

**APPENDIX
TO PETITION FOR WRIT OF CERTIORARI**

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APPENDIX A

E.D.N.Y. – C. Islip 2
2-cv-1594
Brown, J.

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**
[Filed October 12, 2022]

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 12th day of October, two thousand twenty-two.

Present:

Pierre N. Leval,
Denny Chin,
Eunice C. Lee,
Circuit Judges.

Lauren Andersen,
Plaintiff - Appellant,

Docket No: 22-850

v.
British Airways (BA) PLC,
Mr. Anthony Battista, Esq., et al.,
Defendants - Appellees.

Appellant, pro se, moves for reconsideration of her motion for an extension of time to file her brief, to transfer her appeal to either the Third, Fourth, or Eleventh Circuits, and to intervene as “co- plaintiff” on behalf of Andersen Caledonia Ltd. Appellant’s parents, Shirley R. Andersen and Harold W. Andersen, and Appellant’s son, Cameron W. Lintott, move to intervene in the appeal.

Upon due consideration, it is hereby ORDERED that the transfer motion is DENIED. Even if this Court were authorized to transfer the case to another circuit, Appellant has not demonstrated that venue would be appropriate in those jurisdictions and that a transfer would serve the interests of justice or judicial economy. *See* 28 U.S.C. § 1404(a); *cf. AT&T v. FCC*, 519 F.2d 322, 325 (2d Cir. 1975) (finding “inherent power to order” the transfer of a petition for review of an administrative decision, over which both it and another circuit had jurisdiction and venue, where the other circuit had before it a related order, “in the interest of justice and sound judicial administration”).

It is further ORDERED that the appeal is DISMISSED because it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *see Pillay v. INS*, 45 F.3d 14, 16–17 (2d Cir. 1995) (per curiam) (holding that this Court has “inherent authority” to dismiss a frivolous appeal). It is further ORDERED that the remaining motions are DENIED as moot.

APPENDIX B

U.S. District Court
Eastern District of New York (Central Islip)
CIVIL DOCKET FOR CASE #:
2:22-cv-01594-GRB-ARL

Andersen v. British Airways (BA) PLC et al.

Assigned to: Judge Gary R. Brown

Referred to: Magistrate Judge Arlene R. Lindsay

Case in other court: New York Southern, 1:22-cv-01045

Cause: 18:1962 Racketeering (RICO) Act

Date Filed: 03/21/2022

Date Terminated: 03/24/2022

Jury Demand: Plaintiff

Nature of Suit: 470 Racketeer/Corrupt Organization

Jurisdiction: Federal Question

Docket Text

ORDER DISMISSING CASE AS FRIVOLOUS. This matter, transferred from the SDNY (which left the question of issuing summonses to this Court), includes a 159 page amended complaint purporting to set forth causes of action against more than 50 individual and organizational defendants, including British Airways, the Suffolk County Clerk, Northwell Health and the NYC Bar Association. All of the claims expressly emanate from matter occurring in 2011, which factual predicates appear to have been thoroughly litigated in a series of cases as described in *Andersen v. N. Shore Long Island Jewish Healthcare Sys.'s Zucker Hillside Hosp.*, No. 12-CV-1049- JFB ETB, 2015 WL 1443254, at *6 (E.D.N.Y. Mar. 26, 2015), aff'd sub nom. *Andersen v. N. Shore Long Island Jewish Health Sys.'s Zucker Hillside Hosp.*, 632 F. App '13 (2d Cir. 2016).

Docket Text (continued)

The claims sought to be raised here have already been rejected by this Court and the Court of Appeals. Moreover, the matters raised are plainly barred by statutes of limitations. Finally, the complaint -- to the extent it is even decipherable -- runs afoul of Rule 8's requirement that the complaint set forth a "short and plain" statement of the facts. *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988) (court retains power to dismiss prolix complaint "where the substance of the claim pleaded is frivolous on its face"). Thus, the matter is dismissed. The Clerk is directed to mail a copy of this Order to the plaintiff and close the case. The Court certifies, under 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). Ordered by Judge Gary R. Brown on 3/24/2022. (Brown, Gary) (Entered: 03/24/2022)

APPENDIX C

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**
[Filed March 14, 2022]

Lauren Andersen,
Plaintiff - Appellant,

22-cv-1045 (LTS)

v.

British Airways (BA) PLC, TRANSFER ORDER
Mr. Anthony Battista, Esq., et al.,
Defendants - Appellees.

LAURA TAYLOR SWAIN, Chief United States
District Judge:

Plaintiff, who is a resident of Cold Spring Harbor, Suffolk County, New York, brings this *pro se* action alleging that Defendants violated her rights in Queens County, Suffolk County, and Nassau County, New York. Plaintiff filed the original complaint in this action on February 7, 2022. On February 10, 2022, Plaintiff filed an amended complaint. By order dated February 28, 2022, the Court directed Plaintiff to either pay the \$402.00 in fees required to file a civil action in this court or to file an application to proceed *in forma pauperis* (IFP), that is, without payment of fees. Plaintiff paid the filing fees on March 1, 2022. On March 7, 2022, the Court received a letter from Plaintiff seeking the undersigned's recusal. For the reasons set forth below, Plaintiff's motion for recusal

is denied, and this action is transferred to the United States District Court for the Eastern District of New York.

DISCUSSION

A. Motion for Recusal

A judge is required to recuse herself from “any proceeding in which [her] impartiality might reasonably be questioned.” 28 U.S.C. § 455(a). When a judge’s impartiality is questioned on bias or prejudice grounds, “what matters is not the reality of bias or prejudice but its appearance.” *Liteky v. United States*, 510 U.S. 540, 548 (1994). That is, recusal is warranted if “an objective, disinterested observer fully informed of the underlying facts . . . [would] entertain significant doubt that justice would be done absent recusal.” *United States v. Yousef*, 327 F.3d 56, 169 (2d Cir. 2003) (internal quotation marks and citation omitted).

The showing of personal bias to warrant recusal must ordinarily be based on “extrajudicial conduct[,] . . . not conduct which arises in a judicial context.” *Lewis v. Tuscan Dairy Farms, Inc.*, 25 F.3d 1138, 1141 (2d Cir. 1994) (internal quotation marks and citation omitted). And “judicial rulings alone almost never constitute a valid basis for a bias or partiality motion.” *Liteky*, 510 U.S. at 555 (citation omitted); *see Fulton v. Robinson*, 289 F.3d 188, 199 (2d Cir. 2002) (affirming denial of recusal motion filed in case by plaintiff where judge had ruled against him on all his motions and where plaintiff had “speculated that the judge may

have been acquainted with [him]”). Moreover, because recusal “necessarily results in a waste of the judicial resources which have already been invested in a proceeding,” *In re Int'l Business Machines Corp.*, 618 F.2d 923, 933 (2d Cir. 1980), a judge is “as much obliged not to recuse [her]self when it is not called for as [s]he is obligated to when it is,” *In re Drexel Burnham Lambert, Inc.*, 861 F.2d 1307, 1312 (2d Cir. 1988).

Here, Plaintiff alleges that the undersigned must recuse herself because she is an adjunct faculty member at Benjamin N. Cardozo School of Law, an institution that Plaintiff alleges was “created under Jewish auspices” and is “almost exclusively funded and led by Jewish individuals.” (ECF 8, at 1.) Plaintiff asserts that, because she is suing two organizational defendants that were “also created under Jewish auspices, and are funded and led by prominent Jewish individuals” – Northwell Health and Touro Law School¹ – and because her lawsuit is “an embarrassment to these organizations,” Plaintiff is concerned that her case could also be “an embarrassment to [the undersigned’s] employer.” (*Id.*) Plaintiff further asserts that because the undersigned was appointed by President Bill Clinton, a Democrat, the undersigned will be politically biased against Plaintiff.

An objective, well-informed observer could not reasonably question the Court’s impartiality in this matter based on Plaintiff’s contentions. Plaintiff’s

¹ Touro Law School is not a defendant in this action.

assertion that teaching at a law school founded by Jewish individuals would render the undersigned biased in favor of other institutions founded or operated by Jewish individuals is simply untenable. Courts have repeatedly rejected the proposition that the perceived characteristics of a judicial officer – such as religion, race, or ethnicity – are insufficient to inject bias, prejudice, or the appearance of impartiality when that characteristic is also shared by a party appearing before the court. *See Poplar Lane Farm LLC v. Fathers of Our Lady of Mercy*, No. 08-CV-509S, 2010 WL 3303852, at *1 (W.D.N.Y. Aug. 19, 2010) (collecting cases).

That the undersigned was appointed to the court by a particular President also is not grounds for recusal. *See MacDraw, Inc. v. CIT Group Equip. Fin., Inc.*, 138 F.3d 33, 38 (2d Cir. 1998) (“Judges generally have political backgrounds to one degree of another but must be presumed, absent more, to be impartial. At least in the federal system, judges separate themselves from politics when going on the bench, and their life tenure reduces any felt reliance on political patrons.”); *see also MacDraw, Inc. v. CIT Group Equip. Fin. Inc.*, 157 F.3d 956, 963 (2d Cir. 1998) (“[I]t is intolerable for a litigant, without any factual basis, to suggest that a judge cannot be impartial because of his or her race or political background.”). Because Plaintiff does not allege a sufficient basis for recusal in this case, the Court denies the motion for recusal.

B. Transfer Order

The events underlying Plaintiffs claims began with a 2011 incident at John F. Kennedy International Airport (JFK) in Queens County, New York, in which Plaintiff was arrested while trying to buy a ticket to the United Kingdom without a passport, and was subsequently involuntarily hospitalized at Northwell Hospital (formerly North Shore Long Island Jewish Health System), which is located in Queens County. Plaintiff asserts a wide array of claims arising from her involuntary hospitalization and years of subsequent state and federal court litigation arising from her hospitalization that occurred in the New York State Supreme Courts in Nassau and Suffolk Counties, and the United States District Court for the Eastern District of New York.

In the amended complaint, Plaintiff brings claims under 42 U.S.C. §§ 1983 and 1985; Titles II and III of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131 *et seq.*; 42 U.S.C. § 12181, *et seq.*; the Rehabilitation Act of 1973 (Rehab Act), 29 U.S.C. § 794; the civil provisions of the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1962; the Trafficking Victims Protection Act of 2003 (TVPA), 18 U.S.C. § 1589; and state law.

Under the venue provision for civil claims under RICO, such claims “against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.” 18 U.S.C. § 1965(a). Plaintiff’s claims under Section 1983, Section 1985,

the ADA, the Rehab Act, the TVPA, and Title II of the Civil Rights Act are governed by the general venue statute. Under the general venue provision, a civil action may be brought in:

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred . . . ; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b). For venue purposes, a “natural person” resides in the district where the person is domiciled and a defendant corporation generally resides “in any judicial district in which such defendant is subject to the court's personal jurisdiction with respect to the civil action in question . . .” 28 U.S.C. § 1391(c)(1), (2). Where a state has more than one judicial district, a defendant corporation generally “shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State.” 28 U.S.C. § 1391(d).²

² In a state with multiple districts, if there is no such district, “the corporation shall be deemed to reside in the district within which it has the most significant contacts.” 28 U.S.C. § 1391(d).

Plaintiff filed this complaint regarding events occurring at JFK International Airport in Queens County, New York; and Northwell Hospital in Glen Oaks, Queens County, New York; and events arising from or related to judicial proceedings occurring in the New York State Supreme Courts for Nassau and Suffolk Counties, and the United States District Court for the Eastern District of New York. Queens County, Nassau County, and Suffolk County are all located in the Eastern District of New York. Because Plaintiff alleges that a substantial part of the events or omissions underlying her claims arose outside this District, venue does not appear to be proper in this District under Section 1391(b)(2). A substantial part of the events or omissions underlying Plaintiff's claims arose in Queens, Nassau, and Suffolk Counties, which are located in the Eastern District of New York. Venue for Plaintiff's non-RICO claims is therefore proper in the Eastern District of New York under Section 1391(b)(2).

Plaintiff names 54 defendants. She provides addresses in this District for some of the defendants.³

³ The Court notes that many of the New York, New York addresses provided by Plaintiff appear to be the address of the defendants' workplaces, rather than their residential, addresses. For example, Plaintiff provides only work addresses for several of the private attorneys she sues. (See ECF 5-1, at 3.) Plaintiff also does not provide addresses for Northwell Health or the eight individual Northwell employees that she sues; she instead provides only the New York, New York address for the law firm that she alleges represents these defendants. (See *id.*) *Inc. v. OSHA*, 610 F.2d 70, 79 (2d Cir. 1979) (noting that "broad language of 28 U.S.C. § 1404(a) would seem to permit a court to order transfer *sua sponte*").

She also lists addresses for defendants in Hoboken, New Jersey, Minnetonka, Minnesota, and counties in the Eastern and Northern Districts of New York. Because Plaintiff does not allege that all defendants are residents of New York State, venue for her non-RICO claims is not proper in this District or the Eastern District of New York under Section 1391(b)(1), although, as discussed above, it appears that venue may be proper under Section 1391(b)(2) in the Eastern District of New York.

Even if venue is proper here, however, the Court may transfer claims “[f]or the convenience of the parties and witnesses, in the interest of justice.” 28 U.S.C. § 1404(a). “District courts have broad discretion in making determinations of convenience under Section 1404(a) and notions of convenience and fairness are considered on a case-by-case basis.” *D.H. Blair & Co. v. Gottdiener*, 462 F.3d 95, 106 (2d Cir. 2006). Moreover, courts may transfer cases on their own initiative. *See Bank of Am., N.A. v. Wilmington Trust FSB*, 943 F. Supp. 2d 417, 426-427 (S.D.N.Y. 2013) (“Courts have an independent institutional concern to see to it that the burdens of litigation that is unrelated to the forum that a party chooses are not imposed unreasonably on jurors and judges who have enough to do in determining cases that are appropriately before them. The power of district courts to transfer cases under Section 1404(a) *sua sponte* therefore is well established.” (quoting *Cento v. Pearl Arts & Craft Supply Inc.*, No. 03-CV-2424, 2003 WL 1960595, at *1 (S.D.N.Y. Apr. 24, 2003)); *see also Lead Indus. Ass’n. Inc. v. OSHA*, 610 F.2d 70, 79 (2d Cir. 1979) (noting that “broad language of 28 U.S.C. §

1404(a) would seem to permit a court to order transfer *sua sponte*”).

In determining whether transfer is appropriate, courts consider the following factors: (1) the convenience of witnesses; (2) the convenience of the parties; (3) the locus of operative facts; (4) the availability of process to compel the attendance of the unwilling witnesses; (5) the location of relevant documents and the relative ease of access to sources of proof; (6) the relative means of the parties; (7) the forum’s familiarity with the governing law; (8) the weight accorded to the plaintiff’s choice of forum; (9) trial efficiency; and (10) the interest of justice, based on the totality of circumstances. *Keitt v. N.Y. City*, 882 F. Supp. 2d 412, 459-60 (S.D.N.Y. 2011); *see also N.Y. Marine and Gen. Ins. Co. v. LaFarge No. Am., Inc.*, 599 F.3d 102, 112 (2d Cir. 2010) (setting forth similar factors). A plaintiff’s choice of forum is accorded less deference where plaintiff does not reside in the chosen forum and the operative events did not occur there. *See Iragorri v. United Tech. Corp.*, 274 F.3d 65, 72 (2d Cir. 2001).

Under Section 1404(a), transfer appears to be appropriate in this case. The underlying events occurred in Queens, Nassau, and Suffolk Counties, where Plaintiff resides, where witnesses and evidence are likely located, and where the state and federal court proceedings giving rise to Plaintiff’s claims occurred. Queens, Nassau, and Suffolk Counties are located in the Eastern District of New York. *See* 28 U.S.C. § 112(c). Venue for Plaintiff’s non-RICO claims is therefore proper in the Eastern District of New

York. *See* 28 U.S.C. § 1391(b). Because Plaintiff alleges that all defendants either reside or transact affairs in Queens, Nassau, or Suffolk Counties, venue for Plaintiff's civil RICO claims is also proper in the Eastern District of New York. *See* 18 U.S.C. § 1965(a). Based on the totality of the circumstances, the Court concludes that it is in the interest of justice to transfer this action to the United States District Court for the Eastern District of New York. 28 U.S.C. § 1404(a).

CONCLUSION

The Clerk of Court is directed to transfer this action to the United States District Court for the Eastern District of New York. Whether summonses will issue from the transferee court is a decision for the transferee court. This order closes this case.

Plaintiff's motion for permission to participate in electronic filing (ECF 3) is denied as moot.

The Court certifies, under 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See* *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is further directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

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Dated: March 14, 2022
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge

APPENDIX D

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**
[Filed November 28, 2022]

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 28th day of November, two thousand twenty-two.

Lauren Andersen,
Plaintiff - Appellant,

ORDER
Docket No: 22-850

v.
British Airways (BA) PLC,
Mr. Anthony Battista, Esq., et al.,
Defendants - Appellees.

Appellant, Lauren Andersen, filed a motion for panel reconsideration, or, in the alternative, for reconsideration *en banc*. The panel that determined the appeal has considered the request for reconsideration, and the active members of the Court have considered the request for reconsideration *en banc*.

IT IS HEREBY ORDERED that the motion is denied.

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FOR THE COURT:

/s/ Catherine O'Hagan Wolfe

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals for the
Second Circuit

APPENDIX E

28 U.S.C. § 455 - Disqualification of justice, judge, or magistrate judge

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing

in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

(c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

- (1) "proceeding" includes pretrial, trial, appellate review, or other stages of litigation;
- (2) the degree of relationship is calculated according to the civil law system;
- (3) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;
- (4) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:
 - (i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;
 - (ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;
 - (iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

- (iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.
- (e) No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.
- (f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate judge, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate judge, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

APPENDIX F

From: Criminal Debt NYSD
CriminalDebt@nysd.uscourts.gov
Subject: Receipt in 22CV1045 - Attn: Nicole
Date: April 4, 2023 at 2:06PM
To: Lauren Andersen

Good afternoon,

Attached is a copy of your receipt as proof of payment made on 3/1/2022 towards Civil Case # 22CV1045.

Best regards,
Brandon Williams
Financial Generalist

From: Lauren Andersen
Sent: Tuesday, April 4, 2023 11:36 AM
To: Criminal Debt NYSD
<CriminalDebt@nysd.uscourts.gov>
Subject: Attn: Nicole

CAUTION - EXTERNAL:

As discussed on the phone today, please send me the receipt for the payment \$402 on march 1st 2022. (The docket report states that my payment was processed on 3/01/2022, Clerk's Receipt Number 465401294537). Thanks in advance.

Kind regards,
Lauren Andersen

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DUPLICATE

Court Name: District Court
Division: 1
Receipt Number: 465401294537
Cashier ID: Swooten
Transaction Date: 03/01/2022
Payer Name: LAUREN ANDERSEN

CIVIL FILING FEE- NON-PRISONER
For: LAUREN ANDERSEN
Amount: \$402.00

CHECK
Check/Money Order Num: 4818
Amt Tendered: \$402.00

Total Due: \$402.00
Total Tendered: \$402.00
Change Amt: \$0.00

22CV1045