APPENDIX

TABLE OF APPENDICIES

evidencing Judge Woodlock and Appeals Court Judges Howard, Thompson, and Kayatta helped to perpetuate "multi-judge corruption rings".

Exhibit M - DuLaurence's Verified Civil Rights Complaint against Judge Woodlock, showing federal jurisdiction in the court of the first instance, and the facts showing that the federal questions were first raised at the time the Complaint was filed, and further showing the manner in which they were raised.

Exhibit N - Partial copy of Judge Woodlock's MEMORANDUM AND ORDER of March 31, 2015, showing that he never had any intention of addressing the federal statute 42 U.S.C. § 1983 as he had an 'obligation to give full faith and credit to the state court judgments'. (Pages 1, 2, 8, and 11.)

The U. S. Supreme Court in *James v. City of Boise, Idaho,* 136 S. Ct. 685 (2016) (per curiam), ruled:

> Section 1983 is a federal statute. 'It is this Court's responsibility to say what a federal statute means, and once the Court has spoken, it is the duty of the other courts to respect that understanding of the governing rule of law'. (Citation omitted.) Id. at 686.

At pages 6-7. Judge Woodlock acknowledges DuLaurence's federal statute criminal obstruction and 42 U.S.C. § 1983 claims; and at page 13, that DuLaurence "makes repeated allegations about unethical, criminal, and illegal conduct by judges that presided over the case in state court. Page 22 shows that Judge Woodlock not only sided with the state courts in changing the facts in the case, but stating that DuLaurence "continue[s] challenging, without good reason" the state court judgment...For that reason, he faces state court sanctions". If Judge Woodlock had bothered to read any of DuLaurence's Verified Complaint, he would have seen that DuLaurence challenged the "malice" jury verdict based on United States Supreme Court decisions on the issue, attributing the "malice" of the immediate supervisor to the defendant company, Liberty Mutual. (Ex. L, pgs. 31-32.)

Exhibit A

United States Court of Appeals
For the First Circuit

Nos. 19-1905
20-1254

HENRY J. DULAURENCE, III,

Plaintiff - Appellant,

v.

JUDGE DOUGLAS P. WOODLOCK, individually and in his official capacity,

Defendant - Appellee.

Before

Howard, Chief Judge,
Thompson and Kayatta, Circuit Judges.

JUDGMENT

Entered: May 21, 2021

Henry J. DuLaurence, III, pro se, appeals from the dismissal of his complaint against Judge Douglas P. Woodlock, and from a subsequent order denying DuLaurence's motion to vacate the dismissal or to alter or amend the judgment. Judge Woodlock has filed a motion for summary disposition pursuant to 1st Cir. R. 27.0(c). After careful review of the record, and consideration of the parties' submissions and arguments, we allow Judge Woodlock's motion and affirm, substantially for the reasons stated in the district court's August 6, 2019 order granting Judge Woodlock's motion to dismiss. Because Judge Woodlock's judicial immunity barred all claims raised in the complaint, there was no need for the district court to explain "on a claim-by-claim basis" why the claims were being dismissed. As for the denial of the motion to vacate or to alter or amend the judgment, to the extent that the issue is not waived due to the lack of developed argument, see United States v. Zannino, 895 F.2d 1, 17 (1st Cir. 1990), we see no error and affirm the order denying the motion.

By the Court:

Maria R. Hamilton, Clerk

Exhibit B

United States Court of Appeals
For the First Circuit

Nos. 19-1905
20-1254

HEHRY J. DULAURENCE, III,

Plaintiff - Appellant,

v.

JUDGE DOUGLAS P. WOODLOCK, individually and in his official Capacity,

Defendant - Appellee.

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(1) APPELLANT'S REPLY TO APPELLEE'S REPLY REGARDING DELIVERY OF HIS MOTIONS FOR SUMMARY DISPOSITION, AND (2) APPELLANT'S OPPOSITION TO APPELLEE'S MOTION FOR SUMMARY DISPOSITION

Appellant's Response Regarding Delivery

The appellant feels that he must file a response questioning the purpose of Appellee's Reply Regarding Delivery of his Motions For Summary Disposition. This appears to be an attempt to discredit DuLaurence. This document contains misleading information. See 28 U.S.C. § 1927.

Facts

The Post Office improperly attempted delivery of Appellee's motion on September 5, by merely leaving the

attempted delivery slip in DuLaurence's mail box. DuLaurence filed a complaint with the Post Office as to this improper attempt, and could obtain a copy for the Court if requested. Appellee's counsel stated: "As of the date of this filing (September 15, 2020), Appellant has not claimed the mailing or **requested redelivery**". In fact, after speaking with someone at the Post Office, Appellant was told that all he had to do was sign the reverse and leave it in his mail box, and the postal delivery person would take the slip and place the envelope in the mail box, which the delivery person did. DuLaurence **did** "request redelivery", and it was redelivered to him on the next Tuesday, September 8, 2020, as Monday was a holiday. Appellee Counsel further stated: "On September 9, 2020, Appellant filed his response to the motion for summary disposition, stating that he had not **as of that date (September 9, 2020)** received Appellee's motion for summary disposition". Appellant had in fact stated that as of the afternoon of September 4, 2020, he had not received the motion, which must be true if, as appellee counsel set out, the Post Office only first attempted delivery on September 5, 2020. DuLaurence attaches the receipt from the Post Office as EXHIBIT 1, showing the he served his response on

September 4, 2020, by first class mail to Appellee counsel, and by priority mail to the Court. DuLaurence served it at that time because he had only 10 days plus 3 mailing days to file his response.

Appellant's Opposition To Appellee's Motion For Summary Disposition

Local Rule 27(c) provides in part: "At any time…the court may dismiss the appeal…if it shall clearly appear that no substantial question is presented". From reading the appellee's mini-brief and DuLaurence's Brief, it is clear that there are many "substantial questions" to be resolved. The appellee's mini-brief has no Table of Contents to help guide the Court, although it quickly dismisses important legal issues like "fraud upon the court". It does not even mention the *Bivens v. Six Unknown Named Agents,* 403 U.S. 388 (1971) claim, which in itself presents important issues to be determined by this Court, as it affords a claim for Constitutional deprivation of rights. 42 U.S.C. § 1983 creates a statutory cause of action against state or local officials. In contrast, a *Bivens* action is judicially created and directed against federal officials. *See Correctional Services Corp. v. Malesko,* 534 U.S. 61 (2001). The appellee's mini-brief sets

out that DuLaurence had exhausted all his remedies. This showing is necessary to present a *Bivens* claim. Judge Woodlock intentionally deprived DuLaurence of federal statute causes of action by preventing procedural and substantive due process. He intentionally deprived him of his right of redress (First Amendment), and his rights under the Fourteenth Amendment, and other rights afforded him pursuant to the Bill of Rights and the United States Constitution. See *Albright v. Oliver,* 510 U.S. 266 (1994).

Appellee Counsel contests the merits of the Appellant's Brief in this motion. The issues involved are much more complicated and far reaching than Local Rule 27(c) provides for. The Court might consider the need for a Rule 35 hearing en banc, as the case presents "questions of exceptional importance", such as Judge Woodlock's bias acquired from extrajudicial sources as the need for disqualification, preventing him from invoking absolute judicial immunity. As set out in *Liteky v. United States,* 510 U.S. 540 (1994) as to the extrajudicial source rule under Section 455(a), a judge must be disqualified only if it appears that he or she harbors an aversion, hostility, or disposition of a kind that a fair minded person could not set aside when judging the dispute. Judge Woodlock's

bias was different in kind. He was disqualified by law so as to prevent him from claiming absolute judicial immunity; he was biased against any litigant who attempted to present a federal claim arising under federal statute 42 U.S.C. § 1983 involving judges. He intentionally prevented DuLaurence from presenting his claim, an act expressly prohibited by existing law. Please see also appellant's "QUESTIONS PRESENTED" and "TABLE OF CONTENTS" in his Brief.

Further, under Fed. R. Civ. Proc. 8(a), a complaint should state "a short and plain statement of the claim showing that the pleader is entitled to relief". All of the facts and inferences within the complaint should be treated in the light most favorable to the plaintiff. The law as to sufficiency of pleadings is that "'the federal rules have abolished the restrictive theory of the pleadings doctrine, making it unnecessary to set out a legal theory for a plaintiff's claim for relief'". *Johnson v. City of Shelby. Miss.*, 135 S. Ct. 346, 347 (2014).

Respectfully submitted,

Henry J. DuLaurence, III
Plaintiff-Appellant
1 South Union Street, #114
Lawrence, MA 01843
(978) 208-1399

Dated: October 2, 2020

Exhibit C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Henry J. DuLaurence, III

v. Civil No. 1:18-cv-11430-JL

Judge Douglas P. Woodlock, individually, and in his official capacity

O R D E R

Henry DuLaurence has sued United States District Judge Douglas Woodlock in nine counts. Judge Woodlock moves to dismiss. In a previous order, document no. 22, the court indicated that it intended to hold a hearing on the defendant's motion, but upon further review, the court concludes that a hearing is unnecessary. For the reasons that follow, the defendant's motion to dismiss is granted.

Background

In July of 1995, DuLaurence brought an employment action against Liberty Mutual Insurance Co. and several other defendants in the Massachusetts Superior Court. See DuLaurence v. Telegen, 94 F. Supp. 3d 73, 76 (D. Mass. 2015). Liberty Mutual prevailed in the suit, see id. at 77, and DuLaurence filed a collateral action, also unsuccessful, in the Massachusetts Superior Court, see id., and next filed an action in this court, seeking relief from the two final judgments that

went against him in the Massachusetts state courts, see id. at 76.

In DuLaurence's first action in this court, Judge Woodlock granted the defendants' motion to dismiss. In doing so, he ruled that: (1) he lacked subject-matter jurisdiction over DuLaurence's claims, under the Rooker-Feldman abstention doctrine;[1] and (2) even if he had subject-matter jurisdiction over those claims, they were barred by the doctrine of res judicata because they had already been resolved through final judgments in the Massachusetts state courts. After Judge Woodlock issued his order granting the defendants' motion to dismiss, DuLaurence moved Judge Woodlock to recuse himself. Judge Woodlock denied the motion. The Court of Appeals affirmed Judge Woodlock's dismissal of DuLaurence's claims and denied, as moot, DuLaurence's motion for recusal. See DuLaurence v. Telegen, No. 15-1537, 2016 WL 10454553, at *1 (1st Cir. Nov. 30, 2016).

This action followed. In it, DuLaurence asserts: (1) two claims arising under Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971); (2) four purported claims arising under the federal criminal code; (3)

[1] See D.C. Court of Appeals v. Feldman, 460 U.S. 462 (1983); Rooker v. Fid. Tr. Co., 263 U.S. 413 (1923).

one count arising under the federal statute governing the disqualification of judges; and (4) claims under the state law of Massachusetts for negligent and intentional infliction of emotional distress. See Order (doc. no. 22) 2-4.

Discussion

Judge Woodlock moves to dismiss on several grounds, one of which is dispositive: judicial immunity.

"[I]t is an axiom of black letter law that when a judge carries out traditional adjudicatory functions, he or she has absolute immunity for those actions." Zenon v. Guzman, 924 F.3d 611, 616 (1st Cir. 2019) (citing Goldstein v. Galvin, 719 F.3d 16, 25 (1st Cir. 2013)). More specifically:

> To determine if a judge is entitled to the full protection of the doctrine's deflector shield, the Supreme Court has assessed whether the judge's act was one normally performed by a judge, and whether the parties were dealing with the judge in his or her judicial capacity. Stump v. Sparkman, 435 U.S. 349, 362 (1978). Judicial immunity is appropriate unless a judge is carrying out an activity that is not adjudicatory. Forrester v. White, 484 U.S. 219, 227-28 (1988) ("Administrative decisions, even though they may be essential to the very functioning of the courts, have not similarly been regarded as judicial acts."). . . .
>
> The Supreme Court elaborated further in Mireles v. Waco, explaining that immunity is overcome only in cases where a judge is carrying out a nonjudicial action, or in instances where a judge takes an action, though seemingly "judicial in nature," that is "in the complete absence of all jurisdiction." 502 U.S. 9, 11-12 (per curiam) (citing Forrester, 484 U.S. at 227-29; Stump, 435 U.S. at 356-60; Bradley [v. Fisher], 80 U.S. (13 Wall.) [335,] 347 [(1871)]. "Accordingly,"

> the Mireles Court instructed, "as the language in Stump indicates, the relevant inquiry is the 'nature' and 'function' of the act, not the act itself." 502 U.S. at 13 (quoting Stump, 435 U.S. at 362).

Zenon, 924 F.3d at 617 (footnotes, parallel citations omitted).

In Zenon, the Court of Appeals held that the defendant, a state court judge, was entitled to judicial immunity because the action the plaintiff challenged, the issuance of a protective order he deemed to be unconstitutional, was "inarguably judicial in both [its] 'nature' and [its] function.'" 924 F.3d at 620 (citations omitted). So too, here.

DuLaurence challenges two actions that Judge Woodlock took: (1) granting the defendants' motion to dismiss his previous action in this court; and (2) denying his motion for recusal. Both of those two actions, i.e., ruling on motions, are acts "normally performed by a judge," Zenon, 924 F.3d at 617, and when Judge Woodlock took those actions, "the parties were dealing with [him] in his . . . judicial capacity," id. Moreover, there is no basis for an argument that when making the decisions at issue here, Judge Woodlock took actions that seemed judicial in nature but were taken "in the complete absence of all jurisdiction,'" id. (quoting Mireles, 502 U.S. at 12). In light of Zenon, the court has no difficulty concluding that in this case, Judge Woodlock is entitled to the protection of judicial immunity, which entails "not just immunity from

damages, but immunity from suit altogether," Zenon, 924 F.3d at 618 n.10 (citing Mireles, 502 U.S. at 11; Mitchell v. Forsyth, 472 U.S. 511, 526 (1985)).

Plaintiff argues that Judge Woodlock is not entitled to judicial immunity because: (1) asserting subject-matter jurisdiction over his claims and recusing himself were not adjudicatory acts but were ministerial tasks he was obligated to perform; and (2) judicial immunity does not protect against liability for criminal acts or judicial misconduct. Neither argument has merit.

First of all, the two actions that DuLaurence challenges, granting a motion to dismiss and denying a motion to recuse, were adjudicatory acts; they required Judge Woodlock to weigh competing arguments and apply the applicable law. DuLaurence argues that those acts were ministerial because Judge Woodlock had no choice but to exercise jurisdiction over his claims or recuse himself after he decided not to exercise jurisdiction. But Judge Woodlock did have choices, and he made them after engaging in legal analysis. DuLaurence's belief that Judge Woodlock reached the wrong legal conclusions about dismissal and recusal does not transform the exercise of jurisdiction or recusal into ministerial acts rather than adjudicatory acts. As the Supreme Court has explained:

> [I]f only the particular act in question were to be scrutinized, then any mistake of a judge in excess of his authority would become a "nonjudicial" act, because an improper or erroneous act cannot be said to be normally performed by a judge. If judicial immunity means anything, it means that a judge "will not be deprived of immunity because the action he took was in error . . . or was in excess of his authority." [Stump, 435 U.S. at] at 356. See also Forrester v. White, 484 U.S., at 227 (a judicial act "does not become less judicial by virtue of an allegation of malice or corruption of motive").

Mireles, 502 U.S. at 12-13 (parallel citations omitted) (holding that judicial immunity protected a judge who was sued for ordering police officers to use excessive force to bring an attorney into his courtroom).

DuLaurence also argues that Judge Woodlock is not entitled to judicial immunity because he engaged in conduct that was criminal, impeachable, or that qualifies as judicial misconduct. However, "the relevant inquiry is the 'nature' and 'function' of the act, not the act itself." Zenon, 924 F.3d at 617 (quoting Mireles, 502 U.S. at 13; Stump, 435 U.S. at 362). The two acts at issue here were "inarguably judicial in both their 'nature' and their function.'" Zenon, 924 F.3d at 620 (citations omitted). And there is no plausible argument to be made that those acts just seemed to be judicial in nature but were, in reality, undertaken "in the complete absence of all jurisdiction," Zenon, 924 F.3d at 617. In other words, because Judge Woodlock had jurisdiction to rule on the defendants'

motion to dismiss and DuLaurence's motion for recusal, the decisions he made when ruling on those motions are immaterial, and Judge Woodlock is entitled to judicial immunity.

Even so, it is worth pointing out that Judge Woodlock's judicial immunity does not deprive DuLaurence of remedies. In fact, he has already appealed the actions he challenges here to both the First Circuit Court of Appeals and the United States Supreme Court. And if plaintiff believes that Judge Woodlock committed judicial misconduct, there are avenues available for him to pursue such a claim. A civil action in this court, however, is not one of those avenues.

Conclusion

For the reasons detailed above, the defendant's motion to dismiss[2] is granted. Accordingly, the clerk of the court shall close the case.

SO ORDERED.

Joseph N. Laplante
United States District Judge

Dated: August 6, 2019

cc: Henry J. DuLaurence, III, pro se
Christopher L. Morgan, AUSA

[2] Document no. 7

Exhibit D

09/30/2019	34	Opposition re 31 MOTION to Vacate 26 Order Dismissing Case filed by Douglas P. Woodlock. (Morgan, Christopher) (Entered: 09/30/2019)
01/29/2020	35	Judge Joseph N. Laplante: ELECTRONIC ORDER: The plaintiff's motion to vacate, alter, or amend the judgment (doc. no. 31) is **denied.** The plaintiff filed a complaint that named Judge Woodlock as the sole defendant and brought claims only against Judge Woodlock. Compl. (doc. no. 1) at 1, 3, 24. In docketing the case, the court incorrectly identified the U.S. District Court for the District of Massachusetts as a second defendant. The plaintiff asserted that the District Court was in fact a defendant in his filing of May 30, 2019 (doc. no. 24), but relied on a solitary use of the plural "defendants" in the motion to dismiss memorandum filed by Judge Woodlock. The plaintiff has not shown that he ever properly stated any claim for relief against the District Court. The court's order granting Judge Woodlock's motion to dismiss (doc. no. 25) thus resolved all the claims in the complaint. The court did not need to reach the additional issues identified in the plaintiff's motion once it determined that Judge Woodlock is entitled to judicial immunity, which entails "immunity from suit altogether." Zenon v. Guzman, 924 F.3d 611, 617 n.10 (1st Cir. 2019). (Vieira, Leonardo) Modified on 1/31/2020 (Vieira, Leonardo). (Entered: 01/31/2020)
02/26/2020	36	NOTICE OF APPEAL as to 35 Order on Motion to Vacate,,,,, by Henry J. DuLaurence, III NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov MUST be completed and submitted to the Court of Appeals. **Counsel shall register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf. Counsel shall also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf. US District Court Clerk to deliver official record to Court of Appeals by 3/17/2020. (adminn,) (Main Document 36 replaced on 4/15/2020) (adminn,). (Entered: 02/27/2020)**
02/28/2020	37	Certified and Transmitted Abbreviated Electronic Record on Appeal to US Court of Appeals re 36 Notice of Appeal. (Paine, Matthew) (Entered: 02/28/2020)
03/02/2020	38	USCA Case Number 20-1254 for 36 Notice of Appeal filed by Henry J. DuLaurence, III. (Paine, Matthew) (Entered: 03/02/2020)
04/15/2020	39	Notice of correction to docket made by Court staff. Correction: document was replaced for entry 36 corrected because: document was not properly scanned and was missing pages. (adminn,) (Entered: 04/15/2020)
04/16/2020	40	Amended Certified and Transmitted Abbreviated Electronic Record on Appeal to US Court of Appeals re 36 Notice of Appeal. (Paine, Matthew) (Entered: 04/16/2020)

PACER Service Center
Transaction Receipt

Exhibit E

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Henry J. DuLaurence, III

v. Civil No. 1:18-cv-11430-JL

Judge Douglas P. Woodlock, individually, and in his official capacity

O R D E R

Henry DuLaurence has sued United States District Judge Douglas Woodlock. Before the court is defendant's motion to dismiss. The court intends to hold a hearing on defendant's motion, but in order to conduct a meaningful hearing, the court needs a better understanding of plaintiff's claims, which are not delineated in his complaint in the conventional way. Accordingly, in this order, the court outlines the claims that plaintiff appears to assert in his complaint, and directs him to respond in the manner described at the end of the order. However, the court begins by describing, briefly, the factual basis for plaintiff's claims, as alleged in his complaint.

In July of 1995, DuLaurence initiated an employment action in the Suffolk, Massachusetts Superior Court. The defendants prevailed at trial and on appeal. DuLaurence then filed a second state-court action arising out of the litigation of his first state-court action. Again, the defendants prevailed in

the district court and on appeal. Next, plaintiff filed an 11-count action in the United States District Court for the District of Massachusetts, arising out of the state courts' adjudication of his two state cases. In Count 1 of his complaint in that action, plaintiff invoked 42 U.S.C. § 1983. Judge Woodlock dismissed plaintiff's claims, on grounds that: (1) the court lacked subject matter jurisdiction over them pursuant to the Rooker-Feldman abstention doctrine;[1] and (2) even if the court had subject matter jurisdiction over plaintiff's claims, they were barred by the doctrine of res judicata. Based upon language in Judge Woodlock's order of dismissal, plaintiff moved for his recusal, pursuant to 28 U.S.C. § 455. Judge Woodlock declined to recuse himself. Plaintiff appealed, and the Court of Appeals affirmed, on grounds that plaintiff's motion for recusal was moot, in light its affirmance of Judge Woodlock's ruling that his court lacked subject matter jurisdiction over plaintiff's claims.

This action followed. In it, the sole defendant is Judge Woodlock.

In Count 1, asserted pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), plaintiff claims that defendant violated Article I,

[1] See D.C. Court of Appeals v. Feldman, 460 U.S. 462 (1983); Rooker v. Fid. Tr. Co., 263 U.S. 413 (1923).

Section 9, Clause 8 of the United States Constitution, which provides that "No Title of Nobility shall be granted by the United States."

In Count 2, a second Bivens claim, plaintiff asserts that Judge Woodlock violated his rights under the Ninth Amendment to the United States Constitution, which provides that "[t]he enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Count 3 is a claim under 18 U.S.C. § 242, a provision in the federal criminal code that makes it unlawful for a person, acting under color of any law, to deprive any other person "of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States."

Count 4 is a claim under 18 U.S.C. § 371, a provision in the federal criminal code that makes it unlawful for "two or more persons [to] conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose."

Count 5 is a claim under 18 U.S.C. § 1503, a provision in the federal criminal code that, as a general matter, makes it unlawful for any person to use threats of force or threatening communications to "endeavor[] to influence, intimidate, or impede any grand or petit juror, or officer in or of any court in the United States," or to injure any such person on account

of serving as a juror or carrying out his or her official duties.

Count 6 is a claim under 18 U.S.C. § 1505, a provision in the federal criminal code that, as a general matter, makes it unlawful to commit various acts that constitute obstruction of proceedings before federal departments or agencies.

Count 7 is a claim under 28 U.S.C. § 455(a), which provides that "[a]ny justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality may reasonably be questioned."

Count 8 is a claim that defendant is liable for the negligent infliction of emotional distress under the common law of Massachusetts.

Count 8 is a claim that defendant is liable for the intentional infliction of emotional distress under the common law of Massachusetts.

Within 30 days of the date of this order, plaintiff shall respond by notifying the court as to whether the claims outlined above are the claims he intends to assert in this case. In his response, he may ask the court to delete any claims he does not actually intend to assert, and he may ask the court to add any claims he believes the court has overlooked. But, because this is not in invitation for the submission of an amended complaint, for any claim that plaintiff asks the court to add, he must

indicate where, in his current complaint, that claim has been asserted. After the court has had the opportunity to review plaintiff's response, it will schedule a hearing on defendant's motion to dismiss.

SO ORDERED.

Joseph N. Laplante
United States District Judge

Dated: May 8, 2019

cc: Henry J. DuLaurence, III, Esq.
Christopher L. Morgan, AUSA

Exhibit F

HENRY J. DULAURENCE, III

Plaintiff

Civil Action No.
1:18-CV-11430-JL

v.

DOUGLAS P. WOODLOCK, ET AL.

Defendants

PLAINTIFF'S RESPONSE TO COURT ORDER

Now comes the plaintiff in the above entitled action and files his Response to the Court's Order of May 8, 2019.

The law as to sufficiency of pleadings is that 'the federal rules have abolished the restrictive theory of the pleadings doctrine, making it unnecessary to set out a legal theory for a plaintiff's claim for relief'. *Johnson v. City of Shelby, Miss.*, 135 S. Ct. 346, 347 (2014). "Federal pleading rules call for 'a short and plain statement of the claim showing that the pleader is entitled to relief', Fed. Rule Civ. Proc. 8(c)(2)". Id. at 346. ~~While Rule 8~~ allows the pleading of conclusions, Rule

12(e) (motion for more definite statement) and Rule 12(f) (motion to strike), cure the only real impropriety of the pleading of conclusions, namely that a pleading is too vague to form a responsive pleading. Neither motion was filed.

There is the further proposition: "'[One] must consider the cumulative effect of the [defendants'] many infractions'… [We] will not ignore the 'totality of the circumstances'". See *In the Matter of Crossen,* 450 Mass. 533, 574-575 (2008). See #10 at page 8, below.

1. Facts:

There are two defendants in the case, Judge Douglas P. Woodlock, individually; and the U. S. District Court for the District of Massachusetts. This is set out in the motion to dismiss memorandum at page 15, and responded to at page 13 of Plaintiff's Opposition.

2. Discussion:

The federal judiciary is becoming less and less receptive to plaintiffs seeking to enforce individual rights guaranteed by the Constitution at the time when the need for a strong, independent judiciary is becoming greater. The very purpose of the Bill of Rights with the "Incorporation Doctrine" of the Fourteenth Amendment which

involve the right to redress, was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of officials, and to establish them as legal principals to be applied by the courts. "It is axiomatic that 'a fair trial in a fair tribunal is a basic requirement of due process'". *Caperton v. A.T. Massey Coal Co.*, 129 S. Ct. 2252, 2259 (2009). Judge Woodlock overstepped the bounds of the Code of Judicial Conduct by invalidating federal legislation 42 U.S.C. § 1983, stating in his Memorandum And Order of March 31, 2015:

> Concluding that I am without jurisdiction to review the state court judgments and that indeed I would have an obligation did I have jurisdiction to give full faith and credit to them, I dismiss this action. Id. at 1-2.

At that point in time, Judge Woodlock became disqualified by law, not allowing him to claim absolute immunity. 42 U.S.C. § 1983, which he dismissed, expressly authorizes a private remedy for acts taken under color of state law and violate rights secured by federal law. *See Grable and Sons Metal Products v. Darue Engineering and Manufacturing,* 545 U.S. 308, 312 (2005). In such cases, federal law both creates the cause-of-action, supplying the underlying substantive rules that govern a defendant's conduct, and authorizes plaintiffs to enforce the rights created. When

Federal law creates a claim, federal jurisdiction exists. *Mims v. Arrow Financial Services, LLC,* 132 S. Ct. 740, 748-749 (2012). No discretion exists. 42 U.S.C. § 1983 creates a statutory cause of action against state or local officials. In contrast, a *Bivens* action is judicially created and directed against federal officials.

No claims are being waived.

- When judges commit criminal acts, they are not acting within their "jurisdiction", and are therefore not protected by "absolute immunity" from civil lawsuits for damages.

- Judge Woodlock committed acts which had nothing to do with the proper administration of justice required by the Code of Judicial Conduct and the U.S. Constitution. He changed documented facts and law to support his rulings, which can only be deemed "criminal", and certainly constituted illegal acts as set out in 18 U.S.C. §§ 242, 371, 1503, and 1505.

- The defendant engaged in conduct which constitutes one or more grounds for impeachment under Article II of the Constitution.

- While the terms *disqualification* and *recusal* are used interchangeably, such use is in error. If *disqulification* of a judge is required under the Constitution, he or she is absolutely without jurisdiction in the case, and any judgment rendered by him or her is void, without effect, and subject to collateral attack. *Disqualification* is automatic. Further, the failure of a judge to *recuse* when recusal is appropriate can constitute a violation of the Code of Judicial Conduct. Failure to *recuse* may rise to the level of *disqualification* when it impacts a litigant's

right to due process. Any objective observer would certainly entertain reasonable questions as to Judge Woodlock's impartiality. See #10 at page 8 below. 28 U.S.C. § 455(a)and(b).

The plaintiff has claimed criminal infractions by Judge Woodlock, which should initiate federal prosecution by Defense Counsel Lelling's office for the defendant's obstruction of justice. It was only a few weeks ago, April 25, 2019, that Attorney Lelling told The Boston Globe in an article titled "Mass. Judge faces federal charges": "This case is about the rule of law. The allegations in today's indictment involve obstruction by a sitting judge, that is intentional interference with the enforcement of federal law, and that is a crime. We cannot pick and choose the federal laws we follow, or use our personal views to justify violating the law". The same criminal infractions are alleged by the plaintiff against Judge Woodlock. This would appear to present a conflict of interest. Attorney Lelling should be prosecuting Judge Woodlock, not defending him. Defense Counsel at page 17 of his Memorandum supporting his motion to dismiss argued: "'Generally, a private citizen has no authority to initiate a federal criminal prosecution'". If this is the law, it would be Attorney Lelling who must prosecute Judge Woodlock.

CLAIMS

Again, the plaintiff is not waiving any of his claims. The plaintiff adds to and adopts the claims already enumerated by this Court.

1. The plaintiff claims *Bivens,* as he has exhausted all his remedies. Paragraphs 57, 58, pages 22 and 23; also see Defense Counsel's Memorandum supporting his motion to dismiss, at pages 1-5 (Background), in which he meticulously sets out this "exhaustion of remedies" in detail.

2. The plaintiff has claimed 42 U.S.C. § 1983, as it supplies the underlying avenue to be followed in his federal *Bivens* claim.

3. The plaintiff has asserted a claim pursuant to Restatement (Second) of Torts § 682(1977) for federal criminal acts perpetrated by the defendants. Pages 9-11, 15, 16, 17-18, and 19-20. Judge Woodlock *sua sponte* "waived" the plaintiff's due process claims mandating *disqualification* (see pages 4-5 above), which were not only criminal acts directed to the plaintiff, but was harm inflicted to the protection of the integrity of the judicial system, influencing issues that are broader than the parties to the suit. See *Chambers v. NASCO,*

Inc., 501 U.S. 32, 44 (1991). It is not the gravity of the judicial error that counts, but that a violation of the litigant's Constitutional rights has been perpetrated. This must be seen as an "external factor", imputed through Judge Woodlock to the U.S. District Court for the District of Massachusetts. *Cf. Holland v. Florida,* 560 U.S. 631, 657 (2010), citing *Coleman v. Thompson,* 501 U.S. 722, 752, (1991).

4. Article III, Sec. 2, Clause 1 of the United States Constitution and the Bill of Rights is a separate claim; along with supporting the *Bivens* claim. Page 17.

5. Violation of Article I, Sec. 9, Clause 8, of the United States Constitution and the Bill of Rights is a separate claim; along with using to support the *Bivens* claim. Page 21; also page 22.

6. As federal jurisdiction was mandated, Judge Woodlock violated his ministerial duty, subjecting him to this civil action. Page 10. See #10 at page 8, below.

7. The plaintiff presents a claim pursuant to the Ninth Amendment to the U.S. Constitution; along with using it to support the *Bivens* claim. Page 23.

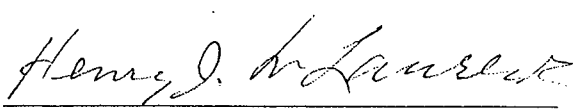
8. The plaintiff presents claims for intentional and negligent infliction of emotional distress for his years

of stress since 2015. Page 23.

9. The plaintiff has a claim for damages pursuant to 28 U.S.C. § 1927. Paragraph 56, page 21; see also page 12 of the motion to dismiss memorandum.

10. The plaintiff has claims against the defendants pursuant to 28 U.S.C. § 455(a)and(b), both as to *disqualification* and *recusal*. See pages 4-5 above. Once *disqualified* as a matter of law, Judge Woodlock was devoid of "jurisdiction", thereby preventing his claims of absolute immunity. Further, once disqualified, Judge Woodlock could no longer make discretionary rulings, so the argument as to judicial independence could no longer be used to render him immune from suit, and making it irrelevant as to whether his actions were taken with malice, bias, or otherwise. Pages 12-15. These are also being used in support of the *Bivens* claim.

Respectfully submitted,



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(978) 208-1399
BBO# 137660

Dated: May 28, 2019

Exhibit G

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Henry J. DuLaurence, III

v.

Civil No. 1:18-cv-11430-JL

Judge Douglas P. Woodlock, Individually, and in his Official Capacity

Plaintiff-Appellant's Filing of His Amended Notice of Appeal, as the District Court Failed and/or Incorrectly Addressed the Issues Raised in His Rule 59 and Rule 60 Motions. This is in Addition to His Original Notice of Appeal Which Includes the Court's Ruling on Absolute Judicial Immunity

The District Court denied the Rule 59 and Rule 60 motions on January 31, 2020. The appellant files this Amended Notice of Appeal as to both defendants, Judge Douglas P. Woodlock Individually; and Judge Douglas P. Woodlock in his Official Capacity. The District Court has rendered its decision, again setting out that the appellant has no cause of action because he is barred by absolute judicial immunity. The appellant set out in his Rule 59 and

Rule 60 motions that he has causes of action under many different theories. The appellant argues that there must be in place a structure for civil rights violations so as to provide (1) effective deterrence of governmental misconduct, (2) compensation to individuals for violations of their constitutional or statutory rights, and (3) enforcement mechanisms that ensure compliance with the constitutional and statutory norms. The District Court further incorrectly stated that the District Court Clerk's Office was incorrect when it set out that there were two defendants. The District Court then dismissed the case as to only one defendant, in violation of Rule 60.

The Court failed to address any of the other issues the appellant had set out for the District Court prior to that court's rendering its first decision of dismissal. The Court cited *Zenon v. Guzman,* 924 F.3d 611 (1st Cir. 2019), as support for its Rule 59 and Rule 60 rulings, a case which mostly relied on *Stump v. Sparkman,* 435 U.S. 349, 367 (1978), "A judge is not free, like a loose canon, to inflict indiscriminant damage whenever he announces he is acting in his judicial capacity", set out by Justice Potter Stewart in the dissenting opinon, discussed below at page 7. *Zenon* discusses *Rooker-Feldman,* but fails to address the

fact that it has no application when a plaintiff alleges he was denied procedural due process by conspiracy. Courts have repeatedly recognized that *real* due process claims (as opposed to claims that in substance merely complain about state courts making a mistake) are not barred by *Rooker-Feldman*. *See Great W. Mining & Mineral Co. v. Fox Rothschild LLP,* 615 F.3d 159, 173 (3d Cir. 2010), which held *Rooker-Feldman* inapplicable where a plaintiff alleges "a conspiracy to reach a predetermined outcome in a state court". These are the same allegations this appellant made in the underlying case. The appellant not only pleaded these, but one can see by Judge Woodlock's actions and his numerous comments in his rulings, that the plaintiff had made these claims, which Judge Woodlock labeled as being highly disrespectful. Judge Woodlock then failed to provide procedural due process. Judge Woodlock did not like these claims against those judges. His comments were such that he knew the plaintiff was making these derogatory claims. At that point in time, Judge Woodlock became disqualified as a matter of law. 28 U.S.C. § 455(a).

If that wasn't enough, Judge Woodlock was vindictive when he threatened the plaintiff with financial retribution if the plaintiff attempted to appeal any of his rulings.

A due process claim that one has been injured by inadequate or defective procedures is another "independent claim" of the type to which the Supreme Court was referring to in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 293 (2005).

The appellant requests the Appeals Court to remand and instruct the lower court to determine on a claim-by-claim basis why none of the appellant's claims are viable, and its reasons therefore.

First, the District Court stated that Judge Woodlock was the only defendant. Judge Woodlock is a defendant, first as an individual, and also in his official capacity for the United States District Court. This second claim is the only way to implicate the United States Government, as it is otherwise immune from suit. The District Court stated: "In docketing the case, the court incorrectly identified the U.S. District Court for the District of Massachusetts as a second defendant". In the United States, the federal government has sovereign immunity and may not be sued unless it has waived its immunity or consented to suit. Title 28 U.S.C. § 1331 confers federal question jurisdiction on district courts, but is not a blanket waiver of sovereign immunity on the part of the federal

government. A claimant may sue an official who used his or her position to act illegally, to be sued in his or her official capacity, as in the instant case. The courts have called this the "stripping doctrine". Therefore, a claimant may sue an official under this "stripping doctrine" and get around any sovereign immunity that official might have held with his or her position. When a claimant uses this exception, the government cannot be included in the suit; instead, the name of the individual defendant is listed. Hence, here, two defendants. Although not clear, the District Court apparently only granted Judge Woodlock immunity in his individual capacity. The issues set out in the Rule 59 and Rule 60 motions which relate to Judge Woodlock's acting in his official capacity must be addressed.

Another issue the appellant set out as one of his claims was that of alleged criminal conduct perpetrated by Judge Woodlock, both in his individual and in his official capacity, causing injury. 18 U.S.C. § 242 and 18 U.S.C. § 1505. The appellant has alleged "guild favoritism" as set out by Justice Breyer in the appellant's district court opposition to dismissal, where recusal by Judge Woodlock was required. Then, any actions taken by him were void *ab*

initio, and therefore the issue of "judicial function" cannot not be considered in the first place.

The appellant has claimed the federal equivalent of 42 U.S.C. § 1983, *Bivens v. Six Unknown Named Agents,* 403 U.S. 388 (1971), in which one must prove that a Constitutionally protected right has been violated. Under *Bivens,* and 18 U.S.C. § 242, the federal courts may recognize a cause of action for damages against an individual personally for unconstitutional conduct committed by the individual as a federal official acting under the color of law. Id. at 392-397. See *Corr. Servs. Corp. v. Malesko,* 534 U.S. 61, 66, 122 S. Ct. 515 (2001); *Browning v. Clinton,* 352 U.S.App.D.C.4, 292 F.3d 235, 250 (D.C. Cir. 2002). 'Under color of law authority' is a legal phrase indicating that a person is claiming or implying the acts he or she is committing are related to and legitimized by his or her role as an agent of governmental power, especially if the acts are unlawful. The deprivation of rights under color of law is a federal criminal offense which occurs when any person under color of any law or statute, willfully subjects any person to the deprivation of any rights or privileges secured or protected by the Constitution or laws of the United States. Color of law may

include public officials and non-government employees who are not law enforcement officers, such as judges. See 18 U.S.C. § 242, 18 U.S.C. § 1505, and other federal statutory criminal claims by the appellant. See also 28 U.S.C. § 455a, based on due process, pursuant to which a judge who refuses recusal may be further reprimanded or disciplined. This makes *any* decisions rendered by the judge void *ab initio*.

Some of the appellant's claims have nothing to do with judicial undertakings by a judge. Again, in the dissenting opinion in *Stump v. Sparkman,* 435 U.S. 349, 365-369 (1978), Justice Potter Stewart stated: "A judge is not free, like a loose cannon, to inflict indiscriminant damage whenever he announces that he is acting in his judicial capacity." Id. at 367. The appellant claims Section 1983 of the Civil Rights Act of 1871, underlying *Bivens,* which gave citizens a recourse when they are wronged by federal government. The claimant claims 28 U.S.C. § 1927 damages. The appellant claims intentional and negligent infliction of emotional distress since 2015. The appellant claims other damages pursuant to *Bivens* and the Ninth Amendment, along with other Constitutional claims, such as Article III and Article I, Sec. 9, Clause 8 of the Bill of Rights and

the United States Constitution. The dismissal of the appellant's case based on absolute immunity is untenable in face of all the Constitutional issues involved. There has to be some accountability somewhere.

Respectfully submitted,

Henry J. DuLaurence

Henry J. DuLaurence, III
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(978) 208-1399

Dated: February 24, 2020

Exhibit H

United States Court of Appeals
For the First Circuit

No. 15-1537

HENRY J. DULAURENCE, III,

Plaintiff, Appellant,

v.

ARTHUR G. TELEGEN; LIBERTY MUTUAL INSURANCE COMPANY,

Defendants, Appellees.

Before

Howard, Chief Judge,
Thompson and Kayatta, Circuit Judges.

JUDGMENT

Entered: November 30, 2016

The district court dismissed plaintiff-appellant Henry J. DuLaurence, III's amended complaint on the basis of lack of subject matter jurisdiction and res judicata. In addition, the district court denied DuLaurence's motion for leave to proceed in forma pauperis (IFP) because it concluded that DuLaurence's appeal was not taken in good faith. See 28 U.S.C. § 1915(a)(3).

DuLaurence now seeks IFP status in this court. Good faith for purposes of § 1915(a)(3) is judged by an objective standard; i.e., whether the litigant "seeks appellate review of any issue not frivolous." Coppedge v. United States, 369 U.S. 438, 445 (1962). We assume without deciding, for purposes of granting IFP status, that DuLaurence's claims are non-frivolous. Nevertheless, we have carefully reviewed the record and the issues on appeal set forth in DuLaurence's affidavit in support of his IFP motion, and it clearly appears to this court that the appeal presents no substantial question.

To the extent DuLaurence's federal court amended complaint sought to vacate the state court judgments in DuLaurence v. Liberty Mut. Ins. Co., 74 Mass.App.Ct. 1125, 909 N.E.2d 558 (2009), or DuLaurence v. Telegen, 83 Mass.App.Ct. 1101, 978 N.E.2d 237 (2012), the district court properly found such an attempt barred under the Rooker-Feldman doctrine. See Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005); Miller v. Nichols, 586 F.3d 53, 59 (1st Cir. 2009).

Furthermore, the factual issues underpinning DuLaurence's federal court lawsuit concern discovery disputes in the state court employment action that were addressed in a final decision on the merits in DuLaurence v. Liberty Mut. Ins. Co., supra, 74 Mass.App.Ct. 1125 at *1, 909 N.E.2d 558 at *1. The district court's dismissal on res judicata grounds was, thus, also appropriate, even though they involved different ultimate claims. See Miller, 586 F.3d at 60-61; Bellermann v. Fitchburg Gas and Elec. Light Co., 470 Mass. 43, 61, 18 N.E.2d 1050, 1066 (2014) (citation omitted).

Accordingly, the motion for leave to proceed IFP is granted. The motion to expedite, petition for hearing en banc, and motion to recuse, strike, and remand are denied as moot. The district court judgment is affirmed. See 1st Cir. R. 27.0(c).

By the Court:

/s/ Margaret Carter, Clerk

cc:
Henry DuLaurence, III
Erik Weibust

Exhibit I

APPENDIX A

United States Court of Appeals
For the First Circuit

No. 15-1537

HENRY J. DULAURENCE, III,

Plaintiff, Appellant,

v.

ARTHUR G. TELEGEN; LIBERTY MUTUAL INSURANCE COMPANY,

Defendants, Appellees.

Before

Howard, Chief Judge,
Thompson and Kayatta, Circuit Judges.

ORDER OF COURT

Entered: January 5, 2017

The petition for reconsideration, which we construe as a petition for rehearing, having been denied by the panel of judges who decided the case, it is ordered that the petition for rehearing be denied.

By the Court:

/s/ Margaret Carter, Clerk

cc:
Erik Warren Weibust
Henry J. DuLaurence, III

Exhibit J

United States Court of Appeals
For the First Circuit

No. 15-1537

HENRY J. DULAURENCE, III,

Plaintiff - Appellant,

v.

ARTHUR G. TELEGEN; LIBERTY MUTUAL INSURANCE COMPANY,

Defendants - Appellees.

Before

Howard, Chief Judge,
Thompson and Kayatta, Circuit Judges.

ORDER OF COURT

Entered: October 12, 2017

Because mandate had already issued by the time appellant filed the Motion to Vacate Judgments Pursuant to Rule 60(b), and Title 28 U.S.C. § 455, we treat the motion as one seeking to recall the mandate. So construed, we deny it because no "extraordinary circumstances" have been shown justifying recall of the mandate. See Kashner Davidson Sec. Corp. v. Mscisz, 601 F.3d 19, 22 & n.4 (1st Cir. 2010) (noting that court exercises power to recall mandate "sparingly").

By the Court:

/s/ Margaret Carter, Clerk

cc:
Henry J. DuLaurence III
Erik Warren Weibust

Exhibit K

United States Court of Appeals
For the First Circuit

No. 15-1537

HENRY J. DULAURENCE, III,

Plaintiff, Appellant,

v.

ARTHUR G. TELEGEN; LIBERTY MUTUAL INSURANCE COMPANY,

Defendants, Appellees.

Before

Howard, Chief Judge,
Thompson and Kayatta, Circuit Judges.

ORDER OF COURT

Entered: November 29, 2017

Appellant's petition for rehearing and rehearing en banc, which we construe as a motion for reconsideration of this court's October 12, 2017 order denying appellant's motion to recall the mandate, is denied.

By the Court:

/s/ Margaret Carter, Clerk

cc:
Henry DuLaurence, III
Erik Weibust

Exhibit L

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HENRY J. DULAURENCE, III
190 Bridge Street, #5308
Salem, Massachusetts 01970

Plaintiff

v.

MASSACHUSETTS DISTRICT COURT JUDGE DOUGLAS P. WOODLOCK, individually and in his official capacity, U. S. DISTRICT COURT for the DISTRICT of MASSACHUSETTS, Federal Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210

Defendant

CIVIL RIGHTS COMPLAINT-42 U.S.C. § 1983; 28 U.S.C. § 455; 28 U.S.C. § 1331; 18 U.S.C. § 242; 18 U.S.C. § 371; 18 U.S.C. §§ 1503, 1505; Restatement (Second) of Torts § 682 (1977); Article III, Sec. 2, and Article I, Sec. 9, Clause 8 of the United States Constitution, and the Bill of Rights, with *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) Constitutional tort claim; Ninth Amendment to the United States Constitution.

Civil Docket No. _____

The plaintiff is *pro se*
(978) 740-0098

VERIFIED COMPLAINT

COMPLAINT AND JURY DEMAND

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such federal action been previously filed between these parties.

NOW COMES Plaintiff, *pro se,* and for his Complaint against Judge Douglas P. Woodlock, hereby states as follows:

APPEAL

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:18-cv-11430-JL

DuLaurence, III v. Woodlock et al
Assigned to: Judge Joseph Laplante
Case in other court: USCA - First Circuit, 19-01905
USCA - First Circuit, 20-01254
Cause: 28:1331 Fed. Question

Date Filed: 07/10/2018
Date Terminated: 08/20/2019
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Henry J. DuLaurence, III

represented by **Henry J. DuLaurence, III**
1 South Union Street #114
Lawrence, MA 01843
978-208-1399
PRO SE

V.

Defendant

Judge Douglas P. Woodlock
individually and in his official capacity

represented by **Christopher L. Morgan**
United States Attorney's Office
Suite 230
United States Courthouse
300 State St.
Springfield, MA 01105
413-785-0269
Email: christopher.morgan2@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

U.S. District Court
for the District of Massachusetts

represented by **Christopher L. Morgan**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/10/2018	1	COMPLAINT against All Defendants, filed by Henry J. DuLaurence, III. (Attachments: # 1 Civil Cover Sheet and Category, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E, # 7 Exhibit F, # 8 Exhibit G, # 9 Exhibit H, # 10 Exhibit I)(Coppola, Katelyn) (Entered: 07/10/2018)

United States Court of Appeals
For the First Circuit

Nos. 19-1905
20-1254

HEHRY J. DULAURENCE, III,

Plaintiff - Appellant,

v.

JUDGE DOUGLAS P. WOODLOCK, individually
and in his official Capacity,

Defendant - Appellee.

APPEAL

APPENDIX

Henry J. DuLaurence, III
1 South Union Street, #114
Lawrence, MA 01843

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HENRY J. DULAURENCE, III
190 Bridge Street, #5308
Salem, Massachusetts 01970

Plaintiff

v.

CIVIL RIGHTS COMPLAINT
(42 U.S.C. Sec. 1983; 28 U.S.C. Sec. 455;
18 U.S.C. Sec. 1503; 18 U.S.C. Sec. 1512(c);
18 U.S.C. Sec. 1512(k); 28 U.S.C. Sec. 1927)

ARTHUR G. TELEGEN
Seyfarth, Shaw LLP
Two Seaport Lane, Suite 300
Boston, Massachusetts 02110

Civil Docket No. 1:14-cv-12349-DPW

AND

LIBERTY MUTUAL INSURANCE CO.
175 Berkeley Street
Boston, Massachusetts 02116

Defendants.

The plaintiff is *pro se*
(978) 740-0098

The defendant Arthur Telegen was last *pro se*
(U.S. Supreme Court)
(617) 946-4800

The defendant Liberty Mutual Insurance Co. was last represented by Arthur Telegen (U.S. Supreme Court)
(617) 946-4800

VERIFIED COMPLAINT

119. Supeme Court Justice Stephen Breyer in his September, 2006, *Implementation of the Judicial Conduct and Disability Act of 1980-A Report to the Chief Justice*, stated:

> The federal judiciary, like all institutions, will sometimes suffer instances of misconduct...[A] system that relies for investigation solely upon judges themselves risks a kind of undue "guild favoritism" through inappropriate sympathy with the judge's point of view or de-emphasis of the misconduct problem. Id. at page 1.

120. The Code of Judicial Conduct, Canon 1, "Integrity of the Judiciary":

> Commentary...(Judges) must comply with the law...[V]iolation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under the law.

Judicial abuse must be adequately sanctioned. *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991). "While review after final judgment can (at a cost) cure the harm to the litigant, it cannot cure the additional, separable harm to public confidence that sec. 455 is designed to prevent". *In re Sch.. Asbestos Litig.*, 977 F.2d 764, 776 (1992).

121. Evidence shows that Panel One knew before oral argument, by reading the plaintiff's Brief, that Telegen had perpetrated violations of the Ethics rules. "Fraud upon the court" denies one due process of redress under the Fourteenth Amendment; the courts must "'set aside fraudulently begotten judgments...necessary to the integrity of the courts for tampering with the administration of justice...[It] involves more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public...'[A] court has the power to conduct an independent investigation to determine whether it has been a victim of fraud". (Citations omitted.) *Chambers v. Nasco*, 501 U.S. 32, 44 (1991).

122. Some Ethics and criminal violations were inquired in to by the Appeals Court

(panel one) justices. The panel should have decided on any cover-up **prior to** oral argument. The following is set out in the oral argument transcript:

a. The Court asked Telegen why he had not produced court ordered employee handbooks, which is basic discovery in employment cases for the determination of "employee at will", or "contract" employee: *LeMaitre v. Massachusetts Turnpike Authority*, 70 Mass. App. Ct. 634, 638, 876 N.E.2d 888, 892 (2007); *O'Brien v. New England Tel. & Tel.Co.*, 422 Mass. 686, 691, 664 N.E.2d 843, 847 (1996): "THE COURT: Why didn't you turn over the employee handbook?"

b. The Court asked why Telegen did not answer requests for admissions or interrogatories as required by the Massachusetts Rules of Civil Procedure, basic to discovery in any case: "THE COURT: Now Counsel (Telegen), you mention that there were a certain number of interrogatories asked and a certain number of admissions asked for. In a typical lawsuit, that's not necessarily a large number."

c. The Court asked why he had not turned over court ordered salary discovery, basic discovery in employment cases to determine age discrimination by "disparate impact"—*Smith College v. Mass. Comm'n Against Discrimination*, 376 Mass. 221, 380 N.E.2d 121 (1978); by "disparate treatment"; and to determine "damages"—*Boothby v. Texon, Inc.*, 414 Mass. 468 (1993): "Mr. Telegen: Your Honor, we were asked for salaries of all our employees which wasn't turned over."

d. The Court inquired as to Telegen's failure to comply with a court order denying his **Motion for a Protective Order** as to a defendant and senior vice-president of Liberty Mutual's Legal Department, who had been noticed and re-noticed for a

deposition three times during the six months prior thereto. Telegen's misdirection why he had failed to comply with the order denying his "Motion For Protective Order", lying to the Appeals Court, stating that the judge had "denied the **motions to compel**...For all he knows, it may have thought it was Mr. DuLaurence's's motion". 123. These Ethics violations, criminal acts, and failure to produce even the most basic of employment discovery were prejudicial to the effective and expeditious administration of the business of the courts and the proper administration of justice, and certainly had been "identified". It would take a book to recount all the misrepresentations and abuses perpetrated by the defendants. As the Appeals Court stated in its Memorandum And Order, the plaintiff did attempt to write a book: "This record appears to contain over 3,000 pages of pleadings". The Court stated:

> He contends that Liberty Mutual engaged in a pattern of withholding information necessary to prove his claims and lists various motions in his brief at pages 3-11 and 21-31. Similarly, the defendants comment on the discovery process in their brief at pages 3-5, highlighting instances of dissatisfaction with the plaintiff's motions. It is unnecessary to enter this thicket.

The Court failed to state that the "dissatisfaction" was caused by the many misrepresentations, and criminal and Ethics violations set out in that "book", and in the plaintiff's Amended Complaint in the anti-Slapp case (Exhibit I). "[A] party may be sanctioned for abuses of process **occurring beyond the courtroom**, such as disobeying the court's orders". (Emphasis added.) *Chambers v. Nasco,* 501 U.S. 32, 57 (1991). A violation of a court order is a **"criminal contempt...outside the presence of the court**, and may consist of a willful and knowing disobedience of a

court order or an act which...obstructs or impedes the administration of justice". (Emphasis added.) *Avelino-Wright v. Wright*, 51 Mass. App. Ct. 1, 5 (2002). 28 U.S.C. sec. 1927; 42 U.S.C. sec. 1983; 18 U.S.C. sec. 1512(c)(2), and sec. 1503.

124. Other evidence that a cover-up was devised after oral argument, showing Panel One had read the briefs **prior to** it, requiring recusal pursuant to 18 U.S.C. sec. 455(a) and sec. 455(b)(1); and illegal conduct pursuant to 42 U.S.C. sec. 1983, and 18 U.S.C. sec. 1512(c)(2), involved evidence addressed for age discrimination:

> THE COURT (to Telegen): This is, you don't address this in your brief. This is at **page 1299** of the appendix, that's the (direct) evidence. Why isn't that sufficient to send the claim of age discrimination to the jury, **even if the heresay evidence can't be considered**? (Emphasis added.)

The Appeals Court then ruled in its written decision:

> The judge properly rejected **this evidence as heresay** inappropriate for summary judgment. The **only** argument the plaintiff advances on appeal is that the **heresay statements** are admissible as vicarious admissions.

This is certainly opposed to what the panel obtained from the petitioner's Brief when addressing the issue in oral argument, "**even if** the heresay evidence can't be considered." The subsequent decision carefully addressed heresay, but never acknowledged the **direct evidence. What happened to "page 1299 of the appendix" which the Appeals Court at oral argument recognized as being set out in DuLaurence's Brief?**

125. Another ruling by the Appeals Court against legal authority pertains to the special jury verdicts, and "immediate supervisor" law. The petitioner was denied his verdict on liability against Liberty Mutual. The Appeals Court (panel one) ruled:

> The plaintiff cites no authority to the effect that a finding of malice

> on the part of **an employee [not immediate supervisor]** is binding on the employer, **particularly where, as the jury found, Latronico was acting in Liberty Mutual's legitimate corporate interests.** (Emphasis added.)

The U.S. Supreme Court took considerable time and effort to render three rulings on "immediate supervisor law" and "vicarious liability": *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742, 118 S. Ct. 2257 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775, 118 S. Ct. 2275 (1998), and *Crawford v. Metropolitan Government of Nashville And Davidson County Tennessee*, 129 S. Ct. 846, 72 L. Ed. 650 (2009). "Abuse (of judicial discretion) occurs when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper are assessed, but the court makes a serious mistake in weighing them". *Aoude v. Mobil Oil*, 852 F.2d 1115, 1118 (1st Cir. 1989).

126. Further, the Appeals Court (panel one) upheld Judge Ball's allowance of Defendant John Allen's motion for a directed verdict "for the reasons stated in (his) motion". His argument was that he had retired one month prior to the plaintiff's 3 month probation, and was no longer employed by Liberty Mutual when the plaintiff was terminated. The Appeals Court ruled that "the evidence at trial was insufficient for the jury to conclude that he took any actions leading to the plaintiff's termination". Evidence at trial showed that the "plan" to terminate the plaintiff was put in place in November, 1994, months prior to his retirement. Further, the case against Allen was not for "wrongful termination", but was for damages caused by his harassment and causing a hostile work environment, leading to an "adverse employment action", of which termination is only one. *Noviello v. City of Boston,*

398 F.3d 76 (1st Cir. 2005). The Appeals Court failed to read the trial testimony which was a portion of the 3400 page Appendix, evidencing "'that he was thwarted by Allen at every opportunity'...(and) only offers his allegations (the trial testimony) that Allen did not approve bonuses or raises and subjected the plaintiff's expense accounts to audit" (no other had been so subjected, and it had been just prior to the "plan"). DuLaurence was prevented the deposition to determine who was involved in "the plan"- paragraph 80. Allen, a mid-level corporate legal manager in charge of pay raises, was jealous of the plaintiff performing work for the CEO on the executive floor. Allen had the plaintiff audited in an attempt to prove that the plaintiff was stealing from the Company, to avoid placing him on a three month probation before terminating him. This probation was mandated by the employment manual for one with 10 years or more of employment. It would also have denied him severance pay based on 28 years of employment. This trial testimony by Helen Sayles, who had written the manual, and whose deposition had been prevented by the defendants' harassment arguments and misrepresentations of prior court orders, showed that the plaintiff was not an "at-will" employee. See paragraphs 73-80.

127. The Trial Court for the quantum meruit claim in the employment case:

> [T]he only evidence the plaintiff offers in support of this are his own allegations in affidavits and depositions. There simply is no evidence that the defendants requested or authorized the plaintiff's participation in outside activities. To the contrary, the record contains evidence of the defendants' displeasure with the plaintiff's performance and lack of focus on his trial responsibilities.

Although the plaintiff was denied the deposition of the CEO because, as the

defendants argued, this was merely an attempt at harassment, the Appendix and the his opposition to the motion for a protective order included checks made out to the plaintiff for his Company public relations services in helping the Company sponsor major national events, like a Norman Rockwell PBS Thanksgiving one hour special out of Boston and New York; testimony from mid-manager John Allen that he was doing work for the Company at the behest of the CEO to save the Company money in its real estate transactions; and deposition testimony from the head of Liberty Mutual's Legal Department Christopher Mansfield that he was doing Compliance work for the CEO and the Company Secretary. There was also the deposition testimony of Mansfield that the plaintiff was asked by him to do some important legal work in Texas and California, in an attempt to save the Company money. The plaintiff had worked in Home Office performing such work prior to going to the trial department. Mansfield also had set up a system which would allow him to be paid for this extra work. All this was in the plaintiff's Appendix. As stated above, Allen was jealous of the plaintiff working with those above him, and caused "adverse employment actions" to be taken, the subject of the individual suit against him. The Trial Court failed to recognize that John Allen was not the Company, and those above him that were the Company had asked him to perform these duties for the betterment of the Company. The Appeals Court simply ruled: "In opposing the second motion for summary judgment, the plaintiff failed to provide evidence satisfying the elements of a quantum meruit claim". In the first place, the above evidence was misconstrued by the Trial Court, and had been provided to both courts

in argument and the Appeals Court Appendix. Further, the plaintiff was improperly denied the deposition of the CEO for the proof of this. There was, however, Mansfield's deposition testimony which supported the elements of this claim.

128. In the employment case, DuLaurence sought damages pursuant to Mass. Gen. L. Ch. 151B, sec. 4, 4(A), retaliation for testifying in a Human Resources hearing for Latronico's (the plaintiff's immediate supervisor) former secretary against him for sex discrimination and harassment. DuLaurence attempted to obtain that information by Liberty Mutual 30(b)(6) and Helen Sayles depositions, ordered to go forward in April, 1997. Telegen had the 30(b)(6) order vacated by Judge Ball two months later after she was assigned to the session, as "Liberty Mutual has proved to the Court on numerous occasions that...the information he seeks is irrelevant, and that he seeks to take the deposition(s) only to harass his former employer". By 2009, after Judge Ball had ruled: "In any event, testifying on behalf of an employee in a civil suit does not implicate a well established public policy which could form a basis for a wrongful discharge, unlike, for example, cooperating with law enforcement authorities investigating illegal conduct on the part of an employer". This is exactly what is set out as actionable in Ch. 151B, sec. 4, 4(A). The defendants lied in their brief to the Appeals Court, that DuLaurence failed to plead this, even though it had not only been pleaded, but accepted as a claim by the MCAD. Further, after successfully arguing to Judge Ball that these depositions were only noticed to harass the defendants, they then got to argue, "[T]here is no evidence that either DuLaurence or Latronico's secretary ever asserted a claim of gender discrimination or sexual harassment,

whether internally or with the MCAD". The Appeals Court (panel one) at oral argument understood that the plaintiff had pleaded it, even though argued otherwise by the defendants: "THE COURT: 'Did you file an MCAD charge?'...MR. DULAURENCE: 'Yes'...THE COURT: 'I'm asking about retaliation for the sexual, assisting the secretary with her sexual harassment claim'". The Appeals Court later failed to even mention this claim in its decision.

129. Using the "clearly erroneous" standard for judicial abuse of discretion, the errors were evident, obvious, and clear so as to likely affect the outcome in a significant way. *United States v. Olano,* 507 U.S. 725, 732 (1993).

130. As set out above, the Appeals Court (panel one) violated its duties and the Constitution, so it lacked jurisdiction pursuant to 28 U.S.C. sec. 455(a) and sec. 455(b)(1). A judgment is void under Rule 60(b)(4) if it is entered in a manner inconsistent with due process. *Wendt v. Leonard*, 431 F.3d 410, 413 (4th Cir. 2005). Any judgments or rulings made by it must be rendered void as a matter of law.

131. Both Appeals Court panels exhibited conduct which "would entertain reasonable questions about...impartiality". *Liteky v. U.S.,* 114 S. Ct. 1147, 1162 (1994). Judges must follow the law. 'What really matters is the appearance of bias or prejudice'. *Liljberg v. Health Services Acquisition Corp.,* 486 U.S. 847, 108 S. Ct. 2194; *United States v. Balistrieri,* 779 F.2d 1191 (7th Cir. 1985). 'Should a judge not disqualify him or herself, then a judge is in violation of the Due Process Clause of the U.S. Constitution'. *United States v. Sciuto,* 531 F.2d 842, 845 (7th Cir. 1976). "Lack of jurisdiction" means an entire absence of power to hear or determine a case,

the absence of authority over the subject matter or the parties. *People v. Medina*, 89 Cal. Rptr.3d 830, 171 Cal App. 4th 805, as modified, and rehearing denied, and review denied (Cal. App. 1 Dist. 2009).

132. The full extent of the judges' actions which question their impartiality were not revealed until the Appeals Court (panel two) rendered its anti-Slapp ruling, which had nothing to do with the law on any issue. *See e.g. United States v. Microsoft Corp.*, 253 F.3d 34, 108-109 (D.C. Cir. 2001). This further evidenced the vendetta, 28 U.S.C. sec. 455(b)(1), the courts were perpetrating, retaliating for the plaintiff alleging Judge Ball had abused her discretion in the employment case. The Courts' rulings did not come close to dispensing justice, their Constitutional obligation.

COUNT SEVEN

Rules of Civil Procedure 60(b)(4)—Anti-Slapp Judgment(s) are Void Title 28 U.S.C. Sec. 455(a), (b)(1) Appeals Court Panel Two —both defendants

133. The plaintiff hereby re-alleges and incorporates by reference, as if fully set forth and restated herein, paragraphs 1through 111, and particularly paragraphs 40 through 43, paragraphs 112 through 132, and paragraph 91.

134. As set out above, the anti-Slapp rulings rendered by the Appeals court (panel two) were "clearly erroneous". They had nothing to do with any Massachusetts or other jurisdiction case law on any of the issues, rendering the rulings and judgments void. The panel went out of its way to uphold the defendants' frivolous anti-Slapp motion (Mass. R. Prof C. 3.1; Mass. Gen. L. sec. 6F); and allow for the defendants' 28 U.S.C. sec. 1927 violations. The Appeals Court's reliance on *Cadle Company v. Schlichtmann*, 448 Mass 242 (2007), supporting the defendants' contentions that this

was "protected petitioning activity", is diametrically opposed to that cited Court's ruling: "[A]ggressive lawyering of this sort is not protected petitioning". Id. at 254. [A]n attorney may not claim protection of the anti-Slapp statute for...publishing statements (in violation of Ethics rules)...in hopes of ...gaining an advantage in an ongoing legal proceeding". Id. See paragraph 45(f) above.

COUNT EIGHT

Rules of Civil Procedure 60(b)(6)—Other Reason(s) That Justify Judgment Relief Independent Action—both defendants

135. The plaintiff hereby re-alleges and incorporates by reference, as if fully set forth and restated herein, paragraphs 1 through 134; particularly paragraphs 46 through 86, and paragraphs 111 and 144.

136. As stated throughout, the plaintiff has been denied any semblance of receiving his "day in court". He has been subject to the misconduct of the defendants; and misconduct by the Trial Court and Appeals Court judges, including conduct by panel one of the Appeals Court which would constitute one or more grounds for impeachment under Article II of the United States Constitution.

137. Stated in the Reporter's Notes: "Rule 60(b)(6) contains the residual clause, giving the court ample power to vacate a judgment whenever such action is appropriate to accomplish justice".

138. "A true trial on the merits can never be held...unless each party is afforded adequate discovery. Where one party has prevented even minimum discovery, he forfeits the right to trial on the merits". *Litton Business Tel. Systems, Inc. v. Schwartz,* 13 Mass. App. Ct. 113, 118, 430 N.E.2d 862, 865 (1982). Paragraph 111 .

Exhibit M

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HENRY J. DULAURENCE, III
190 Bridge Street, #5308
Salem, Massachusetts 01970

Plaintiff

v.

MASSACHUSETTS DISTRICT COURT JUDGE DOUGLAS P. WOODLOCK, individually and in his official capacity, U. S. DISTRICT COURT for the DISTRICT of MASSACHUSETTS, Federal Courthouse, 1 Courthouse Way, Boston, Massachusetts 02210

Defendant

CIVIL RIGHTS COMPLAINT-42 U.S.C. § 1983; 28 U.S.C. § 455; 28 U.S.C. § 1331; 18 U.S.C. § 242; 18 U.S.C. § 371; 18 U.S.C. §§ 1503, 1505; Restatement (Second) of Torts § 682 (1977); Article III, Sec. 2, and Article I, Sec. 9, Clause 8 of the United States Constitution, and the Bill of Rights, with *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) Constitutional tort claim; Ninth Amendment to the United States Constitution.

Civil Docket No. _____

The plaintiff is *pro se*
(978) 740-0098

VERIFIED COMPLAINT

COMPLAINT AND JURY DEMAND

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such federal action been previously filed between these parties.

NOW COMES Plaintiff, *pro se,* and for his Complaint against Judge Douglas P. Woodlock, hereby states as follows:

1.

JURISDICTION AND VENUE

1. Plaintiff brings this action under the Ninth Amendment to the U. S. Constitution —Civil Action for Deprivation of Rights, for certain protections guaranteed to him "secured by the Constitution and laws", the Bill of Rights, and Due Process.

2. Plaintiff brings this action pursuant to *Bivens v. Six Unknown Named Agents,* 403 U. S. 388 (1971)—an implied private right of action for monetary damages against federal officials who have violated a plaintiff's Constitutional Rights, where no other remedy is provided; here, the remedy "though adequate in theory, was not available in practice". *Zinermon v. Burch,* 494 U.S. 113, 124-126 (1990); 42 U.S.C. § 1983.

3. Plaintiff brings this action under Title 18 U.S.C. §§ 242, 1503, and 1505— deprivation of rights "under color of law"—Restatement (Second) of Torts § 682.

4. Plaintiff brings this action under Title 18 U.S.C. § 371—"conspiracy".

5. Plaintiff brings this action under Article I, Sec. 9, Clause 8, U. S. Constitution.

6. Plaintiff brings this action under Title 28 U.S.C. § 455(a), failure to recuse.

7. This Court has jurisdiction pursuant to the following:

a. Federal jurisdiction pursuant to Article III Sec. 2, which extends jurisdiction to cases arising under the U. S. Constitution and Bill of Rights;

b. 28 U.S.C. Sec. 1331, which gives district courts original jurisdiction over civil actions arising under the Constitution, laws or treaties of the United States;

c. 28 U.S.C. Sec. 1343 (3) and (4), which gives the district courts jurisdiction over actions to secure civil rights extended by the U. S. Government;

8. This Court has supplemental jurisdiction pursuant to Title 28 U.S.C. Sec. 1367.

9. Venue is appropriate in this judicial district under 28 U.S.C. Sec. 1391(b). because the events that gave rise to this Complaint occurred in this district.

PARTIES

10. Plaintiff is a citizen of the United States and resides in the County of Essex State of Massachusetts, which is in this judicial district.

11. Defendant Douglas P. Woodlock is a justice of the U. S. District Court for the District of Massachusetts, and sued in his official and personal capacity. As such, he has the duty to insure that an individual's Constitutional rights are protected in accordance with federal and state law, and has a duty to uphold the integrity of the judicial system. He has as a ministerial duty, with no room for the exercise of discretion, to execute his obligations which are required by direct and positive command of the law.

STATEMENT OF THE CASE

12. On July 7, 1995, DuLaurence brought an employment action in Suffolk Superior Court against the defendant Liberty Mutual Insurance Company (Liberty) and seven other defendants, one being DuLaurence's immediate supervisor, Kenn Latronico; another being the senior Vice-president of Liberty's Human Resources Helen Sayles; and another being Senior Vice-president and Chief Legal Counsel, Christopher C. Mansfield. (Docket No. SUCV 1995-03733).

13. On September 1, 1995, DuLaurence filed an Amended Complaint and Jury Demand, upon removal from the MCAD and EEOC, raising twelve claims: Coun discrimination for age, handicap, and retaliation, including violations of Mass. Ge

54. The plaintiff has claimed lack of "procedural due process" as set out in the United States Supreme Court's *Zinermon v. Burch,* 494 U.S. 113, 125-126 (1990), the deprivation of his Constitutional right to redress. (See ¶ 44 above.)

In addition to protection against procedural due process, the Due Process Clause has two substantive components—the substantive due process simpliciter, and incorporated substantive due process. To state a claim for violation of the substantive due process simpliciter, a plaintiff must demonstrate that there was conduct that was "arbitrary, or conscience shocking, in a constitutional sense". *Collins v. City of Harker Heights, Texas,* 503 U.S. 115, 128 (1992). This would pertain to the lower federal courts' rulings, both as to "jurisdiction", and to 28 U.S.C. § 455(a). All United States Supreme Court cases are in agreement. The plaintiff alleges judicial misconduct, acts by the defendant "so obviously wrong in the light of preexisting law that only [someone] plainly incompetent or one who was knowingly violating the law would have done such a thing". *Lassiter v. Alabama A & M University Board of Trustees,* 28 F.3d 1146, 1149 (11th Cir. 1994) (en banc). "Fraud upon the court is fraud which is directed to the judicial machinery itself." *Bulloch v. United States,* 763 F.2d 115, 1121 (10th Cir. 1985); 42 U.S.C. § 1983.

With respect to incorporated substantive due process, a plaintiff may state a claim by proving a violation of one of the Bill of Rights, like the Constitutional right to redress. The United States Supreme Court has held that one of the substantive elements of the Due Process Clause protects those rights that are fundamental—rights that are implicit in the concept of ordered liberty, and has, over time, held that virtually all of the Bill of Rights protect such fundamental rights.

Exhibit N

APPENDIX D

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HENRY J. DULAURENCE, III,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO.
	)	14-12349-DPW
v.	)	
	)	
ARTHUR TELEGEN, and LIBERTY MUTUAL INSURANCE COMPANY,	)	
	)	
Defendants.	)	

MEMORANDUM AND ORDER
March 31, 2015

Plaintiff Henry DuLaurence filed this action against Liberty Mutual, his one-time employer, and Arthur Telegen, the lawyer who represented Liberty Mutual during an employment termination action that DuLaurence pursued against Liberty Mutual in Massachusetts Superior Court. He seeks relief from two final judgments in Massachusetts: that entered in the underlying employment action and that entered in a collateral action that was dismissed pursuant to the anti-SLAPP (strategic lawsuits against public participation) statute, Mass. Gen. Laws ch. 231 § 59H, as well as damages arising from the conduct of Liberty Mutual and Telegen during the Massachusetts litigation. Defendants move to dismiss on various grounds. Concluding that I am without jurisdiction to review the state court judgments and that indeed I would have an obligation did I have

jurisdiction to give full faith and credit to them, I dismiss this action.

I. BACKGROUND

The factual background provided here is derived from DuLaurence's Amended Complaint and incorporated documents. The procedural background is derived from the Amended Complaint and public records. *Wilson* v. *HSBC Mortg. Servs., Inc.*, 744 F.3d 1, 7 (1st Cir. 2014)(in addition to the complaint, courts may consider documents incorporated by reference in the complaint, matters of public record, and other matters susceptible to judicial notice).

Liberty Mutual is a Massachusetts corporation with a principal place of business in Boston, Massachusetts. Am. Compl. ¶ 16. DuLaurence worked for Liberty Mutual as an attorney and was terminated in April 1995. *Id.* ¶ 17. Telegen is a partner at the law firm Seyfarth Shaw. *Id.* ¶ 15.

A. *First Superior Court Action: The Underlying Employment Action*

DuLaurence brought an employment action in Suffolk Superior Court in July 1995 against Liberty Mutual and several of its employees alleging misconduct with respect to his termination *Id.* ¶ 17. Telegen represented Liberty Mutual and the individually named defendants throughout that action. DuLaurence brought claims in fourteen counts, thirteen of which

a motion for rehearing. Application for further review was denied by the Supreme Judicial Court, *DuLaurence* v. *Telegen*, 982 N.E.2d 1189 (Mass. 2013), and DuLaurence's petition for Certiorari to the United States Supreme Court was also denied, *DuLaurence* v. *Telegen*, 134 S.Ct. 897 (U.S. 2014).

C. Instant Federal Collateral Action

DuLaurence commenced this action by filing a complaint against Liberty Mutual and Telegen on June 3, 2014. He filed an amended complaint on June 5, 2014. In essence, DuLaurence contends that Liberty Mutual and Telegen engaged in unethical practices during the first Superior Court action by withholding discovery and making incorrect and misleading statements to the court about what had been provided in discovery. DuLaurence seeks damages based on this conduct; he also seeks to have the judgments in the Employment and Collateral actions from Massachusetts state court be declared void.

The complaint alleges eleven counts as to both of the defendants, Liberty Mutual and Telegen. Count one is for an alleged violation of civil rights, pursuant to 42 U.S.C. § 1983. Counts two to four are counts alleging violations of federal criminal statutes. Count two alleges obstruction of justice, under 18 U.S.C. § 1512(c)(1) and (2), count three alleges conspiracy to obstruct justice, 18 U.S.C. § 1512(c) and § 371,

and count four alleges obstruction of judicial proceedings, 18 U.S.C. § 1503.

Counts five to eight each seek to set aside the prior proceedings. Count five cites Rule 60(b)(3) of the Federal and Massachusetts Rules of Civil Procedure, count six cites Rule 60(b)(4) for the employment action, count seven cites Rule 60(b)(4) for the collateral action, and count eight cites the residual clause, Rule 60(b)(6). Count nine requests costs for unreasonable and vexatious multiplication of proceedings under 28 U.S.C. § 1927. Count ten alleges intentional interference with the practice of law. Count eleven alleges intentional infliction of emotional distress. Each of these counts concerns the conduct of Telegen and Liberty Mutual during litigation of the earlier state court proceedings.

Telegen and Liberty Mutual filed a motion to dismiss DuLaurence's amended complaint generally; the defendants also filed a special motion to dismiss pursuant to Massachusetts General Laws ch. 231, § 59H, the anti-SLAPP statute. In addition, the defendants filed a motion to enjoin vexatious litigation. For his part, DuLaurence has opposed each of these motions and also moved to strike the motion to enjoin vexatious litigation and for sanctions against Telegen and Liberty Mutual.

II. THE DUTY OF THE FEDERAL COURT NOT TO INTERFERE WITH FINAL STATE COURT JUDGMENTS

The plaintiff in this case essentially seeks review and displacement of final state court judgments. Finding that I have an obligation not to do so: (A) because lower federal courts lack jurisdiction for such an undertaking, and (B) because even if jurisdiction were granted to entertain this litigation, I am affirmatively obligated to give full faith and credit to the relevant state judgments, I will dismiss this case without reaching the merits of plaintiff's substantive claims.

A. Subject Matter Jurisdiction and the Rooker-Feldman Doctrine

Although neither party raised concerns about this court's jurisdiction in this matter, I have an obligation to inquire *sua sponte* into my ability to exercise subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3); *McCulloch* v. *Velez*, 364 F.3d 1, 5 (1st Cir. 2004). As a general proposition, federal district courts may exercise subject matter jurisdiction in accordance with congressional grants of authority such as for jurisdiction over suits against foreign states, 28 U.S.C. § 1330, those raising federal questions, *id.* § 1331, and those involving diversity of citizenship and at least the minimum requisite amount in controversy, *id.* § 1332. *See Exxon Mobil Corp.* v. *Saudi Basic Indus. Corp.*, 544 U.S. 280, 291 (2005).

lost in state court and (2) that the state court proceeding was final. The First Circuit has held that "when the highest state court in which review is available has affirmed the judgment below and nothing is left to be resolved, then without a doubt the state court proceedings have 'ended.'" *Id.* at 455. The two state court proceedings that form the foundation of this action proceeded to a final judgment in Superior Court, were appealed through the Massachusetts courts, and DuLaurence sought writs of certiorari on both to the Supreme Court, which were denied.

The questions whether (3) DuLaurence complains of injuries caused by the state court proceedings and (4) invites me to review and reject the state court judgments is only slightly more complex. Some of DuLaurence's claims, specifically his claims under Rule 60, explicitly ask me to review and reverse the state court decisions. He also purports to bring additional federal claims, such as those stemming from federal criminal law and federal civil rights law. The fact that the federal questions DuLaurence seeks to raise were not addressed by the state court in the specific terms of the federal statutes does not make a difference here. To be sure, the Supreme Court in *Exxon* did note that a plaintiff could bring an "independent claim" over which the federal courts would still have jurisdiction even if the claim denied a state court's legal conclusion. *Exxon*, 433 U.S. at 293. A claim is "independent"

when a party alleges that the injury was caused by the defendant, separate from the state court decision. *See Galibois* v. *Fisher*, 174 Fed. Appx. 579, 580 (1st Cir. 2006)(unpublished, per curiam). However, DuLaurence's claims in this case are not the type of independent claims that I may review. Rather, they are directly and inextricably tied to the state court judgments themselves.

First Circuit precedent is clear that a claim need not directly assert that it is attempting to appeal or attack a state court decision in order to fall within the scope of the *Rooker-Feldman* doctrine. Rather, a plaintiff's claims may be "an effort to do an end run around the state court's judgment." *Miller* v. *Nichols*, 586 F.3d 53, 59 (1st Cir. 2009). The *Rooker-Feldman* doctrine is properly applied "where, regardless of how the claim is phrased, 'the only real injury to Plaintiffs is ultimately still caused by a state-court judgment.'" *Silva* v. *Massachusetts*, 351 F. App'x 450, 455 (1st Cir. 2009)(quoting *Davison v. Gov't of Puerto Rico-Puerto Rico Firefighters Corps.*, 471 F.3d 220, 223 (1st Cir. 2006)). "*Rooker-Feldman* squarely applies" when the substance of a plaintiff's request would require me to "review and reject a final state court judgment." *Davison*, 471 F.3d at 223.

In this case, DuLaurence does not allege any violation or misconduct by the defendants that occurred outside of or

separate from their conduct during the state court litigation. The only possible harm that DuLaurence suffered due to any discovery misconduct was as a result of the state court rulings based on that discovery. The relief requested by DuLaurence includes vacatur of the judgments in favor of defendants and entry of judgment for DuLaurence in the underlying actions. Throughout the complaint, in addition to attacking the conduct of the defendants and despite framing the counts as being directed to the two plaintiffs, DuLaurence also makes repeated allegations about unethical, criminal, and illegal conduct by the judges that presided over the case in state court. *See, e.g.*, Amend. Compl. ¶¶ 115-32.

If "a plaintiff implicitly or explicitly seeks review and rejection of the state judgment, then a federal suit seeking an opposite result is an impermissible attempt to appeal the state judgment to the lower federal courts," which the *Rooker-Feldman* doctrine teaches means that the federal courts lack jurisdiction. *Federacion de Maestros de Puerto Rico* v. *Junta de Relaciones del Trabajo de Puerto Rico*, 410 F.3d 17, 24 (1st Cir. 2005)(internal citations, quotation and correction marks omitted). Each of the claims that DuLaurence makes in this action is, explicitly or implicitly, asking me to review the conduct of the parties and the courts in the Massachusetts state action, to review the ultimate state court judgment, and to find

error that entitles him to relief from the state court judgments. DuLaurence's efforts to challenge the conduct of discovery and the rulings of judges in the state court action present themes and minor variations on the original state court actions themselves. While DuLaurence attempts to repackage these claims as federal questions, it is plain that the conduct and outcomes of which he complains are those from the earlier state lawsuits, and that he seeks recourse in federal court to re-litigate the same issues that came to final resolution in the state courts.

Although the *Rooker-Feldman* doctrine is a narrow one, the core of the doctrine is designed to address precisely these situations. DuLaurence asks me to act as a federal appellate court in these completed state proceedings. I do not have subject matter jurisdiction to do so.

B. Res Judicata

Even if I did have jurisdiction, I would be obligated to conclude that the final judgments in state court preclude further review of the claims DuLaurence now makes. I give judgments the same *res judicata* effect they would receive in Massachusetts state court. *See generally* 28 U.S.C. § 1738; *see also Isaac* v. *Schwartz*, 706 F.2d 15, 16-17 (1st Cir. 1983). The term *res judicata* refers to two types of preclusion: claim preclusion and issue preclusion. *Kobrin* v. *Bd. of Registration*

finality against DuLaurence the very issues and claims that DuLaurence attempts to raise again here. He is precluded from relitigating them.

III. DEFENDANTS' MOTION TO ENJOIN VEXATIOUS LITIGATION AND PLAINTIFF'S MOTION TO STRIKE AND REQUEST FOR SANCTIONS

Because I lack jurisdiction to reach the merits of – or perhaps more accurately, the manifest lack of merit to – DeLaurence's Complaint, I have considered it inappropriate to address those merits in connection with the defendants' motions to dismiss. But the defendants, understandably apprehensive of DeLaurence's prolonged pursuit of meritless claims, seek an injunction from this Court to protect them against future litigation by the plaintiff. Demonstrating the lack of self awareness and professional competence which has characterized his pursuit of this related litigation, DeLaurence for his part requests sanctions of his own against the defendants.

Telegen and Liberty Mutual move, pursuant to Rule 11 of the Federal Rules of Civil Procedure and the inherent powers of the court, for an order enjoining DuLaurence from filing any further actions against defendants without my leave and until he has paid the attorneys' fees and costs that they were awarded in the anti-SLAPP ruling of the collateral action by the state court.

Federal courts have discretionary powers to regulate the conduct of litigants, including "the ability to enjoin a party –

even a pro se party – from filing frivolous and vexatious motions." *United States* v. *Gomez-Rosario*, 418 F.3d 90, 101(1st Cir. 2005). While even a pro se litigant is not immunized from sanctions, *Jones* v. *Social Security Administration*, 2004 WL 2915290, *4 (D. Mass. Dec. 14, 2004). I note that DuLaurence has been a Massachusetts licensed attorney since 1968, according to the Board of Bar Overseers.[2]

This action is nearly identical to the collateral action brought and dismissed in state court prior to this suit. Both this action and the state court collateral action are primarily based on discovery violations and rulings that took place in the employment action, a case that previously resolved on the merits the same discovery and related issues that are at the heart of DuLaurence's claims here. As in *Castro* v. *United States*, DuLaurence has "made allegations in previous suits that are virtually identical to certain allegations made in the instant case," and has demonstrated a "propensity to repeatedly file suit against the same defendants . . . even in the face of adverse judgments." 775 F.2d 399, 409 (1st Cir. 1985), abrogated on other grounds by *Stevens* v. *Dep't of the Treasury*, 500 U.S. 1 (1991).

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[2] DeLaurence is currently in inactive status as a member of the Massachusetts bar. His right of audience here is based on his *pro se* status to pursue personal claims and not as a member of the bar.

Yet DuLaurence asks that the motion to enjoin vexatious litigation be stricken and that sanctions be ordered instead against Telegen and Liberty Mutual. The request to strike is without foundation, and the motion for sanctions against the defendants is denied as both procedurally and substantively insufficient. Fed. R. Civ. P. 11(c)(2).

The employment action was filed, litigated, tried to a jury, and appealed. DuLaurence lost. His filing of the state court collateral action demonstrates his obdurate and heedless inclination to continue challenging, without good reason and without a procedurally valid mechanism for doing so, the judgment in the employment action, despite a final and valid judgment. For that exercise, he faces state court sanctions. He has now continued his meritless challenge to the underlying state court judgment in this court.

DuLaurence's vitriolic language in this action, including personal attacks on the judges who have decided his cases in the past, suggest that he is unlikely to accept the decision in this case either. Nonetheless, the principal ground for dismissal was not one identified by the defendants in the motion to dismiss submissions and DeLaurence himself appears without competence in federal litigation. Because DeLaurence might be considered unfamiliar with the legal principles which bar this case in this court, I will not now enter the injunction

defendants seek. Further litigation on these matters in this court, however, will likely result in severe consequences about which DeLaurence, irrespective of his prior unfamiliarity with federal practice, is now on clear notice

IV. CONCLUSION

For the reasons set forth more fully above, it is hereby ORDERED that:

1. Defendants' Motion to Dismiss Plaintiff's Amended Complaint and Independent Action to Set Aside Superior Court Judgment (Doc. No. 14) is GRANTED;
2. Defendants' Special Motion to Dismiss Plaintiff's Complaint Pursuant to Mass. Gen. Laws Ch. 231, § 59H (Doc. No. 18) is treated as MOOT;
3. Defendants' Motion to Enjoin Vexatious Litigation (Doc. No. 23) is DENIED;
4. Plaintiff's Motion to Strike and Request for Sanctions (Doc. No. 24) is DENIED.

/s/ Douglas P. Woodlock
DOUGLAS P. WOODLOCK
UNITED STATES DISTRICT JUDGE