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SUPREME COURT, U.S.

CASE NO. 25-____

IN THE

Supreme Court of the United States

Petition for a Writ of Mandamus

In re Amy R. Weissbrod Gurvey

Amy R. Weissbrod Gurvey
7302 Woodstone Circle
Princeton, New Jersey 08540
amyg@live-fi.com

US Patentee
Petitioner Pro se

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QUESTIONS PRESENTED

The State of New York has a long history of retaliating and engaging in malicious prosecution and unprivileged defamation of individuals who pursue federally-protected property assets in conflict with the State's financial interests. This US Patent theft, forgery and *ex parte* fraud and obstruction of justice Petition seeks a writ of mandamus pursuant to 28 USC §1651(a) to vacate orders entered by the Southern District of NY (SDNY), Northern District of NY (NDNY), Federal Circuit, NY Court of Claims, NY Court of Appeals and more recently, the Central District of California (CACD) denying Petitioner infringement hearings *sua sponte* by anticipatory repudiation in violation of Fifth and Fourteenth Amendments. [1] There is no other remedy except mandamus. In this case the State got caught submitting forged

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[1] Gurvey US Patent Nos. 7603321 (October 13, 2009), D647910S (November 1, 2011), 11403566 (August 2, 2022); US Registered Copyright TXu001265644

and fraudulent state documents *ex parte* to the Federal Circuit to prevent direct appeals to unconstitutional SDNY patent orders.

In 2025 it was discovered that since 2018 a NYS Office of Court Administration (OCA) attorney Shawn Kerby had been circulating fraudulent documents *ex parte* to the Federal Circuit clerk without standing, pleading that the court not hear Petitioner's arising under patent appeals to SDNY orders, and fraudulent averring that Petitioner is "disbarred". **Petitioner is not admitted in NYS, is admitted in California in good standing since 1979, has never been disbarred or sanctioned as an attorney.** As a result, the Federal Circuit transferred three arising under patent appeals under its exclusive appellate jurisdiction to the Second Circuit that has no authority or power to hear patent appeals or order mandamus relief. [#s18-2076, 20-1620. 23-134] 28 USC§ 1338, 1291; Supremacy Cl. Art. VI, Cl. 2, *Haywood v. Drown*, 556 US 729 (2009). **Moreover, neither the SDNY nor the Federal Circuit**

ever ordered service on Petitioner with Kerby's ex parte proffers. ABA Rule 2.9 on *Ex parte Communications*. Other NYS officers were involved in the fraud including J. Richard Supple and Jorge Dopico chief counsel of the NYS attorney grievance committee (AGC). Supple was dually serving as infringer defendants Live Nation and Cowan Liebowitz & Latman's SDNY defense attorney and at all times was required to be disqualified by the SDNY based on conflicts of interest. NY's Judiciary Law (JL) Part 1240. 6d, .18.

An AGC state order entered on April 21, 2016 identified Supple as the creator of the forged and circulated state documents. They affixed the signature of a dead 2002 former AGC chief counsel Paul Curran. An AGC supervising judge expressly held that Petitioner would continue to be denied access to all NYS files in defiance of due process. The NY Court of Appeals has still not heard Petitioner's direct appeal in violation of equal protection, delaying Petitioner's constitutional remedies. *Sholes v. Meagher*,

100 NY 2d 333 (NY 2003) In a separate complaint, the SDNY also summarily denied prospective injunctive relief against the state AGC judge in violation of *Ex parte Young,* 209 US 123 (1908) allowing these acts to continue, spread and fester. A conflict of interest existed between the protocols governing both patent procedure and out-of-state attorney procedures mandated by the US Supreme Court and the protocols adopted by NYS that must be determined unconstitutional by this Court. *SCA Hygiene Products v. First Quality Baby Products*, 137 S. Ct. 954 (2017)

The granting of a writ of mandamus to vacate orders will be in aid of the US Supreme Court's original appellate jurisdiction. Exceptional circumstances warrant exercise of the Court's discretionary powers. Adequate relief cannot be obtained in any other form or from any other court.

#1: Under Article III, §II of the United States Constitution does the Supreme Court have a constitutional duty to exercise its

original jurisdiction to hear a dispute between two States - New York and California - as to which State must grant Petitioner her first patent infringement hearings on the merits when the patents are being used without permission by the named defendants in both states?

#2: How should strict liability patent damages be allocated including against NYS and its staff officers for depriving Petitioner of due process of law and denying Petitioner access to its courts?

#3: Is NYS liable for violating Petitioner's Fifth and Fourteenth Amendment due process rights in patent litigation such that Petitioner can abrogate the State's sovereign immunity?

#4: Did the SDNY, Federal Circuit and USPTO Office of Enrollment and Discipline (OED) violate the *Bivens*[2] decision and Petitioner's Fifth Amendment right to due

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[2] *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 US 388 (1971)

process by not ordering service of Supple's *ex parte* forged and fraudulent proffers and taking fourteen (14) of Petitioner's patent applications out of the queue delaying prosecution of her patents and appeals? Administrative Procedures Act, 5 USC §551-559 (APA)

#5: Was Plaintiff denied substantive due process by a Central District of California (CACD) judge who took judicial notice of the SDNY orders that were not on the merits, challenged, on appeal and by anticipatory repudiation found that the court would not hear infringement claims when the same named defendants were infringing the patents in California?

#6: Did the SDNY also err by *sua sponte* denying Petitioner antitrust and unfair competition claims against defendant Live Nation Entertainment merged with Ticketmaster based on breach of antitrust mandates so ordered in 2010 by the DC

District Court[3]that ticketing data cannot be withheld from companies seeking to conduct non-ticketing businesses?

#7: Are NY's protocols promulgated against out-of-state attorneys without jurisdiction unconstitutional warranting mandamus orders? *Middlesex County Ethics Committee v. Garden State Bar Assn.*, 457 US 423 (1982)

#8: Must a *sua sponte* state order entered without jurisdiction against an out-of-state attorney be vacated after a motion on notice to vacate is filed with the lower court and denied? *Sholes v. Meagher*, 100 NY 2d 333 (NY 2003); *Wells Fargo Bank v. St. Louis*, 2024 WL 2737961 (NYAD 2d Dept. 2024)

#9: Must the state AGC follow federal patent law when confronted with a serious ethics complaint against a patent attorney?

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[3] *US v. Ticketmaster and Live Nation*, Competitive Impact Statement and Consent Decree, 2010 WL 975407, 975408 (January 25, 2010 DDC)

#10: Must SDNY orders be vacated that permitted Petitioner's adversaries Supple and Hinshaw & Culbertson to continue to submit motions on behalf of the defendant Cowan patent practitioners after their disqualification was mandatory? NY's Judiciary Law (JL) Part 1240.6d; Supremacy Cl., Art. VI, Cl. 2

#11: Is mandamus properly ordered against the SDNY to force a hearing on Petitioner's delayed US continuation patent that issued on August 2, 2022 (#11403566) after a 13-year delay under the liberal pleading rules of the 2d Circuit? *Anza Technology v. Mushkin*, 934 F. 3d 1359 (Fed Cir. 2019); *Metzler Investments Gmbh v. Chipotle Mexican Grill*, 970 F. 3d 133 (2d Cir. 2020); *Grant Williams v. Citicorp*, 659 F. 3d 208 (2d Cir. 2011).

#12: Are the Cowan practitioners, Hinshaw & Culbertson, Supple, AGC counsel Jorge Dopico and OCA attorney Shawn Kerby liable to Petitioner in their individual

capacities for forgery, fraud and *ex parte* obstruction of justice and for causing forfeiture of strict liability infringement claims? *Kentucky v. Graham*, 473 US 159 (1985); Supremacy Clause, Art. VI, Cl. 2; *Haywood v. Drown*, 556 US 729 (2009)

#13: Was Petitioner entitled to prospective injunctive relief from the SDNY since 2012 based on AGC and OCA officers' continuing violations of her constitutional rights? *Ex parte Young*, 209 US 123 (1908); *Kentucky v. Graham*, 473 US 159 (1985); *US v. Reich*, 479 F. 3d 179 (2d Cir. 2007)

#14: Is Petitioner entitled to mandamus orders reinstating her infringement claims to the NDNY docket against the Port Authority of NY and NJ and the City of NY that can be sued directly? 35 USC §271; *Monell v. Dept. of Social Services*, 436 US 658 (1978)

#15: What rights and remedies can Petitioner pursue against NYS for staging Petitioner's malicious abuse of process, unprivileged defamation and threatening

quasi-criminal prosecution without jurisdiction as faux excuse to steal her patents and copyrights?

#16: Are SDNY magistrate, judges and officers liable for fees and costs for continuing violations of Petitioner's constitutional rights and withholding service orders of fraudulent *ex parte* documents accepted from Petitioner's adversaries? *Pulliam v. Allen*, 466 US 522 (1984).

#17: Must the NYS Attorney General that defended NYS staff attorneys from forgery crimes in violation of NY's Exec. Law subd. 63-1, now be disqualified from representing NYS in this petition because the state officers' personal interests are in conflict with the interests of the State? *Kentucky v. Graham*, 473 US 159 (1985)

PARTIES TO THE PROCEEDINGS

Amy R. Weissbrod Gurvey US Patentee

US District Court Southern District of NY
Administrative Judge Laura Taylor Swain

SDNY Judge Lorna G. Schofield
SDNY Judge Analisa Torres
500 Pearl Street New York, NY 10007

US Court of Appeals Federal Circuit
Hon. Kimberly A. Moore, Chief Judge
717 Madison Place NW Wash. DC 20439

NY Court of Appeals
Hon. Rowan D. Wilson, Chief Judge
20 Eagle Street Albany, New York 12207

NYS Appellate Division First Dept. AGC
Presiding Justice Diane Renwick
27 Madison Avenue New York, NY 10010

Hinshaw & Culbertson, LLP
350 So. Grand Avenue; 800 third Avenue
Los Angeles, CA 90071; NY, NY 10022

Baker Botts, LLP
2001 Ross Avenue, Dallas TX 75201

Sheppard Mullin Richter Hampton
350 So. Grand Avenue
Los Angeles, CA 90071

RULE 29.6 STATEMENT

Pursuant to Rule 29.6 of the Rules of this Court, the Petitioner, U.S. Patent Holder Amy R. Weissbrod Gurvey is an individual and not a corporate entity.

RELATED PROCEEDINGS

U.S. District Court for the Central District of California, 23-cv-04381; 25-2026 (9th Cir.)

U.S. Court of Appeals Federal Circuit, 18-2076; 20-1620, 23-134

United States District Court for the Southern District of New York, 18-cv-2206 (AT), 06cv1202

Gurvey v. Secretary of Commerce, Commissioner of Patents, 23cv3549 (JMC)(DDC)

U.S. Court of Appeals Second Circuit, 22-725, 840; 13-cv-2565 (SDNY)

New York Court of Appeals, SSD8, 23-670; 24-1238

US District Court Northern District of New York, 24-cv-2211

New York Court of Claims, Claim #s 135611, 28261

Appellate Division Second Dept. 01366-18 (transferred from First Dept. 132-17)

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A3 Cover Sheet Gurvey US Patent 7603321 October 13, 2009; US Copyright TXu001265644

A4-A9 Letter and Order reinstating Fed Circuit arising under appeals in 2018, 2020 and 2023 to the dockets 18-2076; 20-1620, 23-134 after each appeal was *sua sponte* transferred to the 2d Circuit that has no jurisdiction.

A11-12 [NONFINAL] Memorandum Decision and Order, NDNY 24cv2211 May 24, 2025

A12-A38 Letter and Order - Central District of California March 13, 2025 denying infringement and RICO hearings and reconsideration

ORIGINAL JURISDICTION

Art. III, Section II, US CONSTITUTION "The US Supreme Court has original jurisdiction over disputes between two States".

JURISDICTION
All Writs Act, 28 USC §1651(a)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fifth Amendment

"No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for the public use without just compensation."

Fourteenth Amendment

"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States nor shall any State deprive any person of life, liberty, or property without due process of law;

nor deny to any person within its jurisdiction the equal protection of the laws."

Supremacy Clause

"The Constitution, and the Laws of the United States which shall be made in Pursuance thereof...shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or laws of any State to the contrary notwithstanding.

42 USC §1985(3) Conspiracy to Interfere with Civil Rights

"If two or more persons in any State or Territory conspire for the purpose of depriving either directly or indirectly any person the equal protection of the law or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws, or if two or more

persons conspire to prevent by force, intimidation or advocacy in any legal matter engage therein or cause to be done any act in furtherance of the object of a conspiracy whereby another is injured in his person or property or deprived of having and exercising any of a privilege of a citizen of the United State, the party so injured or deprived may have an action for damages occasioned by such injury or deprivation against any one or more of the conspirators.

ABA Rule 2.9 on *Ex parte Communications*

(A) A judge shall not initiate, permit or consider *ex parte* communications or consider other communications made to the judge outside the presence of the parties or other lawyers, concerning a pending or impending matter; (C) A judge shall consider only the evidence presented and any facts that may properly be judicially noticed; (D) A judge shall make reasonable efforts including providing appropriate supervision to ensure that this Rule is not violated.

STATEMENT

Petitioner Amy Weissbrod Gurvey is sole-named US patentee of standard essential apparatus and method patents for electronic event ticketing, ticketing resale, AI analytics and authenticated content management platforms with early priority dates.[4] The patents and associated US copyrights are federally-protected assets entitled to hearings guaranteed by the Fifth and Fourteenth Amendments before any district in which they are being used without permission. Petitioner is only admitted to practice law in California and not in NYS. Infringement hearings on the merits and discovery were improperly denied by the SDNY Judge Lorna Schofield since 2012, however, by *sua sponte* anticipatory repudiation. Petitioner was denied constitutional access to all NYS courts.

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[4] Gurvey US Patent Nos. 11403566, D647910S, 7603321 and fourteen US patent applications that the attorneys under investigation allowed to become abandoned. US Copyright TXu001265644 was also not granted hearing.

Patents are properly enforced for the full term of patent and US copyrights for life of the author plus 70 years. Taking damages are properly enforced against a State in state court. [5]*SCA Hygiene Products v. First Quality Baby Products*, 137 S. Ct. 954 (2017).

In 2025, fraudulent documents unlawfully never ordered served on Petitioner since 2018 in violation of due process of law were discovered circulated *ex parte* by a NYS Office of Court Administration (OCA) attorney Shawn Kerby to the Federal Circuit. The plan was to prevent direct appeals and mandamus orders against the SDNY for entry of improper and unconstitutional orders. Other forged documents had been manufactured by NYS AGC counsels Jorge Dopico and J. Richard Supple (dually serving as Petitioner's SDNY adversary) also circulated *ex parte* to SDNY

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[5] Or, 95 years from the date of publication or 120 years from the date of first creation whichever sooner occurs. See also, *Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank* 527 US 627 (1999)

judges. Supple was at all times dually defending SDNY infringer defendants Live Nation and Cowan Liebowitz & Latman from strict liability patent claims, claims for unfair competition, conflicts of interest fiduciary duty and breach of the 2010 competitive impact statement "so ordered" by the DC District Court against merged entities Live Nation and Ticketmaster. The Cowan practitioners had in fact been placed under *sua sponte* fraud investigation by the former Commissioner of Patents Wynn Coggins for eight years. In 2008 and based on Cowan defendants' dissemination of Petitioner's trade secrets, Live Nation's executive Stephen Prendergast told Petitioner "*Live Nation was using her patents, would continue to use them and she should sue*". Supple and Live Nation's other defense lawyer Steven Schortgen of Baker Botts, LLP then conspired to ruin Petitioner's career without jurisdiction, her patent business, professional reputation and prevent adjudication of infringement claims

eight-year investigation against the Cowan defendants. The Commissioner admitted that in violation of law, fourteen of Petitioner's pending applications were "taken out of the queue" while Apple got expedited prosecution rights. In 2016, Apple was granted a single near field claim on appeal that should not have issued. That claim is being used at the admission check point of Yankee Stadium, a venture partner of NYC. Cowan defendants' other trademark client MLB also became an infringer by dissemination of trade secrets.

Petitioner got no hearing whatsoever on her strict liability infringement or antitrust claims before the SDNY since 2010.[7] In addition, Petitioner's infringement complaint date-stamped and filed on April 22, 2010 was deleted *ex parte* from the SDNY docket and never reinstated since 2012 by magistrate

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[7] Defendant Live Nation has not dared to aver under oath in the 2024 antitrust divestiture lawsuit that it has no contacts with NYS to dodge jurisdiction.

Henry Pitman[8] or the next judge Lorna Schofield warranting mandamus orders from the Federal Circuit. *In re Princo*, 478 F. 3d 1345 (Fed Cir. 2007) The stay on patent discovery entered in 2009 by Judge Barbara Jones was found to be an abuse of discretion by the 2d Circuit in 2012 (462 Fed. Appx. 26). The SDNY clerk Dionisio Figueroa was convicted of taking bribes in 2024 and dismissed from the court. Petitioner's California bar certifications were also unilaterally deleted from the SDNY roster without notice or due process of law in 2013. But the acts were not discovered until 2024 based on admissions by circuit attorney Julie Allsman under supervision of clerk Catherine O'Hagan Wolfe (former AGC clerk who was serving when Supple masterminded the forgeries). Only one bar is required for SDNY roster listing that need not be NYS. *In re*

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[8] Magistrate Pitman was presiding on remand without the consent of the parties and without a supervising judge for over two years.

Gouiran, 58 F. 3d 54 (2d Cir. 1995). The roster listing is a vested commission of which petitioner could not be divested without due process. None was afforded. *Bradley v. Fisher*, 80 Wall 335 (1871); *Marbury v. Madison*, 5 US 137 (1803)

Over 100 infringers are currently using Petitioner's standard essential ticketing patents domestically and internationally without permission. They include without limitation the Port Authority of NY and NJ, MTA/Metrocard, local airline terminals, OTB, OTG Kiosks, StubHub, YouTube,. Nielsen, SalesForce, AEG, Comcast, EZ-Pass, The Interstate, NYPD, Yankee Stadium, Seat Geek, Vivid Seats, NBA, NFL, conference centers, sports betting companies, the NYPD and congestion pricing photography. Petitioner was also improperly denied access to the Central District of California where defendants Live Nation and Ticketmaster have their principal places of business and are also using the patents.

The forged state documents circulated *ex parte* by Supple, Dopico and Kerby affixed the signature of a 2002 former AGC counsel Paul Curran who died of cancer in 2007. Supple also removed the USPTO disciplinary notices against the Cowan lawyers from AGC consideration warranting disqualification from the SDNY lawsuit based on conflicts of interest. JL Part 1240.6d. At the same time, Schortgen and Baker Botts filed ongoing fraudulent jurisdictional documents that Live Nation had "*no NY contacts*" and could not be compelled to answer Petitioner's infringement and unfair competition claims in New York.

The fraud endured for several years and was successful.[9] Petitioner was unlawfully denied constitutional access to all AGC state documents by an order of the Appellate Division AGC judges entered April 21, 2016 that remains on appeal. In 2015, SDNY Judge Schofield unilaterally revoked Petitioner's

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[9] Figueroa was convicted of bribery by the US Attorney in 2024 and removed from the SDNY.

ECF filing privileges *sua sponte*, ordered that Petitioner pay $10,000 into the SDNY cashier for a special patent master who was never hired, and in violation of NY's Judiciary Law Part 1240.6d, failed to disqualify Supple and Hinshaw & Culbertson from the Cowan practitioners' representation. In fact the judge allowed Supple to continue to file frivolous motions after the date that disqualification was mandatory. These orders warranted mandamus relief from the Federal Circuit explaining the fraud committed by OCA attorney Kerby starting in 2017. *In re Princo*, 478 F. 3d 1345 (Fed Cir. 2007)

In 2025, Kerby's *ex parte* letter written to former Federal Circuit clerk Marksteiner in 2018 was uncovered. The document proves malicious abuse of process and unprivileged defamation and provided as follows: "The court should not hear Petitioner's appeal because "Petitioner was disbarred". **PETITIONER WAS NEVER DISBARRED OR SANCTIONED AS AN ATTORNEY AND IS NOT ADMITTED IN NYS**. The NY

Court of Appeals found Petitioner's motion on notice to vacate the order to be "nonfinal" and that "no constitutional issue was directly involved" in violation of equal protection. *Sholes v. Meagher*, 100 NY 2d 333 (NY 2003) The Federal Circuit being wrongfully induced, transferred three of Petitioner's arising under patent appeals – 18-2076, 20-1620 and 23-134 - to the Second Circuit that has no authority or power to hear the appeals or grant mandamus orders in aid of the Federal Circuit's exclusive appellate jurisdiction. Supremacy Clause, Art. VI, Cl. 2; *Haywood v. Drown,* 556 US 729(2009). The orders have since been reinstated to the Federal Circuit dockets where they remain hanging.

The unilateral deletion of Petitioner's California bar certifications from the SDNY out-of-state roster was undertaken unlawfully without due process of law. *Bradley v. Fisher*, 80 Wall 335 (1871); *Marbury v. Madison*, 5 US 1237 (1803); *In re Gouiran*, 58 F. 3d 54 (2d Cir. 1995) The SDNY has continued to refuse to reinstate Petitioner's name. There is no

remedy except mandamus. Petitioner has the constitutional right as California counsel on behalf of her company LIVE-Fi® Technologies to appear in the Government's current antitrust lawsuit to divest Live Nation of Ticketmaster. 24cv3973 (AS)(SDNY)

Because none of Kerby, Supple, Dopico or Allsman's fraudulent documents were ever ordered served on Petitioner in violation of the Fifth and Fourteenth Amendments, and ABA Rule 2.9 on *Ex parte Communications*, due process violations are proven and mandamus is the only remedy available.

The NY Court of Appeals was required to vacate any order entered without jurisdiction that was the subject of a motion on notice. *Wilcox v. Supreme Council of Royal Arcanum*, 210 NY 370 (1914) Both the SDNY and NDNY also denied Petitioner prospective injunctive relief against the state officers and judges since 2013 for continuing constitutional violations. *Ex parte Young*, 209 US 123 (1908);

13cv2565 (JMF); 18cv2206 (AT); 24cv211 (NDNY). This has left Petitioner without a remedy.

Moreover, the forgery crimes warrant treble damages and disbarment of state officers. *US v. Reich*, 479 F. 3d 179 (2d Cir. 2007) The affixed photocopied signature of 2002 AGC chief counsel Paul Curran who died of cancer in 2007 was appended to two admonitions. Each attested under oath that Petitioner maintained a law office at PO Box 1523, NYC 10013 that never existed. The documents also fabricated that Petitioner was sanctioned as a NY attorney in a 2001 HUD housing proceeding. Petitioner was never sanctioned as an attorney. Moreover, deceased NY Supreme Court Judge Sheila Abdus-Salaam issued an injunction in Petitioner's favor to protect Petitioner's assets in her HUD-protected apartment when Petitioner

was in medical school. [10] **NY's AGC only has jurisdiction over attorneys in representative practice before the State that does not include Petitioner.** Here no jurisdiction existed, and the acts are not protected by immunity. *Forrester v. White*, 484 US 219 (1989); *Stump v. Sparkman*, 435

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[10] The Third Dept. admitted Petitioner from California in 1985, and Petitioner voluntarily resigned this vested commission in 1998 when she was in medical school and changed careers. Voluntary resignation in good standing was accepted by Third Dept. officer Dan Brennan and OCA's Denise Rajpal 8. In 2001, Destruction Orders were entered by OCA's Jane Chin and NY Civil Court clerk Ernesto Belzaguy targeting all audiotapes and transcript from the referenced 2001 HUD housing action. The court transcriber was called by the NYS Attorney General and instructed to destroy completed transcripts., Petitioner's effects in herm medical school HUD apartment were granted an injunction by Justice Sheila Abdus-Salaam. 118826-97. In 2016, Justice Abdus-Salaam having entered the then recent landmark order from the NY Court of Appeals on malicious prosecution was found dead in the Hudson River. The case has never been solved. *De Lourdes Torres v. Jones*, 26 NY 3d 742 (NY 2016)

US 349 (1978); *Cleavinger v. Saxner*, 474 US 193 (1985).

The State of NY is liable to Petitioner in damages for promulgating unconstitutional protocols in patent litigation and in out-of-state attorney proceedings commenced without jurisdiction. Per *SCA Hygiene Products Aktiebolag v. First Quality Baby Products*, 137 S. Ct. 954 (2017). The US Supreme Court allows patent infringement complaints to be filed for the full term of patent and six years beyond the term to recover strict liability damages six years retroactive from the date of filing a complaint. Conversely, the State of NY requires that an infringement case be filed before the NY Court of Claims within ninety (90) days of the date an infringement begins and charges the patentee with knowledge of that date. No knowledge of an accrual date is allowed by the US Supreme Court. The protocols promulgated by NYS must be found unconstitutional by this Court. Moreover, the State cannot order continued withholding of

complete state files when Petitioner is being targeted without jurisdiction and denied a timely appeal.

LITIGATION HISTORY

The relevant litigation history began in 2008 when former USPTO Commissioner of Patents Wynn Coggins ordered a conflict of interest and fraud investigation against defendant practitioners at Cowan Liebowitz & Latman. Cowan had *admitted* to conflicts of interest with five clients in USPTO Intake forms containing a bogus address after abandoning Petitioner's patent applications without statutory notice. Cowan defendants' conflicts admissions were filed with the state AGC when Petitioner sought return of her complete USPTO files. The files were required to be ordered compelled by state officers under the Supremacy Clause Art. VI, Cl.2; 37 CFR §§2.10, 10.66, 11.108, 11.116.

The Commissioner told Petitioner that her investigation found disciplinary violations requiring service of the results on Petitioner.

Administration Procedures Act, 5 USC§ 551-559 (APA). Petitioner was never served. The Commissioner also *conceded* that fourteen of Petitioner's formal patent applications had been taken out of the queue to conduct the investigation. **Petitioner never agreed to have her patent applications with valuable priority dates removed from prosecution** *sua sponte*. No such power is granted the Office within the APA. Two pending patent applications were allowed to proceed through prosecution, however, but the prejudicial delay amounted to a total of seventeen years since the relevant application was filed in 2005. The removed fourteen applications were not reinstated. By law, each US patent application must get claims issued within three years of the date of filing or a patent term adjustment or other extension is properly awarded. *Wyeth v. Kappos*, 591 F. 3d 1364 (Fed Cir. 2010)

In addition, Petitioner was never served with the Cowan defendants' *ex parte* disciplinary submissions to the USPTO Office

of Enrollment and Discipline (OED) or to the SDNY in violation of the Fifth Amendment and the *Bivens* decision [11]. The documents being circulated *ex parte* to the SDNY were found fraudulent and forged by Supple in his dual and concealed AGC post and Petitioner was never ordered served.

The AGC officers, including Supple, unlawfully continued relentless retaliation against Petitioner without jurisdiction. A RICO-type agreement was consummated by Supple and Schortgen of Baker Botts. In or about 2008-9, Petitioner was sent the first AGC admonition notice without jurisdiction. AGC's counsel Jorge Dopico cited to a 2001 HUD housing action when Petitioner was not an attorney in that case and never sanctioned as an attorney. 22 NYCRR 603.4, 603.9. However, in 2011, Petitioner received another forged admonition in the mail again without

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[11] *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 US 388 (1971)

CPLR service, affixing [dead] Curran's signature.

The continuing fraud and forgery by NYS AGC officers without jurisdiction constitute malicious abuse of process, unprivileged defamation and threats of quasi-criminal prosecution. The acts are not protected by immunity and warrant treble damages. NY's Judiciary Law Part 487; *Amalfitano v. Rosenberg*, 12 NY 3d 8 (2009); *Forrester v. White*, 484 US 219 (1989). There continues to be an elaborate cover-up.[12]

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[12] The same harassment and abuse were cited by SDNY judge Shira Scheindlin against AGC officers in another case. *Anderson v. First Dept. State of NY et al.*, 614 F. Supp. 2d 404 (SDNY 2009) (Headnotes, 15, 16) The SDNY Anderson order uses the term "whitewashed" for ignorance of an attorney grievance because it was common practice in the AGC. Implicated in Anderson's retaliatory abuse was former AGC clerk Catherine O'Hagan Wolfe, now clerk of the Second Circuit who ordered acceptance of Supple's state proffers and deletion of Petitioner's California bar certifications from the SDNY roster.

PATENT HEARINGS WERE NEVER ALLOWED

Three US ticketing patents issued to Petitioner (*fn. 5, supra*) thirteen years apart in 2009, 2011 and 2022. [13] [14] The claims in the three underlying patent applications were divided up and issued as patent claims piecemeal over fifteen years when they all should have issued in 2008 as a matter of law. *Wyeth v. Kappos*, 591 F. 3d 1364 (Fed Cir. 2010) All claims in the August 2, 2022 patent, 11403566 were anticipated in the SDNY operative pleading that stipulated to a delay. This is because the 2022 patent was in fact a continuation of the 2009 patent 7603321

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[13] Gurvey US Patent Nos. 7603321 (October 13, 2009), D647910S (November 1, 2011) 11403566 (August 2, 2022)

[14] This matter is currently before the DC District Court [23cv3549 (DDC)] seeking a patent term adjustment and an extension based on Kerby's *ex parte* misconduct before the Federal Circuit that resulted in Petitioner having three arising under appeals transferred to the Second Circuit that had no jurisdiction [Fed Cir. Case Nos. 18-2076, 20-1620, 23-134]

based on the same underlying 2005 application, 11253912. Under unanimous Federal Circuit law, the 2022 patent was entitled to its own hearing and an amended complaint under the liberal pleading rules of the Second Circuit. *Anza Technology v. Mushkin*, 934 F. 3d 1349 (Fed Cir. 2019); *Metzler Investments Gmbh v. Chipotle Mexican Grill*, 970 F. 3d 133 (2d Cir. 2020), *Grant Williams v. Citicorp*, 659 F. 3d 208 (2d Cir. 2011) The SDNY orders denying Petitioner all infringement hearings were under the exclusive appellate jurisdiction of the Federal Circuit. Two copies of Petitioner's amended complaint and Rule 60(b) motion papers were returned by the SDNY with a big red "X" on the caption page by judge Schofield and the supervising judge Laura Taylor Swain.

Investigation confirmed that no unilateral withdrawal from Petitioner's USPTO prosecution retainer was ever granted to the Cowan defendants after three attempts. Moreover, the Cowan firm paid Petitioner's

bar dues to California at the time they requested that Petitioner refer patent clients from the West Coast. No bar dues were ever paid to NYS. The Cowan partner J. Christopher Jensen admitted to "*following its clients' instructions*".

All forged AGC documents created by Supple and Dopico were required be immediately vacated as void of jurisdiction in response to Petitioner's motion on notice. *Wilcox v. Supreme Council of Royal Arcanum*, 210NY 370 (1914) [15] Petitioner's motion to vacate was denied with an added order that Petitioner would continue to be denied access to all state files in violation of due process. This order was directly appealed to the Court of Appeals that in violation of equal protection and court precedents found the order nonfinal and that it did not finally determine an action. *Sholes v. Meagher*, 100 NY 2d 333 (NY 2003). Separate from any constitutional violation,

based on its face the order can have no collateral application or be allowed merger, bar or claim preclusion in a subsequent lawsuit. *Lucky Brand Dungarees v. Marcel Fashio*ns, 590 US 405 (2020)

During the thirteen years that Petitioner continued to be denied constitutional access to NY courts, over 100 infringers entered the relevant market including mega-competitors Apple Inc. (iTunes), MLB, NBA, NFL, the Port Authority of NY and NJ, OTG Kiosks, OTB, AEG, StubHub, YouTube, Nielsen, SalesForce, sports betting companies, Comcast, Seat Geek, Vivid Seats and the NYPD. Plus, another patentee, Bytemark, had its third ticketing patent heard before the SDNY after the first two patents were invalidated by the Eastern District of Texas. *Bytemark v. Xerox*, 2022 WL 94859 (SDNY) Petitioner has gotten no hearings whatsoever from the same court in violation of equal protection.

Petitioner was also twice denied blanket constitutional access to the NY Court of Claims to recover damages against NYS for promulgating unconstitutional protocols both in patent cases and in out-of-state attorney proceedings commenced without jurisdiction. (Index Nos. 128261, 135611) *SCA Hygiene Products Aktiebolag v. First Quality Baby Products*, 137 S. Ct. 954 (2017); *Shoes v. Meagher*, 100 NY 2d 333 (NY 2003; *Middlesex County Ethics Committee v. Garden State Bar Association*, 457 US 423 (1982).

Since 2018 based on Shawn Kerby's fraud, three appeals have been bandied back and forth between the Federal Circuit and Second Circuit. [Case Nos. 18-2076; 20-1620, 23-134]. *Christianson v. Colt Industries Operating Corp.*, 486 US 800 (1988). It was not until 2025, however, that Kerby's 2018 letter to clerk Marksteiner was uncovered as the

smoking gun proving Petitioner's right to treble damages. [16]

This is an extraordinary petition. No district court can enter a *sua sponte* order without motion on notice that a patentee is a "frivolous litigant" who has gotten no hearing on the merits of the patents in suit.

Petitioner argues that *Florida Prepaid Postsecondary Education Expense Board v. College Savings Bank* 527 US 627 (1999) must be revisited by this Court with the State of NY's practices found unconstitutional and Petitioner being granted the right to abrogate the State's sovereign immunity to recover infringement damages against the State and its officers. *US v. Reich*, 479 F. 3d 179 (2d Cir. 2007).

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[16] *US v. Live Nation Entertainment*, 24cv3973 (AS)(SDNY). A separate class action was filed before the CACD. *Heckman v. Live Nation Entertainment, Inc.*, 2022 WL 37360; 2024 WL 5505999 (CDCA)

DETERMINATIONS MUST BE ENTERED ON UNCONSTITUTIONAL STATE PRACTICES

New York's case law prevents entry of *sua sponte* orders without motions on notice including a *sua sponte* order finding a litigant to be "frivolous". NY cases require a motion on notice to vacate a previous *sua sponte* order before a litigant is entitled to a direct appeal. Such motion was filed in this case and denied. *Wells Fargo Bank NA v. St. Louis*, 2024 WL 2737961 (NYAD 2d Dept. May 29, 2024); *Rubins v. Plummer*, 813 P. 2d 778 (1990)(*cases cited therein*); *Wilcox v. Supreme Council of Royal Arcanum*, 210 NY 370 (1914). The NY Court of Appeals found the AGC orders nonfinal and did not directly involve a constitutional issue after motion on notice seeking vacatur was denied. CPLR 5601(d).

Moreover, there exists a conflict of interest in patent protocols between US Supreme Court mandates and of the State of NY.

[17]Under the Supreme Court's prevailing rule, Petitioner should have been granted timely infringement hearings by the NY Court of Claims and not been deprived of blanket access on August 15, 2023. Index No. 135611.

Two hundred years ago, certain mandatory federal preemption concerns were behind Justice John Marshall's narrow construction of Eleventh Amendment immunity in *Cohens v. Virginia*, 6 Wheat. 264, 5 Led. 257 (1821). As the Justice therein noted:

"*When there is a conflict between a state's interest and a federally protected right including a federal property right, it "would be hazarding too much to assert, that the*

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[17] The state requires that an infringement lawsuit be filed before the NY Court of Claims within 90 days of the date an infringement claim accrues and charges the patentee with knowledge, or the case will be *sua sponte* dismissed. The US Supreme Court conversely allows infringement complaints to be filed for the full term of patent subject to a six-year relate back calculation. The US Supreme Court prevailing decision continues to be contumaciously defied by the State.

judicatures of the States will be exempt from the prejudices by which the legislatures and people are influenced and will constitute perfectly impartial tribunals." Id., at 386, 5 L. Ed. 257 (1821)" [18]

In 2025, after Petitioner discovered the *ex parte* fraud and unprivileged defamation by

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[18] In 2017, Petitioner moved for permission (132-17) to vacate the 2016 order of the AGC denying Petitioner access to all files opened under her name that were forged by Supple and Dopico entered without jurisdiction. The proceeding was *sua sponte* transferred to the 2d Dept. in 2018 and dismissed *sua sponte* without motion on notice. (132-17 1st Dept.) (01366-18 2d Dept.). Petitioner on notice moved to vacate the transfer order and denied. An appeal was mandatory from the Court of Appeals. *Sholes v. Meagher*, 100 NY 2d 333 (NY 2003). The SDNY had a duty to grant prospective injunctive relief and not deny Petitioner access to the court. *Ex parte Young*, 209 US 123 (1908); *Wilcox v. Supreme Council of Royal Arcanum*, 210 NY 370 (1914). The Court of Appeals also transferred Petitioner's direct constitutional appeal to the Court of Claims 2023 blanket order denying Petitioner access to recover damages. 24-1238.

OCA's attorney Kerby before the Federal Circuit, the NDNY in Case No. 24cv211 improperly denied Petitioner prospective injunctive relief against OCA chief officer Hon. Joseph Zayas. Ex parte Young, 209 US 123 (1908). The same complaint also sought strict liability infringement damages against Port Authority of NY and NJ and the City of NY that along with Yankee Stadium is properly sued directly for infringement.*Monell v. Dept. of Social Services*, 436 US 658 (1978).

REASONS FOR GRANTING THE WRIT

#1. A district court cannot deny service of *ex parte* documents received from a party's adversary in a patent litigation without violating the Fifth Amendment and ABA Rule 2.9 on *Ex parte Communications*. Petitioner is entitled to wipe the slate clean of SDNY and Federal Circuit orders when *ex parte* documents were never ordered served on Petitioner. Fifth & Fourteenth Amendments, US Constitution; ABA Rule 2.9 on *Ex parte Communications*. *Ward v. USPS*, 634 F. 3d

1274 (Fed Cir. 2011); *Rubins v. Plummer*, 813 P. 2d 778 (1990).

#2. The NYS Legal Assistant Group (NYLAG), the pro se help unit for the SDNY, cannot refuse a pro se patentee's request to file a motion seeking service of *ex parte* documents accepted by a sitting judge from the patentee's adversary. A judge who refuses service violates due process and must suffer the fate of vacatur orders by mandamus. ABA Rule 2.9 *Ex parte Communications.*

#3. A district court judge cannot order a patentee to pay money – here $10,000 into the SDNY cashier - for a special patent master who was never hired and unilaterally revoke the patentee ECF filing privileges. The judge cannot allow the patentee's adversary to continue to file motions after disqualification is mandatory. This explains Kerby's fraudulent submissions to the Federal Circuit creating a Catch 22. *In re Princo*, 478 F. 3d 1345 (Fed Cir. 2007)

#4. A district court judge cannot return unadjudicated a patentee's motion seeking a hearing on a delayed patent that issued during the lawsuit when the issued claims were anticipated in the operative pleading. *Anza Technology v. Mushkin*, 934 F. 3d 1349 (Fed Cir. 2019); *Carter v. ALK Holdings*, 605 F. 3d 1319 (Fed Cir. 2010). The liberal pleading rules of the 2d Circuit require adjudication. *Metzler Technology Gmbh v. Chipotle Mexican Grill*, 970 F. 3d 133 (2d Cir. 2020); *Grant Williams v. Citicorp*, 659 F. 3d 208 (2011)

#5. A US patentee who has gotten no hearings on the patents in suit, cannot be labeled a frivolous litigant *sua sponte* by the court and then denied an appeal.

#6. The filing of a new complaint would only allow for the recovery of infringement damages six years retroactive to the date a new complaint is filed. Petitioner would be denied willful infringer damages against Live Nation, Ticketmaster and contributory

infringement damages against the Cowan practitioners.

#7. Petitioner's California out-of-state roster listing entered in 1987 – 37 years ago – was unlawfully deleted without due process in 2013 can only be reinstated by mandamus. *Bradley v. Fisher*, 80 US [13 Wall] 335 (1871); *Marbury v. Madison*, 5 US 137 (1803); *In re Gouiran,* 58 F. 3d 54 (2d Cir. 1995).

#8. The NYS Attorney General having improperly defended Supple, H&C and AGC counsel Dopico from forgery crimes cannot now defend the State of New York because a conflict of interest exists between the interests of the individual officers and the financial interests of the State. *Kentucky v. Graham*, 473 US 159 (1985).

#9. In 2024, a CACD judge could not take judicial notice of unconstitutional and challenged SDNY orders *sua sponte* with no hearing on the merits that remain on appeal

and when the defendants are infringing Petitioner's patents in California.

#10. Unless restrained, the SDNY, NDNY and CACD will continue to cause grave and irreparable injury to Petitioner, her patent company, career and reputation without providing any reasonable prospect that they will respect and satisfactorily resolve the constitutional issues. *Dombrowski v. Pfister*, 380 US 479 (1965).

#11. The Supreme Court's decision in *Florida Prepaid* must be revisited. Petitioner is entitled to abrogate NYS's sovereign immunity because she was denied due process infringement hearings by all courts.

#12: NYS court attorneys cannot circulate fraudulent documents *ex parte* to the SDNY and Federal Circuit to deny a patentee infringement hearings and an appeal to an order finding the patentee a frivolous litigant.

#13. Engaging in an out-of-state patentee's fraudulent malicious abuse of process <u>without</u>

jurisdiction for pursuing patent infringement claims violates the First, Fifth and Fourteenth Amendments. *Dolan v. Connolly*, 794 F.3d 290 (2d Cir. 2015).

#14. The Federal Circuit violated Petitioner's preemption rights by accepting *ex parte* documents from an OCA attorney without standing and then transferring three of Petitioner's arising under patent appeals and mandamus petitions against the SDNY to the 2d Circuit that had no jurisdiction to hear the appeals. 28 USC §1338, 1291; *Haywood v. Drown*, 556 US 729 (2009).

#15. The SDNY was required to disqualify Petitioner's adversaries J. Richard Supple and Hinshaw & Culbertson serving on the AGC from the Cowan defendants' SDNY representation based on conflicts of interest.

#16. Granting prospective injunctive relief against state AGC and OCA judges for continuation violations of a patentee's

constitutional rights are not actions against the State. *Ex parte Young*, 209 US 123 (1908)

#17. New York City institutions can be sued directly for patent infringement. *Monell v. Dept. of Social Services,* 436 US 658 (1978).

#18. Infringement damages are properly awarded by the NY Court of Claims for the State's promulgation of unconstitutional protocols in patent cases and in out-of-state attorney proceedings.

#19. State attorney disciplinary boards have a preempting federal duty to apply USPTO practitioner rules and mandates when a client-inventor files an ethics grievance against a patent attorney.

#20. District court judges who violate the Fifth and Fourteenth Amendments and ABA Rules 2.9 on *Ex parte Communications* during a patent litigation must having orders vacated by mandamus.

#21. Mandamus is properly awarded against an inferior district court to conduct patent infringement hearings on the merits that are being unlawfully withheld. *Schlagenhauf v. Holder*, 379 US 104 (1964).

#22. Mandamus is properly awarded to compel a hearing on a delayed continuation patent that issues during the lawsuit anticipated in the operative complaint. *Anza Technology v. Mushkin*, 934 F. 3d 1349 (Fed Cir. 2019).

#23. Mandamus is necessary to keep a district court from continuing to enter orders such as the enforcement of a judgment entered by a previous court *sua sponte* that is not on the merits.

#24. Mandamus is necessary to prevent a district court from entering a *sua sponte* order that a patentee is a frivolous litigant when the patentee has gotten no hearing on the merits on the patents in suit.

#25. Mandamus is properly awarded to abort continued unconstitutional discrimination and abuse against a *pro se* litigant or patentee.*Ericksonv.Pardus*, 551 US 89 (2007).

#26. *Sua sponte* anticipatory orders by a lower court that infringement hearings will not be granted are in the exclusive appellate jurisdiction of the Federal Circuit.

#27. State officers have a preempting federal duty to compel withheld USPTO files against a patent practitioner reported for ethics violations. *Virginia Office of Protection v. Stewart*, 563 US 247 (2011)

#28. A state AGC is not permitted to authorize *ex parte* access to confidential state files without a warrant to a plaintiff's adversary and deny the plaintiff due process access to those files and must give a respondent in a disciplinary action access to all state files. NY's JL Part 1240.6d, .7, .18.

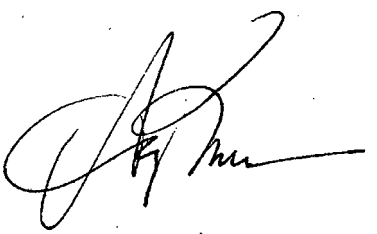
#29. NYS disciplinary protocols violate the Supremacy Clause of the US Constitution.

#30. A writ of mandamus must issue.

CONCLUSION

WHEREFORE, Petitioner having been deprived of constitutional access the SDNY, NDNY, the NY state courts and CACD and having exhausted all remedies available to her, prays that her Petition seeking a writ of mandamus to vacate orders be granted in all respects with an award of fees and costs in the maximum amount permitted by law. Dated: December 29, 2024 Princeton, NJ [Revised April 28, 2025, May 23, 2025]

Respectfully submitted,



/amyweissbrodgurvey/

AMY R. WEISSBROD-GURVEY,
US PATENTEE/PETITIONER

CERTIFICATION OF COMPLIANCE

Pursuant to Fed. Rule App. P. 32(a)(7)(C), I certify that this Petition pursuant to USSC Rule 21, complies with the typeface requirement of Fed. Rule. App. 32(a)(5)(A) because it is written in 14-point Century Schoolbook Font and with the type-volume limitation 6,894 words excluding the portions excluded under Fed. R. App. P. 32(a)(7)(iii). This Count feature is based on the word count feature of Microsoft Word.

/s/
amyweissbrodgurvey/