IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Andrew J. Ostrowski/Pennsylvania Civil Rights Law Network, personally, and on behalf of every American; Pennsylvania Civil Rights Law Network; and The Body of Christ	:	**CIVIL ACTION NO. 17-cv-00788**
v.	:	
American System of Justice; The Supreme Court of Pennsylvania/ Unified Judicial System of Pennsylvania; The Federal Reserve; The Society of Jesus (aka "The Jesuits"); Facebook; N.M Rothschild & Sons, Ltd. (aka "The Rothschilds); Free and Accepted Masons of the World, Inc. (aka "The Freemasons"); Mark Zuckerberg; Satan; and John/Jane Does	:	**JURY TRIAL DEMANDED**

BRIEF IN SUPPORT OF OBJECTIONS TO MAGISTRATE SAPORITO'S JULY 24, 2017 REPORT AND RECOMMENDATION

INTRODUCTION

In the body of the Amended Complaint, the filing of which the Magistrate Judge conspicuously did not reference, the Plaintiffs referred to the May 9, 2017 "Order" denying relief that was, at most, alternatively requested, as "strike one" against the system being sued to prove whether it honors the principle that defines its very existence – due process.

Again, not to imply that there are any set number of "strikes," and the use of the term being limited strictly metaphorically to missed opportunities to disprove the central contention of the case, the Court's July 6, 2017 Order, and the Magistrate Judge's July 24, 2017 "Report and Recommendation" are strikes two and three – before there has even been a serve of process.

Plaintiffs submit that the June 20, 2017 Appeal and Brief were the exact right procedure under 28 U.S.C. §636(b)(1)(A) (referring to non-dispositive rulings by magistrate judges) and Middle District Local Rule 72.2 (referring to appeals of non-dispositive rulings of magistrates). In this context, the Court's July 6, 2017 Order was an outlier, and errant, and a cause of further anecdotal support for the central contention in the case against the American System of Justice. See Amended Complaint, paragraph 10.

Plaintiffs decidedly did not seek "reconsideration" of the Court's July 6, 2017 Order and Memorandum, though clearly erroneous for the above reasons, which would have been elaborated upon, as the Plaintiffs read the Memorandum as at least directing the Magistrate to a fuller consideration of the merits of the Plaintiffs' Motion in light of the Appeal and Brief filed by the Plaintiffs. Plaintiffs believed that this was a result compatible with their interests, and determined that further action was not necessary.

In essence, Plaintiffs opted not to pursue a process to address and correct a due process issue in this case about due process issues, though with a clear right to do so, in order to conserve judicial economies, and allow the exercise of judicial wisdom and discretion to serve as its own corrective. Even this continued faith in the system to be its own corrective in honor of notions of due process has failed. As a result, Plaintiffs now must file this second Brief already to address issues that have still been completely neglected by the Magistrate Judge.

While the Plaintiffs refer to Magistrate Saporito's June 7, 2017 and July 24, 2017 Order and Report and Recommendation as strike one and strike three, there are a bevy of subsidiary missed opportunities to instill some due process in these proceedings at this early stage. Plaintiff is reserving his full right of commentary as an American citizen on what is reflected by the manner in which Magistrate Saporito addressed these issues, but, as a litigant before this Court, it is a raw elevation of form over substance, in the face of real substance in the form of a Declaration of the Plaintiff which directly addressed all issues that the "form" to which the Magistrate expressly referred, would have addressed.

Additionally, the Magistrate Judge did absolutely nothing to address the real substance of the issues that were raised by the Plaintiffs in their Motion. In fact, one of the due process issues in federal litigation to which Plaintiffs expect to get in this case is the contention that the use of magistrate judges has, itself, become an obstacle

to the fair and efficient administration of justice, and this case, as pointed out in the body of the Amended Complaint, is a clear example of it already.

Even if it was deemed procedurally improper for the Plaintiffs to have proceeded by their June 20, 2017 Appeal, which has been demonstrated to not be the case, could that legitimately be used by the Magistrate Judge as a reason to not even mention or review that filing, as a matter of due judicial diligence, to honor his role in the facilitation of judicial economies, and the fair and equal administration of justice? This Magistrate Judge did nothing to advance any interest to be served by the policies that drive the very creation of his office, in the Plaintiffs' view.

Plaintiffs were actually guided in their decision to not seek reconsideration of the Court's July 6, 2017 Order by the fact that Magistrate Saporito did begin to address the merits of the issues raised by the Plaintiffs in their June 6, 2017 Motion, and believed that he would certainly continue the dialogue, as reasonably perceived to have been cued by the Court, to develop these issues. That the Magistrate Judge did a complete about face, and did not even address the Plaintiffs' comments on his very own errors, as raised in the Appeal about the substantive matters Magistrate Saporito did address, is peculiar, and inferential support for some of the issues raised in Plaintiffs' Amended Complaint, but is a complete dereliction of judicial duty in the context of this specific motion.

Plaintiffs, in large part, rely upon the arguments that were presented to this Court, and not addressed in its July 6, 2017 Order, or in Magistrate Saporito's July 31, 2017 Report and Recommendation, in support of their Objections herein.

Plaintiffs note, as support for the claims raised in their case, the extent to which the burdens have already been magnified as a result of the process through which this very clear Motion has already been addressed, and the number of subsidiary issues that have now been raised, all because the Magistrate Judge did not address the substance of the issues raised by the Plaintiffs. Plaintiffs continue to rely upon the presumption that this is a system that is capable of effectively administering justice, and that their issues will ultimately be treated properly, whatever form or articulation decided upon to express their fullness.

Plaintiffs note that their further presumption is that the office of Magistrate Judge, properly employed, with all proper oversight, does serve a useful purpose in the federal judicial system, both in easing of the ministerial/administrative burdens of the courts, and in facilitating the efficiencies of the adjudicative process. It is in the latter regard that Magistrate Saporito wholly failed the mandate of his office.

In Plaintiff Ostrowski/PCRLN's experience, the magisterial review process, and motions for reconsideration (even though he was berated by Middle District jurists for employing them as an active practitioner), etc., are a useful tool the system has developed to refine legal issues for review by further courts, as there certainly is

nothing novel about using the courts to resolve legal disputes, and Magistrate Saporito could have weighed in on these issues at greater length, possibly even reaching a resolution of them acceptable to the Plaintiffs for present purposes, and eliminating the need for further docket activity altogether, and, more importantly, providing a better context, or even eliminating issues, for presentation to this Court. Magistrate Saporito failed to serve his office, and this Court, and has caused additional burden to the Plaintiffs and the Court.

As to the little substance that Magistrate Saporito did initially address in his May 9, 2017 Order, but backed away from completely in his July 24, 2017 Report and Recommendation, Plaintiffs do not agree that his citation to a circuit court non-precedential "Summary Order", and three non-published district court decisions, is sufficient to support his statement that the assertions made by the Plaintiffs are "discredited and utterly meritless", nor did Magistrate Saporito fully address the issues raised in Plaintiffs' Motion at that point, either.

The July 24, 2017 Report and Recommendation is an abnegation of judicial duties on the face of this record, with all of the context, including Plaintiff Ostrowski/PCRLN in the past having sought and received IFP status, and referencing that, and updating it by appropriate Declaration, as the last alternative basis upon which the issues in Plaintiffs' Motion was presented, and even this was completely ignored. That the Magistrate did not even mention the filing of this

Declaration, and then dismissed the entire case as non-compliant is an outrage, with further unexpressed implications on his fitness that will be left unaddressed further at this point.

From this Court, the Plaintiffs ask for consideration of all the issues raised in the context of the Appeal filed by the Plaintiffs on June 20, 2017, as well as these Objections.

Plaintiffs additionally note that, while they have a fundamental objection to the procedural propriety of this matter, as set forth, now that the Magistrate Judge has converted this matter to a dispositive motion, and recommended its dismissal, the 636(b)(1)(C) "report and recommendation" procedure could arguably be considered to apply, and, for the sake of judicial economy, that is the presumption under which the Plaintiffs proceed, but reserve the right to seek extraordinary relief in the Third Circuit, if necessary, to address these issues, including the possible filing of a similar fee waiver motion in that Court.

Plaintiffs very much believe that the issues raised in their Motion for Waiver of Fees warrant full judicial exposition, and consideration as basic principles of access to justice, and will be prepared to litigate these matters through the Supreme Court, if necessary. That is not, however, a discussion that needs to be had now, as there are ample grounds in the filings of the Plaintiffs on these issues that need to be addressed, and which can move this matter forward to litigation on the merits.

Plaintiffs have, in good faith, raised these issues, and are entitled to their consideration.

As Plaintiffs pointed out in their Appeal Brief, this case very much does address issues that likely have never been addressed the way they are being addressed in this case, including the identity of parties[1] to the case, and, for purposes of the present filing, certain presumptions about the system that have been accepted as true, become modes of operation, and even appear to have a reasonable basis. One of these is the notion of the required payment of filings fees for access to justice, and the modes, methods, and considerations governing this aspect of the judicial process.

The Plaintiffs also preliminarily note that they have made a suggestion of recusal in their Motion for Fee Waiver, whether or not one even needed to be made, which was not addressed by the Magistrate Judge. The Amended Complaint specifically identifies individuals and organizations in which membership may be

[1] See generally http://www.ctmin.org/pdf/thecourtsystemandfreemasonry.pdf; as to the involvement of Freemasonry in the courts; Tupper Saussy, Rulers of Evil and Eric Jon Phelps, Vatican Assassins, as to the background and history of the Society of Jesus in American affairs, and http://pennsylvaniacivilrightslawnetwork.com/wp-content/uploads/2013/02/Ostrowski-Settlement-Demand-and-Manifesto-for-Liberty-and-Justice1.pdf, which is correspondence sent to the lawyer for the Administrative Office of Pennsylvania Courts, Michael Daley, and many other lawyers connected with the American System of justice, in connection with legal claims made by Ostrowski/PCRLN, and which attached many pages of documents, including one referencing said "Jesuit infiltration" into the courts. Ostrowski/PCRLN received no response to the latter disputing the assertions therein, and has seen no refutation of any of the former three references sufficient to negate there being a reasonable basis for all claims made in this litigation in regard to the referenced parties and claims.

expected to be had by many Middle District judicial personnel, names a Judge of the Third Circuit in the body of the Complaint, and indicates that this litigation will involve evidence concerning the litigation of many cases on the dockets of this Court. Plaintiffs do not intend to make a formal motion for the recusal of any jurist at this point, but suggest that each should evaluate their own ability to dispatch their judicial duties in this matter fairly and even-handedly given the foregoing, and the identity of the Plaintiffs, and others known to be associated with them. Some indication that this process was employed should, in good faith, be made, in order to preserve judicial integrity.[2]

Plaintiffs finally note footnote 1 of their June 6, 2017 Motion for Waiver of fees, and set it forth here again, in the margin[3], and suggest that Magistrate Judge

[2] Plaintiffs reserve the right to seek extraordinary relief in an appropriate court on this issue, as well.

[3] Plaintiff Ostrowski has, in the past, qualified to proceed in forma pauperis irrespective of 28 U.S.C. §1915, and submits that any form he filled out in the past has not changed in any material respect, and would qualify him for that status in this case, and there is no reason for any difference in treatment in this case. See Ostrowski v. DeAndrea, No. 3:14-cv-00429, footnote 2 of the January 31, 2017 Second Amended Complaint in that matter. Plaintiff Ostrowski further notes that he made a knowing and deliberate decision to not file a Brief in response to the renewed Motions to Dismiss to the Second Amended Complaint in the DeAndrea matter, because Plaintiffs believe the simplicity of that issue – his property was taken without due process of law, and his clearly protected First Amendment rights to engage in political activities were interfered with – was belied by the lengthy briefs and the opinions of the Court, which, Plaintiff submits, was subject to the same corrupt, dishonest, and/or just plain incompetent influences that have been raised in this litigation, which was being planned at the time the DeAndrea Brief was due, and that that case would just be another veritable litigation vortex when any federal judge who knows the first thing about constitutional rights and genuinely cares for the protections of the right of the individual should have permitted that case to go to discovery on the face of the original Complaint, and Amended Complaint. In other words, a strategic decision was made to simply not partake in what reasonably appeared to the Plaintiff to be part of the rigged game, as President Trump calls it, and the FBI is continuing to sit on an investigation into that matter, as well as the Luzerne County District Attorney, and Plaintiff Ostrowski has made direct inquiry of Lou Barletta about these matters, such that it is all on (sic) ongoing violation of his rights as long as no answers are received, and that case could be refiled at any time to add Mr. Barletta to the case, as well as all those others who have allowed that matter to linger for over three years with no one credibly disputing Plaintiff Ostrowski's original story in that case, which remains the undisputed truth of the matter, that is only going to continue to fester and grow. Plaintiff Ostrowski specifically asks Magistrate Sapporito (sic) and Judge Caputo if they know Lou Barletta personally, and whether there are any influences in that case that should have warranted either of their recusal, and, by extension, would warrant recusal in this case. Judge Caputo should direct inquiry to the FBI agent who investigated that

Saporito may have been motivated by retaliatory animus for these protected, and material, expressions of the Plaintiffs, in addition to suggesting possible, actual, conflict, and, at the very least, no excuse for not addressing the Plaintiff Ostrowski/PCRLN's past IFP status, and the Declaration submitted on June 20, 2017.

For all these, and the other reasons set forth below, this Court must reject the Report and Recommendation of the Magistrate Judge, and enter an appropriate Order on Plaintiffs' Motion for Fee Waiver.

ARGUMENT

No Filing Fees are Required

There has been a long tradition in the courts, preceding the enactment of the first *in forma pauperis* statute in this country in 1892, of courts requiring the payment of modest fees for litigants seeking access to justice. Plaintiffs cite to language in Crandall v. Nevada, 73 U.S. 35, 49 (1868), however, that suggests that free access to the courts must be afforded to all persons seeking such access, though Plaintiffs acknowledge that this was in no way the holding of the Crandall case. Plaintiffs have found no binding precedent to the contrary. i.e., that it is not a violation of the

matter, whose name is not currently recalled by Ostrowski, to disclose to Ostrowski and/or the Court the results of her interview with the person from whom the nominating petitions were taken, which is believed to have occurred, based upon a conversation Ostrowski had with that person. In other words, that matter is far from over, and Sean McDonough would be a potential Defendant, and criminal conspirator, as well, and this is how it will be addressed. This is one of the cases that is anecdotal proof of the contention set forth at paragraph 10 of the Amended Complaint/Declarations in this case.

right of access to the courts to require the payment of a filing fee, or that the fee waiver statutes, currently 28 U.S.C. §1915, are constitutional. Plaintiffs submit that they are not.

Indeed, in Chambers v. Baltimore and Ohio Railroad Co., 207 U.S. 142, 148 (1907), the Court said:

> The right to sue and defend in the courts is the alternative of force. In an organized society, it is the right conservative of all other rights, and lies at the foundation of orderly government. It is one of the highest and most essential privileges of citizenship, and must be allowed by each state to the citizens of all other states to the precise extent that it is allowed to its own citizens. Equality of treatment in this respect is not left to depend upon comity between the states, but is granted and protected by the federal Constitution.

Further, in Murdoch v. Pennsylvania, 319 U.S. 105 (1947), the Court stated that "[a] state may not impose a charge for the enjoyment of a right granted by the Federal Constitution."

These are rights, privileges, and immunities guaranteed and preserved by the United States Constitution, and there is no reason that these principles would not apply to access to the federal courts.

There may be many articulable rational reasons to require the payment of a filing fee, and even a long tradition of doing so, but none of these reasons, customs, or traditions are sufficient to overcome the God-given rights of man, and the ability of the government to regulate these affairs. See Murdoch. These rights are at the

very core of this litigation, and Plaintiffs assert that the requirement of payment of fees for their exercise is an unconstitutional impediment to their exercise.[4]

Plaintiffs submit that they should be permitted to proceed without the payment of any filing fee.

The Amount of the Current Filing Fee is Unconstitutional

In the alternative to their argument that the requirement of the payment of filing fees for access to justice is unconstitutional, Plaintiffs have raised an issue in their Motion that the amount of the fee, under 28 U.S.C. §1914 is an unconstitutional impediment to access to justice.

Over the past forty years, the amount of the filing fee to initiate federal civil litigation has increased from fifteen dollars to its current level of $350, now with the required payment of an additional $50 docketing fee, raising the cost of access to the federal courts for civil litigation to $400. This is a pace that has far surpassed the cost of inflation, and there appears to be no support in the history of the statute, as determined by the Plaintiff, for the justification for this extreme escalation in the amount of the fee required to gain access to justice in the federal courts.

Most of the cases dealing with the IFP statute are prisoner litigation cases, and the concerns expressed by the courts have related to the balancing of interests involved in providing access to prisoners, mostly raising issues concerning the

[4] Regulation of the abuse of these rights would be a separate analysis.

conditions of their confinement, and, in particular, issues concerning the dismissal of claims as to which IFP status has been granted as frivolous. See generally Neitzke v. Williams, 490 U.S. 319 (1989). Plaintiffs research has uncovered no cases that have squarely addressed the issue as to the constitutional limits on the amount of filing fees, and the point at which a payment of a modest fee for access to the federal courts crosses the line, and becomes an unconstitutional impediment, in and of itself, to access to the courts of the United States.

Plaintiffs have specifically raised this issue, and their argument that the current amount of the fee does just that. With the important principles embodied by the Chambers and Murdoch cases cited above, it is incumbent on the courts themselves, though a Congressional enactment, to weigh in on this issue.

Plaintiffs, through personal experience representing individuals seeking access to the courts, even represented individuals have anecdotal support that the current level of fees is an impediment to access to courts for those who may not otherwise qualify for IFP status, and Plaintiffs in this case have indicated that a more modest fee would be affordable, and assert that, in the context of their claims otherwise set forth, the extreme escalation of the amount of the filing fee over the years has had a deliberate effect of creating an impediment to access to justice for the vindication of the inherent, inalienable rights that represent the bond between man and his Creator.

Plaintiffs assert that the current filing fees and costs amounting to $400 is an unconstitutional impediment on their right of access to justice.

Discretion as to the Payment of Filing Fees

As referenced above, there is a custom and tradition of the payment of filing fees in the courts in America. This tradition and custom derives from the common law customs in England. E. Elizabeth Summers, *Proceeding In Forma Pauperis in Federal Courts: Can Corporations Be Poor Persons*, 62 California Law Review 2219 (1974). The matter of payment of filing fees was traditionally left to the discretion of the courts, being uniquely-suited to the evaluation of matters as to their access. Summers, pp, 221-225.

In the alternative to Plaintiffs argument that the requirement of the payment of filing fees for access to the courts is an unconstitutional impediment on their right of access to justice, and that the amount of the filing fee is an unconstitutional impediment on their right of access to justice in the federal courts, Plaintiffs' Motion raises arguments that proceeding strictly under the IFP statute, 28 U.S.C. §1915 deprives them of alternatives to the requirement of the payment of the full amount of the fees, or seeking alternative, discretionary relief therefrom, which the federal courts have the inherent power to employ.

Plaintiffs have suggested that they are able to pay a more modest fee for access to justice, if this Court determines that payment of this fee for the exercise of a

constitutional rights is proper at all, and even suggest that alternatives, such as payment in installments may be appropriate.

Indeed, the Bankruptcy courts, which are in the federal judicial system, specifically permit the payment of those fees in installments, and such arrangements are routinely granted. In the event that this Court determines that payment of any fee is not unconstitutional, and that the amount of the current fee is not an unconstitutional impediment to access to the courts, Plaintiffs submit that this Court's inherent discretion would permit an additional alternative arrangement, modelled on the practice before the Bankruptcy courts, that payment be permitted to be made in installments. There is no rational reason for the treatment of litigants in the District Courts of the United States any differently than those claiming the protection of the bankruptcy laws of the United States, even recognizing that the satisfaction of all installment payments of such fees in the Bankruptcy courts is a precondition to the entry of final relief under the bankruptcy laws, as there are similar conditions that a District Court could place on the satisfaction of the final payment of the full amount of the fee that could serve as a similar check.

Application of 28 U.S.C. §1915

The Magistrate Judge, for whatever reason (Plaintiffs suggesting for reasons that provide anecdotal evidentiary support for the claims set forth in their Amended Complaint, as alleged therein), chose only to address this matter as requiring it to

proceed in strict accordance with 28 U.S.C. §1915, with the language of that statute having become a significant and confusing departure from the original 1892 IFP statute, which originally applied only to "citizens", however that is defined, to then cover "persons", however that is defined, and now being replete with references to "prisoner[s]" throughout. While it may well be time for Congress to revisit these matters, in consideration of many of the arguments raised herein, the relief requested herein alternatively, beginning with the issue of the constitutionality of the requirement of the payment of any fees for access to justice, this Court can certainly give some precedential weight to these arguments by squarely addressing them, as being properly placed before the Court to do so, and not, as Magistrate Saporito did, by attempting to use discrediting language to make it appear that the Plaintiffs are raising "utterly meritless" issues, when they have not been completely discredited by any binding precedential authority, and are not utterly meritless, as much as it may enure to the public relations benefit of he or others seeking to discredit the Plaintiffs.[5]

[5] Plaintiffs are reminded of the comments of District Judge Brann in his Opinion on the motion to reopen disciplinary proceedings filed by Ostrowski/PCRLN, which was released within a day or so of his announcement of his run for the United States Congress in February, 2014 wherein Brann characterized many of the things that have been reported on by Ostrowski/PCRLN suggesting that Ostrowski/PCRLN has engaged in certain "fantastical prevarications", but never identified a single matter as to which such fantastical prevarications are alleged to have been made, with Ostrowski/PCRLN standing behind every single one of his statements of fact, including those made in the multi-page February 26, 2013 correspondence referenced in footnote 1, and on the www.pennsylvaniacivilrightslawnetowrk.com site which has gone to great factual lengths to support every statement made by Ostrowski/PCRLN. Incidentally, Plaintiff Ostrowski/PCRLN has communicated his demand that Judge Brann retract the "fantastical

In as pure an elevation of rom over substance in which one can engage, Magistrate Saporito completely neglected the substance placed squarely before him, consideration of which, let alone mention of which, was incumbent upon him to even perform the base "analysis" in which he engaged on the issue in which he then sua sponte, exceeded all jurisdiction and authority, and made a dispositive determination because he was looking for some form that only would contain all of the substance, including a past such form, that was already before him. If he did not want to do the job, or had something to hide, or some agenda he was serving, he should have just said so, and should say so now, because he just wasted a whole bunch more of Plaintiffs' time and resources, not to mention this Court's, and made the Plaintiffs' case compellingly stronger - maybe there is some wisdom to the three strikes rule beyond its use by Plaintiffs in this case.

Plaintiffs request that this Court consider their fourth alternative argument that, in the event that the Court determines that 28 U.S.C. §1915 is the only manner in which the Plaintiffs' Motion for Waiver of Fees can be addressed, over all of the objections and arguments expressed herein, Plaintiffs have submitted a Declaration concurrently herewith in accordance with that statute.

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prevarication" assertion, or engage in a proper dialogue about these matters, so that Ostrowski/PCRLN can correct his statements in any regards in which he has erred, which he most certainly would do, as he has endeavored to responsibly worked to preserve the integrity of the judiciary in this country throughout. Until that time comes, Ostrowski/PCRLN stands behind every such factual statement made, with all due conditions and limitations expressed.

CONCLUSION

Plaintiffs are entitled to full, good faith, judicial consideration of all the issues set forth in their Motion for Waiver of Fees, and respectfully request that this Court reject the July 24, 2017 Report and Recommendation of Magistrate Judge Saporito, and enter relief consistent with the foregoing, on the grounds/alternative grounds set forth herein.

Submitted by,

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Dated: August 8, 2017