

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DR. LAKSHMI ARUNACHALAM,

Plaintiff,

V.

INTERNATIONAL BUSINESS MACHINES
CORPORATION, SAP AMERICA, INC.,
J.P. MORGAN CHASE AND COMPANY,
HON. RICHARD G. ANDREWS, AND
DOES 1-100,

Defendants.

Civil Action No: 16-cv-281 (RGA)

**STATEMENT OF INTEREST OF THE UNITED STATES OF AMERICA
AND ON BEHALF OF THE HONORABLE RICHARD G. ANDREWS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6) and 28 U.S.C. § 517, the United States of America files this Statement of Interest urging the Court to dismiss all claims asserted by *pro se* plaintiff against the Honorable Richard G. Andrews for the reasons set forth in the attached brief.

Respectfully submitted,

CHARLES M. OBERLY, III
United States Attorney

/s/ Jennifer K. Welsh
Jennifer K. Welsh
Assistant United States Attorney

Dated: July 7, 2016

**IN THE UNITED STATES DISTRICT COURT
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DR. LAKSHMI ARUNACHALAM,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION, SAP AMERICA, INC.,
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**MEMORANDUM OF LAW IN SUPPORT OF THE STATEMENT
OF INTEREST OF THE UNITED STATES OF AMERICA
ON BEHALF OF THE HONORABLE RICHARD G. ANDREWS**

Pro se plaintiff Dr. Lakshmi Arunachalam's First Amended Complaint (Docket Item 6) asserts a civil action against a sitting federal judge in his official capacity for injunctive relief and monetary damages under the Racketeer Influenced and Corrupt Organizations statute, Title 28 United States Code, Section 1964(c). The First Amended Complaint essentially alleges that Judge Richard G. Andrews ("Judge Andrews"), and others, engaged in a conspiracy against the plaintiff, as evidenced by some of Judge Andrews' rulings and orders in several patent cases filed by the plaintiff against various entities. In other words, the plaintiff alleges that Judge Andrews acted improperly in the course of performing his judicial duties. Assuming *arguendo* the truth of the allegations in the First Amended Complaint, Judge Andrews is entitled to absolute immunity.

Accordingly, this Court should dismiss all claims against Judge Andrews.

I. PROCEDURAL BACKGROUND

Plaintiff is a serial filer of patent lawsuits, having filed at least nineteen lawsuits against various entities in the District of Delaware in her own name and several more in the name of her company, Pi-Net International Inc. Construing the allegations asserted in the First Amended Complaint generously, the *pro se* plaintiff alleges that Judge Andrews participated in a conspiracy to infringe her patents and to obstruct justice by, for example, not recusing himself from some of her lawsuits.¹ Judge Andrews' alleged co-conspirators are defendants in other actions the plaintiff has filed in this District and in cases pending before the Patent and Trademark Office ("the Underlying Cases").

The *pro se* plaintiff brought claims against Judge Andrews only after he acted in the course of his judicial duties in presiding over the Underlying Cases. More specifically, the *pro se* plaintiff brought claims against Judge Andrews after Judge Andrews began issuing orders in the Underlying Cases with which plaintiff did not agree. See First Am. Complt. at 61-80 (detailing the plaintiff's disagreements with the decisions Judge Andrews rendered in various Underlying Cases). All of the plaintiff's allegations relate to actions Judge Andrews took in the course of his duties as a federal judge.

II. STANDARD FOR DISMISSAL

This Statement of Interest urges the Court to dismiss *sua sponte* the claims asserted against Judge Andrews. A complaint or amended complaint should be dismissed when it is legally insufficient. See *Kost v. Kozakiewicz*, 1 F.3d 176, 183 (3d Cir. 1993). A complaint is

¹ Plaintiff has argued for recusal of numerous judges in the past, including "eight Justices of the Supreme Court, CAFC Panel Judges and Delaware District Court Judges." First Am. Complt. at 49.

legally insufficient when, taking all factual allegations and inferences drawn from the complaint, the plaintiff is not entitled to relief for the claims alleged. See Markowitz v. Ne. Land Co., 906 F.2d 100, 103 (3d Cir. 1990). Although detailed factual allegations are not required, the complaint must contain sufficient facts to support a facially plausible claim. See Fowler v. UPMC Shadyside, 578 F.3d 203, 210 (3d Cir. 2009) (quoting Ashcroft v. Iqbal, 556 U.S. 662, (2009)). As is argued in this statement, the First Amended Complaint is legally insufficient and is therefore subject to dismissal *sua sponte* by the Court.

III. LEGAL ARGUMENT

Taken in total, the allegations against Judge Andrews allege that he failed to rule in the plaintiff's favor in many different respects in the Underlying Cases. These allegations, even if true, fail to state a claim upon which relief can be granted because Judge Andrews is entitled to judicial immunity for all the claims asserted by *pro se* plaintiff.

A judge acting in the performance of his judicial duties has absolute immunity from suit and will not be liable for his judicial acts. Mireles v. Waco, 502 U.S. 9, 12, (1991); see, e.g., Shahin v. Darling, 350 Fed. Appx. 605, 607 (3d Cir. 2009) (affirming dismissal of a complaint against, *inter alia*, judges performing judicial duties on the basis that the judges were entitled to judicial immunity). An act is performed as part of judicial duties when the act is normally performed by a judge and the plaintiff dealt with the judge in the judge's judicial capacity. See Stump v. Sparkman, 435 U.S. 349, 362 (1978). A judge is entitled to immunity even where "the action he took was in error, was done maliciously, or was in excess of his authority; rather he will be subject to liability only when he has acted in the clear absence of all jurisdiction." Id. 356–57 (internal quotation marks omitted). Judicial immunity remains in force even if the

judge's actions are alleged to be the result of a conspiracy undertaken with others. See Dennis v. Sparks, 449 U.S. 24, 27 (1980).

Judicial immunity cannot be overcome by allegations of bad faith or malice. See Forrester v. White, 484 U.S. 219, 227 (1988); Catanzaro v. Cottone, 228 Fed. Appx. 164, 166 (3d Cir. 2007); Gallas v. Supreme Court, 211 F.3d 760, 769 (3d Cir. 2000) (noting that even “grave procedural errors” do not defeat immunity). Judicial immunity can be overcome only if the judge acted outside the scope of his official capacity or in the complete absence of all jurisdiction. See Shahin, 350 Fed. Appx. at 607; Deputy v. Williams, 318 Fed. Appx. 133, 136 (3d Cir. 2009).

Here, the plaintiff's allegations against Judge Andrews relate exclusively to actions taken in the performance of his judicial duties. The acts performed by Judge Andrews, namely issuing orders in the Underlying Cases, are precisely those normally performed by a judge. Similarly, the *pro se* plaintiff interacted with Judge Andrews as a sitting federal district court judge, and not in any personal capacity. Because Judge Andrews is entitled to judicial immunity, dismissal of the claims is warranted.

VI. CONCLUSION

For all the above reasons, the United States in its Statement of Interest respectfully urges this Court *sua sponte* to dismiss with prejudice this action against the Honorable Judge Richard G. Andrews.

Respectfully submitted,

CHARLES M. OBERLY, III,
United States Attorney

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Dated: July 7, 2016

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ORDER

AND NOW, this day of , 2016, upon consideration of the Statement of Interest by the United States, it is hereby ORDERED that the plaintiff's First Amended Complaint (Docket Item 6) is DISMISSED as against the Honorable Richard G. Andrews with prejudice.

BY THE COURT:

UNITED STATES DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of July, 2016, a true and correct copy of the foregoing Statement of Interest of the United States of America, which was filed electronically and is available for viewing and downloading from the court's ECF system, was served via ECF notification on all parties with the exception of the plaintiff, who was served by U.S. First Class Mail, postage prepaid, at the following address:

Dr. Lakshmi Arunachalam
222 Stanford Avenue
Menlo Park, California 94025

/s/ Jennifer K. Welsh
Jennifer K. Welsh
Assistant United States Attorney

Dated: July 7, 2016