

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

FREDERICK J. NERONI,

Plaintiff,

**3:12-cv-1226
(GLS/DEP)**

v.

CARL F. BECKER et al.,

Defendants.

ORDER

Plaintiff Frederick J. Neroni filed the instant action against defendants Carl F. Becker, “in his official capacity as a Judge of Surrogate’s Court and Acting Supreme Court Justice of Delaware County, and in his individual capacity,” and the State of New York, alleging, *inter alia*, that the unconstitutional application of multiple New York laws violated his Due Process rights. (Dkt. No. 1 at 5-23.) Pending is Neroni’s Order to Show Cause seeking various forms of preliminary and permanent relief.¹ (See

¹ Specifically, Neroni seeks a hearing at which defendants would be required to show why: Justice Becker should not be temporarily and permanently removed from his underlying state court action; a stay should not be issued in that case “until verification of the Supreme Court jurisdiction”; Justice Becker and the State of New York should not be precluded from applying N.Y. Civ. Rights Law § 52; and Justice Becker should not be enjoined from holding Neroni or his counsel in contempt for raising issues of bias and disqualification. (Dkt. No. 4 at 1-2.)

Dkt. No. 4.) With the exception of precluding Justice Becker and the State of New York from enforcing N.Y. Civ. Rights Law § 52 in Neroni's pending state court action, the relief sought by him is unrelated to the federal claims upon which the court's jurisdiction is predicated. (See *generally* Dkt. Nos. 1, 4.) Furthermore, to the extent that Neroni seeks to preclude the application of N.Y. Civ. Rights Law § 52 in his pending state court action, he has failed to display a likelihood of success on the merits. See, e.g., *Courtroom Television Network LLC v. State*, 5 N.Y.3d 222, 234 (2005) (upholding the constitutionality of N.Y. Civ. Rights Law § 52). Neroni's Order to Show Cause is therefore denied.

ACCORDINGLY, it is hereby

ORDERED that Neroni's Order to Show Cause (Dkt. No. 4) is

DENIED; and it is further

ORDERED that defendants file an Answer or appropriate motions within the time allotted by the rules; and it is further

ORDERED that the parties notify Magistrate Judge Peebles in order to schedule further proceedings in accordance with this order

ORDERED that the Clerk provide a copy of this Order to the parties.

IT IS SO ORDERED.

August 7, 2012
Albany, New York



Gary L. Sharp
Chief Judge
U.S. District Court