

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

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LIDIA M. ORREGO,

Appellant-Plaintiff,

26-899 (L)
26-1576 (Con)

v.

KEVIN KNIPFING, EMPLOYER,
aka KEVIN JAMES, *et al.*

EDNY – C. Islip
20-cv-3361
Busara, J.
Shields, M.J.

Appellees-Defendants.

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September 22, 2026

PETITION FOR REHEARING,
with SUGGESTION FOR REHEARING *EN BANC*

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PETITION

This Petition seeks rehearing, with a suggestion for rehearing *en banc*, of a [four-sentence September 9, 2026 Order](#), denying a financially qualifying *pro se* appellant's motions to proceed *in forma pauperis* on her two "consolidated appeals", which actually are nothing more than notices of appeals, on the bald LIE that they "lack[] an arguable basis either in law or in fact", quoting *Neitzke v. Williams*, 490 U.S. 319, 325 (1989), thereupon dismissing the "appeals" and denying her related motions as "moot". Although the top of the Order identifies **Chief Judge Raymond J. Lohier, Jr. and Circuit Judges Guido Calabresi and Susan L. Carney** as "Present" "At a stated term" on September 9, 2026, it does not state that they rendered the Order, nor is it signed by any of them. Rather, it is signed electronically "**FOR THE COURT**" by Clerk **Catherine O'Hagen Wolfe**, whose entry of the Order on the two appeal dockets is materially false in characterizing it as a "MOTION ORDER"¹, thereupon omitting from its summary the most important disposition it made: dismissing the *pro se* appellant's "appeals"².

Pursuant to [FRAP 40\(b\)](#), requiring that a petition for rehearing *en banc* begin with a statement that (a) "the panel decision" conflicts with a decision of the Court, for which "the full

¹ This Court's [Local Rule 27.1\(c\) "Authority of Clerk to Decide Motions"](#) reads: "The clerk is authorized to decide routine, unopposed procedural motions."

² The two docket entries for the Order – [docket entry 37 for #26-899 \(L\)](#) and [docket entry 27 for #26-1576](#), are identical, without adjustment of the cited docket numbers, correct for 86-899, but not correct for 26-1576. Identically, it reads:

"MOTION ORDER, denying motion to proceed in forma pauperis at docket entry **10**, denying motion to proceed in forma pauperis at docket entry **19**, denying as moot motion to reconsider at docket entry **24**, denying as moot motion for leave to file at docket entry **25**, denying as moot motion to reconsider at docket entry **32**, denying as moot motion to reconsider at docket entry **33**, denying as moot motion for leave to file at docket entry **34**, denying as moot motion for leave to file at docket entry **35**, on behalf of Appellant Lidia M. Orrego, by RJL, GC, SLC, FILED. [26-899, 26-1576] [Entered: 09/09/2026 04:14 PM]" (bold added).

court's consideration is therefore necessary to secure or maintain uniformity of the court's decisions", or (b) that "the panel decision" conflicts with decisional law of the U.S. Supreme Court; or (c) that "the panel decision" conflicts with an authoritative decision of another U.S. Court of Appeals, or (d) "involves one or more questions of exceptional importance", **the *pro se* appellant here asserts, in support of both rehearing and rehearing *en banc***, that the September 9, 2026 Order is NOT a "panel decision", but is the product of the Clerk's Office, which here – and in other cases – operates unconstitutionally, unlawfully, and by fraud to deprive litigants of due process and the rule of law – particularly where the litigants' claims, by appeal, by mandamus/prohibition, or by judicial misconduct complaints, involve judicial misconduct, judicial disqualification, and judicial filing injunctions and other sanctions imposed upon them.

As below demonstrated, the September 9, 2026 Order is not just indefensible, but:

"so totally devoid of evidentiary support as to render[it] unconstitutional under the Due Process Clause' of the United States Constitution", [*Garner v. State of Louisiana*](#), 368 U.S. 157, 163 (1961), [*Thompson v. City of Louisville*](#), 362 U.S. 199 (1960) (underlining added),

denying appellant her "right to one appeal"³, including as to the filing injunction which the district judge imposed upon her without notice or opportunity to be heard, in his decision granting defendants' summary judgment motions and denying her own, thereby further violating her rights:

"[A] plaintiff's cause of action is valuable property within the generally accepted sense of that word, and, as such, it is entitled to the protections of the Constitution.", [*Link v. Wabash Railroad Co.*](#), 370 U.S. 626, 646 (1962), Justice Black writing in dissent, with Chief Justice Warren, concurring.

³ See, "[The Right of Appeal](#)", 91 N.C.L. Rev. 1219, by [Cassandra Burke Robertson](#). "...the federal system...already provide[s] an appeal of right even absent a constitutional obligation to do so." (at p. 1244); "The existence of appellate review serves as a check on both the perception and the reality of biased or corrupt judging...in the United States, appellate panels typically comprise at least three judges", citing "[Nguyen v. United States](#), 539 U.S. 69, 82 (2003) ('[T]he statutory authority for courts of appeals to sit in panels...requires the inclusion of at least three judges in the first instance.')" (at p. 1263).

Here then are the Petition’s “questions of exceptional importance, each concisely stated”:

- Is the September 9, 2026 Order a “panel decision”?
- Is there ANY evidence supporting the Order’s assertion that appellant’s “consolidated appeals” “lack[] an arguable basis either in law or in fact”?
- Is the Order unconstitutional?
- What are the duties of the three judges whose names appear on the Order with respect thereto, including pursuant to [Canon 3B\(5\) and \(6\) of the Code of Conduct for United States Judges](#)?⁴

To facilitate the answers, the EVIDENTIARY FACTS follow:

**THE COURT’S SEPTEMBER 9, 2026 ORDER
& THE COURT’S DOCKET FOR THE APPEALS**

The four-sentence [September 9, 2026 Order](#), with its two legal citations, states, as follows:

“Appellant, pro se, moves for leave to proceed in forma pauperis (‘IFP’) in her consolidated appeals taken from summary judgment granted to the Appellees and the imposition of a filing injunction. Appellant also moves for reconsideration of this Court’s August 12, 2026 order, which denied her motion to hold these appeals in abeyance, and for leave to file limited supplemental exhibits to her reconsideration motion. Upon due consideration, it is hereby ORDERED that the IFP motions are DENIED and the appeals are DISMISSED because they ‘lack[] an arguable basis either in law or in fact.’ [Neitzke v. Williams](#), 490 U.S. 319, 325 (1989); *see* [28 U.S.C. §1915\(e\)](#). It is further ORDERED that the remaining motions are DENIED as moot.” (capitalization and italics in the original, hyperlinks added).

⁴ These read:

“(5) A judge with supervisory authority over other judges should take reasonable measures to ensure that they perform their duties timely and effectively.

(6) A judge should take appropriate action upon receipt of reliable information indicating the likelihood that a judge’s conduct contravened this Code, that an employee’s conduct contravened the [Code of Conduct for Judicial Employees](#), or that a lawyer violated applicable rules of professional conduct.” (hyperlinking added).

The Order furnishes NO specificity for its assertion that appellant’s so-called “consolidated appeals” “lack[] an arguable basis either in law or in fact”. This is NOT surprising, as it is an OUTRIGHT LIE – verifiable IMMEDIATELY from appellant’s two notices of appeal that are the very first entry on the Court’s two dockets for the two appeals: [#26-899](#) and [#26-1576](#).

Thus, [appellant’s April 6, 2026 notice of appeal for what is #26-899 \(L\)](#) identifies that she is appealing an “order **denying Plaintiff’s motion to disqualify/recuse and from all related purported rulings or acts entered without jurisdiction**...entered March 24, 2026” (bold and underlining in the original), further elaborating, by an “ATTACHMENT A” entitled “JURISDICTIONAL STATEMENT AND SUPPORTING GROUND”:

“...[Plaintiff filed the motion to disqualify/recuse on July 8, 2025](#) at 4:25 PM.⁵ Within approximately three hours, the Court issued unrelated procedural orders at 7:21 PM and 7:26 PM, without addressing the recusal motion or its grounds.

The Court delayed ruling for over eight months, [ultimately denying the motion on March 24, 2026](#), relying on those same unrelated orders rather than addressing the substantive requirements of 28 U.S.C. §455. The Order’s reliance on rulings issued within hours of the recusal motion – without first resolving the question of disqualification – renders the decision procedurally improper and inconsistent with the governing recusal standard.

The March 24, 2026 Order continues the same pattern of deprivation of rights and obstruction of justice that was the subject of Plaintiff’s prior interlocutory appeal from the September 16, 2025 unlawful filing injunction (DE [219])⁶ and is the subject of the criminal complaint filed with U.S. Attorney Joseph Nocella, Jr. on March 14, 2026 (resubmitted March 26-27, 2026) for docket alterations, concealment of records, obstruction of justice, and related violations of *18 U.S.C. §§1503, 1506, 2017, 2, 1512, and 1001*.

[The Court subsequently entered a recusal order on November 5 and 17, 2025](#), thereby divesting itself of jurisdiction. Any subsequent substantive actions – absent lawful reassignment – constitute purported rulings or acts entered without jurisdiction, and are void and of no legal effect.” (italics and bold in the original, hyperlinking and footnotes added).

⁵ Correction – As reflected by the file-stamp on the linked motion, it was actually filed almost six hours earlier, at 10:44 am. The Court did not upload it to the electronic docket until 4:25 pm.

⁶ DE stands for Docket Entry – and the entry number follows.

[Appellant's June 1, 2026 notice of appeal for what is #26-1576 \(Con\)](#) identifies that she is appealing a May 8, 2026 Memorandum Order and Judgment (DE [244, 245]), stating, at page 1, that it is:

“void *ab initio* under [28 U.S.C. §455](#) and [In re IBM Corp.](#), 618 F.2d 923, 932 (2d Cir. 1980), entered 172 days after the November 17, 2025, Order of Recusal, while all jurisdiction vested in the Honorable Pamela K. Chen” (hyperlinking added, bold in the original),

further stating that merged within the Judgment, pursuant to [Ginett v. Computer Task Group, Inc.](#), 962 F.2d 1085, 1091 (2d Cir. 1992), are:

“**Prior Proceedings – Merger.** Interlocutory appeals 23-7941, 25-2225, 25-2434, and 25-3217 were dismissed for lack of jurisdiction as non-final orders. Mandamus petitions 25-1802 and 25-2399 were denied without explanation; Application In Forma Pauperis (‘IFP’) was granted simultaneously in both by Mandate dated March 18, 2026, in the record. No prior proceeding was decided on the merits. Pursuant to the merger doctrine, all interlocutory orders, judicial entries, and purported acts issued between 2020 and 2026 by any and all presiding judges – including but not limited to U.S. District Judges Gary R. Brown, Joan M. Azrack, and recused Sanket J. Bulsara, and recused Magistrate Judge Anne Y. Shields – merge into this final judgment for complete appellate review. *Ginett*, 962 F.2d at 1091. ...” (underlining added, bold in the original).

and that

“**Related Pending.** Case No. 26-899 (Second Circuit) – purported denial of DE [203] remains pending. Issues are subsumed in this appeal. FRAP 24(a)(5) IFP filed concurrently in 26-899.” (bold in the original).

This is followed by a three-paragraph “**SECTION I**” entitled “**RECUSAL, REASSIGNMENT, AND EVIDENCE REMOVAL**”, reading:

“...**Order of Recusal – November 17, 2025 – Four Categories of Void Acts.** The November 17, 2025, Order of Recusal is an active, valid, unreversed court order removing jurisdiction from Judge Bulsara and Magistrate Judge Shields, and vesting full authority in the Honorable Pamela K. Chen and Magistrate Judge Merkl. It has never been vacated, appealed, or modified by any judicial act. All post-recusal acts are void ab initio under four independent categories: (a) 172-day post recusal acts generally – DE [244] and DE [245] entered May 8, 2026, 172 days after recusal; (b) adjudication of withdrawn motions – DE [221] and DE [226] were withdrawn by the November 5, 2025 pre-recusal order; no judicial act

by Judge Chen reinstated them; DE [244] purported to adjudicate motions with no lawful procedural existence; (c) **clerk notation without judicial force** – the November 26, 2025 administrative clerk notation purporting to reassign the matter back to Judge Bulsara is not a judicial act and cannot vacate a recusal order under 28 U.S.C. §455; and (d) **post-recusal denial of the recusal motion itself** – DE [203] was purportedly decided on March 24, 2026 – 127 days into the post-recusal void period – by the same judge the motion sought to disqualify; a recused judge has no authority to adjudicate the motion that disqualified him, and the denial contains an independent false statement by citing orders issued within three hours of the recusal motion on July 8, 2025 – without ever addressing the §455(a) questions... [*Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 \(1988\); 28 U.S.C. §455.](#)

...**Evidence Removal – 26-mc-01957.** On May 5, 2026, Plaintiff filed three court-authorized evidentiary submissions in 20-cv-3361. On May 8, 2026 – the same day DE [244] issued – MC2:26-mc-01957-SJB was opened, those three filings were moved out of the 20-cv-3361 record, and the miscellaneous case was immediately closed. Plaintiff’s Summary Judgment opposition evidence was thereby extracted from the record before DE [244] issued. DE [244] then stated no supplemental evidence was on the record. The miscellaneous case was created without Chief Judge authorization.

...**False Vexatious Litigant Label – Injunction Weaponized to Suppress Evidence.** DE [244] at pp. 25-27 falsely characterized Plaintiff as a vexatious litigant and imposed a permanent district-wide filing injunction without Chief Judge authorization ([28 U.S.C. §137](#)) and without independent *Safir* analysis. [*Safir v. U.S. Lines, Inc.*, 792 F.2d 19, 24 \(2d Cir. 1986\).](#) The actions cited as vexatious are statutory rights: mandamus petitions ([28 U.S.C. §1651](#)); interlocutory appeals ([28 U.S.C. §1292](#)); recusal motions ([28 U.S.C. §455](#) – they succeeded on November 17, 2025; a motion producing an actual recusal is meritorious, not vexatious); judicial misconduct complaints ([28 U.S.C. §351](#) – caused the recusal); and the U.S. Equal Employment Opportunity Commission (‘EEOC’) complaint (DE [224-26] Freedom of Information Act (‘FOIA’) 520-2019-01738), which is a mandatory exhaustion prerequisite whose Right to Sue Letter (Page ID #372) is the statutory jurisdictional foundation of this case – treating a jurisdictional prerequisite as evidence of vexatiousness is legal error on its face. The injunction’s factual predicate (DE [221-1] ¶¶129-178) was the subject of an unresolved motion to strike (DE [230], denied without adjudication one day after filing). The same order that applied the vexatious label removed Plaintiff’s evidence through 26-mc-01957.” (bold and italics in the original, hyperlinking and underlining added).

This is then followed by a 13-page “**SECTION II**” entitled “**SUMMARY JUDGMENT VIOLATIONS PRESERVED FOR APPEAL**”, specifying a mountain of what appellant contends to be “reversible error”, constituting “pervasive bias” and “profound extrajudicial

animosity under [*Liteky v. United States*](#), 510 U.S. 540, 555 (1994)”, further “rendering the resulting judgment void” (pp. 4, 8, 17).

As for the Order’s description of appellant’s appeals as “from summary judgment granted to the Appellees and the imposition of a filing injunction”, this is [materially false](#), concealing, *in toto*, the [threshold](#) issue that each notice of appeal identifies, *to wit*, that Judge Bulsara was without jurisdiction when he rendered the appealed-from March 24, 2026 Order, consisting of an [unenumerated docket entry](#) reading:

“ORDER: Plaintiff Orrego’s July 8, 2025 motion, 203 , is denied, for the reasons discussed in the Court’s July 8, 2025 Order. So Ordered by Judge Sanket J. Bulsara on 3/24/2026. (RB) (Entered: 03/24/2026)”

and when he rendered his appealed-from May 8, 2026 Memorandum and Judgment, as he had recused himself by a November 17, 2025 “ORDER OF RECUSAL”, consisting of an [unenumerated docket entry](#) reading:

“ORDER OF RECUSAL. Type of Recusal: party. Ordered by Judge Sanket J. Bulsara on 11/17/2025. Judge Sanket J. Bulsara, Magistrate Judge Anne Y. Shields recused. Case randomly reassigned to Judge Pamela K. Chen and Magistrate Judge Taryn A. Merkl for all further proceedings. (BBM) (Entered: 11/17/2025)”,

which could not be undone, nine days later, on November 26, 2025, by an [unenumerated docket entry](#) reading:

“Case Reassigned to Judge Sanket J. Bulsara and Magistrate Judge Anne Y. Shields. Judge Pamela K. Chen, Magistrate Judge Taryn A. Merkl no longer assigned to the case. ...(BBM) (Entered: 11/26/2025)”.

All of the foregoing, establishing not just “an arguable basis” for appellant’s appeals, BOTH in law and in fact, but an overwhelming one, was reiterated and reinforced by appellant’s three subsequent motions, denied by the September 9, 2026 Order as “moot”. The purpose of each motion was to inform the Court of what was happening in the district court bearing on the two notices of appeals – most importantly, [appellant’s June 24, 2026 motion to vacate Judge Bulsara’s](#)

[May 8, 2026 Memorandum and for an indicative ruling pursuant to Rule 60\(b\)\(3\), \(4\), \(6\), Rule 60\(d\)\(3\), and Rule 62.1](#), addressed to District Judge Chen and Magistrate Judge Merkl “as the judicial officers vested with jurisdiction over this action following the November 17, 2025 Order of Recusal”.

These three motions are:

- [appellant’s July 23, 2026 motion to hold her appeals in abeyance pending district court determination of her June 24, 2026 vacatur motion and for an indicative ruling](#), alerting the Court to the vacatur motion and that it had been filed in [#26-mc-01957](#) – the “miscellaneous case entitled ‘In re Orrego’” that Judge Bulsara’s May 8, 2026 Memorandum had directed the EDNY Clerk to open⁷;

⁷ Best summarizing the function of the “miscellaneous case entitled ‘In re Orrego’ is the lower court [docket entry 244](#) for the May 8, 2026 Memorandum, reading, in full:

“ORDER: As explained in the attached, Defendants’ motion for summary judgment, 221 , is granted, and Orrego’s motion for summary judgement, 226 , is denied. Orrego’s pending motion for leave to appeal in forma pauperis, 238 , is denied for the reasons set forth in the Court’s December 5, 2025 Order, and the pending premotion conference request, 232 , is denied as moot.

The Court also institutes a filing injunction against Orrego. The Clerk of Court is directed to open a miscellaneous case entitled ‘In re Orrego,’ and to file a copy of this Order under that docket number. The matter is then to be administratively closed. Any future filings by Orrego, including any motion for reconsideration, shall be filed under that miscellaneous docket number. The Court will review each filing. If the filing is found to be frivolous, no further action will be taken. If the filing states a claim that is not frivolous or does not fail to state a claim, the Court will direct the Clerk of Court to open a new civil matter in which the filing will be docketed, and the matter will proceed as a new case in the ordinary course.

The present filing injunction is lifted solely for the purpose of filing any notice of appeal. Aside from filings related to her appeal, Orrego is enjoined from further filings in this case, and from initiating future actions in the Eastern District of New York absent a Court order, and that this case is closed. Ordered by Clerk of Court on 5/8/2026 (JC) (Entered: 05/08/2026)”.

- [appellant's August 26, 2026 motion for panel reconsideration and for reconsideration *en banc* of the August 12, 2026 order denying her July 23, 2026 motion, or, alternatively, clarification](#) – the [August 12, 2026 Order](#) having denied her July 13, 2026 motion, without reasons;
- [appellant's August 27, 2026 motion for leave to file supplemental exhibits in support of her August 26, 2026 motion.](#)

CONCLUSION

The September 9, 2026 Order is indefensible – resting on LIES to cheat this earnest, diligent, and respectful *pro se* appellant of her long-awaited right of appellate review of district court decisions and procedural rulings for which, spanning years, she was denied merits review:

- by interlocutory appeals (dismissed by orders unsigned by any judge, *sua sponte*, for lack of jurisdiction “because a final order has not been issued by the district court”⁸;
- by mandamus petitions (dismissed by orders unsigned by any judge, because “Petitioner has not demonstrated that she lacks an adequate, alternative means of obtaining relief, that her right to the writ is clear and indisputable, and that granting the writ is appropriate under the circumstances”)⁹
- by judicial disciplinary complaints (dismissed by unsigned Orders of the Chief Judge as “directly related to a decision or procedural ruling”)¹⁰ .

⁸ [February 25, 2026 Order](#) (**Lynch, Menashe, Rakoff**) – #25-2225 (L), (Tandem), #25-2434 (Con), 25-3217 (Con); 25-2239 (L) (Tandem), 25-2437 (Con), 25-3208 (Con);

[April 24, 2026 Order](#) (**Jacobs, Parker, Lohier**) – #25-2234 (L), 25-2431 (Con), 25-3234 (Con), 26-298 (Con) – also denying IFP/dismissing appeals because “each one ‘lacks an arguable basis either in law or fact’, filing injunction.

⁹ [November 21, 2026 Order](#) (**Kearse, Raggi, Lohier**) – #25-1802 (L), #25-2399 (Con);
[November 21, 2026 Order](#) (**Kearse, Raggi, Lohier**) – #25-1810;
[November 21, 2026 Order](#) (**Kearse, Raggi, Lohier**) – #25-1808

¹⁰ [September 28, 2022 unsigned Chief Judge Order](#) (**Livingston**) – #22-90047-jm; #90048-jm;
[November 29, 2022 unsigned Judicial Council Order](#)
[January 24, 2024 unsigned Chief Judge Order](#) (**Livingston**) – #23-90045-jm;
[April 23, 2024 unsigned Judicial Council Order](#)
[December 16, 2024 unsigned Chief Judge Order](#) (**Livingston**) – #24-90023-jm; [the cited to #24-90027-jm is NOT appellant’s].

If the three judges whose names are on the September 9, 2026 Order, but not their signatures, do not believe their duty is to recall the Order and allow appellant to proceed, *in forma pauperis*, with the filing of an appeal brief, based on her two notices of appeal and three subsequent motions – whose accuracy has not been contested by respondents – they should explain why in an order they sign, or have the matter addressed by a signed order of the Circuit’s judges sitting *en banc*.

LIDIA M. ORREGO, Appellant-Plaintiff *Pro Se*

September 22, 2026