

EXHIBIT II

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COMPLAINT TO THE JUDICIAL CONDUCT COUNCIL OF THE SECOND CIRCUIT

February 11, 2019

VIA ECF and Email to Abrams_NYSDChambers@nysd.uscourts.gov

The Honorable Justice Ronnie Abrams
US District Court, Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom: 1506
New York, NY 10007

Re: *Asensio et al. v. DiFiore et al.*, no. 1:18-cv-10933-RA

Dear Judge Abrams:

Attached please find a draft of the Plaintiffs’ **THE JUDICIAL COUNCIL OF THE SECOND CIRCUIT, COMPLAINT OF JUDICIAL MISCONDUCT** against Your Honor addressing Your Honor’s “[c]ooperation and convincing Evidence of Ex Parte Communications with New York State Chief Judge, the Hon. Janet Marie DiFiore, to Justify Applying the Federal Court’s Article III Disclaimer Referred to as the Domestic Relations Exception to Federal Subject Matter Jurisdiction (“DRE”) to Defendant DiFiore’s Manufacturing of Evidence and Falsification of Court Records and Orders, and Deliberate Violations against the Plaintiffs in New York State.”

The Plaintiffs’ respectful request the Your Honor consider the serious of her misconduct to the Plaintiffs in their lives and millions of minor children that are suffering from resentment such as the resentment Defendant DiFiore has fabricated in my former spouse through allegedly progressive policies that are in actual practice fabricated excuses for illegal conduct and corruption.

The Plaintiffs’ respectful request the Your Honor consider what drove her to sign an order stating that the Plaintiff “has called-and attempted to visit chambers seeking in part to discuss the merits of the case.” This is an entirely false and malicious claim. The Plaintiff has only been properly seeking an urgently needed hearing or conference call on his motion for interim emergency relief or, alternatively, for a stay, adjournment, or abeyance to allow the Plaintiffs to seek relief from Your Honor’s misconduct. creates a false setup for justifying a prejudicial Order “that the Plaintiff cease calling chambers.” This statement led to the article falsely stating that the Plaintiff “attempt[ed] to see and contact [Your Honor.” Most reasonable people would say that denying the

1 Plaintiff's access to justice and then fabricating the claim the Plaintiff was seeking access for an
2 improper purpose is utterly intolerable conduct for a judge.

3
4 The Plaintiffs' respectful request the Your Honor consider that Your Honor is a lifelong New York
5 progressive. This case are is the result the progressive expansion of law into domestic relations
6 under the cover of the DRE. Judge Abrams' husband is employed as a prosecutor in the progressive
7 Mueller investigation that many reasonable citizens consider a complete liberal fabrication to
8 create agitation and resentment.

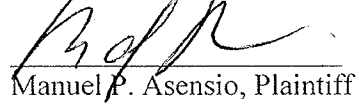
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10 Your Honor has disqualified herself from cases involving US President Donald J. Trump. There
11 is a bona fide concern as to whether even as distinguished but progressive a jurist as Your Honor
12 can is objectively determine a matter that is which is based on the very existence of the DRE.

13
14 Your Honor's conduct unfortunately bespeak sympathy and support for the DRE, the State
15 Defendants and Defendant Bosak and aggressive hostility towards the Plaintiffs. This conduct is
16 particularly distressing given the wonderful impact that Your Honor's father has had on her and
17 her brother's life. Why has Your Honor ignored the Plaintiff's pleading of interim relief? What
18 causes Your Honor's blindness to Defendant DiFiore is publically demonstrated disrespect for the
19 Plaintiffs' relationship in the Daily News and intentionally lying about circumstances that she has
20 personal knowledge?

21
22 Your Honor is blind to the pain and suffering that Defendant DiFiore's fabrications have caused
23 an innocent child and her father, the Plaintiffs. This bespeaks Your Honor's embedded partisan
24 views. Yet she has refused to recluse herself. This goes to proves that she has succumb to her
25 human fragilities.

26
27 The Plaintiff request that Your Honor recuse herself or the alternative request a stay, or an
28 adjournment, or abeyance to allow the Plaintiffs to seek relief from Your Honor's misconduct.

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30 I do so swear the above to be true,

31 
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33 Manuel P. Asensio, Plaintiff

34 Distribution:

35
36 Emilie Marie Bosak

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38 The Honorable New York State Attorney General Letitia James, Chief of Staff and Deputy State
39 Attorney General Attorney, Brian K. Mahanna, tasha.bartlett@ag.ny.gov

40
41 The Honorable Governor Andrew M. Cuomo, Governor's Chief Counsel and Principal Legal
42 Advisor, Alphonso David, alphonso.david@exec.ny.gov

43
44 The Honorable Chief Judge Janet M. DiFiore, ucs-correspondence@nycourts.gov, Head of the
45 Office of Court Administration, John W. McConnell, lcgreen@nycourts.gov

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- 1 Jonathan D. Conley, Esq., jonathan.conley@ag.ny.gov
- 2
- 3 Rachel Ambats, Esq., rachel.ambats.esq@gmail.com

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THE JUDICIAL COUNCIL OF THE SECOND CIRCUIT

COMPLAINT OF JUDICIAL MISCONDUCT

against

the Hon. Ronnie Abrams

US District Court for the Southern District of New York

In the matter of Judge Abrams's Cooperation and Convincing Evidence of Ex Parte Communications with New York State Chief Judge, the Hon. Janet Marie DiFiore, to Justify Applying the Federal Court's Article III Disclaimer Referred to as the Domestic Relations Exception to Federal Subject Matter Jurisdiction ("DRE") to Defendant DiFiore's Manufacturing of Evidence and Falsification of Court Records and Orders, and Deliberate Violations against the Plaintiffs in New York State.

Filing Date: February --, 2019

1. Name and Address of Claimants:

Manuel P. Asensio and his minor daughter, Eva Asensio
400 East 54th Street, Apt. 29B
New York, New York 10022
Office: (212) 702-8801
Cellular: (917) 515-5200
mpa@asensio.com

2. Name of Subject Judge:

The Hon. Ronnie Abrams
US District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 1506
New York, New York 10007
Chambers: (212) 805-0284
Deputy: (212) 805-0162
abrams_NYSDChambers@nysd.uscourts.gov

3. Identification of Particular Case where Ongoing Behavior Is Occurring:

The Claimants, Manuel P. Asensio, individually and on behalf his daughter of Eva Asensio, a minor child, are the Plaintiffs in *Asensio et al. v. DiFiore et al.*, filed on Wednesday, November 21, 2018, under federal docket number 18-CV-10933 in the US District Court for the Southern District of New York. *Asensio et al. v. DiFiore et al.* was assigned to Judge Abrams.

Asensio et al. v. DiFiore et al. is a case against Janet DiFiore, chief judge of New York State; Barbara Underwood, attorney general of New York State; Andrew M. Cuomo, governor of New York State; Adetokunbo O. Fasanya, New York County Family Court magistrate; and Emilie

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Marie Bosak, individually. Defendant Bosak is the Plaintiff's former spouse and the mother of Plaintiff's daughter, Eva Asensio, and is alleged with detail and specificity to have colluded with Defendant Fasanya and his agents to fabricate evidence and falsify court records and orders. Defendant DiFiore personally sanctioned this collusion and the banned the Plaintiffs' actions in New York State against herself and Defendant Bosak and Defendant Fasanya and his agents.

Among Judge Abrams' conscious wrongdoing is her manufacturing of an Order entered Saturday, January 19, 2019 at 3:28 P.M. that contains fabricated de hors facts that are patently false and that became the centerpiece of a slanderous *Daily News* article published on Monday, January 21, 2019. This incident speaks to weight of the evidence against Defendant DiFiore. The fact is that Defendant DiFiore resorted to slandering the Plaintiff in the press, that the circumstances created the appearance that Defendant DiFiore solicited assistance for the story from Judge Abrams and that Defendant DiFiore felt that she needed to take action despite owning the blind support of the governor and state attorney as protection. Judge Abrams has refused to take note of these facts or her contribution this incident. (see Section 5 below)

4. Judge Abrams' deliberate blindness to the factual evidence contained in *Asensio et al. v. DiFiore, et al.* obtained from a private investigation:

Asensio et al. v. DiFiore, et al. is an action based on a private investigation, and administrative and legal proceedings, that the Plaintiff commenced in New York State on May 15, 2014 against Defendant Fasanya for fabricating evidence and charges on that date. The Plaintiff investigations led him to discovery Defendant DiFiore's illegal use her administrative powers¹ to protect Defendant Fasanya's fabrication of evidence, fees and charges that he manufactured in collusion with Defendant Bosak in the Plaintiff's routine, normal post-divorce judgment enforcement action. Through these proceedings the Plaintiff discovered that his and his daughter's damages were caused by the federal courts' prejudicial Article III disclaimer, a doctrine referred to as the domestic relations exception federal subject matter jurisdiction ("DRE"). The evidence in the complaint proves beyond reasonable doubt that Defendant DiFiore consciously and maliciously sanctioned the misconduct of more than 120 senior state officials that control New York State's judicial ethics and judicial conduct committees and its post-divorce judgment custody enforcement action processes to defend Defendant Fasanya and herself against the Plaintiffs actions at all cost without apprehensions or any regards to appearances.

Thus, the in *Asensio et al. v. DiFiore et al.*'s complaint includes clear and convincing evidence against Defendant DiFiore and demonstrates that her conduct can only be possible under the protection she has had from the DRE. This complaint shows that Defendant DiFiore is continuing to receive protection for her wrongdoing under the DRE from Judge Abrams.

¹ Defendant DiFiore is the chief judge of the State and of the Court of Appeals. She is also the chair of the Administrative Board of the Courts, which sets the state's judicial standards and policies; the head of the Office of Court Administration; and the sole state official responsible for the supervision of the Justice Department's ethics and judicial conduct education. She holds the state's only power under Judiciary Law §212(1) (h) to directly investigate judicial misconduct and she controls, along with the governor, the state's commission for the adjudication of judicial misconduct.

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Clearly Judge Abrams understands that the facts, factors and circumstances contained in the complaint are inexorably require federal intervention and illustrate the risk that are inherent in the DRE. This makes the case of national interest. Yet Judge Abrams is consciously using her administrative, ministerial, and perfunctory powers to conceal, ignore and pay no attention to the investigation and the factual evidence it discovered. Instead, Judge Abrams has fabricated an illegitimate process exclusively devoted to dismissing *Asensio et al. v. DiFiore et al.* Judge Abrams has gone to the extent of actually cooperating with Defendant DiFiore's machinations and public relations schemes to discredit the Plaintiff and created convincing evidence that she actually colluded with Defendant DiFiore. (see Section 7 below)

The only reasonable explanation for Judge Abrams' conscious wrongdoing in this case is that she understands that this case could lead to the abolishment of the DRE and the effect this would have on the federal courts' case load, could easily end Defendant DiFiore's political career, could lead to major changes in New York's post-divorce judgment custody enforcement processes and could lead to changes to post-divorce judgment custody enforcement processes in all 50 states.

As a lifelong New York progressive. This case are is the result the progressive expansion of law into domestic relations under the cover of the DRE. Judge Abrams' husband is employed as a prosecutor in the progressive Mueller investigation and has disqualified herself from cases involving US President Donald J. Trump. There is a bona fide concern as to whether even as distinguished but progressive a jurist as Judge Abrams can is objectively determine a matter that is which is based on the very existence of the DRE. Judge Abrams' conduct unfortunately bespeak sympathy and support for the State Defendants and Defendant Bosak and aggressive hostility towards the Plaintiffs. This conduct is particularly distressing given the wonderful impact that Judge Abrams' father has had on her and her brother's life. Yet in this case Judge Abrams is blind to the pain and suffering Defendant DiFiore's fabrication have caused an innocent. This bespeaks Judge Abrams' embedded partisan views. Yet she has refused to recluse herself. This goes to proves that she has succumb to her human fragilities.

5. Definitive Evidence of Judge Abrams's Entering Patently False Statements in an Order as in Cooperation with Defendant DiFiore, and Clear and Convincing Evidence of Appearance of Ex Parte Communications and Collusion between Judge Abrams and Defendant DiFiore:

As stated above, the *Daily News* article of Monday, January 21, 2019 is built around Judge Abrams's Saturday, January 19, 2019, fabricated Order that was entered at 3:26 p.m. The article ignores the damages that the combination of Defendant DiFiore and the DRE have caused the Plaintiffs and ends with Defendant DiFiore's spokesman accusing the Plaintiff of harassment. The quote from Judge Abrams's Order supports this idea and the articles false and slanderous statements. Here is evidence in addition to the above that many reasonable persons may agree shows Judge Abrams involved with Defendant DiFiore resuscitation of allegations that were dismissed 3 years ago in a campaign to discredit and frustrate the Plaintiff.

The Order contains a gratuitous, unnecessary, and patently false allegation that the Plaintiff "has called-and attempted to visit chambers seeking in part to discuss the merits of the case." This is entirely false and malicious. The Plaintiff has only been properly seeking an urgently needed

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hearing or conference call on his motion for interim emergency relief or, alternatively, for a stay, adjournment, or abeyance to allow the Plaintiffs to seek relief from Judge Abrams's misconduct. creates a false setup for justifying a prejudicial Order "that the Plaintiff cease calling chambers." and led to the article falsely stating that the Plaintiff "attempts to see and contact her" Most reasonable people would say that denying the Plaintiff's access to justice and then fabricating the claim the Plaintiff was seeking access for an improper purpose is utterly intolerable conduct for a judge.

The quote from Judge Abrams' Saturday, January 19, 2019 Order is placed immediately before the article states that the Plaintiff "was arrested in 2016 for busting into Bosak's E. 72nd St. apartment." Yet the article failed to state that those allegations were dismissed based on a video that shows the Plaintiff not "busting" into an apartment but peacefully and calmly entering, asking to be announced, speaking on the phone to announce himself, and walking past the doorman without any sign of objection, then later happily leaving with his daughter to commence their Christmas vacation.

The article state the incident occurred after seeing photos of [Defendant] Bosak on Instagram from a vacation in Mexico." In fact, a pictures were Defendant Bosak smoking marijuana on the beach; others show her posing naked in Mexico when she was supposed caring for the Plaintiff's daughter during her part of the Christmas holiday.

The *Daily News* article states that the Plaintiff, "claimed at the time that he feared for his daughter's safety." The words "claimed at the time" create the false impression that the Plaintiff was arrested "at the time" he allegedly busted into the apartment. In fact, the arrest occurred over three months later. This fact can be viewed as evidence of external political influence. What motivated the allocation of resources necessary to convert a petty allegation by Defendant Bosak who has a long record of making false charges to the same prosecutor that the same prosecutor dismissed in the interest of justice to suddenly become interest in making an arrest based on flimsy and unsubstantiated allegations? The state's sanctioning of Defendant Bosak's false charges is central the Plaintiff's federal action against Defendant DiFiore.

Defendant DiFiore and her spokesman are personally aware that the allegations were dismissed. The complaint alleges that Defendant DiFiore sanctioned Defendant Bosak's false claim and that she is deliberately through PIDRP denying the Plaintiff discovery into the charges that is necessary to prove that the arrest was part of Defendant DiFiore's retaliation against the Plaintiffs. This incident forms the basis for one of the most supported and damning and fundamental allegations against Defendant DiFiore in *Asensio, et al. v. DiFiore et al.*

The *Daily News* article states that the Plaintiff's daughter was "being watched by her grandmother." In fact, Defendant Bosak had a legal obligation to advise the Plaintiff of her planned absence, and to this day, the Plaintiff has no information about when Defendant Bosak left the US to determine how many days he missed spending time with his then 11-year-old daughter at Christmas, one of the most significant holy days in the Plaintiffs' religion and among the most dear times to spend with family. Judge Abrams's Order and the *Daily News* article is a setup for Defendant DiFiore's disrespectful and dismissive statement that the Plaintiff is a "disgruntled litigant" who is engaged in "conducting a long-running campaign of harassment." In fact, it is

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Defendant DiFiore who is accused of consciously orchestrating and sanctioning dishonest, harassing, and injurious conduct by state officials against the Plaintiff and his daughter.

6. Judge Abrams' Improper Motives are Inimicable with US law protecting families and Federal Interest:

There is ongoing dispute between the Plaintiffs and Judge Abrams concerning her obvious misconduct and her motives. Judge Abrams has refused to recognize the Plaintiff's factual allegations of her ongoing conscious wrongdoing exactly as she refuses to see the evidence before her in the complaint. In light of Judge Abrams' refusal to recuse herself, the Plaintiff requested that she enter a stay, adjourn, or abeyance to allow for an independent review of her conduct. She refused and Judge Abrams is continuing to engage in conscious wrongdoing. Judge Abrams' wrongdoing is just as unstoppable in federal court as Defendant DiFiore is in New York, which speaks of the corruption the DRE has created. Judge Abrams is unaffected by the evidence that she cooperated with Defendant DiFiore's scheme to discredit the Plaintiff in the Daily News and the unmistakable appearance that she has colluded with Defendant DiFiore. (see Section 5 above)

Judge Abrams entered a Sua Sponte prejudicial stay that effectively grants the State Defendants exclusive access to justice and dismissed the Plaintiff's Motion 1 that is truthfully and obviously essential to truth and justice. Motion 1 deals with factual evidence of fabrications of evidence, charges, court records, fees, and orders that must be narrowly defined, articulated and understood and narrowly and truthfully applied to a review of decided before any other proceeding can rightfully occur. The exact and only reason Judge Abrams used a Sua Sponte So Order to dismiss Motion 1 is because she is conscious of the risks described above that *Asensio et al. v. DiFiore et al.* Defendant DiFiore and the DRE.

Using administrative, ministerial, and perfunctory authority to take prejudicial actions is the definition of raw will or corrupt judging and its inimicable to truth and any honest judicial function. This is a case against judges that see themselves as progressive who act as if the truly believe they have a right to violate law and even engage in fabrication that harm innocent children. Yet here is Judge Abrams proceeding in a case of national importance fabricating a preposterous through her raw will.

The Plaintiff defines the acronym "PIDRP" to mean Defendant DiFiore's "prohibited and impermissible domestic relations process." The PIDRP includes the 120 senior state official that Defendant Fasanya sanctions to fabricate evidence and charges, and so-called "interim" summary parental rights suspension does not and cannot exist in any state legal text and impermissible fees collected in court rooms by judges without rules, administration, records or controls and the schemes that Defendant DiFiore allows for the use of raw will in strictly private religious, moral, and ethical subject matters and adjudication of these strictly private subject matters are based on concealed impermissible personal, political and ideological rules and in complete absence of any neutral principles.

Allowing Judge Abrams to use her raw will in *Asensio et al. v. DiFiore et al.* directly sanctions Defendant DiFiore use of raw will to defend Defendant Fasanya's use of raw will to fabricate and manufacture evidence and charges and engage in financial corruption. This abrogates justice not

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just to the Plaintiffs but for millions of New York State and US citizens Americans who face judges with none of the constraint provided by federal protection. This case concerns Americans' greatest liberty, which is the liberty tyrants who manufacture evidence and fabricated government charges that do not exist in any state text. In Judge Abrams, the DRE and Defendant DiFiore have a friend and the Plaintiffs have their enemy.

7. Judge Abrams' Improper Motive for Dismissing Motion 1:

Upon realizing that the factual allegations contained in *Asensio et al. v. DiFiore et al.* provided evidence of Defendant DiFiore's individual wrongdoings Judge Abrams fabricated a prejudicial sua sponte So Order against the Plaintiffs.

The Plaintiffs responded by filing a motion to vacate the prejudicial sua sponte So Order or, alternatively, to request that Judge Abrams recuse herself.

Judge Abrams's prejudicial sua sponte So Order dismissed the Plaintiffs' Motion 1 and created a prejudicial stay to prevent the Plaintiff proceeding on Motion 1. Without engaging in any judicial process, Judge Abrams entered a prejudicial sua sponte endorsement of the State Defendants' allegations that they were entitled to protection under the DRE and official immunity doctrines. The State Defendants' factual allegations are as a matter of reason, justice, fact, and law actually alleged defenses to the allegations contained in *Asensio et al. v. DiFiore et al.* and cannot be used as a basis for a legal argument in a preliminary dismissal motion.

Asensio et al. v. DiFiore et al. was formulated to support a Motion for summary judgment. Motion 1 relies on the facts, factors, and circumstances alleged in the complaint and new affirmations in support of the argument that Defendant DiFiore's conduct was individual and deliberately and maliciously not official; that the conduct violates New York State law and US law; that her conduct was and continues to be unrelated to any judicial or legitimate state function; and that her conduct serves no legitimate state purpose and was executed in clear absence of jurisdiction, authority, or power in direct contradiction of basic legal principles and widely held beliefs on effective administration of laws in a civil society.

Motion 1 argues that the New York State governor and attorney general have deliberately refused to act in accordance with their constitutional duties and inherent official obligations by failing to consider the factual evidence obtained in the Plaintiff's investigation and his allegations against Defendant DiFiore and that the attorney general wrongfully defended Defendant DiFiore against the Plaintiffs in the state. This wrongful defense includes defending Defendant DiFiore in constitutional litigation at the trial, appellate, and Court of Appeals levels, and in special and original proceedings at the trial and appellate levels, without conducting due diligence or stating the authority and legitimate state purpose served by such defense of Defendant DiFiore.

Motion 1 asks for a ruling on the question of whether the state attorney is authorized to defend Defendant DiFiore and the governor and the state attorney under the existing circumstances. This question must be resolved before the state attorney is allowed to defend these persons. Motion 1 also insists that the facts, factors, and circumstances alleged in the complaint against the DRE and

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the state officials must be heard by a federal jury without judgment or interference by a federal judge.

8. Irreversible Improper Motive:

The Plaintiff was forced to file Asensio, et al v. DiFiore, et al in federal court as a result of Defendant DiFiore's conscious wrongdoing in interfering with the Plaintiff's plenary, special proceedings in trial court and original proceedings in appeal court, normal appellate and Court of Appeal proceedings, and the administrative actions, that the Plaintiff attempted to pursue against Defendant DiFiore, Defendant Fasanya, and Defendant Bosak. These actions concern the state's fabrication of evidence and manufacturing of charges, false records and falsified orders, not under the domestic relations laws or in domestic relations proceeding, but in civil proceedings against Defendant DiFiore, Defendant Fasanya, and Defendant Bosak.

Judge Abrams' actions provide clear and convincing evidence that her motive for refusing to recuse herself from Asensio, et al v. DiFiore, et al is to deny the Plaintiff the right to present his facts to a jury of his peers and instead to use the DRE to deny the Plaintiff his right to access federal justice and to assist Defendant DiFiore in violating US and natural laws that honor and protect the Plaintiff's freedom to love and educate his daughter in accordance to his religious, moral and political beliefs in peaceful co-existence with Defendant Bosak.