

UNITED STATES SUPREME COURT
UNITED STATES OF AMERICA

In the Matter of:)	
Debra A. Charles,)	
)	
Applicant,)	
)	
vs.)	
)	
A-J National Bank, Anna-Jonesboro, IL,)	Case No.
David Gould, formerly AJNB President)	Jury Trial - Yes
Scott Wilson, AJNB President)	
Scott Wilkins, formerly AJNB Vice President)	
and President, FNBJ, Anna-Jonesboro, IL)	
Dan Graham, formerly FNBJ, Vice President)	
Amanda Barnhart, formerly AJNB)	
Assistant Vice President)	
First State Bank of Olmsted, Olmsted, IL)	
Bruce Mosby, FSBO President)	
Steve Waters, FSBO Vice President)	
Lee Essex, FSBO Vice President)	
First State Bank of Dongola, Dongola, IL)	
Neal Needham, FSBD President)	
John R. Schneider, attorney)	
Johnson, Schneider & Ferrell)	
)	
Respondents.)	

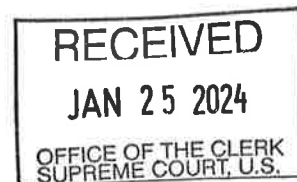
Motion to Extend Time To Allow Filing a Writ of Certiori

This Motion to Extend Time to file a Writ of Certiori requests additional sixty (60) days and if not applicable then thirty (30) days to file in the above titled matter or as the Court sees fit.

This matter has come before:

1. US Court of Appeals Case No. 22-3261 dated October 17, 2023, and
2. Order from US District Court Southern District of Illinois Case No. 22-CV-201-SMY Order dated November 28, 2022.
3. US Bankruptcy Court Case BK 14-40421-wva Court Order of January 12, 2024.

Per directive of the US Bankruptcy Court and its ruling to not allow the filing of Applicants Adversary Pleading on January 12, 2024, it is now essential to file a Writ of Certiori. Prior to said date it was not anticipated it would be incumbent to do. Based on said court actions, it is



now necessary to file an appeal with the US Supreme Court which I hereby do request permission and adequate time to do so.

That based on the date of January 12, 2024, ruling received from the US Bankruptcy Court and the US Court of Appeals October 17, 2023, Order there is not sufficient time to timely prepare and immediately submit the Supreme Court Appeal Brief and forty accompanying booklets.

Additionally, as Applicant is in the midst of a major lifetime move to another country thus adequate time to prepare is requested.

It is unquestioned and has not been denied that a major defendant in this case is, and was at all times material hereto a federally chartered bank in operation. That, per se, standing alone, creates federal court jurisdiction.

The quandary in this case is on the basis that it belongs to another court. Therefore, leaving Petitioner with no place to file the Complaint to be heard. Without question a cause of action was stated per se upon which relief can be granted that being intentional breach of contract and fiduciary duty, forgery, mortgage fraud, fraud in the inducement, and post action. That the civil case timely falls within the statute of limitations and its claim is in excess of millions of dollars.

Being Pro Se in filing a Writ of Certiorari, I respectfully request an Order from this honorable Court directing me to the appropriate court for filing, discovery, hearing and handling this cause of action.

Each of the three (3) federal Courts are saying "We have no jurisdiction ... this matter should be filed in ... Court" sending the Applicant in a complete conflicting and non ending circuit and circle of rejection from the federal courts system. Because none of these courts accept jurisdiction of this case and thus refuse to hear this matter or allow a jury trial my right to a jury trial in civil affairs is violated. I request as my constitutional legal rights as a citizen to be heard.

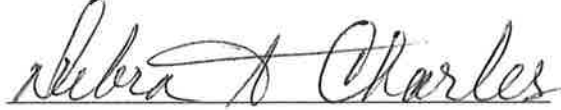
Please allow this matter to be heard and send it to the proper Court (jurisdiction and venue) with instructions to proceed because very clearly an awardable cause of action has been set forth. Until this matter is clarified Applicant requests any prior court action or order of denial or dismissal with prejudice be nullified or held in abeyance and documents in this matter in the possession of the Respondents be protected pending ruling of this Honorable Court's decision and instructions.

Respectfully, I am further alternatively requesting that this Honorable Court direct or send this case directly to the US attorney's office to proceed and investigate and file charges as appropriate for civil and criminal with reimbursement for wrong doing which resulted in great financial loss as stated in many documents filed in this case.

A change of venue is also to be requested based upon the inappropriate handling of this case to date and for such other relief and directions as may be deemed just, proper and necessary thereby eliminating dismissal from lack of jurisdiction or any other cause.

Incorporated by reference, as if more fully set forth herein, all documentation pertaining to this case and referred to in this Motion are filed in each of the three (3) courts listed herein.

WHEREFORE, having fully set forth all necessary elements of this Motion to File a Writ of Certiori Applicant hereby respectfully requests judgment.



Debra A. Charles, Pro Se
1061 Jonah Drive
North Port, Florida 34289

Certificate of Service

The undersigned certifies that copies of the foregoing pleading filed in accordance with Supreme Court Rules and otherwise were mailed and addressed to:

US District Court for the
Southern District of Illinois
US Federal Court Clerks Office
301 West Main Street
Benton, IL 62812

Deanna Williams
Kimberly E. Reints Blair
Wilson, Elser, Moskowitz, Eddleman & Dicker LLP
55 West Monroe
Chicago, IL 60603

US Court of Appeals for the
Illinois Seventh Circuit
Office of the Clerk
Everett McKinley Dirksen
United States Courthouse
219 South Dearborn Street
Room 2722
Chicago, IL 60604

Jeffrey P. Hine
Osburn, Hine & Yates, LLC
3071 Lexington Avenue
Cape Girardeau, MO 63701

John Schneider
Johnson, Schneider & Ferrell, LLC
212 North Main
Cape Girardeau, MO 63701

US Bankruptcy Court for the
Southern District of Illinois
US Bankruptcy Court Clerk's Office
301 West Main Street
Benton, IL 62812

on this 12th day of January, 2024.



Debra A. Charles, Pro Se
1061 Jonah Drive
North Port, Florida 34289

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted October 16, 2023*

Decided October 17, 2023

BeforeFRANK H. EASTERBROOK, *Circuit Judge*AMY J. ST. EVE, *Circuit Judge*THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-3261

DEBRA A. CHARLES,
*Plaintiff-Appellant,**v.*ANNA-JONESBORO NATIONAL
BANK, et al.,
*Defendants-Appellees.*Appeal from the United States District
Court for the Southern District of
Illinois.

No. 22-CV-201-SMY

Staci M. Yandle,
*Judge.***ORDER**


Debra Charles appeals the district court's dismissal of her second amended complaint against three banks, several bank employees, and an attorney for failing to state a claim upon which relief can be granted. Because one of Charles's claims is barred

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

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Teste:


Deputy Clerk
of the United States
Court of Appeals for the
Seventh Circuit

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by the *Rooker-Feldman* doctrine, we modify the judgment of the district court to reflect that it is dismissed for lack of subject matter jurisdiction. In all other respects, we affirm.

Background

Charles and her late husband operated several businesses and owned properties in Anna and Jonesboro, Illinois. They signed a series of promissory notes from 2003 to 2013 with Anna-Jonesboro National Bank (A-J Bank) and First State Bank of Olmsted (Olmsted Bank). The Charleses filed for Chapter 11 Bankruptcy in 2014 and submitted a schedule listing their assets, which included many businesses and properties. They did not, however, list any legal claim as an asset. The bankruptcy court subsequently converted the bankruptcy petition to Chapter 7, entered an order of discharge in June 2016, and closed the case with a final decree in September 2017.

Five years later, Charles sued A-J Bank, Olmsted Bank, First State Bank of Dongola (Dongola Bank), and several of their employees and officers. In her first amended complaint, Charles alleged that A-J Bank and Olmsted Bank breached their fiduciary duty and committed common-law fraud by altering some promissory notes after they were signed, causing her to file for bankruptcy. As to Dongola Bank, she argued it fraudulently filed a quiet title action against one of her properties after her bankruptcy. The district court dismissed the complaint without prejudice, concluding that Charles was not the real party in interest and so lacked standing to pursue the claims because they remained assets of the bankruptcy estate. It also concluded that the claims about the origination of the notes, which occurred from 2003 to 2013, were filed beyond the (at most) five-year statute of limitations and that the complaint failed to comply with Rules 8(a) and 9(b) of the Federal Rules of Civil Procedure.

Charles filed a second amended complaint, repeating many of her claims and adding more parties. This time, however, Charles cited numerous criminal statutes as the basis for her claims. Most of Charles's claims cited the statute criminalizing bank fraud, 18 U.S.C. § 1344. But she also relied on criminal statutes relating to conspiracy, false statements, embezzlement, and obstruction of justice, as well as a provision of the Uniform Code of Military Justice. The defendants moved to dismiss the complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure. The district court granted the motion and dismissed the complaint with prejudice. It concluded that none of the statutes cited by Charles provided a private right of action and that it would be futile to allow Charles to amend her complaint again. Charles appeals.

Analysis

We review a dismissal under Rule 12(b)(6) de novo, accepting all well-pleaded facts as true and viewing them in the light most favorable to Charles. *Peterson v. Wexford Health Sources, Inc.*, 986 F.3d 746, 751 (7th Cir. 2021). To survive a Rule 12(b)(6) motion to dismiss, a plaintiff must provide “a short and plain statement” showing she is entitled to relief. FED. R. CIV. P. 8(a)(2).

Charles first argues that the criminal statutes she relies on create private rights of action. We disagree. Only Congress can create a private right of action to enforce federal law. *Alexander v. Sandoval*, 532 U.S. 275, 286 (2001). Here, the district court correctly concluded that the cited statutes do not expressly provide for a private right of action, and we cannot impliedly create one because the text of the statutes does not demonstrate that Congress intended to create a private right and remedy. *See Ind. Prot. and Advoc. Servs. v. Ind. Fam. and Soc. Servs. Admin.*, 603 F.3d 365, 375 (7th Cir. 2010) (en banc). Indeed, it is rare that courts imply a private right of action into criminal statutes because they are usually for the benefit of the general public, not a particular class. *Chrysler Corp. v. Brown*, 441 U.S. 281, 316 (1979); *Cannon v. Univ. of Chi.*, 441 U.S. 677, 690–93 (1979).

Next, Charles argues that the district court should not have dismissed her claims of common-law fraud, tortious interference, breach of fiduciary duty, and breach of contract. While the district court addressed these claims in its order dismissing the first amended complaint, it did not do so in the order dismissing the second amended complaint, perhaps because it could no longer discern them. To the extent Charles’s second amended complaint does set forth any such claims, we agree with the district court’s rationale when it dismissed the first amended complaint that Charles was not the real party in interest. *See* FED. R. CIV. P. 17(a)(1). The tortious conduct alleged in these claims occurred before Charles and her husband filed for bankruptcy in 2014, at which time any legal claims became property of the bankruptcy estate and could only be prosecuted by the trustee. *See* 11 U.S.C. § 541(a)(1); *Biesek v. Soo Line R. Co.*, 440 F.3d 410, 413–14 (7th Cir. 2006).

Charles counters that she has standing to bring these claims because they were abandoned by the trustee and therefore reverted to her. *See* 11 U.S.C. § 554; *Biesek*, 440 F.3d at 413–14. She advances contradictory arguments on this point, however, and both lack merit. On the one hand, Charles says that it was impossible for her to know she possessed the claims because the banks fraudulently concealed them. But that does not change the fact that the claims would have belonged to the bankruptcy estate

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because the transactions out of which they arose occurred before the bankruptcy petition. *In re Polis*, 217 F.3d 899, 902 (7th Cir. 2000). On the other hand, Charles says that she told the trustee about the claims, and therefore they were scheduled and abandoned. But mere informal disclosure of legal claims to a trustee is ineffective to schedule them. *Morlan v. Universal Guar. Life Ins. Co.*, 298 F.3d 609, 618 (7th Cir. 2002). The claims were never scheduled, so they were never abandoned and continue to belong to the bankruptcy estate. *Id.*; 11 U.S.C. § 554(c)–(d).

Charles also argues that her fraud claim against Dongola Bank related to its quiet title action is timely because it arose after the bankruptcy case and was brought within the five-year statute of limitations. See 735 ILCS 5/13-205. But this claim is barred under the *Rooker-Feldman* doctrine, which prevents a person who lost in state court from asking a lower federal court to review and reject the state-court judgment that is the source of her injury. See *Rooker v. Fid. Tr. Co.*, 263 U.S. 413 (1923); *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983). The appellees and the district court failed to raise this issue, but it is one pertaining to subject matter jurisdiction, so we raise it sua sponte. *Crawford v. Countrywide Home Loans, Inc.*, 647 F.3d 642, 646 (7th Cir. 2011).

Here, a state court already has considered and decided the issue of who owns the relevant property. Charles takes issue with this decision, arguing that she had a right of first refusal on the property which Dongola Bank violated by secretly filing a quiet title action. But it is the state-court judgment quieting title, not Dongola Bank's filing of the suit, that is the source of Charles's injury. Whether the fraud claim is intended as a belated defense or as an attack on the judgment itself, to declare the quiet title action wrongful or invalid would directly upset the state-court judgment. See, e.g., *Crawford*, 647 F.3d at 646–47. Accordingly, the district court lacked subject matter jurisdiction to consider this claim.

Throughout her brief, Charles also argues that the dismissal of her complaint without discovery or a hearing violates her due process rights. This argument is without merit. A motion to dismiss seeks only to test the legal sufficiency of a complaint. *Gibson v. City of Chi.*, 910 F.2d 1510, 1520 (7th Cir. 1990). At this stage, all well-pleaded facts in Charles's complaint are taken as true, so there is not yet any reason to hold an evidentiary hearing or begin discovery. See *id.* at 1520–21.

Finally, the district court did not err when it concluded that permitting Charles to amend her complaint would be futile. Charles has not identified any way in which she could amend her complaint to address the deficiencies identified by the district court. Nor could she. Charles does not have a private right of action under the cited

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criminal statutes. And any attempt to state claims relating to events before the bankruptcy would be futile because they would belong to the bankruptcy estate.

Accordingly, the judgment of the district court is modified to reflect that the dismissal of the claim against Dongola Bank is for lack of subject matter jurisdiction, and is, as modified, affirmed.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

FINAL JUDGMENT

CERTIFIED COPY

October 17, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

A True Copy

Teste:

Deputy Clerk
of the United States
Court of Appeals for the
Seventh Circuit

No. 22-3261	<p align="center">DEBRA A. CHARLES, Plaintiff - Appellant</p> <p align="center">v.</p> <p align="center">ANNA-JONESBORO NATIONAL BANK, et al., Defendants - Appellees</p>
Originating Case Information:	
District Court No: 3:22-cv-00201-SMY Southern District of Illinois District Judge Staci M. Yandle	

The judgment of the district court is modified to reflect that the dismissal of the claim against Dongola Bank is for lack of subject matter jurisdiction, and is, as modified, affirmed. The above is in accordance with the decision of this court entered on this date. Appellees recover costs.

Christina Conway

Clerk of Court

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
 United States Courthouse
 Room 2722 - 219 S. Dearborn Street
 Chicago, Illinois 60604



Office of the Clerk
 Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF ISSUANCE OF MANDATE

November 20, 2023

To: Monica A. Stump
 UNITED STATES DISTRICT COURT
 Southern District of Illinois
 East St. Louis, IL 62201-0000

No. 22-3261	DEBRA A. CHARLES, Plaintiff - Appellant v. ANNA-JONESBORO NATIONAL BANK, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 3:22-cv-00201-SMY	
Southern District of Illinois	
District Judge Staci M. Yandle	

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

RECORD ON APPEAL STATUS:

No record to be returned

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

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A True Copy

Teste:

Deputy Clerk
of the United States
Court of Appeals for the
Seventh Circuit



November 9, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-3261

DEBRA A. CHARLES,
Plaintiff-Appellant,

v.

ANNA-JONESBORO NATIONAL BANK, *et al.,*
Defendants-Appellees.

Appeal from the United States
District Court for the Southern
District of Illinois.

No. 22-CV-201-SMY

Staci M. Yandle,
Judge.

ORDER

Plaintiff-Appellant filed a document on October 31, 2023, that we construe as a petition for rehearing. All the judges on the panel have voted to deny rehearing. The petition for rehearing is therefore DENIED.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DEBRA A. CHARLES,)
)
Plaintiff,)

vs.)

Case No. 22-CV-201-SMY

**A-J NATIONAL BANK (ANNA-)
JONESBORO, IL), DAVID GOULD)
(formerly AJNB President), SCOTT)
WILSON (AJNB President), SCOTT E.)
WILKINS (formerly AJNB President and)
FNBJ President, Anna-Jonesboro, IL),)
DAN GRAHAM (formerly FNBJ Vice)
President of Anna-Jonesboro, IL),)
AMANDA BARNHART (formerly AJNB)
Assistant Vice President), FIRST STATE)
BANK OF OLMSTED, BRUCE MOSBY)
(FSBO President), STEVE WATERS)
(FSBO Vice President), LEE ESSEX)
(FSBO Vice President), FIRST STATE)
BANK OF DONGOLA (Dongola, IL),)
NEAL NEEDHAM (FSBD President), and)
JOHN R. SCHNEIDER (Attorney)
Johnson, Schneider & Ferrell),)
)
Defendants.)**

MEMORANDUM AND ORDER

YANDLE, District Judge:

Plaintiff Debra A. Charles filed a *pro se* Second Amended Complaint against Defendants A-J National Bank (Anna-Jonesboro, IL), David Gould (formerly AJNB President), Scott Wilson (AJNB President), Scott E. Wilkins (formerly AJNB President and FNBJ President, Anna-Jonesboro, IL), Dan Graham (formerly FNBJ Vice President of Anna-Jonesboro, IL), Amanda Barnhart (formerly AJNB Assistant Vice President), First State Bank of Olmsted, Bruce Mosby (FSBO President), Steve Waters (FSBO Vice President), Lee Essex (FSBO Vice President), First

State Bank of Dongola (Dongola, IL), Neal Needham (FSBD President), and Attorney John R. Schneider, Johnson, Schneider & Ferrell (Doc. 56).

The case is now before the Court for consideration of motions to dismiss filed by Defendant First State Bank of Dongola (Doc. 61), Defendants David Gould, Amanda Barnhart, Dan Graham, Scott Wilson and Scott E. Wilkins (Doc. 65), Defendant Anna-Jonesboro National Bank (Doc. 67), and Defendants First State Bank of Olmstead, Bruce Mosby, Steve Waters, and Lee Essex (Doc. 72). Plaintiff responded in opposition to the motions (Docs. 75-76, 78-79, 92), and also filed a motion for summary judgment and motion for recusal (Docs. 80-81).

During the pendency of the aforementioned motions, Plaintiff filed a motion seeking an extension of time to serve an additional defendant, the law firm of Johnson, Schneider & Ferrell (Doc. 84), a motion for court ordered summons and service on the same (Doc. 86), and a separate motion for a permanent restraining order/preliminary injunction (Doc. 87). For the following reasons, the motions to dismiss are **GRANTED** and Plaintiff's various motions (Docs. 80, 81, 84, 86) are **TERMINATED as MOOT**. Plaintiff's Motion for a Temporary Restraining Order (Doc. 87) is **DENIED**.

Before the defendants herein were served, Plaintiff filed an Amended Complaint alleging fraud with respect to the origination and servicing of various promissory notes (Doc. 8). The Court dismissed the Amended Complaint without prejudice and advised Plaintiff as follows: "[Plaintiff] will be given one last opportunity to amend her Complaint to state colorable claims (while most of Plaintiff's allegations involve claims that are time-barred or remain part of the bankruptcy estate, she also alleges post-bankruptcy conduct in 2018-2019 by Defendants regarding the receivership or sale of her former properties that may be actionable if pleaded properly)" (Doc. 55).

Under Federal Rule of Civil Procedure 12(b)(6), Plaintiff must provide “a short and plain statement” showing that she is entitled to relief. Fed. R. Civ. P. 8(a)(2). Although a Complaint need not contain “detailed factual allegations, . . . a formulaic recitation of the elements of a cause of action will not do.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Instead, Plaintiff must provide “enough facts to state a claim to relief that is plausible on its face.” *Id.* at 570.

A Complaint fails to state a plausible claim “where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct.” *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1950 (2009). Additionally, to the extent Plaintiff alleges fraud or mistake by Defendants, she “must state with particularity the circumstances constituting fraud or mistake.” Fed. R. Civ. P. 9(b).

The Second Amended Complaint

In the Second Amended Complaint, Plaintiff attempts to assert certain claims by invoking criminal statutes: in Counts 1, 5, 7, and 9, she seeks damages for Defendants’ alleged violation of 18 U.S.C. § 1344 (bank fraud); in Count 6, she seeks damages for Defendants’ alleged violation of 18 U.S.C. § 1519 (destruction, alteration, or falsification of records in federal investigations and bankruptcy), and in Count 8, she alleges a conspiracy pursuant to 18 U.S.C. § 371. These claims are all subject to dismissal as no private right of action exists under these statutes.

The remainder of the Second Amended Complaint also fails to state plausible, cognizable claims, and is also subject to dismissal. Count 2 raises arguments regarding whether Plaintiff’s bankruptcy filing preempted her causes of action. Plaintiff cites two bankruptcy statutes, 11 U.S.C. §§ 554(a) and 523(a)(2)(A), which do not confer a right of action, but rather set forth the circumstances under which discharges are granted. Count 3 references various statutes of limitation but fails to assert a cause of action. In Count 4, Plaintiff includes factual allegations that

attorney John R. Schneider committed a series of improprieties with her accounts, including bidding against Plaintiff's son on acres of estate property and preparing an improper warranty deed (Doc. 56, p. 17). However, she cites a number of criminal and civil statutes that do not confer a private cause of action. Finally, Count 10 includes additional arguments and improperly pleads criminal statutes (10 U.S.C. § 921 and 18 U.S.C. § 1503).

Pro se plaintiffs are afforded great deference, but this Court is not required to allow them to amend *ad nauseam* if doing so would be futile. *Bogie v. Rosenberg*, 705 F.3d 603, 608 (7th Cir. 2013). This Court has reached that conclusion given Plaintiff's failure/inability to heed its previous directives.

Conclusion

For the foregoing reasons, Defendants' motions to dismiss (Docs. 61, 65, 67, 72) are **GRANTED**. Plaintiff's Second Amended Complaint is **DISMISSED with PREJUDICE**; Plaintiff's Motion for Temporary Restraining Order (Doc. 87) is **DENIED**; and Plaintiff's Motions for Summary Judgment and Recusal (Docs. 80, 81), Motion for an Extension of Time to Serve Defendant, and Motion for Court Ordered Summons and Service on same (Docs. 84, 86) are **TERMINATED as MOOT**.

The Clerk of Court is **DIRECTED** to enter judgment accordingly and to close this case.

IT IS SO ORDERED.

DATED: November 28, 2022



STACI M. YANDLE
United States District Judge

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