No. _____

In the Supreme Court of the United States

AMMAR A. IDLIBI,
Petitioner,

v.

MARY-MARGRET D. BURGDORFF,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The Petitioner filed a federal discrimination lawsuit against the Respondent judge claiming that the Respondent judge fraudulently ruled on irrelevant and fabricated matters to terminate the Petitioner's parental rights without making a finding of parental unfitness. And did so out of racial and religious animus, and for the sole purpose of converting the children to Christianity. The suit was dismissed on the doctrines of Judicial Immunity, *Rooker-Feldman*, and the Eleventh Amendment Immunity.

The question presented is:

Whether there should be constitutional exceptions to the immunities that shield judges from discrimination claims in the administration of justice.

PARTIES TO THE PROCEEDING

The Petitioner Ammar Idlibi (plaintiff-appellant below) is a member of the Muslim faith from Middle Eastern descent.

Respondent is Mary-Margaret D. Burgdorff (defendant-appellee below) a white Connecticut state judge who terminated the Petitioner's parental rights.

STATEMENT OF RELATED PROCEEDINGS

Idlibi v. Burgdorff,
3:22-cv-902 (JAM) (D. Conn. Apr. 24, 2023).

Idlibi v. New Britain Judicial Dist.,
3:22-cv-1374 (JAM) (D. Conn. Sep. 25, 2023)

Idlibi v. Burgdorff,
No. 23-838 (2d Cir. June 27, 2024)

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PETITION FOR A WRIT OF CERTIORARI

Petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit on dismissing the Petitioner's discrimination suit against the Respondent judge.

OPINIONS BELOW

The United States Court of Appeals for the Second Circuit affirming the District Court's dismissal is reported at *Idlibi v. Burgdorff*, No. 23-838 (2d Cir. June 27, 2024) and reprinted at App. 1a- 11a.

The District Court for the district the of Connecticut dismissing the federal discrimination action against the Respondent Judge is reported at *Idlibi v. Burgdorff*, 3:22-cv-902 (JAM) (D. Conn. Apr. 24, 2023) and reprinted at App. 12a-26a.

The First Amended Complaint filed in District Court is reprinted at App. 26a–61a.

JURISDICTION

The final decision of the Second Circuit sought to be reviewed was issued on June 27, 2024. App. 1a.

This petition is timely filed within 90 days. This Court has jurisdiction under 28 U.S.C. §1254(1).

CONSTITUTIONAL PROVISION INVOLVED

The Fourteenth Amendment to the U.S. Constitution provides, in relevant part, that no State shall "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

INTRODUCTION AND SUMMARY OF REASONS TO GRANT THE PETITION

What gave rise to this case is the undisputed claim that the Respondent judge has intentionally violated 25 U.S. Code §1912(f)[1] and has fraudulently ruled on irrelevant matters that were never submitted to the judge's determination nor to the expectations of the parties. Accordingly, terminating the Petitioner's parental rights without evidence of parental unfitness and for the sole purpose of converting his children to Christianity. In her Memorandum of Decision, the Respondent judge expresses her class-based animus against the Petitioner by relying on a false accusation that Petitioner considers Christianity a "poison." App. 40a.

The case was dismissed by the District Court, and the United States Court of Appeals for the Second Circuit affirmed in Summary Order.

Requiring a very heightened pleading standard and applying the *Rooker-Feldman* doctrine[2] broadly, the United States Court of Appeals for the Second Circuit has held that even if a judge engages in all the above pleaded conduct, intentionally breaks a federal law of such a grave constitutional magnitude, and acts fraudulently, the judge should be immune from a discrimination suit because fraud, breaking the law in this

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[1] §1912(f) provides that "[n]o termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, . . . that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child."

[2] *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 414–15 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983).

manner and ruling on irrelevant matters not to the expectation of the parties against a member of a protected class, remain 'judicial acts' and a part of decision "in relation to the particular case" before the judge. App. 9a.

The Circuits are split on invoking federal Courts' jurisdiction over claims of fraud in judicial proceedings. Yet, none of the Circuits addresses a fraud claim committed by the judge. Other Circuits interpret this Court's narrowing of the *Rooker-Feldman* doctrine in *Exxon Mobil* differently.

Although this Court has established the legal standard for pleading discrimination in general (*Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)), there is no established legal standard for pleading discrimination against a judge specifically.

Although this Court has addressed judicial immunity in *Mireles v. Waco*, 502 U.S. 9, 12 (1991), there is no precedential holding on whether the immunity extends to judges who engage in fraud, intentionally violate federal law to discriminate against a member of a protected class and violate his constitutional rights.

The Second Circuit's ruling merits this Court's review because it presents a question of national importance that the Court has yet to answer directly.

The Petitioner raised his children in the Muslim faith. The children were taken from their mother's care during divorce proceedings and were placed the care of a Christian female couple because the mother fabricated a bloody crime scene of assault. After spending over three years in temporary foster placement due to intentional and procedural delays by the state, the children expressed their desire to convert to

Christianity and get adopted by the Christian foster mothers. Accordingly, the children's assigned attorneys filed petitions for Termination of Parental Rights ("TPR") against the advice of the arbitrator judge (Judge Barbra Quinn) who advised the children's attorneys during status conference that they do not have basis to petition for TPR. Nevertheless, the children's attorneys proceeded with their termination petitions to advocate for their clients wishes who desired to convert to Christianity.

The Respondent judge who presided on the TPR trial was aware that the sole purpose of the children's filing of the TPR petitions was to convert to Christianity. The Respondent judge granted the TPR petitions and terminated the Petitioner's parental rights without identifying evidence of parental unfitness in violation of 25 U.S. Code § 1912(f). In addition to several other issues that were never before the judge nor to the expectations of the parties, the Respondent judge ruled that the Petitioner has assaulted the mother; a false claim previously dismissed by the family court as untruthful and dismissed by the criminal court with prejudice. The Respondent judge further fabricated (nonexistent) evidence, which even if true, would not be sufficient to demonstrate parental unfitness nor justify termination of parental rights. The fabricated evidence pertains to irrelevant matters never submitted for the judge's determination nor to the expectation of the parties but used as a pretext to terminate the Petitioner's parental rights.

The Petitioner filed his discrimination lawsuit against the Respondent judge in the District Court for the district of Connecticut. In his First Amended Complaint, the

Petitioner claims that the Respondent judge discriminated against him due to his religion and unlawfully terminated his parental right for the sole purpose of converting the children to Christianity. The district Court dismissed the action, and the Second Circuit affirmed.

In its affirmation of the District Court's dismissal, the Second Circuit held that even if the judge has violated federal law and engaged in acts of commission and omission, the Petitioner's discrimination claims are barred under the combination of three immunities: the *Rooker-Feldman* doctrine, the Eleventh Amendment Immunity and the Absolute Judicial Immunity.

There is a conflict between Circuit Courts on applying the *Rooker-Feldman* doctrine in cases claiming fraud in general. There are inconsistencies between the Circuit Courts on the level of pleading standard for claims of discrimination and fraud.

There is no precedent that establishes discrimination pleading standard against a judge.

STATEMENT OF THE CASE

I- Factual Background

The Petitioner is a practicing member of the Muslim faith from Middle Eastern descent. Along with his wife, they raised their three children until the ages of 5, 6 and 7 in the Muslim faith. After 10 years of marriage, the mother of the children started an extramarital affair and filed for divorce.

As the divorce case seemed to be moving in the Petitioner's favor, the mother of the children fabricated a bloody crime scene of assault and called 911 claiming that the Petitioner was actively assaulting her. Subsequently, the Department of Children

and Families in the State of Connecticut ("DCF") filed neglect petitions against the parents and placed the children in a Christian household comprised of two female partners who are devout Christians.

After spending around three years in temporary foster placement despite a plethora of motions and other filings by the Petitioner to return the children to his custody, the Superior Court for Juvenile Matters in Connecticut (Judge Jason Lobo) made the disturbing finding that the children have developed unfounded fears of their religion and of their father (Petitioner) and ordered therapy to resolve those "misunderstandings" prior to reunification, which the Court ordered to proceed as soon as possible. This did not stop the children through their counsels, to file petitions for Termination of Parental rights ("TPR") for the sole purpose of converting to Christianity. The children's' attorneys did so under the only Connecticut statute that allows TPR for non-consenting parents, which is 'failure to rehabilitate.' Conn. Gen. Stat. § 17a-112(j)(3)(B)(ii). The petitions do not identify any condition that the Petitioner was supposed to rehabilitate from, other than being a Muslim.

The Respondent judge terminated the Petitioner parental rights on the basis of 'failure to rehabilitate' without identifying any condition that the Petitioner was supposed to rehabilitate from, nor making a finding that the Petitioner is an unfit parent to safely care for his children. The Respondent judge did not shy away from explicitly expressing her racial and religious animus by including in her Memorandum of Decision that she relied, in part, on a false accusation that the Petitioner considers

Christianity a "poison."

The Petitioner filed two discrimination lawsuits with the District Court against the Respondent judge who unlawfully terminated his parental rights, and against the judicial district who refused to accept the Petitioner's filing for a new trial. The Petitioner claims that the Respondent judge terminated his parental rights solely due to his religious affiliation and to pave the way for the children's conversion to Christianity.

The Petitioner pleads that the Respondent judge unable to identify any evidence of parental unfitness and unable to find anything related to the issue that is submitted for her determination, resorted to ruling on irrelevant issues that were never submitted for her determination, nor to the expectations of the parties.

Under Connecticut law, a judge acts in clear absence of all jurisdiction when the judge makes factual findings on matters that were not before the judge, nor were necessary steps in the direction of the final determination of the entire matter before the judge. *Gross v. Rell*, SC 18548, at *23 (Conn. Apr. 3, 2012).

Under federal law, a judge acts in clear absence of all jurisdiction, when the judge's actions constitute functions that are not normally performed by a judge, and not to the expectations of the parties. *Mireles v. Waco*, 502 U.S. 9 (1991) (quoting *Stump v. Sparkman*, 435 U.S. 349, 362, 98 S. Ct. 1099, 55 L.Ed.2d 331 (1978)).

The Respondent judge ruled that the Petitioner has assaulted the mother, although the fabricated assault was never an issue that was submitted for the judge's determination. Moreover, the fabricated assault, has been previously dismissed by the

criminal court and the mother was found to be untruthful in her accusation of assault in the family court proceedings.

The Petitioner's First Amended Complaint alleges that the Respondent relied on false evidence that she herself has fabricated to terminate the Petitioner's parental rights. The fabricated evidence, even if true, does not justify the termination of parental rights. The Amended Complaint also alleges that the Respondent judge intentionally suppressed the only evidence that would have precluded TPR under Connecticut law[3]. App. a53.

The District Court granted the Respondent's motion to Dismiss and concluded that the discrimination action is barred under a combination of three immunities: the *Rooker-Feldman* doctrine, the Eleventh Amendment Immunity and the Absolute Judicial Immunity.

The Petitioner followed with an appeal to the United States Court of Appeals for the Second Circuit. The Petitioner argued that the simple pleaded and undisputed fact that the Respondent judge had terminated the Petitioner's parental rights without evidence of parental unfitness should be sufficient to "nudge a discrimination claim across the line from conceivable to plausible to proceed" as this Court has held in *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 510 (2002) and *Ashcroft v. Iqbal*, 556 U.S. 662, 680 (2009). However, this pleading standard was not enough for the District Court nor for the

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[3] The Respondent judge prevented the children's therapist from testifying on whether the children have received the court-ordered therapy addressing their unfounded fears of their religion, which prompted their filing of the TPR petitions. If the therapist was allowed to testify, TPR would have been precluded under Conn. Gen. Stat. § 17a-112 (k) (7).

Second Circuit to overcome the high bar of the three combined immunities, certainly not sufficient to 'nudge' anything across the line from conceivable to plausible.

The Second Circuit affirmed the dismissal of the discrimination complaint in Summary Order.

II-The Second Circuit's Decision

The Second Circuit has held in this case that before a meritorious discrimination suit against a judge could invoke jurisdiction, it hits the hurdles of combined immunities and becomes subject to dismissal regardless of the pleading standard and even if the discrimination claim against the judge meets the constitutional exceptions established by this Court separately, and even if the judge has violated federal law in rendering judgement.

First, the Second Circuit held that the *Rooker-Feldman* doctrine applies to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments. App. 6a. Therefore, the case is barred even if the judge is alleged to have acted unlawfully and fraudulently.

Second, Eleventh Amendment immunity extends to "'state agents and state instrumentalities' that are, effectively, arms of a state." App. 7a. And the *Ex parte Young* exception does not apply, although plaintiff requested prospective relief to compel state court to accept his petition for a new trial, because this is considered "seeking a declaration or an injunction based solely on past violations of federal law." App. 8a.

Third, judicial immunity protects

judges' "conduct in making factual findings" even if such findings were both fraudulently fabricated by the judge and irrelevant to the issue submitted for determination and were not to the expectations of the parties, because they are 'judicial in nature and function.'

Finally, the second Circuit relies on this Court's ruling in *Liteky v. United States*, 510 U.S. 540, 555 (1994) to dismiss the Petitioner's discrimination suit claim because the plaintiff complains about an "adverse ruling". App. 10a.

REASONS FOR GRANTING THE PETITION

1- Establishing Constitutional Provisions to Protect Citizens' Right to be Free from Judicial Discrimination Presents an Unsettled Question of National Importance

Although this Court has established provisions to protect a defendant's right to be free from racial discrimination in grand jury selection, no such provisions exist to protect a citizen's right (in this case a parent's right), to be free from racial discrimination in parental rights proceedings or any other form of judicial discrimination in non-jury trials.

Racial discrimination in the selection of grand jurors "strikes at the fundamental values of our judicial system and our society as a whole," and is "especially pernicious in the administration of justice." *Rose v. Mitchell*, 443 U.S. 545, 555-56 (1979). Three separate constitutional provisions serve to protect a defendant's right that grand jury selection be free from racial discrimination: the Equal Protection and Due Process Clauses of the Fifth Amendment and the Sixth Amendment right to be tried by an

impartial jury drawn from sources reflecting a fair cross-section of the community. The Petitioner may show that an equal protection violation has occurred in the context of grand jury selection, *Mitchell*, 443 U.S. at 565. If a claim meets the four parts test for an equal protection violation, the petitioner establishes a *prima facie* case, the burden shifts to the government to rebut the *prima facie* case. *Mitchell*, 443 U.S. at 565.

No such provisions exist to protect a citizen's rights in non-jury trials, such as a parent, from the wrongful and discriminatory termination of parental rights by a judge where "[t]he total extinction of a familial relationship between children and their biological parents is the most drastic measure that a state can impose, short of criminal sanctions." *Lehman v. Lycoming County Children's Services*, 458 U.S. 502, 507 n.6 (1982).

2- Establishing Constitutional Exceptions to Judicial Immunities in Discrimination Claims Against Judges Merits this Court's Review

Although this Court has established an exception to challenging the finality of jury verdicts in cases of discrimination, no such exception exists to challenging the finality of a judge's order rendered on discriminatory basis.

Judicial immunities are designed in a way that enable racist judges to evade all racial prejudice safeguards in the administration of justice.

It is next to impossible to challenge the 'finality' of a judge's ruling or to claim discrimination against a judge after rendering judgment no matter how egregious the judges' discriminatory conduct might be.

Before any chance to invoke jurisdiction, any claim of discrimination against a judge hits the three combined immunities: the *Rooker-Feldman* doctrine, the Eleventh Amendment Immunity and the Absolute Judicial Immunity.

There is a dire need for a constitutional exception to the immunities that shield racist judges and their final decisions from discrimination claims in the same way this Court has established in case of jury discrimination in *Pena-Rodriguez v. Colorado,* 137 S. Ct. 855 (2017).

Reversing the Colorado courts, this Court held that the juror's racial bias was the rare kind that let a court examine the verdict. *Pena-Rodriguez v. Colorado,* 137 S. Ct. 855 (2017). As Justice Kennedy wrote for the majority, racial bias is "a familiar and recurring evil that, if left unaddressed, would risk systemic injury to the administration of justice," and it had shown an unparalleled ability to evade the *Tanner* safeguards established in *Tanner v. United States,* 483 U.S. 107, 107 S. Ct. 2739, 97 L.Ed.2d 90 (1987). Thus, to obey the Fourteenth Amendment's "imperative to purge racial prejudice from the administration of justice," this Court declared that "[i]t must become the heritage of our Nation to rise above racial classifications that are so inconsistent with our commitment to the equal dignity of all persons." *Id.* at 221, 137 S. Ct. 855. Given the uniquely insidious threat racial bias posed to the fairness of the jury system, this Court reasoned that the time had come for a constitutional exception to Rule 606(b). *Peña-Rodriguez*, 580 U.S. at 225, 137 S. Ct. 855.

The exception established by this Court is that the finality of jury verdict can be challenged if a juror makes a clear

statement that indicates he or she relied on racial stereotypes or animus to convict a criminal defendant. *Id* at 137 S. Ct. 855.

In this case, the Respondent judge entered in her Memorandum of a Decision that she relied on an alleged statement by the Petitioner that he considers Christianity "a poison" - a false statement that the Petitioner denies he ever made. Nonetheless, the judge has demonstrated disparate treatment against the Petitioner and terminated the Petitioner's parental rights accordingly without evidence of parental unfitness in violation of §1912(f).

3- Certiorari is Warranted to Establish when 'Judicial Acts' Becomes Non-Judicial Discriminatory Acts

Even though this Court has held that judges are subject to discrimination suits, because discriminatory acts are *not* judicial acts. See *Forrester v. White*, 484 U.S. 219 (1988), there is no precedential holding on when a judge conduct becomes a nonjudicial *discriminatory* act in the administration of justice. In *Forrester*, this Court's holding was limited to when the judge acts in his administrative capacity as an employer, but no such holding exists as to when the judge acts in his judicial capacity as a judge yet acts discriminatorily.

Discrimination in the administration of justice is uniquely abhorrent and requires a uniquely tailored legal standard.

If we were to combine this Court's holdings on what determines an actionable non-judicial act and this Court's holding on how to plead discrimination. The two should render a hypothetical legal standard that permits a discrimination claim against a judge. Although both were clearly met in this

case, the case is still subject to dismissal as the Second Circuit held. The reason for barring this discrimination suit was the fact that three doctrines were combined to act as an iron clad shield: all due to the absence of a legal standard to plead discrimination against judges.

First, this Court has recognized, the doctrine of judicial immunity will, on occasion, deny a litigant any remedy for allegedly unconstitutional conduct on the part of a judge. *See, e.g., Mireles v. Waco,* 502 U.S. 9 (1991). The fact the doctrine of judicial immunity produces a harsh outcome in certain cases does not mean the doctrine is unjust. In assessing the doctrine, at least two interests must be balanced. On the one hand, it is important to provide redress for constitutional violations. On the other hand, it is important to maintain an independent judiciary. This Court has weighed the competing interests and concluded justice is best served by granting immunity to judges subject to the two exceptions. *Id.* at 9, 112 S. Ct. 286.

The applicability of the first exception turns upon the nature of the acts of which the plaintiff complains. Were they "judicial" in nature? "'[W]hether an act by a judge is a 'judicial' one relate[s] to the nature of the act itself, *i.e.*, whether it is a function normally performed by a judge, and to the expectations of the parties, *i.e.*, whether they dealt with the judge in his judicial capacity.'" *Mireles* 502 U.S. at 12, 112 S.Ct. 286 (quoting *Stump v. Sparkman*, 435 U.S. 349, 362, 98 S.Ct. 1099, 55 L.Ed.2d 331 (1978)). There is no question that intentional discrimination is a not judicial in nature as his Court has held in *Forrester.*

In this case, the judge's ruling on the

fabricated assault and on other irrelevant issues that were never before the judge including issues that the judge has herself had fabricated, are neither functions that are normally performed by a judge, nor to the expectations of the parties. Yet, such pleadings are not sufficient to invoke jurisdiction in a discrimination claim, nor to overcome the *Rooker-Feldman* doctrine, not even to plead a *prima facie* case of discrimination to survive a motion to dismiss according to the Second Circuit. The Second Circuit reasoned its holding because all those acts were judicial in nature because they are part of "a decision in relation to a particular case." App. 9a.

The applicability of the second exception turns upon the existence of jurisdiction. In *Stump v. Sparkman*, 435 U.S. 349, 356-57, 98 S.Ct. 1099, 55 L.Ed.2d 331 (1978), this Court explained the term "jurisdiction" is construed broadly in this context:

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; rather, he will be subject to liability only when he has acted in the clear absence of all jurisdiction.

The question of whether a judge acted in excess of her authority in making a judicial ruling is a distinct issue from the question of whether a judge acted in the clear absence of jurisdiction. Even if a judge exceeds her authority in making a judicial ruling in a particular case, that judge is immune if the case is properly before the court. *Mireles v. Waco*, 502 U.S. 9, 13 (1991).

In reviewing an allegation that a judge acted in the clear absence of all jurisdiction, the Court considers whether the judge was acting beyond the scope of the subject matter

jurisdiction of the court. *See Sparkman*, 435 U.S. at 356-57.

The irrelevant fabricated assault should be beyond the scope of the subject matter of terminating parental rights, but the Second Circuit held otherwise. There is no precedent addressing when the judge bases her ruling on irrelevant factual findings fraudulently procured by the judge herself and in violation of federal law, let alone when such acts are sufficient to plead judicial discrimination.

The judge's unfounded ruling against a member of protected class, her acts of fraud and omission along with violating federal law as argued supra are not sufficient to plead discrimination against a judge per the Second Circuit. The Second Circuit may have reasoned its holding that the judge's ruling and the Petitioner's claims are so intrinsically intertwined that the line between an actionable claim of discrimination against the judge and the judge's 'judicial acts' is too blurred to establish a *prima facie* case of discrimination? Certiorari is warranted to clarify the distinction.

The absence of a legal standard and the relative vagueness in construing this Court's holding in *Stump* on what constitutes an act that is 'to the expectation of the parties', will continue to embolden racist judges to discriminate with impunity as the Respondent judge did in this case. Any other judge could fraudulently rule against any member of a protected class using either fabricated evidence or ruling on irrelevant matters never to the expectations of the parties yet remains immune because her ruling was performed in her judicial capacity and considered to be related to the subject matter before her.

In view of these authorities, Certiorari

should be granted to hold that imposition of § 1983 should be justified in cases like this.

4- The Second Circuit's Decision Undermines This Court's Precedent on Pleading Discrimination

Although this Court has not yet addressed the question of intentional judicial discrimination, the Second Circuit's decision undermines bedrock equal protection principles that this Court has repeatedly emphasized. It is long settled that the Equal Protection Clause protects an individual right to be free from racial discrimination, *see Miller v. Johnson,* 515 U.S. 911 (1995); that it protects individuals of all races equally, *see Adarand Constructors, Inc. v. Pena*, 515 U.S. 200, 222 (1995).

According to the Second Circuit, even a heightened pleading standard in a discrimination claim brought under Title VI is not sufficient to overcome the judicial immunity and the *Rooker-Feldman* doctrine.

Although this Court has rejected a heightened pleading standard for cases arising under Title VII or other federal antidiscrimination laws. *Swierkiewicz v. Sorema N.A.,* 534 U.S. 506, 511 (2002), meeting the heightened pleading standard of Rule 9(b) is still not sufficient to support an actionable claim of discrimination against a judge according to the Second Circuit's decision.

Intentional discrimination and fraud are closely related siblings. Both could meet the pleading requirements under Federal Rules of Civil Procedure 9(b) or 8(a)(2). This Court has held that mere compliance with Federal Rule of Civil Procedure 8(a)(2), is sufficient to plead discrimination. See *Swierkiewicz*, 534

U.S. at 511 (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). Not in the case of intentional judicial discrimination. Discrimination suits against judges always get dismissed no matter how the fraud pleading standard might be.

In this case, the Petitioner's discrimination suit against the Respondent judge meets the pleading standard under Rule 9(b), yet it was dismissed under *Rooker-Feldman* and judicial immunity.

Furthermore, the Second Circuit is in conflict with this Court's opinion in *Ashcroft* in declining to apply this Court's standard in *Ashcroft* in a claim of discrimination, just because the discrimination claim happens to be against a judge.

The Second Circuit held that the Petitioner has "[f]ailed to state a plausible claim under Title VI because, "as the district court noted, his pleading contains no non-conclusory allegations that would support any inference that he suffered discrimination in the judicial proceedings based upon his Middle Eastern national origin." App. 11a. In other words, the Second circuit has held that pleading fraud along with the undisputed violation of 25 U.S. Code § 1912(f) is not sufficient to support any inference of discrimination in the judicial proceedings "[W]hile a discrimination complaint need not allege facts establishing each element of a *prima facie* case of discrimination to survive a motion to dismiss, it must at a minimum assert nonconclusory factual matter sufficient to nudge its claims across the line from conceivable to plausible to proceed." *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 510 (2002); *Ashcroft v. Iqbal*, 556 U.S. 662, 680 (2009)).

5- Certiorari is Warranted to Harmonize Conflicting Decisions in Circuit Courts

The Circuits are split on several levels.

When a federal plaintiff raises a discrimination claim in the administration of justice against a judge, it is axiomatic that the plaintiff complains about an adverse ruling that attaches to the judge's judgment. Because of that alone, a claim of such nature would hit the bar of challenging a 'judicial act.' Accordingly, the Second Circuit continues to broaden the application scope of *Rooker-Feldman*, although this court has substantially narrowed it in *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). Now, *Rooker-Feldman* is a "narrow doctrine, confined to cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before district court proceedings commenced and inviting district court review and rejection of those judgments." *Lance v. Dennis*, 546 U.S. 459, 464 (2006) (quoting *Exxon Mobil*, 544 U.S. at 284). Inconsistent with the Second Circuit's construction of *Exxon Mobil*, the Sixth Circuit held that "[i]f the plaintiff has a claim that is in any way independent of the state-court judgment, the *Rooker-Feldman* doctrine will not bar a federal court from exercising jurisdiction." *Abbott v. Michigan*, 474 F.3d 324, 330 (6th Cir. 2007).

This Court further clarifies this point as follows: "Congress, if so minded, may explicitly empower district courts to oversee certain state-court judgments and has done so, most notably, in authorizing federal habeas review of state prisoners' petitions. 28 U. S. C. § 2254(a)." *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280,

292 n.8 (2005).

There is no precedential holding on whether a claim of judicial discrimination is independent of the state-court judgment, although it should. The Second Circuit held that this discrimination suit is barred under *Rooker-Feldman* because the Petitioner is a state loser complaining of an adverse ruling despite pleading judicial fraud and violation of federal law.

In contrast, the Ninth Circuit disagrees and has inconsistently held that fraud can override *Rooker-Feldman*. *See e.g., Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1140-41 (9th Cir. 2004). The Second Circuit and the Tenth Circuit precedent goes the other way: "new allegations of fraud might create grounds for appeal . . . [but] that appeal should be brought in the state courts." *Tal v. Hogan*, 453 F.3d 1244, 1256 (10th Cir. 2006).

Other Circuits have also, at times, excluded fraud claims from *Rooker-Feldman*. See, e.g., *Behr v. Campbell,* 8 F.4th 1213 (11th Cir. 2021) (claims that defendants had violated procedural due process rights by using "falsified and/or coerced information as a basis for the [state-court] proceedings" could proceed because the claims did not seek "to undo the state court's child custody decision"); *Benavidez v. County of San Diego*, 993 F.3d 1134, 1143 (9th Cir. 2021) ("injury based on the alleged misrepresentation by [defendants] that caused the juvenile court to issue" its orders meant that claim was "not a de facto appeal" of those orders); *Truong v. Bank of Am., N.A.,* 717 F.3d 377, 382 (5th Cir. 2013) (relying in part on *Nesses* to find allegations that defendants "misled the state court" and "misled [the plaintiff] into [forgoing] her

opportunity" to raise a dispute in state court presented "independent claims"); *McCormick v. Braverman*, 451 F.3d 382, 392 (6th Cir. 2006) (plaintiff's claims that state-court judgments "were procured by certain Defendants through fraud, misrepresentation, or other improper means" did not "assert an injury caused by" those judgments). But some of these decisions seem to hinge not on the existence of a fraud exception but on the court's conclusion that either *Exxon Mobil*'s "injury" element or "review and reject" element was not met in the first place. E.g., *Behr*, 8 F.4th at 1213 (plaintiffs "are not raising these due process claims so that we can 'review and reject' the state court's child custody judgment"); *Truong*, 717 F.3d at 383 (claims "independent" because they sought damages "for injuries caused by the [defendants'] actions, not injuries arising from" the state-court judgment).

Furthermore, the Petitioner discrimination suit could have been actionable in both the Ninth Circuit and the Eleventh Circuit but subject to dismissal in the Second Circuit and the Tenth Circuit.

Because parents and children possess a liberty interest in companionship and society with each other, which is protected by the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution. A parent may bring a claim of interference with the parent-child relationship as either a procedural due process claim or a substantive due process claim in the Ninth and Eleventh Circuit, but not in the Second Circuit. *See e.g., Smith v. City of Fontana*, 818 F.2d 1411 (9th Cir. 1987) and *David v. Kaulukukui*, 38 F.4th 792 (9th Cir. 2022).

Also in the Ninth Circuit, Substantive due

process claims are actionable and typically involve egregious conduct; as official conduct only violates substantive due process when it "shocks the conscience." Under the overarching test of whether the official's conduct "shocks the conscience" *Gantt v. City of Los Angeles*, 717 F.3d 702, 707 (9th Cir. 2013) (citing *Wilkinson v. Torres*, 610 F.3d 546, 554 (9th Cir. 2010)).

Yet, there is no precedence in any of the Circuits on whether substantive due process claims against judges can proceed. This is in part due to the vague and inconsistent interpretations of this Court's holding in *Exxon Mobil*.

Another split is on the consideration of the *McDonnell-Douglas* framework when pleading discrimination. While on the one hand, the Second Circuit raised the pleading standard exceedingly high even above the *McDonnell-Douglas* framework in this judicial discrimination case. On the other hand, other Circuits lower the pleading standard much less, and view actionability and discrimination pleading standard inconsistently and differently.

While the *McDonnell-Douglas* framework does apply to Title VI claims, "the pleading standards are different from the evidentiary burden a plaintiff must subsequently meet when using the *McDonnell-Douglas* framework." *Luevano v. WalMart Stores, Inc.*, 722 F.3d 1014, 1028 (7th Cir. 2013) (citing *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 510 (2002)). "As is true of claims under Title VII, the Seventh Circuit has emphasized in a Title VI case that there is no heightened pleading requirement in Rule 8 for discrimination cases." *Students & Parents for Priv.*, 377 F.Supp.3d at 900 (citation, internal quotation marks, and

bold emphasis omitted); *see also Junhao Su v. E. Ill. Univ.*, 565 F. App'x 521-22 (7th Cir. 2014) (reversing dismissal of a Title VI claim because "actual knowledge of the discrimination" or defendant's "authority to address the discrimination" are evidentiary elements of *McDonnell-Douglas* framework, not the pleading standard for Title VI claims).

When *pleading* discrimination, a plaintiff "need only identify a challenged action and allege that the defendant acted because of [his] race." *Resendez v. Prance*, No. 3:16-cv-862 JD, 2018 WL 1531788, at *4 (N.D. Ind. Mar. 29, 2018) (citations omitted); *see Su*, 565 Fed. Appx. at 521-22 (describing the motion to dismiss standard for Title VI claims); *see also Brewer v. Bd. of Trs. of Univ. of Ill.*, 479 F.3d 908, 921 (7th Cir. 2007) (elements of the *McDonnell-Douglas* framework set forth the evidentiary standard, not the pleading standard). Therefore, "the legal standard . . . 'is simply whether the evidence would permit a reasonable factfinder to conclude that the plaintiff's race, ethnicity, sex, religion, or other proscribed factor *caused* the discharge or other adverse action.'" *Rosas v. Bd. of Educ. of the City of Chi.*, No. 19-cv-2778, 2021 WL 1962397, at *14 (N.D. Ill. May 17, 2021) (citation omitted) (applying this reasoning to a Title VI claim). Put simply, "[t]he allegation must be accompanied by facts sufficient to raise an inference of discriminatory intent," and as such, plaintiffs cannot make conclusory statements about discriminatory intent. *Kass-Hout v. Cmty. Care Network Inc.*, No. 2:20-CV-441-JPK, 2021 WL 3709635, at *9 (N.D. Ind. Aug. 20, 2021) (citing *McReynolds v. Merrill Lynch & Co., Inc.*, 694 F.3d 873, 886 (7th Cir. 2012)) (adopting *McReynolds* framework for Title VI

pleading requirements); *see also Iqbal*, 556 U.S. at 679. But when it comes to judicial discrimination, the pleading standard is never addressed in any precedent.

III- This Case Presents an Excellent Vehicle to Address This Urgent Question of Constitutional Law

This case presents the ideal vehicle to address the important constitutional issues presented. It comes with an ideal record—complete with an undisputed claim of judicial fraud, undisputed claim of judicial violation of federal law, undisputed claim of unjustified disparate treatment against a member of a protected class. The case was dismissed on mere jurisdictional grounds with no dispute of material facts.

CONCLUSION

Racists judges exist. The time had come for a constitutional exception to the doctrine of judicial immunity and to establish pleading standard for claims of discrimination against judges. The petition for a writ of certiorari should be granted.

DATED: August 2024.

Respectfully submitted,

/s/Ammar Idlibi/

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APPENDIX
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APPENDIX A

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007 IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 27th day of June, two thousand twenty-four.

PRESENT:

JOSEPH F. BIANCO, BETH ROBINSON, SARAH A. L. MERRIAM,
Circuit Judges.

AMMAR IDLIBI,

Plaintiff-Appellant,

v. 23-838

MARY-MARGARET D. BURGDORFF,
Individual and Official Capacity, Judge at Middlesex Judicial District, Superior Court Child Protection Session at Middletown,

Defendant-Appellee.

AMMAR IDLIBI,

Plaintiff-Appellant,

v. 23-7384

NEW BRITAIN JUDICIAL DISTRICT,

MIDDLESEX JUDICIAL DISTRICT,

FOR PLAINTIFF-APPELLANT:

AMMAR IDLIBI, *pro se*, Terryville, Connecticut.

FOR DEFENDANTS-APPELLEES:

BENJAMIN A. ABRAMS, Assistant Attorney General (Emily Adams Gait, Assistant Attorney General, *on the brief in 23-838 only*), *for* William Tong, Connecticut Attorney General, Hartford, Connecticut.

Appeals from judgments of the United States District Court for the District of Connecticut (Jeffrey Alker Meyer, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgments of the district court, entered on April 28, 2023, and September 26, 2023, are AFFIRMED.

These two appeals, which arise out of two different lawsuits but relate to the same subject matter, have been considered in tandem and consolidated for disposition. We assume the parties' familiarity with the underlying facts, procedural history, and issues on appeal, to which we refer only as necessary to explain our decision to affirm.

In July 2022, Ammar Idlibi, proceeding *pro se*, sued Connecticut Superior Court Judge Mary-Margaret D. Burgdorff, in both her individual and official capacities, alleging that she discriminated against him in adjudicating the termination of his parental rights in a 2019 state- court proceeding in the Middlesex Judicial District. Idlibi, who is Muslim, claimed that Judge Burgdorff relied on false evidence to keep his three children in a Christian foster home. He also alleged that Judge Burgdorff conspired against him by communicating with other judicial staff—including an appellate judge—to influence the outcome of his ultimately unsuccessful appeal from Judge Burgdorff's judgment.

In November 2022, Idlibi sued the New Britain and Middlesex Judicial Districts ("the Judicial Districts") in separate actions, asserting constitutional claims under 42 U.S.C. §§ 1981 and

1983, and statutory claims under Titles V, VI, and VII of the Civil Rights Act of 1964.[1] He incorporated by reference his earlier allegations against Judge Burgdorff, contending that the courts within the Judicial Districts also discriminated against him by interfering with his legal filings and failing to properly notify him about the child custody proceedings, in violation of his rights to due process and equal protection under the Constitution.

In both cases, the district court granted defense motions to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). With respect to the case against Judge Burgdorff, the district court determined that Idlibi's claims were barred by the *Rooker-Feldman* doctrine, Eleventh Amendment immunity, and absolute judicial immunity, and that his allegations otherwise failed to state a plausible, non-conclusory claim upon which relief could be granted. *See Idlibi v. Burgdorff*, No. 3:22-cv-902(JAM), 2023 WL 3057160, at *2–6 (D. Conn. Apr. 24, 2023). With

[1] Judge Burgdorff is a judge of the Middlesex Judicial District. After exhausting his unsuccessful appeals challenging the 2019 judgment, Idlibi filed an amended petition for a new trial in May 2021 in the New Britain Judicial District, asserting that Judge Burgdorff and the Connecticut Department of Children and Families ("DCF") had discriminated against him and that attorneys representing his children had failed to accurately represent the children's positions. On July 27, 2021, a Connecticut Superior Court Judge issued a decision striking Idlibi's amended petition, finding that it was not legally sufficient to support an order for a new trial.

respect to the case against the Judicial Districts, the district court held that Idlibi's constitutional claims against them under Section 1983 were barred by Eleventh Amendment immunity, and that his statutory claims failed because there is no private right of action under Title V, and he had not adequately pleaded that any alleged discrimination was based on racial animus (for Title VI), or that he was an employee (for Title VII). *See Idlibi v. New Britain Jud. Dist.*, No. 3:22-cv- 1374(JAM), 2023 WL 6216810, at *3–4 (D. Conn. Sept. 25, 2023). These appeals followed.

We review the dismissal of a cause of action pursuant to Rules 12(b)(1) or 12(b)(6) *de novo*, meaning without deference to the district court. *See Jaghory v. N.Y. State Dep't of Educ.*, 131 F.3d 326, 329 (2d Cir. 1997). *Pro se* submissions are liberally construed to raise the strongest arguments they suggest. *See Walker v. Schult*, 717 F.3d 119, 124 (2d Cir. 2013).

I. *Rooker-Feldman*

The district court correctly held that the *Rooker-Feldman* doctrine bars Idlibi's claims to the extent that he seeks to undo the final state-court judgment issued by Judge Burgdorff.

Rooker v. Fidelity Trust Co., 263 U.S. 413, 414–15 (1923), and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983), "established the clear principle that federal district courts lack jurisdiction over suits that are, in substance, appeals from state-court judgments." *Hoblock v. Albany Cnty. Bd. of Elections*, 422 F.3d 77, 84 (2d Cir. 2005). The *Rooker-Feldman*

doctrine applies to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Sung Cho v. City of New York*, 910 F.3d 639, 644 (2d Cir. 2018) (quoting *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005)).

Here, Idlibi's unfavorable state-court judgment—the source of the injury for which he seeks monetary damages, declaratory relief, and injunctive relief in the instant cases—was rendered before he filed the federal suits. Idlibi thus cannot seek relief that would require a reversal of the state-court judgment rendered by Judge Burgdorff. Idlibi seeks to sue the judge and court itself for alleged misconduct. Therefore, insofar as Idlibi's actions seek review of the judgment, granting relief would necessarily require rejection of the judgment, and *Rooker-Feldman* applies. *See Sung Cho*, 910 F.3d at 645 (noting that the Second Circuit applies "with some frequency" the *Rooker-Feldman* doctrine in suits directly against judges or in which error by state-court judges is asserted). To the extent that Idlibi seeks to assert independent claims against Judge Burgdorff or the Judicial Districts that would not involve undoing the state-court judgments and thus would not be barred by the *Rooker-Feldman* doctrine, *see Dorce v. City of New York*, 2 F.4th 82, 104 (2d Cir. 2021), the district court properly dismissed such claims for the reasons set forth below.

II. Eleventh Amendment Immunity

Eleventh Amendment immunity precludes Idlibi's claims against Judge Burgdorff in her official capacity and his constitutional claims under Section 1983 against the Judicial Districts. The Eleventh Amendment to the United States Constitution bars suits in federal court by private parties against a state, absent consent to suit or an express statutory waiver of immunity. *See* U.S. Const. amend. XI; *see also Tennessee v. Lane*, 541 U.S. 509, 517 (2004). Eleventh Amendment immunity extends to "'state agents and state instrumentalities' that are, effectively, arms of a state." *Woods v. Rondout Valley Cent. Sch. Dist. Bd. of Educ.*, 466 F.3d 232, 236 (2d Cir. 2006) (quoting *Regents of the Univ. of Cal. v. Doe*, 519 U.S. 425, 429 (1997)).

Here, both Judge Burgdorff and the Judicial Districts are state officials or entities for Eleventh Amendment purposes.[2] *Cf. Gollomp v. Spitzer*, 568 F.3d 355, 366–68 (2d Cir. 2009) (holding that the New York state court system was part of the state government, and therefore protected by Eleventh Amendment immunity). Congress has abrogated Eleventh Amendment immunity for the statutory claims Idlibi brings here. *See Alexander*

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[2] Idlibi correctly notes that municipalities, unlike states, are not protected by the Eleventh Amendment. See *Monell v. Dep't of Soc. Servs. of City of N.Y.*, 436 U.S. 658, 694 (1978). However, the Judicial Districts are neither municipalities nor municipal instrumentalities, but are instead part of the State of Connecticut's judicial branch. See *Woods v. Rondout Valley Cent. School Dist. Bd of Educ.*, 466 F.3d 232, 236 (2d Cir. 2006) (observing distinction between municipality and state agencies).

v. Sandoval, 532 U.S. 275, 280 (2001) (finding that Congress abrogated state sovereign immunity for claims under Title VI); *Fitzpatrick v. Bitzer*, 427 U.S. 445, 447–48 (1976) (holding that Congress abrogated state immunity for claims under Title VII). However, state officials may assert Eleventh Amendment immunity for constitutional claims brought under Section 1983. *See Will v. Mich. Dep't of State Police*, 491 U.S. 58, 67 (1989) (finding that state officials were immune because "in enacting § 1983, Congress did not intend to override well-established immunities or defenses under the common law").

The *Ex parte Young* exception, on which Idlibi relies, does not apply. *Ex parte Young*, 209 U.S. 123 (1908), and its progeny permit suits for prospective injunctive relief against state officers in their official capacities. *See, e.g., Vega v. Semple*, 963 F.3d 259, 281 (2d Cir. 2020). However, this exception to Eleventh Amendment immunity "does not normally permit federal courts to issue injunctions against state-court judges or clerks." *Whole Woman's Health v. Jackson*, 595 U.S. 30, 39 (2021). Furthermore, although Idlibi contends that he seeks "prospective" relief in the form of a declaration that the state court lacked a factual basis for terminating his parental rights and an injunction, *see* Appellant's Br. in Dkt. No. 23-7384 at 11, such relief would be retrospective, not prospective, and a plaintiff cannot make an "end run around the Eleventh Amendment[]" by seeking a declaration or an injunction based solely on past violations of federal law. *Ward v. Thomas*, 207 F.3d 114, 120 (2d Cir. 2000) (internal

quotation marks and citation omitted). Accordingly, the *Ex parte Young* exception does not apply and Eleventh Amendment immunity bars Idlibi's claims against Judge Burgdorff in her official capacity, as well as his constitutional claims against the Judicial Districts.

III. Absolute Judicial Immunity

With respect to Idlibi's claims against Judge Burgdorff in her individual capacity, the district court also correctly concluded that Judge Burgdorff is immune from suit in her individual capacity for alleged misconduct in adjudicating Idlibi's parental rights. Judges are absolutely immune from damages suits for judicial acts, even when a complaint raises "allegations of bad faith or malice," *Bliven v. Hunt*, 579 F.3d 204, 209 (2d Cir. 2009), as long as that conduct was not taken in the "complete absence of all jurisdiction," *Mireles v. Waco*, 502 U.S. 9, 12 (1991) (per curiam).

Judge Burgdorff's conduct in making factual findings and adjudicating Idlibi's parental rights was judicial in nature and function. *See Bliven*, 579 F.3d at 211 (finding that "[t]he principal hallmark of the judicial function is a decision in relation to a particular case"). Judge Burgdorff is therefore immune from suit on Idlibi's claims regarding any alleged discriminatory findings in the state-court judgment.

Idlibi asserts that Judge Burgdorff is not entitled to judicial immunity because she acted outside her jurisdiction by conspiring against him by speaking with an appellate judge about his

case. Assuming *arguendo* that this allegation could implicate conduct "not taken in the judge's judicial capacity," *Mireles*, 502 U.S. at 11, we agree with the district court that Idlibi's allegations are, in context, speculative and conclusory, and thus fail to state a plausible claim for relief that could survive a motion to dismiss. *See Butcher v. Wendt*, 975 F.3d 236, 241 (2d Cir. 2020). In particular, Idlibi has failed to provide any support for his conspiracy claim beyond baldly asserting that the questions at appellate oral argument in state court support an inference that the judges conferred about his case. *See id.* (rejecting "barebones claim" of a judicial conspiracy that was "unaccompanied by any factual allegation to support it"); *see also Liteky v. United States*, 510 U.S. 540, 555 (1994) (An adverse ruling alone is "almost never" evidence of bias.). Accordingly, the district court properly dismissed the claims against Judge Burgdoff in her individual capacity.

IV. Statutory Claims

With respect to the statutory claims asserted against the Judicial Districts, the district court properly dismissed those claims for failure to state a claim under Rule 12(b)(6). First, the district court correctly concluded that Title V creates the U.S. Commission on Civil Rights and does not give rise to a private right of action. *See* 42 U.S.C. § 1975. Second, to establish a claim under Title VI, a plaintiff must plausibly allege that (1) "the defendant discriminated against him on the basis of [race, color, or national origin]," (2) the "discrimination was intentional," and (3) "the

discrimination was a substantial or motivating factor for the defendant's actions." *Tolbert v. Queens Coll.*, 242 F.3d 58, 69 (2d Cir. 2001) (internal quotation marks and citations omitted). Here, Idlibi failed to state a plausible claim under Title VI because, as the district court noted, his pleading contains no non-conclusory allegations that would support any inference that he suffered discrimination in the judicial proceedings based upon his Middle Eastern national origin. Finally, Idlibi did not state a plausible Title VII claim because he did not allege that he was an employee of the Connecticut courts, and Title VII "applies only to employees." *Salamon v. Our Lady of Victory Hosp.*, 514 F.3d 217, 226 (2d Cir. 2008) (internal quotation marks and citation omitted).

* * *

In sum, Idlibi's complaints were properly dismissed and, to the extent he challenges the district court's failure to grant leave to amend, we conclude that leave to amend was unwarranted because any attempt to amend would have been futile. *See Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000). We have considered Idlibi's remaining arguments and find them to be without merit. Accordingly, we AFFIRM the judgments of the district court.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court.

Appendix B

UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

AMMAR IDLIBI,
Plaintiff,
v.
MARY-MARGARET D. BURGDORFF,
Defendant.

No. 3:22-cv-902 (JAM)

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

The plaintiff in this case has sued a state court judge for $10 million because she ruled against him. I will grant the judge's motion to dismiss on multiple grounds including the *Rooker-Feldman* doctrine, the Eleventh Amendment, absolute judicial immunity, and failure to state a plausible claim for relief.

BACKGROUND

Plaintiff Ammar Idlibi has filed this federal lawsuit against defendant Mary-Margaret Burgdorff who is a judge of the Connecticut Superior Court. The amended complaint stems from state court proceedings to terminate his parental rights. *See* Conn. Gen. Stat. § 17a-112(j)(3)(B)(i). Judge Burgdorff conducted a trial and entered an order terminating Idlibi's parental rights in July 2019.[1] The Connecticut Appellate

[1] Doc. #18 at 8–9 (¶ 39).

Court affirmed Judge Burgdorff's decision, and both the Connecticut Supreme Court and the United States Supreme Court denied further review. *See In re O. I.*, 197 Conn. App. 499 (2020); *In re O. I.*, 335 Conn. 924, *cert. denied sub nom. A. I. v. Connecticut*, 141 S. Ct. 956 (2020).

In this federal lawsuit, Idlibi accuses Judge Burgdorff of being prejudiced against him for religious reasons and of misrepresenting the evidence when she terminated his parental rights.[2]

He further alleges Judge Burgdorff corrupted the appeal proceedings by communicating about the case with others, including a judge of the Connecticut Appellate Court who wrote the opinion affirming Judge Burgdorff's ruling.[3]

Idlibi alleges violation of his rights under 42 U.S.C. § 1983 and 42 U.S.C. § 1985, as well as state law claims for intentional infliction of emotional distress, recklessness, and negligence.[4] He seeks monetary damages of at least $10 million as well as injunctive relief to require Judge Burgdorff to abstain from further interfering with his attempts to regain his parental rights.[5] Judge Burgdorff has now moved to dismiss all of Idlibi's claims for lack of jurisdiction under Rule 12(b)(1)

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[2] *Id.* at 9–16 (¶¶ 40–65, 67).

[3] *Id.* at 19–29 (¶¶ 74–87). Although Idlibi devotes much of his complaint to assailing the judge who wrote the Appellate Court's ruling, he says that he has declined "for strategic reasons" to name this judge as a defendant in this case. *Id.* at 19 (¶ 72).

[4] *Id.* at 1, 30–33 (¶¶ 93–108).

[5] *Id.* at 33–34 (¶¶ 1–3).

and for failure to state a claim under Rule 12(b)(6).[6]

DISCUSSION

The standard that governs a motion to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) is well established. A complaint may not survive unless it alleges facts that, taken as true, give rise to plausible grounds to sustain the Court's subject-matter jurisdiction as well as the plaintiff's grounds for relief. *See Brownback v. King*, 141 S. Ct. 740, 749 (2021); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).[7] As the Second Circuit has explained, "in order to state a claim on which relief can be granted, the factual allegations of a complaint must be enough to raise a right to relief above the speculative level, and make the claim at least plausible on its face." *Rothstein v. UBS AG*, 708 F.3d 82, 94 (2d Cir. 2013). Moreover, "[w]e accept as true all factual allegations and draw from them all reasonable inferences; but we are not required to credit conclusory allegations or legal conclusions couched as factual allegations." *Hamilton v. Westchester Cnty.*, 3 F.4th 86, 90–91 (2d Cir. 2021).

The Court must read the allegations of a *pro se* complaint liberally to raise the strongest arguments that they suggest. *See Meadows v. United Servs., Inc.*, 963 F.3d 240, 243 (2d Cir. 2020) (*per curiam*). Still, notwithstanding the rule of liberal interpretation of a *pro se* complaint, a

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[6] Doc. #27.

[7] Unless otherwise indicated, this order omits internal quotation marks, alterations, citations, and footnotes in text quoted from court decisions.

complaint may not survive dismissal if its factual allegations do not meet the basic plausibility standard. *See ibid.*

Rooker-Feldman *doctrine*

The *Rooker-Feldman* doctrine bars federal district courts from hearing "cases that function as *de facto* appeals of state-court judgments." *Sung Cho v. City of N.Y.*, 910 F.3d 639, 644 (2d Cir. 2018). For the *Rooker-Feldman* doctrine to bar a plaintiff's claim, "(1) the federal- court plaintiff must have lost in state court; (2) the plaintiff must complain of injuries caused by a state-court judgment; (3) the plaintiff must invite district court review and rejection of that judgment; and (4) the state-court judgment must have been rendered before the district court proceedings commenced." *Id.* at 645.

The *Rooker-Feldman* doctrine applies here. First, Idlibi lost in state court. Second, he alleges he was injured by the state court judgment that terminated his parental rights. Third, he invites review and rejection of the state court judgment. Fourth, the state court judgment was issued well before he filed this lawsuit.

To be sure, Idlibi has been careful to frame his amended complaint in a manner that does not explicitly seek reversal of the state court's judgment. But he asks for money damages caused by Judge Burgdorff's supposedly wrongful ruling and its affirmance on appeal. As the Second Circuit has made clear, "we must scrutinize the injury of which a plaintiff complains as a necessary step toward determining whether the suit impermissibly seeks review and rejection of a

state court judgment." *Charles v. Levitt*, 716 F. App'x 18, 21 (2d Cir. 2017).

No matter how artfully a plaintiff may frame a complaint, the *Rooker-Feldman* doctrine applies when a federal court cannot grant the requested relief without necessarily reviewing and rejecting a state court judgment. *See Rodriguez v. Diaz*, 777 F. App'x 20, 21 (2d Cir. 2019) (*Rooker-Feldman* doctrine applied because "[r]eaching the merits of Rodriguez's claims would necessarily require the district court to reassess the state court's judgment"). That is what Idlibi seeks here.

Accordingly, I conclude that the *Rooker-Feldman* doctrine precludes the exercise of federal jurisdiction over this lawsuit. But even if the *Rooker-Feldman* doctrine did not dictate dismissal of this action, I would dismiss Idlibi's official-capacity and individual-capacity claims against Judge Burgdorff for the reasons set forth below.

Official capacity claims

It is well settled that the Eleventh Amendment and related principles of state sovereign immunity generally divest the federal courts of jurisdiction over lawsuits by private citizens against the States, any state government entities, and any state government officials in their official capacities. *See Lewis v. Clarke*, 581 U.S. 155, 161–62 (2017); *T.W. v. N.Y. State Bd. of L. Examiners*, 996 F.3d 87, 91–92 (2d Cir. 2021). For this reason, federal courts routinely dismiss official-capacity claims against state court judges. *See, e.g., Thomas v. Martin-Gibbons*, 2021 WL 2065892, at *1–2 (2d Cir. 2021); *Pappas v. Lorintz*,

832 F. App'x 8, 12 (2d Cir. 2020); *Hahn v. New York*, 825 F. App'x 53, 54–55 (2d Cir. 2020).

Idlibi fails to show grounds for any exception to this rule. He does not argue, for example, that the State of Connecticut has waived its Eleventh Amendment immunity or that Congress has abrogated the Eleventh Amendment for the types of claims he alleges or more generally for claims against state court judges. *See Chris H. v. New York*, 740 F. App'x 740, 741 (2d Cir. 2018) ("Nor has Congress abrogated state immunity for claims brought under § 1983 and § 1985.").

Idlibi invokes what is known as the "*Ex parte Young*" exception to Eleventh Amendment immunity: an exception for lawsuits against a state official seeking injunctive relief against the state official's ongoing violation of federal law. *See Vega v. Semple*, 963 F.3d 259, 281 (2d Cir. 2020) (citing *Ex Parte Young*, 209 U.S. 123 (1908)). But Idlibi's complaint is all about what Judge Burgdorff did several years ago, and he does not allege facts to suggest that Judge Burgdorff is engaged in any ongoing violation of his rights. Instead, he alleges in no more than a vague and conclusory manner that he (Idlibi) "continues with his ongoing efforts to retain his parental rights through the legal system" and that "the defendant judge is very unlikely to abstain from interfering with plaintiff's ongoing efforts to retain his parental rights, both in her individual capacity and in her official capacity."[8]

In any event, the *Ex parte Young* exception

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[8] Doc. #18 at 29–30 (¶¶ 90, 92).

"does not normally permit federal courts to issue injunctions against state-court judges or clerks," because "[u]sually, those individuals do not enforce state laws as executive officials might; instead, they work to resolve disputes between parties." *See Whole Woman's Health v. Jackson*, 142 S. Ct. 522, 532 (2021).

Accordingly, the Eleventh Amendment bars Idlibi's official-capacity claims against Judge Burgdorff.

Individual capacity claims

As to Idlibi's individual-capacity claims, Judge Burgdorff invokes the doctrine of absolute judicial immunity.[9] "A long line of this Court's precedents acknowledges that, generally, a judge is immune from a suit for money damages, because "[a]lthough unfairness and injustice to a litigant may result on occasion, it is a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, shall be free to act upon his own convictions, without apprehension of personal consequences to himself." *Mireles v. Waco*, 502 U.S. 9, 9–10 (1991) (*per curiam*). The doctrine of absolute judicial immunity applies with equal force to both federal law claims and Connecticut state law claims. *See Gross v. Rell*, 585 F.3d 72, 80 (2d Cir. 2009).

It is true that the doctrine of absolute judicial immunity is subject to exception "for nonjudicial actions, *i.e.*, actions not taken in the judge's judicial capacity" and "for actions, though

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[9] Doc. #27 at 22–27.

judicial in nature, taken in the complete absence of all jurisdiction." *Mireles*, 502 U.S. at 11–12. But when applying these exceptions, the Supreme Court has instructed that "the relevant inquiry is the 'nature' and 'function' of the act, not 'the act' itself." *Id.* at 13 (quoting *Stump v. Sparkman*, 435 U.S. 349, 362 (1978)). "In other words, we look to the particular act's relation to a general function normally performed by a judge," and "a judge 'will not be deprived of immunity because the action he took was in error ... or was in excess of his authority.'" *Ibid.* (quoting *Stump*, 435 U.S. at 356).

Indeed, "if only the particular act in question were to be scrutinized, then any mistake of a judge in excess of his authority would become a 'nonjudicial' act, because an improper or erroneous act cannot be said to be normally performed by a judge." *Id.* at 12. And because the focus is on the nature and function of the act rather than the act itself, "a judicial act 'does not become less judicial by virtue of an allegation of malice or corruption of motive.'" *Id.* at 13 (quoting *Forrester v. White*, 484 U.S. 219, 287 (1988)). Put differently, "judicial immunity is not overcome by allegations of bad faith or malice." *Id.* at 11.

Idlibi mostly complains about Judge Burgdorff's ruling that terminated his parental rights, claiming that this ruling depended on the judge's misrepresentation and distortion because of her religious animosity against him. But as *Mireles v. Waco* makes clear, such allegations of bad faith and malice are not enough to pierce the protections of absolute judicial immunity. It is otherwise beyond dispute that the nature and function of the act challenged—the issuance of a ruling deciding a contested court matter—is

quintessentially a judicial function well within the scope of absolute judicial immunity. "The principal hallmark of the judicial function is a decision in relation to a particular case." *Bliven v. Hunt*, 579 F.3d 204, 211 (2d Cir. 2009).

In *Gross v. Rell*, the Second Circuit ruled that a probate judge had absolute judicial immunity from a litigant's claims including violation of the Americans with Disabilities Act, conspiracy under 42 U.S.C. § 1985, violation of due process rights, abuse of process, and negligent and intentional infliction of emotional distress. 585 F.3d. at 83. Evidence in that case strongly showed that the judge had imposed an involuntary conservatorship in plain violation of an elderly man's statutory rights to notice of the proceeding, to be present at the proceeding, and–as a non-resident of Connecticut—to be subject to any such proceedings at all. *Id.* at 76–78, 83–84.

Still, the Second Circuit ruled that the judge was entitled to absolute immunity. It was undisputed that the judge had the power to adjudicate conservatorship applications. Despite the judge's manifest mishandling of the proceeding in violation of statutory requirements, there was no showing that he had knowingly acted in the "clear absence of all jurisdiction" as distinct from acting "in excess" of his jurisdiction as limited by the statute. *Id.* at 83–86.

Idlibi's claims here fail for the same reasons. It is undisputed that Judge Burgdorff had the power to conduct a proceeding for the termination of parental rights. Even if I credit all of Idlibi's claims about how Judge Burgdorff misrepresented and distorted the evidence for improper reasons, it would not be enough to show

that Judge Burgdorff acted in the clear absence of all jurisdiction and thus to overcome judicial immunity.

Idlibi further alleges that Judge Burgdorff later corrupted the appeal of his case by means of various *ex parte* communications including with the judge who wrote the decision for the Appellate Court that affirmed Judge Burgdorff's decision. But I need not decide if this type of misconduct falls within the scope of absolute judicial immunity because Idlibi has not alleged non-conclusory facts to suggest that Judge Burgdorff engaged in any improper communications in the first place.

The amended complaint alleges the following concerning improper communications:

> On or after October 8, 2029 [*sic*], in her individual capacity, and in clear absence of all jurisdiction, defendant unlawfully communicated with at least one clerk, one Superior Court judge and/or one Appellate Court judge in a conspiratorial fashion violating plaintiff's constitutional right to fundamental fairness through a fairly reviewed appeal, and to ensure plaintiff's deprivation of his constitutional parental rights by exerting influence on the outcome of plaintiff's appeal and/or on the outcome of plaintiff's other filings in this case that sought to reverse defendant's judgment.[10]

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[10] Doc. #18 at 17 (¶ 70); *see also id.* at 18 (¶ 71) ("On or after October 8, 2029 [*sic*], in her individual capacity, and in clear absence of all jurisdiction, defendant contacted Appellate

The complaint does not allege any basis for Idlibi to know that any such communications actually occurred. It does not allege that he was present for or party to any such communications or that he had any other grounds to know whether Judge Burgdorff engaged in any communications with other court personnel or any judges of the Appellate Court. Instead, Idlibi does no more than speculate that such communications must have occurred by inference from the various errors he says that the Appellate Court made when affirming Judge Burgdorff's ruling against him. He claims that these errors lend "further factual support of defendant's conspiratorial conduct and in a clear 'meeting of the minds' pattern between defendant and judge Keller."[11]

As noted above, a complaint may not survive a motion to dismiss unless it alleges *facts*— as distinct from conclusory allegations— that establish plausible grounds for relief. As many courts have recognized, an allegation that is couched as a "fact" may be discounted as conclusory if it is not apparent that the plaintiff would have any basis or grounds to know the fact to be true.[12] This is in keeping with the Supreme

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Judge Christine E. Keller ('judge Keller') in a conspiratorial fashion to ensure the defeat of plaintiff's appeal, which sought to reverse defendant's judgment.").

[11] *Id.* at 19–25 (¶¶ 74, 76, 78–80, 82).

[12] *See Navigation Holdings, LLC v. Molavi*, 445 F. Supp. 3d 69, 79 (N.D. Cal. 2020) ("Plaintiffs make a conclusory assertion that Defendants 'had reason to know that the confidential information and trade secrets were acquired under circumstances giving rise to the duty to maintain their secrecy or limit their use.' FAC ¶ 47. But this assertion is devoid of any factual substantiation of Defendants'

Court's recognition that "naked assertions devoid of further factual enhancement" are not enough to establish plausible grounds for relief. *Iqbal*, 556 U.S. at 678.

I recognize that the factual allegations of a complaint need not be based on a plaintiff's firsthand knowledge and that a plaintiff may allege facts "on information and belief" where such facts are "peculiarly within the possession and control of the defendant." *Arista Recs., LLC v. Doe 3*, 604 F.3d 110, 120 (2d Cir. 2010). Still, "this does not give [a plaintiff] *carte blanche* to make

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knowledge."); *Gadsden v. Gehris*, 2020 WL 5748094, at *7 (S.D. Cal. 2020) ("[T]he new allegation that Defendant Gehris shared Defendant McGrath's retaliatory motive is vague and conclusory, in that it does not contain a factual basis as to how Plaintiff knows they shared that motive."); *Schiro v. Cemex, S.A.B. de C.V.*, 396 F. Supp. 3d 283, 305 n.14 (S.D.N.Y. 2019) ("Absent some further information about the guard's basis of knowledge, it is not plausible—let alone cogent and at least as compelling—that a low- ranking security guard accompanying an executive during a negotiation would have intimate knowledge about the negotiation's details, including the particulars of any illicit agreements that were reached."); *Guess v. United States*, 2016 WL 1249597, at *8 n.18 (E.D. Va. 2016) (noting that "[p]etitioner merely advances his own proclamation as to how Post would have testified without providing any basis of knowledge behind such facially conclusory assertion" and that "[a]ccordingly, such facts are deemed speculative"), *appeal dismissed*, 677 F. App'x 109 (4th Cir. 2017); *Sosa v. Lantz*, 2013 WL 4441523, at *4 (D. Conn. 2013) (disregarding plaintiff's "conclusory" deposition statement because it "lack[s] any basis in personal knowledge"); *DiMaggio v. Int'l Sports Ltd.*, 1999 WL 675979, at *2 (S.D.N.Y. 1999) ("Plaintiff's affidavits contain only conclusory allegations, without any basis of knowledge, that Sugar was an 'employee/agent' of defendant corporation.").

baseless assumptions about otherwise permissible conduct." *Ray v. Ray*, 799 F. App'x 29, 31 n.2 (2d Cir. 2020). The Second Circuit has declined to accept a plaintiff's allegations with respect to information "peculiarly within [a defendant's] possession and control" where the allegations were based on no more than "unsubstantiated suspicions." *Yamashita v. Scholastic Inc.*, 936 F.3d 98, 107 (2d Cir. 2019). It is no more than an unsubstantiated suspicion that Judge Burgdorff engaged in any improper communications to corrupt Idlibi's appeal from the ruling against him.

Accordingly, as to Idlibi's allegations that Judge Burgdorff wrongly decided the parental termination rights proceeding against him, I conclude that these allegations are barred by the doctrine of absolute judicial immunity. As to Idlibi's additional allegations that Judge Burgdorff engaged in improper communications outside the scope of judicial immunity, I conclude that Idlibi has failed to plausibly allege that such improper communications occurred. Therefore, I will dismiss Idlibi's individual-capacity claims against Judge Burgdorff on the grounds of absolute judicial immunity and for failure to state plausible grounds for relief.

CONCLUSION

The Court GRANTS the defendant's motion to dismiss (Doc. #27). In light of the granting of the motion to dismiss, the Court DENIES as moot all other pending motions (Docs. #33, #34, #35, #36, and #38). The Clerk of Court shall close this case. It is so ordered.

Dated at New Haven this 24th day of April 2023.

/s/ ***Jeffrey Alker Meyer***
Jeffrey Alker Meyer
United States District Judge

Appendix C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

FIRST AMENDED COMPLAINT

Civil Action No. 3:22-cv-00902-JAM

JURY TRIAL DEMANDED

SEPTEMBER 1, 2022

AMMAR IDLIBI,
PLAINTIFF,
v.
MARY-MARGRET D. BURGDORFF,
Individually and in her official capacity as a judge at Middlesex Judicial District, Superior Court – Child Protection Session at Middletown,
DEFENDANT.

JURISDICTIONAL BASIS

I. Plaintiff claims federal jurisdiction pursuant to Article III § 2 which extends the jurisdiction to cases arising under the U.S. Constitution and pursuant to federal common law torts.

II. Plaintiff brings this suit pursuant to Title 42 U.S. Code § 1983 and 42 U.S.C. § 1985 for violations of certain protections guaranteed to him by the Fifth and Fourteenth Amendments of the federal Constitution, by the Defendant under color of law individually, and in her capacity as a judge in State of Connecticut Middlesex Judicial District,

Superior Court – Child Protection Session at Middletown.

PARTIES

III. Plaintiff, Ammar Idlibi, is a natural person residing at 33 Maggie Court. Terryville, CT 06786.

IV. Defendant is a Judge residing as an individual at 320 WestPoint Ter. West Hartford, CT 06107, and officially presiding at Regional Child Protection Session 1 Court Street Middletown, CT 06457.

STATEMENT OF CASE

1- Between May 5, 2005, and July 29, 2015, Plaintiff ("plaintiff" or "the Father") enjoyed a stable married life with his wife (per family court finding.) Three children were born to that marriage ("the children.") Plaintiff's family practiced the Muslim faith and raised the three children in the Muslim faith.

2- On or around May 26, 2015, plaintiff's wife, the mother of the three children ("the mother"), filed for divorce citing irreconcilable differences.

3- Between the date of the filing of the divorce and July 29, 2015, plaintiff was still partially residing in the family residence.

4- On July 29, 2015, plaintiff filed an ex parte petition for temporary custody of the children after plaintiff discovered that his wife has been having a sexual extramarital relationship with a child sex offender. Amongst other allegations, plaintiff alleged a risk that the children's mother might allow her lover access to the children.

5- Due to the scriousncss of plaintiff's allegations, the family court judge issued a bench order of temporary custody ("OTC") to the Department of Children and Families ("DCF.")

6- Shortly after the OTC, plaintiff went home and entered the family home through the garage door against his wife's objection and demanded to see the children. Plaintiff and the mother had a brief oral argument after which, plaintiff left the family residence.

7- Within ten minutes of plaintiff's departure from the family residence, the mother staged a fabricated bloody crime scene of assault and called 911 screaming and claiming that plaintiff was actively assaulting her.

8- Plaintiff was arrested and charged with assault and risk of injury to a minor.

9- The alleged assault was investigated by the Plymouth Police Department.

10- The police detective who investigated the incident, generated a report outlining facts suggesting that the alleged assault was fabricated by the mother, including but not limited to the fact that the blood pattern suggests self-inflicted injuries, the plaintiff's voice could not be heard in the 911 call when the mother was screaming claiming she was being actively assaulted, the assault object being very fragile and was broken in a calculated manner to induce self-inflicted injuries, inconsistent accounts of the alleged assault, refusal of the alleged victim to speak to the detective without the presence of her attorney and refusal of the alleged victim to answer several of the detective's questions even in the presence of her attorney (Detective Bilotto's Report and transcribed Testimony, both in full exhibits.)

11- Subsequently, the criminal court (*Alexander J.*) dismissed all the criminal charges against plaintiff with prejudice. In fact, Judge Alexander kindly apologized to plaintiff for what he had to go through

with the multiple appearances in the criminal Court (Judge Alexander is currently a Connecticut Supreme Court Justice.)

12- DCF considered the fabricated assault a "domestic violence" incident that gives rise to neglect petitions. Subsequently, DCF filed petitions of neglect on behalf of the three children in Juvenile Court and requested the children be committed to DCF. DCF went as far as substantiating physical neglect against plaintiff due to this incident and placed plaintiff on the Central Registry. Plaintiff requested an administrative hearing, which resulted in the Administrative Hearing Officer ordering DCF to reverse the physical substantiation neglect and placement on the Registry.

13- DCF placed the children with a practicing Christian same sex female couple in Bozrah, CT over 55 miles away from the children's residence. DCF refused to place the children with a Muslim family well acquainted with the children in their hometown and refused to assess the suitability of that Muslim family.

14- Plaintiff later filed a discrimination lawsuit against DCF claiming that DCF acts represent discrimination against plaintiff due to his religious creed. DCF's first motion to dismiss was partially denied and its second motion to dismiss was denied. DCF filed an appeal from that denial with the Appellate Court at AC 45265. DCF's appeal is currently pending.

15- The neglect trial proceeding was delayed by almost a whole year due to other emergency cases canceling the scheduled neglect trial dates. DCF adamantly objected to the revocation of temporary custody and insisted on consolidating plaintiff's

motion to revoke the temporary custody with the neglect trial.

16- By the time the neglect trial was finally scheduled, almost two years of temporary custody have lapsed with the children remaining in foster placement. By then, the children developed three different positions regarding their long-term desired permanency (i.e., permanency with father, mother, foster mothers.) Subsequently, the children's counsel withdrew, and three different counsels were appointed to represent each of the children with each of their different position regarding their desired permanency.

17- The children's new appointed counsels filed motions for mistrial, which were granted and resulted in the appointment of a different judge, and thus delaying the neglect proceeding by yet another year.

18- Judge Jason Lobo ("Judge Lobo") presided over the neglect trial. On December 18, 2017, Judge Lobo adjudicated the children neglected based on two key findings: a) that the alleged assault incident which wounded and bloodied the mother, rendered the children living under conditions injurious to their wellbeing regardless of who caused the mother's injuries; and b) plaintiff's allegations in his affidavit represented facts that would have rendered the children living under conditions injurious to their wellbeing (Judge Lobo's Memorandum of Decision "MOD" at pages 11, 20, 33.)

19- Judge Lobo did not blame either parent for the adjudication of neglect (MOD p. 10.)

20- Judge Lobo did not find that any of plaintiff's filings/affidavits to have contained any form of misrepresentations, inconsistencies or falsehoods.

Judge Lobo did not find that plaintiff had damaged his credibility in any way. However, Judge Lobo found the mother was untruthful about her inconsistent statements regarding her extramarital affair (Judge Lobo's MOD at page 65.)

21- Judge Lobo gave "much more [greater fault] as it pertains to mom" (MOD at p. 38.)

22- The mother did not seek custody of the children in the neglect trial and did not contest commitment. Judge Lobo made this issue clear in his oral Memorandum of Decision at page 38.

23- Judge Lobo made a finding that the children love their father (plaintiff), are very bonded with him and had struggled to separate from him during visits (MOD at pages 14, 15, 57.) Accordingly, Judge Lobo ordered unsupervised visitation with the plaintiff to be increased to three visits per week.

24- Judge Lobo found that the children were influenced to fear their father and to fear their religion while in foster placement and ordered DCF in the Specific Steps to address those fears in therapy (Judge Lobo's MOD at page 47 and the court-signed Specific Steps form.)

25- Judge Lobo's finding in the preceding paragraph was based on DCF Narrative documents in full exhibit and on reports and testimonies by expert psychologists, Dr. Stephen Humphrey and Dr. Leslie Lothstein also in full exhibits.

26- Judge Lobo did not find plaintiff to be physically violent nor did he order plaintiff to participate in a domestic violence program. In fact, Judge lobo unchecked and initialed the box pertaining to participating in a domestic violence program in the Specific Steps form.

27- Judge Lobo was presented with the facts surrounding the mother's 2011 allegations (8 years

prior) regarding inappropriate touching between one of the children and her older sibling (11 years at that time.) The mother's allegations were fully investigated and were unsubstantiated by DCF. Accordingly, Judge Lobo did not give credence to those unsubstantiated allegations and did not enter orders regarding them.

28- Judge Lobo credited plaintiff for respecting other people's religions including celebrating Christmas even if his children requested it (Judge Lobo's MOD, p. 21.)

29- Judge Lobo credited plaintiff for asking "the new [Christian] Social Worker to embrace with him to show [the children] that Muslims and Christians are friends" (MOD at p. 25) to dispel the fear that the children have acquired during foster placement that Muslims and Christians are enemies who fight with each other. (MOD at page 25.)

30- Within less than a year after Judge Lobo's decision, the children started expressing a desire to be permanently placed with the foster mothers. Accordingly, the children's counsels filed petitions for Termination of Parental Rights ("TPR") with both parents.

31- The children counsels retained an expert psychologist, Dr. Eric Frazer ("Dr. Frazer") who evaluated the children and documented in his report on 11/19/18 (almost a year after the issuance of the court orders in the Specific Steps) that the oldest child "no longer wants to be a Muslim and that he wants to be a Christian", as the primary reason for desiring adoption by the foster mothers (full exhibit J8, p.9.)

32- Plaintiff stood trial before Defendant, at the Connecticut Middlesex Judicial District, Superior Court – Child Protection Session at Middletown.

The purpose of said trial was to determine whether plaintiff's parental rights should be terminated on the basis of 'failure to rehabilitate'.

33- On November 19, 2018, in their pretrial memorandum, DCF opposed TPR stating that plaintiff had "made significant progress in addressing the issues that led to the children's commitment, and appropriate during visitation with the children." (DCF's pretrial memo.) Once DCF learned that plaintiff and the mother had reached an agreement to raise the children in the Muslim faith, DCF suddenly changed its position and orally supported the TPR petitions.

34- In a status conference prior to the termination trial, Superior Court Judge Barbara Quinn met with the parties and advised the parties not to litigate the parental termination because the record reflects there is no basis to grant the termination of parental rights.

35- Throughout her involvement with the trial as a presiding judge on Plaintiff's case, the Defendant Judge was aware that plaintiff practices the Muslim faith, was aware that plaintiff is a Syrian immigrant and was aware that the issue of religion has been highly contested between the parties.

36- A plethora of exhibits were presented during trial (mostly exhibits from the previous neglect trial.) Additionally, and most significantly, defendant was given judicial notice of the family action in Superior Court at Docket Number HHB-FA15-6029313-S.

37- As a Juvenile Matter Judge, defendant's duty was to determine whether Plaintiff failed to rehabilitate from a condition that could otherwise make plaintiff an unfit parent and to determine whether Plaintiff puts his personal interest ahead of his

children's best interest, by clear and convincing evidence.

38- A total of three expert psychologists testified and reported to the Court in this case: Dr. Stephen Humphrey, Dr. Leslie Lothstein and Dr. Eric Frazer (in addition to Dr. Jason Gockel who provided court recommended therapy to plaintiff.) All three experts testified and reported that the children should never sever their relationship with plaintiff even if they were to be adopted.

39- On July 27, 2019, Defendant issued her Memorandum of Decision ("MOD") terminating Plaintiff's parental rights because Defendant found by clear and convincing evidence that Plaintiff failed to rehabilitate, and that Plaintiff is unable or unwilling to advance his children's best interest ahead of his. The primary factor that defendant relied upon in determining the best interest of the children, is that the children's long-term permanency and stability is better served in being adopted by the foster mothers as follows: "[The children] need the permanency and stability that their foster parents will continue to provide for as they have successfully done over the past four years." (Defendant's Memorandum of Decision, page 79.) The foster mothers never testified in the TPR trial and were never identified as pre-adoptive parents.

40- Despite the voluminous exhibits at Defendant's disposal, defendant was unable to identify clear and convincing evidence to terminate Plaintiff's parental rights. Therefore, Defendant maliciously resorted to relitigating prior findings by Judge Lobo and resorted to falsifying evidence as follows in paragraphs 41 through 65:

41- The evidence before Defendant was that Plaintiff took his children with him to the mall. However, Defendant falsified that evidence and found that "During a visit at Father's home in October 7, 2018, [Plaintiff] left the children to go to the Mall." (Page 35 of Defendant's MOD) to support her finding of Plaintiff putting his personal interests ahead of his children's by clear and convincing evidence.

42- The evidence before Defendant was that the mother of the children fabricated a crime scene to falsely accuse Plaintiff of assault. This evidence was in the form of a testimony from the police detective (at exhibit J48) and the Memorandum of Decision from the family case judge, which Defendant had judicial notice of. Despite that and despite that fact that the mother of children never testified before Defendant regarding the fabricated assault, Defendant made the finding that the mother was credible in her accusation of assault and that Plaintiff "lied regarding the circumstances surrounding the children's removal, and blamed Mother for filing what [Plaintiff] characterized as false charges against [him] with regard to the July 29, 2015 domestic violence incident in the home." (Page 66 of Defendant's MOD.)

43- Defendant was aware that the assault charges against Plaintiff were dismissed with prejudice. The issue of assault was not presented for determination before the defendant judge. The mother never testified before defendant regarding the alleged assault. More importantly, the issue of 'domestic violence' was never a factor in the prior neglect proceeding as plaintiff was not court-ordered to participate in a domestic violence program nor was he found to be in need of rehabilitating from any form of physical violence.

44- Against Defendant's misrepresentation, the Connecticut Appellate Court finds as follows: "When the dissolution court's memorandum of decision is read in its entirety, it is clear that the dissolution court knew that the [mother] was not truthful about... the alleged assault by the [the father]." *Conroy v. Idlibi*, 204 Conn. App. 265, 285 (Conn. App. Ct. 2021).

45- Moreover, the Connecticut Supreme Court affirms the Appellate Court's reading against Defendant's misrepresentation as follows: "[t]he dissolution court found that the [mother's] account of the alleged assault lacked credibility" *Conroy v. Idlibi*, SC 20598, at *1 (Conn. May 3, 2022).

46- Against the conclusions of family Superior Court judge, a panel of three Appellate judges and three Supreme Court Justices (seven judges in total), Defendant misrepresented the evidence as follows: "As discussed above, the court finds that the credible evidence presented in this matter confirms Mother's account of what transpired at the family home on July 29, 2015." i.e., that Plaintiff assaulted the mother. (Page 25 of Defendant's MOD.)

47- Defendant was presented with the very same evidence that was presented before the family judge in Superior Court, the three judges in the Appellate Court and the three justices in the Supreme Court, and on top of that, Defendant had the testimony of the police detective in full exhibit, *and* read the family judge's MOD, yet Defendant finds that the mother was credible in her accusation of assault.

48- Based on Defendant's misrepresentation of evidence, defendant labeled Plaintiff with "criminal history." (Page 23 Defendant's MOD.)

49- Defendant unfairly tried the Plaintiff as a violent criminal who victimized and assaulted the mother

in front of her children and terminated Plaintiff's parental rights accordingly.

50- Defendant asked the mother on whether Plaintiff "tried to control [her] in any aspect, through court proceedings, agreeing to motions, in any way by the use of finances", and the mother's answer was NO. Tr. 2/26/19, p. 70. Yet Defendant misrepresented this evidence and found that plaintiff did not rehabilitate from controlling the mother as follows: "The record is replete with many instances of [Plaintiff's] repeated attempts to use coercion and control in his dealings with Mother, DCF, the foster parents, and the service providers." Page 37 of Defendant's MOD. Defendant does not cite a single example of this "replete record" that renders Plaintiff to have failed to rehabilitate from "coercively controlling" all those people including DCF.

51- An audio recording of a conversation between plaintiff and one of his children was in full exhibit. The recorded conversation took place before the children's removal and Defendant was very aware of that fact from the full exhibit. Yet Defendant misrepresented and falsified this evidence and found that the audio recording took place during a "supervised visit" *after* the children's removal to support her bogus finding of a failure to rehabilitate by clear and convincing evidence. (Page 27 of Defendant's MOD.)

52- Although fully investigated and unsubstantiated by DCF and although not given credence by judge Lobo in the neglect trial, defendant finds as follows: "The court finds deeply concerning Father's failure to acknowledge and appreciate the significance of the alleged sexual misconduct by [older sibling] with regard to his young daughter." (Defendant's

MOD at page 39.) This irrelevant issue from 2011 (eight years prior) was not presented for determination before the defendant judge. Based on relitigating this issue alone, the defendant judge determined as follows: "In light of the above, the court finds that Father failed to sufficiently rehabilitate in that he has failed to attain a level of stability to permit his children to be safely placed in his care." (Defendant's MOD, page 69.)

53- Without factual basis and without citing such, defendant accused plaintiff of lying and entered in her Memorandum of Decision a finding that plaintiff's filings/affidavits contain "clear misrepresentations, falsehoods, and inconsistencies" without identifying any of those "clear misrepresentations, falsehoods, and inconsistencies." Plaintiff maintains that none of his filings/affidavits contain misrepresentations nor falsehoods as defendant falsely finds.

54- Defendant determined that Plaintiff has "mental issues" although three expert psychologists testified that Plaintiff is not mentally ill (Dr. Humphrey, Dr. Lothstein and Dr. Gockel.)

55- Defendant MOD states as follows: "Further, the court finds that many of the motions and affidavits, and specifically, the affidavit filed with the OTC on July 29, 2015, contained clear misrepresentations, falsehoods, and inconsistencies, including extremely disturbing aspersions as to Mother, all of which have damaged Father's credibility in eyes of this court. (Defendant's MOD at page 24 n. 5.) Defendant cites no reason nor any evidence as to why she found "clear misrepresentations, falsehoods, and inconsistencies" in plaintiff pervious filings, which were fully litigated by Judge Lobo and were not presented for determination

before Defendant. In fact, Judge Lobo partially relied on plaintiff's affidavit to adjudicate neglect. Defendant's MOD further states as follows: "The court further finds that, contrary to Father's testimony, he has attempted to alienate Mother from the children and has attempted to cast her in a disparaging light by making outrageous and disturbing false claims against her." (Defendant's MOD at page 39.) Other than extreme prejudice against plaintiff, defendant cites no reason, nor any evidence as to why plaintiff's claims were "outrageous and disturbing."

56- Against the recommendation of the three experts, defendant finds as follows: "Further, the court is deeply concerned that Mother would allow Father access to the children if his parental rights were terminated." (Defendant's MOD at page 70.) Again, other than extreme prejudice against plaintiff, defendant cites no reason, nor any evidence as to why she is deeply concerned that Plaintiff would be allowed access to his children.

57- Demonstrating a prejudicial judgement, not only devoid of any evidence but also devoid of any logical reasoning, defendant's MOD states as follows: "Further, the court is concerned regarding Father's testimony that he would continue to assist Mother financially and allow the children access to her if the court terminated her parental rights which is clearly indicative of his ongoing desire to control Mother." (Defendant's MOD at page 68.) This is yet another example of defendant's "clear and convincing evidence" to terminate plaintiff's parental rights on the basis of failure to rehabilitate from "controlling" his ex-wife.

58- Against Judge Lobo's findings, defendant found it necessary to include the false hearsay statement

that "Mother also reported that during the first co-parenting session with Father, Father stated that the foster parents were "poisoning the kids with Christianity." (Defendant's MOD at page 21.) Defendant sought to falsely convey that plaintiff disrespects Christianity against Judge Lobo's clear findings in his MOD (at page 27) which was in full exhibit in the TPR trial. Id.

59- While it was very clear from Judge Lobo's MOD (at page 38) in full exhibit, that the mother was not seeking custody of the children in the neglect trial, defendant included this statement in her MOD: "Father also falsely reported to Attorney Moskowitz that Mother was not seeking custody of the children, and that she was unfit to parent the children." (Defendant's MOD at page 21.) Ironically, the defendant herself found that the mother was unfit to parent the children and terminated her parental rights accordingly. The mother suddenly became unfit in the eyes of the court only after DCF supported TPR when it became known that the mother agreed with plaintiff to raise the children in the Muslim faith. Defendant's also notes in her MOD as follows: "Most troubling is Father's representation to Dr. Lothstein that Mother did not want custody of the children and was abandoning them." (Defendant's MOD at page 32.)

60- Just like almost every witness in the TPR trial, defendant discredited Attorney Moskowitz testimony as follows: "The court found Attorney Moskowitz's testimony unpersuasive as she was clearly aligned with Father and biased against Mother. As a result, the co-parenting sessions ended unsuccessfully." (Defendant's MOD at pp. 30-31.) Additionally, defendant discredited the

expert report and testimony of Dr. Lothstein as follows: "The court gives no credence to any of Dr. Lothstein's opinions and conclusions as they are based on inaccurate, flawed and biased information given to him by Father." (Defendant's MOD at page 32.)

61- At the Same time, defendant finds as follows: "It was that coercive and controlling influence with Attorney Moskowitz that led to failure to the co-parenting services, and required another co-parenting provider which commenced only recently." (Defendant's MOD at page 68.) In other words, the defendant judge finds that the same co-parenting coordinator, which plaintiff coercively controlled, was also unilaterally aligned with plaintiff and should be discredited accordingly.

62- Dr. Lothstein, reported the following, which was exclusively based on interviewing the children (not on information provided by plaintiff): "The children are being indoctrinated to believe that the father is violent, that their religion is a violent one and they would be better off being Christian, celebrating Christmas, eating pork (which was presented to me in a manic like frenzy), as if all of their problems would go away if they could eat pork and deny their Muslim heritage." (Full exhibit J40, p 3.) Dr. Lothstein's report is consistent with the report of court-assigned psychologist, Dr. Stephen Humphrey whose report (full exhibit J2) was also disregarded by defendant, states as follows: "since entering foster care, the boys have come to conclude that being a Muslim is undesirable" and "Further, [plaintiff's] concerns that someone (it is not clear who) has been continuing to discuss these events with the children, and reinforce the notion that [plaintiff] perpetrated physical violence, are

supported by the children's comments." (Full exhibit J2 at page 76.)

63- Defendant disregarded Dr. Humphrey's recommendation in his report that the children should be reunited with plaintiff as their primary caretaker. (Full exhibit J2 at page 83.)

64- Defendant disregarded Dr. Frazer's strong recommendation not to sever the children's relationship with plaintiff even though defendant found Dr. Frazer to be highly credible.

65- Although vague and ambiguous, defendant's theory in terminating plaintiff's parental rights appears to be based on her findings that plaintiff did not rehabilitate from controlling his ex-wife which, in defendant's opinion, represents intimate partner violence with someone whom plaintiff is neither intimate with nor a partner with. The same person who testified in a clear answer to defendant's direct question, that plaintiff had not attempted to control her in any way since his separation from her.

66- The defendant judge has strong interest in ensuring plaintiff's defeat in his ongoing efforts to retain his parental rights through the judicial system.

67- The forging conduct demonstrates that defendant would stop at nothing to ensure the plaintiff's deprivation of his parental rights, to ensure the severance of any form of connection between plaintiff and his children. Defendant's conduct demonstrates that she is blinded by extreme prejudice against plaintiff due to his religious creed and ethnic region, that she will not abide by any form of decent conduct in her quest to deprive plaintiff of his children and to ensure the children's conversion to Christianity.

68- On August 1, 2019, plaintiff appealed Defendant's decision to the Appellate Court. October 8, 2019, Plaintiff submitted his Appellant Brief to the Appellate Court. In his Appellant Brief, the Plaintiff raised the issue of judicial bias and briefed the Appellate Court with the claim that plaintiff was deprived of his right to a fair trial because the defendant judge baselessly tried plaintiff as a physically violent criminal with "criminal history" and considered him a liar without evidence or factual basis. The Plaintiff claimed that there are no factual bases that support the defendant's judge's findings not even remotely. Accordingly, Plaintiff filed a motion for articulation moving the defendant to articulate the factual bases for her outrageous and unfounded findings regarding plaintiff. Defendant denied plaintiff's motion for articulation and the Appellate Court denied plaintiff's relief on bis motion to review the denial of articulation.

69- On October 8, 2019, plaintiff delivered a copy of his Appellant Brief to defendant as required by C.P.B. § 62-7. Contained in that copy is plaintiff's claim of judicial bias and plaintiff's accusation of defendant that she "relied on substantial ambiguity in her decision to mask unlawful discrimination." (Appellant Brief at page 22.)

70- On or after October 8, 2029, in her individual capacity, and in clear absence of all jurisdiction, defendant unlawfully communicated with at least one clerk, one Superior Court judge and/or one Appellate Court judge in a conspiratorial fashion violating plaintiff's constitutional right to fundamental fairness through a fairly reviewed appeal, and to ensure plaintiff's deprivation of his constitutional parental rights by exerting influence

on the outcome of plaintiff's appeal and/or on the outcome of plaintiff's other filings in this case that sought to reverse defendant's judgment. Defendant's conduct meets the elements of an unlawful conspiracy against plaintiff. The overt act was done in a single plan pursuant to a common scheme. The purpose of the conspiracy was to deprive plaintiff of his constitutional Due Process right and his constitutional right to fundamental fairness and to a fair appeal to reverse the termination judgment and to preserve the integrity of his family. Those constitutional rights are guaranteed to plaintiff under the Fifth and Fourteenth Amendment. Defendant knew or must have known that she was acting in in clear absence of all jurisdiction.

71- On or after October 8, 2029, in her individual capacity, and in clear absence of all jurisdiction, defendant contacted Appellate Judge Christine E. Keller ("judge Keller") in a conspiratorial fashion to ensure the defeat of plaintiff's appeal, which sought to reverse defendant's judgment. This conspiratorial communication resulted in a single plan agreement between the defendant judge and judge Keller to deprive plaintiff of his constitutional rights to equal protection of the law, fundamental fairness and a fairly reviewed appeal. The overt act was done pursuant to a common scheme in the furtherance of the conspiracy that resulted in depriving plaintiff of his constitutional rights to fundamental fairness, Due Process, Equal Protection of the Law and the right to preserve the integrity of plaintiff's family through a fair appeal. Defendant knew or must have known that she was acting in in clear absence of all jurisdiction.

72- Plaintiff seeks to file a separate lawsuit against judge Keller for her role in the conspiracy prior to the expiration of the statute of limitation. Plaintiff is withholding the filing of said suit and withholding the addition of judge Keller as a defendant in this case for strategic reasons. It is well-settled that all co-conspirators need not be joined to permit any one or more to be held liable for an unlawful conspiracy.

73- On or after October 8, 2029, in her official capacity, defendant unlawfully communicated with at least one clerk, one Superior Court judge and/or one Appellate Court judge in a conspiratorial fashion to ensure plaintiff's deprivation of his constitutional right to fundamental fairness and equal protection of the law, by exerting influence on the outcome of plaintiff's appeal and/or on the outcome of plaintiff's other filings in this case that sought to reverse defendant's judgment. Defendant's conduct meets the elements of an unlawful conspiracy against plaintiff. The overt act was done in a single plan pursuant to a common scheme. The purpose of the conspiracy was to deprive plaintiff of his constitutional Due Process right and his constitutional right to fundamental fairness and to a fair appeal to reverse the termination judgment and to preserve integrity of his family. Those constitutional rights are guaranteed to plaintiff under the Fifth and Fourteenth Amendment. Defendant knew or must have known that she was acting in in clear absence of all jurisdiction.

74- In further factual support of defendant's conspiratorial conduct and in a clear 'meeting of the minds' pattern between defendant and judge Keller, specifically on January 16, 2020, and within less than one minute of plaintiff's initiation of his

oral argument, judge Keller interrupted plaintiff and strongly commended plaintiff for entering the family residence on July 29, 2015, against the mother's wishes. There is no relevance whatsoever to this strong condemnation by Judge Keller. Judge Keller's interruption is transcribed by the court reporter (although Judge Keller's yelling could not be transcribed unless if the audio recording is produced.)

75- On May 27, 2020, Judge Keller authored the Appellate Court opinion affirming defendant's judgment.

76- In further factual support of defendant's conspiratorial conduct and in a clear meeting of the minds pattern between defendant and judge Keller, specifically on January 16, 2020, panelist Appellate Court Judge Thomas A. Bishop ("Judge Bishop") clearly opined that the defendant Judge's reliance on unsubstantiated allegations from 2011 is merely "speculative" in a trial that mandates clear and convincing standard of proof. Judge Bishop also opined that the defendant's finding that the children's best interest is to be adopted by the foster mothers is improper when the foster mothers were never identified as pre-adoptive parents and never testified in the TPR trial. Judge Bishop's oral dissenting opinion is transcribed in the oral argument session. Plaintiff seeks to introduce the transcripts of the oral argument as an exhibit in this case. However, the released opinion authored by Judge Keller states that "all judges concurred" on affirming defendant's judgement. Moreover, judge Keller's opinion states as follows in stark contrast with Judge Bishop's oral opinion: "It suffices to reiterate that, at times, the respondent failed to adequately supervise and engage with the

children during these visits. Moreover, the court noted the respondent's disturbing indifference to the dangers posed to "S" by her half-brothers." *In re Omar I.*, 197 Conn. App. 499, 591 (Conn. App. Ct. 2020). This is despite DCF's official declaration to the Court in its pre-trial pleadings that plaintiff "was appropriate during visits."

77- The only explanation to this discrepancy between judge Bishop's oral opinion and judge Keller's authored opinion is that judge Keller convinced Judge Bishop to abandon his dissenting opinion in the furtherance of the conspiracy with the defendant judge, which resulted in the unfair review of plaintiff's appeal and subsequently, the unjust deprivation of plaintiff's parental rights.

78- In further factual support of defendant's conspiratorial conduct and in a clear meeting of the minds pattern between the defendant judge and judge Keller, judge Keller affirmed the defendant's judgment terminating plaintiff's parental rights without articulating the factual bases for the legal findings, although plaintiff filed a motion for articulation which was denied by the defendant judge and a motion for review which was denied by the Appellate Court.

79- In further factual support of defendant's conspiratorial conduct and in a clear meeting of the minds pattern between defendant and judge Keller, also during oral argument on January 16, 2020, judge Keller inquired from the parties on whether the defendant judge "precluded" any testimonies during trial. Both plaintiff and one of the children's counsels explained to judge Keller that what plaintiff meant is "disregarded" rather than "precluded", and that the word "precluded" was the wrong choice of words. Yet, in a clear effort to evade

reviewing plaintiff's claim correctly, Judge Keller opines as follows: "Additionally, there is no basis in the record in support of the respondent's arguments that the court "preclude[d]" several witnesses from testifying. The respondent does not cite to any instance in which any of the several persons identified in his brief were precluded from testifying. All of the persons identified in the respondent's brief, in fact, either testified at trial or, with respect to Lothstein in particular, their opinion was otherwise before the court." Id at 573.

80- In further factual support of defendant's conspiratorial conduct and in a clear meeting of the minds pattern between defendant and judge Keller, judge Keller, against established law, determined that the defendant judge has the discretion to relitigate judge Lobo's neglect findings and to find plaintiff guilty of "domestic violence" and guilty of assault, as follows: "It was not improper for the court, in resolving the factual issues before it, to have made subordinate factual findings that, while not made by Judge Lobo during the neglect proceeding, were not in any way contrary to the finding of neglect. Moreover, Judge Lobo plainly stated that it was unnecessary in light of the issues before him in the neglect proceeding to determine whether the respondent had engaged in domestic violence. It was not improper, in evaluating the critical issue of rehabilitation, for the court in the termination proceeding to have made findings concerning the domestic violence incident that had not been made by Judge Lobo previously." Id at 572-73. Therefore, Judge Keller agrees with defendant that there was a "domestic violence incident" during which plaintiff assaulted the mother. Judge Keller determined that it was not improper for

defendant to make such outrageous finding against plaintiff for two reasons: a) because it does not contradict judge Lobo's finding (but it does contradict the dissolution Court findings as agreed upon by both the Appellate Court and the Supreme Court Id; and b) because this finding is needed "in evaluating the critical issue of rehabilitation." Yet, there is no finding that plaintiff had failed to rehabilitate from being physically violent or whether there was even a need to evaluate plaintiff's rehabilitation from physical violence.

81- Although this issue was not presented for determination before the defendant judge and the defendant judge did not "hear" any evidence regarding it, but rather examined existing evidence from the neglect trial and from the dissolution trial, Judge Keller further authors as follows: "The respondent argues that this comment, as well as the court's subsequent findings in the memorandum of decision concerning his role in the domestic violence incident reflects that Judge Burgdorff deemed him guilty of having committed "a horrific crime" and, thus, she "should have recused herself." The respondent argues that such findings are "starkly inconsistent" with Judge Lobo's findings in the neglect proceeding. It suffices to observe that the court heard ample evidence that the respondent engaged in domestic violence by having entered the family home against the mother's wishes on July 29, 2015, and having forced himself into the mother's locked bedroom. Thus, the court's comment in ruling on the objection and its later findings were properly based on evidence before the court and the reasonable inferences to be drawn therefrom." Id at 571 n.17. Yet, the same Appellate Court later finds that "When the

dissolution court's memorandum of decision is read in its entirety, it is clear that the dissolution court knew that the [mother] was not truthful about... the alleged assault by the [the plaintiff]." Id. And later the Connecticut Supreme Court finds: "[t]he dissolution court found that the [mother's] account of the alleged assault lacked credibility" Id. Moreover, the Connecticut Supreme Court outlines excerpts from the police detective's testimony from the dissolution court's MOD in support of its opinion (all were at the disposal of the defendant judge in full exhibits.) Even if the plaintiff was hypothetically physically violent and had indeed assaulted the mother, the defendant's role in the TPR trial was to identify clear and convincing evidence that plaintiff had failed to rehabilitate from a habitual physical violence pattern that would render him unfit to care for his children as judge Keller clearly states in her authored opinion as follows: "The ultimate issue the court must evaluate is whether the parent has gained the insight and ability to care for his or her child given the age and needs of the child within a reasonable time." Id at 575. In his Appellant Brief, plaintiff clearly and extensively argued that there are no factual bases to support a finding that plaintiff had not gained the insight and the ability to care for his children. The only factual basis which judge Keller cites in this regard is as follows: "One of the orders [plaintiff] proposed was that the respondent "shall reserve the right to file a post-judgment motion in family court for a final ruling on custody of the three children." Thus, despite the fact that the family court had deferred a decision on the issue of custody and visitation to the juvenile court, the respondent remained intent on continuing the

custody battle if the decision of the juvenile court was not to his satisfaction. This action reflects his lack of insight into the children's need for stability and his self-absorbed determination to get his own way." Id at 581 n.25. Without articulating any factual bases, against the mother's own testimony, and without explaining how could the plaintiff exert control on the mother "in all matters" while divorced from her and separated from her, Judge Keller concludes as follows: "As the court observed, by the time of the trial, the respondent had not recognized his role in the circumstances that led to the children's removal from the home, continued to undermine efforts to reunify the mother with the children, and continued his underlying pattern of exerting control in all matters concerning the mother, to the detriment of his children." Id at 580. Even if the preceding is true, which is not, parents do not lose their parental rights simply for disputing custody in courts, and the court is the one which would ultimately determine the outcome of the custody dispute irrespective of each parent's position. Plaintiff made this issue very clear to judge Keller during oral argument.

82- In further factual support of defendant's conspiratorial conduct and in a clear meeting of the minds pattern between defendant and judge Keller, judge Keller willfully overlooked plaintiff's most serious and most prominent claim on judicial bias, which is the malicious alteration and falsification of evidence as alleged in paragraphs 41-64. Furthermore, Judge Keller willfully overlooked plaintiff's claim on appeal that the defendant judge prejudicially and baselessly tried the plaintiff as a liar and as a physically violent assailant, which deprived plaintiff of his constitutional right to

fundamental fairness and his right to a fair trial (Appellant's brief at pages 10-23.) Judge Keller who authored the opinion of affirmation states as follows: "It would serve no useful purpose to analyze each and every instance of alleged judicial bias that is discussed by the respondent in his appellate brief. Although we will discuss many of the specific points raised in the claim, in the interest of judicial economy, we may dispose of the claim by addressing some of the more prominent arguments in his brief as well as the general principles that defeat his claim. We note, however, that we have considered all of the arguments raised in his claim, and that our analysis applies to and encompasses all of the arguments raised." Id at 566 n.11. Instead, judge Keller states as follows: "The respondent does not dispute that he did not raise a claim of judicial bias before the trial court, ask the court to recuse itself, or move for disqualification. He has chosen, instead, to wait to raise a claim of this nature only after the court rendered its judgments terminating his parental rights." Id at 568. However, plaintiff made it very clear in his Appellant Brief that he could not have possibly known that the defendant judge would go to the extreme of labeling him with a criminal history, considering him a liar and a violent criminal until after the defendant's MOD was issued, which contained those outrageous baseless findings. Judge Keller does not mention anything regarding plaintiff's motion for articulation, which was denied, and plaintiff's motion for review which was also denied. Although the issue of 'domestic violence' was not relevant, judge Keller's opinion states as follows: "The flaw in the respondent's numerous references to comments and findings

that were adverse to him is that, in each instance, the court based its opinion on facts in evidence and, rather than merely reflecting hostility to him, they were relevant to the issues before the court." Id at 571. Yet, as plaintiff briefed, there are no facts or evidence as to why defendant found plaintiff to be a liar, no facts or evidence as to why defendant considered plaintiff guilty of domestic violence and assault, and most importantly, no fact or evidence as to plaintiff's unfitness as a parent. The plaintiff was never required to 'rehabilitate' from 'domestic violence' with an ex-wife that he is divorced from and fully separated from.

83- Plaintiff briefed the Appellate Court that the defendant judge did not allow plaintiff's attorney to question the children's therapist on whether the children received the court-ordered therapy to address their unfounded misunderstandings of their father and of their religion (Appellant Brief at pag2 9 and Tr. 1/29/19, p. 21.) Judge Keller misrepresented plaintiff's claim as follows: "Contrary to the respondent's suggestion that the department failed to comply with Judge Lobo's directive that the children be enrolled in therapy, the evidence reflected that all three children were in therapy soon after the neglect proceeding took place." Id at 591 n.30. This represents another example meeting of the minds factual pattern between the defendant and judge Keller. The issue raised by plaintiff was not just 'therapy', but therapy to address the children's unfounded fears of their father as ordered by judge Lobo.

84- For a prominent Appellate Judge (who later became a Connecticut Supreme Court Justice before taking a senior status in March 2022), to go to the extreme of misrepresenting an appeal claim

and misrepresenting clear judicial findings adequately briefed to her by plaintiff, only supports a 'meeting of the minds' conspiratorial conduct with the defendant judge in furtherance of the unlawful conspiracy that resulted in violating plaintiff's constitutional rights under the Fifth and Fourteenth Amendments. One of most compelling misrepresentations was judge Keller's denial of the replete evidence of the strong bond between plaintiff and his children at the time of their removal, which was emphasized in Judge Lob's decision based on several testimonies, DCF narratives and psychological reports by Dr. IIumphrey and Dr. Lothstein in full exhibits. Judge Keller disregarded all that and misrepresented this strong bond as an imaginary thing that plaintiff "believes in" as follows: "The respondent argues that the department created a barrier between him and his children, thereby undermining what he believes to be the strong bond that existed between him and his children at the time of their removal." Id at 588. Therefore, evading plaintiff's claim on appeal that DCF created an untrue barrier which resulted in the children seeking to be adopted out of their unfounded fears of reunifying with their father. Plaintiff adequately briefed this claim of law to judge Keller at pages 20, 31, 35, 36. Plaintiff claimed in his appeal that this untrue barrier precludes termination of parental rights under Conn. Gen. Stat. § 17a-112 (k) (7). Judge Keller's opinion denies the existence of this strong bond to evade reviewing plaintiff's claim pursuant to C.G.S. § 17a-112 (k) (7).

85- On September 22, 2021, plaintiff filed a direct appeal with the Appellate Court at AC 44983 appealing Superior Court's decision to strike his

petition for a new TPR trial. On October 20, 2021, the Appellate Court filed its own motion to dismiss plaintiff's appeal, but notably indicated in its motion that Judge Nina F. Elgo ("judge Elgo") is recused. A judge would only recuse herself pursuant to Canon 3(c)(1), which provides in relevant part: "A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where: (A) the judge has a personal bias or prejudice concerning a party. . . ." However, judge Elgo was never involved with plaintiff in any judicial or personal way. In fact, plaintiff never heard of judge Elgo's name until the Appellate Court indicated that she recused herself from plaintiff's appeal. Therefore, it is highly probable that judge Elgo was also contacted by the defendant judge in the same unlawful conspiratorial fashion to deny plaintiff his constitutional right to fundamental fairness through a fair appeal, but judge Elgo refused to become a part of this unlawful conspiracy and recused herself accordingly.

86- The defendant judge and her co-conspirator(s) succeeded through their unlawful conspiratorial conduct in depriving plaintiff of his constitutional right to Due Process and Equal Protection of the Law and his constitutional right to fundamental fairness and to a fair appeal to reverse the termination judgment and to preserve the integrity of his family.

87- Never in the history of the judicial system, a parent's parental rights were terminated without substantiation of neglect or abuse, without criminal history, without substance abuse history, without a

mental illness condition and without any condition that requires rehabilitation, but it happened in this case.

88- Consistent with the oral dissenting opinion of Judge Bishop and because the foster mothers were never securitized as to their fitness to adopt the three children with their special needs, within less than a year after TPR, the two foster mothers separated due to one of the partners' ongoing indefinity and the children have suffered the emotional consequences of this bitter contested separation of their caretakers.

89- Exactly as the three experts warned, within less than a year after TPR, the children developed most of the alarming symptoms of the 'Father Hunger Syndrome' which included but not limited to, withdrawal, academic decline, persistent depression, anger, feelings of worthlessness and have been rushed to the mental hospital on several occasions.

90- As of the date of the filing of this amended complaint, plaintiff continues with his ongoing efforts to retain his parental rights through the legal system and continues with his ongoing efforts to rescue his children from their current deplorable placement with one separated foster mother who is too entangled with her emotional plight to care for the three children with their special needs. That one foster mother has single handedly adopted two more children in addition to plaintiff's three children to receive as much financial aid from the multiple adoptions to support her indigent financial status.

91- Declaratory relief is not available in this case. In fact, defendant filed a motion to dismiss plaintiff's initial complaint on August 17, 2022, correctly

arguing that declaratory relief is not available in this case.

92- Based on the forgoing, the defendant judge is very unlikely to abstain from interfering with plaintiff's ongoing efforts to retain his parental rights, both in her individual capacity and in her official capacity.

COUNT ONE: Intentional Infliction of Emotional Distress

1-92. The allegations of each of the foregoing paragraphs are incorporated into this Count as if specifically re-alleged herein. Plaintiff repeats and realleges the allegations contained in paragraphs 1–117 as if fully set forth herein.

93- Defendant knew or should have known that emotional distress was a likely result of her conduct.

94- Defendant's misconduct individually as alleged, outside the judicial proceedings and in clear absence of all jurisdiction, was intended to inflict emotional distress on Plaintiff. Defendant knew or must have known that she was acting in in clear absence of all jurisdiction. Defendant has no jurisdiction whatsoever over plaintiff's appeal in the Appellate Court. Defendant's wrongful conduct was committed pursuant to a non-judicial act.

95- Defendant's conduct was extreme and outrageous.

96- The defendant's conduct is outrageous and extreme in degree, going beyond all possible bounds of decency to the extent that it is regarded as atrocious and utterly intolerable in a civilized community.

97- Defendant's conduct was the cause of the plaintiff's distress.

98- The emotional distress sustained by the plaintiff was severe.

COUNT TWO: Recklessness.

1-98. The allegations of each of the foregoing paragraphs are incorporated into this Count as if specifically re-alleged herein. Plaintiff repeats and realleges the allegations contained in paragraphs 1–123 as if fully set forth herein.

99- The conduct of the defendant indicates a conscious disregard of the constitutional rights of the plaintiff and was reckless, exhibiting highly unreasonable conduct involving an extreme departure from ordinary care in a situation in which a high degree of risk is apparent.

100- Defendant's reckless conspiratorial conduct is the sole reason for the Appellate Court's affirmance of defendant's termination judgment and the reason why Judge Bishop abandoned his oral dissenting opinion, which contradicted Judge Keller's authored opinion.

101- The defendant's highly unreasonable and reckless disregard was a substantial factor in causing the plaintiff the following injuries, some of which may be permanent:

a. depression
b. anxiety;
c. interference with profession;
d. post-traumatic stress disorder; and
e. emotional shock to his psyche.

102- As a further result of said misconduct, the quality of plaintiff's life has been greatly diminished.

COUNT THREE: Negligence.

1-102. The allegations of each of the foregoing paragraphs are incorporated into this Count as if specifically re-alleged herein. Plaintiff repeats and realleges the allegations contained in paragraphs 1–125 as if fully set forth herein.

103- Defendant legally owed plaintiff a duty of not interfering with his appeal to the Appellate Court. Defendant legally owed plaintiff a duty of confining herself to the boundaries of her own jurisdiction in Superior Court. However, defendant recklessly chose to transgress those boundaries to the Appellate Court and act maliciously in the absence of all jurisdiction.

104- Instead of abiding by her legal duty, defendant breached her duty and conspired with judge Keller and probably other judges. Defendant has no jurisdiction whatsoever on plaintiff's appeal in the Appellate Court. Defendant's wrongful conduct was committed pursuant to a non-judicial act.

105- Defendant's tortious conduct is reckless; without care for the risk to Plaintiff and without reason or justification.

106- Defendant's tortious conduct is wanton and willful.

107- Defendant's conduct is unreasonable, without a care for the consequences and with reckless indifference to the rights of Plaintiff.

108- As a direct and proximate result of the Defendant's actions and conduct, the Plaintiff has suffered, and continues to suffer, an ascertainable injury and loss.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays this Court issue equitable relief as follows:

1. Issue injunctive relief commanding Defendant to:

a- Refrain from interfering with plaintiff's legal filings in the case of his children in her individual capacity.

b- Refrain in her individual capacity from contacting or otherwise influencing by any means directly or

indirectly, other clerks or judges of the Superior Court, the Appellate Court or the Supreme Court regarding plaintiff's filings and plaintiff's efforts to retain his parental rights or to reverse defendant's termination judgment.

c- Abstain from interfering with plaintiff's filings in this case in her official capacity when such case(s) are not officially assigned to defendant.

d- Abstain in her official capacity from contacting or otherwise influencing through any means directly or indirectly, other clerks or judges of the Superior Court, the Appellate Court or the Supreme Court regarding plaintiff's filings and plaintiff's efforts to retain his parental rights or to reverse defendant's termination judgment when such case(s) are not officially assigned to defendant.

2- Money Damages in excess of ten million US dollars;

a- Compensatory damages;

b- Punitive damages;

c- Consequential and pecuniary damages;

d- Costs;

e- Attorney's fees, and

f- Such other monetary awards as this Court may deem just and proper.

3- Issue other relief as this Court deems appropriate and just.

Respectfully submitted,

PLAINTIFF,
/s/Ammar Idlibi
AMMAR IDLIBI
33 Maggie Court
Terryville, CT 06786
Tel (860)543-54500
Fax: 860-516-8918
E-mail: aidlibi@yahoo.com

STATEMENT OF VERIFICATION

I have read the above Amended Complaint, and it is correct to the best of my knowledge.

PLAINTIFF,

/s/Ammar Idlibi

AMMAR IDLIBI

Certificate of Service

On September 1, 2022, a copy of the foregoing **Amended Complaint** was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

PLAINTIFF,

/s/Ammar Idlibi
AMMAR IDLIBI