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**OPINION OF THE UNITED STATES COURT
OF APPEALS FOR THE FOURTH CIRCUIT
(MAY 26, 2022)**

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

UNPUBLISHED

ALICE GUAN,

Plaintiff-Appellant,

v.

GARY BELL; SERGEY KATSENELENBOGEN; JEN KIM; JAMES C. CLARK, as an individual and in his capacity as the Judge for Alexandria Circuit Court the 18th Judicial Circuit of Virginia; DONALD W. LEMONS, as an individual, and as the Chief Justice for the Supreme Court of Virginia; S. BERNARD GOODWYN, as an individual, and as the Justice for the Supreme Court of Virginia; WILLIAM C. MIMS, as an individual, and as the Justice for the Supreme Court of Virginia; CLEO E. POWELL, as an individual, and as the Justice for the Supreme Court of Virginia; STEPHEN R. MCCULLOUGH, as an individual, and as the Justice for the Supreme Court of Virginia; CHARLES S. RUSSELL, as an individual, and as the Senior Justice for the Supreme Court of Virginia; LAWRENCE L. KOONTZ, JR., as an individual, and as the Senior Justice of the Supreme Court of Virginia; LEROY F. MILLETTE, JR., as an individual, and as the Senior Justice for

the Supreme Court of Virginia; THE ALEXANDRIA CIRCUIT COURT, the 18th Judicial Circuit of Virginia; THE SUPREME COURT OF VIRGINIA,

Defendants-Appellees.

No. 21-2397

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria.

Liam O'Grady, Senior District Judge.
(1:21-cv-00752-LO-TCB)

Submitted: May 24, 2022
Decided: May 26, 2022

Before: NIEMEYER, KING, and RICHARDSON,
Circuit Judges.

PER CURIAM:

Alice Guan appeals the district court's order granting Defendants' motions to dismiss Guan's civil claims against them. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *See Guan v. Bell*, No. 1:21-cv-00752-LO-TCB (E.D. Va. filed Nov. 30, 2021 & entered Dec. 1, 2021). We grant Guan's motion seeking to exceed the length limitations for her informal brief and deny as moot the remaining pending motions. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

**ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF
VIRGINIA, ALEXANDRIA DIVISION
(NOVEMBER 30, 2021)**

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

ALICE GUAN,

Plaintiff,

v.

GARY BELL, ET. AL.,

Defendants.

Civil Action No. 1:21-cv-00752

**Before: Hon. Liam O'GRADY,
United State District Judge.**

ORDER

This matter comes before the Court on a Motion to Dismiss filed by Defendants Gary Bell, Sergey Katsenelenbogen, and Jen Kim (the “AdSTM Employees”) and a Motion to Dismiss filed by Defendants Judge James C. Clark, the Supreme Court of Virginia, and its members (the “Commonwealth Defendants”). Dkt Nos. 40; 43. Both Motions seek to dismiss Plaintiff Alice Guan’s Amended Complaint. Dkt. 17. Plaintiff,

who is proceeding *pro se*, has been afforded the opportunity to file responsive materials pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), and has responded. Dkt. Nos. 65; 69.

The Court dispenses with oral argument because it would not aid in the decisional process. See Fed. R. Civ. P. 78(b); E.D. Va. Local Civil Rule 7(J). Considering the Motions together with Defendants' memoranda in support (Dkt. Nos. 41; 44) and Plaintiffs Oppositions to the Motion (Dkt. Nos. 65; 69), the Defendants' Motions, Dkt Nos. 40; 43 are hereby GRANTED for the reasons that follow.

I. Background

Plaintiff, proceeding *pro se*, alleges that she has spent the last fifteen years embroiled in two inter-related but nevertheless distinct disputes. The first is her divorce, and the second is litigation involving the operation of a company in which she maintains an ownership interest, Advanced Systems Technology and Management, Inc. ("AdSTM"). Her divorce became final in 2007; the divorce decree incorporated a property settlement agreement. Later, Plaintiff and her husband modified the terms of this agreement when they entered an "Amendment to the Original Agreement" on December 15, 2016, which the judge presiding over her divorce case—the Honorable James C. Clark of the Circuit Court for the City of Alexandria—incorporated into the divorce decree.

The Amendment centered on the ownership and management of AdSTM. Subsequent disputes arose over AdSTM, including a request by Plaintiff's husband in the divorce case. He moved for a temporary injunction to enforce Plaintiff's purported violations

of the Amendment, which Judge Clark entered. Judge Clark ultimately granted a permanent injunction ordering Plaintiff not to contact AdSTM employees, attorneys or clients; requiring that she return company funds and property; and preventing her from representing herself as a majority shareholder in AdSTM. Plaintiff appealed this order to the Supreme Court of Virginia, but that court denied her appeal on January 11, 2021.

In this action, Plaintiff brings suit against a number of individuals and entities, all of whom she alleges committed wrongdoing in the relevant state court proceedings. Dkt. 17. Defendants named in Plaintiffs Amended Complaint include AdSTM employees Gary Bell, Sergey Katsenelenbogen, and Jen Kim. *Id.* ¶¶ A, D-E. Plaintiff also sues Judge Clark; the Alexandria Circuit Court; the Virginia Supreme Court and each of its members—Chief Justice Donald W. Lemons and Justices S. Bernard Goodwyn, William C. Mims, Cleo E. Powell, D. Arthur Kelsey, Stephen R. McCullough, Teresa M. Chafin, and Senior Justices Charles S. Russell, Lawrence L. Koontz, Jr., and LeRoy F. Millette, Jr. *Id.* ¶¶ B-C.

As for the Commonwealth Defendants, Plaintiff alleges that certain individuals bribed Judge Clark with financial contributions; that Judge Clark and the Alexandria Circuit Court “violated ‘the Decree’ by preventing Plaintiff from managing AdSTM through two orders granting temporary injunction[s]”; that certain Defendants and Judge Clark conspired with the Justices of the Virginia Supreme Court in their judicial capacities; and that the Supreme Court of Virginia and its Justices violated “the Decree” by “aligning completely with Judge Clark and the

Alexandria Circuit Court through an order completely adopting the Circuit Court's decisions." *Id.* ¶¶ X, Y, Z, AA, 70, 75.

In her Amended Complaint, Plaintiff purports to bring eleven claims for relief. All defendants are named in five of these counts, which she captions as claims for conspiracy; bribery; private nuisance; interference with decree performance; a claim under 42 U.S.C. § 1983; and a claim for injunctive relief. *Id.* ¶¶ 81-91; 97-101. She seeks a declaratory judgment as to the Commonwealth Defendants. *Id.* ¶¶ 92-96. She asserts claims for business conspiracy, "abuse of process," and "accounting" as to the AdSTM Defendants alone. *Id.* ¶¶ 102-08; 112-14. She separately brings a claim for false representation against Defendant Bell. *Id.* ¶¶ 109-11.

II. Standard of Review

A. Lack of Subject Matter Jurisdiction Under Rule 12(b)(1)

A party may assert the defense of lack of subject-matter jurisdiction by motion. Fed. R. Civ. P. 12(b)(1). "Although somewhat distinct from subject matter jurisdiction, courts have often considered immunity arguments, including arguments of judicial immunity, on Rule 12(b)(1) motions to dismiss." *Chien v. Motz*, No. 3:18-cv-106, 2019 U.S. Dist. LEXIS 14541, *18-19 (E.D. Va. Jan. 7, 2019). On a Rule 12(b)(1) motion to dismiss, the plaintiff bears the burden of proving that jurisdiction is proper. *Richmond, Frederickburg & Potomac, R.R. v. United States*, 945 F.2d 765, 768 (4th Cir. 1991).

B. Failure to State a Claim Under Rule 12(b)(6)

A Rule 12(b)(6) motion tests the sufficiency of a complaint. *Brockington v. Boykins*, 637 F.3d 503, 506 (4th Cir. 2011). “[The reviewing court must determine whether the complaint alleges sufficient facts ‘to raise a right to relief above the speculative level[,]’” and dismissal is appropriate only if the well-pleaded facts in the complaint “state a claim that is plausible on its face.” *Goldfarb v. Mayor & City Council of Baltimore*, 791 F.3d 500, 508 (4th Cir. 2015) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)). A claim is facially plausible “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 556).

Still, “[c]onclusory allegations regarding the legal effect of the facts alleged” need not be accepted. *Labram v. Havel*, 43 F.3d 918, 921 (4th Cir. 1995); *see also E. Shore Mkts., Inc. v. JD. Assoc. Ltd. P'ship*, 213 F.3d 175, 180 (4th Cir. 2000) (“[W]hile we must take the facts in the light most favorable to the plaintiff, we need not accept the legal conclusions drawn from the facts . . . Similarly, we need not accept as true unwarranted inferences, unreasonable conclusions, or arguments.”). And “[g]enerally, courts may not look beyond the four corners of the complaint in evaluating a Rule 12(b)(6) motion.” *Linlor v. Polson*, 263 F. Supp. 3d 613, 618 (E.D. Va. 2017) (citing *Goldfarb*, 791 F.3d at 508)).

Mindful that Plaintiff is proceeding *pro se*, this Court liberally construes her filings. *Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014)). That a

pro se complaint should be liberally construed neither excuses a *pro se* plaintiff of her obligation to “clear the modest hurdle of stating a plausible claim” nor transforms the court into her advocate. *Green v. Sessions*, No. 1:17-cv-01365, 2018 WL 2025299, at *8 (E.D. Va. May 1, 2018), *aff’d*, 744 F. App’x 802 (4th Cir. 2018).

III. Analysis

This Court lacks subject matter jurisdiction to hear Plaintiff’s claims for three reasons: first, because the *Rooker-Feldman* doctrine bars this Court from reviewing the merits of the Virginia courts’ decisions; second, because the Commonwealth-Defendants are entitled to judicial immunity; and third, because the Commonwealth-Defendants are entitled to sovereign immunity. Furthermore, Plaintiff fails to state a claim upon which relief can be granted.

A. Plaintiff’s Claims Are Barred by the *Rooker-Feldman* Doctrine

The *Rooker-Feldman* doctrine prohibits lower federal courts from reviewing state court decisions. *D.C. Ct. of App. v. Feldman*, 460 U.S. 462, 483 n. 16 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415-416 (1923). This doctrine bars the party that lost in state court “from seeking what in substance would be appellate review of the state judgment in a United States district court, based on the losing party’s claim that the state judgment itself violates the loser’s federal rights.” *Johnson v. De Grandy*, 512 U.S. 997, 1005-06 (1994). *See also Exxon Mobile Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). “[D]istrict courts lack power to ‘reverse or modify’ a

state court decree, to ‘scrutinize or invalidate’ an individual state court judgment, or to ‘overturn an injurious state court judgment.’” *Field Auto City, Inc. v. Gen. Motors Corp.*, 476 F.Supp.2d 545, 551-52 (E.D. Va. 2007) (quoting *Adkins v. Rumsfeld*, 464 F.3d 456, 464 (4th Cir. 2006)).

The *Rooker-Feldman* doctrine plainly applies here because Plaintiff attempts to re-litigate in federal court a claim which she lost in Virginia state courts. Specifically, Plaintiff attempts to re-litigate a disadvantageous decision of the Circuit Court of Alexandria on the issue of corporate ownership. The Circuit Court entered injunctions against Plaintiff, which she opposed. Plaintiffs appeal to the Supreme Court of Virginia was denied. Plaintiff now complains of injuries arising from these decisions, which were final before this lawsuit began. Plaintiff requests that this Court “vacate the state court orders, judgment [sic], rulings, opinions, and rationales.” Dkt. 17 at 43 (Prayer for Relief). Such claims against all defendants are barred under the *Rooker-Feldman* doctrine because a district court may not, in essence, conduct an appellate review of the state court’s decisions.

B. Plaintiff’s Claims are Barred by Judicial Immunity

Plaintiff brings claims against the Commonwealth Defendants, including individual members of the Supreme Court of Virginia and the Alexandria Circuit Court. Her claims against these Defendants must overcome an expansive doctrine known as judicial immunity. Deeply rooted in American jurisprudence, the doctrine holds that “a judge is absolutely immune from a claim for damages arising out of his judicial

actions.” *Chu v. Griffith*, 771 F.2d 79, 81 (4th Cir. 1985). The judicial immunity bar includes damages claims brought under 42 U.S.C. § 1983, *see Pierson v. Ray*, 386 U.S. 547, 554 (1967), as well as § 1983 cases where a plaintiff seeks both damages and injunctive or declaratory relief. *See, e.g., Lepelletier v. Tran*, 633 F. App’x 126, 127 (4th Cir. 2016) (holding that a plaintiff’s “claims seeking injunctive relief against a sitting state court judge for actions taken in his judicial capacity also were barred by the plain language of 42 U.S.C. § 1983”).

Here, Plaintiffs allegations against Judge Clark and the Virginia Supreme Court Judges—both in their official and individual capacities—are limited to judicial acts that are well within the jurisdictions of the Virginia Circuit Court and the Supreme Court. Specifically, Plaintiff alleges that Judge Clark entered three orders: first, the order incorporating the amendment into her divorce decree; second, the order for a temporary injunction; and third, the order for a permanent injunction. She also alleges that the Supreme Court of Virginia issued an opinion refusing her appeal. *See* Dkt. 44 at 7-8; Dkt 17.

Entering orders in a case within a court’s jurisdiction is one of the most fundamental of judicial acts. *See Pierson*, 386 U.S. at 554. The Circuit Court and Supreme Court’s entry of orders is precisely the type of action that judicial immunity protects. As such, Plaintiffs claims against the Commonwealth Defendants are barred by judicial immunity.

C. Plaintiff's Claims are Barred by Sovereign Immunity

The Eleventh Amendment provides that “[t]he judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.” U.S. Const. amend. XI. It is also well-established that “an unconsenting State is immune from suits brought in federal courts by her own citizens as well as by citizens of another State.” *Edelman v. Jordan*, 415 U.S. 651, 663 (1974). The Eleventh Amendment reinforces the common law doctrine of sovereign immunity. *See e.g., Constantine v. Rectors & Visitors of George Mason Univ.*, 411 F.3d 474, 482 n. 4 (4th Cir. 2005).

Moreover, the Eleventh Amendment applies not just to states but also to the “agents and instrumentalities” of the states. *See Regents of the Univ. of Cal. v. Doe*, 519 U.S. 425, 429 (1997). Because the Virginia state court system plays a direct and critical role in exercising Virginia’s basic sovereignty, there is no serious question that the Virginia state court system partakes in Virginia’s sovereign immunity. *See Cash v. Granville Cty. Bd. of Ed*, 242 F.3d 219, 223 (4th Cir. 2001).

Similarly, the state officers acting in their official capacities are also entitled to the Eleventh Amendment protection of sovereign immunity because “a suit against a state official in his or her official capacity is not a suit against the official but rather is a suit against the official’s state office.” *Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 71(1989) (internal citation omitted). Here, although Plaintiff’s Amended

Complaint asserts that the Judge and Justices acted in their individual capacities, the allegations only describe actions taken in issuing orders—clearly an official capacity. As such, Plaintiff's claims against the Commonwealth Defendants are barred by sovereign immunity.

D. Plaintiff Fails to State a Claim Upon Which Relief Can Be Granted

Finally, Plaintiff fails to state a claim upon which relief can be granted. In particular, Plaintiff's claims stem from her assertion that 42 U.S. Code § 1983 creates a cause of action for the alleged violations of her divorce decree and the Amendment. *See* Dkt. 41 at 9; Dkt. 44 at 12. To succeed on a § 1983 claim, Plaintiff must establish: first, that she has been deprived of a right, privilege, or immunity secured by the Constitution or laws of the United States; and second, that the conduct complained of was committed by a person acting under the color of state law. *See Dowe v. Total Action Against Poverty in Roanoke Valley*, 145 F.3d 653, 658 (4th Cir. 1998).

Plaintiff can do neither here. First, as stated above, § 1983 creates a cause of action for violations of the federal constitutions and federal statutes, not state law—and not private contractual agreements incorporated into an order issued by a state court pursuant to state law, as are at issue here. Second, § 1983 authorizes a federal cause of action against “any person” who, while acting under color of state law, violates another person's federal rights. The Supreme Court has held that a state “is not a person within the meaning of § 1983.” *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 64 (1989). Therefore, neither

the Circuit Court of Alexandria nor the Virginia Supreme Court are "persons" under this statute.

As such, Plaintiff has not identified a federal cause of action, and her Complaint must be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6).

IV. Conclusion

For aforementioned reasons, the Court lacks subject matter jurisdiction to hear Plaintiffs claim, and Plaintiff has failed to state a claim upon which relief may be granted. Accordingly, it is hereby ORDERED that Defendants' Motions to Dismiss (Dkt. Nos. 40; 43) are GRANTED. The Amended Complaint (Dkt. 17) is hereby DISMISSED WITH PREJUDICE; and it is

FURTHER ORDERED that Defendants' Motions to Dismiss the original Complaint (Dkt. Nos. 10; 14) are DENIED AS MOOT; and it is

FURTHER ORDERED that Plaintiffs subsequent motions (Dkt. Nos. 18, 46, 86, 87, 98, 99, 101, 103, 104, 110, 111, and 113) are also DENIED AS MOOT.

To appeal this decision, Plaintiff must file a written notice of appeal with the Clerk of Court within 30 days of the date of entry of this Order. A notice of appeal is a short statement indicating a desire to appeal, including the date of the order Plaintiff wants to appeal. Plaintiff need not explain the grounds for appeal until so directed by the court of appeals. Failure to file a timely notice of appeal waives Plaintiff's right to appeal this decision.

App.14a

The Clerk is directed to send copies of this Order to counsel of record and to Plaintiff, *pro se*, and close this civil action.

It is SO ORDERED.

/s/ Liam O'Grady
United State District Judge

November 30, 2021
Alexandria, Virginia

**ORDER OF THE UNITED STATES
COURT OF APPEALS FOR THE FOURTH
CIRCUIT DENYING PETITION
FOR REHEARING EN BANC
(JUNE 28, 2022)**

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

ALICE GUAN,

Plaintiff-Appellant,

v.

GARY BELL; SERGEY KATSENELENBOGEN; JEN KIM; JAMES C. CLARK, as an individual and in his capacity as the Judge for Alexandria Circuit Court the 18th Judicial Circuit of Virginia; DONALD W. LEMONS, as an individual, and as the Chief Justice for the Supreme Court of Virginia; S. BERNARD GOODWYN, as an individual, and as the Justice for the Supreme Court of Virginia; WILLIAM C. MIMS, as an individual, and as the Justice for the Supreme Court of Virginia; CLEO E. POWELL, as an individual, and as the Justice for the Supreme Court of Virginia; STEPHEN R. MCCULLOUGH, as an individual, and as the Justice for the Supreme Court of Virginia; CHARLES S. RUSSELL, as an individual, and as the Senior Justice for the Supreme Court of Virginia; LAWRENCE L. KOONTZ, JR., as an individual, and as the Senior Justice of the Supreme Court of Virginia; LEROY F. MILLETTE, JR., as an individual, and as the Senior Justice for

the Supreme Court of Virginia; THE ALEXANDRIA CIRCUIT COURT, the 18th Judicial Circuit of Virginia; THE SUPREME COURT OF VIRGINIA,

Defendants-Appellees.

No. 21-2397
(1:21-cv-00752-LO-TCB)

Before: NIEMEYER, KING, and RICHARDSON,
Circuit Judges.

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel; Judge Niemeyer, Judge King, and Judge Richardson.

For the Court

/s/ Patricia S. Connor
Clerk

APPELLANT'S OPENING BRIEF

**MOTION TO GRANT ADDITIONAL WORDS
AND ACCEPT THE ATTACHED BRIEF
(JANUARY 10, 2022)**

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

ALICE GUAN,

Appellant,

v.

GARY BELL,

Appellee.

Case No. 21-2397

Appeal of Order of the United States District Court
for the Eastern District of Virginia, Alexandria
Division, Civil Case No. 1:21-CV-752-LO-TCB

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**Motion to Grant Additional Words and
Accept the Attached Brief**

Appellant Alice Guan (“Alice”), hereby on Jan 10, 2022, at about 10:30PM respectfully files this motion to respectfully seek this court grant Alice to have additional words in her brief and to accept her attached brief as her effort that has satisfied this court’s requirement of her in its prior order, and in support of such, Alice respectfully states the followings: Chief Judge Liam O’Grady in his final order on appeal:

1. Did not provide concrete basis when he dismissed Alice’s 1st Amended Complaint with Prejudice using the reason that “Plaintiff Fails to state a claim upon which relief can be granted”. He mistakenly omitted Alice’s claims for bribery and corruption that contributed to the Section 1983 and Section 242 violations. He also mistakenly omitted the fact that Alice has adequately pled that she has rights that is protected by Federal Constitutions and federal statute and the facts that her those rights were deprived. He also intentionally omitted the facts that Alice did allege the conduct complained of was committed by a person acting under the color of law. He also specifically misstated that plaintiff has not identified a federal cause of action. Thus, Alice is forced to recite what were in her complaints and what were in her responses in oppositions to motions to dismiss, which all took up quite a lot of words.
2. Did not recognize and did not consider the final responses Alice filed in opposition to the

motions to dismiss. Alice is forced to recite what were in final responses in oppositions to motions to dismiss, which all also took up quite a lot of words.

3. Did not recognize and did not consider Alice's Amended Motion for leave to file her 39-page 2nd Amended Complaint, the 39-page amended complaint itself, or the memorandum in supporting of the amended motion at all. Thus, Alice is forced to recite what were in that amended motion and what were in her memorandum supporting that amended motion and what were in her 39-page 2nd Amended Compliant, which all again also took up quite a lot of words.
4. Misstated numerous facts, which Alice is forced to spend words to provide the correct facts to this court.

It is necessary and crucial for Alice defend herself against Chief Judge Liam O'Grady' order that appears to be dismissive and reckless and have misapplied laws and have misstated facts and created contrary with existing laws. In order to fully defend herself, for the reason stated above and the reason stated in the brief that exceeded the 13,000 words, she needed the additional words to effectively counter Chief Judge Liam O'Grady's order.

WHEREFORE, Appellant Alice Guan respectfully requests this Court permit Alice the additional words used in the enclosed brief that has exceeded the 13,000 words and accept this longer brief as Alice's brief meeting the requirement of this court's prior order.

Prior Appeals

A. Have you filed other cases in this court?

Yes.

B. If you checked YES, what are the case names and docket numbers for those appeals and what was the ultimate disposition of each?

They are:

Court of Appeals Docket #: 21-1996

Docketed: 09/13/2021

Nature of Suit:

3890 Other Statutory Actions

Alice Guan v. Gary Bell

Appeal From:

United States District Court for the Eastern
District of Virginia at Alexandria

Fee Status: fee paid

ultimate disposition: Dismissed.

/s/ Alice Guan

Respectfully Yours, on Jan 10, 2022, by:

/s/ Alice Guan

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CERTIFICATE OF SERVICE

I hereby certify that on Jan 10, 2022, a copy of the foregoing has been electronically filed with this court and has been emailed to all counsels to:

Counsel for GARY BELL, SERGEY KATSEN-ELENBOGEN AND JEN KIM, James B. Kinsel, PROTORAE LAW PLLC 1921 Gallows Road, Ninth Floor Tysons, Virginia 22182 Tel.: (703) 749-8507 Fax: (703) 942-6758 at: jkinsel@protoraelaw.com

Counsel for the Circuit Court of the City of Alexandria and James C. Clark, Calvin Cameron Brown, Office of the Attorney General, 202 North 9th Street Richmond, Virginia 23219 Telephone: (804) 786-4933 (this phone number gives out a different number and does not identify attorney Brown as the recipient) at Email at: cbrown@oag.state.va.us

/s/ Alice Guan

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**INFORMAL BRIEF MOSTLY IN THE
FORMAT OF FORMAL BRIEF
(JANUARY 10, 2022)**

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

ALICE GUAN,

Appellant,

v.

GARY BELL,

Appellee.

Case No. 21-2397

Appeal of Order of the United States District Court
for the Eastern District of Virginia, Alexandria
Division, Civil Case No. 1:21-CV-752-LO-TCB

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STATEMENT REGARDING ORAL ARGUMENT

Appellant, Alice Guan, pro se, believes that oral argument would be beneficial to this Court's resolution of the issues presented by this appeal. She accordingly requests oral argument.

PRELIMINARY STATEMENT

ECF# means document # in the district court docket, [#] mean the page number in the Appendix. Abnormities were observed on Jan 8, 2022 about the docketed documents, a motion was filed [381-401]. If additional observation about any other abnormities is observed, motions will be filed to make corrections again. In so far, any ECF # that was downloaded since Nov 2021 that have been presented in the Appendix included all content within the docket for that ECF #, if any document was missing on the docket for a particular ECF # and such void is observed in the future, this court will be alerted by motions.

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This Court has jurisdiction under Federal Bankruptcy Rules over this appeal order of the District Court's aforementioned Final Order. Fed. R. App. P. 4(a)(1)(A). 28 U.S.C. § 1291

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PROCEDURAL HISTORY IN THE STATE COURT, SCOTUS, FEDERAL COURT

There are 2 state cases (as stated in Alice Guan (“Alice”’s federal complaints) in which Alice and her ex-husband Bing Ran are parties in Case 3662, Alice and their co-owned company AdSTM are parties in Case 1664.

Case 1664 was stayed.

Case 3662 received final judgement. Alice appealed. Prior to appeal court issued final ruling, it was discovered in December 2019 in Protorae law firm office space that Bing Ran and defendants in the federal case and others conspired and carried out corruptive acts including bribery. Appeal court ruled against Alice. Alice filed petition citing due process claim to SCOTUS in case 21-331, Alice Jin-Yue Guan, Petitioner v. Bing Ran, parties there are the same parties as in the state court. Alice filed petition to SCOTUS precisely as guided by:

Justice BRENNAN of SCOTUS in case *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462, 463, 103 S. Ct. 1303, 1305, 75 L. Ed. 2d 206 (1983) (“Feldman Case”) stated that for challenge anchored to alleged deprivations of federally protected due process rights, one should seek review of state court judgement in SCOTUS, not in federal district court.

and by:

Mr. Justice VAN DEVANTER of SCOTUS in case *Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 414, 44 S. Ct. 149, 149, 68 L. Ed. 362 (1923) ("Rooker Case") stated that SCOTUS has jurisdiction per "the legislation of Congress" when a party seeks to "reverse or modify the judgment for errors" made by state court based on "due process of law" claim and federal district court does not have jurisdiction over such claim.

And also by:

Statement made by SCOTUS in *Lance v. Dennis*, 546 U.S. 459, 463, 126 S. Ct. 1198, 1200, 163 L. Ed. 2d 1059 (2006): The jurisdiction over appeals per 28 U.S.C. § 1257 rests in SCOTUS.

Alice filed the instant Federal Complaint on June 25 2021, demanded Jury trial, alleging bribery, corruption and 42 U.S. Code Section 1983 violation etc. by, in their individual and official capacities, Judge James C. Clark and (served certain but not all) Justices and 2 courts (collective as "Clarks") and by 3 private individuals Gary Bell, et al (collectively as "Bells"). Alice sued for injunctive relief and for monetary damages, and punitive damages. Per Alice's request [14, 327, ECF 1]¹, Judge Alston presided over the case, see header on [314-371, 114-150].

¹ ECF# means document # in the district court docket, [#] mean the page number in the Appendix. Abnormities were observed on Jan 8, 2022 about the docketed documents, a motion was filed [381-401]. If additional observation about any other abnormities is observed, motions will be filed to make corrections again. In so far, any ECF # that was downloaded since Nov 2021 that have been presented in the Appendix included all content within the docket for that ECF #, if any document was missing on the

Alice amended as of right her Complaint [14-110]. Bells filed motion to dismiss [114-132]. Clarks filed motion to dismiss [133-150].

On August 19, 2021, Alice filed motion for extension of time to file final responses to ECF 40, 41, 43, 44 [ECF 64], she temporarily filed a not-yet-finished proposed response to ECF 40, 41 [151-193] to show the court she is making good faith effort to continue work on responses during severe illness so she can finalize it soon.

On August 20, 2021, Alice filed amended motion for extension of time to file final responses to ECF 43, 44 [ECF 67], she temporarily filed a not-yet-finished proposed response to ECF 43, 44 [194-229] to show the court she is making good faith effort to continue work on responses during severe illness so she can finalize it soon.

On August 30, 2021, court granted ECF 64 and 67 [ECF 73], on the same day, Alice filed her final responses to ECF 40 [230-272] and to ECF 43 [273-313].

On Sept 3, 2021, Alice filed a motion for leave to file her proposed amended complaint [ECF 81] after she filed motions for time extension to file ECF 81 [ECF 75 and 68]. Court denied ECF 68 and 81 [ECF 92].

To correct the legitimate deficiencies identified in ECF 40, 41, 43, 44 and to further perfect the Compliant, Alice filed her amended motion for leave to file a 39-page 2nd Amended Complaint and attached

docket for a particular ECF # and such void is observed in the future, this court will be alerted by motions.

the proposed 39-page 2nd Amended Complaint to accompany the amended motion for leave [314-316], page [314] stated Alice moves the court to file "the attached 39-page 2nd amended complaint and 4 page exhibit". Alice filed memorandum in support of amended motion for leave [317-326]. Court, instead of docketing the proposed 39-page 2nd Amended Complaint to accompany the amended motion for leave as part of the amended motion for leave, docketed it in a separate entry on the docket [327-371].

Bells filed opposition to ECF 87 in ECF95. Clarks did not oppose ECF 87 (see docket [1-13] for lack of such opposition).

Judge Liam O'Grady issued an order granting ECF 40, 43, dismissing ECF 17 with prejudice, deeming all other motions, including ECF #87, moot [372-380].

Alice appealed.

ARGUMENT AND LAWS

Topic 1-Alice's 1st Amended Complaint Pled Sufficient Facts to State Claims of Conspiracy, Bribery, Violation of 42 U.S. Code Section 1983 etc and Sought for Declaratory Judgement and Injunctive Relief, Monetary Damages and Punitive Damages

In factual allegations, Alice stated that she is a "survivor of domestic violence and domestic abuse" [34], she formed AdSTM in 1996 [34], she is the highest authority in AdSTM to control and to manage AdSTM [20], she is a board members and an officer of AdSTM and she communicate to manage and control AdSTM

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[21], Bells and other defendants and others conspired and carried out corruptive conduct including bribery [24, 25, 26] leading to Defendant James C. Clark and justices acted to benefit the bribe payors to deprive Alice's property rights, personal rights, and pecuniary rights [27, 28] which included money of \$2.3M, value of stock of 2%, freedom to speech, freedom of movement and freedom of association [27, 28] – they did so by utilizing the court and their position as a tool. [27-29]. [46-48].

Alice stated she hired her then husband Bing Ran in 2001 [35], Bells were only AdSTM employees [36, 37, 40], she and Bing Ran separated in 2006 and divorced a year later in case CL07003662 [37] by a judge [66], Decree of Divorce incorporated a PSA [37], she and Bing Ran formed an Amendment on October 15, 2008 [37] which stated Alice has the total management authority in AdSTM and she delegate management functions to Bing Ran [39], in 2014 Alice discovered she was underpaid which led her file a petition to seek monetary damages in the divorce case [40] which was presided by Defendant James C. Clark [41] who incorporated the Amendment into the Decree retroactively and he based on the Amendment in assessing monetary damages Bing Ran owed Alice [41], in the 2014 petition litigation it was discovered Bing Ran and Bells had dealings with Qi Tech [40, 41].

Alice stated in year 2018 Bing Ran resigned completed from AdSTM [42] while Qi Tech and Bing Ran and AdSTM were named as defendants in a Qui Tam lawsuit [42, 45], after Bing Ran's departure from AdSTM, Alice took on all the management roles she used to delegate to Bing Ran [42].

Alice stated Bing Ran and Bells and Protorae members and Defendant James C. Clark (in his individual and official capacities) engaged in bribery (they, through financial mean, through financial contributions, through Judgeship Campion financial and other support, and through other means to get Defendant James C. Clark as an individual and Defendant James C. Clark in his capacity as the judge to rule against Alice [46]) and conspiracy² [43-46], they caused AdSTM file a suit against Alice and Bing Ran filed a petition against Alice with Defendant James C. Clark presiding over both cases, Defendant James C. Clark (as the receiver of the bribes) acted on the bribery objectives and purposes to provide benefits to the payor by injuncting Alice which included taking Alice's own property away in the amount of \$2.3M and 2% of stock, taking away Alice's right to manage and control AdSTM (by taking away her freedom of association, freedom of speech, and freedom of physical movement [137]), etc. [46, 47, 48]. Bribery and corruption later included certain justices (in their individual and official capacities) who also provided benefit to the payors by ruling against Alice by depriving her the same rights [47].

Alice sued for Conspiracy [48, 53], Bribery [49], Violation of 42 U.S. Code Section 1983 [50] which is

² Through affidavits signed under oath, Alice provided: "In December 2019, individuals in Protorae law firm office disclosed that Jen and Sergey and Gary wanted to seize AdSTM control, Brian and 3 lawyers working on the AdSTM case and Bing are in the loop, Bing who knew how to pay Judge Clark has to be 51%, bypass the Decree, bribing Judge was easy, will bribe higher officials in higher courts to go along with this, money is not a problem, got \$2.3M from Alice already" [192, 271, 312].

a code designated for defendants' violation of the Constitutions and laws of the United States while under the color of law, Declaratory Judgement [51], Injunctive Relief [52], etc alleging after judge and justices took the bribes, they acted to benefit the payors by depriving Alice's rights that is protected by federal laws and constitutions and state laws by using court and their positions as tools. Some of those rights as stated above are protected by Constitution or laws of the United State. Alice sought [56-57]:

- to injunct all defendant from violating the Decree in the future
- to Injunct Bells from taking control of AdSTM
- to assess monetary and financial damages, including fees and punitive damages
- Declare that the acts of bribery and corruption that led Defendants to provide benefit to the payor through their decision in legal cases do not shield these defendants by claim of immunity
- vacate state orders – Alice, in her proposed 39-page 2nd Amended Complaint, deleted “vacate state order” relief and replaced it with seeking prospective injunctive relief which is consistent with 42 U.S. Code Section 1983 and 18 U.S. Code Section 242 (see below)

Topic 2-Alice's Responses in Opposition to Motion to Dismiss Identified All of Defendants' Fact that She Disagree with, and She Provided Affidavit Under Oath of Her Version of the Facts and She Argued Proficiently and Adequately to Oppose the Motions to Dismiss Thus Judge Liam O'Grady Knew There Are Significant Disagreement with the Facts Yet He Dismissed the Case with That Knowledge

Alice disagreed with many facts stated by Defendants by indicating the specific texts that she disagrees with [173-188, 216-229, 253-267, 296-308].

Alice provided Affidavits in her 2 not-yet-finished proposed responses and in both of her final responses ([194] indicated the affidavit filed a day prior also apply to that response) and she stated under oath the followings:

"I filed for divorce and divorced in 2007 in State Case 3662" and "The divorce process between me and my ex-husband Bing Ran was simple" and "Case 3662 stayed dormant for 7 years" [190, 269, 310]. "In October 2014, I filed Petition for Rule to Show Cause alleging my ex-husband Bing Ran caused underpayment to me" [191, 270, 311].

Regarding AdSTM operation and management: "Bing Ran filed a petition against me in Case 3662 in February 2019 which has reached final judgement in the state courts" [192, 271, 312] and this happened after "I saw a letter authored by Mark Zeid or another lawyer addressed to the government stating Bing Ran resigned in 2018. I saw in that letter or another document, there are statements indicating

Gary Bell and Jen Kim provided affidavits to the federal government stating Bing Ran has already completely left from AdSTM, etc" and "In 2018, Bing Ran did cast all of his vote to vote himself off all positions in AdSTM. He also voted to no longer take the management functions I used to delegate to him. I later also voted to agree with his voting and voted such decisions to remove him" [192, 271, 312].

Also regarding AdSTM operation and management: "I was sued by my own company AdSTM in Case 1664 in 2019, a case that has not concluded and has not reached final judgement, a case that has been stayed in or about 2019. I filed counterclaim in 2019 and demanded Jury trial" [192, 271, 312].

"Sergey and Gary and Jen were hired as AdSTM employees. I later approved to promote Sergey and Gary Jen Although Sergey and Gary and Jen have some managerial duties, they are not owners, their names are not on the Amendment for any positions or functions described in the Amendment, they could not represent my, or AdSTM, or Bing Ran's interests, or legal interests, or legal rights in AdSTM" [191, 192, 270, 271, 311, 312]. "Sergey and Gary and Jen are not parties in Case 1664 or in Case 3662" [192, 271, 312].

"In December 2019, individuals in Protorae law firm office disclosed that Jen and Sergey and Gary wanted to seize AdSTM control, Brian and 3 lawyers working on the AdSTM case and Bing are in the loop, Bing who knew how to pay Judge Clark has to be 51%, bypass the Decree, bribing Judge was easy, will bribe higher officials in higher courts to go along with this, money is not a problem, got \$2.3M from Alice already" [192, 271, 312].

“I am not seeking to litigate ownership issue in this case in this court. I am not seeking to relitigate any state case issues in this case in this court. I am not seeking this court for a review of state court orders” [192, 193, 272, 312, 313].

“In this case in federal court, I am seeking to litigate conspiracy, corruption and other wrongdoings and seeking relief from and damages caused by those conducts” [192, 193].

“In this case in federal court, I am seeking to litigate conspiracy, corruption and other wrongdoings and seeking relief from and damages caused by those conducts and by Section 1983 and 242 cause of actions” [272, 313].

“I will file 2nd Amended Complaint and a motion for leave to file such to perfect the case” [272, 313].

Alice’s specific arguments and the cited laws opposing motions to dismiss are on [273-294, 230-251, 151-172, 194-215], to save space in this brief, they will not be repeated here. However, some of them are stated again in the following sections.

Topic 3-Alice's 39-Page 2nd Amended Complaint Pled Sufficient Facts to State 42 U.S. Code Section 1983 and 18 U.S. Code Section 242 Claims and Claims of Business Conspiracy/Abuse of Process/Negligence/Impairing Contractual Obligations/Tortious Interference with Contract and Business Expectancy, Civil Conspiracy/Conversion/Violation of Other Virginia State Tort Law/Intentional Tort/Reputation-Based Tort/Defamation and Sought for Declaratory Judgment and Prospective Injunctive Relief, Monetary Damages and Punitive Damages Yet Judge Liam O'Grady Dismissed the Case Knowing There Exists Such a Proposed 39-page 2nd Amended Complaint on the Docket

Alice stated on page [327] that this 39-page proposed 2nd Amended Compliant removed 2 justices from the defendants, added additional facts, and streamlined counts (claims).

Footnotes on pages [327-367] stated: that document was to accompany the Amended Motion for Leave to File.

Alice stated: she formed AdSTM in 1996 [334], hired her then husband Bing Ran in 2001 [334], Bells are only employees with limited scope of responsibilities [334], she and Bing Ran separated in 2006 and notarized a PSA in 2006 [334] and divorced in 2007 in case CL07003662 [335], it was a simple divorce costing about \$375 and the case stayed dormant without any activities for 7 years [335], on October 15, 2008 she and Bing Ran notarized an Amendment which states Alice has total control and authority in AdSTM and she delegate management functions to Bing Ran

[335], stockownership has no effect in AdSTM control or management [336].

Alice stated: in 2014 Alice filed Petition to seek damages from underpayment [337], it was discovered that since year 2009 Bing Ran and Bells were involved with Qi Tech and monies went from AdSTM to Qi Tech and they received benefit from Qi Tech [337], Bing Ran's conduct in Qi Tech removed his ability to purchase the last 2% AdSTM stock from Alice [337] per the Amendment, no party in that Petition litigation asked Defendant James C. Clark to rule ownership percentage [337], stockownership percentage was used in 1 of the several scenarios to calculate money owed to Alice [337] and that scenario showed Bing Ran owed Alice several millions of dollars [337-338], but the money owed to Alice would be a much smaller amount if Defendant James C. Clark based calculation using the Amendment [337-338], so Bing Ran moved the court to incorporate the Amendment into the Decree of Divorce and Defendant James C. Clark not only incorporated the Amendment into the Decree but also did so Retroactively to achieve the maximum reduction of money owed to Alice [337-338], Defendant James C. Clark ordered the money damage in a May 13, 2016 Amended Order based on the Amendment and did not involve any use of ownership percentage [338] and the order did not rule on ownership at all. On the day Amendment was incorporated into the Decree that Amendment states Alice is 51% [338].

Alice stated: Ownership does not affect the status that Alice controls AdSTM per the Amendment which was made part of the Decree retroactively already [338-339], Amendment dictates the profit distribution which resulted in at least \$2.3M in AdSTM's financial

investment account all be her after tax profit that was kept in AdSTM [339-341]³.

Alice stated: in 2018 Bing Ran voted to resign all positions and functions in AdSTM and Alice voted to agree [342], Mark Zeid attorney wrote a letter to US government stating Bing Ran completely departed from AdSTM and Jen and Gary also wrote affidavit stating Bing Ran completely departed from AdSTM [342], Alice then performed all the functions she used to delegate to Bing Ran and she became the only member of the Board, the only officer, and the only person that can manage AdSTM [342], Bells were not AdSTM owners and their names were not on the Amendment or Decree and they cannot legally be corporate officers or board members or management control [342].

Alice stated: A Qui Tam lawsuit was ongoing in late 2018 and early 2019 and AdSTM was named as a defendant [341], Bells refused to provide information Alice requested related to the Qui Tam lawsuit [343], Bells contacted Crowell and Moring (the law firm that defends the Qui Tam lawsuit) and instructed the law firm not to communicate with Alice [343],

³ It is reliable to say “at least” because after the 2019 trials in all cases, Bing Ran filed a complaint in the Fairfax court against his second wife Jin Lee, in that complaint he included a prenuptial agreement which showed in 2016 he maintained many bank and financial accounts that he did not disclose in the 2014-2019 litigation discovery – in those state litigations where money owed was calculated based on the Amendment, there was \$800,000 to several millions of dollars the eventually went to unknown sources that were not traceable. Bing Ran’s 2016 property list showed he maintained more than \$10 Million Dollars with some in accounts under other people’s name. A petition for new trial has been filed in the state court. [402-482].

Bells and Bing Ran were involved in Qi Tech which is the defendant in the Qui Tam lawsuit that government alleged made false claims [341, 343], Bells wanted to cover up their involvement in Qi Tech to avoid potential of millions of dollars of fines and jail time, they conspired with Protorae members and Bing Ran and Defendant James C. Clark to prevent Alice from managing AdSTM [343-344], Bells seized all AdSTM financial accounts and used AdSTM money personally benefit themselves [344], Bells diverted \$7M of AdSTM contract work out of AdSTM [344-345].

Alice stated: the bribery scheme was discovered in December 2019 in Protorae Law Firm Office space: Bing Ran and Bells and Protorae members have used Alice's personal property (of \$2.3M that Defendant James C. Clark helped them to remove from Alice) to profit themselves and to compensate Defendant James C. Clark and they planned to pay more bribes to other higher officials so that those state officials can also act against Alice [353, 279]. Defendants Justices accepted moneys and provided benefit to the bribe payor [355, 279]. Defendants Judge and Justices took bribes and engaged in corruption. [356, 279].

Alice stated: in January 2019 Alice opened new AdSTM bank accounts and withdraw all of her after-tax profit from AdSTM investment account (about \$2.3M) and deposited some into the new AdSTM bank accounts she opened so she could operate AdSTM using those fund in those accounts [345].

Alice stated: Bing Ran and Bells and Protorae members conspired together to file lawsuits against Alice and to bribe Defendant James C. Clark so

Defendant James C. Clark can rule to benefit Bells and others [346]. This resulted in 2 litigations against Alice, case 3662 Phase 4 and case 1664 for which Defendant James C. Clark presided over both cases [346-348, 280]. This is the commencement of AdSTM operation and management litigation, in February 2019 [346]. The parties in case 1664 is AdSTM and Alice, the parties in case 3662 is Bing Ran and Alice [346-348].

Alice stated: Bells worked with Protorae members proceeded to freeze all of her personal bank accounts and the AdSTM bank accounts Alice opened [346] and they threatened the corporate attorneys Alice hired [347]. Gary also prevented Alice to come to AdSTM office space and he wrote a letter to terminate Alice's employment [346].

Alice stated: defendant James C. Clark received bribes and provided benefit to the payors and bribers by giving out rulings against Alice, in his individual and official capacities [343-354]. Judge Rosie Alston and two other judges in the Virginia Court of Appeal wrote: Defendant James C. Clark's ruling resulted in Alice's "personal, pecuniary, or property rights" in AdSTM be "adversely affected" [348].

Alice also stated: she has "rights per the Decree. Decree has created a protected property and personal interests. The process of maintaining or removing such rights are protected by the constitution and federal law and laws." [347].

Alice stated: "in February 2019, Defendant Clark, without notice and without any due process, suddenly, out of the blue, declared I am 49% owner and enjoined me from representing to the 3rd party that I am the

51% majority shareholder until further order of the court.” [347]. As we all know, due process is a right that is protected by the Constitution and the laws of the United States.

Alice Stated: “Then Defendant Clark, without using constitutionally required due process, harassed and discriminated me in my workplace, deprived my rights and interests contained in the Decree, deprived me of freedom of speech, freedom of movement and freedom of association by restraining me so I cannot access any AdSTM office or space, cannot communicate with my employees or attorneys or clients until further order of the court.” “Without constitutionally required due process, Defendants James C Clark deprived my personal property in the amount of \$2.3M cash.” [348].

Alice stated: “I filed a petition with the Court of Appeal of Virginia. Judge Alston and two other judges in the Court of Appeal wrote that Defendant Clark’s conduct resulted in my “personal, pecuniary, or property rights” in AdSTM be “adversely affected.” [348].

Alice stated, after case 1664 commenced, Alice “again petitioned and moved the court seeking the court enforce the Decree and seeking declaratory relief” [348].

Alice stated, even after Alice informed Defendant James C. Clark about the facts and the importance to rule on such petition, “Defendant Clark did not provide any constitutionally required due process to adjudicate a Declaratory Judgment to resolve the controversy surrounding the Decree, he simply dismissed and denied Alice’s motion and petition for

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declaratory judgement altogether. He did so without due process" and "Defendant Clark also refused to enforce the Decree and dismissed my motion and petition to enforce the Decree. He did so without due process." "Defendant James C Clark, without any constitutionally required due process, declared again I am 49% owner and enjoined me from representing to the 3rd party that I am the 51% majority shareholder until further order of the court, indicating that one day in the future he will provide prospective relief to deem I am 51%." "Defendant James C Clark, without using constitutionally required due process, removed all my interests and rights that are guaranteed by the Decree and that are protected by the constitution and federal law and laws. He deprived my rights to control and manage AdSTM. Defendant Clark, without using constitutionally required due process, harassed and discriminated me in my workplace, deprived me of freedom of speech, freedom of movement and freedom of association, by stating I cannot access any AdSTM office or space, cannot communicate with my employees or attorneys or clients until further order of the court, indicating that one day in the future he will provide prospective relief to give my rights back and to remove the restraint of freedom he put on me." "Defendant James C Clark deprived my personal property in the amount of \$2.3M without due process." [348, 349, 350, 351].

Alice stated: "Between late January 2021 to the time TD bank, Bank of America, BB&T Bank and Fidelity emptied my and AdSTM accounts, I had \$2.3M loan from AdSTM, returned part of the loan back to AdSTM accounts and used that paid for AdSTM office rent, headhunter, and salary for new employees.

I have converted about \$850K to distribution as I did the same thing for Bing. After my accounts were frozen, I borrow money from friends to pay for AdSTM office rent, headhunter, and salary for new employees.” “Gary and Sergey and Jen and Protorae and its 4 attorneys continued to conspire with those banks and with Defendant Clark and emptied all of the balance that were kept in AdSTM’s accounts that I established, and in addition, they took a total of \$2.3M from my personal accounts.” “All \$2.3M that was taken out of my personal accounts were sent to AdSTM’s fidelity investment account. Gary and Sergey and Jen then moved the \$2.3M out of AdSTM investment account to a location unknown to me.” I moved Defendant Clark for an order to return the \$2.3M back into AdSTM’s fidelity account and then freeze that account so the \$2.3M can be safely kept there. Defendant Clark denied my motion. Defendant Clark denied my motion because he needed the \$2.3M to be available to pay him money and gifts in exchange for his conducts against me.” “Regarding my loans, I received completely different legal treatment and there was no equal protection from Defendant Clark on situations that are similar to what Bing Ran had even though I actually had promissory notes and I already returned a portion of the loans to AdSTM per the promissory notes.” [352].

Alice stated: “AdSTM has been and is still operating under the control of Sergey and Gary and Jen. They conspired together to change my employee status into a 1099 consultant status, forcing me having to pay much more income tax.” “The changed employee status into a 1099 consultant status also prevented me from having advanced education paid by AdSTM

which is available to all employees only.” “The changed employee status into a 1099 consultant status also prevented me from continuing having a AdSTM paid rental car, and other benefits such as paid expenses, etc.” “The deprivation of my freedom of speech and freedom of association and freedom of movement as well as the workplace harassment and discrimination, the deprivation of my rights per the Decree all resulted from the defendants, without due process, has contributed to reduced work productivity, the extreme isolation, and the low morale in work environment, all of which negatively impacted my physical and mental health.” The deprivation of my rights to control and to manage AdSTM, without due process, has caused the devaluation of my assets in AdSTM and has caused reduction of my profit earning from AdSTM, and negatively impacted my physical and mental health.” [353].

Alice stated: “Defendant Clark as an individual and in his capacity as the judge, acted singularly and also with other defendants, in the absent of jurisdiction, also in the absent of due process, violated the Constitution and federal law, and laws, leading to the 42 U.S. Code § 1983 and 18 U.S. Code § 242 claims.” [354].

Alice stated: she adequately informed the justices of her rights that is protected by the Constitution and by the laws of the United States, and that she informed them her such rights have been deprived by Defendant James C. Clark: she stated: “I informed . . . about Defendant Clark’s conduct in violation of the 1st and the 14th Amendments of the Constitution, Title VII of the civil rights Act, fundamental civil rights, civil liberties, egregiously depriving my rights

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of freedom of speech, freedom of association, freedom of expression, and freedom of movement, depriving my own property of 2% stock and \$2.3M and my ability and my rights and my interests to protect my property and my investment in my company, depriving my right including my rights to control and manage AdSTM that is guaranteed by the amendment which is the divorce decree established by the state law which is protected by the federal law, without due process, altering the divorce decree, which is established by the state law, which is protected by the federal law, without due process and without both parties' consent, violating the Constitution's Contracts Clause, locking me down until further court order and banning me from going to my own workplace, from association or interaction with anyone in my company, from any form of speech and expression in my own company, which span over a significant amount of time and taking up a significant portion of my life for me to be in a restrained state.' [354, 355].

Alice stated: "Defendants William C. Mims, Stephen R. McCullough, LeRoy F. Millette, Jr., other justices, as individuals and in their capacities serving as justices, some in exchange for money and gifts, also carried out unlawful conduct, without due process, against me and violated the constitutions, federal laws and laws, in the same way as Defendant Clark did, such as to include but not limited to: to deprive private citizen's private property without notice and without due process, to modify contracts and to impose restriction on freedom of association, freedom of speech, freedom of movement without due process, to damage and deprive my interests and rights that are ensured by the Decree, all without due process,

find no error in lower court's conduct per merit but without offering *any* opinion, to discriminate, to disallow declaratory judgement relief where there is controversy dispute regarding contract, delete and make disappear a contract, all without due process, deprive liberty and property without substantive due process." "Defendants Mims and McCullough and Millette and other justices' conduct to agree with Defendant Clark on the merit without offering any opinion and without any due process in itself departed from equal protection and infringed constitutional rights." [355].

Alice further stated: "Defendants Clark, Mims, McCullough, Millette and other justices utilized their official seat but carried out conducts not within their prescribed duties, for their prescribed duties does not include breaking or violating constitutions or federal laws or laws or engage in corruptive acts." [355].

Alice stated: "Some conduct the Official Role Defendants carried out were without notice, a situation that rid any jurisdiction they may have had over the cases." "Some of the Official Role Defendants took bribes and engaged in corruptions, a conduct ridding any jurisdiction they may have had over the cases." "Due to all defendant's unlawful conducts, without due process, I have completely lost my rights to manage and control my company AdSTM and I have lost more than \$2.3 millions of my own properties, I have lost the values of my shares of the AdSTM stock, and I have lost the continuing earning profit in AdSTM that I would have earned if all defendant did not act the way they did; I also incurred attorney fee and cost and expense to defend myself in legal cases that arose out of all defendants' actions; I lost my freedom; I lost profit due to defendants causing unapproved

AdSTM expenses, lost contracts, lost employees, lost Clearance, lost opportunity to gain contract, increased expenses for AdSTM without authority, and their actions that tarnished the reputation of AdSTM and defamed my name and reputation. I continue suffer injuries and I will continue suffer those injuries in the future.” [356].

Alice stated: “This 2nd Amended Complaint is an actual case and is an actual controversy. As stated in the above paragraphs, I have suffered and continue suffer, the injuries and damages are on-going, my future rights and property are threatened, this actual injury is traceable to all of the defendants’ conducts, and likely to be redressed by a favorable judicial decision in the federal court.” [356].

Alice stated: Case 1664 was a sham and it was stayed and has not reached final judgement [356, 280].

Alice stated: Case 3662 phase 4 was also filed illegally and without any standing, it has reached SCOTUS 21-331 but not under 42 U.S. Code 1983 or 18 U.S. Code 242 claims [357].

As stated above, Petition is pending in SCOTUS, and a new petition has been filed seeking new trial in state court.

Alice stated: None of the defendants in this instant case are any parties or privities of any party in case 3662 or case 1664 [357].

Alice stated: This case is not to review any of the order in case 3662 phase 4 or in case 1664. None of those orders are provided in this 39-page 2nd Amended Complaint and none were provided in any allegation

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section in the earlier version of the 1st Amended Complaint or the original complaint [357].

Alice stated: here in federal court, Alice is not seeking to take an appeal of an unfavorable state court decision to this court [357].

Alice stated: this instant case is Not to litigate ownership [357].

Alice stated: "This instant case is to state that my rights provided by the Decree and my other rights ARE protected by federal constitution and statutes and laws" [358].

Alice stated: "This instant case is to state that Defendants' conduct have violated federal law, constitution, statutes and laws and their conducts have created cause of actions for 42 U.S. Code § 1983 and 18 U.S. Code § 242 claims and other claims" [358].

Alice Stated: "Therefore, here in this case in this court, I am litigating 42 U.S. Code § 1983 and 18 U.S. Code § 242 created cause of action for the deprivation of my rights, privileges, and immunity secured by the constitution and federal laws (for example, the lack of notice and lack of due process when those rights were deprived), for violation of Decree, an Edict, and Law, and along with that the fraud, tort, abuse of process, civil conspiracy, business conspiracy, corruption, etc." [358].

Alice clearly stated: "I seek prospective relief from the Official Role Defendants and the Court Defendants as permitted by 42 U.S. Code § 1983 and 18 U.S. Code § 242. I seek Declaration Judgement as permitted by 42 U.S. Code § 1983 and 18 U.S. Code § 242. I seek damages as permitted by 42 U.S. Code § 1983

and 18 U.S. Code § 242 from all defendants except the Official Role Defendants and the Court Defendants. I seek damages for civil conspiracy and business conspiracy. I seek damages from abuse of process and other cause of actions.” [358].

Alice stated: “In the instant case, I did not claim state court decision caused me injury, but rather I alleged defendants’ conduct deprived my federally protected and secured rights, privileges and immunities as stated above. In this instant case, I am not complaining about injuries caused by state-court judgments rendered before this court’s proceedings commenced, I am not inviting this court to review those judgments, and I am not asking this court to reject those judgments based on any review of those judgements that I did not even request this court to do. Non-official Defendants conspired, and also with or without them bribing public officials, they took other wrongful acts, thus their (as Private party’s) joint participation with state officials in deprivation of constitutional right (or federal rights) proves sufficient to hold them liable under 42 U.S. Code § 1983 and 18 U.S. Code § 242; They as private actors have acted together with and obtained significant aid from state officials. Therefore, none-official Defendants are state actors because they worked with a judge to achieve their ultimate goals. Here, business conspiracy arose because two or more persons combined, associated, agreed, mutually undertook and concerted together for the purpose of willfully and maliciously injuring me in my reputation, trade, business, or profession by any means whatsoever that has been stated in this 2nd Amended Complaint. Gary and Sergey and Jen hired Protorae and Crowell and Moring

thus acted outside of the scope of their employment, and they conspires with the law firms. I suffered injuries due to the defendants' conducts and the injuries are on-going. Defendant Clark declared me as 49% owners without notice and without due process. Thus, jurisdiction was not available when notice was not provided." [359].

Alice also clearly stated: "Also, because when state officials engaged in bribery, they no longer have any jurisdiction adjudicating those state cases. It is impossible to have due process when there is no jurisdiction, thus 42 U.S. Code § 1983 and 18 U.S. Code § 242 claim exists for lack of due process due to lack of jurisdiction. Even if there was jurisdiction, which is not the case, for the reasons explained in the earlier sections, there clearly lacked due process, thus 42 U.S. Code § 1983 and 18 U.S. Code § 242 claim exists anyhow. The violation of the constitution, federal laws, other laws and statutes by the defendants' conduct continues through today, I continue sustain injuries and the injuries are on-going. Defendants' unlawful conducts changed me, from a person who can lead and control my company to a person who cannot approach company premise, cannot utter a word or a letter to anyone in the company, cannot in any way maintain any association with anyone in the company, a company I founded, established, and prospered through my leadership and management capabilities. Defendants' unlawful conducts also changed me, from a person who has prospered financially through the \$2.3M profit saved over 10 years to be totally stripped of that personally property, and this \$2.3M personal property as well as my rightful on-going profit in AdSTM that should be earned in the

on-going contracts have been spent and controlled by Gary and Sergey and Jen who have no legal rights to do so. These injury and suffering are ongoing, Defendant Clark indicated that he will one day issue an order to end the on-going injury, but that has not happened.” [360]

Alice further stated: “Furthermore, state courts did not follow fundamentally fair procedures before their conduct subjected me to damages and injuries, before I was deprived of property and liberty interest. State courts’ conduct also infringed substantive due process in depriving my property and liberty regardless of procedures used, the very liberty of going to workplace, to associate with team members and employees, to interact with clients, to have the ability to express, the liberty that is deeply rooted in this nation’s history and tradition by default and implicit in the concept of ordered liberty. State courts’ conduct on prohibition is so outrageous and constitutionally arbitrary that is so egregious as to shock the conscience.” [361].

Alice stated she has the following claims and sought the following reliefs:

“Count I. 42 U.S. Code Section 1983 and 18 U.S. Code Section 242 Claims” for which Alice sought reliefs that are permitted under those codes [361-364] to include:

1. Against all defendants for a declaratory judgement to resolve controversies on the Decree.
2. Against all defendants for Prospective injunctive relief so the on-going and continuing violation of the aforementioned 2 U.S. Code can cease.

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3. Against all defendant EXCEPT for Official Defendants and Court Defendants for monetary damages, fees, punitive damages, and other financial damages.
4. Against Bells for an accounting to assess damages.
5. Deem Official and Court Defendants have no immunity available to them due to their conducts and the facts in this case.
6. Deem there is plausible cause that Official Defendants acted in their individual capacities in carrying out their conduct thus they are personally liable for damages.

For which Alice detailed as:

“My personal interest, property interest, and pecuniary interest including but not limited to AdSTM control and management, my employment, opportunity for advanced education paid by my company, reputation of holding the officer and board positions and authority to do business with clients, physical well-being and health, benefit from my company, personal property, money, my freedom, etc., are sufficiently recognizable to demand due process protection.” “Defendant’s conduct has deprived me of the recognized liberty and property interest absent sufficient process surrounding the deprivation.” “42 U.S. Code § 1983 and 18 U.S. Code § 242 imposes declaratory relief, injunctions, liability and liability for damages, and other punishment for defendants’ violation or knowingly violation of the aforementioned constitutions, federal law, and laws, specifically: the freedom of expressive association, Fourteenth and First Amendment, U.S. Const. amend. I, U.S. Const.

amend. XIV, U.S. Const. art. I, U.S. Const. art. III, Civil liberties as established by the Constitution (the Bill of Rights), Title VII of the Civil Rights Act, 28 U.S.C. § 2201(a), 28 U.S.C. § 2202, and laws under the Sections 1983, Due Process Clause, Contracts Clause, Title VII of the civil rights Act, fundamental right of civil liberties, Right of Freedom of Association, rights of Anti-Discrimination Act, rights per IRS Codes, rights of freedom of speech, freedom of association, freedom of expression, and freedom of movement, Equal Property Protection Act/Clause, my right per state law that is protected by Federal laws, my rights to my freedom over majority portion of my productive time because Defendants locked me down and away from my workplace until further court order and banned me from going to my own workplace, from association or interaction with anyone in my company, from any form of speech and expression in my own company, which span over a significant amount of time and taking up a significant portion of my life for me to be in a restrained state. Defendants did all these without due process. My rights and interests were deprived without fairness." WHEREFORE, Alice Guan, pro se Plaintiff, demands and prays that judgement be entered for defendants' conducts under 42 U.S. Code § 1983 and 18 U.S. Code § 242 claim:

- (a). against all defendants, in favor of Alice Guan for a Declaratory Judgment to resolve the controversy on the Decree.
- (b). against all defendants, in favor of Alice Guan for a prospective injunctive relief or an injunctive relief so that the on-going and continuing violation of the above-mentioned laws and statutes can cease. No party will

suffer any cost or expenses in association with the injunctive relief, thus no bond is required.

- (c). against all defendants except for Official Role Defendants and Court Defendants, in favor of Alice Guan, for 1) the at least \$2.3M damages, plus post and prejudgement interests; 2). all of her attorney fees, cost and expenses, and her cost and expenses associated with Case 3662 Phase 4 and its appeals and petitions, Case 1664, and in this instant case; 3). for maximum punitive damages allowed under Code and laws, and for other damages including damages due to devalued AdSTM stock, due to lost profits resulted from lost opportunity to generate contracts and revenues, due to lost profit due to the lost classified contacts and due to illegal control, etc.
- (d). against Gary and Sergey and Jen, in favor of Alice Guan, for an accounting to assess damages.
- (e). in favor of Alice Guan that Official Role Defendants and Court Defendants have no immunity available to them for reasons stated above and by law; also for the reason that because they were without jurisdictions over the state cases, they are not immune from actions, though judicial in nature, taken in the complete absence of all jurisdiction.
- (f). in favor of Alice Guan as there is plausible cause that Official Role Defendants acted in their individual capacity in carrying out

their conduct thus they personally are liable for damages.

(h). in favor of Alice Guan for further relief as this Court deems to be just and equitable, and appropriate.”

[361-364].

“COUNT II/III/IV/V/VI-Business Conspiracy/Abuse of Process/ Negligence/Impairing Contractual Obligations/Tortious Interference with Contract and Business Expectancy (As to all defendants except for Official Role Defendants and Court Defendants)” [364]

Alice stated: “As articulated in the forgoing paragraphs, as a result of defendants’ business conspiracy, abuse of process, Negligence, Impairing Contractual Obligations, Tortious Interference with Contract and Business Expectancy, I suffered injuries and damages, continue suffer, and will suffer in the future if my rights are not restored. WHEREFORE, Alice Guan, pro se Plaintiff, demands and prays that judgement be entered against these defendants, in favor of Alice Guan for a Declaratory Judgment, for an injunctive relief, for the at least \$2.3M damages, plus post and pre judgement interests, for all of my attorney fees, cost and expenses, and my cost and expenses associated with Case 3662 Phase 4 and its appeals and petitions, Case 1664, and in this instant case, for maximum punitive damages and other damages allowed under Code and laws, and for other damages including damages due to devalued AdSTM stock, damages due to lost profits resulted from lost opportunity to generate contracts and revenues, damages due to lost values of stock and lost profit due to the lost classified contacts, etc., for an accounting

to assess damages, for further relief as this Court deems to be just and equitable, and appropriate.” [364].

“COUNT VII/VIII/IX/X/XL/XII-Civil Conspiracy/Conversion/Violation of Other Virginia State Tort Law/Intentional Tort/Reputation-Based Tort/Defamation (As to all defendants except for Official Role Defendants and Court Defendants)” [365]

Alice stated “As articulated in the forgoing paragraphs, defendants conspired, committed conversion, violated other Virginia State Tort Law, Intentional Tort, and Reputation-Based Tort to deprive my assets and my property and defamed me. As a result of their conducts, I suffered, continue suffer to this date, and will suffer in the future if my rights are not restored. WHEREFORE, Alice Guan, pro se Plaintiff, demands and prays that judgement be entered against these defendants, in favor of Alice Guan for the at least \$2.3M damages, plus post and pre judgement interests, for all of my attorney fees, cost and expenses, and my cost and expenses associated with Case 3662 Phase 4 and its appeals and petitions, Case 1664, and in this instant case, for maximum punitive damages and other damages allowed under Code and laws, and for other damages including damages due to devalued AdSTM stock, damages due to lost profits resulted from lost opportunity to generate contracts and revenues, damages due to lost values of stock and lost profit due to the lost classified contacts, for an accounting to determine other damages, for further relief as this Court deems to be just and equitable, and appropriate.” [365].

“Original Filed with the court on September 9, 2021, with two copies, one to Judge Alston’s chamber and one to Judge Buchanan’s Chamber.” [365].

Alice included only 1 exhibit: which is the Amendment [368-371]

Topic 4 – Bribery

Regarding the term of bribery, SCOTUS stated: “A public official is not required to actually make a decision or take an action on a question, matter, cause, suit, proceeding or controversy in order to perform an “official act,” for purposes of the federal bribery statute, which makes it a crime for a public official to demand anything of value in return for being influenced in the performance of any official act, and it is enough that the official agree to do so; the agreement need not be explicit, the public official need not specify the means that he will use to perform his end of the bargain, and the public official is not required in fact to intend to perform the “official act,” so long as he agrees to do so. 18 U.S.C.A. § 201(a)(3), (b)(2).” *McDonnell v. United States*, 136 S. Ct. 2355, 195 L. Ed. 2d 639 (2016)

4th Circuit stated: “Whether a payment is a bribe or an illegal gratuity for purposes of statute prohibiting bribery of public officials and witnesses depends on the intent of the payor. 18 U.S.C.A. § 201(b)(1)(A), (c)(1)(A).” *United States v. Jennings*, 160 F.3d 1006 (4th Cir. 1998)

4th Circuit also stated: “Payor of a bribe must intend to engage in some more or less specific quid pro quo with the official who receives the payment in order for payment to be bribe for purposes of statute

prohibiting bribery of public officials and witnesses. 18 U.S.C.A. § 201(b)(1)(A)." *United States v. Jennings*, 160 F.3d 1006 (4th Cir. 1998)

4th Circuit stated: "Illegal gratuity," for purposes of statute prohibiting bribery of public officials and witnesses, is a payment made to an official concerning a specific official act or omission that the payor expected to occur in any event. 18 U.S.C.A. § 201(c)(1)(A)." *United States v. Jennings*, 160 F.3d 1006 (4th Cir. 1998)

Topic 5 – Corruption

4th Circuit stated: "Corrupt intent," with which payment must be made in order for payment to be a bribe for purposes of statute prohibiting bribery of public officials and witnesses, is the intent to receive a specific benefit in return for the payment. 18 U.S.C.A. § 201(b)(1)(A). *United States v. Jennings*, 160 F.3d 1006 (4th Cir. 1998).

Topic 6 – CHIEF JUDGE LIAM O'GRADY Ruled the Briberies Defendant James C. Clark Took Were "Financial Contributions" Only Which Ruling Was Done In Complete Void of Due Process Defeating the Purpose of Legal System

CHIEF JUDGE LIAM O'GRADY stated "Plaintiff alleges that certain individuals bribed Judge Clark with financial contribution" [374] only. But Alice used the words: "financial mean, through financial contributions, through Judgeship Campion financial and other support, and through other means to get Defendant James C. Clark as an individual and Defendant James C. Clark in his capacity as the judge to rule against" Alice [46]. This means CHIEF

JUDGE LIAM O'GRADY at least knew about some cash transfer from payors to Defendant James C. Clark and about there in no other means were used for the bribery and decided that the bribes Alice stated in her pleadings are financial contributions only.

Now, where and how could CHIEF JUDGE LIAM O'GRADY get the information that Defendant James C. Clark received "financial contribution" only?

The only possible explanation is CHIEF JUDGE LIAM O'GRADY communicated with defendant James C. Clark and/or his counsel Calvin Cameron Brown of Virginia State Attorneys' Office and/or the bribe payors, and through that communication, CHIEF JUDGE LIAM O'GRADY learned cash has changed hands. Either CHIEF JUDGE LIAM O'GRADY decided to call that cash as "financial contribution" only, or he was told by Defendant James C. Clark or Attorney General Calvin Cameron Brown or the payor to use "financial contribution" only to describe the cash transfer.

It is believed Judge communicating with defendant or defendant's counsel without the presence of the plaintiff or plaintiff's counsel is prohibited by the Cannon and such behavior is not ethical and is prejudice to the plaintiff.

From CHIEF JUDGE LIAM O'GRADY use of "financial contribution" only, it is of no uncertainty that defendant James C. Clark at least received cash in connection to how he adjudicated the 2 cases involving Alice as a party.

Determining receipt of cash (or other forms of gains) is financial contribution or otherwise must be

determined through trial. In the instant case, Alice has timely demanded Jury trial.

CHIEF JUDGE LIAM O'GRADY making determination of "financial contribution" only is avoiding the proper legal procedure and has infringed on Alice's due process rights and rights for trial and right for jury trial.

SCOTUS stated: "It is up to the jury, . . . , to determine whether a public official agreed to perform an "official act," . . . which makes it a crime for a public official to demand anything of value in return for being influenced in the performance of any official act, at the time of the alleged quid pro quo; the jury may consider a broad range of pertinent evidence, including the nature of the transaction, to answer that question." 18 U.S.C.A. § 201(a)(3), (b)(2) *McDonnell v. United States*, 136 S. Ct. 2355, 195 L. Ed. 2d 639 (2016)

An "official act," . . . , is a decision or action on a question, matter, cause, suit, proceeding or controversy, and the question, matter, cause, suit, proceeding or controversy must involve a formal exercise of governmental power that is similar in nature to a lawsuit before a court, a determination before an agency, or a hearing before a committee; it must also be something specific and focused that is pending or may by law be brought before a public official. 18 U.S.C.A. § 201(a)(3), (b)(2)." *McDonnell v. United States*, 136 S. Ct. 2355, 195 L. Ed. 2d 639 (2016).

To qualify as an "official act," . . . the public official must make a decision or take an action on a question, matter, cause, suit, proceeding or controversy, or agree to do so; that decision or action may include using his

official position to exert pressure on another official to perform an official act, or to advise another official, knowing or intending that such advice will form the basis for an official act by another official. 18 U.S.C.A. §§ 201(a)(3), (b)(2). *McDonnell v. United States*, 136 S. Ct. 2355, 195 L. Ed. 2d 639 (2016)

4th Circuit stated: "In order to establish the quid pro quo essential to proving bribery, government need not show that the defendant intended for his payments to be tied to specific official acts or omissions; rather, bribery can be accomplished through an ongoing course of conduct. 18 U.S.C.A. § 201." *United States v. Jefferson*, 674 F.3d 332 (4th Cir. 2012), as amended (Mar. 29, 2012)

It is possible that CHIEF JUDGE LIAM O'GRADY discussed with Bells and Bing Ran and Protorea members and others for their "intent" for the "payments made" to Clark. 18 U.S.C.A. § 201(b) (1)(A), (c)(1)(A)." *United States v. Jennings*, 160 F.3d 1006 (4th Cir. 1998).

It is also possible that CHIEF JUDGE LIAM O'GRADY investigated outside the court procedure if the" payment made to an official concerning a specific official act or omission that the payor expected to occur in any event." 18 U.S.C.A. § 201(c)(1)(A)." *United States v. Jennings*, 160 F.3d 1006 (4th Cir. 1998).

It is also possible that CHIEF JUDGE LIAM O'GRADY received a brief on how or if "Payor" "engage"ed "in some more or less specific quid pro quo with the official who receives the payment" in order for him to determine the payment is not a bribe but for financial contribution. 18 U.S.C.A. § 201(b)

(1)(A)." *United States v. Jennings*, 160 F.3d 1006 (4th Cir. 1998)

The key here is, Alice asked to have jury decide on the bribery matters at trial, she did not ask CHIEF JUDGE LIAM O'GRADY decide it outside the trial or away from a properly executed discovery process.

CHIEF JUDGE LIAM O'GRADY's order directly confirmed there is not only money transfer between payors and Defendant James C. Clark, but also CHIEF JUDGE LIAM O'GRADY knows about it. But nevertheless, CHIEF JUDGE LIAM O'GRADY dismissed the 1st Amended Complaint with Prejudice to extinguish the case.

Topic 7 –Judge Liam O’Grady Ruled Clarks Did Not Act in Their Individual Capacities but Acted Only In Their Capacities of Judge or Justices Which Ruling Was Done In Complete Void of Due Process Defeating the Purpose of Legal System

CHIEF JUDGE LIAM O'GRADY stated: "Plaintiff alleges that . . . ; that certain Defendants and Judge Clark conspired with the Justices of the Virginia Supreme Court in their judicial capacities;" [374]. As Alice has precisely described her pleadings above that is supported by the record, Alice did not allege that (as seen above and below, Alice alleged that they are also personally liable and thus liable for damages), it is CHIEF JUDGE LIAM O'GRADY who decided and ruled Clarks acted only in their judicial capacities when they conspired.

Where and how could CHIEF JUDGE LIAM O'GRADY get the information that certain Defendants and Judge Clark conspired with the Justices of the Virginia Supreme Court "in their judicial capacities"?

The only explanation is CHIEF JUDGE LIAM O'GRADY communicated with Clarks and/or their counsel Calvin Cameron Brown of Virginia State Attorneys' Office, and through that communication, CHIEF JUDGE LIAM O'GRADY learned from them that they only acted "in their judicial capacities" and not in their personal individual capacities or it is CHIEF JUDGE LIAM O'GRADY who decided they only acted "in their judicial capacities" when they conspired after he held those communications with them.

From CHIEF JUDGE LIAM O'GRADY' use of the conspiracy only took place when they acted "in their judicial capacities", it is of no uncertainty that certain defendants Bells and Clarks conspired. But whether Clarks engaged in conspiracy in their individual basis or in their judicial capacities is not for Clarks or Mr. Brown to decide or for CHIEF JUDGE LIAM O'GRADY to decide outside of court's legal proceedings. That determination needs to be made in trial through evidence and witness testimony and decided by the Jury.

CHIEF JUDGE LIAM O'GRADY making determination of Clarks conspired "in their judicial capacities" is avoiding the proper legal procedure and has infringed on Alice's due process rights and rights for trial and right for jury trial.

4th Circuit stated: "While federal bribery statute does not encompass every action taken in one's official

capacity, “official act” within meaning of bribery statute encompasses a public official’s duties not completely defined by written rules which are clearly established by settled practices. 18 U.S.C.A. § 201(a)(3).” *United States v. Jefferson*, 674 F.3d 332 (4th Cir. 2012), as amended (Mar. 29, 2012)

CHIEF JUDGE LIAM O’GRADY’s order directly confirmed there is not only conspiracy among the defendants including the judge and justices, but also CHIEF JUDGE LIAM O’GRADY knows about it. But nevertheless, CHIEF JUDGE LIAM O’GRADY dismissed the 1st Amended Complaint with Prejudice to extinguish the case.

Topic 8 – Judge Liam O’Grady Misrepresented the Fact

CHIEF JUDGE LIAM O’GRADY incorrectly stated Alice alleged “she has spent the last fifteen years embroiled in . . . litigation involving the operation of . . . AdSTM [373].

As stated in the above, Alice has repeatedly stated the litigation involving the operation and management of AdSTM commenced in year 2019 when she was sued by AdSTM and by Bing Ran and Defendant James C. Clark who presided over those litigations received bribes and provided benefit to the bribe payors by injuncting Alice from AdSTM.

CHIEF JUDGE LIAM O’GRADY incorrectly stated: “all of whom she (Alice) alleges committed wrongdoing in the relevant state court proceedings” [373].

As stated above, the alleged wrongdoings took place outside the state court proceedings: the bribery, the conspiracy, the corruption.

CHIEF JUDGE LIAM O'GRADY incorrectly stated: "Defendants named . . . include AdSTM employees Gary Bell, Sergey . . . And Jen Kim".

As stated above, Alice sued three individuals who were AdSTM employees. Even though Alice might have used the prefix: employee defendants, Alice sued them as individuals.

CHIEF JUDGE LIAM O'GRADY incorrectly stated: "Plaintiff also sued Judge Clark, . . . and Virginia Supreme Court and each of its members. . . .".

First of all, Alice did not further serve some Justices including Justice Teresa Chafin. Secondly, Alice sued all individuals acting in their individual basis, as well as sued them in their official capacities for 42 U.S. Code Section 1983 violations, for 18 U. S. Code Section 242 violations, etc. – see above and below.

CHIEF JUDGE LIAM O'GRADY incorrectly stated "Plaintiff alleges that certain individuals bribed Judge Clark with financial contribution" [298].

Alice used words: "financial mean, through financial contributions, through Judgeship Campion financial and other support, and through other means to get Defendant James C. Clark as an individual and Defendant James C. Clark in his capacity as the judge to rule against" Alice [46] and used the word "bribe" repeatedly many times. – Alice did not limit money transfer as being "financial contribution" only.

CHIEF JUDGE LIAM O'GRADY incorrectly stated: "Plaintiff alleges that . . . ; that Judge Clark and the Alexandria Circuit Court "violated 'the Decree' by preventing Plaintiff from managing AdSTM through two orders granting temporary injunction[s]" and SCVA and Justices completely aligned themselves with James C. Clark [374].

As stated above and below, Alice alleges Clarks took briberies and that corruption conduct led them to act to benefit the bribers and payors through their powers as a judge and justices and their actions to return the bribers' favor resulting them violating the Decree by preventing Alice from managing AdSTM and by depriving Alice's rights protected by the Constitution and the laws of the United States.

Topic 9 –Judge Liam O'Grady Granted the Motions to Dismiss Recklessly Without Even Considering Alice's Final Responses to These Motions to Dismiss Resulting in CHIEF JUDGE LIAM O'GRADY's Order Not Valid Thus CHIEF JUDGE LIAM O'GRADY's Order Should Be Reversed

CHIEF JUDGE LIAM O'GRADY in forming his final order to grant the motions to dismiss, he incorrectly considered Dkt. Nos.65; 69 as Alice's responses to the motions to dismiss [372], resulting in his order not valid.

As stated above, Dkt. No. 65 is Alice's proposed not-yet-finished response. The response Alice filed responding to Document 40 is document 78 which is in the appendix [230-272]. CHIEF JUDGE LIAM O'GRADY not considering 78 is dismissive and is infringing on Alice's due process right.

As stated above, Dkt. No. 69 has been long replaced by document 79, the latter is in the appendix [273-313]. CHIEF JUDGE LIAM O'GRADY not considering 79 is dismissive and is infringing on Alice's due process right.

If 4th Circuit deems CHIEF JUDGE LIAM O'GRADY's Order is a valid order considering it has been informed that CHIEF JUDGE LIAM O'GRADY did not even consider the final responses filed in opposition to the motions to dismiss, then Alice's due process rights have been infringed by both courts.

Topic 10 – Legitimate Defects Identified in Motions to Dismiss Have Been Cured in the 39-page 2nd Amended Complaint Which Was Ignored by Judge Liam O'Grady

As stated above and seen in [1-13], the discovery has not started, the 39-page 2nd Amended Complaint was properly proposed in an Amended Motion for Leave to File and they were filed with the court 82 days prior to CHIEF JUDGE LIAM O'GRADY ruled to dismiss the 1st Amended Complaint with prejudice.

CHIEF JUDGE LIAM O'GRADY did not utter 1 word about the content of the Amended Motion for Leave to File or about Memorandum in support such Amended Motion or about the 39-page 2nd Amended Complaint. CHIEF JUDGE LIAM O'GRADY just simply mooted the Amended Motion.

As stated above and below, if there is any legitimate defects identified in the motions to dismiss, Alice has cured them in the 39-page 2nd Amended Complaint. It is crucial to note that none of the Judge or Justices or the Court Defendants has opposed to the

Amended Motion for Leave to file the 39-page 2nd Amended Complaint. They could not oppose it because the proposed 39-page 2nd Amended Complaint has repaired all of the legitimate defects cited in the motions to dismiss the 1st Amended Complaint.

Topic 11 – Judge Liam O’Grady Created a Contrary with Well Established Laws When He Dismissed the 1st Amended Complaint with Prejudice Without Considering Alice’s Amended Motion for Leave to File Her Proposed 39-page 2nd Amended Complaints and Its Accompanying Proposed 39-page 2nd Amended Complaint and the Memorandum Which Were All Filed 82 Days Prior to Judge Liam O’Grady Dismissed the 1st Amended Complaint with Prejudice and When He Did Not Liberally Provide Alice an Opportunity to Amend Her Complaint As Required By Law – also see Topic 8 Above

Federal Rule of Civil Procedure declaring that leave to amend shall be freely given when justice so requires is mandate to be heeded. Fed.Rules Civ.Proc. rule 15(a), 28 U.S.C.A. *Foman v. Davis*, 371 U.S. 178, 83 S. Ct. 227, 9 L. Ed. 2d 222 (1962).

Because 39-page 2nd Amended Complaint is only the second amended complaint completed within less than the first 2.5 months of the litigation, Alice has been proactively putting in great effort to perfect the complaint even under the condition of unexpected illness and the fact she works alone with not assistance and no colleagues to share burdens of the task which is an luxury a typical attorneys sometimes have, Alice was not causing amending her complaint to be an undue delay and she is not acting in bad faith or

with dilatory motive, there is no undue prejudice to opposing parties by virtue of allowance of amendment, the 39-page 2nd Amended Complaint 2AC has addressed the voiced issues contained in Motions to Dismiss, Clarks did not file oppositions, because of these reasons, CHIEF JUDGE LIAM O'GRADY should not have mooted Alice's Amended Motion for leave to file, as held by the Supreme Court, Mr. Justice Goldberg, that "... the District Court abused its discretion in refusing to permit plaintiff to amend the complaint to assert a right of recovery in quantum meruit." *Foman v. Davis*, 371 U.S. 178, 83 S. Ct. 227, 9 L. Ed. 2d 222 (1962).

To amend so early on in this case do not result in any substantial or undue prejudice to the Defendants. The issue of prejudice requires a court to focus on the hardship to the defendants if the amendment were permitted; specifically, the court has to consider if allowing an amendment would result in additional discovery, cost, and preparation to defend against new facts or new theories, here no undue prejudice exists where the factual basis for the amendments were known to the nonmoving party and discovery had not yet begun, actually there has been no answers filed so far. *Cureton*, 252 F.3d 267, 272 (3d Cir. 2001). *Cardone Indus., Inc. v. Honeywell Int'l, Inc.*, Civil Action No. 13-4484, 2014 U.S. Dist. LEXIS 94259, at *14-15 (E.D. Pa. July 11, 2014).

There is no futility from my 39-page 2nd Amended Complaint. In the context of a motion to amend, "[f]utility" means that the complaint, as amended, would fail to state a claim upon which relief could be granted." *In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1434 (3d Cir. 1997). Court may refuse

to allow an amendment that fails to state a cause of action because it would not survive a motion to dismiss. *See, e.g., Massarsky v. General Motors Corp.*, 706 F.2d 111, 125 (3d Cir.), cert. denied, 464 U.S. 937 (1983) (“The trial court may properly deny leave to amend where the amendment would not withstand a [Rule 12(b)(6)] motion to dismiss.”). This 39-page 2nd Amended Complaint has stated viable claims arising from the conducts of all defendants.

Also, “leave to amend must generally be granted unless equitable considerations render it otherwise unjust.” *Arthur v. Maersk, Inc.*, 434 F.3d 196, 204 (3d Cir. 2006) (as citing *Foman v. Davis*, 371 U.S. 178, 182 (1962) and *Lorenz v. CSX Corp.*, 1 F.3d 1406, 1414 (3d Cir. 1993)). At the same time, “in the absence of substantial or undue prejudice, denial [of a motion to amend] must be grounded in bad faith or dilatory motives, truly undue or unexplained delay, repeated failure to cure deficiency by amendments previously allowed or futility of amendment.” *Heyl & Patterson Int'l, Inc. v. F.D. Rich Housing of V.I., Inc.*, 663 F.2d 419, 425 (3d Cir. 1981) (as citing *Foman*, 371 U.S. at 182). Additionally, given the liberal standard under Rule 15(a), “the burden is on the party opposing the amendment to show prejudice, bad faith, undue delay, or futility.” *Chancellor v. Pottsgrove Sch. Dist.*, 501 F. Supp. 2d 695, 700 (E.D. Pa. 2007).

For the reasons cited above and below, CHIEF JUDGE LIAM O'GRADY not granting Alice's Motion for Leave to amend the complaint, not even mentioning any content of or making any comments about (CHIEF JUDGE LIAM O'GRADY did not cited bad faith or dilatory motives, or anything at all, etc. he did not comment 1 word about it) the associated documents

filed is an abuse of discretion. *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S. 321, 330, 91 S. Ct. 795, 28 L. Ed. 2d 77 (1971) (“It is settled that the grant of leave to amend the pleadings pursuant to Rule 15(a) is within the discretion of the trial court.”). *Cureton v. Nat'l Collegiate Athletic Ass'n*, 252 F.3d 267, 272 (3d Cir. 2001) (“[A] motion for leave to amend a complaint [is] addressed to the sound discretion of the district court.”). *Alaska v. United States*, 531 U.S. 1066, 121 S. Ct. 753, 148 L. Ed. 2d 657 (2001) citing Mr. Justice Goldberg holding “ . . . the District Court abused its discretion in refusing to permit plaintiff to amend the complaint to assert a right of recovery in quantum meruit.” *Foman v. Davis*, 371 U.S. 178, 83 S. Ct. 227, 9 L. Ed. 2d 222 (1962).

Topic 12 – Federal Jurisdiction Exists for the Claims Alice Brought Forwards-Rooker-Feldman Rule Is Inapplicable to the Instant Case-Judge Liam O’Grady Misapplied Rooker-Feldman Rule

Topic 12-1-What is Rooker-Feldman Rule and How Narrowly SCOTUS Has Applied This Rule In History: SCOTUS Only Applied this Rule in 2 Cases Which Are the Rooker Case and the Feldman Case

In Rooker, SCOTUS stated: (federal case was dismissed for lack of jurisdiction is a: same party, jurisdiction is SCOTUS per the legislation of Congress, and federal case was filed out of time, . . .) these are compeltelt different from the instant case, as shown below)

1. “This is a bill in equity to have a judgment of a circuit court in Indiana, which was

affirmed by the Supreme Court of the state, declared null and void" and the Federal case was based on "the judgment was rendered and affirmed in contravention of the *contract clause of the Constitution of the United States* (article 1, § 10, cl. 1) and the *due process of law* and *equal protection clauses of the Fourteenth Amendment* (section 1)" and in order to "reverse or modify the judgment for errors of that character" only SCOTUS has jurisdiction, per "the legislation of Congress".

2. "Besides, the period within which a proceeding might be begun for the correction of errors such as are charged in the bill had expired before it was filed, Act Sept. 6, 1916, c. 448, § 6, 39 Stat. 726 (Comp. St. § 1228a), and, as is pointed out in *Voorhees v. Bank of United States, supra*, after that period elapses an aggrieved litigant cannot be permitted to do indirectly what he no longer can do directly."

In D.C. Ct. of Appeals v. Feldman, 460 U.S. 462, 465–66, 103 S. Ct. 1303, 1306, 75 L. Ed. 2d 206 (1983), SCOTUS stated:

1. In "1976 Feldman applied to the Committee on Admissions of the District of Columbia Bar for admission to the District bar under a rule which, prior to its recent amendment, allowed a member of a bar in another jurisdiction to seek membership in the District bar without examination."

2. "the Committee denied Feldman's application" and "stated that only the District of Columbia Court of Appeals could waive the requirement of graduation from an approved law school."
3. "Feldman submitted to the District of Columbia Court of Appeals a petition for admission to the bar without examination." In the District of Columbia Court of Appeals which is a state court, Feldman raised the issues of "fairness and even-handedness of the Court's policies regarding bar admissions" and raised "questions under the United States Constitution". State court denied Feldman.
4. Feldman then filed a case in the federal district court based on violation of his rights under "Fifth Amendment to the Constitution" while the parties in the federal court are the same parties in the state court. Feldman did not seek Petition for Certiorari with the SCOTUS regarding the violation of his rights under the "Fifth Amendment to the Constitution". Another individual, Hickey, in similar situation, also filed a complaint in the same federal district court.
5. These 2 Federal cases eventually reached SCOTUS as one case: the Feldman case. Justice BRENNAN in SCOTUS went great length to describe the clear "distinction between general challenges to state bar admission rules and claims that a state court has unlawfully denied a particular applicant admission"; Justice BRENNAN stated that regarding the former [referring

to Rule 46 I(b)(3)], Federal court has jurisdiction, but regarding the latter [which is the challenge anchored to alleged deprivations of federally protected due process rights], “Hickey and Feldman should have sought review of the District of Columbia Court of Appeals’ judgments in this Court” [i.e., in SCOTUS] and the Federal court does not have the jurisdiction.

In both Rooker case and Feldman case, the parties in the federal district court complaint are the same parties in the state cases, appellants all sought for review of due process claims, appellant bypassed petitioning to SCOTUS but went to the federal district court for the due process claims.

As explained above, Alice also sought due process claims by timely filing a Petition in SCOTUS against Bing Ran who was a party in the state litigation.

If Alice sought due process claim against Bing Ran in federal court, then yes, Rooker-Feldman Rule would have applied which would have shown federal court lacked jurisdiction.

But, as stated above, Alice did not name Bing Ran as a party in the Federal Court case and she did not state due process claim in Federal court case. The defendants Alice named in the Federal case were not parties in the state cases. The claims Alice raised in the Federal court are new claims, they are claims of defendants violating 42 U.S. Code Section 1983, 18 U.S. Code 242, bribery, conspiracy, etc.: these are the precise claims that federal court has original jurisdiction and jurisdiction.

Thus, as a summary, Rooker-Feldman Rule is a Rule that prevents a state case loser to seek review of state court judgment in the federal district court with a complaint that involve the same parties as in the state cases based on federally protected due process right claims while bypassing petitioning to SCOTUS for such claim.

Narrowly, Rooker-Feldman Rule Was Applied by SCOTUS in Only 2 Cases Which Are the Rooker case and the Feldman Case, as explained clearly by SCOTUS in *Lance v. Dennis*, 546 U.S. 459, 463, 126 S. Ct. 1198, 1201, 163 L. Ed. 2d 1059 (2006): “The *Rooker-Feldman* doctrine takes its name from the only two cases in which we have applied this rule to find that a Federal District Court lacked jurisdiction. In *Rooker*, a party who had lost in the Indiana Supreme Court, and failed to obtain review in this Court, filed an action in Federal District Court challenging the constitutionality of the state-court judgment. We viewed the action as tantamount to an appeal of the Indiana Supreme Court decision, over which only this Court had jurisdiction, and said that the “aggrieved litigant cannot be permitted to do indirectly what he no longer can do directly.” 263 U.S., at 416, 44 S.Ct. 149. *Feldman*, decided 60 years later, concerned slightly different circumstances, with similar results. The plaintiffs there had been refused admission to the District of Columbia bar by the District of Columbia Court of Appeals, and sought review of these decisions in Federal District Court. Our decision held that to the extent plaintiffs challenged the Court of Appeals decisions themselves—as opposed to the bar admission rules promulgated nonjudicially by the Court of Appeals—their sole avenue of review was with this Court. 460 U.S., at 476,

103 S.Ct. 1303." In both cases: parties are identical, no new claims were raised in the federal court, and federal action was subsequent to the exhaustion of all resort with jurisdiction. This instant case is different from Rooker case and is different from Feldman case as further shown below.

Topic 12-2-Rooker-Feldman Rule Is Inapplicable in the Instant Case in the Federal Court and Judge Liam O'Grady Misapplied Rooker-Feldman Rule

Topic 12-2-1-THE Instant Case Is Not Based on Due Process Claims but It Contains Original Claims Conspiracy, Bribery, Violation of 42 U.S. Code Section 1983 and 18 U.S. Code Section 242, Claims of Business Conspiracy/Abuse of Process/Negligence/ Impairing Contractual Obligations/Tortious Interference with Contract and Business Expectancy, Civil Conspiracy/Conversion/ Violation of Other Virginia State Tort Law/ Intentional Tort/Reputation-Based Tort/ Defamation

And: *Rooker-Feldman* doctrine did not deprive federal district court of jurisdiction over Appellant's 1983 Claim which is original claim that the district court has the original jurisdiction [*Lance v. Dennis*, 546 U.S. 459, 126 S. Ct. 1198, 163 L. Ed. 2d 1059 (2006)]

Topic 12-2-2 – All Defendants in the Instant Case Were Not Parties in the State Cases, There Were No Way for Alice to Seek Relief from These Defendants in the State Cases, Discovery of Bribery and Corruption Took Place After State Case 3662 Trial Was Complete and After Case 1664 Was Stayed – See Above and Below

Also, Bells are individuals, they were employed by AdSTM, they were not AdSTM owners, their names were not on the Amendment, they could not represent any interest of AdSTM or Bing Ran or Alice. Thus, they are not privities of AdSTM.

Topic 12-2-3-The Instant Federal Case Runs Concurrent with the Petition to SCOTUS for Case 3662 and Petition for New Trial and It Runs Concurrent with Case 1664 Which Has Been Stayed (Unfinished) in the State Court – See Above and Below

Topic 12-2-4-This Instant Federal Case Does NOT Seek to Vacate the State Orders but to Seek Prospective Injunctive Relief Which Is Provided By 42 U.S. Code Section 1983 and 18 U.S. Code Section 242 – See Above and Below

Topic 12-3 – Based on the Above Federal Court Has Subject Jurisdiction Over the Instant Case and the Instant Case Is Not Barred by ROOKER-FELDMAN Doctrine

Whether ROOKER-FELDMAN DOCTRINE is applicable can only be considered if the state case has

concluded prior to the commencement of the district case. Because Case 1664 has been stayed and has not concluded yet, ROOKER-FELDMAN DOCTRINE is irrelevant here in respect to Case 1664. Thus, claims here should proceed relative to Case 1664 without the concern of ROOKER-FELDMAN DOCTRINE as in dismissal of landowners' Virginia constitutional claims by state court was not final and, thus, had no preclusive effect on federal action. *Willner v. Frey*, United States District Court, E.D. Virginia, Alexandria Division. March 15, 2006421 F.Supp.2d 9132006 WL 680997.

A tangential but related aspect of the non-concluded Case 1664 is, I did not have any ability to appeal any part of the proceeding in the state court or there is nothing to be appealed from or to review "Rooker-Feldman doctrine did not deprive federal district court of jurisdiction over voters' action . . . voters were not in a position to seek review of the state court's judgment. *Lance v. Dennis*, 546 U.S. 459, 126 S. Ct. 1198, 163 L. Ed. 2d 1059 (2006).

Even if Case 1664 were concluded, but it is not, for the same reasons explained for Case 3662 Phase 4 below and above, this doctrine does not apply here to Case 1664 neither.

Here in this instant case in federal court, Alice is not seeking to take an appeal of an unfavorable state-court decision to this court. Because of this reason, in the allegations Alice made and the relief she sought, she did not even include state court judgements, to ensure this court has none of those decisions to review.

Contrary to what Judge Liam O'Grady stated, Alice is not litigating ownership issues in this court. Rather, she is alleging civil conspiracy, business conspiracy, bribery of state officials into corruption, § 1983 and 242 claims for violation of federal constitutions and statutes.

§ 1983 and 242 claim in this case here is to seek remedies and reliefs and recover damages Not from state judgement but from defendants' conduct of depriving Alice of equal protection of the laws, of depriving her quality of work life, her liberty, and her property without due process of law and of impairing contractual obligations in violation of Contract Clause that was the results of bribery and corruption.

Because § 1983 and 242 claim in this case here is to seek remedies and recover damages not from state judgement but from defendants' conducts, therefore Alice's claims are not barred by *Rooker-Feldman* doctrine . . . “did not bar former employee’s civil rights suit against employer, . . . where did not claim that state court decision itself caused him injury, but rather alleged that employer discriminated against him in violation of federal and state law.” *Davani v. Virginia Dep’t of Transp.*, 434 F.3d 712 (4th Cir. 2006).

In the instant case, Alice did not claim state court decision caused her injury, but rather she alleged defendants deprived her federally protected and secured rights, privileges and immunities as stated above and below.

Furthermore, for Case 3662 Phase 4 that have concluded in the state court, *Rooker-Feldman* doctrine has narrow scope (*Hulsey v. Cisa*, 947 F.3d 246, 250 (4th Cir. 2020)) resulting:

“the Supreme Court has repeatedly emphasized that the *Rooker-Feldman* doctrine is “confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” *Exxon*, 544 U.S. at 284, 125 S.Ct. 1517; *see Lance v. Dennis*, 546 U.S. 459, 460, 464, 126 S.Ct. 1198, 163 L.Ed.2d 1059 (2006) (per curiam); *Skinner v. Switzer*, 562 U.S. 521, 532, 131 S.Ct. 1289, 179 L.Ed.2d 233 (2011). In other words, the doctrine simply precludes federal district courts from exercising what would be, in substance, appellate jurisdiction over final state-court judgments. *See Thana v. Bd. of License Comm’rs*, 827 F.3d 314, 319 (4th Cir. 2016) (“The doctrine goes no further than necessary to effectuate Congress’ allocation of subject matter jurisdiction between the district courts and the Supreme Court.”).”

Hulsey v. Cisa, 947 F.3d 246, 250 (4th Cir. 2020).

Also, *Rooker-Feldman* does not apply because Alice is not complaining about injuries caused by state-court judgments rendered before this court’s proceedings commenced, she is not inviting this court to review those judgments, and she is not asking this court to reject those judgments based on any review of those judgements that she did not even request this court to do,

“The *Rooker-Feldman* doctrine was not applicable as a bar” when “action did not ask

district court to conduct appellate review of a final judgment from state's highest court, and instead was challenging action of state administrative agency." U.S. Const. Amend."

1; 28 U.S.C.A. § 1257(a); 42 U.S.C.A. § 1983; Md. Ann. Code art. 2B § 16-101. *Thana v. Bd. of License Commissioners for Charles Cty., Maryland*, 827 F.3d 314 (4th Cir. 2016) and

"This case does not fall within the *Rooker-Feldman* doctrine's narrow scope, for multiple independent reasons. First and foremost, Hulsey is not complaining of an injury caused by a state-court judgment. See *Exxon*, 544 U.S. at 284, 125 S.Ct. 1517. In the federal complaint, Hulsey sought damages, disgorgement, and injunctive relief against the Limehouses and their co-defendants for alleged RICO violations, fraud, and abuse of process, among other allegations. Hulsey does not "seek[] redress for an injury caused by the state-court decision itself," *Davani*, 434 F.3d at 718 (emphasis added), but rather for injuries caused by the defendants' allegedly fraudulent conduct in prosecuting the defamation suits against him in state court."

Hulsey v. Cisa, 947 F.3d 246, 250 (4th Cir. 2020). And, even if state court's ruling are the symptoms of unlawful conducts, that does not make state court's ruling the cause of Alice's injury in this case in this court,

"Even if the denial of discovery in the default proceedings may have aided the defendants'

alleged fraudulent concealment of evidence, that does not make the state court's discovery ruling the cause of Hulsey's injury"

Hulsey v. Cisa, 947 F.3d 246, 250 (4th Cir. 2020). Alice's injuries may be ratified, acquiesced or left unpunished by state court decision without being produced by the state court judgement as in

"A plaintiff's injury at the hands of a third party may be "ratified, acquiesced in, or left unpunished by" a state-court decision without being "produced by" the state-court judgment. *Hoblock v. Albany Cty. Bd. of Elections*, 422 F.3d 77, 88 (2d Cir. 2005). Such is the case here."

Hulsey v. Cisa, 947 F.3d 246, 250 (4th Cir. 2020). As stated above, Alice's injuries were caused by the defendants' unlawful conducts thus CHIEF JUDGE LIAM O'GRADY' alleged use of the courts as a tool to deprive Alice does not make the state court's ruling the cause of her injury,

"Hulsey's injuries were caused by the defendants' fraud, which was merely enabled by the state court's discovery ruling. The defendants' alleged use of the courts as a tool to defraud does not make the state court's ruling the cause of Hulsey's injury."

Hulsey v. Cisa, 947 F.3d 246, 251 (4th Cir. 2020). Summarily,

"Nor does Hulsey's federal lawsuit "invit[e] district court review and rejection" of a state-court judgment, as would typify an appeal. *Exxon*, 544 U.S. at 284, 125 S.Ct.

1517. This criterion is not satisfied by mere overlap between state-court litigation and the plaintiff's claim; the federal action must be filed "specifically to review th[e] state court judgment." *Thana*, 827 F.3d at 320." *Hulsey v. Cisa*, 947 F.3d 246, 251 (4th Cir. 2020).

Here, there is no overlap. Here in this instant case in this federal court, the Rooker-Feldman doctrine Does Not Apply and This Court Has Subject Jurisdiction on Section 1983 and 242 Cause of Actions.

Topic 13 – Alice's CLAIMS ARE NOT BARRED BY CLAIM AND ISSUE PRECLUSION

Rule 1:6, the current VA governing law of claim preclusion, requires "... final judgment, ... the same opposing party, same conduct, transaction or occurrence" *Marshall v. Marshall*, No. 3:20CV442 (DJN), 2021 WL 785090, at *21 (E.D. Va. Mar. 1, 2021).

Among Case 3662 Phase 4 and Case 1664, Case 1664 has not reached final judgement. Therefore, claim and issue preclusion is irrelevant to this federal case relative to Case 1664.

Here in this case in this court, Alice is litigating Section 1983 and 242 created causes of action for the deprivation of her rights, privileges, and immunity secured by the constitution and federal laws, the cause of action prompted by bribery and corruption, etc. Therefore, the occurrence or transactions or conduct in this case is completely different from that of the state cases, whether that of the state cases

were ownership (which is not correct) or Alice's actions to control and manage AdSTM. And Furthermore:

Gary and Sergey and Jen and other defendants are not parties to Case 3662 Phase 4 and Case 1664.

One of the fundamental prerequisites to the application of the doctrine of res judicata is that there must be an identity of parties between the present suit and the prior litigation asserted as a bar; a party to the present suit, to be barred by the doctrine, must have been a party to the prior litigation, or represented by another so identified in interest with him that he represents the same legal right. Sup.Ct.Rules, Rule 1:6. *Raley v. Haider*, 286 Va. 164, 747 S.E.2d 812 (2013). The touchstone of privity for purposes of res judicata is that a party's interest is so identical with another that representation by one party is representation of the other's legal right. *Raley v. Haider*, 286 Va. 164, 747 S.E.2d 812 (2013)

If CHIEF JUDGE LIAM O'GRADY categorized Gary or Jen or Sergey as privities of Bing Ran or of AdSTM, per what has been stated above and per pages [243-244], CHIEF JUDGE LIAM O'GRADY would have done so incorrectly.

Topic 14 – As Stated Above: Alice Has Stated A Claim Upon Which Relief Can Be Granted

Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 8(a)(2) states: a complaint should contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(d)(1) further states: "[e]ach allegation must be simple, concise, and direct." Alice's 1st Amended Complaint

and her 39-page 2nd Amended Complaint included the required alleged facts giving to plausible entitlement of relief. As seen in the allegation sections and claims and cause of action sections, adequate facts and elements for cause of action have been adequately pled giving rise to plausible entitlement to relief. Defendants' actions and how those actions are wrongful have been provided and they are more than sufficient statements of the claims. Those statements are clearly stated, not unintelligible, not confusing, and they meet the "short and plain" Fed. R. Civ. P. requirements to put all Defendants on fair notice of the charges against them in a clear and unambiguous way and to show Alice is entitled to relief.

If CHIEF JUDGE LIAM O'GRADY is concerned about the complaint 'lack of detail.'"*Epos Tech.*, 636 F. Supp. 2d at 63 (citations omitted), SCOTUS stated in *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002) that Complaint should not be a collection of detailed facts and that a complaint only need to "give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests"; *accord Atchison, Topeka & Santa Fe Ry. v. Buell*, 480 U.S. 557, 568 n.15 (1987) (under Federal Rule 8, claimant has "no duty to set out all of the relevant facts in his complaint"). "Specific facts are not necessary in a Complaint; instead, the statement need only 'give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" See *Epos Tech.*, 636 F. Supp.2d 57, 63 (D.D.C. 2009) (quoting *Bell Atlantic v. Twombly*, 550 U.S. 544, 555 (2007)).

As clearly seen, Fed. R. Civ. P. regards complaint as a "notice pleading" and does not demand any

evidentiary facts in any complaint because disputed facts and dispose of claims are part of the proceedings involving discovery and motions for summary judgement. Discovery and summary judgment motions will define disputed facts and dispose of unmeritorious claims. *See Swierkiewicz*, 534 U.S. at 512. Courts have found that if the information sought by the motion is obtainable through discovery, the motion should be denied. *See, e.g., Towers Tenant Ass'n v. Towers Ltd. P'ship*, 563 F. Supp. 566, 569 (D.D.C. 1983) (denying motion for a more definite statement because details such as "dates, times, names and places" are "the central object of discovery and need not be pleaded").

Unlike in *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007) where plaintiff there can prove no set of facts in support of claim that would entitle him to relief, here in this instant case not only Alice's allegations of unlawful conducts are sufficient to state a claim but CHIEF JUDGE LIAM O'GRADY himself affirmed and confirmed the bribery (although he named the bribery as "financial contribution" only) and the conspiracy (although he decided the conspiracy were done by defendants "in their judicial capacities" only). As stated throughout Alice's pleadings and in this brief, this instant case is not to seek relief from state court judgment, but it is to see relief from defendants' unlawful conducts which are the conducts clearly well understood by CHIEF JUDGE LIAM O'GRADY.

However, to further meet the demand of Defendants to require detailed facts, and to give the benefit of doubt that if there are indeed any deficiencies in the 1st Amended Complaint, meeting such demand

and removing any legitimate deficiencies have been accomplished in the 39-page 2nd Amended Complaint.

Alice's 1st Amended Complaint and her proposed 39-page 2nd Amended Complaint (as stated above, in the proposed 39-page 2nd Amended Complaint, Alice no longer seeks to vacate state court orders in the federal case, she instead sought prospective relief as permitted by 42 U.S. Code Section 1983 and 18 U.S. Code Section 242) are adequately pled because it contained adequate allegation, and clear and plausible claims for which relief can be obtained; it included the required alleged facts giving to plausible entitlement of relief; even if it did not plead adequately (which is not the case), district court should allow leave to amend the complaint so that defendants' needs are met, they no longer have to infer from the contents because all will be laid out clearly for them (*Ashcroft v. Iqbal*, 556 U.S. 662, 687, 129 S. Ct. 1937, 1954, 173 L. Ed. 2d 868 (2009)).

As shown above and in the pleadings Alice filed, Defendants engaged in bribery, corruption and conspiracy and other wrong doings, Bells' actions and Clarks' actions to benefit the payors have deprived Alice's rights, liberty, and properties that are protected by the Constitutions and the laws of the United States and Virginia laws.

As stated above, Defendant James C. Clark had already been bribed outside the court proceedings, he was no longer a neutral decision maker, none of what he conducted was in a meaningful manner, he used his power as a judge to provide benefits to the payors of the bribes which led to the absence and the insufficiency of process surrounding the deprivation of recognized and protectable interest in life, liberty,

rights and property and led to the occurrence and the on-going occurrence of violation of Federal laws (such as Fourteenth Amendment) which all resulted in 42 U.S. Code Section 1983 and 18 U.S. Code Section 242 cause of actions that are alleged in the instant case.

For example:

Alice has rights per the Decree: she has right for the Control of Management and Direction of AdSTM independent from how much stock she owns and what position she has, she is entitled to make all decisions for AdSTM even during the time when she I delegated management functions to Bing Ran but she retained veto right to any of his decisions.

This state law established Decree also created Alice's liberty and property rights which are sufficiently recognizable to demand due process protection. In particular and for example, based on the allegation the protectable interests include but not limited to money (about \$2.3M) (*Nelson v. Colorado* (2017)); real or personal property (2% of my stock) (*Board of Regents of State Colleges v. Roth* (1972)); employment (my employee employment has be altered into a 1099 consultant) (*Roth; Stotter v. University of Texas at San Antonio* (5th Cir. 2007)); education (lack of employee status, lost ability to receive education or advanced education paid by AdSTM) (*Goss v. Lopez* (1975)); corporate control, board position, official position, decision making rights, physical well-being, health (*Davidson v. Cannon* (1986); *Daniels v. Williams* (1986)); benefits (lost when employee status and officer and director positions and AdSTM control were lost) (*Mathews v. Eldridge* (1976); *Goldberg v. Kelly* (1970)); etc. Negligence, corruption and bribery, intentional and deliberate act constituted the deprivation of property and

liberty leading the deprivation itself concerning the rights secured by the Fourteenth Amendment which results in Sections 1983 and 242 claims.

Even if Alice was properly deprived of liberty or property, which is not the case, but because she did not receive adequate process, constitutional violation still occurred. Liability exists because defendants engaged in constitutionally violative conducts, in addition, the courts endorsed the violation, and a procedural due process violation occurs when the courts and other defendants have not accorded all the process due with respect to a willful deprivation of liberty or property.

Defendants violated First Amendment when Alice was denied and continue to be denied the opportunity to speak. Defendants also violated federal law by restraining Alice's physical movement and her rights to associate. Defendants violated Firth Amendment when Alice's properties (for example: about \$2.3M, 2% ownership) were taken without just compensation void of substantive due process. Defendants committed outrageous and constitutionally arbitrary executive misconduct that is so egregious as to shock the conscience without substantive due process. Defendants violated Eighth Amendment because Defendants acted with deliberate indifference when they deprived and continued to deprive Alice's aforementioned rights. Defendants also impaired contractual obligations (U.S. Const. art. I, § 10, cl.1) for a § 1983 and 242 claim. *Pure Wafer Inc. v. City of Prescott* (9th Cir. 2017).

Defendants also violated the Fourteenth Amendment by voiding substantive Due Process and Failure to Act. Alice has reported to the state court, of those federal rights violations but it stayed silent and failed

to act. Their inaction is implicit-but-affirmative encouragement, resulting in the exacerbation of Alice's harm, risk of injury at the hands of third parties, subjecting Alice to harms she would not have faced.

It is important to note that the intentional deprivation of Alice's liberty and property was planned, a pre-deprivation process is feasible but not possible because defendants already set to exercise the deprivation when the bribery was initiated, thus the violation of Due Process and lack of notice was already designed by the defendants to take place.

This instant case is not to seek review of state court orders and is not to seek relief in injury caused by the state court judgement. In this instant case, Section 1983 and 242 created a cause of action for defendants' violation of the federal constitutions and statutes, Alice is seeking relief in injury that was caused by defendants' unlawful conducts, some acted in their official capacities, also under the color of law.

Topic 15 – Federal Court Has Subject Matter Jurisdiction In the Instant Case

Alice brought 42 U.S. Code § 1983 and 18 U.S. Code § 242 cause of actions for which federal court has subject matter jurisdiction, federal court must maintain such jurisdiction on federal claims because subject matter jurisdiction cannot be forfeited or waived and should be considered even when fairly in doubt, even given the benefit of the doubt in this case. *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009).

Topic 16 – Federal Court Has Supplemental Jurisdiction In the Instant Case-THE 1983 and 242 CLAIM HAVE MERIT, THIS COURT HAS JURISDICTION AND THE COURT SHOULD EXERCISE SUPPLEMENTAL JURISDICTION ON STATE CLAIMS

As stated above and below, Alice's claims have merits. E.g., conspiracy claim belongs to owner who has suffered injuries and exception to "intra-corporate immunity" doctrine exists when there is independent personal stake in the conspiracy (West's V.C.A. §§ 18.2–499, 18.2–500. *Buffalo Wings Factory, Inc. v. Mohd*, 622 F. Supp. 2d 325 (E.D. Va. 2007)), AdSTM is not named as a defendant thus intra-corporate immunity "which involves complaint naming corporation as defendant" does not apply, "business conspiracy" arises when two or more persons combine, associate, agree, mutually undertake or concert together for the purpose of willfully and maliciously injuring another in his reputation, trade, business, or profession by any means whatsoever (West's V.C.A. § 18.2–499. *Harrell v. Colonial Holdings, Inc.*, 923 F. Supp. 2d 813 (E.D. Va. 2013)), Bells hired Protoraе thus acted outside of the scope of their employment and conspires with Protoraе (*Epos Tech.*, 636 F. Supp.2d 57, 63 (D.D.C. 2009) (quoting *Bell Atlantic v. Twombly*, 550 U.S. 544, 555 (2007)). 39-page 2nd Amended Complaint has added further details, provide more clarifications on each Count and to expand the Counts in more fine and discrete manner so that defendants can see the link between facts and claims and the related federal and state laws without the use of inference. This court must maintain jurisdiction on federal claims because subject matter jurisdiction cannot be forfeited

or waived and should be considered even when fairly in doubt, even given the benefit of the doubt in this case. *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009). This court should use discretion to adjudicate all state claims because it saves judicial economy and provides fairness (if state claims are adjudicated in the state court, they will be adjudicated by the named defendants in this case). 28 U.S.C.A. § 1367(a). *Salim v. Dahlberg*, 170 F. Supp. 3d 897 (E.D. Va. 2016). *Salim v. Dahlberg*, 170 F. Supp. 3d 897 (E.D. Va. 2016).

Defendants also violated Virginia State Tort Law when they engaged in bribery and corruption and conspiracy, with their duty to benefit the payor of the bribes intentionally deprived Alice's property and liberty. Even if not intentional, which is not the case, state should provide remedies for non-intentional, negligent, or careless acts. Because the deprivation of property was wrongful, state tort law should provide a remedy to substitute or compensate for the loss and damages for the value of the loss, return of the property, restitution, and other recognized legal and equitable remedies. This court should adjudicate all state claims by exercising supplemental jurisdiction because considering the defendants in this case and their past conducts in state court influenced by bribery and corruption and their current conduct in federal court, the state system is fundamentally not fair.

In addition, as explained above, Judge and Justice Defendants were without jurisdictions over the state cases, they have carried out bribery and corruption and conspiracy, it is impossible to have due process when there is a complete void of juris-

diction. Furthermore, judge and justices “are not immune from actions, though judicial in nature, taken in the complete absence of all jurisdiction.” *Mireles v. Wavo*, 502, U.S. 9, 11-12 (1991).

Furthermore, if there are Virginia state policies or actions or laws that are contrary to federal constitutional rights, per the Supremacy Clause, Alice is entitled to recovery under § 1983 and 242 because she has been deprived of her rights secured by other constitutional provisions. *Armstrong v. Exceptional Child Center* (2015); *Golden State Transit Corp. v. Los Angeles* (1989)).

Thus, federal court must exercise supplemental jurisdiction to resolve all matters within the same case.

Topic 17-DIVERSITY JURISDICTION EXISTS

Sergey is a Florida resident. Article III permits federal jurisdiction: . . . in cases with minimum diversity, i.e., those in which any one party is a citizen of a different state than any opposing party. U.S.C.A. Const. Art.3, § 2, cl.1; 28 U.S.C.A. § 1332(a)(1). *De La Rosa v. Reliable, Inc.*, 113 F.Supp.3d 1135 (D.N.M. 2015). *McDaniel v. Loya*, 304 F.R.D. 617, 620 (D.N.M. 2015).

Topic 18-Federal Court Has Subject Matter Jurisdiction-Defendants Are Not Entitled to Absolute Judicial Immunity.

First of all, it is understandable that judge or justice in unique judicial position should be protected from potential intimidation from parties of the cases they adjudicate. However,

"the history of judicial immunity in the United States is fully consistent with the common-law experience. There never has been a rule of absolute judicial immunity from prospective relief, and there is no evidence that the absence of that immunity has had a chilling effect on judicial independence."

Pulliam v. Allen, 466 U.S. 522, 104 S. Ct. 1970, 80 L. Ed. 2d 565 (1984). Furthermore,

"While there is a need for restraint by federal courts called upon to enjoin actions of state judicial officers, there is no support for a conclusion that Congress intended to limit the injunctive relief available under § 1983 in a way that would prevent federal injunctive relief against a state judge. Rather, Congress intended § 1983 to be an independent protection for federal rights, and there is nothing to suggest that Congress intended to expand the common-law doctrine of judicial immunity to insulate state judges completely from federal collateral review. Pp. 1978–1981."

Again, *Pulliam v. Allen*, 466 U.S. 522, 523, 104 S. Ct. 1970, 80 L. Ed. 2d 565 (1984)." Thus, this case in this court reserved Injunctive Relief under § 1983 and 242 claim properly with such legal support, and with:

"Judicial immunity is not a bar to prospective injunctive relief against a judicial officer, such as petitioner, acting in her judicial capacity. Pp. 1974–1981 . . . that judicial immunity did not extend to injunctive relief under § 1983"

Pulliam v. Allen, 466 U.S. 522, 104 S. Ct. 1970, 80 L. Ed. 2d 565 (1984). This case in this court also reserved attorneys fee, as supported by "Judicial immunity is no bar to award of attorney fees under section 1988. 42 U.S.C.A. § 1988". *Pulliam v. Allen*, 466 U.S. 522, 104 S. Ct. 1970, 80 L. Ed. 2d 565 (1984). This case in this court reserved Liability of damages because when judge or justice takes bribes while performing a judicial act and rule in obligations to the briber for the briber or for the briber's associates, the judge and justice has lost all jurisdiction to the case in front them. In addition, CHIEF JUDGE LIAM O'GRADY indicated stockowner ship is an issue then he must understand Clarks declared Alice as 49% owners without due process and understood Clarks further injunction Alice based on his such declaration. Declaration of Alice become a minority without notice removes jurisdiction from Clarks because officials do not have jurisdiction when lack of notice because subject jurisdiction rests on notice be provided. Thus, commonwealth defendants lack jurisdiction over all matters due to those matters were based on that Declaration. Defendants become liable for damages, "a judge is not immune from actions, though judicial in nature, taken in the complete absence of all jurisdiction." *Mireles v. Wavo*, 502, U.S. 9, 11-12 (1991). As a matter of fact, accepting bribe or agreeing to accept bribe at judicial location or elsewhere either prior to, during or after adjudicating cases affect all above claims: injunctive relief, fees, and liability of damages, as in this case in this court where the seemingly normal adjudication act is no longer judicial but an act less protected than typical official acts such as administrative, legislative, or executive act which already are subject to damages liability because

highest executive officials in states are not protected by absolute immunity from damages liability arising from their official acts under federal law. *Forrester v. White*, 484 U.S. 219, 108 S. Ct. 538, 98 L. Ed. 2d 555 (1988). Furthermore, when judge or justice, acting away from the bench, driven by greed, take actions for the benefit of the briber in relation to the case he presides on is even less protected than all of the above mentioned acts – this, and all aforementioned acts, not the result of grave procedural error or malicious intent or in excess of authority, but acts driven by financial rewards taken to willfully and knowingly violate federal rights of another warrant all the claims brought by Alice.

Therefore, Defendants are not permitted to qualified immunity, let alone absolute immunity. Furthermore, Judge and Justices are personally liable for damages because our system of jurisprudence rests on the assumption that all individuals, whatever their position in government, are subject to federal law. *Butz v. Economou*, 438 U.S. 478, 98 S. Ct. 2894, 57 L. Ed. 2d 895 (1978). Alice is entitled to a remedy in damages from federal and state law violations.

If CHIEF JUDGE LIAM O'GRADY's order was based on defendants' cited laws, it is important to note that the laws cited by defendants were misplaced: Defendants in their Motions to Dismiss cited *Pierson v. Ray*, 386 U.S. 547, 553 (1967) and *Chu v. Griffith*, 771 F.2d 79, 81 (4th Cir. 1985), that citation is misplaced because these case laws are limited to solely actions brought by Civil Rights Act. Defendants also cited *Stump v. Sparkman*, 435 U.S. 349, 355 (1978) which is also misplaced because after a retarded girl was sterilized causing her not be able to conceive and

Stump case was not seeking injunctive relief at all. In addition, Pierson and Stump both face negative treatment with Pierson even is gaining overruling risk.

Topic 19 – The Court Has Subject Matter Jurisdiction Because Commonwealth Defendants Do Not Have Sovereign Immunity

The *Ex parte Young* exception to sovereign immunity permits this case in this court because this case seeks federal court commands a state official to refrain from violating federal law,

“The *Ex parte Young* exception to a State’s sovereign immunity rests on the premise that when a federal court commands a state official to do nothing more than refrain from violating federal law, he is not the State for sovereign-immunity purposes. U.S.C.A. Const.Amend. 11.”

Virginia Off. for Prot. & Advoc. v. Stewart, 563 U.S. 247, 131 S. Ct. 1632, 179 L. Ed. 2d 675 (2011). In addition, because Defendant James C. Clark left the door open for himself to correct his May 22, 2019 ruling by stating, twice, “until further order from this court” making this order a living and “ongoing injunction” in such a way so that there will be a day such like a day this court in this case can create when he can correct his order through “prospective relief” because AdSTM is still in existence and Alice’s rights can be restored just as Clark first refrained Alice and then said: one day I will come and let you be free and give your rights back. Therefore, for Case 3662 Phase 4, there is a future activity that this court can encourage Defendant James C. Clark or some other judges or courts that preside over the state

matter to do: let that “further order” arrive. For Case 1664, similar situation can happen because this court and Defendants Clark can also provide prospective relief (Defendant James C. Clark presided over the case and stayed the case thus nothing is final there, preventing defendants and injuncting defendants to cure in that case is 100% feasible because that case contain definite “future conduct” by the defendant to violate the constitution and laws). Therefore, both Case 1664 and Case 3662 Phase 4 contain elements “engaging future conduct” and “ongoing violation” as in:

“In determining whether the doctrine of *Ex parte Young* avoids an Eleventh Amendment bar to suit, a court need only conduct a straightforward inquiry into whether the complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective. U.S.C.A. Const. Amend. 11.”

Virginia Off. for Prot. & Advoc. v. Stewart, 563 U.S. 247, 131 S. Ct. 1632, 179 L. Ed. 2d 675 (2011). Such allegation of an “ongoing violation” of law, the made-ready “prospective relief”, and “future conduct” are contained in both the 1st Amended Complaint and the 39-page 2nd Amended Complaint. Case 1664 is stayed and will command future violation of the Constitution and law is certain. Defendant James C. Clark set himself up to provide the prospective relief:

“Secretary of North Carolina Department of Health and Human Services (HHS) was properly named as defendant, in his official capacity, in Medicaid-eligible children’s § 1983 action, asserting claims for prospective relief

from which Secretary was not protected by Eleventh Amendment immunity, under *Ex parte Young* doctrine, based on HHS's allegedly ongoing violation of Due Process Clause and Medicaid Act, since Secretary was person responsible for assuring that HHS's decisions complied with federal law. U.S.C.A. Const.Amends. 11, 14; Medicaid Act, §§ 1902(a)(3, 17), 1905(r)(5), 42 U.S.C.A. §§ 1396a(a)(3, 17), 1396d(r)(5); 42 U.S.C.A. § 1983."

D.T.M. ex rel. McCartney v. Cansler, 382 F. App'x 334 (4th Cir. 2010). Therefore, this court has the jurisdiction and the power to grant prospective injunctive relief and injunctive relief: "Federal courts may grant prospective injunctive relief against state officials to prevent ongoing violations of federal law." *CSX Transp., Inc. v. Bd. of Pub. Works of State of W.Va.*, 138 F.3d 537 (4th Cir. 1998). Furthermore, state officers acting in their official capacity are not entitled to Eleventh Amendment protection:

"Claims of plaintiffs, against state, state agencies and education officials with respect to assertion that use of national teacher examinations for certification and pay purposes violated equal employment opportunities provisions of Civil Rights Act were not barred by the Eleventh Amendment. Civil Rights Act of 1964, § 701 et seq. as amended 42 U.S.C.A. § 2000e et seq.; U.S.C.A.Const. Amend. 11."

United States v. State of S.C., 445 F. Supp. 1094 (D.S.C. 1977), *aff'd sub nom. Nat'l Educ. Ass'n v. South Carolina*, 434 U.S. 1026, 98 S. Ct. 756, 54 L.

Ed. 2d 775 (1978). Also, there are plausible causes that Judge and Justices acted in their individual capacity for actions including but not limited to taking bribes, giving out ruling to favor the bribers and bribers' associates while there is complete lacking of jurisdiction. Finally, as clearly shown above, defendant James C. Clark accepted bribes and in return provided rulings to benefit the bribers and the bribers' associates, and in that process, he and the court violated Alice's federal rights, leading to Section 1983 and 242 claims and other claims. Therefore, Federal issues are present here. Thus, Ex parte Young exception applies without a problem. Because certain conducts by the defendants were carried out not in their official capacity, they are also personally liable for damages in this case.

Regarding Defendants acting in their official capacities, 39-page 2nd Amended Complaint already stated they are only liable for prospective injunctive reliefs as in "Given that Ex Parte Young doctrine is an exception to Eleventh Amendment immunity, actions proceeding under doctrine must seek only prospective injunctive relief. U.S.C.A. Const.Amend. 11." *Antrican v. Odem*, United States Court of Appeals, Fourth Circuit. May 09, 2002290 F.3d 1782002 WL 939566.

Topic 20-Gary and Jen and Sergey's Actions Are Subject to a § 1983 and 242 Claim

If CHIEF JUDGE LIAM O'GRADY claims that because Gary and Jen and Sergey are private citizens and have no official state position, claims against them should be dismissed. This is incorrect. As pled in the Complaints, they conspired and bribed

public officials and took other wrongful acts, thus they (as Private party's) joint participation with state officials in deprivation of constitutional right (or federal rights) proves sufficient to hold them liable under section 1983 and 242; private actor must have acted together with or obtained significant aid from state officials. 42 U.S.C.A. § 1983 and 242. *Marshall v. Marshall*, No. 3:20CV442 (DJN), 2021 WL 785090 (E.D. Va. Mar. 1, 2021). They are state actors because they corruptly conspired with a judge to issue an injunction. *Ononuju v. Virginia Hous. Dev. Auth.*, 103 Va. Cir. 57, *reconsideration denied*, 103 Va. Cir. 57A (2019).

Topic 21-Judge Liam O'Grady Went Outside of the 4 Corners of the 1st Amended Complaint by Modifying Facts and Claims Then He Proceeded to Dismiss the Facts and Claims He Created

As stated in the above sections, there are significant dispute of the facts.

Judge Liam O'Grady knew about the disputed facts, instead of him accepting the complaint as true, for purposes of reviewing the motions to dismiss (even though “in subsequent stages of the proceedings, however, the Court, as the finder of fact, remains free to review the evidence independently and to conclude that it does not support the allegations in the complaint or petition.”) Code 1950, § 8.01–273.” *F.E. v. G.F.M.*, 35 Va. App. 648, 547 S.E.2d 531 (2001) – he himself modified facts and modified the claims in the complaint and ventured outside of the 4-corners of the complaint.

Judge Liam O'Grady changed the complaint so severely to a point that what he alleged the facts and the claims are different from what Alice alleged.

Then Judge Liam O'Grady proceeded to dismiss the facts and the claims he alleged in his order – see [372-374] and [376-380].

Judge Liam's O'Grady's conduct also created a contrary with: the District Court may not consider MTD's referenced exhibits, alleged facts that went beyond scope of those pled in the complaint, or statements by counsel that raise new facts constitute matters beyond the pleadings. *Marshall v. Marshall*, No. 3:20CV442 (DJN), 2021 WL 785090 (E.D. Va. Mar. 1, 2021); Fed.Rules Civ.Proc.Rule 12(b)(6), 28 U.S.C.A. *Buffalo Wings Factory, Inc. v. Mohd*, 622 F. Supp. 2d 325 (E.D. Va. 2007).

Conclusions: CHIEF JUDGE LIAM O'GRADY's Order should be reversed, and he should be recused from the case.

Prior Appeals

- A. Have you filed other cases in this court?
Yes.
- B. If you checked YES, what are the case names and docket numbers for those appeals and what was the ultimate disposition of each?
They are:

Court of Appeals Docket #: 21-1996

Docketed: 09/13/2021

Nature of Suit:

3890 Other Statutory Actions

Alice Guan v. Gary Bell

App.105a

Appeal From:

United States District Court for the Eastern
District of Virginia at Alexandria

Fee Status: fee paid

ultimate disposition: Dismissed.

/s/ Alice Guan

Signed by Alice Guan

Respectfully Yours, on Jan 10, 2022, by:

/s/ Alice Guan

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this brief exceeded (does not complies with) the type-volume limitation of Federal Rule of Appellate Procedure. It is 84 pages and employed font 14 of Times New Roman with 19454 words and 1728 lines. Motion for additional words has been filed with the court for which this brief accompanies.

Respectfully Yours,

/s/ Alice Guan, Pro se

CERTIFICATE OF SERVICE

I hereby certify that on Jan 10, 2022, a copy of the foregoing has been electronically filed with this court and has been emailed to all counsels to:

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App.107a

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**NOTICE OF APPEAL
(DECEMBER 13, 2021)**

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA

ALICE GUAN,

Plaintiff,

v.

GARY BELL, ET. AL.,

Defendants.

Civil Action No. 1:21-cv-752-LO-TCB

Notice of Appeal of Order as in Doc #114

Plaintiff, Alice Guan (I, me, my), hereby on December 13, 2021, respectfully files this notice of appeal of order as in Doc 114 (attached).

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App.109a

Appellee are: Gary Bell et. Al. represented by:

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FOURTH CIRCUIT DOCKET

GENERAL DOCKET
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
COURT OF APPEALS DOCKET #: 21-2397

ALICE GUAN,

Plaintiff-Appellant

v.

GARY BELL ET AL.

Defendants-Appellees

Court of Appeals Docket #: 21-2397
Nature of Suit: 3890 Other Statutory Actions
Appeal From: United States District Court for the
Eastern District of Virginia at Alexandria
Fee Status: fee paid
Docketed: 12/16/2021
Termed: 05/26/2022

Case Type Information:

- 1) Civil Private
- 2) private
- 3) null

Originating Court Information:

District: 0422-1 : 1:21-cv-00752-LO-TCB

Presiding Judge: Liam O'Grady, Senior U.S. District
Court Judge

Date Filed: 06/23/2021

Date Order/Judgment: 11/30/2021

Date Order/Judgment EOD: 12/01/2021

Date NOA Filed: 12/13/2021

Date Rec'd COA: 12/16/2021

Prior Cases: None

Related

Lead: 21-1996

Member: 21-2397

Start: 12/16/2021

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[COR NTC Retained]

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(see above)

12/16/2021

- 1 Case docketed. Originating case number: 1:21-cv-00752-LO-TCB. Case manager: EBorneisen. [1001076209] [21-2397] EB [Entered: 12/16/2021 12:46 PM]

12/16/2021

- 2 FEE NOTICE issued to Alice Guan - initial notice. Fee or application to proceed as indigent due 01/18/2022. Originating case number: 1:21-cv-00752-LO-TCB. [1001076213] [21-2397] EB [Entered: 12/16/2021 12:48 PM]

12/16/2021

- 3 INFORMAL BRIEFING ORDER filed. [1001076214] Informal Opening Brief due

App.116a

01/10/2022. Informal response brief, if any:
14 days after informal opening brief served.
[21-2397] EB [Entered: 12/16/2021 12:52 PM]

12/17/2021

4 ASSEMBLED ELECTRONIC RECORD
docketed. Originating case number: 1:21-cv-
00752-LO-TCB. Record in folder? Yes. Record
reviewed? Yes. PSR & SOR included? N/A.
[1001076641] [21-2397] AB [Entered: 12/17/
2021 07:17 AM]

12/19/2021

5 MOTION by Alice Guan Alice Guan for Alice
Guan for costs, to adopt adopt and acknowl-
edge the payment of \$505 made on December
13 2021 12/27/2021, to approve/authorize
the payment made on December 13 2021 in
the amount of \$505 onto this appeal case
so that appellant obligation for the appeal
fee is satisfied and authorize to moot this
court's 12/16/2021 Fee Notice. Thank you.
Date and method of service: 12/19/2021 ecf.
[1001077384] [21-2397] Alice Guan [Entered:
12/19/2021 02:43 AM]

12/20/2021

6 Notice issued re: deemed moot. [1001077735]
[21-2397] AW [Entered: 12/20/2021 11:06 AM]

12/22/2021

7 ASSEMBLED ELECTRONIC RECORD
docketed. Originating case number: 1:21-cv-
00752-LO-TCB. Record in folder? Yes. Record
reviewed? Yes. PSR & SOR included? N/A.
[1001079650] [21-2397] AW [Entered: 12/22/
2021 10:57 AM]

12/31/2021

8 MOTION by Alice Guan Alice Guan for Alice Guan to adopt Adopt the payment fee of \$505 that was paid in the district court. If this court believe there is another \$505 must be paid by Jan 18, 2022, please advise specifically what it is for and to whom it must be submitted in what format (cash or credit card) 01/07/2022, to clarify if the payment fee of \$505 that was paid in the district court already satisfied this court's Fee Notice docketed on Dec 16, 2021. to approve/authorize Approve the \$505 paid to the district court is a valid payment that has satisfied this court's Fee Notice requirement. Date and method of service: 12/31/2021 ecf. [1001083636] [21-2397] Alice Guan [Entered: 12/31/2021 02:54 AM]

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12/31/2021

9 Notice issued re: deemed moot. [1001083649] [21-2397] AW [Entered: 12/31/2021 11:59 AM]

01/08/2022

10 MOTION by Alice Guan Alice Guan files for Alice Guan to adopt Adopt the Correct Notice of Appeal that was hand delivered and filed at the district court - district court discarded the order that was attached to the notice of appeal 01/18/2022, to Correct the District Court record and ensure 4th Circuit has the correct notice of appeal record. Date and method of service: 01/08/2022 ecf. [1001088627] [21-2397] Alice Guan [Entered: 01/08/2022 09:34 PM]

01/09/2022

11 MOTION by Alice Guan Alice Guan files for Alice Guan to Seek 4th Circuit Acknowledge pending proceedings in state courts. Date and method of service: 01/09/2022 ecf. [1001088645] [21-2397] Alice Guan [Entered: 01/09/2022 09:31 PM]

01/10/2022

12 Informal APPENDIX by Alice Guan. [1001088672] [21-2397]--[Edited 01/10/2022 by AW-filing type correction] Alice Guan [Entered: 01/10/2022 07:10 AM]

01/10/2022

13 ORDER filed deferring action on motion to correct the notice of appeal docketed in the district court and accept and deem notice of appeal included the order on appeal, and deferring action on motion to acknowledge

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proceeding in SCVA for staying order and for new trial and for change of venue due to new evidence discovered on bing by Appellant Alice Guan [11], [10], [10] Copies to all parties. [1001088789] [21-2397] AW [Entered: 01/10/2022 08:58 AM]

01/10/2022

- 14 MOTION by Alice Guan for Alice Guan to adopt respectfully request the court adopt the long brief by granting additional words. thank you. 01/18/2022. Date and method of service: 01/10/2022 ecf. [1001089752] [21-2397] Alice Guan [Entered: 01/10/2022 10:39 PM]

01/10/2022

- 15 Open Restricted Document (ENTRY RESTRICTED) BRIEF by Alice Guan. Type of Brief: OPENING. [1001089758] [21-2397]—[Edited 01/11/2022 by AW—see filing correction at ecf #17] Alice Guan [Entered: 01/10/2022 11:58 PM]

01/10/2022

- 17 INFORMAL OPENING BRIEF (entitled “informal brief mostly in the format of formal brief less than 13K words”) by Alice Guan. [1001089791] [21-2397] AW [Entered: 01/11/2022 07:36 AM]

01/11/2022

- 16 Open Restricted Document (ENTRY RESTRICTED) BRIEF by Alice Guan. Type of Brief: SUPPLEMENTAL OPENING. [1001089759] [21-2397]—[Edited 01/11/2022 by AW—see filing correction at ecf #18 & 19] Alice Guan [Entered: 01/11/2022 03:52 AM]

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01/11/2022

18 DISCLOSURE STATEMENT by Alice Guan.
Was any question on Disclosure Form
answered yes? No [1001089792] [21-2397]
AW [Entered: 01/11/2022 07:37 AM]

01/11/2022

19 Amended CERTIFICATE OF COMPLIANCE
WITH TYPE-VOLUME LIMITATIONS/
CERTIFICATE OF SERVICE by Alice Guan.
Related documents: [17] informal opening
brief [1001089795] [21-2397] AW [Entered:
01/11/2022 07:39 AM]

01/11/2022

20 ORDER filed deferring action on Motion to
exceed length limitations filed by Appellant
Alice Guan [14]. Copies to all parties.
[1001089911] [21-2397] AW [Entered: 01/11/
2022 09:07 AM]

01/24/2022

21 APPEARANCE OF COUNSEL by James
Kinsel for Gary Bell, Sergey Katsenelenbogen
and Jen Kim. [1001097475] [21-2397] James
Kinsel [Entered: 01/24/2022 08:23 PM]

01/24/2022

22 INFORMAL RESPONSE BRIEF by Gary
Bell, Sergey Katsenelenbogen and Jen Kim.
[1001097476] [21-2397] James Kinsel
[Entered: 01/24/2022 08:26 PM]

01/24/2022

23 DISCLOSURE STATEMENT by Gary Bell.
Was any question on Disclosure Form
answered yes? No [1001097477] [21-2397]
James Kinsel [Entered: 01/24/2022 08:28 PM]

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01/24/2022

24 DISCLOSURE STATEMENT by Sergey Katsenelenbogen. Was any question on Disclosure Form answered yes? No [1001097478] [21-2397] James Kinsel [Entered: 01/24/2022 08:29 PM]

01/24/2022

25 DISCLOSURE STATEMENT by Jen Kim. Was any question on Disclosure Form answered yes? No [1001097479] [21-2397] James Kinsel [Entered: 01/24/2022 08:31 PM]

02/02/2022

26 Open Restricted Document (ENTRY RESTRICTED) BRIEF by Alice Guan. Type of Brief: REPLY. [1001103327] [21-2397]—Edited 02/03/2022 by AW—see filing correction at ecf #27] Alice Guan [Entered: 02/02/2022 11:57 PM]

02/03/2022

27 INFORMAL REPLY BRIEF by Alice Guan. [1001103737] [21-2397] AW [Entered: 02/03/2022 11:42 AM]

05/26/2022

28 UNPUBLISHED PER CURIAM OPINION filed. Motion disposition in opinion—granting Motion to exceed length limitations [14]; denying Motion for other relief [11], denying Motion for other relief [10]; denying Motion to adopt [10] Originating case number: 1:21-cv-00752-LO-TCB. Copies to all parties and the district court/agency. [1001168467] [21-2397] AW [Entered: 05/26/2022 08:40 AM]

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05/26/2022

29 JUDGMENT ORDER filed. Decision: Affirmed. Originating case number: 1:21-cv-00752-LO-TCB. Entered on Docket Date: 05/26/2022. Copies to all parties and the district court/agency. [1001168484] [21-2397] AW [Entered: 05/26/2022 08:49 AM]

06/09/2022

30 PETITION for rehearing and rehearing en banc by Alice Guan. [1001175740] [21-2397] Alice Guan [Entered: 06/09/2022 11:20 PM]

06/09/2022

31 PETITION for initial hearing en banc by Alice Guan. [1001175741] [21-2397] Alice Guan [Entered: 06/09/2022 11:22 PM]

06/09/2022

32 PETITION for rehearing by Alice Guan. [1001175742] [21-2397] Alice Guan [Entered: 06/09/2022 11:23 PM]

06/09/2022

33 PETITION for rehearing en banc by Alice Guan. [1001175743] [21-2397] Alice Guan [Entered: 06/09/2022 11:24 PM]

06/10/2022

34 Mandate temporarily stayed pending ruling on petition for rehearing or rehearing en banc. [1001175811] [21-2397] AW [Entered: 06/10/2022 09:06 AM]

06/28/2022

35 COURT ORDER filed denying Motion for rehearing en banc [33]; denying Motion for rehearing [32]; denying Motion for initial

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hearing en banc [31]; denying Motion for re-hearing and rehearing en banc [30] Copies to all parties. [1001184533] [21-2397] AW [Entered: 06/28/2022 10:27 AM]

07/06/2022

36 Mandate issued. Referencing: [29] Judgment Order, [28] unpublished per curiam Opinion. Originating case number: 1:21-cv-00752-LO-TCB. [1001188448] [21-2397] AW [Entered: 07/06/2022 07:12 AM]