

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

ROBERT LEPELLETIER, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:15-cv-00103 (AJT/TCB)
	)	
JOHN M. TRAN,	)	
<i>Fairfax County Circuit Court Judge, et al.,</i>	)	
	)	
Defendants.	)	
_____	)	

**ORDER**

This matter is before the Court on Defendants’ Motion to Dismiss [Doc. No. 10] for lack of subject matter jurisdiction under Rule 12(b)(1) and for failure to state a claim under Rule 12(b)(6) and Plaintiff’s Motion for Entry of Permanent Injunction against the Defendant John M. Tran, Fairfax County Circuit Court Judge [Doc. No. 13] (collectively, the “Motions”). Upon consideration of the Motions, the memoranda filed in support thereof and in opposition thereto, and for the reasons that follow, the motion to dismiss is GRANTED and the motion for permanent injunction is DENIED.

Plaintiff Robert Lepelletier, Jr., *pro se*, is a residential real estate broker in Virginia and Maryland, who has brought this action against a Virginia Circuit Court Judge and the Commonwealth of Virginia. As relief, he seeks an order that precludes the Judge from any future involvement in any cases involving the Plaintiff. He also seeks from this Court a variety of judicial declarations concerning the bias of the state court judge and that he was subjected in state court proceedings to unconstitutional denials of Due Process.

**A. Defendants' Motion to Dismiss**

The Court has carefully reviewed the Plaintiff's claims and all his claims must be dismissed as a matter of law. First, all of Plaintiff's claims against the Defendants arise out of a sitting state judge's judicial functions. For the purposes of Plaintiff's alleged claims, "[it] has long been settled that a judge is absolutely immune from a claim for damages arising out of his judicial actions." *Chu v. Griffith*, 771 F.2d 79, 81 (4th Cir. 1985). Under the facts alleged and the relief sought, Judge Tran is also immune from any claims for declaratory relief under § 1983 and otherwise. *See* 42 U.S.C. § 1983 ("[I]n any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable."). Likewise, the Commonwealth of Virginia enjoys sovereign immunity from Plaintiff's claims. "[A]s a general rule, the sovereign is immune not only from actions at law for damages but also from suits in equity to restrain the government from acting or to compel it to act." *Gray v. Virginia Secretary of Trans.*, 662 S.E. 2d 66, 71 (Va. 2008). Because the Commonwealth has not waived its immunity, Plaintiff cannot sue it.

Second, and in any event, Plaintiff fails to state a claim for declaratory relief since the state court proceedings are now over, with all appeals denied, and without any immediate prospect for additional state court proceedings; and for that reason, there is no justiciable controversy with respect to Plaintiff's requests for relief in connection with future state court proceedings.

Third, Plaintiff fails to state a cognizable claim for mandamus. "The mandamus remedy is a 'drastic one' reserved for 'extraordinary situations' involving the performance of official acts or duties." *Rahman v. Oncology Associates, P.C.*, 201 F.3d 277, 286 (4th Cir. 1999). The party

requesting the writ must demonstrate not only that he has “a clear right to the relief sought but also that the responding party has a clear duty to perform the act amounting to the relief sought.” *Id.* “To establish the conditions necessary for issuance of a writ of mandamus, the party seeking the writ must demonstrate that (1) he has a clear and indisputable right to the relief sought; (2) the responding party has a clear duty to do the specific act requested; (3) the act requested is an official act or duty; (4) there are no other adequate means to attain the relief he desires; and (5) the issuance of the writ will effect right and justice in the circumstances.” *Id.* Here, the Complaint fails to allege facts that would establish a clear right to any relief, or a failure to act or discharge a clear duty, or lack of any adequate remedy within the state court system.

Fourth, Plaintiff’s claims are nothing more than a collateral attack on a state court judgment for which the Court lacks jurisdiction under the *Rooker-Feldman* doctrine, which provides that federal district courts have no jurisdiction to hear what is, essentially, an appeal from a state court judgment. *See Exxon Mobil Corp. v. Saudi Basic Industries*, 544 U.S. 280, 287 (2005). Here, it is clear that the Plaintiff is simply attempting to re-litigate the issues raised in state court proceedings and the sanctions entered against him, the merits of which he attempted unsuccessfully to appeal through the state court system.

Fifth, based on the allegations in the Complaint, the Plaintiff has failed to allege facts that make any of his constitutional claims plausible. Procedural due process requires “fair notice of impending state action and an opportunity to be heard.” *Snider Int’l Corp. v. Town of Forest Heights, Md.*, 739 F.3d 140, 146 (4th Cir. 2014) (citing *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)). The facts alleged in the Complaint and the exhibits attached thereto demonstrate as a matter of law that Plaintiff received all of the process he was due before the state court granted the motion for sanctions.

Finally, Plaintiff's claim in Count III based on Va. Code § 8.01-271.01 fails as a matter of law. The statute is not, as claimed, unconstitutionally vague. It clearly articulates the required behavior (i.e. a party must sign all filings, certifying that he has read the filing, it is well grounded in fact and law or by a good faith argument for the extension or modification of existing law, and it is not made for an improper purpose) and specifies the penalty for violation of the statute (i.e. the court, upon a motion or *sua sponte*, may impose sanctions for violation of the statute, which may include the payment of attorney's fees). Nor does it deprive the Plaintiff of any constitutional or statutory right to have a jury determine the sanctions imposed on him under that statute.

**B. Plaintiff's Motion for Permanent Injunction**

The Court also concludes that Plaintiff has failed as a matter of law to allege facts that would permit the remedy of a permanent injunction, particularly in light of 28 U.S.C. § 2283, which provides that "[a] court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." Here, there is no plausible basis for the application of any of these exceptions to § 2283's mandate that "federal courts not precipitately interfere with the orderly determination of controversies in state proceedings." *Atl. Coast Line R. Co. v. Bhd. of Locomotive Engineers*, 398 U.S. 281, 304 (1970) (Brennan, J. dissenting).

For these reasons, it is hereby

ORDERED that Defendants' Motion to Dismiss [Doc. No. 10] be, and the same hereby is, GRANTED and this case be, and the same hereby is, DISMISSED; and it is further

**ORDERED** that Defendants' request for costs and attorney's fees in connection with their Motion to Dismiss be, and the same hereby is, **DENIED**; and it is further

**ORDERED** that Plaintiff's Motion for Entry of Permanent Injunction against the Defendant the Honorable John M. Tran [Doc. No. 13] be, and the same hereby is, **DENIED**.

The Clerk of the Court is directed to enter judgment pursuant to Fed. R. Civ. P. 58 and forward copies of this Order to all counsel of record and to Plaintiff Robert Lepelletier, Jr., *pro se*.



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**Anthony J. Trenga**  
United States District Judge

**May 26, 2015**  
**Alexandria, Virginia**