

No.

24-6901

ORIGINAL

IN THE

Supreme Court of the United States

JUNIOR-TONY DIEUJUSTE,

Petitioner

v.

FILED  
MAR 14 2025

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

JESSICA SIN, et al;

Respondents

**PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT  
OF APPEALS FOR THE SECOND CIRCUIT**

Junior-Tony: Dieujuste, Pro Se Petitioner  
c/o 229-01 Linden Blvd, Box 110090  
Cambria Heights, New York 11411-0090

PETITION FOR WRIT OF CERTIORARI

## **QUESTIONS PRESENTED**

- 1. Whether judicial immunity extends to administrative actions taken by court officials in child support proceedings that involve the unauthorized use of a registered servicemark, particularly when New York Family Court Act § 439 designates such proceedings to support magistrates rather than judges.**
- 2. Whether the lower courts' circular reasoning—simultaneously characterizing the defendants' actions as judicial (to invoke immunity) while dismissing trademark claims because they don't constitute "use in commerce"—represents a misapplication of both judicial immunity doctrine and trademark law.**
- 3. Whether the courts' institutional protectionism, evidenced by their failure to address the administrative nature of child support proceedings and the commercial aspects of court operations, warrants this Court's intervention to clarify the boundaries of judicial immunity.**

## **PARTIES AND RELATED PROCEEDINGS**

### **A. State Court Proceedings:**

**1. File #: 129709, Docket #: U-13677-22 Family Court of the State of New York, County of Queens**

- **Jessica Sin (BAR #: 4472551)**
- **Rose M. Garcia (BAR #: 4761128)**
- **Keisha Kearse (Clerk of Court)**
- **Sylvia O. Hinds-Radix (BAR #: 1982925)**
- **Charessa L. Glover-Thomas (BAR #: 4462834)**
- **Lorraine Meaney (IV-D Representative)**
- **Keyona Florence (informant)**

### **B. District Court Proceedings:**

**1. 1:23-cv-07805-JAM United States District Court, New York Eastern District**

- **Judge Joseph A. Marutollo**

### **C. Second Circuit Appeals:**

**1. Appeal #: 24-1522:**

- **Judge John M. Walker, Jr.**
- **Judge Beth Robinson**
- **Judge Sarah A. L. Merriam**

**PETITION FOR WRIT OF CERTIORARI**

**-4-**

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## TABLE OF AUTHORITIES

### CASES

- *Stump v. Sparkman*, 435 U.S. 349 (1978) - Leading Supreme Court case establishing the scope of judicial immunity
- *Blessing v. Freestone*, 520 U.S. 329 (1997) - Supreme Court case discussing federal funding of state child support enforcement
- *Mireles v. Waco*, 502 U.S. 9 (1991) - Supreme Court case addressing limits of judicial immunity
- *Forrester v. White*, 484 U.S. 219 (1988) - Supreme Court case distinguishing between judicial and administrative functions
- *Pierson v. Ray*, 386 U.S. 547 (1967) - Supreme Court case on judicial immunity from civil rights claims
- *Bradley v. Fisher*, 80 U.S. 335 (1871) - Historical Supreme Court case establishing judicial immunity doctrine
- *Ex parte Young*, 209 U.S. 123 (1908) - Supreme Court case on exceptions to sovereign immunity

### STATUTES

- **15 U.S.C. § 1121** - Jurisdiction of courts; trademark cases
- **15 U.S.C. § 1122(b)** - Waiver of sovereign immunity by states in trademark cases

- **17 U.S.C. § 107** - Fair use doctrine in copyright law
- **17 U.S.C. § 501(b)** - Copyright infringement and remedies
- **28 U.S.C. § 1331** - Federal question jurisdiction
- **28 U.S.C. § 1391** - Venue generally
- **28 U.S.C. § 1498(b)** - Government use of copyrighted works
- **28 U.S.C. § 2202** - Further relief in declaratory judgment actions
- **42 U.S.C. § 654(3)** - State plan for child support
- **42 U.S.C. § 655(a)** - Federal funding for state child support enforcement
- **New York Family Court Act § 113** - Family court establishment
- **New York Family Court Act § 120** - Family court jurisdiction
- **New York Family Court Act § 151** - Family court administration
- **New York Family Court Act § 234** - Powers of court in matrimonial actions
- **New York Family Court Act § 235** - Confidentiality of records
- **New York Family Court Act § 438(a)** - Counsel fees in family court proceedings
- **New York Family Court Act § 439** - Support magistrates

- **New York CPLR § 5241(G)** - Income execution for support enforcement
- **New York CPLR § 5252** - Employer's discrimination prohibited

## **RULES**

- **Federal Rules of Civil Procedure Rule 12(b)** - Defenses and objections
- **Federal Rules of Civil Procedure Rule 12(c)** - Motion for judgment on the pleadings
- **Federal Rules of Civil Procedure Rule 56** - Summary judgment
- **Federal Rules of Civil Procedure Rule 65(b)** - Temporary restraining order
- **Federal Rules of Evidence Rule 201** - Judicial notice
- **Local Civil Rule 6.3** - Motion for reconsideration

## **OPINIONS BELOW**

The opinions and decisions of the Second Circuit Court of Appeals in this matter were initially published but were subsequently withdrawn from public access. Despite being previously available, these judicial opinions now remain unavailable on PACER, the federal judiciary's public access system. This unusual withdrawal of published opinions, occurring after the Second Circuit's affirmation of the district court's dismissal, raises significant concerns about transparency in judicial proceedings and appears to further the institutional protectionism evident in the courts' circular reasoning.

# **CITATIONS OF OFFICIAL AND UNOFFICIAL REPORTS**

## **DISTRICT COURT PROCEEDINGS**

- Dieujuste v. Sin et al., No. 23-CV-7805-JAM (E.D.N.Y. Apr. 26, 2024) (order granting defendants' motion to dismiss), reprinted in Appendix A, at 12a-33a.
- Dieujuste v. Sin et al., No. 23-CV-7805-JAM (E.D.N.Y. May 22, 2024) (order denying motion for reconsideration), reprinted in Appendix A, at 8a-11a.

## **APPELLATE PROCEEDINGS**

- Dieujuste v. Sin et al., No. 24-1522-cv (2d Cir. Jan. 10, 2025) (summary order affirming district court's dismissal), reprinted in Appendix A, at 3a-7a.
- Dieujuste v. Sin et al., No. 24-1522-cv (2d Cir. Feb. 19, 2025) (order denying petition for rehearing), reprinted in Appendix A, at 2a.

## **RELATED STATE COURT PROCEEDINGS**

- *Florence v. Dieujuste*, Docket No. U-13677-22, File No. 129709, CSMS No. PC31173T1 (Fam. Ct. Queens Cnty. June 23, 2022) - Initial support petition
- *Florence v. Dieujuste*, Docket No. U-13677-22 (Fam. Ct. Queens Cnty. Apr. 18, 2023) - Income withholding order
- *Florence v. Dieujuste*, Docket No. U-13677-22 (Fam. Ct. Queens Cnty. Oct. 4, 2023) - Second income withholding order

No.

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**PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT  
OF APPEALS FOR THE SECOND CIRCUIT**

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Petitioner Junior-Tony Dieujuste respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit, which affirmed the district court's dismissal of his trademark infringement action against judicial officers.

This case presents important federal questions regarding:

- (1) whether judicial immunity extends to administrative actions in child support proceedings that infringe upon federally protected intellectual property rights;

- (2) whether New York Family Court Act § 439's designation of support magistrates to oversee child support matters establishes the administrative nature of such proceedings; and
- (3) whether 15 U.S.C. § 1122(b)'s waiver of sovereign immunity for trademark infringement applies to judicial officers performing administrative functions.

The lower courts erroneously applied judicial immunity to shield defendants from trademark infringement claims arising from their administrative use of petitioner's registered servicemark in child support enforcement proceedings. This decision creates a dangerous precedent allowing courts to circumvent federal trademark protections through overly broad application of judicial immunity, contrary to this Court's precedents distinguishing between judicial and administrative functions.

This case provides an ideal vehicle for the Court to clarify the boundaries of judicial immunity when it conflicts with federal intellectual property protections, particularly in the context of administrative proceedings conducted under judicial auspices.

## **BASIS FOR JURISDICTION**

The judgment of the Court of Appeals was entered on February 19, 2025. This Court has jurisdiction under **28 U.S.C. § 1254(1)**.

## **CONSTITUTIONAL PROVISIONS INVOLVED**

- **15 U.S.C. § 1122(b)** - Waiver of sovereign immunity by states in trademark cases
- **15 U.S.C. § 1127** - Definition of "commerce" under the Lanham Act
- **New York Family Court Act § 439** - Support magistrates

## **STATEMENT OF THE CASE**

### **A. Factual Background**

Petitioner Junior-Tony Dieujuste is the registered owner of the servicemark "JUNIOR TONY DIEUJUSTE." On June 23, 2022, a child support proceeding was initiated against Petitioner in the Family Court of the State of New York, County of Queens. The case caption used Petitioner's protected mark without authorization.

On March 13, 2023, Petitioner's servicemark was officially recorded in the New York Register, with an effective date of October 27, 1980. On April 18, 2023, Respondents Jessica Sin (Support Magistrate), Keisha Kearse (Clerk of Court), and/or all successors and assigns transmitted

an Income Withholding Order for Support using Petitioner's protected mark to his employer, demanding garnishment of his wages.

On April 27, 2023, Petitioner sent a Notice of Trademark Infringement to Respondents, including an unsigned Trademark License Agreement and documentation of his registered mark. After receiving no response, Petitioner sent a Certificate of Non-Response on June 8, 2023. Respondents continued to use the protected mark without authorization or compensation.

### **B. Procedural History**

On October 19, 2023, Petitioner filed a complaint in the United States District Court for the Eastern District of New York, alleging trademark infringement, slander, libel, and failure to protect or act. Respondents moved to dismiss under Rules 12(b), (c), and 56 of the Federal Rules of Civil Procedure.

The district court, presided over by Magistrate Judge Joseph A. Marutollo, granted Respondents' motion to dismiss with prejudice, citing judicial immunity and lack of subject matter jurisdiction. The court characterized the trademark claims as an attempt to challenge the child support proceedings rather than addressing the distinct nature of the trademark infringement allegations.

Petitioner filed a motion for reconsideration, which was denied. Petitioner then appealed to the United States Court of Appeals for the Second Circuit, which affirmed the district court's dismissal, maintaining that

judicial immunity applied to the Respondents' actions and that the trademark claims were inseparable from the child support proceedings.

## **REASONS FOR GRANTING THE PETITION**

### **A. The Lower Courts' Application of Judicial Immunity to Administrative Actions Creates a Conflict with This Court's Precedents**

This Court has consistently held that judicial immunity applies only to judicial acts, not administrative or ministerial functions. In **Forrester v. White, 484 U.S. 219 (1988)**, this Court emphasized that "administrative decisions, even though they may be essential to the very functioning of the courts, have not similarly been regarded as judicial acts." The lower courts failed to properly analyze whether the Respondents' actions in using Petitioner's servicemark were judicial or administrative in nature.

**New York Family Court Act § 439** explicitly designates support magistrates, not judges, to handle child support proceedings, highlighting their administrative character. The lower courts' failure to consider this statutory designation represents a significant departure from this Court's immunity jurisprudence.

### **B. The Lower Courts' Circular Reasoning Creates an Untenable Legal Contradiction**

The lower courts engaged in circular reasoning by simultaneously characterizing the Respondents' actions as judicial (to invoke immunity) while dismissing the trademark claims because they don't constitute

"use in commerce." This contradiction creates an untenable legal position: if the actions are administrative enough to avoid "use in commerce" under trademark law, they are too administrative to qualify for judicial immunity.

This Court's intervention is necessary to resolve this contradiction and provide clarity on how courts should analyze claims that involve both judicial immunity and trademark law. The current approach effectively creates a zone of lawlessness where court officials can use protected marks without authorization while being shielded from liability.

**c. The Case Presents an Important Question About Institutional Protectionism in the Federal Courts**

The lower courts' dismissal of Petitioner's claims without addressing the merits of the trademark infringement allegations represents a troubling example of institutional protectionism. By focusing exclusively on the child support context rather than the distinct trademark claims, the courts effectively shielded their own from accountability.

This case presents an opportunity for this Court to address the broader issue of institutional protectionism in the federal courts and to clarify that even judicial officers must respect intellectual property rights when acting in administrative capacities.

**d. The Case Presents an Opportunity to Clarify the Commercial Nature of Certain Court Activities**

The Lanham Act defines "commerce" as "all commerce which may lawfully be regulated by Congress." **The Federal Circuit in Christian Faith Fellowship Church v. Adidas AG** clarified that even minimal commercial activity can satisfy the "use in commerce" requirement.

Child support enforcement involves significant commercial aspects, including the collection and distribution of funds, federal funding incentives as noted in **Blessing v. Freestone**, and potential monetization through systems like the Court Registry Investment System (CRIS). The lower courts failed to consider these commercial aspects when dismissing Petitioner's trademark claims.

This case presents an opportunity for this Court to clarify that certain court activities, particularly those related to child support enforcement, have commercial components that bring them within the scope of trademark law.

#### **REQUESTED RELIEF**

Petitioner respectfully requests that this Court:

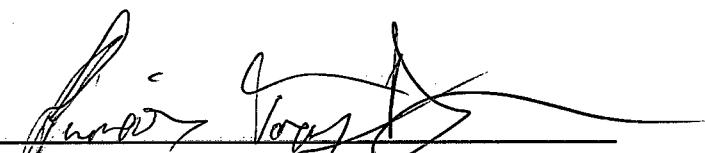
- Reverse both the Second Circuit Court of Appeals' affirmation and the district court's dismissal of the complaint.
- Clarify that judicial immunity does not extend to administrative actions taken by court officials, particularly in the context of child support proceedings designated to support magistrates under New York Family Court Act § 439.

- Provide guidance on how trademark infringement claims against court officials should be evaluated independently from the underlying proceedings in which the alleged infringement occurred.
- Remand the case to the district court with specific instructions to:
  - Evaluate the trademark infringement claims on their merits
  - Apply the proper standard for "use in commerce" under the Lanham Act
  - Consider the administrative nature of child support proceedings when evaluating judicial immunity claims
  - Address the evidence regarding the Court Registry Investment System (CRIS) and its implications for the commercial nature of court proceedings
- Order the restoration of previously published opinions in this case to public access on PACER, addressing the transparency concerns raised by their withdrawal.
- Declare that the unauthorized use of a registered servicemark by court officials in administrative proceedings is not protected by judicial immunity.

## **CONCLUSION**

The petition for a writ of certiorari should be granted to address the important questions presented regarding judicial immunity, trademark law, and institutional protectionism in the federal courts.

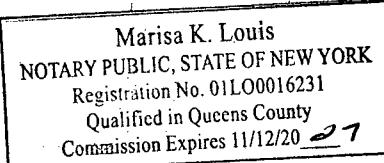
Respectfully submitted,

By: 

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*I swear to before me this  
12 day of March 2025*

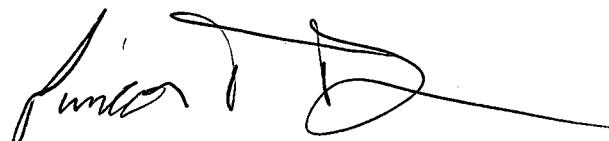
*Marisa K. Louis*



## CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of the Federal Rules of Appellate Procedure 27(d) and 32(a)(7)(B) because this brief contains 2,312 words, excluding the parts of the brief exempted by Federal R. App. Proc. 32(f).

- This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of the Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Bookman.



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*sworn to before me this  
12 day of March 2025  
Marisa K. Louis*

Marisa K. Louis  
NOTARY PUBLIC, STATE OF NEW YORK  
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Commission Expires 11/12/2027