

22-6827

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

FILED

FEB 15 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Sandra Rumanek PETITIONER  
(Your Name)

vs.

Sherry Fallon et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Third Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Sandra Rumanek  
(Your Name)

4801 E 5th St Apt K261  
(Address)

Vancouver WA 98661  
(City, State, Zip Code)

302-494-5992  
(Phone Number)

## QUESTIONS PRESENTED

Does petitioner Sandra Rumanek have the right to be heard?

If so, is it incumbent on this Court to resolve these questions of law?

## LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose order is the subject of this action is as follows:

### **Respondents**

Sherry R. Fallon in their individual and official capacities  
David G. Culley  
Timothy M. Holly  
Mary I. Akhimien  
Matthew F. Boyer  
Nicholas W. Woodfield  
Bernard G. Conaway  
R. Scott Oswald  
Sandra F. Clark  
Joseph J. Rhoades  
Louis J. Rizzo, Jr.  
Kevin Healy  
Charles E. Butler in their individual and official capacities  
Richard R. Cooch in their individual and official capacities  
Delaware State Police Officer Spillan, IBM 770, and various unknown DE State Police Delaware  
in their individual and official capacities  
Delaware Attorney General Matthew Denn in their individual and official capacities  
Susan Judge in their individual and official capacities  
Patrick O'Hare in their individual and official capacities  
Annette Furman in their individual and official capacities  
Lisa Amatucci in their individual and official capacities  
Robert Cruikshank in their individual and official capacities  
John Cerino in their individual and official capacities  
Roxanne Higgins  
Joseph Handlon in their individual and official capacities  
Delaware Governor John Carney in their individual and official capacities  
State of Delaware  
United States of America  
1-10 unknown employees of State Farm State Farm  
1-10 unknown employees of State Auto Insurance Companies  
Independent School Management, Inc

## RELATED CASES

*Rumanek v. Coons and Theodore*, No. N11C-04-108 Superior Court of Delaware. Judgment entered Sept. 13, 2013

*Rumanek v. Coons and Theodore*, No. 550, 2013 Delaware Supreme Court. Order filed Feb. 24, 2014

*Sandra Rumanek v. Independent School Management, Inc.* 50 F. Supp. 3d 571- Dist. Court D. Delaware 2014

*Sandra Rumanek v. Independent School Management, Inc.* No. 14-1472 U.S. Court of Appeals for the Third Circuit. Judgment entered July 21, 2015

*Sandra Rumanek v. Independent School Management, Inc.* No. 15-1700 U.S. Supreme Court. Petition denied Jan. 11, 2016.

*Sandra Rumanek v. Independent School Management, Inc.* No. 12-cv-759 U.S. District Court for the District of Delaware. Order entered Nov. 21, 2017

*Sandra Rumanek v. Independent School Management, Inc.* No. 17-3639 U.S. Court of Appeals for the Third Circuit. Judgment entered August 3, 2018

*Sandra Rumanek v. Independent School Management, Inc.* No. 12-cv-759 U.S. District Court for the District of Delaware. Order entered Jan. 27, 2021

*Sandra Rumanek v. Independent School Management, Inc.* No. 21-1349 U.S. Court of Appeals for the Third Circuit. Opinion filed Dec. 15, 2021

*Sandra Rumanek v. Independent School Management, Inc.* No. 12-cv-759 U.S. District Court for the District of Delaware. Order filed Aug. 12, 2022.

*Sandra Rumanek v. Independent School Management, Inc.* No. 22-2541 U.S. Court of Appeals for the Third Circuit. Order entered Nov. 4, 2022.

*Sandra Rumanek v. Sherry Fallon et al* No. 17-cv-123 U.S. District Court for the District of Delaware. Order entered Jan. 11, 2018

*In Re Sandra Rumanek*. No. 18-1200, Mandamus Petition, U.S. Court of Appeals for the Third Circuit. Opinion filed Feb. 22, 2018

*In Re Sandra Rumanek*, No. 18-6500, Mandamus Petition, U.S. Supreme Court. Petition denied Jan. 7, 2019.

*Sandra Rumanek v. Sherry Fallon et al* and *Rumanek v. Independent School Management, Inc.* No. 19-1341, Mandamus Petition, U.S. Court of Appeals for the Third Circuit. Opinion filed March 13, 2019.

*Sandra Rumanek v. Sherry Fallon et al* No. 19-2289, U.S. Court of Appeals for the Third Circuit. Opinion filed Feb. 6, 2020.

*Sandra Rumanek v. Sherry Fallon et al* No. 19-2290, U.S. Court of Appeals for the Third Circuit. Opinion filed Feb. 6, 2020.

*Sandra Rumanek v. Sherry Fallon et al* No. 19-8632, U.S. Supreme Court. Petition as to U.S.C.A. No. 19-2289 denied Oct. 5, 2020; U.S.C.A. No. 19-2290 was neither addressed nor denied.

*Sandra Rumanek v. Sherry Fallon et al* No. 17-cv-123 U.S. District Court for the District of Delaware. Order filed Jan. 27, 2021.

*Sandra Rumanek v. Sherry Fallon et al* No. 21-1348 U.S. Court of Appeals for the Third Circuit. Opinion filed Dec. 15, 2021.

*Sandra Rumanek v. Sherry Fallon et al* No. 17-cv-123 U.S. District Court for the District of Delaware. Order filed May 20, 2022

*Sandra Rumanek v. Sherry Fallon et al* No. 22-2020 U.S. Court of Appeals for the Third Circuit. Opinion filed Nov. 4, 2022.

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APPENDIX F *Sandra Rumanek v. Sherry Fallon et al* No. 17-cv-123 opinion doc. 139 and order doc. 140

APPENDIX G *Sandra Rumanek v. Sherry Fallon et al* No. 19-2290 U.S. Court of Appeals for the Third Circuit. “No action” order filed Jan. 6, 2023. Original order filed Feb. 11, 2020. Rehearing denied Feb. 26, 2020.

APPENDIX H *Sandra Rumanek v. Sherry Fallon et al* No. 17-cv-123 order doc. 92

APPENDIX I *In re Sandra Rumanek* No. 18-1200 U.S. Court of Appeals for the Third Circuit. Opinion filed Aug. 3, 2018. Rehearing denied Aug. 27, 2018.

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgments below.

**OPINIONS BELOW**

The opinion of the United States court of appeals No. 22-2020 appears at Appendix A to the petition and is unpublished.

The opinion of the United States district court, doc. 174, appears at Appendix B to the petition and is unpublished.

The order of the United States court of appeals No. 22-2541 appears at Appendix C to the petition is unpublished.

The order of the United States district court, doc. 250, appears at Appendix D to the petition and is unpublished.

The “no action” order of the United States court of appeals No. 19-2289 appears at Appendix E to the petition and is unpublished.

The opinion of the United States district court, doc. 139, appears at Appendix F to the petition and is unpublished.

The “no action” order of the United States court of appeals No. 19-2290 appears at Appendix G to the petition and is unpublished.

The opinion of the United States district court, doc. 92, appears at Appendix H to the petition and is unpublished.

The opinion of the United States court of appeals No. 18-1200 appears at Appendix I to the petition and is unpublished.



## JURISDICTION

The date on which the United States court of appeals decided my case No. 22-2020 was Nov. 4, 2022.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Dec. 14, 2022, and a copy of the order denying rehearing appears at **Appendix A**.

The date on which the United States Court of Appeals decided my case No. 22-2541 was Nov. 4, 2022.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Dec. 6, 2022, and a copy of the order denying rehearing appears at **Appendix C**.

The date on which the United States Court of Appeals issued a “no action” order on my motion to vacate its order dismissing my appeal No. 19-2289 was **Jan. 6, 2023**. The date on which the United States Court of Appeals dismissed case No. 19-2289 for lack of appellate jurisdiction was Feb. 6, 2020.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Feb. 25, 2020, and a copy of the order denying rehearing appears at **Appendix E**.

The date on which the United States Court of Appeals issued a “no action” order on my motion to vacate its order dismissing my appeal No. 19-2290 was **Jan. 6, 2023**. The date on which the United States Court of Appeals dismissed case No. 19-2290 for lack of appellate jurisdiction was Feb. 11, 2020.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Feb. 26, 2020, and a copy of the order denying rehearing appears at **Appendix G**.

Petition No. 19-8632 to this Court of USCA 19-2290 which was dismissed “for lack of appellate jurisdiction” has been neither addressed nor denied. See No. 19-8632 and USCA docket.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### The Fifth and Fourteenth Amendments to the Constitution of the United States

18 U.S.C. § 1964(c): Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final.

28 U.S. Code §455(a)(b)(1)(2)(4)(e):

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

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

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

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

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(e) No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

Fed. Rule of Appellate Procedure 4(a)(1)(A): In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.

28 U.S. Code § 1253: Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges.

28 U.S. Code § 1257(a): Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the

validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

28 U.S. Code § 1251(b)(2): (b)The Supreme Court shall have original but not exclusive jurisdiction of: (2) All controversies between the United States and a State;

28 U.S.C. § 2106: The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.

## STATEMENT OF THE CASE

This is a civil RICO case alleging a conspiracy to obstruct justice in the federal and state courts spearheaded by a sitting U. S. magistrate judge. See **Appendix F**; see Rumanek v. Fallon et al, no. 17-cv-123 docket, Seventh Amended complaint adding RICO civil action under 18 U.S.C. §1961 et seq. to her complaint with damages authorized under 18 U.S.C. § 1964(c).

As District Court Judge Conner, PAMD, states in Rumanek v. Fallon et al., memorandum doc. 139, **Appendix F**, pg. 24:

*“The crux of this litigation is Rumanek’s claim that Judge Fallon presided over Rumanek’s federal employment discrimination case despite a disqualifying conflict of interest arising from the state court personal injury case, and that Rumanek was kept in the dark with respect to this conflict for the duration of both cases. Rumanek claims that she was unaware of Judge Fallon’s earlier involvement until January 27, 2016, when she accessed the docket in Rumanek I and “was stunned to find” that Judge Fallon represented Rumanek’s adversary in that case. (Doc. 93 ¶ 201).” See 28 U.S. Code §455(a)(b)(1)(2)(4)(e)*

Previously, Judge Conner dismissed Fallon under the doctrine of absolute immunity, see doc. 92, **Appendix H**.

Subsequently, in memorandum 139 and order 140, Judge Conner dismissed two state court judges, the state of Delaware and no less than 9 other defendants under various immunity doctrines; see **Appendix F**.

The district court refused to hear and rule on Rumanek’s brief and motion in response to those defendants’ motions to dismiss based on the immunity doctrine, doc. 116 filed by Rumanek on March 8, 2018. Instead Judge Conner struck that brief from the docket on March 13, 2018. In

fact the district court has not heard and ruled on any of Rumanek's omnibus motions and briefs in response to the defendants. *See* docket.

The court of appeals for the Third Circuit has consistently refused to hear and rule on Rumanek's appeals of orders 92 and 140, initially in mandamus case no. 18-1200, timely filed after order 92 was entered, under the requirements of Fed. R. App. P. 4(a)(1)(A). *See* **Appendix A**, doc. 31 at footnotes 1, 2, and 4, and **appendices C, E, G and I** generally and dockets.

The court of appeals opinion in case no. 18-1200 states the district court's Jan. 11, 2018 order dismissing all claims against Fallon, "*would be reviewable by this Court after final judgment and a properly filed notice of appeal. As would be other interlocutory orders entered by the District Court.*" *See* **Appendix I**, pg. 3, footnote 3.

Rumanek timely filed those appeals; still the circuit court has refused to hear and rule on them *id.*

This Court has denied hearing three of Rumanek's appeals upon petition *id.*

*See* 28 U.S. Code § 1253; *see* Jurisdiction, pg. 2, here

## REASONS FOR GRANTING THE PETITION

### Collateral-Order-Doctrine applicability

In Mitchell v. Forsyth this Court ruled:

*"[T]he reasoning that underlies the immediate appealability of an order denying absolute immunity indicates to us that the denial of qualified immunity should be similarly appealable: in each case, the district court's decision is effectively unreviewable on appeal from a final judgment....*

*"An appealable interlocutory decision must satisfy two additional criteria: it must 'conclusively determine the disputed question,' Coopers & Lybrand v. Livesay, 437 U. S. 463, 468 (1978), and that question must involve a 'clai[m] of right separable from, and collateral to, rights asserted in the action,' Cohen, supra, at 546. The denial of a defendant's motion for dismissal or summary judgment on the ground of qualified immunity easily meets these requirements....*

*"An appellate court reviewing [a] defendant's claim of immunity need not consider the correctness of the plaintiff's version of the facts, nor even determine whether the plaintiff's allegations actually state a claim. All it need determine is a question of law: whether the legal norms allegedly violated by the defendant were clearly established at the time of the challenged actions..." Mitchell v. Forsyth, 472 US 511, 527, 528 – Supreme Court 1985*

In Elder v. Holloway the Court held that *"appellate review of qualified immunity dispositions is to be conducted in light of all relevant precedents, not simply those cited to, or discovered by, the district court."* And reasserted its holding in Mitchell that the *"question of law, like the generality of such questions, must be resolved de novo on appeal."* Elder v. Holloway, 510 US 516 – Supreme Court 1994.

In Rumanek's case, it has not been: The circuit court's singular *de novo* review of Rumanek's claims was her first appellate case no. 14-1472, Rumanek v. Independent School Management, Inc. – prior to Rumanek's discovery of Fallon's fraud on the court, and her subsequent filing of 17-cv-123.

The third circuit's contention that the district court's filing injunction issued on May 20, 2022 and Aug. 12, 2022 "*complied with the applicable requirements*" is baseless; **Appendix A** at pg. 4., **Appendix C** at pg. 1. As in Brow, "*There is no evidence in the record to demonstrate that [Rumanek] is an abusive litigant who repeatedly files baseless actions. There is also no evidence supporting any determination that [Rumanek] continually has attempted to relitigate adjudicated claims.*" Brow v. Farrelly, 994 F.2d 1027, 1038, 1039 (3d Cir. 1993). Rumanek's claims have not been adjudicated *id.* And they certainly are not baseless *id.* See **Appendix F**, et al

Thus far Rumanek has been denied her right to due process under the Fifth and Fourteenth amendments to the Constitution of the United States. See **Appendices E and G**, latest circuit court clerk filing, January 6, 2023, stating "No action will be taken" on Rumanek's Jan. 5, 2023 motion; see dockets of case no.'s 22-2020 and 22-2541 et al. See 28 U.S. Code § 1253

The Third Circuit has left it to this Court to review the immunity dispositions granted by the district court in this matter *id.*

#### **Question of Constitutionality of Delaware Codes § 4101, § 4102**

The Fourteenth Amendment states:

*"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."*

The district court did not adjudicate Rumanek's claims of violation of her Fifth and Fourteenth Amendment due process rights by the State of Delaware, nor her RICO claims, in its memorandum doc. 139 stating: "*Her claim against the state of Delaware – as to which*

*Rumanek has alleged no wrongdoing – is barred by sovereign immunity.” See Appendix F, doc. 139 generally and at pgs., 2-5, 13-15 and 36-37; see Sixth Amended complaint and each successive amended complaint at para.’s 203 – 237.*

Below is an excerpt from those paragraphs in Rumanek’s Sixth Amended complaint, at pg. 89, alleging violations by the state of Delaware:

***“Delaware Code § 4101 Amendment of writs and record:***

*“Writs of scire facias, of execution, and of error, may be amended. After judgment, the court before whom a record is, may order the amendment of any clerical error in any part of such record. When there is matter to amend, the court may order any amendment that will tend to the furtherance of justice.” (emphasis added) (10 Del. C. 1953)*

***Delaware Code § 4102 Amendments after judgment:***

*“After judgment rendered in any civil action, any defects or imperfections, in matter of form, found in the record, or proceedings, in the action, may be rectified and amended by the court to which it is removed by appeal or writ of error, if substantial justice requires it, and if the amendment is in affirmance of the judgment.” (emphasis added) (10 Del. C. 1953)...*

*“232. The Delaware Attorney General Matthew Denn has clothed Butler and its Courts with the power to annul or evade the civil rights Rumanek – and anyone who comes before its Courts – is provided under the U.S. Constitution by the secret use of Delaware Codes § 4101, § 4102 and the abuse allowed under § 561(d), as evidenced here in violation of §1983 and § 1985(2)(3). (id) All of the Defendant Delaware Bar members, and Fallon, Cooch, and Butler are well-versed in the Delaware Code of Law.*

*“233. Rumanek, and every citizen, has due process rights to an impartial judge and a verbatim record of Court proceedings. There can be no fair hearing on appeal to another Court when the original verbatim record of Court proceedings can be and is secretly altered “in affirmance of the judgment” or otherwise. Delaware Superior Court judgments are ultimately appealable to the U.S. Supreme Court.”*

See 28 U.S. Code § 1257(a); 28 U.S. Code § 1251(b)(2)

In Antoine v. Byers & Anderson, Inc. this Court determined that: “[C]ourt reporters do not exercise the kind of judgment that is protected by the doctrine of judicial immunity.” The Court noted court reporters “are required by statute to ‘recor[d] verbatim’ court proceedings in their entirety. 28 U. S. C. § 753(b). They are afforded no discretion in the carrying out of this duty;



*they are to record, as accurately as possible, what transpires in court.”* The Court also notes the extreme importance of the court reporters’ task and its *“indispensability to the appellate process.”* Antoine v. Byers & Anderson, Inc., 508 US 429, 437 – Supreme Court 1993

As this Court ruled in Cohen v. Beneficial, *“Federal constitutional questions we must consider, because a federal court would not give effect, in either a diversity or nondiversity case, to a state statute that violates the Constitution of the United States.”* Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541, 547 – Supreme Court 1949

This Court must consider whether use of the Delaware statute to secretly tamper with verbatim records of Superior Court civil proceedings *“in affirmance of the judgment”* violates the Constitution of the United States, and whether secret alteration of original verbatim records of state court proceedings ultimately defrauds this Court of its appellate jurisdiction *id.*

### **Permanent Injunctive Relief**

As noted by the district court (**Appendix F**, at pg. 16), Rumanek seeks compensatory and punitive damages, and permanent injunctive relief; injunctive relief that can only be granted by this Court *id.* Rumanek added to her prayer for such injunctive relief in her amended filings.

This matter cannot be concluded without appellate review of order 92: These matters cannot be concluded without this Court’s review *id.*

Accordingly, Rumanek petitions the Court for *de novo* review so that it may “*pass on these issues of fraud*” on the Court as “[e]very element of the fraud here disclosed demands the exercise of the historic power of equity to set aside fraudulently begotten judgments.” See Hazel-Atlas Co. v. Harford Co., 322 US 238, 240, 246 – Supreme Court 1944  
See 28 U.S.C. § 2106

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Sandra Rumanek

Date: February 15, 2023