

No. \_\_\_\_\_

**In The**  
**Supreme Court of the United States**

RYAN DEAN,

*Petitioner,*

v.

ROBERT FLANAGAN, DARREN BARREIRO,  
CHRISTOPHER ADAMS, CHARLES VACCARO,  
AND GREENBAUM, ROWE, SMITH, AND DAVIS,  
LLP

*Respondents.*

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**Appendix 1A**

ALD-091

**NOT PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

\_\_\_\_\_  
No. 21-2396  
\_\_\_\_\_  
RYAN DEAN,  
Appellant

v.  
\_\_\_\_\_  
ROBERT FLANNIGAN; DARREN BARREIRO; GREENBAUM, ROWE, SMITH &  
DAVIS, LLP; CHRISTOPHER D. ADAMS; CHARLES VACCARO

On Appeal from the United States District Court  
for the District of New Jersey  
(D.C. Civil Action No. 2-19-cv-18255)  
District Judge: Honorable Madeline C. Arleo

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2) or  
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6  
February 24, 2022

Before: JORDAN, RESTREPO and SCIRICA, Circuit Judges  
(Opinion filed March 11, 2022)

\_\_\_\_\_  
**OPINION\***

\_\_\_\_\_  
PER CURIAM

\_\_\_\_\_  
\* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Pro se Appellant Ryan Dean appeals from the District Court's denial of his "Motion for Vacatur" and related motions. For the following reasons, we will summarily affirm. See 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6.

In September 2019, Dean filed a complaint in the District Court of New Jersey alleging that the Defendants – attorneys and a law firm – suborned perjury and fabricated evidence while representing Lisa Bissell in state court proceedings under the Prevention of Domestic Violence Act (PDVA), N.J.S.A. § 2C:25-17.<sup>1</sup> After Dean amended his complaint, the District Court dismissed it by order entered October 2, 2020. See ECF No. 21. On October 28, 2020, Dean filed a motion for relief from the dismissal order pursuant to Rule 60(b)(3) and (d)(3), and a motion to obtain a transcript of the state court TRO proceeding. By order entered May 28, 2021, the District Court denied the motions. See ECF No. 38. Subsequently, in an order entered June 23, 2021, the District Court denied Dean's letter-motion to stay the proceeding while he investigated "new evidence." See ECF No. 39. Finally, by order entered July 14, 2021, the District Court denied

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<sup>1</sup> In the PDVA proceedings, Bissell alleged that Dean had sexually assaulted her. She obtained a Temporary Restraining Order (TRO) against him, but the New Jersey Superior Court subsequently denied a Final Restraining Order (FRO) and the TRO was dismissed. In February 2019, Bissell filed a complaint in New Jersey Superior Court against Dean, his business partner, Kevin Klassen, and their hedge fund and management company, Saga Global Capital Management, LLC. ("the SAGA suit"), alleging various employment discrimination and retaliation claims, as well as claims against Dean for civil assault and intentional infliction of emotional distress. In June 2020, Dean filed a notice of removal of Bissell's civil action from state court to the District Court of New Jersey. See D.N.J. Civ. No. 2-20-cv-07393 ("removal proceeding"). In an order entered December 7, 2020, the District court granted Bissell's motion to remand the matter to the New Jersey Superior Court.

Dean's motion to consolidate the case with the removal proceeding and with another case of his filed at D.N.J. Civ. No. 2:21-cv-07393.<sup>2</sup> See ECF No. 44.

Dean filed a notice of appeal on July 23, 2021, seeking review of the October 20, 2020 dismissal order and the District Court's May 28, June 23, and July 14, 2021 orders. We have jurisdiction to review only the latter two orders.

Generally, a notice of appeal in a civil case must be filed within 30 days after entry of the judgment or order appealed. See Fed. R. App. P. 4(a)(1)(A). Dean's Rule 60 motion was filed within 28 days of the dismissal order and therefore tolled the time to appeal that order pending its disposition. See Fed. R. App. P. 4(a)(4)(A)(vi). But the time to appeal commenced on May 28, 2021, when the Rule 60 motion was denied. See Fed R. App. P. 4(a)(4)(A) (providing that the time for appeal runs from entry of order disposing Rule 4(a)(4) tolling motion). The notice of appeal was filed more than 30 days later, but within 30 days of the June 23 and July 14 orders. Accordingly, our review is limited to those two orders.

The District Court properly denied Dean's letter-motion to stay the proceeding. As the District Court noted, a day after the letter-motion was filed, it denied the motion to vacate the dismissal order; the case was closed, and the letter-motion failed to provide any basis to reopen and stay the proceeding.<sup>3</sup> For those reasons, and because the removal

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<sup>2</sup> The motion to consolidate, which was included within a "Motion to Vacatur the Remand Proceeding," was filed in all three proceedings.

<sup>3</sup> The letter-motion requested more time to "investigate" facts about Bissell, her ex-husband, and her attorneys in the SAGA suit (all non-defendants in this case), who Dean believed were conspiring to defraud him. See ECF No. 37.

proceeding had been remanded to state court, the District Court did not err in denying the motion to consolidate the proceedings.

Because this appeal fails to present a substantial question, we will summarily affirm the District Court's June 23 and July 14, 2021 orders. See 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.

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LLP

*Respondents.*

**Appendix 2A**

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

No. **21-2396**

RYAN DEAN,  
Appellant

v.

ROBERT FLANNINGAN; DARREN BARREIRO; GREENBAUM ROWE SMITH &  
DAVIS LLP; CHRISTOPHER D. ADAMS; CHARLES VACCARO

(D.C. Civ. No. 2-19-cv-18255)

**SUR PETITION FOR REHEARING**

Before: CHAGARES, *Chief Judge*, McKEE, AMBRO, JORDAN, HARDIMAN,  
GREENAWAY, JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY,  
PHIPPS, and SCIRICA\*, *Circuit Judges*.

The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/L. Felipe Restrepo  
Circuit Judge

Date: June 21, 2022

Lmr/cc: Ryan Dean  
Christopher D. Adams

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\* Judge Scirica's vote is limited to panel rehearing only.

ALD-091

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

No. 21-2396

RYAN DEAN,  
Appellant

v

ROBERT FLANNIGAN; DARREN BARREIRO; GREENBAUM, ROWE, SMITH & DAVIS, LLP; CHRISTOPHER D. ADAMS; CHARLES VACCARO

On Appeal from the United States District Court  
for the District of New Jersey  
(D.C. Civil Action No. 2-19-cv-18255)  
District Judge: Honorable Madeline C. Arleo

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2) or  
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6  
February 24, 2022

Before: JORDAN, RESTREPO and SCIRICA, Circuit Judges

## JUDGMENT

This cause came to be considered on the record from the United States District Court for the District of New Jersey and was submitted for possible summary action pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6 on February 24, 2022. On consideration whereof, it is now hereby

12a / 348a

ORDERED and ADJUDGED by this Court that the orders of the District Court entered June 23, 2021, and July 14, 2021, be and the same hereby are affirmed. All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit  
Clerk

DATED: March 11, 2022



Certified ~~as a true copy~~ and issued in lieu  
of a formal mandate on July 1, 2022

Teste: *Patricia S. Dodszuweit*  
Clerk, U.S. Court of Appeals for the Third Circuit

No. \_\_\_\_\_

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LLP

*Respondents.*

**Appendix 3A**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

CHAMBERS OF  
MADELINE COX ARLEO  
UNITED STATES DISTRICT JUDGE

MARTIN LUTHER KING COURTHOUSE  
50 WALNUT ST. ROOM 4066  
NEWARK, NJ 07101  
973-297-4903

October 1, 2020

VIA CERTIFIED MAIL

Ryan Dean  
119 Saint Paul's Avenue  
Staten Island, NY 10301

VIA ECF

Counsel for Defendants

LETTER ORDER

**Re: Ryan Dean v. Robert Flannigan, et al.,  
Civil Action No. 19-18255**

Dear Litigants:

This matter comes before the Court by way of attorney Defendants Robert Flanagan's<sup>1</sup> ("Flanagan"), Darren Barreiro's ("Barreiro"), Christopher Adams' ("Adams"), Charles Vaccaro's ("Vaccaro"), and Greenbaum, Rowe, Smith & Davis, LLP's ("Greenbaum" and, with Flanagan, Barreiro, Adams, and Vaccaro, the "Defendants") Motion to Dismiss the Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), ECF No. 10. Pro se Plaintiff Ryan Dean ("Dean" or "Plaintiff") opposes the Motion. ECF No. 17. For the reasons set forth below, the Motion is **GRANTED**.

**I. BACKGROUND<sup>2</sup>**

This action arises out of an alleged conspiracy associated with a New Jersey state court proceeding in which attorneys Flanagan and Barreiro represented an individual, Lisa Bissell ("Bissell"). See generally Am. Compl., ECF No. 8.

On August 9, 2017, Bissell obtained a Temporary Restraining Order ("TRO") against Dean under New Jersey's Prevention of Domestic Violence Act ("PDVA") and filed a police report alleging that Dean sexually assaulted her. See id. ¶¶ 101, 116. On August 17, 2017, the parties appeared before the Superior Court of New Jersey, Family Division, Essex County (the "Superior Court") on the Final Restraining Order ("FRO"), at which time Dean's attorney sought to adjourn the proceedings in order to provide Flanagan and Barreiro text message conversations between

<sup>1</sup> Flanagan's name appears to have been misspelled in the initial Complaint, hence the discrepancy with the case name.

<sup>2</sup> The facts are drawn from the Amended Complaint, ECF No. 8.

Dean and Bissell. Id. ¶¶ 117-24. According to Dean, these text messages demonstrated his innocence and provided clear evidence that Bissell was not truthful in her TRO request. See id. ¶¶ 130-49. On September 19, 2017, Flanagan and Bissell again appeared before the Superior Court to amend the TRO and include more facts about the sexual assault. Id. ¶ 152. At a hearing held on September 26, 2017, the Superior Court denied Bissell's request for a FRO and dismissed the TRO, because Bissell's testimony was internally inconsistent, and she lacked physical evidence. See id. ¶¶ 87, 95-96, 101.<sup>3</sup>

On September 23, 2019, Dean filed his initial Complaint against Flanagan, Barreiro, and Greenbaum, ECF No. 1, which he then amended on February 27, 2020 to include Adams and Vaccaro, the attorneys representing Flanagan and Barreiro in the instant action, see Am. Compl. The Amended Complaint alleges that upon receipt of the text message conversation between Bissell and Dean, Flanagan and Barreiro knew that Bissell's sexual assault accusations were false but continued to represent her and pursue her claim in order to "willingly and purposefully . . . damage Mr. Dean." Id. ¶ 95; see also id. ¶¶ 126-32. The Amended Complaint further contends that Adams and Vaccaro continued to purposefully damage Dean in presenting false evidence to this Court when filing the January 29, 2020 Motion to Dismiss the initial Complaint, ECF No. 7. Id. ¶¶ 74-80.

The Amended Complaint cites sixteen causes of action against the Defendants, alleging constitutional violations under 42 U.S.C. §§ 1983 and 1985,<sup>4</sup> violations of New Jersey's criminal code,<sup>5</sup> Racketeering Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c) ("RICO") violations, and several intentional torts.<sup>6</sup> On March 12, 2020, Defendants filed the instant Motion.

## II. LEGAL STANDARD

In considering a Rule 12(b)(6) motion to dismiss, the Court accepts as true all of the facts in the complaint and draws all reasonable inferences in favor of the plaintiff. Phillips v. Allegheny, 515 F.3d 224, 233 (3d Cir. 2008). Dismissal is inappropriate even where "it appears unlikely that the plaintiff can prove those facts or will ultimately prevail on the merits." Id. The facts alleged,

<sup>3</sup> According to Dean, Bissell filed a new lawsuit against Dean in New Jersey Superior Court, Law Division, in 2019, represented by different attorneys at a different law firm. See Am. Compl. ¶¶ 82, 101, 164. Plaintiff contends that he plans to join Bissell and her current attorneys in this action when the state court proceeding is complete. Id. ¶ 82. Repeatedly throughout the Amended Complaint, Dean accuses Bissell and her current lawyers of participating in the alleged conspiracy to harm Dean. See, e.g. id. ¶¶ 81-86. Because these individuals are not joined in this action, their behavior is not relevant to the instant Motion.

<sup>4</sup> Count I alleges conspiracy to interfere with civil rights in violation of 42 U.S.C. § 1985 ("Section 1985"). Am. Compl. ¶¶ 209-33. Counts IV and VIII-XV allege a variety of constitutional violations. Id. ¶¶ 265-84, 412-513. Although the Amended Complaint does not explicitly rely upon 42 U.S.C. § 1983 ("Section 1983"), the Court assumes that these counts are brought pursuant to Section 1983, providing private citizens with means of redressing violations of federal law.

<sup>5</sup> Count III ("Fabricated and/or Destroyed Exculpatory Evidence") alleges a violation of N.J.S.A. § 2C:28-6, Am. Compl. ¶¶ 245-64, and Count VI ("Criminal Coercion") alleges a violation of N.J.S.A. § 2C:13-5, which Plaintiff mistakenly refers to as N.J.S.A. § 2C:15-5, id. ¶¶ 296-317.

<sup>6</sup> Count II alleges Intentional Infliction of Emotional Distress, Am. Compl. ¶¶ 234-44, Count V alleges Abuse of Process, id. ¶¶ 285-95, and Count XVI alleges Fraud, id. ¶¶ 514-27.

however, must be “more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). The allegations in the complaint “must be enough to raise a right to relief above the speculative level.” Id. Accordingly, a complaint will survive a motion to dismiss if it provides a sufficient factual basis such that it states a facially plausible claim for relief. Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

Because Plaintiff is proceeding pro se, the Court must liberally construe the Complaint under “less stringent standards than formal pleadings drafted by lawyers.” Haines v. Kerner, 404 U.S. 519, 520 (1972). “Yet there are limits to [the Court’s] procedural flexibility,” and “pro se litigants must still allege sufficient facts in their complaints to support a claim.” Mala v. Crown Bay Marina, Inc., 704 F.3d 239, 245 (3d Cir. 2013).

### III. DISCUSSION

Defendants argue that Plaintiff’s Amended Complaint should to be dismissed for a variety of reasons. See generally Def. Mem., ECF No. 10.1. The Court agrees that the Amended Complaint must be dismissed.

First, Plaintiff’s constitutional and tortious claims—Counts I-II, IV-V, and VIII-XVI—fail, because Defendants are immune from suit under the litigation privilege. The litigation privilege applies to “any communication (1) made in judicial or quasi-judicial proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of litigation; and (4) that have some connection or logical relation to the action.” Hawkins v. Harris, 141 N.J. 207, 216 (1995) (internal quotation marks and citation omitted). New Jersey courts broadly apply the litigation privilege, extending it from its historical application in defamation actions to actions alleging “abuse of process, intentional infliction of emotional distress, . . . civil conspiracy, . . . and fraud.” Giles v. Phelan, Hallinan & Schmieg, L.L.P., 901 F. Supp. 2d 509, 524 (D.N.J. 2012) (quoting Loigman v. Twp. Comm. of the Twp. of Middleton, 185 N.J. 566, 583 (2006)); see also Loigman, 185 N.J. at 584 (holding that the litigation privilege bars Section 1983 claims when applicable); Pasqua v. Cnty. of Hunterdon, 721 F. App’x 215, 219-20 (3d Cir. 2018) (same).

The litigation privilege applies to Dean’s intentional tort and constitutional claims. As to Flanagan and Barreiro, the Amended Complaint alleges that they repeatedly made false statements to the Superior Court in the Amended TRO and helped their client do the same when she appeared before the court. See, e.g., Am. Compl. ¶¶ 78, 239, 268, 422. As to Adams and Vaccaro, the Amended Complaint alleges that they made false statements to this Court in their Motion to Dismiss Dean’s initial Complaint. Id. ¶ 74. These allegations all rely upon Defendants’ communications, made in the course of judicial proceedings, for the purpose of achieving the “object of litigation.” Hawkins, 141 N.J. at 216. Regardless of the merit of these claims, such communication is protected by the litigation privilege. See Loigman, 185 N.J. at 586 (“In applying

the privilege, we consider neither the justness of the lawyers' motives nor the sincerity of their communications."). Accordingly, the Court dismisses Counts I-II, IV-V, and VIII-XVI.<sup>7</sup>

Second, Counts III and VI fail to state a claim for relief, because Plaintiff cannot bring a private lawsuit to enforce provisions of New Jersey's criminal code. See, e.g., Henry v. Essex Cnty. Prosecutor's Off., No. 16-8566, 2017 WL 1243146, at \*3 (D.N.J. Feb. 24, 2017) ("[P]rivate citizens are generally not allowed to enforce the state penal laws, and [v]iolations of these laws are left to the agencies charged with the enforcement of the criminal law.") (citations and internal quotation marks omitted); Ali v. Jersey City Parking Auth., 13-02678, 2014 WL 1494578, at \*4 (D.N.J. Apr. 16, 2014) (dismissing three claims brought under New Jersey criminal code, explaining that "a private party may not bring a criminal action against another individual or entity"), aff'd 594 F. App'x 730 (3d Cir. 2014). As such, Counts III and VI must be dismissed.

Finally, Count VII fails to adequately state a claim under RICO. To plead a RICO claim, "the plaintiff must allege (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." In re Brokerage Antitrust Litig., 618 F.3d 300, 362 (3d Cir. 2010) (internal quotation marks and citations omitted). "A pattern of racketeering requires at least two predicate acts of racketeering." Lum v. Bank of Am., 361 F.3d 217, 223 (3d Cir. 2004) (citing 18 U.S.C. § 1961(5), which relies on 18 U.S.C. § 1961(1)'s definition of "racketeering activity").

Plaintiff has failed to allege any predicate acts to support his RICO claim. While Plaintiff alleges violations of over twenty federal and state statutes, Am. Compl. ¶¶ 325-26, each stem from the same statements made and actions taken by Defendants in the course of court proceedings. Courts have consistently held that such conduct cannot establish predicate acts of racketeering activity. See Meade v. Guaranty Bank, No. 12-1559, 2013 WL 5438750, at \*10 (M.D. Pa. Sept. 27, 2013) ("[T]he filing of court documents alone does not constitute mail fraud for reasons of public policy."); Winters v. Jones, No. 16-9020, 2018 WL 326518, at \*9 (concluding that "[n]umerous courts have rejected the theory that the filing of complaints, along with other litigation activity, can be the basis of wire or mail fraud" and that "meritless litigation does not constitute extortion under Section 1951"); D'Orange v. Feely, 877 F. Supp. 152 (S.D.N.Y. 1995) (holding that sending and filing court documents "cannot be considered predicate acts because they constitute legitimate conduct of attorneys acting on behalf of a client in the course of pending litigation").

<sup>7</sup> Plaintiff's constitutional claims likewise fail as a matter of law on the merits. First, Plaintiff's Section 1983 claims fail because Defendants are not acting "under color any statute, ordinance, regulation, custom or usage of any State or Territory," 42 U.S.C. § 1983. See Polk Cnty. v. Dodson, 454 U.S. 312, 318 (1981) ("[A] lawyer representing a client is not, by virtue of being an officer of the court, a state actor 'under color of state law' within the meaning of § 1983."); Henderson v. Fisher, 631 F.2d 1115, 1119 (3d Cir. 1980) ("Although states license lawyers to practice, and although lawyers are deemed 'officers of the court,' this is an insufficient basis for concluding that lawyers act under color of state law for the purposes of 42 U.S.C. § 1983.").

Second, Plaintiff's Section 1985 claim (Count I) fails to state a claim for relief, because Plaintiff failed to allege that any conspiratorial conduct was "motivated by a racial or class based discriminatory animus." Lake v. Arnold, 112 F.3d 682, 685 (3d Cir. 1997); see also Carpenter v. Ashby, 351 F. App'x 684, 687 (3d Cir. 2009) ("Section 1985 requires a plaintiff to allege that invidious racial, or otherwise class-based, discriminatory animus lay behind the defendants' actions. . . ."); Farber v. City of Paterson, 440 F.3d 131, 135 (3d Cir. 2006) ("§ 1985(3) was not intended to provide a federal remedy for 'all tortious, conspiratorial interferences with the rights of others,' or to be a 'general federal tort law.'") (quoting Griffin v. Breckenridge, 403 U.S. 88, 101-02 (1971)).

Plaintiff's RICO claim additionally fails because Plaintiff has not established a distinct enterprise, separate from Defendants as individuals. RICO requires that a plaintiff "allege and prove the existence of two distinct entities: (1) a 'person'; and (2) an 'enterprise' that is not simply the same 'person' referred to by a different name." Cedric Kushner Promotions, Ltd. v. King, 533 U.S. 158, 161 (2001); see also Zavala v. Wal-Mart Stores, Inc., 447 F. Supp. 2d 379, 383 (D.N.J. 2006) ("If the members of the enterprise are the same as the persons, the distinctness requirement has not been met, as the 'person' and the 'enterprise' must not be identical."), aff'd 691 F.3d 527 (3d Cir. 2012). Here, Plaintiff asserts that the Defendants are both the "persons" committing the alleged RICO violation, as well as the "enterprise," albeit given a different name. See, e.g., Am. Compl. ¶ 74 (referring to Defendants collectively as the "Greenbaum Gang"). Because the Amended Complaint fails to allege a distinct enterprise, Dean's RICO claim must be dismissed.<sup>8</sup>

#### IV. CONCLUSION

For the reasons stated above, Defendants' Motion to Dismiss, ECF No. 10, is **GRANTED**, and Plaintiff's Complaint is **DISMISSED**.

SO ORDERED.

/s Madeline Cox Arleo

MADELINE COX ARLEO

UNITED STATES DISTRICT JUDGE

<sup>8</sup> Although it is difficult to tell from the Amended Complaint, it also seems that Plaintiff alleges Defendants engaged in a conspiracy to violate the substantive provisions of RICO. See Am. Compl. ¶¶ 83, 399. Because "[a]ny claim under section 1962(d) . . . necessarily must fail if the substantive claims are themselves deficient," Plaintiff's attempt to allege conspiracy likewise fails. See Care Onc Mgmt, LLC v. United Healthcare Workers E., No. 12-6371, 2019 WL 5541410, at \*10 (D.N.J. Oct. 28, 2019) (internal quotation marks and citations omitted).

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**Appendix 4A**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

**RYAN DEAN,**

*Plaintiffs,*

v.

**ROBERT FLANNIGAN, et al.,**

*Defendants.*

**Civil Action No. 19-18255**

**ORDER**

THIS MATTER comes before the Court by way of pro se Plaintiff Ryan Dean's ("Dean" or "Plaintiff") Motion to Vacate the Order of October 1, 2020 and "Motion to Obtain the TRO Transcript of Bissel v. Dean on August 9, 2017," ECF No. 22;<sup>1</sup>

and it appearing that Defendants oppose the Motions, ECF No. 24;

and appearing that Plaintiff filed an Amended Complaint on February 27, 2020, alleging that Defendants, attorneys who represented Lisa Bissell ("Bissel") in New Jersey state court, knowingly fabricated evidence against Plaintiff in order to damage Plaintiff's reputation, see generally Am. Compl., ECF No. 8;

and it appearing that Defendants moved to dismiss the Amended Complaint, and on October 1, 2020, the Court entered an Order dismissing the action, see ECF No. 21 ("October 1 Order");

and it appearing that the October 1 Order (1) dismissed Plaintiff's constitutional and tort claims on the basis of the litigation privilege; (2) dismissed Plaintiff's claims under the New Jersey

<sup>1</sup> Local Civil Rule 7.2 clearly states that briefs may not exceed 40 pages double spaced in 12-point font. Not only does Dean's brief in support of his motions greatly exceed this limitation (his Motion to Vacate for Fraud on the Court is 165 pages mostly single spaced), but he has continued to submit a slew of documents in support of his Motion, most of which are similarly voluminous, see ECF Nos. 25-36. In light of Plaintiff's pro se status, the Court will consider these documents to the best it can decipher the arguments and reminds Plaintiff to abide by this Court's rules in any future communications.

criminal code as an improper attempt to enforce criminal laws; and (3) dismissed Plaintiff's RICO claim based on a failure to allege any predicate acts and a failure to establish a distinct criminal enterprise, see id.;

and it appearing that on October 29, 2020, Dean filed two motions with this Court, moving to (a) vacate the October 1 Order based on fraud pursuant to Federal Rule of Civil Procedure 60(b)(3), and (b) obtain a transcript of a state court proceeding from August 9, 2017, ECF No. 10;

and it appearing that Federal Rule of Civil Procedure 60(b)(3) provides relief from a final judgment on the basis of "fraud . . . , misrepresentation, or misconduct by an opposing party;"

and it appearing that "[t]o reopen a judgment under Rule 60(b)(3), specifically, a plaintiff must show, by clear and convincing evidence: (1) that the adverse party engaged in fraud or misconduct; and (2) that is conduct that prevented the moving party from fully and fairly presenting this case," Toolasprashad v. Wright, No. 02-5473, 2008 WL4845306, at \*5 (D.N.J. Nov. 3, 2008) (quotation marks, citation, and emphasis omitted);

and it appearing that a finding of fraud by an officer of the court requires a showing that the officer "engaged in 'egregious misconduct,'" In re Bressman, 874 F.3d 142, 150 (3d. Cir. 2017) (quoting Herring v. United States, 424 F.3d 384, 390 (3d Cir. 2005)); see also Plisco v. Union R.R. Co., 379 F.2d 15, 17 (3d Cir. 1967) (explaining that Rule 60(b) is "extraordinary relief which should be granted only where extraordinary justifying circumstances are present");

and it appearing that Plaintiff's fraud claim is rooted in Defendants' alleged conduct in their representation of Bissel in the state court proceeding, see Pl. Mot. at 15-24, 28, 97, ECF No. 22.2;

and it appearing that a finding of fraud cannot be based on allegedly fraudulent activities before a different court in a wholly different jurisdiction, see, e.g., Goodwin v. Home Buying Inv.

Co., 352 F. Supp. 413, 416 (D.D.C. 1973) (holding that a motion to vacate “is misplaced where the judgment from which a party seeks relief was not a judgment of the court in which relief is sought”); Bd. of Trs., Sheet Metal Workers’ Nat’l Pension Fund v. Elite Erectors, Inc., 212 F.3d 1031, 1034 (7th Cir. 2000) (“requests for modification under Rule 60(b) must be presented to the rendering court”) (citing 11 Wright & Miller, Federal Practice and Procedure § 2865 (2d ed. 1995));

and it appearing that Plaintiff also contends that Defendant’s committed fraud before this Court in their Motion to Dismiss by arguing that “Dean could present no facts” supporting his claims, Pl. Mot. at 29;

and it appearing that Defendants’ Motion to Dismiss relied only on the facts Plaintiff alleged in the Amended Complaint and otherwise merely argued legal bases for dismissal, see ECF No. 10;

and it appearing that Plaintiff has therefore not pointed to any “egregious conduct” before this Court warranting a finding of fraud;

and it appearing that moreover, Plaintiff has not provided evidence that Defendants’ allegedly fraudulent conduct prevented him “from fully and fairly presenting this case,” Toolasprashad, 2008 WL4845306, at \*5, as Plaintiff has filed numerous letters and briefings repeatedly informing the Court of Plaintiff’s rendition of the state court proceeding, which the Court considered in entering the October 1 Order;<sup>2</sup>

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<sup>2</sup> Plaintiff also disagrees with the Court’s October 1 Order on the merits. See, e.g., Pl. Mot. at 97; Pl. Reply at 48-52, 62, ECF No. 25 (questioning the Court’s application of the litigation privilege). Plaintiff did not file a motion for reconsideration and these arguments are wholly irrelevant for the purposes of the motion to vacate on the basis of fraud. Regardless, the Court notes that these identical arguments were presented to the Court in Plaintiff’s opposition to the motion to dismiss, and “mere disagreement” with the Court’s legal and factual conclusions is insufficient to support a motion for reconsideration. See Dellobuono v. Warden Southwoods State Prison, No. 15-5689, 2017 WL 772325, at \*1 (D.N.J. Feb. 28, 2017).

and it appearing that Plaintiff has thus failed to show that vacating the order on the basis of fraud is warranted;

**IT IS** on this 28th day of May, 2021;

**ORDERED** that Plaintiff's Motion to Vacate the October 1, 2020 Order is **DENIED**; and it is further

**ORDERED** that Plaintiff's Motion to Obtain the TRO Transcript of Bissel v. Dean from August 9, 2017 is **DENIED AS MOOT**;<sup>3</sup> and it further

**ORDERED** that the Clerk's Office shall mail a copy of this Order to Plaintiff via certified mail.

/s Madeline Cox Arleo  
**HON. MADELINE COX ARLEO**  
**UNITED STATES DISTRICT JUDGE**

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<sup>3</sup> Because the Court declines to vacate the October 1 Order, this matter remains closed and the Court will not order the state court to release documents that are confidential pursuant to the New Jersey's Prevention of Domestic Violence Act.

No. \_\_\_\_\_

**In The**  
**Supreme Court of the United States**

RYAN DEAN,

*Petitioner,*

v.

ROBERT FLANAGAN, DARREN BARREIRO,  
CHRISTOPHER ADAMS, CHARLES VACCARO,  
AND GREENBAUM, ROWE, SMITH, AND DAVIS,  
LLP

*Respondents.*

**Appendix 5A**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

RYAN DEAN,

*Plaintiff,*

v.

ROBERT FLANNIGAN, et al.,

*Defendants.*

Civil Action No. 19-18255

**ORDER**

THIS MATTER comes before the Court by way of pro se Plaintiff Ryan Dean's ("Plaintiff") May 25, 2021 letter to the Court, ECF No. 37 (the "Letter"); and it appearing that Plaintiff requests that the Court stay the proceeding for ninety days while Plaintiff investigates new evidence;

and it appearing that, subsequent to the filing of the Letter, the Court denied Plaintiff's prior motion to vacate, see ECF No. 38;

and it appearing that the Court's Order closed the case, id.;

and it appearing that because the case is closed, and the Court observes no meritorious reason raised in the Letter to reopen and stay the proceedings;

IT IS on this 23rd day of June, 2021;

**ORDERED** that Plaintiff's Motion to Stay the Proceedings is **DENIED**; and it is further

**ORDERED** that the Clerk's Office shall mail a copy of this Order to Plaintiff via certified mail.

*/s Madeline Cox Arleo*

**HON. MADELINE COX ARLEO**  
**UNITED STATES DISTRICT JUDGE**

No. \_\_\_\_\_

**In The**  
**Supreme Court of the United States**

RYAN DEAN,

*Petitioner,*

v.

ROBERT FLANAGAN, DARREN BARREIRO,  
CHRISTOPHER ADAMS, CHARLES VACCARO,  
AND GREENBAUM, ROWE, SMITH, AND DAVIS,  
LLP

*Respondents.*

**Appendix 6A**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

CHAMBERS OF  
MADELINE COX ARLEO  
UNITED STATES DISTRICT JUDGE

MARTIN LUTHER KING COURTHOUSE  
50 WALNUT ST. ROOM 4066  
NEWARK, NJ 07101  
973-297-4903

July 13, 2021

VIA CERTIFIED MAIL

Ryan Dean  
3540 W. Sahara Ave, 752  
Las Vegas, NV 89102

VIA ECF

All Counsel of Record

LETTER ORDER

**Re: Bissel v. Saga Global Capital Management, et al.; Dean v. Flannigan, et al.;  
& Dean v. Bissel, et al.  
Civil Action Nos. 21-9770, 20-7393 & 19-18255**

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Dear Litigants:

The Court is in receipt of Ryan Dean's ("Dean") Motion to Vacatur the Remand Proceeding filed in Case No. 20-7393, ECF No. 49 ("Motion to Vacate"). The Court is also in receipt of Dean's request to consolidate the proceedings and allow him to replead, filed in all three matters. See No. 21-9770, ECF No. 28 (D.N.J.); No. 20-7393, ECF No. 50 (D.N.J.); No. 19-18255, ECF No. 41 (D.N.J.) ("Motion to Consolidate").

First, because the Court remanded the proceedings in Case No. 20-7393 to state court, the Court lacks jurisdiction to consider the Motion to Vacate. See Agostini v. Piper Aircraft Corp., 729 F.3d 350, 352-56 (3d Cir. 2013) (holding that district court lacks jurisdiction to consider a remand order). Second, as to the Motion to Consolidate, Case Nos. 20-7393 and 19-18255 are closed and the Court observes no meritorious reason to reopen the cases and allow for consolidation. The Court will not consider any further requests from Dean to reopen these cases. As to Case No. 21-9770, if Dean seeks to replead, he may make such a formal request in that proceeding only.

Therefore, Dean's Motion to Vacate, No. 20-7393, ECF No. 49 (D.N.J.) is **DENIED**. The

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Motion to Consolidate, No. 21-9770, ECF No. 28 (D.N.J.); No. 20-7393, ECF No. 50 (D.N.J.); No. 19-18255, ECF No. 41 (D.N.J.), is **DENIED**. The Clerk's Office shall mail a copy of this Order to Dean via certified mail.

**SO ORDERED.**

s/ Madeline Cox Arleo  
**MADELINE COX ARLEO**  
**UNITED STATES DISTRICT JUDGE**