No. 22-5913

IN THE

Supreme Court of the United States

JOHN BERMAN,

Petitioner,

v.

Kristin Draper,

Respondent,

On Petition for a Writ of Certiorari to the United States Court of Appeals for the DC Circuit

(No. 21-709)

PETITION FOR REHEARING

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Petitioner Berman files for rehearing based on the following events that occurred after his Petition was submitted here. Attached as a single Appendix are three supplemental briefs to Berman's petition, which he unsuccessfully attempted to file prior to the January 6 conference. The supplements were necessitated by even more extraordinary circumstances below, solidifying as impenetrable the bulwark of the judge-lawyer protection racket against RICO. A second district court below has continued to invent novel methods of RICO evisceration in the lower courts' affront to this Court and to Congress. Ultimately, political action through Congress—using Article III's regulatory authority over this Court's appellate jurisdiction (and so to regulate the lower courts in 100% detail)—is the only viable method for controlling the archaic, out-of-control Article III abomination.

A second DC federal district judge (but this time, making ***an unabashed defense of an alumna of her law school***) has now reprinted the "entirely lawful" characterization of this brazen extortion: **100% of a $657,000 trust balance frozen** (set forth 29 times in the second action's complaint) and held hostage (for a payment of $100,000, less than 20% of the balance) for release of the balance, **creating FEAR** (set forth six times), one of the elements of extortion: Berman's fear of indefinitely-perpetuated neuropathic agony and exacerbated permanent neurological damage—while battling opioid addiction after his plane crash, as the $8000 he needed for the non-insured pain therapy was kept inaccessible by the lawyers, while they demanded payment for release of the trust—was ignored by the district judges, below, as were the 29 instances of the 100% freeze. Such a deliberate disregard of the facts was necessary for the judges' conclusion of "entirely lawful" actions of their fellow, *protected* DC lawyers.

What's more, however, in the second dismissal is the district judge's glaring lack of understanding of Rule 8, which the judge asserts requires a short and plain "submission"—not statement of the claim. This absurd interpretation flies in the face of every complaint ever submitted, where (alleged) real-world facts, alone, cannot fit into some "short and plain" submission. The short-

plain requirement is a statement of a ***claim***, but Rule 8 **does not require it to be the *only* statement**; it is a thumbnail, a synopsis. A plaintiff has full latitude to expand his complaint to ensure that facts and claims satisfy requirements for plausibility and entitlement to relief. Constraining a "submission" to "short and plain" renders a pleading a nullity—which is what the second district judge needs in order to protect her fellow alum. While some rare claims might *in toto* be presented in a short and plain statement, a RICO claim with its continuity requirement—demanding an explication of events and their consequences over an extended period—cannot possibly be condensed into anything "short and plain;" and any random selection of complaints (especially RICO) from a federal docket supports this.

Further, the second district judge pulled a "double Liteky," not only demonstrating the impossibility of fair judgment with such a bizarre Rule 8 application to Berman—as well as a snide litany of manufactured insults (without a single example) of "disorganized" "rambling" "conclusory" "overbroad" "bold conclusions" "sharp harangues" "personal comments"[1] "confused and rambling narrative of charges and conclusions"—the judge also reached external to the case to suggest some "satellite office" exception to the RICO venue statute. Thus running afoul of Liteky in two respects—quite possibly a unique occurrence in a federal case.

"It is too late in the day and entirely contrary to the spirit of the Federal Rules of Civil Procedure for decisions on the merits to be avoided on the basis of [the] reject[ed] approach that pleading is a game of skill...decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." (Foman v. Davis, 371 US 178, 181-2 (1962).)

1 With respect to "sharp harangues" and "personal comments," it is possible that DC district judges and their clerks have been in a hospital bed after a plane crash and have been told they would be some form of para or quadriplegic, while they also faced the prospect of a remaining lifetime of relentless neuropathic agony; and then read an email from a lawyer, which said that 100% of their trust-account money that they needed (and that had been scheduled for distribution) for recovery—including a novel neuropathic pain therapy not covered by insurance—was frozen for a claim less than 20% of the trust balance; and the lawyer demanded money for unfreezing the account, which is called extortion. But the determination of DC federal judges to ignore Supreme Court authority and invent their own "authority" to dispose of facts that indict a corrupt system playing favorites for lawyers and pet law schools in particular, makes the above possibility remote.

So, even if the purported defects in the complaint were true, to rail against them as did the second judge is bizarrely "contrary to the spirit of the rules," never mind the explicit wording of Rule 8, which states only a *minimum requirement* of a short-plain statement (which can be—and for all practical purposes must be—a synopsis in addition to the claim itself) of the claim.

The merits, especially the 29 averments of the 100% freeze, were to be avoided at all costs, below, lest the judge-lawyer protection racket fail in its duty to protect lawyer-extortionists.

Combined with the DC Circuit's "virtually impossible" pseudo-standard (as a purported legal standard), while the DC Circuit has to ignore the "entirely lawful" obscenity from the district court, the phalanx below for the protection racket is complete as nowhere else. The fact that this occurs in the DC federal courts (the AAA farm team for the Supreme Court) adds to the eye-opening events, below.

Conclusion: The chances the Supreme Court will do anything about the abominations below? Zero, because this Court's reversal of the coordination of see-no-evil "analysis" and truncated quotations that have been protecting this obvious gutting of RICO for 25 years would be proof that lower courts thumb their noses at authority, Congress' in particular—which is why building a record for political action to force a *real* debate, outside the cronyistic confines of courts; and calling attention to Congress' "regulatory" authority of lower federal courts, under Article III, is the only possible path to cure the US of this brand of corruption.

Certification: Berman certifies that this petition is not (and cannot be) presented for delay, because delay is against Berman's interests, given the illogical timing considerations on filing (or re-filing) RICO actions (something else that Congress must change, and Berman will see that that happens). This petition is also submitted in good faith, in direct contrast with the second district judge's boilerplate, fabricated insults to throw the kitchen sink at anyone who would dare present facts and law that dispositively demonstrate yet another corrupt and incompetent Catholic U law school grad. john berman 319 Park Ave , Galt, CA 95632, 2/21/23

Additional material from this filing is available in the Clerk's Office.