

23-7273

No. _____

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IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court U.S.
FAC-1

APR 16 2024

OFFICE OF THE CLERK

Lidia M. Orrego — PETITIONER
(Your Name)

vs.

Kevin Knipfing, Employer,
AKA Kevin James et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Lidia M. Orrego
(Your Name)

95-08 Queens Blvd. 3E
(Address)

Rego Park, NY 11374
(City, State, Zip Code)

(347) 453-2234
(Phone Number)

QUESTION(S) PRESENTED

The Due Process Clause provides that no person may be deprived of life, liberty, or property without due process of law. Due process requires notice, an opportunity to be heard, and an unbiased decisionmaker. A hearing that meets due process standards must ordinarily be held prior to the deprivation.

The questions presented are:

Whether the United States Court of Appeals for the Second Circuit, in the interest of justice, recognizes the mitigating effects of upholding the Constitutional Rights to Due Process and Equal Protection of the Law before the Constitutional Rights are deprived.

Whether the U. S. Court of Appeals for the Second Circuit analyzes and recognizes the impact of judicial explicit bias in its decision-making to prevent a gross violation of Due Process and avoid a Miscarriage of Justice in the District Court.

Whether the U.S. Eastern District of New York Court abuses its power with explicit bias in violation of the Due Process and Equal Protection guaranteed by the U.S. Constitution and this Court to benefit the Respondents who are committing fraud, perjury, and obstruction of justice due to their privileged social standing.

LIST OF PARTIES

All parties appear in the Caption of the case on the cover page.

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 judgment is the subject of this petition is as follows:

Petitioner-Plaintiff: Lidia M. Orrego

Respondents-Defendants: Kevin Knipfing, Employer, AKA, Kevin James, Stephanieanna James-Knipfing, Employer, AKA Steffiana de la Cruz, Old Westbury EDDIE LLC, Company/Payroll owner Kevin Knipfing, Old Westbury LLC Unknown Entity under registration in NY State, Steve Savitsky, Teresa A. Zantua.

DIRECTLY RELATED CASES

Orrego v. Knifing et al., No. 20-cv-3361, U.S. District Court for the Eastern District of New York. Decision entered on Jul. 11, 2023; Jul. 20, 2023; Mar. 9, 2023; March 10, 2023; Aug 3, 2023.

Orrego v. Pasternack Tilker Ziegler Walsh Stanton & Romano, LLP et al., No. 23-cv-6507, U.S. District Court for the Eastern District of New York.

In RE: Lidia M. Orrego, No. 23-7643, U. S. Court of Appeals for the Second Circuit. Order on Appeal Dismissed Sua Sponte entered on Mar. 14, 2024. Currently, the Motion for Panel Reconsideration or Reconsideration En Banc is pending.

Orrego v. Knipfing et al., No. 23-7941, U. S. Court of Appeals for the Second Circuit. Interlocutory Appeal on Motion, Appellant's Brief filed on Mar. 18, 2024, from Order entered on Nov. 14, 2023.

Orrego v. Pasternack Tilker Ziegler Walsh Stanton & Romano, LLP et al., No. 23-7928, U. S. Court of Appeals for the Second Circuit. Order on Interlocutory Appeal Dismissed Sua Sponte entered on Mar. 14, 2024. Currently, pending the Motion for Panel Reconsideration or Reconsideration En Banc

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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 judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States Court of Appeals appears at Appendix A ; J to the petition and is

reported at _____ ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States District Court appears at Appendix B ; C ; D ; E ; F ; H to the petition and is

Appendix "H" reported at _____ ; or,
 has been designated for publication but is not yet reported; or,
 Appendix "B; C; D; E; F" is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____ ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____ ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

[X] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 19, 2024, and a copy of the order denying rehearing appears at Appendix "J".

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

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

[] For cases from state courts:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth and Fourteenth Amendments to the United States Constitution contain a due process clause, which prohibits the deprivation of "life, liberty, or property" by the federal and state governments without due process of law.

The U.S. Supreme Court interprets these clauses to guarantee a variety of protections: procedural due process in civil proceedings, substantive due process (a guarantee of some fundamental rights), a prohibition against vague laws, and equal protection under the laws of the federal government.

The Equal Protection Clause is part of the first section of the Fourteenth Amendment to the United States Constitution. The clause, which took effect in 1868, provides "nor shall any State ... deny to any person within its jurisdiction the equal protection of the laws." It mandates that individuals in similar situations be treated equally by the law.

The Equal Protection Clause is located at the end of Section 1 of the Fourteenth Amendment: 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.

STATEMENT OF THE CASE¹

LEGAL BACKGROUND

Following the Civil War, Congress submitted to the states three amendments as part of its Reconstruction program to guarantee equal civil and legal rights to Black citizens. A major provision of the 14th Amendment was to grant citizenship to “All persons born or naturalized in the United States,” thereby granting citizenship to formerly enslaved people.

Another equally important provision was the statement that “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 right to due process of law and equal protection of the law now applies to both the federal and state governments. See App. A, p-1a and App. J, p-28a.

There are two types of due process: substantive and procedural. Substantive due process protects individual liberty and prevents the unreasonable loss of substantive rights, such as the right to speak freely and the right to privacy. It also prohibits government action that shocks our collective conscience or interferes with our basic concept of ordered liberty.

¹ Citations of Petitioner’s District Court Amended Complaint ECF No. [8] in the form “AC”. Citations of Exhibits in the form “Ex.###”.

Citations to the “Appendix Pages” are in the form “App. Letter”; “p-##a”; “pp-##a”. Citations to the District Court are in the form “DC.”

Citations to the Electronic Case Files system for the District Court are in the form “ECF doc. No. [##]”.

Citations to the U.S. Court of Appeals Docket are in the form “Dkt.” Citations to the Interlocutory Appeal Case No. 23-1114 documents are in the form “Dkt [##]”

Procedural due process guarantees a fair process in connection with any deprivation of life, liberty, or property at the hands of the government. Procedural due process also ensures that individuals have notice and an opportunity to be heard. See *Robinson v. De Niro* SDNY 19cv09156 (LJL)(KHP).

The constitutional right of due process, like all other rights, has its limitations. In circumstances where the government deems their actions necessary for maintaining an ordered society, they may interfere with an individual's liberty. The court applies a balancing test to determine whether such interference is warranted. This balancing test requires the court to assess the quality of the rights impacted and the importance of the government's conduct.

The U.S. Constitution is the nation's fundamental law. It codifies the core values of the people. See *Robinson v. De Niro* SDNY 19cv09156 (LJL)(KHP).

The Fifth Amendment due process clause prohibits the federal government from discrimination if it is so unjustifiable that it violates due process of law. See *Bolling v. Sharpe*, 347 U.S. 497, 498-99 (1954).

The Equal Protection Clause The Fourteenth Amendment states in relevant part, "nor shall any State...deny to any person within its jurisdiction the equal protection of the laws." The equal protection clause prevents a state from enacting laws that discriminate unreasonably and unjustly.

The government is prohibited from engaging in any form of discrimination. Whether the government has engaged in impermissible discrimination against an individual depends on the category of persons who have been specifically targeted for special treatment. The level of court scrutiny is generally increased

when the subject of discrimination is based on an arbitrary classification. Arbitrary classifications are those that are random and often include characteristics that a person is born with, such as race or national origin. Statutes that contain non-arbitrary classifications must have a rational basis and be supported by a legitimate government interest.

The Denial of the Petitioner's rights to appeal based on shaky or nonexistent grounds is a gross miscarriage of justice through "lawfare"- "the use of legal systems and institutions to damage or delegitimize an opponent or to deter an individual's usage of their legal rights.

FACTUAL BACKGROUND

The U.S. District Court for the Eastern District of New York had subject matter jurisdiction over this lawsuit because Petitioner-Plaintiff Lidia M. Orrego ("Orrego", "Petitioner") asserts claims for Retaliation, Hostile Work Environment under the 42 U.S.C. § 1981 ("§ 1981") and New York State Human Rights Law ("NYSHRL") against Kevin Knipfing, Employer, AKA, Kevin James, Stephanieanna James-Knipfing, Employer, AKA Steffiana de la Cruz ("Knipfings"), Old Westbury EDDIE LLC, Company/Payroll owner Kevin Knipfing, Old Westbury LLC Unknown Entity under registration in NY State ("Corporations"), Steve Savitsky, Teresa A. Zantua ("Zantua"), (collectively "Respondents", "Defendants"). See annexed App. I, p-21a.

On July 23, 2020, Orrego, proceeding *pro se*, filed her Complaint in this matter. On August 17, 2020, Petitioner Orrego filed her "AC" total 145-Page including the Notice of Right to Sue, issued on September 20, 2019, per

Petitioner's request, by U.S. Equal Employment Opportunity Commission ("EEOC") and 33 Exhibits, allege the following relevant factual background: Orrego was subjected to pervasive and severe physical and emotional assaults, verbal abuse, harassment, retaliation, victimization, violence, etc., according to plenty documentary evidence such as text messages, emails, recordings, transcriptions, medical records, etc., during her employment between January and December 2018 with Respondents as evidence based on her race by Zantua, Respondents Knipfings, and the Corporations (one ghost-corporation unregistered in New York State, "Old Westbury LLC" under the Respondents Knipfings). See AC ECF doc. [8].

The Knipfings and Corporations failed to address and/ or take action against Zantua for creating a dangerous work environment that affected the Petitioner's physical and emotional well-being, resulting in irreversible damages. In retaliation, Petitioner was terminated on November 27, 2018, within 25 days of filing her complaint via email to the Knipfings on November 2, 2018. See AC ECF doc. [8] [30]. See DC Memorandum and Order App. I, p-21a.

DC Judge H. Gary R. Brown, on September 30, 2021, filed the Memorandum & Order DC 20CV3361 (GRB) (AKT)² ECF doc. [30] on Appellees' Motion to Dismiss the AC ECF doc. [8] affirmed in Orrego's favor based on facts and "EXHIBIT" or documentary evidence: "Accordingly, plaintiff has pleaded plausible claims for hostile work environment under § 1981 and the NYSHRL against Zantua, the Knipfings, and the corporate defendants." See App. I p-21a.

² Notice: DC 20CV3361 (GRB) (AKT) currently DC 20CV3361 (JMA)(AYS)

On December 2, 2021, the District Court filed the Initial Conference Order. It attached a “Discovery Plan Worksheet” to file on February 14, 2022, to review the parties’ suggested deadlines upon considering the rules and practices of the assigned District Judge and enter an appropriate scheduling order. See ECF doc. [41].

From this order, the Respondents were engaged in vexatious litigation and acting with Bad Faith with their counsel, Gordon Rees Scully Mansukhani LLP (“GRSM”), committing abuse of the legal process, ethical violations, conflict of interest, fraud, perjury, and organized crime, among other things in violation to Due Process Clause.

PROCEEDINGS BELOW

Respondents’ abuse, fraud, perjury, obstruction of justice, and failure to cooperate in Discovery from December 2021 violate the Fed. R. Civ. P. Rule 26 led Orrego to file multiple motions well-supported by documentary evidence to prevent the Respondents’ heinous actions, including but not limited to Petitioner’s Motion for Preliminary Injunction filed on February 10, 2023, with the following relief:

a) Injunctive Relief, order the Respondents to refrain from their outrageous behavior including but not limited to contempt of Court Order/Command, fraud, tampering with witnesses, perjury, fraudulent misrepresentation, fraudulent concealment of evidence, the attempt to spoliation of evidence, and obstruction of justice in this Court;

b) Ruling decision on Petitioner's Letter Motion for Sanctions against the Respondents ECF doc. [69] filed on November 21, 2022, for Contempt of a Court Order for *disobedience or resistance to the lawful writ, process, order, rule, decree, or command*;

c) Ruling decision on Petitioner's Motion Default Judgment ECF doc. [57] dated July 8, 2022, and return dated August 25, 2022, by Court Order.

d) Reschedule of Discovery Process Interrogatories and Depositions (Fed. R. Civ. P. Rules 33, 30 & 31) be granted for the Petitioner's Letter Motion Discovery Process ECF doc. [64] dated August 17, 2022, pending the determination of the Motion Default Judgment ECF doc. [57] filed on July 2022.

U.S. District Court for the Eastern District of New York Order and Report and Recommendations dated March 9, 2023, and March 10, 2023, denied all the Petitioner's Motions, including but not limited to ECF doc. [57] [69] [70] [73] [74] [77], the order was based on the grounds of false misrepresentations about the facts in the case and lack of authorities to support the misrepresentations challenged by documentary evidence filed by Petitioner.

Surprisingly, the Magistrate Judge of the District Court in the "Order and Report and Recommendations dated March 9, 2023, and March 10, 2023," filed decisions on dispositive motions despite having no jurisdiction over them as neither party filed authorization or consent under Fed. R. Civ. P. Rule 73. See ECF doc. [87] [88], see annexed App. H, p-14a.

Petitioner's Due Process and Equal Protection of the Law was violated when the Magistrate Judge of the DC issued a heinous order ECF doc. [87], when

illegally validating the Respondent's questionable "non-disclosure agreement" ("NDA") without Due Process and "forcing" the Petitioner to agree with the Respondent's letter and the attached "Unconscionable Agreement" unilaterally constructed only by Respondent's counsel ECF doc. [66-1] filed August 22, 2022, in Opposition Petitioner's Application to mark non-confidential documents that the Respondents marked as confidential in the initial disclosures. See ECF doc. [87] [88], see annexed App. H, p-14a.

The District Court used coercion against the Petitioner to prevent her from using a "report of investigation" that the Respondents' counsel had disclosed to her without signing any "confidential agreement" prior to the disclosure. The document in question is a statement made by the Petitioner's co-worker on November 21, 2018, which confirms all of the allegations made by the Petitioner against the Respondents contained in her AC ECF doc. [8]. See ECF doc. [87] [88], see annexed App. H, p-14a.

Petitioner was unlawfully terminated on November 27, 2018, and the "report investigation" was concealed by the Respondents. This document destroys the Respondents' affirmative defenses. It proves beyond reasonable doubt that the Respondents and their counsel, GRSM, were filing affidavits with false statements and fabricated evidence and witnesses. See ECF doc. [87] [88], see annexed App. H, p-14a.

District Court instead to act according to the Code of Conduct for United States Judges Canons 1, 2, and 3, and Rules for Judicial-Conduct and Judicial-

Disability Proceedings (Act of 1980), the DC issued an order abetting and aiding Respondents' fraud, perjury and obstruction of justice, this order shows **impropriety of the District Court and abuse of power and/or abuse of an official position to benefit the Respondents.** See annexed App. H, p-14a.

Respondent Kevin Knipfing, AKA Kevin James, is protected because of his status as a well-known celebrity on TV shows like "The King of Queens" and "Kevin Can Wait" and in movies. It seems that this qualifies to be above the Law.

The District Court committed "coercion" under New York Penal Law § 135.60 - § 135.65 and ordered the Petitioner to agree to the "Unconscionable Unilaterally Agreement," which means abuse of power and position of an official position to benefit the Respondents, especially the celebrity "Kevin James."

The order on the ECF doc. [66] is unenforceable because it would be unjust to force Plaintiff into an unconscionable agreement in which she did not participate in the construction and was illegally retroactive under New York State Law. The District Court has no jurisdiction over Petitioner's will to agree to anything on her behalf.

Consequently, the petitioner filed motions to rectify the unlawful rulings, violating Due Process of Law and Equal Protection of Law.

The last Motions for Reconsideration to Set Aside or Vacate initial orders on Motions ECF Doc. [70] and [66-1] were correctly filed under case law of the Court of Appeals Second Circuit decision dated May 18, 2023, case Mallek v. Allstate Ins. Co., No 22-86, 2023 WL 3513783 (2d Cir. May 18, 2023), the District

Court Brooklyn Courthouse “properly revert all the orders a month before trial was set to begin” to prevent injustice but improperly issued under Fed. R. Civ. P. Rule 60 (b), the decision affirmed that the reversion was proper and stated the correct rule under Fed. R. Civ. P. 54 (b). See the published case Court of Appeals Dkt #: 22-86, Mallek v. Allstate.

On July 11, 2023, and July 20, 2023, all Petitioner’s motions were unfairly Denied instead to reverse all the orders under the Fed. R. Civ. P. Rule 60 (b) with the precedent law case Mallek v. Allstate Ins. Co., No 22-86, 2023 WL 3513783 (2d Cir. May 18, 2023) applied in the U.S. Court of Appeals for the Second Circuit. See annexed App. B, C, p-2a to 5a.

The U.S. Court of Appeals for the Second Circuit affirmed the DC's decision to reverse all the unlawful orders in Mallek v. Allstate Ins. Co. However, the higher Court corrected the order reversal to be correct under Fed. R. Civ. P. Rule 54(b).

The Petitioner's motions were denied on false grounds such as “failure to meet the strict standard for reconsideration” or due to a “typographical error” in the rule applied in the documents, even though the motions were based on the precedent published by the U.S. Court of Appeals for the Second Circuit itself. See App. C, p-4a.

In fact, if the Petitioner made any error, the DC should have ignored it under Fed. R. Civ. P. Rule 61. "Harmless Error" "Unless justice requires otherwise, no error in admitting or excluding evidence—or any other error by the court or a party—is ground for granting a new trial, for setting aside a verdict, or

for vacating, modifying, or otherwise disturbing a judgment or order. At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights."

It is clear that the DC is attempting to prevent the petitioner from pursuing her case or submitting all of the evidence because a Jury, comprised of reasonable individuals with strong moral values, would likely find the Respondents guilty based on the weight of the evidence presented.

The Petitioner's Motions to Vacate under Fed. R. Civ. P. Rule 54(b) denied due to misrepresentations by the DC, which is accountable for applying the same interpretation and case law from the higher court. It is unjust that the District Court went against the decisions of higher courts, revealing a bias towards the Petitioner. See *Mallek v. Allstate Ins. Co.*

Petitioner filed her Motion for Certificate of Appealability ECF doc. [152] on July 21, 2023. See annexed App. D, p-6a.

July 28, 2023: DC denied the certification for the Interlocutory Appeal on motions but ordered: "In light of Plaintiff's pro se status, the Court notes that to the extent she appeals from an interlocutory order, see 28 U.S.C. § 1292(a)(1), she need not seek this Court's leave to file an appeal". See annexed App. D, p-6a.

The Order from DC dated July 28, 2023, states that even if the Plaintiff-Appellant has raised all the merits, the Court has the discretion to grant the certification.

The denial of certification is an abuse of discretion. The Respondents have committed several acts of wrongdoing, including fraud, perjury, obstruction of

justice, and gross ethical violations. The Court has used coercion and abused its power against a Pro Se litigant's Constitutional Rights to Due Process and Equal Protection. For the second time, Petitioner was threatened that the District Court would apply sanctions if Orrego continued filing motions or documents to prevent miscarriage of justice that support her AC doc. [8] under 28 U.S.C. § 1927.

This lawfare and perverse threat issued by the DC must be reversed by the U.S. Court of Appeals for the Second Circuit that "DISALLOWS" 28 U.S.C. § 1927 sanctions to Pro Se Litigants because it only applies to Attorneys or Pro Se Attorneys. Therefore, the threat is a HOAX to oppress and illegally restrain the Petitioner from filing evidence or "Exhibits" that prove the intention to assist the Respondent's fraud. See Kelsey Whitt, "Split on Sanctioning Pro Se Litigants under 28 U.S.C. § 1927 "applies only to attorneys."

August 3, 2023: Petitioner paid the fee and timely filed her Notice of Interlocutory Appeal under 28 U.S.C. § 1292 from District Court orders filed on July 11, 2023, and July 20, 2023. See annexed App. D, p-6a.

The Dkt number assigned is Dkt 23-1114 – Short Caption "Orrego v. Knipfing," and the Petitioner filed all the forms, including the "Pro Se Scheduling Notification," to file the Brief on November 20, 2023. See App. A, p-1a

Petitioner never received the confirmation schedule to file her brief on November 20, 2023. See the annexed App. D, p-6a.

Instead, on December 1, 2023, The U.S. Court of Appeals, Second Circuit, filed the unreasonable and unintelligible order to Dismiss the case because of lack of jurisdiction under "28 U.S.C. § 1291—Appeal from final orders" not related

to the DC and the Notice of Interlocutory Appeal because the Petitioner has legal rights to appeal from an Interlocutory Order under 28 U.S.C. § 1292. See annexed App. D, p-6a.

December 14, 2023: Petitioner filed her Motion for Panel Reconsideration or Reconsideration En Banc (“Motion for Panel Reconsideration”) highlighting her Constitutional right to interlocutory appeal under 28 U.S.C. § 1292 from an interlocutory order dated July 11, 2023, and July 20, 2023.

Petitioner, in her Motion for Panel Reconsideration, asserts the U.S. Court of Appeals for the Second Circuit Jurisdiction under 28 U.S.C. § 1292(a)(1) over *Interlocutory Appeals on the orders dated July 11, 2023, and July 20, 2023, on related motions from original orders ECF Doc. [87] [88] dated March 9, 2023, March 10, 2023, and March 28, 2023*, as follows:

1) Preliminary Injunction ECF Doc. [70] and the following Motions to Reconsideration to Set Aside or Vacate ECF Doc. [96] [103] [109] [117] [129] [149] and, 2) Unconscionable Illegal Agreement or Injunction disguise of “Confidentiality Agreement” ECF Doc. [66-1]” and the following Motions to Reconsideration to Set Aside or Vacate ECF Doc. [97] [104] [109] [117] [129] [149].

The U.S. Court of Appeals for the Second Circuit annexed decision clarified: “Nevertheless, the district court’s reconsideration of the November 2020 order was proper under Rule 54(b), which provides in relevant part: [A]ny order or other decision, however, designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry

of a judgment adjudicating all the claims and all the parties' rights and liabilities.”

“Fed. R. Civ. P. 54(b); see also, e.g., *Acha v. Beame*, 570 F.2d 57, 63 (2d Cir. 1978); *Utica Mut. Ins. Co. v. Munich Reinsurance Am., Inc.*, 381 F. Supp. 3d 185, 209 n.36 (N.D.N.Y. 2019), aff’d, 7 F.4th 50 (2d Cir. 2021). The district court correctly revised its earlier decision to correct a clear error of law, as permitted by the law of the case doctrine. See *Virgin Atl. Airways, Ltd. v. Nat'l Mediation Bd.*, 956 F.2d 1245, 1255 (2d Cir. 1992) (noting that Rule 54(b) operates “within the strictures of the law of the case doctrine”); see also *Doe v. New York City Dep’t of Soc. Servs.*, 709 F.2d 782, 789 (2d Cir. 1983) (permitting reconsideration to account for “an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice”).”

In violation of Due Process of Law and Equal Protection of the law, the Petitioner was deprived again of the relief that she is entitled to, granted to other Pro Se litigant issued by the U.S. Court of Appeals for the Second Circuit itself; therefore, the denial is unacceptable and unconstitutional. See App. C, p-4a.

The orders on Motions ECF Doc. [70] and [66-1] are appealable under 28 U.S.C. § 1292(a)(1) “Interlocutory orders of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, or the judges thereof, granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court;”

Petitioner successfully met the three elements to certify the interlocutory appeal: 1) The order “involves a controlling question of law”; 2) That question has “substantial ground for difference of opinion”; and 3) Allowing “an immediate appeal...may materially advance the ultimate termination of the litigation.”

“Because § 1292(a)(1) was intended to carve out only a limited exception to the final judgment rule, we have construed the statute narrowly to ensure that appeal as of right under § 1292(a)(1) will be available only in circumstances where an appeal will further the statutory purpose of permitting litigants to effectively challenge interlocutory orders of serious, perhaps irreparable, consequence.”

Carson v. Am. Brands Inc., 450 U.S. 79, 84, 101 S.Ct. 993, 67 L.Ed.2d 59 (1981). Therefore, an interlocutory appeal is "a rare exception' where, in the discretion of the district judge, it 'may avoid protracted litigation.'" In re World Trade Ctr. Disaster Site Litig., 469 F.Supp.2d 134, 144 (S.D.N.Y. 2007) (quoting Koehler, 101 F.3d at 865-66 (2d Cir. 1996)).

If DC had fulfilled its duties to set aside the original order on Motions for Preliminary Injunction ECF doc. [70] and Unconscionable Illegal Agreement or Injunction ECF doc. [66-1], the District Judges would have avoided protracted litigation from August 2022 because the Respondents would have stopped committing fraud, perjury, fabrication of evidence, and obstruction of justice, among others. See App. B, C, D, E, F, G, pp-2a to 13a.

DC abused its discretion by denying the certification on July 28, 2023, after the Petitioner proved all the elements to vacate the orders to avoid frivolous

litigation from the Respondents. The Evidence Concealed by the Respondents since November 21, 2018, the interview of Rebeca Uzcategui, aka Lugo, *Petitioner's co-worker, confirms all the allegations against the Respondents, also shows all the Fraud and obstruction of Justice, among others, at DC. See annexed App. E, p-8a.*

The U.S. Supreme Court has provided additional guidance. The “collateral order doctrine” allows appeals of interlocutory orders when they “fall in that small class which finally determine claims of right separable from, and collateral to, rights asserted in action.” *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541, 546 (1949).

The court later expressed this as a three-part test in *Digital Equipment Corp. v. Desktop Direct, Inc.*, 511 US 863, 867 (1994):

- 1) The order must be “conclusive” (Orders on ECF doc. [70] 96] [103] [109] [117] [129] [149] and ECF doc. [66-1] [97] [104] [109] [117] [129] [149] lack of specificity, legal argument, distortion laws and facts to serve Respondents’ abuse, delay, obstruction of justice, among others)
- 2) The order must “resolve important questions completely separate from the merits” (Orders on ECF doc. [70] 96] [103] [109] [117] [129] [149] and ECF doc. [66-1] [97] [104] [109] [117] [129] [149] resolve questions separate from the merits); and
- 3) The order “would render such important questions effectively unreviewable” if an appeal is delayed until after a final trial. (Order ECF doc. [70] 96] [103] [109] [117] [129] [149] and ECF doc. [66-1] [97] [104] [109] [117]

[129] [149] will not be reviewed after the final order). See App. B, C, D, E, F, G, pp-2a to 13a.

This case reached the standard for interlocutory appeals under the collateral order doctrine. In this case, the interlocutory Appeal on the original order on Motions ECF Doc. [70] Preliminary Injunction and ECF Doc. [66-1] Unconscionable Illegal Agreement or Injunction disguise of "Confidentiality Agreement" are conclusive, resolve important questions completely separate from the merits, and the order "would render such important questions effectively unreviewable" if an appeal is delayed until after a final trial.

Petitioner asserts the Court Appeals Second Circuit Jurisdiction over Interlocutory Appeals under 28 U.S.C. § 1292(a)(1) (Injunction is a court order requiring an individual to do or omit doing a specific action).

December 14, 2023: Petitioner filed to Catherine O'Hagan Wolfe – Clerk of the Court, "The Notification of Constitutional Challenges to State Law to New York State Attorney General Letitia James" under "Federal Rules of Appellate Procedure, Rule 44(b) the Clerk of the Court must proceed to certify the fact to the Attorney General of the State, Letitia James. Clerk Failure to comply.

January 19, 2024: Court of Appeals Second Circuit filed the Denial of Petitioner's Motion without grounds. See App. A, p-1a.

January 22, 2024: Petitioner filed the "Second Notification of Constitutional Challenges to State Law to New York State Attorney General Letitia James" under "Federal Rules of Appellate Procedure, Rule 44(b). Constitutional Challenge to State Statute" requesting their intervention based

on as example two cases that the Court of Appeals Second Circuit "Granted Jurisdiction" over "Interlocutory Appeals" under 28 U.S.C. § 1292 and even reversed the orders of the District Court: a) Dkt 20-1994-cv; 20-2002-cv United Food & Com. Workers Local 1776; Meijer, Inc. v. Takeda Pharm. Co. and b) Dkt 22-2061 Kasiotis v. N.Y. Black Car Operators' Inj. Comp. Fund, Inc.

Surprisingly, in both cases, the Court of Appeals Second Circuit "Granted Jurisdiction" over "Interlocutory Appeals" under 28 U.S.C. § 1292; this evident inequality under the Law and the arbitrary orders are incompatible with U.S. Democracy. See App. A, p-1a.

The Second Notification to Attorney General Letitia James' Office also shows the case Dkt 23-459 Maye v. City of New Haven, dismissed by the Court of Appeals Second Circuit because it belonged to the State Court. Still, even so, the Judges filed 12 Pages with a complete explanation of the lack of Jurisdiction; however, the Appellant's order in this case not only lacked specificity and construction but also misapplied the U.S . Code to dismiss the Interlocutory Appeal without legal grounds and this Order is "Authoritarian" in disregard the U.S. Constitution, Laws, and Rules. The Clerk of the U.S. Court of Appeals failed for the second time. See App. A, p-1a and App. J, p-28a.

Court of Appeals Second Circuit's orders dated December 1, 2023, and January 19, 2024, lack specificity or construction, and the Denial based on shaky or nonexistent grounds under "different U.S. Code" misapplied to this interlocutory appeal shows "inequity" between litigants, therefore, violation constitutional rights to Equal Protection under the Law. See App. A, p-1a and App. J, p-28a.

Orrego filed a Writ of Mandamus, Certiorari, and Prohibition against the heinous actions from the DC under 28 U.S.C. § 332 (d) (3), Code of Conduct for the US Judges Canons 1, 2, 3, 28 U.S.C. §§ 351-364, NYS Rules Professional Conduct Rules 3.5; 4.1, among others. See Dkt 23-7643, IN RE: Lidia M Orrego Motion for Panel Reconsideration and Reconsideration En Banc in Motion.

In her Writ of Mandamus, Certiorari, and Prohibition, Orrego alleges that gross violations in the DC court system have led to biased treatment and a lack of fair consideration for her constitutional rights.

The Petitioner filed motions to protect her Constitutional Right to Due Process and Equal Protection of the Law. Still, the DC constantly embarrassed her and issued oppressive and improper orders with threats. See App. B, C, D, E, F, G, pp-2a to 13a.

The DC avoids arguing about the Respondents' crimes, including fraud, perjury, obstruction of justice, fabrication of evidence, and witnesses, to protect them, even if it means exposing the Court's abuse of discretion and power. See App. "B, C, D, E, F, G", pp. 2a to 13a.

It is evident that the protection provided by the lower courts to Kevin Knipfing, also known as Kevin James, is due to his celebrity status. Notably, this protection was not extended to actor Robert De Niro, another celebrity found guilty of Gender Discrimination just four years after filing the complaint.

The difference between these two cases is that the Plaintiff in the Robert De Niro case is white and has lawyers who have vigorously represented her. See *Robinson v. De Niro SDNY 19cv09156 (LJL)(KHP)*.

However, in this case, The Petitioner, a Hispanic woman, was unfortunately misled by her lawyers for almost two years. In response, she decided to take matters into her own hands and filed her case Pro Se as a non-attorney in pursuit of justice.

The Petitioner believed that the U.S. courts were obligated to apply the Due Process of Law and Equal Protection clause and make decisions based on facts, law, and evidence. However, this case has demonstrated that "privileged" individuals are exempt from the law and that the court can be manipulated. See DC case *Orrego v. Knipfing et al.* 20cv3361 (JMA) (AYS).

Respondent's fraud, perjury, and obstruction of justice, among others, limited in this forum or Federal Action, the same strategy was applied in the Petitioner's related case Workers Compensation Board ("WCB") G2584330 and the appeal NYSCEF Docket 535740 "Matter of Orrego v Knipfing" Appellate Division Third Department where the Petitioner's counsel lost the case allowing all the kind of fraud because they never disclose the gross conflict of interest their client-lawyer relationship with the Respondents' counsel GRSM since 2012 to the present.

The counsel representing the Respondents, "GRSM," appears to have the ability to manipulate the Justice from the relationship with the Petitioner's counsel, and the WCB case was planned to be lost from the beginning between the lawyers and the Respondents.

The lower courts support the Respondents' fraud rather than protect the Petitioner from a new miscarriage of justice.

REASONS FOR GRANTING THE PETITION

I. Failure to apply the Due Process Clause and Equal Protection of the Law is unconstitutional and unacceptable.

This case presents a straightforward intentional deprivation from the lower Courts of the Due Process and Equal Protection of Law Clause that strikes at the heart of our legal system. Unfair treatment based on race and social status.

Gross violation of the Due Process and Equal Protection of Law Clause under 18 U.S. Code § 241 “Conspiracy against rights” and 18 U.S. Code § 242 “Deprivation of rights under color of law by the lower Courts' biased proceedings.

We must acknowledge the Due Process Clause's and Equal Protection's essential significance in our legal system. Any attempt to deliberately deprive an individual of their right to Due Process is misguided and a clear violation of their rights. The lower courts of the United States must comprehend the seriousness of their actions and uphold the fundamental principles of justice and fairness enshrined in the Constitution.

The orders and decisions from DC and the U.S. Court of Appeals for the Second Circuit prove lawfare against the Petitioner's Constitutional Rights to Due Process and Equal Protection of the Law. See App. A, p-1a.

Due Process of Law is a fundamental principle that ensures justice is served based on facts and law rather than an individual's social status. This principle guarantees equal rights to a fair trial and a just verdict. Therefore, upholding the Due Process of Law principle is vital to ensure everyone is treated impartially and fairly, regardless of their position in society.

This "Lawfare" is the same "system" that lawyer Alina Habba, Esq., who represented former President Donald Trump, described on national television. During her public statement, Ms. Habba mentioned the impropriety and violation of due process of law and equal protection by a Supreme Court Judge in New York County. She stated that the judge made decisions disregarding the laws, rules, and evidence, which outsiders manipulated for political purposes.

It is a concern that, shortly, all American citizens may be at risk of being subjected to an authoritarian judicial government that disregards values and principles and violates the U.S. Constitution by issuing unreasonable orders without following due process of law.

The Court and cases law have determined that due process requires, at a minimum, (1) notice, (2) an opportunity to be heard, and (3) an impartial tribunal. *Mullane v. Central Hanover Bank*(1950).

The Fourteenth Amendment was added to the US Constitution soon after the Civil War to fight against discrimination and safeguard due process. The Equal Protection Clause states that the government must have a legitimate reason to justify any law or official action that treats people or groups of people differently who are in a similar situation. For certain unchangeable classifications and essential rights such as race, religion, national origin, and voting, the government's reasoning must be compelling, and the law or action must be narrowly directed towards it. The government must have a rational basis for other distinctions, such as occupation, and the law or action must be reasonably directed towards it.

Other States uphold that “[n]o person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of religion, race, color, ancestry, national origin, sex or physical or mental disability.”

In the case of *Goldberg v. Kelly*, the Court established that the state is obligated to provide a fair hearing presided over by an impartial judicial officer. The individual must be afforded the right to have an attorney present to assist them during the hearing, the opportunity to present evidence and argument verbally, and the ability to examine all materials that will be relied upon or to cross-examine adverse witnesses. The decision must be based solely on the record presented and explained in a written opinion. This complex ruling appears to have its origins in the incorporation doctrine. See App. A, p-1a and App. J, p-28a.

In *Mathews v. Eldridge*, the Court established a preferred approach for resolving due process questions. This approach requires judges to analyze three factors when determining constitutionally required procedures.

First, the private interest that will be affected by the official action;

Second, the risk of an erroneous deprivation of such interest through the procedures used and the probable value, if any, of additional or substitute procedural safeguards;

Finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Although there is no definitive list of the "required procedures" that due process requires, Judge Henry Friendly created a highly influential list that outlines both the content and relative priority of these procedures:

- An unbiased tribunal.
- Notice of the proposed action and the grounds asserted for it.
- Opportunity to present reasons why the proposed action should not be taken.
- The right to present evidence, including the right to call witnesses.
- The right to know opposing evidence.
- The right to cross-examine adverse witnesses.
- A decision based exclusively on the evidence presented.
- Opportunity to be represented by counsel.
- Requirement that the tribunal prepare a record of the evidence presented.
- Requirement that the tribunal prepare written findings of fact and reasons for its decision.

This list of procedures may be claimed in a "due process" argument in order of their perceived importance.

In the present case, the U.S. Court of Appeals for the Second Circuit denied the Petitioner's right to file her interlocutory Appeal under 28 U.S.C. 1292, well-supported by documentary evidence to prevent a miscarriage of justice.

The Petitioner has filed motions and letters to Chief Judge Debra Ann Livingston to address a conflict and a violation of the Due Process and Equal Protection Clause. The Petitioner has requested that the U.S. Court of Appeals

for the Second Circuit provide a valid reason for dismissing interlocutory appeals for lack of jurisdiction when the Court regularly issues decisions on other cases *under the same statute to review a non-final order.* The Petitioner believes that her treatment is unlawfully discriminatory without a valid reason.

II. In the U.S. Courts below, the absence of the application of the Due Process Clause and Equal Protection of the Law is clearly unconstitutional.

The U.S. Court of Appeals for the Second Circuit and the DC failed their duties to the Plaintiff to administrate the Court Business free of judicial bias, diligence, and transparency.

Under the U.S. Constitution, “Class legislation, discriminating against some and favoring others, is prohibited; but legislation which, in carrying out a public purpose, is limited in its application, if within the sphere of its operation, it affects alike all persons similarly situated, is not within the amendment.” Or, more succinctly, “statutes create many classifications which do not deny equal protection; it is only ‘invidious discrimination’ which offends the Constitution.”

In *F. S. Royster Guano Co. v. Virginia*, the court put forward the following test: “[T]he classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation so that all persons similarly circumstanced shall be treated alike.” Use of the latter standard did, in fact, result in some invalidations.

The U.S. Court of Appeals for the Second Circuit and the DC issued unintelligible orders that lacked specificity and construction despite all the evidence against the Petitioner. For example, Petitioner argued that DC has

illegally validated the Defendants' "non-disclosure agreement (NDA)" without following due process. This issue has been presented in the petitioner's AC document [8]. As stated in the ECF doc, the DC order is seen as authoritarian as it forces the Petitioner to accept an unfair agreement. [66], against her will.

The DC's order violates the Petitioner's right to life, liberty, and property, guaranteed by the U.S. Constitution and Civil Rights Acts of 1964. The DC simply ignored the Petitioner to comply with the agenda to bet and aid the Respondents' fraud on or upon the Court.

The commitment to due process is directly linked to the promise of "justice for all." It establishes a level playing field in the court system, ensuring that no one is unduly favored or unfairly disadvantaged. This adherence to process and fairness guarantees that every citizen, irrespective of their social, economic, or political standing, has an equal opportunity to present their case and seek justice.

Due process safeguards against the misuse of government power. It ensures that individuals are not wrongly accused or penalized without sufficient evidence and a just trial. In doing so, it upholds the principle of "fairness for all," guaranteeing that no one is unfairly stripped of their rights or liberties.

Although the phrase "justice for all" is not explicitly mentioned in the Constitution, the preamble does contain a directive that the Federal Government must "establish justice."

Throughout history, the U.S. Supreme Court has been responsible for interpreting the meaning of this directive and how it should be implemented in various situations. Scholars generally point to four landmark cases in which the

Supreme Court interpreted and applied this mandate: *Marbury v. Madison*, *Wesberry v. Sanders*, *Plessy v. Ferguson*, and *Brown v. Board of Education*.

*In 1803, a significant case called *Marbury v. Madison* took place. Chief Justice John Marshall led the Supreme Court and confirmed its power of judicial review. This power allows the court to declare laws unconstitutional. The case revolved around the interpretation of "establish Justice." The court believed that it was crucial to ensure that the government acts within the limits of the law. If it doesn't, there needs to be a mechanism to correct it. Judicial review was seen as an essential instrument of justice, making sure that laws and government actions align with the Constitution and are just and fair.*

The phrase "justice for all" is central to the Constitution, beginning with the preamble's declaration that "We the people" will use the Constitution to "establish justice" and continuing through the principles embodied in it. The Due Process clauses in the Fifth and Fourteenth Amendments are responsible for much of this charge, and the Supreme Court has been tasked throughout U.S. history to ensure that the Founders' mandate to guarantee "justice for all" is carried out.

The lower courts are abetting and aiding the Respondents' fraudulent actions, which block the Petitioner's quest for justice. This results in a miscarriage of justice that needs to be rectified immediately.

"*Justitia nemini neganda est – Justice is to be denied to nobody.*"

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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