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23-35345

07-10-2024

SYMON MANDAWALA,

Plaintiff-Appellant,

v.

ERA LIVING LLC,

Defendant-Appellee.

Appeal from the United States District Court for
the Western District of Washington USDC No.
2:22-CV-01179

Before TASHIMA, SILVERMAN and KOH, Circuit
Judges.

Mandawala's petition for rehearing en banc
(Docket Entry No.6) is rejected as untimely

No further fillings will be entertained in this closed
case.

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23-50258

07-10-2024

SYMON MANDAWALA

Plaintiff-Appellant,

v.

ERA LIVING,

Defendant-Appellee.

MEMORANDUM [*]

Appeal from the United States District Court for
the Western District of Washington USDC No.
2:22-CV-01179

Submitted March 26, 2024[**]

Before TASHIMA, SILVERMAN and KOH, Circuit
Judges.

OPINION

Symon Mandawala appeals pro se from the district court's judgment dismissing his federal civil rights action alleging that defendant, its attorney in prior state court litigation, and a state court judge, conspired to violate his rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a sua sponte dismissal for failure to state a claim. Omar v. Sea-Land Serv., Inc., 813 F.2d 986, 991 (9th Cir. 1987). We may affirm on any basis supported by the record. Thompson v. Paul, 547 F.3d 1055, 1058-59 (9th Cir. 2008). We affirm.

To the extent Mandawala alleged claims against a state court judge, the district court properly dismissed the claims as barred by judicial immunity. See Duvall v. County of Kitsap, 260 F.3d 1124, 1133 (9th Cir. 2001) (describing factors relevant to the determination of whether an act is judicial in nature and subject to absolute judicial immunity).

To the extent Mandawala alleged claims against defendant and its attorney, dismissal of the claims was proper because Mandawala failed to allege facts sufficient to state any plausible claim. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (explaining that, to avoid dismissal, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face" (citation and internal quotation marks omitted)).

AFFIRMED.

[*] This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

[**] The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2). Mandawala's request for oral argument, set forth in the opening brief, is denied.

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NO-19-CV-01179
04-27-2023

SYMON MANDAWALA, Plaintiff,

v.

ERA LIVING LLC; Defendant.

RICHARD A. JONES UNITED STATES
DISTRICT JUDGE.

ORDER OF DISMISSING ACTION

On April 11, 2023, the court entered an order dismissing Plaintiff complaint, but permitting leave to amend. Dkt. #7. The Court allowed Plaintiff fourteen (14) days following entry of the April 11, 2023 order to file an amended complaint. The court indicate that if Plaintiff did not file an amended complaint within that timeframe, or if Plaintiff filed an amended complaint that did not state cognizable claim for relief or was otherwise untenable under §1915(e), the court would dismiss this action.

As Plaintiff has not filed an amended complaint, this matter is DISMISSED

DATED this 27th Day of April 2023

The Honorable Richard A. Jones,
United States District Judge

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NO-19-CV-01179
04-27-2023

SYMON MANDAWALA, Plaintiff,

v.

ERA LIVING LLC; Defendant.

RICHARD A. JONES UNITED STATES
DISTRICT JUDGE.

ORDER OF DISMISSAL

Honorable Richard A. Jones United States District
Judge

I. INTRODUCTION

This matter comes before the Court *sua sponte*. For the reasons below, the Court DISMISSES the action.

II. BACKGROUND

untenable under §1915(e), the court would dismiss this action Plaintiff alleges misconduct on behalf of a state judicial officer in an action against his former employer. Dkt. # 1. Specifically, Plaintiff contends that a Washington state judge conspired with counsel for Defendant Era Living, including having ex parte meetings, to dismiss Plaintiff's employment discrimination case without proper jurisdiction. Dkt. # 1 at 3-5.

III. DISCUSSION

untenable under §1915(e), the court would dismiss this action Proceeding *in forma pauperis*, Plaintiff's complaint is subject to sua sponte review and must be dismissed if it "fails to state a claim on which relief may be granted" or "seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B)(ii)-(iii); *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) ("section 1915(e) not only permits but requires a district court to dismiss an in forma pauperis complaint that fails to state a claim."). A complaint fails to state a claim if it "does not make out a cognizable legal theory or does not allege sufficient facts to support a cognizable legal theory." *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011). The court is not required to accept as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences. See *Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998 (9th Cir. 2010); *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754-55 (9th Cir. 1994). Accordingly, even as to pro se complaints, "unadorned, the-defendant-unlawfully-harmed-me accusation" will not suffice. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

After reviewing the Complaint, the Court finds that it must be dismissed. Each claim alleges misconduct on behalf of a state court judge in handling Plaintiff's underlying lawsuit. "Judges are immune from suit arising out of their judicial acts, without regard to the motives with which

their judicial acts are performed, and notwithstanding such acts may have been performed in excess of jurisdiction, provided there was not a clear absence of all jurisdiction over the subject matter." Sires v. Cole, 320 F.2d 877, 879 (9th Cir. 1963); see also Stump v. Sparkman, 435 U.S. 349, 356-57 (1978) (explaining that a judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority). Therefore, allegations where judicial officers are carrying out duties related to the judicial process, such as interpreting the law and issuing orders, fall within the purview of judicial or quasi-judicial immunity. Id. Here, Plaintiff alleges that the judge in the underlying suit granted Defendant Era Living LLC's motion to dismiss, and later denied Plaintiff's motion for reconsideration. Dkt. # 1 at 4-5. This conduct is squarely in the realm of judicial officers carrying out duties related to the judicial process.

For the reasons stated above, the Court **DISMISSES** Plaintiff's complaint without prejudice.

IV. CONCLUSION

For the reasons stated above, the Court **DISMISSES** Plaintiff's complaint without prejudice. Within fourteen (14) days from the date of this Order, Plaintiff may file an amended complaint. If Plaintiff does not file an amended complaint within that timeframe, or if Plaintiff files an amended complaint that does not state a

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cognizable claim for relief or is otherwise untenable
under § 1915(e), the Court will dismiss the action.

U.S. District Court
United States District Court for the Western District of Washington (Seattle)
CIVIL DOCKET FOR CASE #: 2:22-cv-01179-RAJ

Mandawala v. Era Living LLC
Assigned to: Judge Richard A. Jones
Case in other court: 9th Circuit Court of Appeals, 23-35345
Cause: 28:1331 Federal Question: Other Civil Rights

Date Filed: 08/23/2022
Date Terminated: 04/27/2023
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Symon Mandawala

represented by Symon Mandawala
PO BOX 5512
SAN ANTONIO, TX 78201
206-931-5636
PRO SE

V.

Defendant

Era Living LLC

| Date Filed | # | Docket Text |
|------------|---|---|
| 08/23/2022 | 1 | COMPLAINT, filed by Symon Mandawala against defendant(s) Era Living LLC. (Summons(es) not received to issue) (Receipt # S-28) (Attachments: # 1 Exhibits A-B, # 2 Civil Cover Sheet)(ST) (Entered: 08/24/2022) |
| 08/24/2022 | 2 | LETTER to Filer re case number and Judge assignment. (cc: plaintiff via USPS) (ST) (Entered: 08/24/2022) |
| 08/25/2022 | 2 | STANDING ORDER for Civil Cases Assigned to Judge Richard A. Jones. (cc: Plaintiff via U.S. Mail) (VE) (Entered: 08/25/2022) |
| 09/06/2022 | 4 | MOTION Petitioning the Court to Issue an Order to Allow Services of Summon and Complaint to be Done Through USPS Restrict Certified Mail Return Receipt Requested, filed by Plaintiff Symon Mandawala. (Attachments: # 1 Proposed Order, # 2 Proposed Summons)(SR) (Entered: 09/07/2022) |
| 09/11/2022 | | Noting Date Set: 4 MOTION Petitioning the Court to Issue an Order to Allow Services of Summon and Complaint to be Done Through USPS Restrict Certified Mail Return Receipt Requested filed by Plaintiff Symon Mandawala is noted for 9/23/2022, pursuant to LCR 7(d)(3). (cc: Plaintiff via U.S. Mail) (VE) (Entered: 09/11/2022) |
| 11/30/2022 | 5 | ORDER denying Plaintiff's 4 Motion to Permit Service of Summons by Certified Mail. Signed by Judge Richard A. Jones. (SR) (cc: Plaintiff via U.S. mail) (Entered: 11/30/2022) |
| 01/09/2023 | 6 | PRAECIPE TO ISSUE SUMMONS by Plaintiff Symon Mandawala. (SS) (Entered: 01/10/2023) |

| | | |
|------------|----|--|
| 04/11/2023 | 7 | ORDER: The Court DISMISSES Plaintiff's complaint without prejudice. Within fourteen (14) days from the date of this Order, Plaintiff may file an amended complaint. If Plaintiff does not file an amended complaint within that timeframe, or if Plaintiff files an amended complaint that does not state a cognizable claim for relief or is otherwise untenable under § 1915(e), the Court will dismiss the action. Signed by Judge Richard A. Jones. (SS) (cc: Plaintiff via USPS) (Entered: 04/11/2023) |
| 04/27/2023 | 8 | ORDER OF DISMISSAL signed by Judge Richard A. Jones. As Plaintiff has not filed an amended complaint, this matter is DISMISSED with prejudice. (cc: Plaintiff via US Mail) (VE) (Entered: 04/27/2023) |
| 05/01/2023 | 9 | PROPOSED Amended Complaint MOTION for Relief, filed by Plaintiff Symon Mandawala. Noted by Clerk for 5/4/2023 . (SS) Modified on 5/18/2023 to terminate motion and change title of document, per clarifying call from Plaintiff (SB). (Entered: 05/02/2023) |
| 05/15/2023 | 10 | NOTICE OF APPEAL to Ninth Circuit (23-35345) re 8 Order Dismissing Case by Plaintiff Symon Mandawala. Filing Fee Not Paid/Received. (cc: USCA) (RE) Modified on 5/18/2023 to add CCA#. (RE) (Entered: 05/17/2023) |
| 05/18/2023 | 11 | TIME SCHEDULE ORDER/USCA CASE NUMBER (23-35345) as to 10 Notice of Appeal filed by Symon Mandawala. Payment of the \$505 docketing and filing fees is past due. Failure to correct this deficiency may result in the dismissal of this case for failure to prosecute. See 9th Cir. R. 42-1. The fee is payable to the District Court. (RE) (Entered: 05/18/2023) |
| 05/22/2023 | 12 | ORDER OF USCA (23-35345) as to 10 Notice of Appeal filed by Symon Mandawala. A review of this court's docket reflects that the filing and docketing fees for this appeal remain due. Within 21 days after the date of this order, appellant shall pay to the district court the \$505.00 filing and docketing fees for this appeal and file in this court proof of such payment or file in this court a motion to proceed in forma pauperis. The filing of a motion to proceed in forma pauperis will automatically stay the briefing schedule under Ninth Circuit Rule 27-11. The Clerk shall serve a Form 4 financial affidavit on appellant. If appellant fails to comply with this order, this appeal may be dismissed by the Clerk for failure to prosecute. See 9th Cir. R. 42-1. (RE) (Entered: 05/22/2023) |
| 05/23/2023 | | Appeal Fees received (23-35345): fee in the amount of \$ 505 (receipt # SEA 200002078) re 10 Notice of Appeal filed by Symon Mandawala. (cc: USCA) (RE) (Entered: 05/23/2023) |

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08-23-2022

SYMON MANDAWALA, Plaintiff,

v.

ERA LIVING LLC; Defendant.

RICHARD A. JONES UNITED STATES DISTRICT JUDGE.

**PLAINTIFF'S PETITION TO SEEK RELIEF FOR
BEING DEPRIVED THE STATE COURT FAIR
PRECEEDINGS DUE PROCESS AND EQUAL
PROTECTION**

July 2022 Term – At Seattle, WA
To the Hon. Presiding Judges,

INTRODUCTION

1. HERECOMES the Plaintiff SYMON MANDAWALA who is a former Employee of the defendant's Era Living. Defendant was sued in state superior court for racially discriminate Mr. Mandawala and delicately causing Mr. Mandawala injury by tasking him work that the city requires a licensed person to do it. Defendant was served with the process by certified Mail return receipt signed on March 24, 2019 but defendant failed to respond to Mr. Mandawala within 20 days as superior court rules requires. Instead of filing a motion to extend responding time or motion for

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leave to file out of time response.

2. The case also is the first one of its kind in American court of law where the court scheduled hearing of motion to dismiss that was not filed yet (ghost motion). Ghost motions considerations were stop being used since elimination of ambush trials. Without advisory to the court that defendant Era living would wish Mr. Mandawala reserve the process, defendant went on coursing Mandawala to do reservice. The later after 134 days defendant went to the state judge ex partly to seek a dismissal of Mandawala's complaint regardless without formerly asking a court if it was appropriate for the court to consider out of time response without motion on it. Because the request to consider out of time motion to dismiss was expert and no motion was filed either notify the court of seeking out of time response, it is the reason that defendant conspired with a state judge corruptly dismiss Mr. Mandawala state complaint that violate 42 U.S.C 1983, 1985(2), 1985(3) and 1986 respectively.

JURISDICTION

- This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. §§ 1331, 1343(a) (1,2 &3),

VENUE

- Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) in that the claim arose where defendants reside or doing business and incident occurred in this District.

PARTIES

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Plaintiff

The Plaintiff currently reside in San Antonio, Texas. He moved to San Antonio because of injury where he was nursed by relative. Plaintiff is an African American, former employee of the defendant Era living working at Aljoya Thornton place near Northgate mail in north Seattle. Mr. Mandawala represented himself in superior court he never requests any legal assistant to Era living counsel despite the retired state judge commenting that Mr. Mandawala should be grateful to receive a legal help from his opponent counsel. Plaintiff The legal help being referred here is not permitted or allowed in any federal court system without advisory to the court that defendant would with painful to reserve the process. Ignoring all deprivation of right to a normal court proceeding, Plaintiff has special respect to Era living counsel as she sits on the board of the organization (Provia.Org) which Mr. Mandawala was putting 12hr a week volunteering before the injury.

Defendant

Era Living is a private company doing Business of senior assisting living in Puget sound areas. Era Living hired Mr. Mandawala late October of 2012 and terminated Mandawala job the someday he went to ER for the injury he sustain while doing the task he was not licensed to do. The relationship with defendant started getting sour in the middle of 2015 when defendant fired the former Executive Chef the one who hired Mr. Mandawala. The new chef was a friend to the

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former chef before his termination and the new chef was regularly coming to visit his friend before he was terminated. The new chef applied so many tactics to frustrate Mr. Mandawala so that he can voluntarily leave. This including refusing to give Mr. Mandawala an emergency dental attention but allowed some white employee the privilege of staying home calling sick for having cold. Tasking Mr. Mandawala a job that requires city of Seattle a license to do it. All was his effort to make sure that if Mr. Mandawala refuse to do as he says should be used as a reason for firing Mr. Mandawala.

Era Living principal office is addressed at 400 Union St, Seattle, WA 98101 with eight facilities around Puget sound.

FACTS

- The Plaintiff Symon Mandawala is a Black and African American, he is a former employee of the defendant Era Living. Mr. Mandawala employment relationship with Era Living ended on May 3, 2016 while injured at Era Living's one of the business facilities. The injury that could have been not occurred or prevented in all total cost.
- Mr. Mandawala was in different subject of racial indifferences including his supervisor denied him immediate medical attention but allowing other white coworker to take days off for cold and their family attendance.
- Each incident of racial discrimination was reported to Mrs. Karan Nolby (Executive Director) and though Mrs Nolby had the knowledge of these incidents all the way back to February 2016, things

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- did not change as noted that it ended up bodily injury to Mr. Mandawala. Thus, deliberate undifferentiation was ignored.
- On 02/05/2019, few days before mark of 3 year of the first recognized racial discrimination incident, Mr. Mandawala filed a civil suit in superior court of Washington state in Seattle (19-2-03308-8 SEA), alleged discrimination under Federal Title VII, state discrimination RCW 49.60.180(3), unwarranted surveillance/invasion or intrusion of privacy after work hours activities, intention causing body damage, intentional infliction of emotional distress, intentional or reckless infliction of emotion distress.
- Mr. Mandawala served the complaint and court schedule through his friend on 02/05/2019 who was told to wait the person to pick up served court papers for 1hr, a form of running away to be served, and rescheduled by court itself on 02/07/2019 and served it through regular mail.

Important area

- After reserving the process by certified Mail return receipt requested that was signed on 03/25/2019 Era Living did not respond or file anything until 17th day, a defense attorney makes a notice of appearance on 04/10/2019.
- Era living was supposed to file either an answer to the complaint or motion to dismiss under superior court rule 12(b) by 04/13/2019 which is a 20th day from the return receipt date as required by superior court rule 12(a) or a motion to leave to

extend answering time (court leave to file out of time response) before the 04/13/2019.

- Instead after the 20th day (04/13/2019) was pass with 9 days, without advisory to the court that Era living sort to be reserved the process because the original service of process had deficiencies, Era Living through their defense counsel wrote direct to Mr. Mandawala demanding him to reserve their client with process.
- The demanding letter was not filed in court to for the court to look at impropriation of defendant who run out of responding time threatening a plaintiff out of court in so in doing to avoid that any court order leave plaintiff to amend the process superior court rule 15(c) will apply.
- The demanding reservice letter dated 04/22/2019 was later filed in superior court as an affidavit to defense's out of time motion to dismiss (CR12b5).
- On or prior to July 12, 2019 the defendant through their attorney had ex-pert meeting with judge Laura Inveen (retired a day after dismissing the complaint) to have the out of time motion to dismiss for insufficient of service CR12(b)5 that was supposedly to be filed prior to 04/13/2019 as required by CR12(a) or filed out of time with a court leave to file such out of time on docket with the clerk.
- For the first time in history since abolishing trials by ambush 1950s, 60s the superior court schedule a hearing of out of time motion to dismiss prior to the motion itself being filed.

The notice of the court out of time defense's motion to dismiss hearing was filed with court clerk on 07/16/2019 while the actual out of time motion to dismiss was filed later date of 07/26/2019 that is 124 days out of time, without court leave to extend for 124, and ex-pertly given.

- The hearing was held on 08/27/2019 and judge Inveen dismiss the Era living on 08/30/2019 and retired the following day 09/01/2019.
- Although Mr. Mandawala objected the timing of the out of time motion to dismiss and asking the court a leave to amend the process. This is the same amendment the Era Living was demanding Mr. Mandawala in their letter without advisory to the court. This time Mr. Mandawala was asking leave to amend through the court not out of court discussions about amendment that defendant Era living was looking for to avoid CR15c "relate back to the original date."
- Judge Inveen denied Mr. Mandawala request of one-time amendment of process before Era Living put responsive pleading by simply the court has no discretion to allow Mr. Mandawala to amend the process once prior to Era living pleading responses.
- Upon appeal the court never address anything of required Era living to file time to extend their responding time or motion for out of time to dismiss.
- The state appeals court lacking jurisdiction of section 1985(2), 1985(3) made it not to look at the issue of ex pert granting out of time motion to

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dismiss that without filing with court clerk such motion. It is why the letter dated 04/22/2019 without advisory to the court about it is a litigant intimidation that this court has its original jurisdiction of 42 U.S.C 1985(2) specifically last clause. And the corruptly ex-pert granting out of time without filling motion to extend the time of responding with Era Living and judge Inveen made this court to take the issue under both 42 U.S.C 1983 and 1985(3) jurisdictions of the issues.

PRECEDENTS, STATUTARY AUTHORITY AND ANALYSIS

1. Section 1983;

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

Dennis v. Sparks, 449 U.S. 24 (1980))

(In January 1973, a judge of the 229th District Court of Duval County, Tex., enjoined the production of minerals from certain oil leases

owned by respondents. In June 1975, the injunction was dissolved by an appellate court as having been illegally issued. Respondents then filed a complaint in the United States District Court purporting to state a cause of action for damages under 42 U.S.C. 1983. All defendants moved to dismiss, the judge asserting judicial immunity and the other defendants urging dismissal for failure to allege action "under color" of state law, a necessary component of a 1983 cause of action. The District Court concluded that because the injunction was a judicial act within the jurisdiction of the state court, the judge was immune from liability in a 1983 suit, whether or not the injunction had issued as the result of a corrupt conspiracy. The case was reconsidered en banc, after the panel affirmed the district judge ruling, prior Circuit authority was overruled and the District Court judgment was reversed insofar as it had dismissed claims against the defendants other than the judge. *Sparks v. Duval County Ranch Co.*, 604 F.2d 976 [449 U.S. 24, 27] (1979). The court ruled that there was no good reason in law, logic, or policy for conferring immunity on private persons who persuaded the immune judge to exercise his jurisdiction corruptly. Because the judgment below was inconsistent with the rulings of other Courts of Appeals 3 and involves an important issue, we granted the petition for certiorari. 445 U.S. 942. We now affirm.)

- Section 1983 requires an action be done under color of any state or territory. The statute

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requires state (public official(s)) involvement United States v. Price, 383 U.S. 787, 794 (1966)." 398 U.S., at 152, here this case Era Living is not a public entity but the actions of deprivation of **proper proceedings** of this case was involved a public officer (judge Inveen, her clerk). per statute judge Inveen is not a defendant in this cause of action because of judicial immunity but her judicial immunity does not extend to Era Living or their counsels. "the action against private parties accused of conspiring with the judge is not subject to dismissal. A private person, jointly (engaged) with state officials in a challenged action, are acting "under color" of the state law for the purpose of section 1983" Dennis v. Sparks 449 U.S. 24 (1980)

2. Section 1985(2), (3);

OBSTRUCTING JUSTICE; INTIMIDATING PARTY, WITNESS, OR JUROR

"... if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;"

DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES

"If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving,

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either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws;"

Griffin v. Breckenridge, 403 U.S. 88, 91 S. Ct. 1790, 29 L. Ed. 2d 338 (1971);

stated as a requirement of a cause of action based on § 1985(3) that: "*There must be some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirators' action.*" *Id.* at 102, 91 S. Ct. at 1798.

This complaint satisfies the Griffin, racial or class-based animus for the fact that Mr. Mandawala was allege in his superior court case that he was racial discriminated and deliberately undifferentiated by executive director who had power to put a stop of supervisor's discriminatory actions towards Mr. Mandawala. That even before Mr. Newman uses a dangerous electrical task.

To satisfy the section 1985(2) impeding the due course of justice of Washington state, this complaint stated that it requires CR12(a) timeline for any defendant to file response other than that it requires the leave of the court to either extend the time line in CR12(a) in order to file out of time either answer or motion under CR12b. in which the superior court docket entry does not show that.

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The general requirement of two people to conspire is satisfied by ex-pert meetings between the defense and the judicial immunity person Judge Inveen, to allow out of time motion to dismiss without leave to extend the time line in CR12(a)

As questionable as it shows the court of law scheduling a hearing of the motion to dismiss prior to such motion to be filed in court is undisputedly prove of conspiracy that does not require written or verbal prove of agreement. *"The existence of an agreement [in civil] conspiracy case are rarely proven by direct evidence that the conspirators formally entered or reached agreement... The more common method of proving an agreement is through circumstantial evidence."* US v. Ervin, 300. Fed.Appx. 845, 848 (11th Cir. 2008) (cit & internal quotation omitted)

"The Supreme Court has consistently held that an allegation of a deprivation of [protected constitutional] rights at the hands of state officials, acting in their official capacity, is sufficient to allege a violation of the Fourteenth Amendment". Puentes v. Sullivan, 425 F. Supp. 249 (W.D. Tex. 1977) *emphasis added*

FIRST CAUSE OF ACTION

(VIOLATION OF CONSTITUTIONAL RIGHT TO SUBSTANTIVE DUE PROCESS) 42 U.S.C. § 1983

- The Plaintiff alleges paragraphs 1 through 62 as though fully set forth herein.

- By their actions as described herein, the Defendants Era Living through there counsel, and Judge Inveen's action of under color of **statute**, ordinance, **regulation**, custom, or usage, subjected the Plaintiff to the deprivation of rights, privileges, or immunities secured by the Constitution and laws. In particular, as a Litigant in a state court, the Plaintiff has a liberty interest in grieving and with expectation of normal existing standards of litigations from prejudicial or from unfair advantages.
- The practices described above, including, but not limited that defendant Era Living was suppose timely to notify the court the reason why they could not respond or presenting their defense within the period specified in CR12(a). Mr. Mandawala was not a court or presiding judge to contact him seeking an amendment simply because the responding time has run out.
- Judge Inveen has been on bench for a while and she knows that unrepresented parties requires to be contacted with court's knowledge (advisory to the court). Era living counsel's letter cannot be used as a courteous legal help while it is threatening dismissing in the complaint upon Mr. Mandawala not for feel Era Living's counsel's demands.
- Era living counsel is not a court officer to such individually demand without an advisory to the court to be filed that's undisputedly a deliberate intimidating a party who is suing their client.
- Much more the letter is a threat not courtesy

- legal help because the counsel for Era living was representing Era Living an opponent to her client. Mr. Mandawala did not request any legal help neither pro bono legal advice for Judge Inveen to say Mr. Mandawala should praise Era Living counsel.
- The corrupt activities are on the spotlight because never after abolishing the ambush court proceeding any court of law has ever scheduled a hearing of the motion that was not on court docket.
- If the demanding reservice letter was really intended for Mr. Mandawala to cure the deficiencies on service of process why sending it 9 day after responding period has passed and why not file it with the clerk at that time waiting 124 days?

FIRST CAUSE OF ACTION

(VIOLATION OF CONSTITUTIONAL RIGHT TO EQUAL PROTECTION) 42 U.S.C. § 1983

Plaintiff re-alleges paragraphs 1 through 72 as though fully set forth herein.

- The actions of Defendants Era Living and deliberately Judge Inveen, as described above, violate the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution in that such actions are not inflicted upon litigant looking for a fair superior court proceeding as any other litigant has been treated. In all of this, Defendants, and Judge Inveen, have, by acting under the color of state law, deprived Plaintiff

of rights, privileges, or immunities secured to him by the Constitution and laws of the United States in violation of 42 U.S.C. § 1983 especially the 'or usage' in the statute.

- The practices described above, including, but not limited to the have a complaint dismissed by ambush style of court proceeding where the out of time motion to dismissed has been ex-pertly considered without a motion in record to support the court's reasoning on for not request Era Living to show the cause why they decide to seek CR12(b)5 that is out of time.
- The US constitution did not specify that in Washington state Mr. Mandawala does not deserve the same application of Washington state court rules were out of time motion to dismisses should have a motion for court to leave file out of time motion to dismiss.
- The US constitution did not specify that Mr. Mandawala does deserve exemption to constitution right in Washington state where the court can schedule the hearing of the ghost motion to dismiss that has not been filed yet. Rising a question of the court's integrity and seem as the court is not in US territory or not under US constitution.
- Judge Inveen view out of court letter threatening to dismiss the complaint as a courteous act by the Era Living counsel that view violate equal protection clause because defense attorney cannot represent a plaintiff in the same litigation. Era Living counsel

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was not assigned to be mediator of her client and Mr. Mandawala.

- Mr. Mandawala as a citizen of this country he deserves the same rules that apply to any litigant who outing their time to answer the complaint. hearing without serving the plaintiff but denying the plaintiff opportunity to respond to the defendant's motions to strike and dismiss.

SECOND CAUSE OF ACTION

(IMPEADING AND INTERFEARING WITH CIVIL RIGHTS COURT PRECEEDING) 42

U.S.C. § 1985(2) et seq.

- Plaintiff re-alleges paragraphs 1 through 77 as though fully set forth herein.
- Section 1985 of deprivation of civil rights Act, part (2) last clause, ("or if two or more persons conspire for the purpose of impeding, hindering, obstructing, defeating in any manner, the due course of justice in any state or territory with intent to deny any citizen the equal protection of the law....") prohibits what has been described above and here in
- Defendant Era Living through their attorneys purposefully, knowingly, intentionally, decided to defeat the due course of justice when they deliberately and knowingly that the time to file the answer to the complaint was pass due with 9 days

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and decide to file out of time motion to dismiss relying their ex parte agreement with court officials. Whether deliberate or not their conspiracy agreement forgot that the court cannot schedule hearing of the motion that is not filed yet.

- The practices described herein and above, including, but not limited to, schedule hearing of motion that is not filed yet. The ex-parte conversation between the judge clerk and the defendant was highlighted on communication that was shared at the end of ex parte says "as we discussed on earlier" Mr. Mandawala was not involved in that so-called area discussion, this considered "**impeding**" as it influence the court room deputy to act un-procedural way.

- Defendants Era Living will take full responsibility in all conducts by their counsel Ms. Sherwood and the courtroom clerk who scheduled the hearing of ghost motion to dismiss.

THIRD CAUSE OF ACTION

(CONSPIRE TO DEPRIVE PERSONS CIVIL RIGHTS) 42 U.S.C. §§ 1985(3) et seq.

- Plaintiff re-alleges paragraphs 1 through 82 as though fully set forth herein.

- Section 1985 of civil rights conspiracy under paragraph 3 requires (1) a conspiracy; (2) to deprive the plaintiff of equal protection or equal privileges and immunities; (3) an act in furtherance of the conspiracy; and (4) an injury or deprivation resulting therefrom.

The civil rights conspiracy of section 1985(3) requires "agreement" or in absent the "Plaintiff must allege facts enough to demonstrate that the parties in conspiracy have meet of the mind and at least one party act in furtherance of the conspiracy."

- "The existence of an agreement [in civil] conspiracy case are rarely proven by direct evidence that the conspirators formally entered or reached agreement... The more common method of proving an agreement is through circumstantial evidence." US v. Ervin, 300. Fed.Appx. 845, 848 (11th Cir. 2008) (cit & internal quotation omitted)

- The practices described above, including, but not limited to, constitute party agreements 1, the standard requirement that a complaint whether has defects or insufficiency of facts presented the rules require objective to the complaint filed within a time. Judge Inveen parallel court hearing or ex-pert healing hold with Sherwood to schedule a hearing of a motion that was not filed (ghost motion) violate Mr. Mandawala fundamental constitution right to a fair standard of court proceedings.

- Both Mrs. Sherwood and Judge inveen deemed knows the law and court rule that none can say had no idea that a response that has pass due requires to show on docket the court leave to file it out -of - time.

- Judge inveen said Mr. Mandawala should have appreciate Mrs. Sherwood legal help that statement has no merit to because the court has responsibility of protecting all litigants in formal court proceedings.

As a matter of fact, Mrs. Sherwood was in the court proceeding for the interest of the party that Mr. Mandawala was suing. For that reason, a judge of the court cannot monopolizes a counsel to represent two parties that are opposed to each other in the same litigation.

- Whether there were fraud activities influence the state court the facts here are straight 1. out of the time objections requires motion to extend time to respond to the complaint 2, A formal court cannot set up a hearing of the motion that has not been filed (ghost motion) or ambush style of court proceeding.
- That mistake of set up hearing of the motion that was not filed no federal court will buy any reasoning or justifying this type of activities in court.

FOURTH CAUSE OF ACTION

(ACTION OF NEGLIGENCE TO PREVENT)⁴²
U.S.C. §§ 1986 et seq.

- The Plaintiff re-alleges paragraphs 1 through 92 as though fully set forth herein.
- The section 1986 Punishes any person who has knowledge that the deprivation of right as state in section 1985 is about to happen (include failed deprivation) and did not aid it to prevent such person is responsible as equal as the person who is doing it.
- Both Ms. Sherwood and judge inveen deemed to knows the law and rules of the court better. As a jud-

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-ge, Hon Inveen knew that Ms. Sherwood missed the Washington superior court rule 12 (a) to file the motion to dismiss Mandawala's complaint with 9 days. Instead of seek a leave from the court to file out of time motion to dismiss Ms. Sherwood choose to coerce Mandawala to do reservice of process without neither sharing with the court of their intent of Mandawala to redone the service of process.

- Out of desperation Ms. Sherwood told Mr. Mandawala to be present to the ghost motion to dismiss on specific date and time of 10 am, This is prior to the filing of the motion itself. Raising a question of who provide judges schedule of time availability to Ms. Sherwood of hearing of the motion that is not even filed yet.

- Both Ms. Sherwood and Judge Inveen had the power to stop the conspiracy either by seeking a leave to file out of time response or by her order judge Inveen to extend the responding time.

VI. PRAYER

WHEREFORE, the Plaintiff demands judgment for the damages resulting from the defendants' Civil Rights conspiracies under 42 U.S.C §§ 1983, §1985(2), (3) ,1986 the Defendants jointly and severally, for actual, general, special, compensatory damages in the amount of \$ *****

Other Relief

Other compensation, general damages according to

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proof with appropriate punitive damage;

Dated: May 18, 2019 Respectfully submitted,

Symon Mandawala

Post Office Box 5512,
San Antonio, TX 78201
Plaintiff

- Washington State Superior court online docket entry supporting
the district court complaint. See Dist Dkt 1 as Exhibit A-C

Case Data (EC-Script Portal)

9-2-03308-4 SEA
MANDAWALA VS ENA LITIG ET AL
Not JCler - Completed/Re-Completed

Request Access to Sealed Documents Request Fee Waiver Purchase/View Court records

Documents

| Sub Number | Date Filed | Document Name | Additional Information | Filed By | Page # | Seal |
|------------|------------|---|--------------------------|----------|--------|------|
| 1 | 03/03/2019 | CMRTD - Complaint for Non-Other | | | 26 | |
| 3 | 03/04/2019 | CDS - Case Information Court Sheet | | | 1 | |
| 2 | 03/04/2019 | CRKS-CY - Order Setting Case Schedule - CHL - KOD | | CHL | 6 | |
| 4 | 03/04/2019 | CRKS-CY - Order Setting Case Schedule - CHL | | CHL | 6 | |
| 5 | 03/04/2019 | RP - Report | RE SETTING CASE SCHEDULE | | 1 | |
| 7 | 03/04/2019 | WRAP - Notice of Appearance | ENL LITIG AT RP | | 3 | |
| 6 | 04/01/2019 | FILLEN - Family Dispute Notice | | CHL | 1 | |
| 8 | 04/01/2019 | RP - Affidavit (Declaration) Certificate of Service | | | 2 | |
| 10 | 04/01/2019 | RP - Affidavit (Declaration) Certificate of Service | | | 2 | |
| 11 | 04/01/2019 | RP - Affidavit (Declaration) Certificate of Service | | | 1 | |
| 12 | 04/01/2019 | RP - Affidavit (Declaration) Certificate of Service | | | 6 | |
| 13 | 04/01/2019 | RP - Affidavit (Declaration) Certificate of Service | SHEAR & STEINSSON | | 26 | |

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