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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

SHEREEN BOBROWSKY,

Plaintiff,

v.

10 Civ. 1846 KMK

THE YONKERS COURTHOUSE,
et al.,

Defendants.

-----x

White Plains, N.Y.
April 15, 2010
11:00 a.m.

Before:

HON. KENNETH M. KARAS,

District Judge

APPEARANCES

SHEREEN BOBROWSKY
Plaintiff appearing Pro Se

ATTORNEY GENERAL OF THE STATE OF NEW YORK
Attorney for Defendants Martinelli and Scheinkman
SUSAN ANSPACH

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1 THE COURTROOM DEPUTY: Shereen Bobrowsky v. the
2 Yonkers Courthouse.

3 MS BOBROWSKY: Dr. Shereen Bobrowsky appearing pro se.

4 MS ANSPACH: Susan Anspach for the defendants
5 Martinelli and Scheinkman from the Office of the State Attorney
6 General.

7 THE COURT: Ms Anspach, maybe you can help me out
8 here. If I got sued I'm pretty sure I wouldn't be able to call
9 up the United States Attorney's Office and have them represent
10 me. So how does it work in the state system? Presumably your
11 office appears in front of these judges, right?

12 MS ANSPACH: Yes, on occasion. I'm not sure I
13 understand your Honor's question. Why am I representing the
14 judges?

15 THE COURT: Yes. It's a question I'm just trying to
16 understand. If I got sued I'm pretty sure I wouldn't be able
17 to call up the federal equivalent of the Attorney General's
18 Office which would basically be represented by the United
19 States Attorney's Office here in the district and say can you
20 represent me because they appear in front of me.

21 MS ANSPACH: I believe, it's my understanding you
22 would be, your Honor. I believe that would be the case.

23 THE COURT: Really? All right. I've never been sued,
24 it's probably not going to happen.

25 MS ANSPACH: I believe that would be the case. I'm
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1 thinking in my long ago past when I was a federal employee and
2 was sued and was represented by the United States Attorney's
3 Office.

4 THE COURT: No question that the United States
5 Attorney's Office, we see them all the time representing other
6 executive branch employees who were sued, but here you're
7 talking about the United States Attorney's Office, which as I
8 said appear in front of us all the time. They are a different
9 branch of government. But you seem to think, and I'm not
10 raising this because -- it's not out of concern, just
11 curiosity.

12 MS ANSPACH: I've been with the office for three years
13 and we represent the state agencies and one of the agencies is
14 the Office of Court Administration, and in the Office of Court
15 Administration we represent not all judges, but all judges who
16 are covered, I believe it's the status under the state
17 Constitution, they're state court judges, city and criminal
18 court judges, family court judges, and any court officers and
19 others who are part of the Office of Court Administration.

20 THE COURT: I figured there might be some statutory
21 scheme. So you wouldn't necessarily represent a New York Court
22 of Appeals judge who was sued? You might. But you're saying
23 you don't necessarily represent all of them.

24 MS ANSPACH: That's correct. But I do believe there's
25 been litigation actually, and occasionally there are conflicts,

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1 there has been litigation, as you know, with some of the judges
2 suing over pay, and the office has been involved in
3 representing. But when there is a conflict, there are
4 opportunities to seek outside counsel. And in fact in some
5 cases that's what happened. The Attorney General has asked and
6 sought for outside --

7 THE COURT: I think Mr. Nussbaum was tapped in the
8 lawsuit having to do with pay because your office would
9 probably represent the people being sued as well as the people
10 suing.

11 MS ANSPACH: Exactly. So there certainly are
12 situations where there is a conflict and outside counsel is
13 sought, but on a fairly regular basis we do represent the
14 judges who are part of the Office of Court Administration.

15 THE COURT: I'm not asking because I was concerned. I
16 was asking just because I was curious and I understand the
17 answer, so thank you for that.

18 MS ANSPACH: Thank you.

19 THE COURT: You're here representing two of the
20 judicial officers who have been sued, is that right?

21 MS ANSPACH: Yes, your Honor. I really can't speak to
22 the caption the City of Yonkers. I want the Court to be aware
23 that I am familiar with a number of the allegations because I
24 was involved in litigation with Ms Bobrowsky before Judge
25 Robinson two and a half years ago that resulted in a decision

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1 which your Honor may or may not be aware of.

2 THE COURT: I have read it, yes.

3 MS ANSPACH: And I believe there are similar
4 allegations against a number of Yonkers officials relating to
5 property, I believe.

6 THE COURT: There's an R&R that's pending from Judge
7 Smith.

8 MS ANSPACH: Exactly. I wanted to make sure that your
9 Honor was aware, and to put things in context, and some of the
10 underlying family and property issues are being addressed in
11 those matters. As to this matter, when Judge Martinelli and
12 Judge Scheinkman were served with the papers that are currently
13 before your Honor, under the Public Officer Law they requested
14 representation. And maybe that's a statutory scheme that I'm
15 not totally familiar with, but under the Public Officer Law
16 they requested representation. And I am familiar with their
17 involvement or lack of involvement in the current papers that
18 have been filed.

19 THE COURT: Okay. And Dr. Bobrowsky, we have two of
20 the judges that are represented here.

21 MS BOBROWSKY: Actually, if I can just make a comment
22 to what Ms Anspach said.

23 THE COURT: Just one second. I want to make sure
24 we're square here. Ms Anspach is here representing Judges
25 Martinelli and Judge Scheinkman but not Judge Hansbury.

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1 MS ANSPACH: Correct.

2 THE COURT: Was he served?

3 MS BOBROWSKY: Yes. All in the same manner.

4 THE COURT: Your office hasn't heard from Judge

5 Hansbury?

6 MS ANSPACH: Exactly, your Honor.

7 MS BOBROWSKY: There were court officers involved but
8 they were not wearing badges or name tags or badge numbers so I
9 haven't identified them.

10 THE COURT: So they're sued at this point as Jane or
11 John Does?

12 MS BOBROWSKY: Yes. If I may, the Public Officers
13 Law, Section 17, there is a problem. There is a conflict of
14 interest in the sense that under Section 17 it states that if
15 there's any issue where there may be a conflict, as in this
16 matter, that the AG's Office must do an internal investigation
17 and then present a written decision on whether or not they feel
18 they can still proceed.

19 THE COURT: What's the conflict here?

20 MS BOBROWSKY: The conflict is the AG is helping me
21 and meeting with me, attorney and investigators, regarding
22 title fraud, marriage fraud, this very matter. And I feel very
23 uncomfortable where the AG is also representing some judges
24 that are involved in the very matter that's been going on.

25 THE COURT: One second. If you could, when you say

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1 they're meeting with you, are they meeting with you in their
2 capacity as your counsel? Are they representing you in these
3 matters?

4 MS BOBROWSKY: In the investigation in the fraud
5 matter --

6 THE COURT: They're not representing your interests?
7 It sounds like they're contrary to your interests.

8 MS BOBROWSKY: No, they're representing my interests.

9 THE COURT: Who at AG's Office have you been dealing
10 with?

11 MS BOBROWSKY: The attorney is Ron Greenstein and the
12 investigators are, I met with one and two are coming to my home
13 next week.

14 THE COURT: And Mr. Greenstein is an attorney with the
15 Attorney General's office?

16 MS BOBROWSKY: Yes. Assistant AG.

17 THE COURT: I realize he's not the Attorney General.

18 MS BOBROWSKY: Ronnie. It's a her.

19 THE COURT: Do you know about this?

20 MS ANSPACH: I think the firewall between the office
21 that investigates and has a public interest that's at stake --
22 I'm not familiar with this investigation, but many individuals
23 in New York State call the State Attorney General for
24 assistance in investigating matters that appear to be of public
25 interest and public concern. And this may be one of them. And

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1 in those situations, we are deliberately not part of the loop
2 on those matters. So I'm not familiar with this.

3 But I believe it would be a public interest
4 investigation, and often an individual is the person who alerts
5 the office to such an issue or a problem. And it's my
6 understanding that it's not done on behalf one person but
7 usually a broader group.

8 THE COURT: I realize the Office of the Attorney
9 General is a very large office, it has many different
10 divisions, I certainly understand that. But I do think it
11 might make sense for you to do your own investigation and
12 figure out exactly what the firewall situation is and why the
13 existence of the firewall means that there is no conflict here
14 that would require you to issue some kind of waivers, or if
15 it's an unwaivable conflict.

16 MS ANSPACH: I'll look into it. I've read most of the
17 papers that were submitted and I didn't see anything in the
18 papers about this.

19 THE COURT: There was some stuff in the papers. But
20 look, I realize you've obviously been dealing with this in a
21 very short time frame. When we finish up here we'll set a
22 schedule. I think it would be useful if you could do your own
23 inquiry and then submit a letter that I can docket that would
24 explain to me and more importantly Dr. Bobrowsky what the
25 conflict issues is and how you think that they have been

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1 resolved by the firewall.

2 MS ANSPACH: I will certainly explain the
3 relationship, and if we believe there is a conflict, then we
4 would make an application for an alternative counsel to
5 represent the judges. I will check that out and make such a
6 submission.

7 THE COURT: But you state now you have nothing to do
8 or have not been brought in the loop regarding the
9 investigation that Dr. Bobrowsky mentioned?

10 MS ANSPACH: Right. I'm not aware of it all. I'm
11 aware of public interest investigations regarding consumer and
12 other fraud. But I will do that.

13 MS BOBROWSKY: This is not consumer fraud, this is a
14 little deeper. I would like if there could be pursuant to the
15 statutory state law, Section 17, if there can be an internal
16 investigation.

17 THE COURT: That's what I've asked her to do. That's
18 exactly what I've asked her to do --

19 MS BOBROWSKY: Sorry.

20 THE COURT: You cannot interrupt each other, otherwise
21 we can't have this transcribed. I've asked Ms Anspach to do
22 the inquiry and report back and she'll submit a letter that
23 I'll make part of the record. Is there something else you want
24 to address?

25 MS BOBROWSKY: There is one thing. If I could just

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1 respectfully request that this honorable court take judicial
2 notice of the Carvel v. the State of New York case that was
3 remanded by the Second Circuit to the district court, 08 Civ
4 3305, which is similar to my matter in that both allege
5 widespread corruption in Westchester County of acts that
6 violated protected federal rights. If you need a copy of this
7 decision, I'll be glad to supply within 24 hours.

8 THE COURT: Can you spell --

9 MS BOBROWSKY: The Carvel.

10 THE COURT: Hang on, just one second. I not only take
11 judicial notice of Second Circuit decisions, I have to follow
12 them. Let me pull it up. Give me a second to get into Westlaw
13 here.

14 MS ANSPACH: Pamela Carvel.

15 THE COURT: It looks like a Southern District
16 decision, Judge Scheindlin. I always read her decisions, I
17 find them very persuasive but I'm not bound to follow them. I
18 don't necessarily tell her that though. So it did go to the
19 Circuit and they affirmed in part and reversed in part and
20 remanded it. The case was mostly dismissed. It was dismissed
21 entirely and the Circuit remanded to have Judge Scheindlin
22 address -- there were some bribery allegations, and even though
23 the Circuit found that the judge at issue had absolute
24 immunity, because the case involved bribery allegations
25 involving nonjudicial officers, that the conspiracy claimed as

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1 to those individual officers could be viable. Judge Scheindlin
2 ended up granting the motion to dismiss but without prejudice
3 to allow Ms Carvel to amend her complaint.

4 I'm not really sure why you think this case is going
5 to help you because among other things the Circuit specifically
6 agreed with Judge Scheindlin that the Eleventh Amendment barred
7 plaintiff's claims against the State of New York and the Office
8 of Court Administration. The doctrine of judicial immunity
9 barred any recovery as to the judge that was at issue there.

10 And remember, we're not here to argue your whole case.
11 What we're here to argue is the injunctive relief that you seek
12 which is directed at judicial officers, ones who have done
13 everything from issue the bail order that you object to and so
14 forth. So I'm not sure that Carvel really helps you. My guess
15 is Ms Anspach is going to be citing it as part of her
16 soon-to-be-filed motion to dismiss. You're shaking your head.

17 MS BOBROWSKY: I'm sorry.

18 THE COURT: You can shake your head. Eye-rolling,
19 head-shaking, heavy sighs, cursing under the breath, that's
20 okay. I'll read it carefully. But I'm not sure that this is a
21 line of cases that's going to necessarily be helpful to you.

22 Let's address, if we could, your application, okay.

23 MS BOBROWSKY: I also have, if I may, I tried to file
24 it downstairs but I didn't serve it prior, I was going to
25 hand-deliver up here, and it just clarifies something I wanted

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1 to ask which goes along with the relief that I'm seeking.

2 THE COURT: What did you try to file?

3 MS BOBROWSKY: Really an addendum clarifying. There's
4 two matters that I believe are pretty hard to separate and
5 really can't be separated. I had entered a motion on January
6 7th at Pearl Street and that was a notice of removal. At that
7 time, I didn't have enough money to pay for the docket number,
8 so I did an in forma pauperis and I saved the money and I
9 guess, even though it was a criminal matter as a defendant,
10 which I was requesting to remove, which is actually in
11 Exhibit T in the batch of exhibits, the third set, the matter
12 that I, with the TRO and the order to show cause which I gather
13 is now a motion, a notice of motion? I'm not sure if it was
14 converted from an order to show cause.

15 THE COURT: It's still an order to show cause. Go
16 ahead. So you tried to remove your state criminal case to
17 federal court?

18 MS BOBROWSKY: I tried to remove the criminal matter
19 and I believe I tried to explain -- I would like to ask your
20 Honor if this is possible. I'm not an attorney. I am
21 disabled. I'm trying my best. But if I can respond in writing
22 I do much better. I'm not that familiar with legal
23 terminology. If you can go by in addition to whatever is said
24 orally by the papers, I don't know if anything is different but
25 I would appreciate that. That all that I submit may be much

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1 clearer than how I may present it here.

2 THE COURT: I think you're going to find it's pretty
3 hard to remove a state criminal case to federal court.

4 MS BOBROWSKY: I understand. But I think this is a
5 little unusual and extraordinary.

6 THE COURT: I think that it doesn't really matter how
7 unusual your story is. I realize you're not a lawyer. You
8 cite more cases in your papers than many lawyers do, however,
9 and you certainly do have more than the normal experience not
10 only in this court but in courts in general than your average
11 nonlawyer. I'm delighted to research on my own the basis for
12 which you could remove a criminal case in a state prosecution
13 for violation of state law, but I would be very surprised if I
14 found anything.

15 MS BOBROWSKY: I have some cases on removal on
16 criminal matters and why I feel based on discrimination --

17 THE COURT: You see, you keep underselling yourself.
18 Can I take a look at those?

19 MS BOBROWSKY: Please. I have one copy. This is a
20 courtesy and I'll file the other downstairs. It's not
21 thorough, I didn't have much time. I just did as best I could.

22 THE COURT: Okay.

23 MS BOBROWSKY: And there's some Americans with
24 Disabilities Act arguments that I didn't quite finish that are
25 in there. So I apologize.

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1 (Pause)

2 THE COURT: Okay. I've taken a quick glance at the
3 papers and the argument appears to be that because
4 Dr. Bobrowsky is disabled under the Americans with Disabilities
5 Act, that she can remove the criminal prosecution to state
6 court. The cases she cites, one is Walker v. State of Georgia,
7 417 F.2d 5, a 1969 decision from the Fifth Circuit; and there's
8 a District of Alabama case call Cochran v. City of Eufaula, 251
9 F.Supp.

10 I would add the Supreme Court's decision in Georgia v.
11 Rachel, 384 U.S. 780 where the Court allowed removal of a
12 criminal trespass prosecution, in that case against
13 African-American defendants, who had sought to obtain service
14 at a privately-owned restaurant that was opened to the general
15 public. What the Supreme Court held in Rachel, and that's of
16 course the decision -- I've read the Walker decision, I don't
17 think it would fare all that well in the Second Circuit.
18 There's a case I'll get to in a second. In any event, under
19 Rachel, a state court defendant, to justify a removal of a
20 criminal action, has to demonstrate both that she is being
21 deprived of rights guaranteed by federal law providing for
22 equal civil rights; and second, that she's denied or cannot
23 enforce that right in the courts of the state.

24 I have to say, I'm going to say this initially,
25 Dr. Bobrowsky, and I'll come back, we're here today on an

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1 application you made to seek certain injunctive relief. This
2 application you're making here is a different application. And
3 in fairness to defendants, they haven't had a chance to review
4 this. Just so you know, your applications can't be a moving
5 target. I don't mean this to be disrespectful. You're giving
6 me the furrowed brow. You make an application, they get to
7 respond, I rule. You make an application, I rule on your
8 application. But this is a different application. This is a
9 different application than the one that we're here for today.
10 But let me finish so you can do some research and I can give
11 defendant time to respond. Here are some things that I think
12 are open questions.

13 I understand you have invoked and in your papers you
14 make reference to the Americans with Disabilities Act. There
15 is really nothing in the record that explains what the
16 disability is that you're suffering from, number one. More
17 problematically, number two, there is nothing in the record
18 that I've read, and I have read your submissions and they are
19 extensive, with color tabs and everything, that somehow
20 suggests that what these judges have done in their capacity as
21 judges in entering the orders that they've entered had anything
22 to do with your disability. Disability discrimination requires
23 people to be treated wrongly, differently because of their
24 disability. The fact that a judge enters an order against you
25 that is contrary to your interests doesn't make it a

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1 discriminatory act just because you happen to be disabled.
2 So in terms of the application here that you want to
3 make, I think there's a lot of work for you to do under the
4 Rachel analysis. Because it's not clear at all that there's
5 any connection between a disability, assuming you have one as
6 would be determined under the ADA, number one, and number two,
7 that you couldn't vindicate those interests in state court.
8 And this is a theme you and I talked about when you were here
9 last time. There are appellate courts in New York State. And
10 if state trial court judges you think are not following the
11 law, you can appeal them. I get appealed here. And that's a
12 good thing. And these judges that you think are not acting
13 consistent with the law, they can be subject to appeal as well.
14 I know last time you said you made a phone call, they said you
15 couldn't appeal something that was done in court and whatnot.
16 This is what you're going to have to deal with in terms of your
17 removal application.

18 Let's get back to what we're here for, okay? As I
19 understand it, and I will admit I'm not sure it's entirely
20 clear, your objection seems to be to the banishment from the
21 Yonkers Courthouse which you say is a violation of your First
22 Amendment right, due process right, and you do allege the ADA.
23 But I'm not sure that there's anything that connects any
24 disability you say you have to the order. And then you also
25 object to the protective order and the conviction for violating

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1 the protective order as also violating your constitutional
2 rights. As far as I can tell, what you're asking me to do is
3 to void an order entered by Judge Martinelli to ban you from
4 the Yonkers Courthouse except for your scheduled appearances,
5 void a protective order entered against you by a New York
6 family court judge, order the Westchester District Attorney's
7 Office not to prosecute you for alleged violations under the
8 protective order, to refer your allegation for mortgage fraud
9 to the Westchester State Attorney General Office, and order
10 that your name be cleared, among other things.

11 You also, as I said, appear to be objecting to in
12 effect the conviction that was affirmed on appeal for violation
13 of the protective order. And there are a couple of
14 applications you seem to make having to do with again removal
15 of the State Attorney General's Office from defending judges,
16 which we will address here. And you do make some reference to
17 removal in your papers, but I have to say it was a very unclear
18 reference.

19 And the order seems to be directed, at least in terms
20 of who you named, to judges. And one of the things, not
21 surprisingly because I think I had mentioned to you that I
22 thought that this would be an issue for you, that Ms Anspach
23 says in her letter, I know you were upset by her wanting to
24 move to dismiss, but it goes to your application. Judges have
25 judicial immunity for things they've done as judges. If a

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1 judge issues a bail order, contempt order, scheduling order, a
2 judgment, an evidentiary ruling, and this list is not meant to
3 be exhaustive, they cannot be sued for those acts. That's what
4 the law is. It's been that way for a long, long, long, long
5 time.

6 So I'm trying to understand on what authority, putting
7 aside for a minute the fact that we've got, actually, the state
8 judges, and I'm a lowly federal district judge, putting that to
9 the side, we'll get to that in a minute, what do you want to
10 say in response to that?

11 MS BOBROWSKY: I understand what you're saying. And
12 if it's possible, if I can also reserve my right to respond, it
13 takes me a little longer sometimes to get to the point and I do
14 much better in writing. I thought my order to show cause would
15 be responded to and then I could in turn reply. But I'll do my
16 best to answer your question.

17 THE COURT: Okay.

18 MS BOBROWSKY: Regarding judges. I understand that a
19 judge, if you don't like a judge's decision you can't say I
20 don't like them, I'm going to sue them. I understand that.
21 But there's been a lot of things going on which I tried to
22 resolve and I tried to watch to see if there was really
23 anything to do it or if this was a pattern. And for not just
24 my case but from 15 other people that lost their homes in doing
25 case researching from the very attorneys and judges involved in

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1 this matter. And when I say the judges involved, there may be
2 some other ones that are -- well, let me be clear. One of my
3 attorneys who was not helpful to me was indicted by the United
4 States Attorney. And that was Anthony Mangone from Mangone and
5 Santangelo. They hurt me in many ways.

6 THE COURT: Can we just get back to the judge. Your
7 injunctive relief doesn't deal with Mr. Mangone or Mr. Posner,
8 who has his own separate set of ethical issues to say the
9 least. I'm sympathetic to what your situation is with that
10 individual. But I've got to stick to the application you've
11 making here against the state judges.

12 MS BOBROWSKY: I apologize, because it does branch out
13 so much. It's mind-boggling.

14 THE COURT: I understand.

15 MS BOBROWSKY: I apologize. And thank you for putting
16 me back on course.

17 THE COURT: That's okay.

18 MS BOBROWSKY: Regarding, for example, Judge Wood.
19 He's not a defendant here.

20 THE COURT: Can we talk about the judges who are.

21 MS BOBROWSKY: But one of the Yonkers judges in the
22 Yonkers Courthouse -- okay.

23 THE COURT: You haven't sued Judge Wood.

24 MS BOBROWSKY: Actually I did name him. Not in this
25 matter.

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1 THE COURT: I want to stick to this matter. You have
2 other matters I know in front of Judge Robinson and I have 449
3 other matters that I have to deal with. Fortunately, not all
4 today. But some of them are coming later on. Let's get right
5 to it. Tell me why it is that what Judge Martinelli, Judge
6 Scheinkman and Judge Hansbury did isn't covered by judicial
7 immunity.

8 MS BOBROWSKY: In Supreme Court, many people can go
9 back in federal court and say, well, you have a state remedy
10 and usually that's the case. Almost always that's the case.
11 But here I've been a victim of title fraud where I didn't start
12 litigating. Somebody filed a deed on my home and I fought for
13 my family, my home, with no advocate. Living out of my car.
14 And got this attorney disbarred, but he's still not prosecuted.
15 But in any case, sorry, lo and behold, the Supreme Court in
16 Westchester County Supreme Court declared I'm the owner which
17 they had to do. The deed showed, my mother's own attorney said
18 I'm the owner and this attorney stole my deed from my home and
19 filed the fraudulent --

20 THE COURT: You know what, go sue your attorney.
21 Let's get back to Judges Martinelli, Scheinkman and Hansbury.
22 What did they do that's not covered by judicial immunity?

23 MS BOBROWSKY: Well, an order was issued saying I'm
24 the owner fee simple. I went to file it in county clerk. The
25 county clerk said we can't enforce this order, we can't file

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1 it, we can't clear your title, for over three years now. The
2 deed or the court order omitted, erroneously omitted the
3 control number of the deed without which the county clerk could
4 not file a clear title cross-referenced. Therefore, I can
5 still lose my home any day. I tried entering motions before
6 these judges because I was both before Judge Martinelli and the
7 Supreme Court. I was thrown back and forth. The case was
8 transferred continually. Not by myself.

9 Well, I should say, in Supreme Court my last date in
10 Supreme Court was August 11, '09. And the judge asked what I
11 wanted, and I said very simple, just depositions -- denied. A
12 conference -- denied. Then I said, well, I don't want any
13 decision, but just to clarify the decision that's already
14 rendered so it can be enforced. I had already entered five
15 motions just to add the control number as I was instructed.
16 And still then the judge said, well, he's not God. My time in
17 the sun is over. Two court officers ran over to me from both
18 sides, I was standing with my neck brace on, hauled me out of
19 the courtroom, my feet dragging. Outside of the courtroom one
20 of the male court officers, and that name I only have his first
21 name, I didn't know if I could just enter a first name, stated
22 the following: Do you remember me? I said: No. I didn't.
23 And there was a woman with him too. He said: You had my judge
24 recused. And I knew it was, he worked for Judge Richard
25 DeWitt, who was an ex-yonkers judge who was finally recused on

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1 my motion of egregious financial conflict. He said his boss,
2 one of the judges, instructed him to do this before I even
3 walked in before the judge. So this was prearranged maybe, I
4 thought, to intimidate me but I just put it aside. I didn't
5 react. He followed me across the courthouse the rest of the
6 day, I was there for maybe three more hours trying to research
7 in the library, went to the ladies room, followed me, tried to
8 push my buttons to make me react. I ignored him. But I was
9 very concerned. How could he do this. I let it go.

10 Then I was trying to still clear my title, writing to
11 the Attorney General. And then someone recommended that I
12 enter a 440 motion in Yonkers. My first 440 motion that I
13 entered pro se was before Judge Martinelli I believe a year ago
14 or so, a year and a half ago. And he would not sign it or do
15 any order. And the appellate term would not allow me to appeal
16 what wasn't a written order. I tried, I even entered a motion
17 to reargue and I went to the appellate court, the Court of
18 Appeals, also just denied. And I tried entering that. My
19 remedy for that was exhausted.

20 I figured let me try one more time entering a 440 in
21 Yonkers before Judge Martinelli who was hearing all matters at
22 that point. And I had a third party serve on November 23rd, on
23 or about '09, 2009. And stamped from the DA, stamped from the
24 Yonkers Criminal Court. And I had the return date December 4th
25 to appear. And I appeared on December 4th, nine a.m. My name

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1 was on the calendar, so I knew that was proper. When I was
2 called before the Judge, that was Judge Cerrato.

3 THE COURT: Judge Cerrato is not a defendant. Really,
4 we've been here now for 45 minutes and I'd like you to tell me
5 what it is that Judges Martinelli, Scheinkman and Hansbury did
6 that's not covered by judge immunity. That's going to be the
7 last time I'm going to ask.

8 MS BOBROWSKY: The court officers are involved in that
9 who are also parties but I don't know names.

10 THE COURT: Let's get back to my question about the
11 judges. What is it that they did that violated your rights
12 that would not be covered by judicial immunity?

13 MS BOBROWSKY: Well, okay, let me -- besides -- Judge
14 Scheinkman, I'm jumping back a little bit, Judge Scheinkman was
15 prior with a partner of the Debello firm in 2006. In 2006, I
16 went to hire someone in the Debello firm. And they took a
17 retainer, at that point I still had some funds, all my records
18 to copy. And three weeks later I was told that they're in
19 conflict, they have close associations with the title agency,
20 Judicial Title Insurance Agency, and especially when they were
21 Judicial Abstract prior, and with Herbert Posner, now
22 disbarred.

23 THE COURT: He turned out to be quite the model
24 lawyer, right?

25 MS BOBROWSKY: I'm still getting threats, extortion,
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1 threats. He also, and this relates to why I'm jumping again,
2 I'm sorry, stating in some of the e-mails, and I think a police
3 report in New York City when he threatened me, he stated he
4 owns the Westchester courts, he has the judges in his pocket,
5 not to f--- with him, watch my back, many threats. I'm
6 stalked, videos sent to me.

7 THE COURT: But you haven't sued him, right?

8 MS BOBROWSKY: Posner? Oh, most definitely.

9 THE COURT: All right. I'm not looking for business.
10 Go ahead. Can we get back to the judges, because Posner is not
11 a defendant here, and he's not covered as far as I know by any
12 immunity. But if we could, back to the judges. What is it
13 they did here that you're objecting to that wasn't covered by
14 judicial immunity?

15 MS BOBROWSKY: Well, Judge Scheinkman in the Appellate
16 Term recused himself after I wrote a letter stating that there
17 was a conflict from the firm and also relating to Posner and
18 Scheinkman and that firm, homes that were -- by sewer service
19 people were not served, claimed they were served, and the homes
20 were sold in backroom conferences before certain judges, and
21 with the law firm of the DeBello firm and Posner doing all the
22 major improper acts with them, for them. And as the title
23 agent. Judge Scheinkman, after he stepped down, recused
24 himself at the Appellate Term, then transferred to an
25 administrative judge. At that point, every judge in

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1 Westchester Supreme Court is recused. I can't go before any
2 judge.

3 THE COURT: Westchester or Yonkers?

4 MS BOBROWSKY: Well, both. Westchester Supreme Court
5 where I would have maybe, they would have the authority for
6 certain matters where a city court wouldn't. Every judge is
7 recused. I was told I would never win, sign my deed over, sign
8 my property over, or this can go on and on and on until all my
9 property is lost.

10 THE COURT: Where is the order of the Westchester
11 judges all recusing themselves?

12 MS BOBROWSKY: I can bring it in. I just found it
13 last week in my file. I knew that they did. I had a list of
14 the orders, but when I saw it in writing, I think Judge
15 Scheinkman signed it, I can get it this afternoon and bring it
16 to the court or mail it.

17 THE COURT: Okay.

18 MS BOBROWSKY: That was shocking.

19 THE COURT: I thought what he did was he transferred
20 your 440 motion to City Court in White Plains because all the
21 Yonkers judges had recused themselves.

22 MS BOBROWSKY: Yes. But now I can't go into
23 Westchester Supreme Court, there is no judge. Then I got an
24 order from Judge Scheinkman while he's recused and the
25 administrative judge saying that every judge entered some

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1 motion and recused themselves from Yonkers and then the court
2 recused itself. I have to see --

3 THE COURT: That's how you end up in City Court in
4 White Plains.

5 MS BOBROWSKY: And then he transferred the case
6 specifically to Judge Hansbury, I didn't realize this when I
7 wrote the motion, made Judge Hansbury an honorary Yonkers judge
8 just for me. While I was pro se before White Plains City
9 Court, I said to Judge Hansbury that the order of protection
10 that exists is a nullity. And I entered, in addition to the
11 440, I showed that it has to be declared a nullity. If you
12 want to go through the grounds, I can do that.

13 THE COURT: No, no.

14 MS BOBROWSKY: But then Judge Hansbury said the
15 following: This is a Yonkers matter. He's a White Plains
16 court judge. And I said: But he was declared a Yonkers judge
17 for me. He said: No, this is before Yonkers and the Yonkers
18 judges or court and that's where it is. I said: Well, that
19 would leave me no remedy. He said: Well, that's why you need
20 a lawyer. I tried calling every entity that exists. The way
21 it was ordered and the way I'm talked about, there is no
22 remedy, which is what I was threatened to begin with, this will
23 never end. I tried --

24 Just stepping back, Ms Anspach stated that I named one
25 of the parties or one of the judges prior. I also said

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1 something else in the past. I'm not looking to sue, I'm
2 looking to resolve and in the past I said something, I thought
3 it was reasonable, I thought she thought it was reasonable.
4 But obviously the judges didn't. I said at that point, and I
5 think we're going to 2007 if I'm not mistaken, I said I would
6 remove or dismiss the judges, sign a stipulation, I'm asking
7 for one thing. Let's have the hearing that was never held and
8 that was never held when there was a vacate order to remove me
9 from the home that they knew was mine, which is a federal issue
10 of property, due process. Even Judge Martinelli kept saying,
11 we'll hear it here, there. And I went through a circle. I
12 don't know how many times I went around. There is no remedy
13 until I lose my home, which may be very soon, although I'm
14 doing my best, may be very soon. I'm trying, I'm not looking
15 to sue the judges. I can't appear anywhere. I'm hauled out of
16 a court for doing nothing. I need a third party --

17 THE COURT: I'm not sure that's really fair, "for
18 doing nothing." You say you were doing nothing.

19 MS BOBROWSKY: There are witnesses.

20 THE COURT: I'm not here to resolve that. That's not
21 what I'm here to do. Even in your papers there is a
22 description of conduct that is inconsistent with that. But
23 we're not here about that.

24 MS BOBROWSKY: I'm not sure of what --

25 THE COURT: Let me hear from Ms Anspach.

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1 MS ANSPACH: I think, your Honor, I would just like to
2 be heard as to the matter that was briefly mentioned. Your
3 Honor is correct as far as I know as to Judge Scheinkman. His
4 order was removing, and the six Yonkers City Court judges have
5 all recused themselves for a variety of appropriate reasons.

6 THE COURT: Can you give me some of the reasons,
7 because it's not clear from the record why they did that.

8 MS ANSPACH: It's my understanding that all of them
9 have been the subject of lawsuits by Dr. Bobrowsky. I don't
10 have much more detail.

11 THE COURT: All of them, every single one of them?

12 MS ANSPACH: That's my understanding that they've been
13 named in some capacity. In his capacity as the chief judge, he
14 has reassigned those cases to the White Plains City Court.

15 THE COURT: It seems reading from the transcript Judge
16 Hansbury was not all that clear why he had the case.

17 MS ANSPACH: I'm not familiar, I'm not sure, Judge
18 Hansbury.

19 THE COURT: I think you would have to agree that
20 Dr. Bobrowsky needs her day in court. And if all the Yonkers
21 judges are going to recuse themselves, then they got to make
22 sure that some judge who has no conflict hears the case.

23 MS ANSPACH: It's my understanding that all the cases
24 are assigned to judges in the City Court of White Plains.

25 THE COURT: But Judge Hansbury doesn't seem to think
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1 that that's so.

2 MS ANSPACH: Where is your Honor referring to?

3 THE COURT: If you look at I think it's Exhibit R.

4 MS ANSPACH: I didn't bring the large packet, I'm
5 sorry, I don't have that with me. I also did want to address
6 Judge Martinelli.

7 THE COURT: We'll get to Judge Martinelli in a second.
8 Exhibit R, and this is to Dr. Bobrowsky's application, and it's
9 a transcript of proceedings before Judge Hansbury on February
10 16 of 2010. And it starts off by the court asking
11 Dr. Bobrowsky where her lawyer is. She explains why she
12 doesn't have a lawyer. The judge says: You need to retain an
13 attorney. She says: I've been trying. And then she mentions
14 trying to remove the case to another court. She mentions the
15 Yonkers District Attorney. The court asks whether or not she's
16 served anybody. She said: Yes, on Yonkers. Federal courts,
17 then served on the DA in Yonkers, which she did. Judge takes
18 the courtesy copy.

19 And I guess this was the application that originally
20 went to Judge Koeltl down in Manhattan, is that right? That's
21 what you're referring to, Dr. Bobrowsky? Your referencing the
22 federal district court application but I think it's before I
23 got it, I think it's when you were down in Manhattan.

24 MS BOBROWSKY: I believe so.

25 THE COURT: This is when you went down to 500 Pearl
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1 Street, our satellite office.

2 MS BOBROWSKY: Yes.

3 THE COURT: And basically he says you need to get a
4 lawyer, you really do, it's not going to help you to try this
5 on your own, I'll give you until March 3rd. And then what
6 happens is then Dr. Bobrowsky says: Your Honor, for the 440.
7 And the judge says: I don't know if the 440 is in this court.
8 She says: That's my question. And he says: It's still in the
9 Yonkers City Court. And she says: This is the problem, your
10 Honor. I'm not allowed to go into the court or get my file.
11 And the judge says: That's why you need a lawyer. It ends up
12 kind of going around and around.

13 And she explains all the Yonkers judges recused
14 themselves, this is page 5. And then Judge Hansbury says: I
15 know you're trying to get paperwork out of Yonkers and you're
16 telling me that they won't let you come into Yonkers court.
17 And Dr. Bobrowsky says: Correct. And then the court says:
18 The logical thing is to then get a representative to do it for
19 you. You hire a lawyer. This is what lawyers are for. And
20 then Dr. Bobrowsky says she wants to have time to respond to
21 the 440. The court then says at the top of page 6: I don't
22 believe we have the 440 here. You don't know anything about
23 it, do you? Referring I guess to the court clerk.

24 MS BOBROWSKY: The DA.

25 THE COURT: The DA, okay. And the court says again:

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1 That's pending in the Yonkers City Court, Dr. Bobrowsky, but
2 they recused themselves. And then the ADA says: The file may
3 have been transferred from Yonkers to White Plains, there may
4 have been a removal order. The court says: Yes, but there's
5 confusion as to the removal order. The ADA says: Right,
6 that's the only indication that I have whether it's been
7 transferred, I don't know whether it's actually been yet. So
8 then the court ends up by saying: Well, this is inconvenient.
9 March 3, get a lawyer, see you then. Dr. Bobrowsky says: I
10 can let the judge see the 440, I can still put the papers in?
11 The court says: No, I can't tell, you're asking me to give you
12 legal advice, I can't do that, March 3. Thank you. Safe home.

13 MS ANSPACH: A couple of things, your Honor. I'm not
14 familiar with that transcript.

15 THE COURT: I just read it to you.

16 MS ANSPACH: Well, coming here just before today to
17 say more than I've said, that Judge Scheinkman has advised me
18 that all matters are pending with judges in White Plains City
19 Court that were in Yonkers.

20 THE COURT: They don't seem to understand that.

21 MS ANSPACH: I certainly, obviously, need to get some
22 kind of affidavit, verification, additional information for the
23 Court.

24 THE COURT: What happened on March 3rd, by the way?
25 Did you go back?

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1 MS BOBROWSKY: Oh, yes. I have to refresh my memory
2 ons last part of that transcript, I'm sorry. The judge said
3 something like the 440 is not before me. He denied me to amend
4 and then --

5 THE COURT: Denied you the opportunity to amend your
6 440?

7 MS BOBROWSKY: He denied me, right.

8 THE COURT: Because he didn't think he had it? He
9 thought it was still in Yonkers City Court?

10 MS BOBROWSKY: He just said denied, and I believe so,
11 and he wouldn't take responsibility. It was as if he was not
12 the judge. And I did not realize at the time that Exhibit M2
13 stated specifically, I missed the one word, where Judge
14 Hansbury on December 22nd of '09 was ordered by Judge
15 Scheinkman to be I think a honorary judge.

16 THE COURT: Acting judge.

17 MS BOBROWSKY: Acting Yonkers judge just for me until
18 disposition. And this was before, I believe, the transcript --

19 THE COURT: Here's what it says though. Assign the
20 following case presently pending. Is that the 440?

21 MS BOBROWSKY: That's the 440, correct.

22 THE COURT: So it's the People of the State of New
23 York v. Shereen Bobrowsky, 06-4495, that is the underlying
24 criminal case that is attached to the 440?

25 MS BOBROWSKY: Yes. That's relating to me being
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1 accused of a stare.

2 THE COURT: No. Convicted of violating a protective
3 order affirmed on appeal. Whatever it was, however, it was
4 that you -- let's be clear though. You were convicted and it
5 was affirmed on appeal?

6 MS BOBROWSKY: And it was by the attorney who was
7 indicted.

8 THE COURT: Yes. It was. I'll answer my own
9 question. In other words, Judge Scheinkman's order that you
10 referred to is the one that sends your 440 to White Plains City
11 Court that ends up in front of Judge Hansbury that you say
12 meant he needed to act as a Yonkers City judge per that order,
13 right?

14 MS BOBROWSKY: Yes.

15 THE COURT: I think that's how it reads. I agree.

16 MS ANSPACH: Thank you, your Honor. If I could just
17 address Judge Martinelli briefly. There was a serious
18 courtroom incident that Dr. Bobrowsky referenced that resulted
19 in a misdemeanor information with two charges of criminal
20 contempt and other misdemeanor charges, and it also was the
21 source of Judge Martinelli instructing Dr. Bobrowsky to only
22 come to the courthouse for those cases that she had and not for
23 other matters.

24 I've spoken with Judge Martinelli and I want to advise
25 the Court that Judge Martinelli, notwithstanding that I don't

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1 believe that there are any cases still remaining at the Yonkers
2 City Court involving Dr. Bobrowsky, that there is no
3 outstanding order that she cannot come as any other public --

4 THE COURT: What do you mean? Has the judge vacated
5 that order?

6 MS ANSPACH: It's my understanding it was an oral
7 order that he has vacated, your Honor.

8 THE COURT: When did he do that?

9 MS ANSPACH: I believe --

10 THE COURT: How could he do that if he's recused? Is
11 he among the Yonkers City Court judges that are recused?

12 MS ANSPACH: Yes, I believe.

13 THE COURT: So this is confusing.

14 MS ANSPACH: I believe in his capacity as chief judge.

15 THE COURT: But he was recused. How can you issue an
16 order in a case that you recused yourself from?

17 MS ANSPACH: The case that was, the misdemeanor that
18 was transferred to White Plains --

19 THE COURT: Right. So he has no authority to amend
20 any orders in the case that he no longer has because he recused
21 himself from it. You want to get some judge to vacate it, go
22 ahead. It seems for me from Dr. Bobrowsky's standpoint she
23 goes to that courthouse at her own peril. The last order she
24 got was stay out of here unless she gets a court date. How
25 could she get a court date since all her cases were sent to

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1 White Plains. But that's where her files are.

2 MS ANSPACH: I believe her files are transferred as
3 well.

4 THE COURT: She has a First Amendment right to go to a
5 courthouse. It's an unusual thing to bar somebody from a
6 courthouse. You're telling me the judge doesn't think it's
7 still in effect, but I'm trying to understand what made it a
8 nullity, his prior order.

9 MS ANSPACH: I believe, your Honor, he has issued an
10 order --

11 THE COURT: Where is it and how does he have authority
12 to do that when he recused himself? What's the song from Simon
13 and Garfunkel? The Sounds of Silence.

14 MS ANSPACH: The situation that led to that oral
15 statement I believe is no longer in effect and I would
16 submit --

17 THE COURT: There is no -- I'll tell you something.
18 If I issued an order, if I issued an order, whatever it was, a
19 bail order, a detention order, a protective order, it's
20 implicit that that order remains, unless there's something
21 within the body of the order that says this order expires on X
22 date, it seems pretty clear that that order presumably remains
23 in effect until there's some order vacating it, either from me
24 or from some other judge that had the authority to do that.
25 Like an appellate court. Anyway, you haven't produced it, and

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1 I don't know how it could be issued after the judge recused
2 himself.

3 MS ANSPACH: I understand.

4 THE COURT: Maybe you want to go back to your judicial
5 immunity argument. I hadn't intended to ask about this. I
6 don't presume to run anybody else's courtroom at all. But from
7 Dr. Bobrowsky's standpoint, she can't even go into the
8 courthouse.

9 Her files you say have been moved to White Plains City
10 Court? She's shaking her head no quite vehemently.

11 MS ANSPACH: My understanding is that they're there,
12 your Honor.

13 THE COURT: Your understanding from whom?

14 MS ANSPACH: Judge Scheinkman who transferred the
15 case.

16 THE COURT: Judge Hansbury doesn't even understand
17 that he has the case. Where are the files? Are they in the
18 clerk's office in the White Plains City Court?

19 MS ANSPACH: I believe they're in the White Plains
20 City Court, your Honor.

21 THE COURT: You're going to have to do a little bit of
22 follow-up on both these points. If the order, which is really
23 a bail order, it was a condition of bail you not go back to the
24 Yonkers City Court except if you have a court appearance on
25 that date. That's how I understood the order.

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1 MS ANSPACH: Yes, your Honor, it was a condition of
2 bail.

3 THE COURT: So what's the status of the bail order and
4 if there's some claim that it's been vacated, let's see a
5 document that says that, and again, if it's signed by a judge
6 who had already recused himself in the case, query whether or
7 not that's a valid order. Maybe the judge can say for this
8 purpose I don't recuse, I don't know. Again I don't presume to
9 tell other judges how to do their job. I'm having a hard
10 enough time trying to do my own. From Dr. Bobrowsky's
11 standpoint, she has to stay away from the courthouse, and now
12 she's being told maybe she can't go there. Can you imagine if
13 she went and said I was in court and Ms Anspach said it's been
14 vacated and some court security officer said where is the
15 order, you're in contempt, you're in violation.

16 MS ANSPACH: Your Honor, it's my understanding that
17 condition has been vacated, but I will certainly see that
18 that's confirmed in writing and served on the appropriate
19 parties.

20 THE COURT: By Monday, close of business.

21 MS ANSPACH: Yes, your Honor.

22 THE COURT: Thank you.

23 MS BOBROWSKY: Your Honor, if I may?

24 THE COURT: Very briefly. We have a lot of other
25 business to do today, so go ahead. You've been here an hour.

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1 MS BOBROWSKY: Very briefly, two issues. I'm sorry.
2 About not just me going to the court but even when I tried
3 having a, not a process server, a third party, they were
4 threatened with arrest from a Yonkers court officer. And I
5 have the badge number.

6 THE COURT: I'm trying to get to the bottom of it.

7 MS BOBROWSKY: It's very important that I see the
8 files, all, every, myself, because I do want to put thing on
9 record.

10 THE COURT: I don't disagree. I'm trying to get you
11 your files.

12 MS BOBROWSKY: I'm sorry. My problem with Yonkers and
13 many of the judges except three that were never named, there's
14 a warrant for my arrest out right now which is another false
15 arrest. And what they have been doing and did this even in
16 1998, it's been ongoing in Yonkers, you can't separate the
17 court from the corporation counsel in that location. On
18 12/13/06 they state there's a bench warrant for me not
19 appearing in court. Yet here I have the transcript. This is
20 an ongoing --

21 THE COURT: Who signed the bench warrant and when?

22 MS BOBROWSKY: It's not signed. What they do, they
23 have it sit there until they want to arrest me like they did --

24 THE COURT: Can I see the document?

25 MS BOBROWSKY: Sure. I have the transcript showing
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1 also --

2 THE COURT: Are you aware of this, Anspach?

3 MS ANSPACH: No, your Honor.

4 MS BOBROWSKY: There's also been 18 warrants where
5 they actually did arrest me for leaves on the sidewalk which
6 were --

7 THE COURT: We're not here on all that. This is the
8 moving target thing. If you want to make a separate
9 application, you can do that.

10 MS ANSPACH: This seems to be an unsigned bench
11 warrant.

12 MS BOBROWSKY: They have it set and when they want to
13 take me, they sign them. I was told this. My cousin's married
14 to a detective. This is an ongoing thing. He's with the 3rd
15 Precinct. This has been ongoing since I reported Yonkers Court
16 Judge Doherty to Dennis Vacco, Elliot Spitzer and Janet Reno.

17 THE COURT: That's quite a trio.

18 MS ANSPACH: I would just say, your Honor, it's
19 unsigned from 2006 for failure to appear.

20 THE COURT: That's not before me.

21 MS BOBROWSKY: I understand. I'm sorry.

22 THE COURT: We really got to keep our eye on the ball
23 if we can, Dr. Bobrowsky. You have been charged with illegal
24 barbed wire?

25 MS BOBROWSKY: Yonkers changed a law and I had wire,
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1 barbed wire on a fence. Took it off immediately. Yet that
2 appeared with 18 bench warrants for leaves on a sidewalk. All
3 outdated. I had dismissed. And I appeared. Yet they -- no,
4 I've been fighting this all along.

5 THE COURT: I got to check out my barbed wire, make
6 sure it's okay.

7 MS BOBROWSKY: Sorry?

8 THE COURT: Nothing. I'm just entertaining myself.
9 Sorry, Dr. Bobrowsky, I've never seen that before. You hang on
10 to that. I'm imagining you're not going to get arrested in the
11 next few days for illegal barbed wire, but I guess I shouldn't
12 get into the prediction business.

13 Let's get that order.

14 MS ANSPACH: Yes, your Honor.

15 THE COURT: The other thing I would ask, and this is a
16 courtesy, can you get her files? Can you get somebody to find
17 her files and get her her files, her court files, whether
18 they're in White Plains City Court, Yonkers City Court, the
19 barbed wire museum, wherever they are?

20 MS ANSPACH: Can we produce it at the White Plains
21 City Court and have her retrieve them there?

22 THE COURT: Yes. Because you're not barred there.

23 MS BOBROWSKY: I don't know. Judge Hansbury --
24 there's many papers.

25 MS ANSPACH: You want copies of the papers?

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1 THE COURT: Let's find out where they are. If they're
2 at Yonkers, let's get them to the White Plains City Court in
3 the proper place, they should be by the docket number, wherever
4 it is, so Dr. Bobrowsky can get access to her files. I'm not
5 asking you to photocopy them and hand-deliver them to her. I
6 just want to make sure she can get them, okay?

7 MS ANSPACH: Yes, I understand.

8 THE COURT: It sounds to me like the bail thing may go
9 away, Dr. Bobrowsky. It sounds like you're going to be able to
10 get access to your files.

11 MS BOBROWSKY: And the courthouse?

12 MS ANSPACH: Yes.

13 THE COURT: Yes. That's what's going to go away. As
14 for Judge Hansbury, I don't know what to tell you. It seems to
15 me that the case has been sent to him. You don't even
16 represent him at this point because he got served apparently,
17 although he hasn't sought counsel. I'm not sure that he did
18 anything wrong. Except that he doesn't seem to, from your
19 perspective, believe he's got the 440 case. So what that
20 leaves in terms of your application is your legal objections to
21 the conviction/protective order that was entered a while ago.

22 MS BOBROWSKY: Well, I don't know if --

23 THE COURT: There's other thing I know you want to
24 bring up and no doubt you will. And the removal, you've got
25 some work to do on the removal.

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1 MS BOBROWSKY: I do have a comment on Judge Hansbury.
2 I don't know if that matters. He already stated I'm guilty.

3 THE COURT: All right. You were convicted. He's not
4 wrong, you were convicted.

5 MS BOBROWSKY: I'm not explaining myself. We were
6 addressing the order of protection, saying the courthouse is
7 protected. He said that's a nullity. You can't have an order
8 of protection against a courthouse. But he's not going to make
9 any order on that since I'm not going to follow any orders
10 anyway.

11 THE COURT: You lost me, I'm sorry. Who is I'm not
12 going to follow orders?

13 MS BOBROWSKY: Judge Hansbury said that, referring to
14 me, that he's not going to touch the order, saying stay away
15 from the courthouse, which he says is a nullity, it's invalid,
16 the way it's written, you can't protect a thing, a courthouse,
17 only a person can be protected. But he says he's not doing
18 anything in writing. And besides, he said, I'm not going to
19 follow any court orders any way. I will violate it so it won't
20 matter. And I took that to mean he already found me guilty in
21 his mind.

22 THE COURT: All right. I'm not sure, I don't want to
23 get into mind-reading. All right. What I'd like to do is give
24 you my ruling on the application, and then we're going to set a
25 schedule, we're going to get some things done, and then we'll

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1 talk about the potential motion to dismiss that defendants want
2 to file. Last word, Dr. Bobrowsky?

3 MS BOBROWSKY: I have court officers that I need to
4 name that did this. And I don't know how to identify them. I
5 have one individual whose name is Kevin something and the
6 others I didn't have badge numbers for and there were comments
7 made to me which is quite egregious.

8 THE COURT: If we get to the discovery phase then you
9 can try to get their identities saying I need the names of
10 people who are working on this day in this courtroom at this
11 time, for example. That's how it can be done.

12 MS BOBROWSKY: If you do a motion to dismiss then how
13 can I --

14 THE COURT: I'm not saying I'm going to grant a motion
15 to dismiss. We're going to set a schedule.

16 MS BOBROWSKY: I'm sorry, I missed that.

17 THE COURT: Even if I were to grant a motion to
18 dismiss, it would be as to the judges and not to any other
19 individuals whom you have yet to identify. I'm not saying that
20 the case goes away. But you're going to have to officially
21 name John Does and I don't know that you did that.

22 MS BOBROWSKY: Yes. And I did know --

23 THE COURT: You did name the John Does. You're good.
24 You're good.

25 Okay. Let me just give findings of fact and

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1 conclusions of law briefly because I think there's a lot of
2 moving parts to this and this is all going to be without
3 prejudice to both sides should events change.

4 The brief history seems to be that this goes way back
5 to what could be characterized I guess as a family dispute
6 between plaintiff and her brother and mother over property in
7 Yonkers, 88 Fanshaw Avenue, and there are allegations of
8 mortgage fraud that Dr. Bobrowsky thinks were perpetrated
9 against her by an attorney named Herbert Posner who represented
10 some of Dr. Bobrowsky's family. And of course at some point
11 along the way from back in 2006, Dr. Bobrowsky lived in the
12 house with her mother and her brother.

13 In June of 2006 there was a protective order issued by
14 a family court judge in Westchester County ordering
15 Dr. Bobrowsky to refrain from assaulting or intimidating
16 Lillian Bobrowsky, Dr. Bobrowsky's mother, and to stay away
17 from her mother's bedroom. Now, what Dr. Bobrowsky argues in
18 connection with this application is that the order is
19 unconstitutionally vague and was issued by a court without
20 jurisdiction.

21 After the order was issued, Dr. Bobrowsky was
22 criminally charged with violating that order. Dr. Bobrowsky
23 made it quite clear that at most what was involved here was a
24 stare or angry look that she allegedly gave to her mother. Her
25 mother's complaint is that Dr. Bobrowsky stood outside the

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1 bedroom for over an hour and stared at her in such a way as to
2 cause her to feel intimidated and fearful.

3 Dr. Bobrowsky's lawyer back in October of '06 filed a
4 motion to dismiss the charges in connection with a violation of
5 the protective order and Dr. Bobrowsky herself filed an order
6 to show cause in Yonkers City Court to dismiss the charge and
7 to dismiss the outstanding bench warrant, some of which has
8 been mentioned here today.

9 In October of 2007 Dr. Bobrowsky was convicted in
10 Yonkers City Court of violating the protective order. This
11 conviction was affirmed on appeal on May 4, 2009 by the
12 Appellate Term in an opinion from Judges Rudolph, Tabenbaum and
13 defendant Judge Scheinkman. The Court of Appeals denied leave
14 to appeal. The timing is a little bit unclear from the papers
15 I've been given, but it appears that Dr. Bobrowsky was then
16 charged in 2008 with another violation of the protective order
17 that resulted in the conviction and the subsequent issuance of
18 a protective order from Judge Martinelli on May 23, 2008
19 ordering Dr. Bobrowsky to stay away from Lillian Bobrowsky.
20 But in any event, it does seem as though there was a protective
21 order entered by Judge Martinelli.

22 MS BOBROWSKY: That second one, 2008, was a false
23 accusation, it was dismissed.

24 THE COURT: All right.

25 MS BOBROWSKY: Another trial heard by Judge

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1 Martinelli. They kept --

2 THE COURT: I'll accept those allegations as being
3 true for purposes of this ruling. There's a whole side story
4 involving Mr. Posner, the bottom line of which is he turns out
5 to have done some improper things and he paid the price, having
6 to do with false notary and so forth. That's not central to
7 the applications before the Court. What ultimately happens is
8 Dr. Bobrowsky files a 440 motion to vacate the protective order
9 and the conviction. It seems as though what Dr. Bobrowsky did
10 is she sued and served the District Attorney's Office and Judge
11 Martinelli with this motion. She was in the Yonkers City Court
12 for a scheduled court appearance on December 4, 2009 involving
13 the 440 application, and it was then in front of Judge Cerrato
14 who adjourned her case for a month but declined to allow
15 Dr. Bobrowsky to put a statement on the record. Dr. Bobrowsky
16 said she asked for a second call, Judge Cerrato refused the
17 request, and she was ultimately taken from the courtroom and
18 arrested. This resulted in the filing of a misdemeanor
19 information filed by Court Officer Lawrence Lonesome -- I think
20 I have this right.

21 MS BOBROWSKY: I believe so.

22 THE COURT: -- filed on December 4th of '09 charging
23 Dr. Bobrowsky with two counts of criminal contempt in the
24 second degree, one count of resisting arrest, one count of
25 obstructing governmental administration in the second degree,

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1 and one count of disorderly conduct. And I recognize
2 Dr. Bobrowsky disputes these allegations. But according to a
3 document that's part of the record, Officer Lonesome stated
4 that Dr. Bobrowsky screamed during the conference, refused to
5 exit the courtroom, struck Officer Lonesome when he attempted
6 to arrest her and remove her from the courtroom.

7 In the afternoon of December 4, 2009 Dr. Bobrowsky
8 alleges, and I think the record substantiates it, that Judge
9 Martinelli banned her from the Yonkers City courthouse without
10 any reason or hearing. The transcript that's part of the
11 record reflects that Judge Martinelli stated he was going to
12 release plaintiff on her own recognizance on the specific
13 condition that she stay away from the court except on her
14 scheduled court date. Dr. Bobrowsky alleges that this
15 constitutes a ban in violation of her First Amendment and due
16 process rights, especially since in part she alleges this was
17 in retaliation for articles she had previously written about
18 matters before the court. She also alleges that because this
19 was an oral order, it was not appealable, and as a result of
20 this order she's not been able to gain access to her court
21 files.

22 Now, the record on this point isn't entirely clear,
23 but there also is an allegation that Dr. Bobrowsky asked Judge
24 Scheinkman to recuse himself and "not to handle the appellate
25 term due to the appearance of impropriety" caused by

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1 Judge Scheinkman having been a former partner in the DeBello
2 law firm that did business with Mr. Posner. What I'm willing
3 to do is construe this as having to do with the appeal of the
4 conviction.

5 Then what happened is the Yonkers City Court judges
6 recused themselves from deciding the 440 motion. I've been
7 told it's because they feel they've all been sued.
8 Dr. Bobrowsky says that's not true. I'm willing to assume her
9 version of the events is true. But in any event, because of
10 the across-the-board recusal, Judge Scheinkman appears to have
11 transferred plaintiff's 440 motion to the City Court in White
12 Plains, asking Judge Hansbury to be an acting Yonkers City
13 Court judge.

14 Now, what Dr. Bobrowsky alleges is that at a hearing
15 in February of 2010, Judge Hansbury made clear that he thought
16 the 440 motion should be before a judge in Yonkers. I think
17 what the transcript really shows is that there was some
18 confusion over whether or not the 440 application had been
19 transferred to White Plains. There was a discussion about
20 removal of the case to federal court. Judge Hansbury made it
21 clear that he didn't think he had the 440 motion and he
22 encouraged Dr. Bobrowsky to get an attorney. And all the
23 record reflects is that they were supposed to come back on
24 March 3rd. And Dr. Bobrowsky has provided a little bit more
25 information about what happened on March 3rd.

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1 There are a whole bunch of other allegations that I
2 don't think are really relevant to the TRO application.
3 There's allegations of assault by Yonkers police officers;
4 there's all kinds of allegations regarding a dispute over the
5 property having to do with failure to respond to 911 calls;
6 failure to investigate. But as I said they don't seem to
7 relate directly to the injunctive relief that's being sought
8 here, which, as I said, is to void the order by Judge
9 Martinelli to ban Dr. Bobrowsky from the Yonkers Courthouse
10 except for her scheduled court appearances, void a protective
11 order from the family court as well as the conviction for
12 violation of the protective order, and as I said, there is some
13 language suggesting that Dr. Bobrowsky wants to remove her case
14 to federal court. But I think the record on that needs
15 development for reasons I already explained because I really
16 don't think there's been much that's been provided by way of
17 any evidence that whatever these judges did, even assuming what
18 they did was wrong, putting aside judicial immunity, that
19 there's any reason to think that anything they did here had
20 anything to do with Dr. Bobrowsky's disability under the ADA.
21 But it's early, and Dr. Bobrowsky will be given a chance to
22 develop the record on that.

23 Dr. Bobrowsky initially filed her complaint on March
24 9, 2010 naming the Yonkers Courthouse as the defendant.
25 Because the case was filed in our satellite office in

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1 Manhattan, Judge Koeltl was assigned the case and he reassigned
2 it to this court on March 11, 2010. The Court heard
3 Dr. Bobrowsky's application ex parte for a temporary
4 restraining order and a preliminary injunction on March 16th.
5 Dr. Bobrowsky showed up in court not having served the Yonkers
6 Courthouse or any of the defendants. And there is a transcript
7 of that proceeding, Ms Anspach, if you want to get to it. I
8 directed that Dr. Bobrowsky serve the individuals -- because
9 she couldn't serve the courthouse -- that she thought had
10 wronged her and it would be the subject of her request for
11 injunctive relief.

12 So what I did at that point was I simply denied the
13 application without prejudice, allowing Dr. Bobrowsky to refile
14 when she served the relevant individuals she wished to be
15 covered by any injunctive relief. Affidavits of service for
16 Judges Scheinkman, Martinelli and Hansbury were filed March
17 29th. Defendants Judges Scheinkman and Martinelli, through
18 counsel, sent a letter to the Court requesting a pre-motion
19 conference seeking permission to file a motion to dismiss the
20 complaint. The Court then scheduled today's conference to
21 address the order to show cause and defendants' putative motion
22 to dismiss.

23 The Court is aware as Ms Anspach has mentioned that
24 Dr. Bobrowsky has other cases in this courthouse. They are
25 before Judge Robinson. I don't think they have anything to do

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1 with this current application.

2 To obtain a temporary restraining order or a
3 preliminary injunction, the movant "ordinarily must show a
4 likelihood of irreparable harm in the absence of the
5 injunction, and a likelihood of success on the merits or
6 sufficiently serious questions going to the merits to make them
7 a fair grounds for litigation, with the balance of hardships
8 tipping decidedly in movant's favor." That's from *Doninger v.*
9 *Niehoff*, 527 F.3d 41, 47, a 2008 decision. "When a movant
10 seeks a mandatory injunction, that is an injunction that's to
11 alter rather than maintain the status quo, the movant must meet
12 the more rigorous standard of demonstrating a clear or
13 substantial likelihood of success on the merits," also from
14 *Doninger*.

15 Perhaps the single most important prerequisite for a
16 preliminary injunction or a TRO is a demonstration that if the
17 application isn't granted, the applicant is likely to suffer
18 irreparable harm before a decision on the merits can be
19 reached. Irreparable harm is an injury which is so serious
20 that monetary award cannot provide adequate compensation. The
21 injury has to be neither remote nor speculative but actual and
22 imminent, and can't be remedied by monetary damages.

23 Alleged violations of constitutional rights are
24 normally considered irreparable injuries for purposes of the
25 analysis. And here Dr. Bobrowsky alleges violations of her

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1 First Amendment rights, due process rights -- and I'm willing
2 to construe the application as also involving equal protection
3 rights. Again, of course, Dr. Bobrowsky is a pro se litigant,
4 so I am going to liberally construe her pleadings to interpret
5 them to raise the strongest arguments they suggest.

6 Now, with respect to the bail condition, as I said I'm
7 willing to assume that the alleged First Amendment violation
8 does involve irreparable harm. I think the issue is much less
9 clear with respect to the transfer ordered by Judge Scheinkman
10 of the case to Judge Hansbury and Judge Hansbury's to date view
11 that he does not have the 440 motion. It's not clear to me
12 that Judge Hansbury is denying to hear Dr. Bobrowsky's motion,
13 for from reading the transcript it seems as though there is
14 some confusion, understandable confusion from Judge Hansbury's
15 perspective. It's not every day that an entire city court
16 recuses itself. And I understand this is an ongoing story and
17 I am willing to assume again for the sake of argument that
18 there is an allegation that could be construed as irreparable
19 harm from the constitutional violation. I would properly
20 probably call this a due process violation.

21 There are a couple of reasons why I think,
22 Dr. Bobrowsky, however falls short in terms of establishing a
23 likelihood of success on the merits. But I do want to say that
24 some of this is subject to what happens with the bail order
25 being truly vacated.

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1 The first doctrine that I think comes into play here
2 is the Rooker-Feldman doctrine. You may recall, Dr. Bobrowsky,
3 we did talk about this at the hearing. What the Rooker-Feldman
4 doctrine says is that federal district courts lack jurisdiction
5 over suits that are in essence appeals from state court judges.
6 This is because Congress, when it granted federal court
7 jurisdiction to review final state court judgments under a
8 statute found at 28 U.S.C. 1257, has long been interpreted to
9 vest authority to review a state court judgment solely in the
10 hands of the Supreme Court, not in a district court. And it's
11 called Rooker-Feldman because it's named after a couple of
12 Supreme Court cases that involve the names Rooker and Feldman.

13 In essence, what the Rooker-Feldman doctrine does is
14 it bars collateral attack on a state court judgment even when
15 that attacks attempts to cloak itself in a vindication of a
16 1983 action in federal court. In Exxon Mobil, the Supreme
17 Court has reminded us that the Rooker-Feldman doctrine is
18 narrow and "only applies to federal lawsuits brought by state
19 court losers complaining of injuries caused by state court
20 judgments rendered before the district court proceedings
21 commenced by inviting district court review and rejection of
22 those judgments."

23 In the wake of Exxon Mobil, the Second Circuit
24 reexamined its own view of Rooker-Feldman and has laid out four
25 requirement that must be met before Rooker-Feldman can be

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1 deemed to apply. First, the federal court plaintiff must have
2 been the loser in state court. Second, the plaintiff must
3 complain of injuries caused by a state court judgment. Third,
4 the plaintiff must invite district court review and rejection
5 of that judgment. And finally, the state court judgment must
6 have been rendered before the district court proceedings
7 commenced. In other words, Rooker-Feldman has no application
8 to federal court suits proceeding in parallel with ongoing
9 state court litigation. This was laid out in the Second
10 Circuit decision in Green v. Mattingly, 585 F.3d 97, 101 and
11 Hoblock v. Albany County Board of Elections, 422 F.3d 77, 85.
12 The first and fourth of these requirements are procedural. The
13 second and third are substantive.

14 Although the Second Circuit in Hoblock noted that the
15 parties in the state and the federal action must be the same,
16 courts, including the Second Circuit, have interpreted this
17 language to require a common identity between the plaintiff in
18 the federal action and the party impeded in the state court
19 action, not that the defendant may avoid Rooker-Feldman simply
20 by adding new defendants in the federal action; nor can a
21 federal plaintiff escape Rooker-Feldman simply by relying on a
22 different legal theory raised in state court. Just because
23 somebody asserts a constitutional claim does not create an
24 independent injury if the plaintiff's injury is caused by the
25 state court judgment.

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1 And the Circuit has made clear that sort of temporary
2 relief, interlocutory relief for judgments in state court, are
3 not barred by Rooker-Feldman. So Rooker-Feldman would apply
4 only if there is -- if the plaintiff appealed a final order or
5 disposition permanently ordering some relief, or not ordering
6 some relief, as the case may be.

7 Rooker-Feldman I think has a lot to say, and I think
8 it's what stands in the way of plaintiff establishing a
9 likelihood of success on the merits as to the protective order
10 and the conviction. As I said, there was an order of
11 protection that was entered. And then there was a conviction
12 for violation of the protective order, which clearly resulted
13 in a final judgment, because it itself was appealed to the
14 Appellate Division which affirmed the conviction. To the
15 extent that the state court motion, the 440 motion, seeks to
16 overturn the conviction and the protective order, it appears to
17 be a collateral attack on the final decision. That's the whole
18 point of a 440 application. To the extent then that what
19 Dr. Bobrowsky is seeking to do is to vacate either the
20 protective order or the conviction, then precisely what she's
21 doing is in effect is seeking to use the federal court to
22 collaterally attack a final decision of the state court.

23 Now, let me say this. This doesn't mean there's no
24 relief in federal court. In theory, you could bring a habeas
25 corpus petition. I can't be your lawyer and walk you through

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1 all that, but that would be a mechanism for somebody to attack
2 a criminal conviction. But there are procedural requirements.
3 You have to exhaust any state court remedies you have,
4 Dr. Bobrowsky. And 440 is one of the ways you so exhaust.
5 We're not here for dialogue, okay. So in terms of the
6 conviction, I think even for the protective order, there does
7 appear to be a final judgment. And there's no question that
8 both the protective order and the judgment of conviction were
9 entered before plaintiff filed this suit. So the procedure
10 requirements of Rooker-Feldman are satisfied.

11 In terms of the substantive requirements, the injury
12 clearly arises out of issuance of the protective order and the
13 subsequent conviction, and she claims that her constitutional
14 rights were violated by the order and the conviction. She
15 claims that they violate her right to access her property. In
16 effect, what she's trying to do is say that the Court should
17 vacate the protective order and therefore vacate the underlying
18 conviction, which the Court cannot do in this current posture.
19 There's nothing in the record or the law to suggest that
20 Dr. Bobrowsky could not have appealed the protective order.
21 And as I said, to the extent that she's filed a 440
22 application, that may very well be the precursor to her filing
23 a federal habeas corpus petition, but that's where we are at
24 this current stage. And it certainly would not be the subject
25 of injunctive relief. It would be I would grant the petition

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1 or not grant the petition.

2 The fact that Dr. Bobrowsky alleges that the
3 protective order was obtained through fraud of Mr. Posner
4 doesn't change anything. As I said, there's a final judgment.
5 To the extent this is a collateral attack on that judgment,
6 under Rooker-Feldman it cannot be done.

7 Now, the request to void the bail condition is more
8 complicated because it's unclear to me that there was a final
9 order. And that's where the Green decision comes into play,
10 and I mentioned this earlier. Dr. Bobrowsky alleges she was in
11 fact told she could not appeal the bail order because it was an
12 oral decision. It's unclear to me that that's right under
13 Section 530.30 of the Criminal Procedure Law. And there is
14 some case law that suggests that Rooker-Feldman may apply here.
15 But I don't think it needs to come to that point for a couple
16 of reasons. First of all, it may very well be that the order
17 is a nullity. And we'll find that out by close of business on
18 Monday. Second of all, the Court has strongly encouraged
19 Ms Anspach to get those files available to Dr. Bobrowsky. I
20 think the safest thing to do is just get them in the White
21 Plains clerk's office.

22 There also are substantial questions about whether or
23 not Younger abstention, another doctrine, applies here. This
24 is from Younger v. Harris, a Supreme Court case. Federal
25 courts, in the interest of comity, should abstain from hearing

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1 a case that would interfere with an ongoing state criminal
2 proceeding. The Second Circuit has held that the Younger
3 abstention is inapplicable where a Section 1983 action seeks
4 monetary damages, but it does apply to claims for injunctive
5 relief even brought under 1983. And that's what we're dealing
6 with right now. Dismissal or a stay of claims is mandatory
7 where the requirements for Younger abstention are satisfied and
8 generally speaking Younger prohibits courts from taking
9 jurisdiction over federal constitutional claims that involve or
10 call into question ongoing state proceedings. That's from the
11 Second Circuit decision in Spargo v. New York Commission on
12 Judicial Conduct, 351 F.3d 65, 74. Younger abstention is
13 mandatory when (1) there is a pending state proceeding; (2)
14 that implicates an important state interest; and (3) the state
15 proceeding affords the federal plaintiff an adequate
16 opportunity for judicial review of his or her federal
17 constitutional claims.

18 Younger abstention notwithstanding, the federal court
19 may still intervene in state proceedings if the plaintiff
20 demonstrates bad faith, harassment or any other under usual
21 circumstances that would call for equitable relief, no doubt
22 what Dr. Bobrowsky's is alleging here. And it's her burden to
23 establish this these exceptions apply. For example, to
24 establish the bad faith exception, the movant has to establish
25 that there's no reasonable expectation of obtaining a favorable

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1 outcome. That's from Diamond D Construction Corporation v.
2 McGowan, 282 F.3d 191, 199. "To invoke the extraordinary
3 circumstances exception, the state court must be incapable of
4 fairly and fully adjudicating the federal issues before it."
5 "Whatever else is required, the circumstances must be
6 extraordinary in the sense of creating an extraordinarily
7 pressing need for immediate federal equitable relief, not
8 merely in the sense of presenting a highly unusual factual
9 situation."

10 I'm willing to concede this is an unusual factual
11 situation, but I think the fact that we've been told that the
12 judge vacated his order I think undercuts any claim that
13 there's no reasonable expectation of obtaining a favorable
14 outcome.

15 I think another way to construe Dr. Bobrowsky's claim,
16 especially given her removal language, is that she's seeking to
17 have this court intervene in the ongoing state court
18 proceedings regarding her 440 motion as well. So I'll get to
19 that in a second. But with respect to the bail application,
20 I'm only going to deny this without prejudice because I want to
21 see what happens on Monday. If the order has been vacated,
22 it's moot. And if we can get Dr. Bobrowsky her files then it
23 seems to me that should end the matter.

24 Let me say this, Dr. Bobrowsky. I said this before.
25 It's not often that I see a bail condition that someone can't

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1 come to court. It's unusual, I will grant you that. But
2 again, it's not clear to me that you've established a
3 likelihood of success on the merits that any impropriety of
4 this order can't be addressed in the state court system. I
5 know, you made a phone call, they said it's not appealable.
6 You have to do more than that.

7 Getting back to the 440 motion, as I said I think
8 another way to construe the application is that Dr. Bobrowsky
9 wants this court to intervene. In terms of the ADA piece of
10 this, we're not there. I'm not willing to assume that that
11 application has formally been made, but I think Younger also
12 has something to say on this. The first requirement of
13 Younger, as I said, is whether or not there's something
14 currently pending in state court. I don't think there's any
15 dispute about that. There is a 440 motion currently pending in
16 state court. Secondly, the state criminal proceedings
17 certainly implicate an important state interest. It should be
18 obvious that a state's interest in the administration of
19 criminal justice within its borders is important. I believe
20 the Second Circuit has so held. Third, Dr. Bobrowsky has, and
21 certainly has had, the ability to raise her constitutional
22 claims related to the protective order, that is that it's
23 vague, on appeal. She had that opportunity in the Appellate
24 Term and in the Court of Appeals and she had the opportunity
25 here in pursuing her 440 motion which is pending. Admittedly,

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1 there seems to be some confusion as to who is going to
2 ultimately adjudicate the motion, but the temporary confusion
3 in my view is not does not rise to the level of success on the
4 merits.

5 And I don't think that Dr. Bobrowsky has demonstrated
6 bad faith, or harrasment or any other extraordinary
7 circumstances that would call for equitable relief under the
8 exception to the Younger doctrine. Certainly Dr. Bobrowsky
9 seems to allege that the decision to recuse by all the Yonkers
10 City judges was done in bad faith, or perhaps to retaliate
11 against her. But the evidence linking, for example, her
12 articles to their decision is wanting. And to the extent that
13 Judge Hansbury ultimately does hear the 440 motion, then I
14 don't think there can be any harm to Dr. Bobrowsky from any
15 alleged improper recusal by the Yonkers City judges.

16 I recognize there's a fact dispute. They think
17 they've all been sued. Dr. Bobrowsky says that's not true.
18 The record is frankly barren on this point. So from where the
19 Court sits, the 440 motion is pending before Judge Hansbury.
20 There's really no evidence to suggest that somehow there's no
21 possibility of Dr. Bobrowsky getting the relief she seeks. I
22 don't read the transcript the way she does, that Judge Hansbury
23 has decided she's guilty. So I don't think that she's met the
24 burden she needs to meet here.

25 MS BOBROWSKY: I don't have that transcript with me.

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1 THE COURT: The transcript that I have read thus far.
2 And what you quoted to me certainly did not substantiate it.

3 A couple of other things that stand in the way here.
4 There is state sovereign immunity, which is even what the
5 Second Circuit hung its hat on in the case that you cited to
6 me -- Carvel, how can I forget -- and judicial immunity, of
7 course, also is a very high hurdle here. Because to the extent
8 the allegation is that there were judges who engaged in
9 misconduct, it appears that all of the conduct that's being
10 objected to here is judges doing what judges do, issuing
11 orders, issues decisions, running their calendars in the
12 courtroom.

13 I'm not granting any motion to dismiss. I'm just
14 saying in light of judicial immunity here, again also relying
15 on the Carvel case, just so the record is clear, "it's
16 well-established that officers acting in their judicial
17 capacity are entitled to absolute immunity against Section 1983
18 actions, and that this immunity acts as a complete shield to
19 claims for money damages." The Second Circuit noted this in
20 *Montero v. Travis*, 171 F.3d 757, 760. It's also barred by the
21 congressional amendments which provide that "in any action
22 brought against a judicial officer for an act or omission taken
23 in such officer's judicial capacity, injunctive relief shall
24 not be granted unless a declaratory decree was violated or
25 declaratory relief was unavailable."

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1 Here I don't think Dr. Bobrowsky has established that
2 a declaratory decree was violated. And for reasons I already
3 explained I don't think she established a likelihood of success
4 that declaratory relief is unavailable. And the record as it
5 exists now I don't think allows Dr. Bobrowsky to establish a
6 likelihood of success that what the judges did here was somehow
7 outside their function as judges. The bail order is what
8 judges do. Even if Dr. Bobrowsky thinks the bail order went
9 too far, bail is something judges do all the time. It's pretty
10 clear to me based on the record that exists now that what Judge
11 Martinelli did was in his capacity as a judge. So, too, the
12 order of protection and the underlying conviction. So, too,
13 with how Judge Hansbury is currently handling the 440
14 application by Dr. Bobrowsky.

15 I also don't think that it can be said that there are
16 sufficiently serious questions going to the merits and the
17 balance of hardships tips decidedly in Dr. Bobrowsky's favor
18 here. I just don't think that the questions are serious enough
19 going to the merits. But again I want to see what happens with
20 that banishment from the Yonkers City Courthouse and
21 particularly the piece of that that bars Dr. Bobrowsky from
22 getting her files which we'll resolve by Monday.

23 All of this is without prejudice should the factual
24 record develop more substantially or should the facts not be as
25 I believe them to be in the record thus far.

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1 For these reasons I'm going to deny the application.

2 MS BOBROWSKY: I have one question. I thought I
3 worded it, but I'm not clear. Regarding the 440, there are a
4 few issues around that, one that's not even addressed in that,
5 but federal rights are due process. I was removed from my home
6 based not just on a fraud, my mother never asked for an order
7 of protection. This was done to take my home to go sell
8 everything, which is what happened. But there was never a
9 hearing. Every judge stated, okay, we're issuing it for a
10 year. Go hear it under someone else. And that would keep
11 being renewed, go hear it under someone else and I would be
12 going into a circle.

13 My mom is 82. She had a cancer biopsy right before
14 this happened. I'm a doctor, I was a medical advocate
15 care-giver. Yonkers is also going against my mother and
16 entered a ten thousand dollar judgment against her. I always
17 protected her and made sure all was well. I don't even know if
18 she is alive right now. And to hold a hearing was, I tried to
19 put in the alternative to either, wherever it be, I'm easy --

20 THE COURT: To the extent that your mother has some
21 issues with Yonkers, to the extent that they've done things to
22 her that she shouldn't have done, and I don't mean to in any
23 way make light of her health issues, but those are her issues.
24 She's going going to have to represent herself -- let me
25 finish, Dr. Bobrowsky, please. Unless you prove an injury to

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1 yourself, then you don't have standing to bring an action in
2 court. To the extent that your objection to the protective
3 order is that there were insufficient hearings that supported
4 issuing the protective order, then all of the things I talked
5 about still apply, Rooker-Feldman, judicial immunity, so forth.
6 To the extent that there was some failure to provide process
7 that was due, then that is something that the state court
8 process could adjudicate, and so therefore it's not something
9 for me to get involved in. At this stage I don't think you've
10 established a likelihood of success on that. And I didn't
11 really read that application being made here.

12 I want to emphasize again, I realize that you
13 obviously have given this a lot of thought, you continue to
14 give this a lot of thought, I recognize that there are years'
15 worth of stories here. As you interpret the process of
16 litigating this, new things come to your mind. But we can't --
17 at some point you got to tell me what your application is, I've
18 got to give the other side a chance to respond and I rule. If
19 you want to make a new application you can do that.

20 MS BOBROWSKY: I have to do that if I want to state my
21 federal rights in the supremacy case by not taking over the
22 state case but to tell the state you have to follow federal
23 laws, you have to hold a hearing.

24 THE COURT: Federal courts don't typically tell state
25 courts how to rule. The only federal court that can do that is

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1 the Supreme Court with all kinds of exceptions. To the extent
2 that what you're doing is attacking the validity of the
3 protective order because there were insufficient hearings to
4 support it, that's a matter for you to take up with the state
5 court, the state appellate courts and so forth.

6 MS BOBROWSKY: I'm recused -- I mean they're all
7 recused.

8 THE COURT: Not the Appellate Term and not the New
9 York Court of Appeals. We've been at this now for almost two
10 hours. I've listened to you very patiently. I've given the
11 other side some chance to respond. Out of fairness to the good
12 people in the back who also have important cases that need to
13 be heard here, I've issued my order. You're free to appeal it
14 to the Second Circuit. If you want to make additional
15 applications, you can make those too. But you have to serve
16 the adversary with the application. I'm not going to listen to
17 you ex parte anymore. You've identified the defendants you
18 want to sue. If you want to get injunctive relief against
19 them, you've got to serve them. We'll do this on a schedule
20 and so forth.

21 When would you like to get your papers in, Ms Anspach?

22 MS ANSPACH: 30 days?

23 THE COURT: That's fine. That would take us to May
24 14, all right?

25 MS ANSPACH: That's fine.

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1 THE COURT: How long would you need to respond?
2 MS BOBROWSKY: So right now I can't even address the
3 point of seeing my mom that I was deprived from for four years?
4 This is my family, this is for me, not for her, for me.
5 THE COURT: I understand that.
6 MS BOBROWSKY: To the extent I signed my deed over I
7 can see her. Sign my deed over, the Yonkers case will go away.
8 It's in letters.
9 THE COURT: Generally speaking, deed disputes don't
10 fall in federal court.
11 MS BOBROWSKY: Extortion.
12 THE COURT: Even extortion doesn't necessarily involve
13 the federal court. I don't want to give you legal advice. And
14 I don't want to give you advanced rulings. I've said what I've
15 said. How long do you want to respond on the motion to
16 dismiss?
17 MS BOBROWSKY: It depends if I'm free, safe to go into
18 the Westchester Court library. I've been threatened when I go
19 into there. That's my only access.
20 THE COURT: You've been able to get access to
21 something.
22 MS BOBROWSKY: I had copies.
23 THE COURT: You've been doing quite a bit of filing
24 here.
25 MS BOBROWSKY: I have loads of cases.
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1 THE COURT: 30 days.
2 MS BOBROWSKY: Thank you.
3 THE COURT: June 14th. And then reply by June 28th.
4 And I'll let you know when the argument date is.
5 MS BOBROWSKY: May 30th?
6 THE COURT: May 14th is their papers, June 14th is
7 your response, June 28th is their reply.
8 MS BOBROWSKY: Okay.
9 THE COURT: I'll issue an order also. By letter I
10 want answers to those inquiries, copies to Dr. Bobrowsky. And
11 if I think we need to get together in light of whatever gets
12 said, I'll let you all know.
13 MS BOBROWSKY: I have a fax if there's any problem
14 with mail because I'm a victim of mail fraud.
15 THE COURT: But not wire fraud.
16 MS BOBROWSKY: Wire fraud also.
17 THE COURT: What do you want, a faxed copy.
18 MS BOBROWSKY: If there's any problem with the --
19 MS ANSPACH: You don't want service at the number you
20 listed?
21 THE COURT: Why don't you do both. Thank you.
22 (Proceedings adjourned)
23
24
25

