

In the United States Court of Federal Claims

No. 09-383C

No. 09-486C

No. 09-494C

No. 09-495C

No. 09-516C

Filed December 9, 2009
NOT FOR PUBLICATION

CAROLYN E. O'CONNOR,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

Carolyn E. O'Connor, Richmond, Virginia, *pro se*.

Allison Kidd-Miller, Trial Attorney, Deborah A. Bynum, Assistant Director, Jeanne E. Davidson, Director, Commercial Litigation Branch, Civil Division, Tony West, Assistant Attorney General, United States Department of Justice, Washington, D.C., for defendant.

OPINION AND ORDER

GEORGE W. MILLER, Judge.

This Opinion and Order addresses five of the ten complaints Ms. O'Connor has filed in this court, specifically those assigned docket numbers 09-383, 09-486, 09-494, 09-495 and 09-516. Defendant filed a motion to consolidate and dismiss these five complaints on October 5, 2009. For the reasons enumerated below, the motion to consolidate is **DENIED**. The motions to dismiss cases 09-383, 09-486, 09-494 and 09-495 are **GRANTED**. Case number 09-516 will be **TRANSFERRED** to another judge of this court.

Pro se plaintiffs are entitled to liberal construction of their pleadings. *See Haines v.*

Kerner, 404 U.S. 519, 520-21 (1972). But this leniency does not allow the court to hear cases outside of its jurisdiction. So the *pro se* plaintiff, like all plaintiffs, must meet jurisdictional requirements before her case can be heard. *Kelley v. Sec’y, U.S. Dep’t of Labor*, 812 F.2d 1378, 1380 (Fed. Cir. 1987); *Biddulph v. United States*, 74 Fed. Cl. 765, 767 (2006). If plaintiff fails to establish that the court possesses subject matter jurisdiction, then the court must dismiss the complaint under Rule 12(h)(3) of the Rules of the Court of Federal Claims (“RCFC”).

For the purposes of determining subject matter jurisdiction, the Court will assume that all undisputed facts alleged in the complaints filed are true and draw all reasonable inferences in Ms. O’Connor’s favor. *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). But even after doing so, Ms. O’Connor’s complaints in the four cases the Court dismisses today do not state any claim that is within the power of this court to hear.

I. CASE NUMBER 09-383

On June 10, 2009, plaintiff filed Case Number 09-383, which complained of the “intentional acts and misconduct” of Judge Robert E. Keeton of the United States District Court for the District of Massachusetts, Circuit Judges Cyr, Lynch and Lipez of the United States Court of Appeals for the First Circuit, and Judge Robert E. Payne of the United States District Court for the Eastern District of Virginia. Complaint at 1-2 (docket entry 1).

The chain of events leading to this complaint begins with plaintiff’s vehicle breaking down and being towed to a repair shop called AAMCO/Cinnat, Inc. Complaint at 2. Plaintiff considered herself to have been overcharged for the repair work, and filed a case in the small claims session of the Salem District Court in Salem, Massachusetts. *Id.* Plaintiff alleges that the case was referred to arbitration and she was displeased with the conduct and outcome of the proceedings. *Id.* at 2-3. She maintains that she had no right of appeal from that decision and thus “turned to the next available court, which seemed to be the U.S. District Court, District of Massachusetts.” *Id.* at 3.

Because plaintiff requested to proceed without prepayment of fees, Judge Robert E. Keeton of that federal court reviewed her complaint for compliance with 28 U.S.C. § 1915, which authorizes dismissal of such cases if they lack “an arguable basis in law or fact.” *O’Connor v. AAMCO Cinnit, Inc.*, No. 02-10818 (D. Mass. Aug. 20, 2002) (citing *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)). Judge Keeton observed that federal courts do not possess jurisdiction to review state court decisions. *Id.* (citing *Hill v. Town of Conway*, 193 F.3d 33, 34 (1st Cir. 1999)). He concluded that Ms. O’Connor’s “appeal” of the small claims session’s resolution of her case was, therefore, outside that federal court’s jurisdiction. *Id.* To the extent that she was suing regarding the constitutionality of the small claims procedure, Judge Keeton observed that (1) the Seventh Amendment right to jury trial does not apply to state court proceedings and (2) under Massachusetts law, choosing to sue in the small claims session rather than in district court constitutes a waiver of the right to jury trial. *Id.* Judge Keeton thus determined that Ms. O’Connor’s claims lacked an arguable basis in law or fact and dismissed her complaint under 28

U.S.C. § 1915(e)(2). *Id.*

Plaintiff appealed Judge Keeton's decision to the First Circuit, where a panel consisting of Circuit Judges Cyr, Lynch and Lipez summarily affirmed the dismissal of her complaint. *O'Connor, et al v. AAMCO/Cinnat, Inc.*, No. 02-2371 (1st Cir. Nov. 20, 2002). Plaintiff then filed a petition for writ of certiorari with the Supreme Court of the United States, which was denied. *O'Connor v. AAMCO/Cinnat, Inc.*, 537 U.S. 1201 (2003).

Plaintiff, "still attempting to obtain equity on this case," re-filed it in the Eastern District of Virginia, "along with other cases on which the Plaintiff's rights had been denied in the Massachusetts courts." Complaint at 4. Judge Robert Payne of the Eastern District of Virginia dismissed this new lawsuit, based in part on a lack of subject matter jurisdiction, and admonished Ms. O'Connor that she would be sanctioned if she continued to file "frivolous, vexatious or delusional" lawsuits in violation of a prior order of a judge in the Eastern District of Virginia. *O'Connor v. AAMCO/Cinnat, Inc.*, No. 06-328, 2006 WL 4589342 (E.D. Va. June 5, 2006); *see also O'Connor v. Northshore Int'l Ins. Servs, Inc./APEX Group Holdings, Inc.*, No. 06-1632, 207 F. App'x 333 (4th Cir. Nov. 28, 2006) (affirming pre-filing injunction order). Plaintiff appealed Judge Payne's decision to the United States Court of Appeals for the Fourth Circuit, which dismissed her appeal for the same reasons Judge Payne had dismissed the underlying complaint. *O'Connor v. AAMCO/Cinnat, Inc.*, No. 06-1822, 207 F. App'x 331 (4th Cir. Nov. 28, 2006).

Plaintiff then filed Case 09-383 in this court, alleging that (1) the Government is negligent and grossly negligent in failing to preserve individual rights by not disciplining judges; (2) the "Executive Office and Executive power" is negligent and grossly negligent in failing to "uphold the integrity of the Constitution of the United States"; (3) the Commonwealth of Massachusetts is negligent and grossly negligent in supervising its courts; and (4) the Commonwealth of Massachusetts has committed "intentional acts" that cause plaintiff personal and economic injury. For the reasons the Court explained at length in *O'Connor v. United States*, Nos. 09-334, 09-335 & 09-348 (Fed. Cl. Nov. 6, 2009) ("*O'Connor II*"), these allegations state claims in tort that this court cannot hear. Likewise, plaintiff's assertions that the acts of the Government violate Section 35 of the Judiciary Act of 1789, the Due Process Clause of the Fifth Amendment, and the Seventh Amendment are outside this Court's jurisdiction because these provisions are not "money mandating." *Id.* at 6-7.

The complaint in 09-383 also alleges that the Commonwealth of Massachusetts has violated the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968. The court has "no jurisdiction whatsoever under the federal criminal code" and thus lacks the ability to hear any cases under criminal statutes such as RICO. *Joshua v. United States*, 17 F.3d 387, 379 (Fed. Cir. 1994); *Fullard v. United States*, 77 Fed. Cl. 226 (2007). And as for Ms. O'Connor's assertion that Massachusetts "recklessly and criminally endanger[ed] . . . the fundamental rights due individuals," in a section of her complaint titled "reckless endangerment of civil rights," the standard of "reckless endangerment" is applied in tort or criminal cases, over which (as previously observed) the court lacks jurisdiction, and in any event, this court cannot

hear claims arising under the federal civil rights laws. *Searles v. United States*, 88 Fed. Cl. 801, 805 (2009) (“Claims based on violations of the . . . civil rights laws may be heard only in federal district court.”). These allegations are not within the jurisdiction of this court.

Similar to Ms. O’Connor’s other complaints, she also sets forth “motions for specific performance” requesting orders that (1) Judges Keeton, Cyr, Lynch Lipez and Payne be dismissed and have their licenses to practice law rescinded; (2) the court remove “unconstitutional laws, regulations, orders, statutes, [and] procedures from [the] body of laws governing the Commonwealth of Massachusetts”; and (3) the Government be required to “oversee payment of due monies to plaintiff.” For the reasons explained in *O’Connor II*, the Court does not possess general injunctive power and does not discipline the judges of other courts. *O’Connor II* at 3-4.

On August 11, 2009, defendant filed a motion to dismiss Case 09-383 and consolidate it with cases 09-486, 09-494 and 09-495 (docket entry 5). Eight days later, plaintiff filed an amended complaint (docket entry 6, Aug. 19, 2009). The amended complaint reiterated portions of the original complaint, but added references to the Universal Declaration of Human Rights and allegations of strict liability, bad faith and “intentional acts” of the Government, the Department of Justice, and the Commonwealth of Massachusetts, as well as assertions that the United States Government is vicariously liable for the acts of Judge Payne. The amended complaint also contains “motions for specific performance” asking that the Executive Branch “oversee Plaintiff’s claim,” “uphold the integrity of the Constitution of the United States,” fire and rescind the law licenses of the judges mentioned above, remove unconstitutional laws from the books in the Commonwealth of Massachusetts, and reasserts the same statutory bases. For all the reasons explained in *O’Connor II*, the Court lacks jurisdiction over the allegations of the amended complaint.

The amended complaint further maintains that “The United States Court of Federal Claims cannot handle this Motion as it falls outside the scope of duties assigned to this Court.” Am. Complaint at 8. That is correct, although plaintiff appears to believe her amended complaint is somehow directed to the Executive Branch of the United States Government. It is not. A complaint filed in this court must contain allegations within the jurisdiction of this court before any further proceedings can occur. This amended complaint does not.

On September 11, 2009, defendant filed a renewed motion to consolidate this case with case numbers 09-486, 09-494 and 09-495 (docket entry 7), and on October 5 filed another renewed motion, but this time including case number 09-516 within the scope of the request to consolidate and dismiss (docket entry 8).

For the reasons enumerated above, the Court concludes that it lacks jurisdiction over the allegations contained in the complaint and amended complaint in Case Number 09-383, and defendant’s motion to dismiss is **GRANTED**. The Clerk is directed to dismiss the complaint without prejudice pursuant to RCFC 12(h)(3).

II. CASE NUMBER 09-486

On July 27, 2009, plaintiff filed Case Number 09-486, which—like Case Numbers 09-116 and 09-348, which were previously dismissed by this Court—arises out of Judge Robert E. Payne’s handling of case 06-339 in the United States District Court for the Eastern District of Virginia. See *O’Connor v. United States*, No 09-116 (Fed. Cl. Aug. 7, 2009) (“*O’Connor I*”); *O’Connor II* at 7-9; Complaint (docket entry 1).

The dispute giving rise to Case Number 09-486 began as an action by the managers of Ms. O’Connor’s Massachusetts condominium to collect expenses and enforce a lien. Plaintiff’s Motion to Dismiss, *Board of Managers v. O’Connor*, 05-01868 (Mass. Super. Ct. May 23, 2006). Ms. O’Connor filed a counterclaim, alleging that the condominium board had failed to respond to her complaints of excessive noise against other residents. *Id.* The residents whom Ms. O’Connor accused of excessive noise filed criminal harassment charges against Ms. O’Connor, and ultimately Judge Robert Cornetta of the Massachusetts state court ruled against Ms. O’Connor in that criminal matter. Defendant Judge Cornetta’s Motion to Dismiss, *O’Connor v. Rodriguez*, 05-1868 (Mass. Super. Ct. May 23, 2006). Ms. O’Connor also sued the owner of the condominium where the allegedly noisy tenants resided, and Judge Patrick Riley of the Massachusetts state court ruled against her in that civil case. Defendant Judge Riley’s Motion to Dismiss, *O’Connor v. Rodriguez*, No. 05-01868 (Mass. Super. Ct. May 23, 2006). In the Massachusetts Superior Court case denominated *O’Connor v. Rodriguez*—where Ms. O’Connor sued, among others, Judge Cornetta, Judge Riley and Mark Livermore—motions to dismiss all the defendants were granted. Memorandum and Order on the Defendants’ Motions to Dismiss, *O’Connor v. Rodriguez*, No. 05-01868 (June 26, 2006). The court further ordered that “[n]o new complaint, however styled, shall be filed by the plaintiff Carolyn E. O’Connor against any of the named defendants herein **or** with regard to any claims by the Plaintiff arising directly or indirectly from her having an ownership interest” in the condominium in any court of the Commonwealth of Massachusetts without approval of the judge. Procedural Order as to Future Filings by Plaintiff Carolyn O’Connor, *O’Connor v. Rodriguez*, No. 05-01868 (June 26, 2006).¹

Plaintiff contends that because it was “open and obvious that Plaintiff would not obtain due process in the Massachusetts courts, Plaintiff moved the venue of this issue to the U.S. District Court, Eastern District of Virginia.” Complaint at 3. Her complaint in the Virginia court was assigned case number 06-339 and assigned to Judge Payne, who dismissed the lawsuit in part due to a previous order of that court banning Ms. O’Connor from filing further lawsuits.

¹ See *O’Connor v. Board of Managers/Trustees of 24 Norman Street Condominium Ass’n*, No. 06-326, 2006 WL 2519513 (E.D. Va. Aug. 29, 2006) (dismissing allegations of constructive eviction against condominium managers for lack of personal jurisdiction).

O'Connor v. Commonwealth of Massachusetts, No. 06-339 (E.D. Va. June 5, 2006).

Plaintiff then filed Case 09-486 in this court, alleging that (1) the Government is negligent and grossly negligent in failing to preserve individual rights by not disciplining judges; (2) the “Executive Power and Executive Office” is negligent and grossly negligent in failing to “uphold the integrity of the Constitution of the United States”; (3) Judge Payne committed “intentional acts” depriving plaintiff of her rights and the Government is vicariously liable for those intentional acts; and (4) former Attorney General Gonzales was negligent and grossly negligent in his duty of advising the government on legal matters and he is individually liable and the Government is vicariously liable for this negligence.

Defendant filed a motion to consolidate this case with cases 09-383, 09-494, and 09-495 and to dismiss all four cases on August 11, 2009 (docket entry 4). On October 5, 2009, defendant filed a renewed motion to consolidate and dismiss, this time also including case number 09-516 (docket entry 5). Plaintiff did not respond to either motion.

As stated above, for the reasons the Court explained at length in *O'Connor II*, plaintiff does not allege matters that this court can hear. Moreover, Government officials are immune from liability for tasks performed within the scope of their duties. *Forrester v. White*, 484 U.S. 219, 225 (1988) (president is immune from suit in official capacity); *Rodarmel v. United States*, 221 Ct. Cl. 984, 984 (1979) (Attorney General immune from suit in official capacity for acts within his discretion); *Mireles v. Waco*, 502 U.S. 9, 10 (1992) (holding that judicial immunity is a threshold question which requires summary dismissal); *Cleavinger v. Saxner*, 474 U.S. 193, 199 (1985) (holding that a judge is immune from a suit for money damages).; *Hufford v. United States*, 85 Fed. Cl. 607, 608 (2009) (no jurisdiction in this court over government officials in individual capacity); see also *O'Connor v. Young*, No. 06-331, 2006 WL 1720700 (E.D. Va. June 22, 2006); *O'Connor v. EEOC*, No. 06-329, 2006 WL 4571651 (E.D. Va. June 20, 2006). The United States as these officials’ employer is thus likewise not liable; moreover, such a claim cannot be brought in this court. *Hammitt v. United States*, 64 Fed. Cl. 547, 548-49 (2005).

Plaintiff again includes “motions for specific performance” requesting orders that (1) Judge Payne be dismissed and have his licenses to practice law rescinded; (2) the court remove “unconstitutional laws, regulations, orders, statutes, [and] procedures from [the] body of laws governing the Commonwealth of Massachusetts”; and (3) the Government be required to “oversee payment of due monies to plaintiff.” For the reasons explained above and in *O'Connor II*, such orders cannot be obtained from this court.

For all these reasons, the Court concludes that it lacks jurisdiction over the allegations contained in the complaint in Case Number 09-486 and defendant’s motion to dismiss is **GRANTED**. The Clerk is directed to dismiss the complaint without prejudice pursuant to RCFC 12(h)(3).

III. CASE NUMBER 09-495

Case Number 09-495 arises from the Virginia Employment Commission's ("VEC's") denial of unemployment benefits to plaintiff. Complaint at 1 (docket entry 1, July 27, 2009). Plaintiff sets forth numerous allegations regarding her employment at Old Dominion Security ("ODS"), including her alleged dismissal for "discussing unionism with fellow employees," purported harassment by a truck driver at ODS, her contention that a disciplinary reprimand for lateness was unwarranted, and a dispute over a memo plaintiff sent to an ODS client that ODS contended "jeopardized [its] business relations." *Id.* at 2-5. Ms. O'Connor maintains that although she "rendered null and void all of ODS's representations of misconduct," the VEC nonetheless denied her unemployment benefits. *Id.* at 4.

According to plaintiff, the VEC issued an initial adverse decision on March 18, 2008, from which she took two appeals, decided unfavorably to her on June 6, 2008 and July 16, 2008. Complaint at 2. When she initiated a third appeal, she states that the case was transferred to the Circuit Court of the City of Richmond. *Id.* On April 30, 2009, the Circuit Court heard argument on defendants' motion to dismiss, and ordered the dismissal of the complaint. *O'Connor v. ODS Acquisition Co.*, CL 08:5858-4 (Va. Cir. Ct. June 23, 2009). The court further ordered the clerk of the Richmond City Circuit Court "to refuse any new Complaints for filing in a matter from Plaintiff before obtaining leave by a judge of this Court." *Id.*

Because plaintiff believed she had "no rights in the Commonwealth of Virginia courts," she would "normally" have next sued in the Eastern District of Virginia. Complaint at 6. She was unable to do so because of the order of that court barring her from filing complaints without leave of court. *Id.* at 6-7. She therefore sued in this court, alleging (1) the Government is negligent and grossly negligent in failing to preserve individual rights by not disciplining judges, and this behavior is "copied in the Commonwealth of Virginia courts," Complaint at 7-8; (2) the "executive office and executive power" is "negligent and grossly negligent in failing to uphold the integrity of The Constitution of the United States in relationship to rights due individual[s] who seek their civil rights in a court of law," *id.* at 7; (3) the United States and the Commonwealth of Virginia are jointly and severally liable to plaintiff, *id.* at 9; (4) the Commonwealth of Virginia and the VEC have committed "intentional acts" by colluding with a wrongdoer and depriving plaintiff of her rights, *id.* at 11-12;

Defendant filed a motion to consolidate this case with cases 09-383, 09-486, and 09-494 and to dismiss all four cases on August 11, 2009 (docket entry 5). On October 5, 2009, defendant filed a renewed motion to consolidate and dismiss, this time also including case number 09-516 (docket entry 6). Plaintiff did not respond to either motion.

Plaintiff maintains that the United States has violated (1) Section 35 of the Judiciary Act of 1789, *id.* at 9; (2) the Fifth Amendment Due Process Clause, *id.* at 10; (3) the Seventh Amendment right to jury trial, *id.*; (4) RICO, *id.* at 12, and that these violations support a cause of

action under the Tucker Act, *id.* at 11. She includes a “motion for specific performance” asking the United States to “oversee that due monies are paid accordingly.” *Id.* at 13. She also asks for a jury trial and compensatory and punitive damages. *Id.* at 13-14. For the reasons set forth above and in *O’Connor II*, these allegations fail to state a claim that is within this court’s jurisdiction. Furthermore, the United States is not vicariously liable for the actions of a state. *Fiebelkorn v. United States*, 76 Fed. Cl. 438, 440 (2007).

For all these reasons, the Court concludes that it lacks jurisdiction over the allegations contained in the complaint in Case Number 09-495 and defendant’s motion to dismiss is **GRANTED**. The Clerk is directed to dismiss the complaint without prejudice pursuant to RCFC 12(h)(3).

IV. CASE NUMBER 09-494

Unlike her other lawsuits filed here, plaintiff does not allege that she has previously sued regarding the allegations underlying Case Number 09-494. Plaintiff maintains that after she relocated to Richmond, Virginia, she found part-time employment at a Pizza Hut, ultimately working at the Davis and Broad Street location. Complaint at 3 (docket entry 1, July 27, 2009). She asserts that she was assigned cleaning work and told this was a prerequisite to obtaining a job as a pizza cook, but then two young males were hired for the pizza cook job without first working as cleaners. *Id.* After writing a memo to management, plaintiff was permitted to train as a pizza cook, though she contends that this training was inadequate. *Id.* at 3-4. Plaintiff alleges that she was thereafter “constructively dismissed by being omitted from the work schedule.” *Id.* at 4.

Plaintiff filed a complaint with the Richmond, Virginia EEOC office, which she alleges has held the case since November 2007 and failed to render a decision on it. *Id.* at 5. She makes a number of assertions regarding her belief that the local branch of the EEOC is overly protective of African-Americans and causes employers to “reverse-discriminate against Caucasians.” *Id.* at 4-5. She asserts that the EEOC violated statutory law, regulation, and its internal manuals in its negligent handling of her claim. *Id.* at 5-6. Ms. O’Connor asserts that she was unable to bring this suit in the Eastern District of Virginia due to the judicial order barring her from filing further lawsuits in that court. *Id.* at 7.

Her complaint alleges (in now-familiar fashion) that the United States is “negligent and grossly negligent in failing to oversee the preservation of rights and protections due individuals,” in failing to “eliminat[e] the hostile and prejudicial attitude toward pro se litigants,” and in “failing to discipline judges” and “monitor the operations of the EEOC.” *Id.* at 8. She contends that these “intentional acts” by the Government violate the Fifth Amendment and constitute a claim under the Tucker Act. *Id.* at 9. She also moves for injunctions that would (1) require the EEOC to provide her a complete copy of her EEOC file, *id.* at 6, 10; and (2) direct the “executive office and executive power to cease and dismiss the investigative operations/duties of the EEOC,” *id.* at 10-12. She also asks for a jury trial under the Seventh Amendment as well as compensatory and punitive damages. *Id.* at 12.

On August 11, 2009, defendant filed a motion to dismiss Case 09-494 and consolidate it with cases 09-383, 09-486, 09-494 and 09-495 (docket entry 5). On October 5, 2009, defendant filed a renewed motion to consolidate and dismiss the same cases, but also including case number 09-516 within the scope of the request to consolidate and dismiss (docket entry 6).

Although this case, unlike plaintiff's other cases, is not on its face barred by *res judicata*, Case Number 09-494 suffers from the same jurisdictional infirmities as the eight cases previously dismissed by the Court. Furthermore, this court does not possess jurisdiction over EEOC proceedings. *Lucious v. United States*, No. 08-11C, 2008 WL 4596322 (Fed. Cl. Oct. 1, 2008) ("While we sympathize with Ms. Lucious's apparent exasperation over our jurisdictional limitations, we cannot act when we have no Congressional authority to do so.").

For all these reasons, the Court concludes that it lacks jurisdiction over the allegations contained in the complaint in Case Number 09-494 and defendant's motion to dismiss is **GRANTED**. The Clerk is directed to dismiss the complaint without prejudice pursuant to RCFC 12(h)(3).

V. CASE NUMBER 09-516

The amended complaint in Case Number 09-516 contains allegations that the United States is vicariously liable for the conduct of the undersigned judge in handling of Ms. O'Connor's other cases. Out of an abundance of caution, to avoid any appearance of bias and to promote the efficient administration of justice, the Court hereby **TRANSFERS** Case Number 09-516, pursuant to RCFC 40.1(b) to the Honorable John P. Wiese, with his consent, to conduct further proceedings.

CONCLUSION

Because the Court lacks jurisdiction over the allegations of the complaints in Case Numbers 09-383, 09-496, 09-495 and 09-494, the Court has dismissed all four complaints. Because Ms. O'Connor objects to the consolidation of the cases, however, the Court will **DENY** the motion to consolidate.

When the court lacks subject matter jurisdiction over a case, the court may transfer the complaint to a more appropriate court if the transfer is "in the interest of justice." 28 U.S.C. § 1631. Other than Case Number 09-494, plaintiff's complaints reveal that each of these cases has been previously litigated and judgment entered by a court with proper jurisdiction. And upon further investigation, it appears that Case Number 09-494 was previously brought as case CL08005930-00 in the Circuit Court for the City of Richmond. Once a case has been decided, it cannot be re-litigated. Because other courts have issued judgments in these cases and the time for appeals from those judgments has expired, the cases cannot be brought again in this court or in any other court. *Allen v. McCurry*, 449 U.S. 90, 94 (1980) ("Under *res judicata*, a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or

could have been raised in that action.”); *see also Bafford v. United States*, No. 09-030, 2009 WL 2391785 (Fed. Cl. April 3, 2009). A transfer of these cases to another court would be futile, and transfer pursuant to 28 U.S.C. § 1631 will therefore be **DENIED**.

The Clerk is directed to enter judgment in each of these four cases in accord with this Opinion and Order. The Clerk is also directed to transfer Case Number 09-516 to the docket of Judge John. P. Wiese of this court. Plaintiff may appeal the Court’s judgments to the Court of Appeals for the Federal Circuit within sixty (60) days of the date of entry of judgment. Failure to file a timely notice of appeal will waive the right to an appeal, and the Court’s judgment will be final.

IT IS SO ORDERED.

s/ George W. Miller
GEORGE W. MILLER
Judge