

### Motions, Pleadings and Filings

Only the Westlaw citation is currently available.

United States District Court,  
 D. New Jersey.  
 Sanguen LEE Plaintiff,  
 v.  
 BOROUGH OF RIDGEFIELD POLICE  
 DEPARTMENT, and John L. Molinelli, in his  
 capacity  
 as Bergen County Prosecutor, and Robert Williams,  
 Defendants  
**No. Civ.A. 04-5689(FSH).**

July 20, 2004.

The **Bostany** Law Firm, by [John P. Bostany](#),  
 Newark, New Jersey, for Plaintiff.

Wiley, Malehorn & Sirota, By [James M. McCreedy](#),  
 Morristown, New Jersey, for Defendants Borough of  
 Ridgefield Police Department and Robert Williams.

Decotiis, Fitzpatrick, Cole & Wisler, LLP, By  
[William R. Lundsten](#), New York, New York, for  
 Defendant John L. Molinelli.

#### *OPINION & ORDER*

[HOCHBERG](#), J.

\*1 This matter having come before the Court upon Plaintiff's Motion for a Turnover of Seized Property and Expedited Discovery; [\[FN1\]](#) and this Court having reviewed the parties' submissions pursuant to [Fed.R.Civ.P. 78](#); and for good cause shown

[FN1](#). Plaintiff's goods, allegedly being sold in her retail store in violation of the New Jersey Trademark Counterfeiting Act (the "TCA"), were seized by the Ridgefield Police Department on January 6, 2004. Plaintiff commenced the present civil action in federal court on February 9, 2004. On May 22, 2004, a state grand jury sitting in Bergen County returned an indictment against Plaintiff, and a criminal proceeding is pending against Plaintiff in the Superior Court of New Jersey on charges of violating

the TCA.

it appearing that federal abstention doctrine applies in this case; [\[FN2\]](#)

[FN2](#). The Supreme Court has ruled that federal courts may not "stay or enjoin pending state court proceedings except under special circumstances." [Younger v. Harris](#), 401 U.S. 37, 91 S.Ct. 746, 749, 27 L.Ed.2d 669 (1971). *Younger* and its progeny "espouse a strong federal policy against federal court interference with pending state judicial proceedings absent extraordinary circumstances." [Middlesex County Ethics Comm. v. Garden State Bar Ass'n](#), 457 U.S. 423, 102 S.Ct. 2515, 2521, 73 L.Ed.2d 116 (1982).

Although Plaintiff filed the present action in this Court prior to her criminal indictment in state court, abstention is appropriate in the instant action because no substantive proceedings have taken place in this [Court](#). [Middlesex](#), 102 S.Ct. at 2523 (holding that when "state criminal proceedings are begun against the federal plaintiffs after the federal complaint is filed but before any proceedings of substance ... have taken place in federal court, the principles of *Younger v. Harris* should apply in full force" (quoting [Hicks v. Miranda](#), 422 U.S. 332, 349, 95 S.Ct. 2281, 45 L.Ed.2d 223 (1975))).

*Younger* abstention is also appropriate where: (1) there are ongoing state proceedings that are judicial in nature; (2) the state proceedings implicate important state interests; and (3) the state proceedings afford an adequate opportunity to raise federal claims. [Middlesex](#), 102 S.Ct. at 2521.

In the present case, state criminal proceedings against Plaintiff are undoubtedly judicial in nature and, since New Jersey is enforcing the TCA, the state proceedings will implicate important state interests. Additionally, Plaintiff has an adequate forum in state court to bring any federal claims. See [Younger](#), 91 S.Ct. at 753 (holding that state court is an adequate forum for a litigant to raise constitutional claims).

Plaintiff has been charged with violating the

TCA, and the legal status of the seized goods, whether they bear or are identified by a counterfeit mark, is an essential element of that New Jersey statute. See [N.J.S.A. 2C:21-32\(c\)](#). A declaration by this Court as to the validity of Plaintiff's goods would unduly interfere with the state criminal proceedings. See [Perez v. Ledesma, 401 U.S. 82, 84, 91 S.Ct. 674, 27 L.Ed.2d 701 \(1971\)](#) (reversing a federal district court ruling that materials in a state criminal case were seized illegally because "it is difficult to imagine a more disruptive interference with the operation of the state criminal process.") Plaintiff argues that the "irreparable damage" to her retail business are extraordinary circumstances requiring federal intervention in this case. The Supreme Court, however, has declared that "certain types of injuries, in particular, the cost ... and inconvenience of a criminal prosecution, could not by themselves be considered 'irreparable' in the special legal sense of that term. [Younger, 91 S.Ct. at 751](#). To warrant federal intervention, "the threat to the plaintiff's federally protected rights must be one that cannot be eliminated by his defense against a single criminal prosecution." *Id.* Since Plaintiff alleges only economic loss that may be cured by a successful defense to the criminal charges against her, this Court finds no reason to depart from the *Younger* abstention doctrine.

Accordingly, IT IS on this 20th day of July 2004, hereby

ORDERED that Plaintiff's action before this Court is DISMISSED without prejudice; and it is further

ORDERED that all pending motions in the instant action are DENIED as moot; and it is further

ORDERED that this case is CLOSED.

Not Reported in F.Supp.2d, 2004 WL 1660617 (D.N.J.)

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- [2004 WL 2558308](#) (Trial Motion, Memorandum

and Affidavit) Reply Brief on Behalf of Defendant John L. Molinelli, Esq. in Support of A Motion to Dismiss (Jul. 04, 2004)

- [2004 WL 2558280](#) (Trial Motion, Memorandum and Affidavit) Plaintiff's Memorandum of Law in Support of Motion for A Finding of Compliance with Tort Claims Act (Jul. 01, 2004)
- [2004 WL 2558258](#) (Trial Motion, Memorandum and Affidavit) Plaintiff's Supplemental Brief (Jun. 24, 2004)
- [2004 WL 2558314](#) (Trial Motion, Memorandum and Affidavit) Brief of Defendants, the Borough of Ridgefield Police Department and Detective Robert Williams on Whether Plaintiff's Indictment Moots this Case; for A Stay; and for Dismissal on Qualified Immunity Grounds (Jun. 24, 2004)
- [2004 WL 2558239](#) (Trial Pleading) Answer to Amended Complaint (May. 06, 2004)
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- [2004 WL 2558201](#) (Trial Motion, Memorandum and Affidavit) Reply Declaration (May. 03, 2004)
- [2004 WL 2558222](#) (Trial Motion, Memorandum and Affidavit) Plaintiff's Reply Memorandum of Law in Support of Motion for Turnover of Seized Property (May. 03, 2004)
- [2004 WL 2558174](#) (Trial Motion, Memorandum and Affidavit) Brief in Opposition to Plaintiff's Motion for Turnover of Seized Property (Apr. 26, 2004)
- [2004 WL 2558156](#) (Trial Pleading) Amended Verified Complaint and Jury Demand (Apr. 22, 2004)
- [2004 WL 2558145](#) (Trial Pleading) Answer to Complaint and Affirmative Defenses (Apr. 01, 2004)
- [2004 WL 2558135](#) (Trial Motion, Memorandum and Affidavit) Plaintiff's Memorandum of Law in Support of Motion for Turnover of Seized Property and Expedited Discovery (Mar. 19, 2004)
- [2004 WL 2558119](#) (Trial Pleading) Verified Complaint and Jury Demand (Feb. 09, 2004)

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- [2:04cv00568](#) (Docket) (Feb. 09, 2004)
- [2004 WL 2558290](#) (Trial Motion, Memorandum and Affidavit) Defendants', Brough of Ridgefield Police Department and Robert Williams, Memorandum of Law in Opposition to Plaintiff's Motion for A Finding of Compliance with Tort Claim Act (2004)

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