

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

LAURA FORD,

Plaintiff,

vs.

CASE NO. 4:06-cv-00244-RH-WCS

THE SUPREME COURT OF FLORIDA, et al.,

Defendants.

**RENEWED MOTION TO DISMISS PLAINTIFF’S COMPLAINT BY DEFENDANTS
THE FLORIDA SUPREME COURT AND CHIEF JUSTICE BARBARA J. PARIENTE**

Defendants, the Florida Supreme Court and Chief Justice Barbara J. Pariente (“Chief Justice Pariente”), in her official and individual capacities, pursuant to Rules 12(b)(1) and 12(b)(6), Federal Rules of Civil Procedure, move this Court to enter an order dismissing Plaintiff’s Complaint. The Defendants have filed contemporaneously herewith a Memorandum of Law in Support of this Renewed Motion to Dismiss.¹

The Defendants file this Renewed Motion to Dismiss upon transfer of this case from the Middle District of Florida to the Northern District of Florida. The Middle District’s Order (DE 27) denying Defendants’ Motion to Dismiss (DE 18; DE 19) and transferring venue to the Northern District addresses only Defendants’ arguments seeking dismissal under Rule 12(b)(3)

¹ Plaintiff has also sued the Florida Board of Bar Examiners (the Board), Eleanor Hunter, the Board’s current Executive Director, Kathryn Ressel, the Board’s former Executive Director, and Jane Doe Proctor, an alleged agent of the Board (collectively, “Board Defendants”). Defendants the Florida Supreme Court and Chief Justice Pariente incorporate by reference all grounds and arguments for dismissal asserted by the Board Defendants.

on the grounds that venue is not appropriate in the Middle District. Because the Order does not address any of the other grounds for dismissal set forth by Defendants, Defendants hereby file this Renewed Motion to Dismiss.

1. This is an action for damages, declaratory relief, and injunctive relief arising out of the judicial proceedings on Plaintiff's application for admission to the Florida Bar. Plaintiff has failed to obtain a passing score on the Florida Bar Examination. Plaintiff filed the instant action after she requested and was denied relief from the Florida Supreme Court relating to her failure to pass the Florida Bar Examination.

2. Plaintiff asserts that the Defendants violated her rights under the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq. ("ADA"), the Rehabilitation Act, 29 U.S.C. § 794 et seq., 42 U.S.C. § 1983 and § 1985, and the Florida and federal constitutions. Plaintiff also brings state law claims against the Defendants.

3. The entire action should be dismissed for lack of subject matter jurisdiction under the Rooker-Feldman abstention doctrine. See Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983).

4. Assuming the inapplicability of Rooker-Feldman abstention, the action would still be subject to dismissal either (1) for lack of standing or ripeness if Plaintiff alleges that she has no pending application for admission to the Florida Bar or (2) if Plaintiff alleges that she does have a pending application for admission to the Florida Bar, based on the abstention doctrine of Younger v. Harris, 401 U.S. 37 (1971).

5. Even if Plaintiff's claims are otherwise properly before the Court, all of Plaintiff's claims against the Florida Supreme Court and Chief Justice Pariente in her official capacity,

whether for damages or injunctive relief, are barred by the Eleventh Amendment.

6. Likewise, all of Plaintiff's claims for damages are barred by the doctrines of absolute judicial immunity and qualified immunity.

7. Plaintiff has failed to state a claim upon which relief may be granted.

WHEREFORE Defendants the Florida Supreme Court and Chief Justice Pariente move this Honorable Court to enter an order dismissing Plaintiff's Complaint.

Respectfully Submitted,

CHARLES J. CRIST, JR.
Attorney General

s/ Leah L. Marino

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Supreme Court and Chief Justice Pariente

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, by United States Mail, to Laura Ford, pro se, 3020 Port Royal Drive, Orlando, Florida 32827, and by Notice of Electronic Filing to James J. Dean, Messer Caparello & Self, P.A., 215 S. Monroe Street, Suite 701, P.O. Box 1876, Tallahassee, Florida 32302-1876, this 30th day of May 2006.

s/ Leah L. Marino

Leah L. Marino
Assistant Attorney General