abstention under *Younger v. Harris*, 401 U.S. 37 (1971). (D.I. 23, 24). Plaintiff appealed and the Court of Appeals vacated the judgment due to the Court’s analysis’s relying on an outdated understanding of *Younger*. (See D.I. 41-1). The Court of Appeals expressed no opinion about whether abstention was appropriate, whether Plaintiff’s claims have merit, or whether Defendants have other meritorious defenses. (*Id.* at 4).

The Court now revisits Defendants’ motion to dismiss and Plaintiff’s motion for summary judgment. (D.I. 7, 13). Defendants move to dismiss on the grounds that the Court must abstain under the *Younger* abstention doctrine because there remains pending an underlying matter in Delaware State Court that continues to be actively litigated on identical or related issues. (D.I. 7). Plaintiff’s opposition to the motion does not address the *Younger* abstention doctrine other than to state that it is clearly inapplicable. Instead, she asks the Court to explore the “unclean hands theory” and the “continuing violation theory.” (D.I. 8). The Court takes judicial notice that the

Superior Court case remains pending and is awaiting resolution. *See Department of Finance of Sussex Cty. v. Harmon Heirs*, Civ. A. No. S18T-01-002 at BL-67 (Del. Super. June 12, 2020).

II. **LEGAL STANDARDS**

“Younger abstention is not analyzed under either Rule 12(b)(1) or 12(b)(6).” *See Knox v. Union Twp. Bd. of Educ.*, 2015 WL 769930, at *5 n.7 (D.N.J. Feb. 23, 2015). “Dismissal on abstention grounds without retention of jurisdiction is in the nature of a dismissal under Fed. R. Civ. P. 12(b)(6).” *Gwynedd Properties, Inc. v. Lower Gwynedd Twp.*, 970 F.2d 1195, 1206 n.18 (3d Cir. 1992). Thus, “matters outside of the pleadings are not to be considered.” *Knox*, 2015 WL 769930, at *5 n.7. The Court, however, may take judicial notice of court documents. *Gwynedd Properties*, 970 F.2d at 1206 n.18

III. **DISCUSSION**

A. Younger Abstention

Defendants argue that the Court must abstain because there is a matter that continues to be actively litigated in State Court on identical or related issues. Defendants compare the Complaint in this action, which asserts violations of Plaintiff’s constitutional rights, to her motion to dismiss in the monition action, which also asserts violations of her constitutional rights pertaining to the sale of the same property. (See D.I. 7 at Ex. B (“Motion to Dismiss this Retaliatory Action and/or Transfer it to the Federal Court Civil Action No.: 1:17 CV 01817 because it is Directly Related to this Action that Affects my Constitutional Rights which I Elect to be Adjudicated in Federal

Court") (citing "due process"). Once the sale took place, Plaintiff filed an objection, again on the grounds of violations of her right to "procedural due process" or "due process of law" and "equal protection" (D.I. 7 at Ex. D), the same claim she raises here. She amended the objection, repeating the same constitutional bases. (*Id.* at Ex. F). She filed another motion to dismiss. (*Id.* at Ex. G). That was followed by a petition for a writ of mandamus contending that the statutory conditions for a monition sale were not satisfied and that the action was not commenced and prosecuted in accordance with the Superior Court's Rules of Civil Procedure. *Matter of Harmon*, 198 A.3d 179 (Table), 2018 WL 6332269 (Del. Dec. 3, 2018).

Under the *Younger* abstention doctrine, a federal district court must abstain from hearing a federal case which interferes with certain state proceedings. See *Younger v. Harris*, 401 U.S. 37 (1971). A *Younger* abstention analysis requires courts to first analyze whether the parallel state action falls within one of three "exceptional" categories: (1) ongoing criminal prosecutions, (2) "certain civil enforcement proceedings," and (3) "civil proceedings involving certain orders uniquely in furtherance of the state courts' ability to perform their judicial functions." *Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69, 78 (2013) (cleaned up).

Proceedings in state court fall within the third *Sprint* category when they involve orders "uniquely in furtherance of the state courts' ability to perform their judicial functions." *Id.* Defendants have not shown that the monition action belongs to one of the categories of proceedings to which *Younger* may apply. "Because the defendants do not address the threshold question of whether this case falls within any of the three

exceptional categories of cases that may warrant *Younger* abstention, we conclude that they have not shown that the Court should abstain from exercising jurisdiction." *Dowell v. Bayview Loan Servs., LLC*, 2017 WL 9486188, at *9 (M.D. Pa. May 4, 2017). A monition action is similar to a foreclosure action. Courts in this Circuit have declined to apply *Younger* abstention when the underlying state action is a foreclosure action, absent a request to enjoin state proceedings because it does not fall into any of the three categories. See *id.* at *10. Accordingly, the motion to dismiss based on *Younger* will be denied.

B. Other Issues

The Court previously dismissed Plaintiff's motion for summary judgment (D.I. 13) as moot. (D.I. 24). It is no longer moot, but it is premature. Thus, it will not be revived.

The Court's review of the case in connection with the motion to dismiss suggests that there might be other issues that should be dealt with at an early stage of the case. But they have not been raised by the parties, and the Court will not raise them *sua sponte*.

IV. CONCLUSION

For the above reasons, the Court will deny Defendants' motion to dismiss under the *Younger* abstention doctrine. (D.I. 7). Plaintiff's motion for summary judgment (D.I. 13) remains dismissed.

A separate order shall issue.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SANDRA HARMON,

Plaintiff,

v.

Civil Action No. 18-1021-RGA

DEPARTMENT OF FINANCE, SUSSEX
COUNTY, DELAWARE, et al.,

Defendants.

ORDER

At Wilmington this 19 day of August 2019, consistent with the
memorandum issued this date,

IT IS HEREBY ORDERED that:

1. Defendants' motion to dismiss (D.I. 7) is **GRANTED**. The Court abstains under the *Younger* abstention doctrine.
2. Plaintiff's motion for summary judgment (D.I. 13) is **DISMISSED** as moot.
3. The Clerk of Court is directed to **CLOSE** the case.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SANDRA HARMON,

Plaintiff,

v.

Civil Action No. 18-1021-RGA

DEPARTMENT OF FINANCE, SUSSEX
COUNTY, DELAWARE, et al.,

Defendants.

Sandra Harmon, Hartsville, South Carolina. Pro Se Plaintiff.

Kevin J. Connors, Esquire, and Artemio C. Aranilla, II, Esquire, Marshall, Dennehey, Warner, Coleman & Goggin, Wilmington, Delaware. Counsel for Defendants.

MEMORANDUM OPINION

August 19, 2019
Wilmington, Delaware


ANDREWS, U.S. District Judge:

Plaintiff Sandra Harmon appears *pro se*. She commenced this lawsuit on July 11, 2018, as a civil Racketeering Influenced and Corrupt Organizations Act ("RICO") action and under 18 U.S.C. §§ 241, 242, which makes criminal certain civil rights violations, and alleges violations of her constitutional rights to due process and equal protection (D.I. 1 at 2). Before the Court is Defendants' motion to dismiss and Plaintiff's motion for summary judgment. (D.I. 7, 13). The matters have been fully briefed. (See D.I. 8, 9, 14, 15, 18, 20).

I. BACKGROUND

Plaintiff alleges Defendants are violating her right to due process and equal protection by "engaging in arbitrary conduct with respect to the selling of [her] property at Sheriff's Sale on June 19, 2018." (D.I. 1 at 2). Plaintiff alleges the property was unlawfully sold and the conduct of Defendant Jason Adkins – counsel for the "Sussex County Administration" – was discriminatory and racist. (*Id.* at 2-3). Plaintiff alleges that Adkins' conduct and those who support it violated RICO. (*Id.* at 4).

She explains that the Sussex County Department of Finance alleged that she owed about on a sewer and water bill that had been paid in full with a check for about \$1,800. (*Id.* at 3). Defendants also alleged Plaintiff owed costs, perhaps of about \$8,300 (see *id.* at 3, ¶¶ 8, 10), from a September 14, 2017 demolition. (*Id.*) Plaintiff alleges that the Department added interest to the total cost of demolition and then attempted to seek a judgment for the full cost of the demolition. (*Id.*) She alleges the sale took place without the filing of a complaint, service, or notice to her and the other

co-owners of the property. *“(Id.) Plaintiff alleges, “[T]he Younger Doctrine does not apply in this case because Defendants failed to file an initial complaint in the Superior Court, so technically there is no case filed, no pending. The S18T-001-002 case number is clearly bogus, and [its] unlawful generation represents racketeering and corruption at the hands of Sussex County Officials.”* *(Id. at 4).*

Plaintiff seeks to enjoin Adkins “to halt his misconduct, and find him in contempt and in violation of court rules of civil procedure,” compensatory damages of \$1,000,000, and an order to rescind the Sheriff’s sale, among other things. *(Id. at 4-5).* She also requests counsel *(Id. at 5).*

The Court takes judicial notice that on January 12, 2018 (prior to the time Plaintiff commenced this action), the Department of Finance of Sussex County filed a monition suit against Plaintiff and the other owners for delinquent sewer and water bills and the demolition lien. *Department of Finance of Sussex County v. Harmon Heirs*, Civ. A. No. S18T-01-002 (Del. Super.) at BL-1.¹ Monition was entered on January 18, 2018, and posted on the property on January 23, 2018. *Id. at BL-6.* On May 30, 2018, a notice of the Sheriff’s sale was posted at the physical entrance of the property and, on May 31, 2018, Plaintiff and the other property owners were notified by certified mail of a Sheriff’s sale of the real estate to take place on June 19, 2018, at 9:30 a.m. *Id. at BL-16, BL-17, BL-18.*

¹ The Court has access to the Superior Court docket via Bloomberg Law. “BL” is how Bloomberg Law refers to docket entries.

On June 8, 2018, Plaintiff filed a motion to dismiss and motion for injunctive relief in Civ. A. No. S18T-01-002 alleging violations of her constitutional rights. *Id.* at BL-10. On June 18, 2018, the Superior Court denied the motion and ordered that the sale could proceed as scheduled on June 19 2018. *Id.* at BL-28. A notice of lis pendens was filed on June 19, 2018 and on June 21, 2018, Plaintiff filed a motion to invalidate and to dismiss. *Id.* at BL-30. The property was sold to the highest bidder; Plaintiff filed an objection to the sale, and then an amended notice of objection. *Id.* at BL-35, BL-36, BL-44. On August 9, 2018, Plaintiff filed a motion to dismiss. *Id.* at BL-51. On November 7, 2018, the Superior Court stayed the matter while awaiting resolution of the related federal civil cases Plaintiff had filed here, Civ. No. 17-1817-RGA and the instant case, Civ. No. 18-1021-RGA. *Id.* at BL-51. Plaintiff then filed a petition for a writ of mandamus in the Delaware Supreme Court to compel the Superior Court Judge to dismiss S18T-01-002. *Id.* at BL-53, BL-56. The Delaware Supreme Court dismissed the petition. *Id.* at BL-57. The most recent filings in the Superior Court case are an affidavit of non-redemption filed on June 19, 2019, and an amended writ filed July 11, 2019. *Id.* at BL-59, BL-60.

Defendants move to dismiss on the grounds that the Court must abstain under the *Younger* abstention doctrine because there remains pending an underlying matter in Delaware State Court that continues to be actively litigated on identical or related issues. (D.I. 7). Plaintiff's opposition to the motion does not address the *Younger* abstention doctrine other than to state that it is clearly inapplicable. Instead, she asks

the Court to explore the "unclean hands theory" and the "continuing violation theory."

(D.I. 8).

II. LEGAL STANDARDS

Younger abstention is not analyzed under either Rule 12(b)(1) or 12(b)(6), see *Knox v. Union Twp. Bd. of Educ.*, 2015 WL 769930, at *5 n.7 (D.N.J. Feb. 23, 2015), but "[d]ismissal on abstention grounds without retention of jurisdiction is in the nature of a dismissal under Fed. R. Civ. P. 12(b)(6)," *Gwynedd Properties, Inc. v. Lower Gwynedd Twp.*, 970 F.2d 1195, 1206 n.18 (3d Cir. 1992). Hence, "courts [in the District of New Jersey] have treated [a motion to dismiss on the basis of] *Younger* abstention as a Rule 12(b)(6) motion to dismiss," see, e.g., *Tobia v. Lakewood Bd. of Educ.*, 2017 WL 1206010, at *3 (D.N.J. Mar. 31, 2017), "in that matters outside of the pleadings are not to be considered," see *Knox*, 2015 WL 769930, at *5 n.7. The Court, however, may take judicial notice of court documents. *Gwynedd Properties, Inc.*, 970 F.2d at 1206 n.18

III. DISCUSSION

Defendants argue that the Court must abstain because there is a matter that continues to be actively litigated in State Court on identical or related issues.

Defendants compare the Complaint in this action, which asserts violations of Plaintiff's constitutional rights, to her motion to dismiss in the state case, Civ. A. No. S18T-01-002, which also asserts violations of her constitutional rights pertaining to the sale of the same property. (See D.I. 7 at Ex. B). Once the sale took place, Plaintiff filed an objection, again on the grounds of violations of her right to due process and equal

protection, the same claim she raises here. (*Id.* at Ex. D). She later amended the objection. (*Id.* at Ex. F). She filed yet another motion to dismiss, followed by a petition for a writ of mandamus contending that the statutory conditions for a monition sale were not satisfied and that the action was not commenced and prosecuted in accordance with the Superior Court's Rules of Civil Procedure. See Civ. A. No. S18T-01-002 at BL-57. In this case, Plaintiff asks the Court to find Adkins violated the rules of civil procedure during the course of Civ. A. No. S18T-01-002.

Under the *Younger* abstention doctrine, a federal district court must abstain from hearing a federal case which interferes with certain state proceedings. See *Younger v. Harris*, 401 U.S. 37 (1971). Under *Younger*, federal courts are prevented from enjoining pending state proceedings absent extraordinary circumstances.² *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 437 (1982). Abstention is appropriate only when: (1) there are ongoing state proceedings that are judicial in nature; (2) the state proceedings implicate important state interests; and (3) the state proceedings provide an adequate opportunity to raise the federal claims. *Lazaridis v. Wehmer*, 591 F.3d 666, 670 (3d Cir. 2010). The doctrine applies to proceedings until

² The abstention doctrine as defined in *Younger v. Harris*, 401 U.S. 37 (1971), provides that federal courts are not to interfere with pending state criminal proceedings and has been extended to civil cases and state administrative proceedings. *Middlesex Cty. Ethics Comm'n v. Garden State Bar Ass'n*, 457 U.S. 423 (1982); *Huffman v. Pursue Ltd.*, 420 U.S. 592 (1975).

~~all appellate remedies have been exhausted, unless the matter falls within one of the Younger exceptions.³~~ *Huffman v. Pursue Ltd.*, 420 U.S. at 608.

The Court takes judicial notice that the monition proceeding remains pending in the Superior Court. In addition to compensatory damages, the relief sought by Plaintiff includes injunctive relief to "halt" the misconduct of Adkins.⁴ She also asks the Court to rescind the Sheriff's sale.

The Younger elements have been met and none of the its exceptions apply. First, there are pending State court proceedings that directly relate to Plaintiff's dispute. Indeed, Plaintiff raises the same issues when seeking to dismiss Civ. A. No. S18T-01-002 as she does in the instant Complaint. Second, Delaware has an important interest in resolving real estate lien issues and Sheriff's sales, and a ruling in the Superior Court proceeding implicates the important interest of preserving the authority of the state's judicial system. See, e.g., *Gray v. Pagano*, 287 F. App'x 155 (3d Cir. 2008) (court abstained under Younger doctrine where plaintiffs sought a declaration that the judge was not authorized to nullify transfer of title and for an order enjoining the sheriff from conducting a sheriff's sale); *Shipley v. New Castle Cty.*, 2008 WL 4330424 (D. Del.

³ Exceptions to the Younger doctrine exist where irreparable injury is "both great and immediate," *Younger*, 401 U.S. at 46, where the state law is "flagrantly and patently violative of express constitutional prohibitions," *id.* at 53, or where there is a showing of "bad faith, harassment, or . . . other unusual circumstances that would call for equitable relief." *Id.* at 54.

⁴ The jurisdictional limitation of the Anti-Injunction Act, 28 U.S.C. § 2283, is inapplicable to cases brought pursuant to 42 U.S.C. § 1983. See *Mitchum v. Foster*, 407 U.S. 225 (1972). Plaintiff alleges violations of her constitutional rights, and her Complaint is liberally construed as raising claims under 42 U.S.C. § 1983.

Sept. 19, 2008) (finding real estate tax and lien issue proceedings important state interests under *Younger* doctrine); *Prindable v. Association of Apartment Owners of 2987 Kalakaua*, 304 F. Supp. 2d 1245, 1262 (D. Haw. 2003) (finding foreclosure and ejectment proceedings important state interests under *Younger* doctrine). Finally, Plaintiff has an adequate opportunity to raise her claims in state court, and Delaware courts provide adequate forums for review of her claims. Accordingly, pursuant to *Younger* and its progeny the Court must abstain. See *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 15 (1987) (stating that *Younger* abstention is favored even after the plaintiffs failed to raise their federal claims in the ongoing state proceedings).

IV. CONCLUSION

For the above reasons, the Court will: (1) grant Defendants' motion to dismiss and abstain under the *Younger* abstention doctrine (D.I. 7); and (2) dismiss as moot Plaintiff's motion for summary judgment (D.I. 13).⁵

A separate order shall issue.

⁵ Because the Court must abstain under the *Younger* abstention doctrine, it does not address the merits of Plaintiff's motion for summary judgment.