Case No. 20-1023

THE SUPREME COURT OF THE UNITED STATES

Jean Coulter, Petitioner
v.
Tony Bagnato, et. al., Respondents

On Petition for Certiorari
to the Supreme Court of Pennsylvania

Petition for Writ of Certiorari

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This year will be remembered by the images of several major Natural Disasters - including the refrigerated trucks holding victims of COVID-19 as well as the orange glow of the skies of California from the massive wildfires. There are also tragic images of Man-Made Disasters, including Body-Cam videos of ***killings*** at the hands of Law Enforcement and of course the massive World-Wide Protests of such examples of Police Brutality.

Quickly though, attention shifted from exclusively the individual acts of brutality, to how the entire "system" has become so corrupt - as months ago, attention began being directed at local Prosecuting Attorneys and their role in the violation of Rights by members of the Justice System. Soon (perhaps with that same speed and intensity) the full-extent of the corruption of our Justice System will be exposed!

This case concerns the "Justice System's" promulgates an Unconstitutional Rule of Court - in order to shield members of the "Just Us System" from the civil repercussions of their entirely improper (and too frequently, criminal) activities – and the resulting Unconstitutional Order(s) directed against Coulter.

a. QUESTIONS PRESENTED

1. a. Is **Pa. R.C.P. Rule 233.1** Unconstitutional?
   b. Is **Pa. R.C.P. Rule 233.1** Unconstitutionally Vague?
3. Were Coulter's Due Process Rights violated?
4. Has pervasive bias (favoring "Justice System" defendants) resulted in the violation of Due Process in the Pennsylvania courts system-wide?

b. PARTIES IN THE LOWER COURT

Petitioner

Jean Coulter

Respondents

Philip A. Ignelzi,
Timothy P. O'Reilly,
Ronald W. Folino,
Tony Bagnato,
Jamie L. Lenzi,
Cipriani & Werner
and David N. Wecht

LIST OF PROCEEDINGS

Trial Court

Allegheny County Court of Common Pleas
No. GD-15-02176
Coulter vs. Bagnato et. al.
Judgment - Order filed December 17, 2015.[1]
(The Order Striking/Opening Default Judgment, was filed February 17, 2016 is the last order by the Trial Court – and why Coulter's requested Mandamus.)

Appellate Court – Petition for Mandamus

Supreme Court of Pennsylvania – Western District
No. 59 WM 2020
Coulter, J., Pet. v. Tony Bagnato, et al.
Denial of Mandamus July 31, 2020

1 This Order is interlocutory because of an existing Default Judgment against four (4) of the Defendants (filed on August 5, 2015), which, apparently the judge was unaware of.

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d. REPORTS OF OPINIONS AND ORDERS

There are no reports of Opinions or Orders, as the Trial Court has not yet produced a "Final Order" (because there are still Claims and Defendants remaining in the case). And, the state's highest court has again refused to consider any of the vital issues raised, as it is apparent that there is no desire to "examine" **Pa.R.C.P.Rule 233.1** since it is blatantly Unconstitutional.

I believe it is noteworthy that the decision denying Mandamus (from the state's highest court) also specifically directs the Prothonotary to remove the names of the Judicial Defendants from the docket, as, apparently to connect those individuals with this case would not be good for their reputations **outside** of the courthouse.

e. JURISDICTIONAL STATEMENT

All of the matters under consideration at this time were denied review by the Pennsylvania Supreme Court on July 31, 2020.

Jurisdiction in this Honorable Court is pursuant to **28 U.S. Code § 1257- State courts; certiorari :**

> (a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under

the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

f. CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES

Amendment XIV - Section 1, of the United States Constitution

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Amendment V of the United States Constitution

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Pa.R.C.P Rule 233.1. Frivolous Litigation. *Pro Se* Plaintiff. Motion to Dismiss.

(a) Upon the commencement of any action filed by a *pro se* plaintiff in the court of common pleas, a defendant may file a motion to dismiss the action on the basis that:

(1) the *pro se* plaintiff is alleging the same or related claims which the *pro se* plaintiff raised in a prior action against the same or related defendants, and

(2) these claims have already been resolved pursuant to a written settlement agreement or a court proceeding.

(b) The court may stay the action while the motion is pending.

(c) Upon granting the motion and dismissing the action, the court may bar the *pro se* plaintiff from pursuing additional *pro se* litigation against the same or related defendants raising the same or related claims without leave of court.

(d) The court may *sua sponte* dismiss an action that is filed in violation of a court order entered under subdivision (c).

(e) The provisions of this rule do not apply to actions under the rules of civil procedure governing family law actions.

Title 201, Chapter 7. Assignment of Judges

RULES OF JUDICIAL ADMINISTRATION

ASSIGNMENT AND TRANSFER OF JUDGES

Rule 701. Assignment of judges to courts.

(E) Regional Administrative Units.

(2) In cases where a judge has disqualified him or herself for any of the reasons specified in Rule 2.11 of the Code of Judicial Conduct or Rule 2.11 of

the Rules Governing Standards of Conduct of Magisterial District Judges, the assignment of another judge to the case shall be made through the Administrative Office. In other instances of recusal, the assignment may be made through the Regional Unit, but in no case shall a recusing judge select his or her replacement.

g. CONCISE STATEMENT OF THE CASE

This case involves the application of a Rule of Court, Pa.R.C.P. 233.1 (which applies exclusively to Pro Se Plaintiffs), and results in the "modification" of the standards for dismissal of the Civil Complaint – permitting the matter to be dismissed if the Trial Court determines that the Parties and Claims are "related" in some manner to an earlier case – rather than applying the standards of *res juricata* and collateral estopple (which still must be applied to cases where the Plaintiff is represented by counsel).

Events Leading up to the Filing of the Complaint

This case apparently began when Coulter's case against the Allegheny County Bar Association ("ACBA") was filed – after the ACBA panel heard Mediation involving Coulter and her former attorney. At the completion of the hearing, the Panel issued a decision for Arbitration despite the fact that Coulter had only agreed to Mediation and there was no contract between the Parties which required Arbitration.

When Coulter filed the Complaint in that prior matter, Coulter knew nothing of the steps being taken "behind the scenes" (in that earlier case) until

the point when the Motions Judge (Sr. Judge Wettick) inexplicably agreed to order that Preliminary Objections quickly be scheduled to be heard on Coulter's Complaint against the attorney who had brought Coulter to the ACBC Panel.

Proceedings in the State Court

Coulter eventually learned that Respondent Ignelzi (a judge in the county court's criminal division) had arranged to be very briefly (for just 5 days) (**147a.**) scheduled to the Civil Division - exclusively so that Ignelzi could hear civil motions. And it is clear that Ignelzi did so specifically to assure that he would hear Coulter's case involving the mediation at the ACBA. When Coulter learned of Ignelzi's lengthy and deep connection with the ACBA, she requested Recusal. Ignelzi agreed to recuse, but first, Ignelzi (in a *hand-written* Order (**71a.**)) personally Ordering :

> "... The argument is continued to Feb 8th 2013 at 11:15am before the Motions Judge Courtroom #817 City County Bldg. ... [Lenzi] shall send a copy of the Order forthwith to all parties."

That Order was written to require that the matter be heard exclusively by Respondent O'Reilly (a retired judge who periodically served as a "senior judge" in the county's court) would be hearing motions, as Judge Wettick was also hearing Motions (as Wettick did every Friday) a couple of doors down the hall on that same day and time. This assignment by Ignelzi directly violates State Statutes/Rules (**97a. – 98a.**)

Coulter argued during the hearing for the case against the ACBA, that O'Reilly had been improperly assigned and lacked subject-matter jurisdiction – and therefore must recuse. O'Reilly flatly refused

and described O'Reilly's discussions with a jurist from the state's appellate court, explaining that O'Reilly was now anxious to begin his adjudication of Coulter's case.

During that proceeding, O'Reilly allowed other cases filed by Coulter to also be presented, despite Defendants' Counsel admitting their complete failure to provide <u>any</u> form of notice of presentation to Coulter – and before Coulter was permitted to take any steps to meaningfully defend her position, O'Reilly bellowed out :

> "It's true that this Court if for Justice, but it is also for finality. YOU ARE GETTING FINALITY! It's over. Put it behind you." (The second sentence (in caps) was spoken in increased volume and with significant emphasis in tone.) **(93a.)**

(The hearing was never recorded in any manner, however, Coulter's account has never been disputed by any of the Parties or Court Officers or employees.)

During that hearing (and one held the next week), O'Reilly dismissed every case filed by Coulter in the state courts, as violative of **Pa.R.C.P. Rule 233.1** ("**Rule 233.1**") - **despite the fact that <u>all</u> of the cases had been transferred from the federal court** (after the "determination" that Coulter was a citizen of Pennsylvania and thus the federal court lacked subject-matter jurisdiction because there was no Diversity of the parties). Coulter appealed without success.

<u>Procedural History</u>

Coulter filed the Instant Matter in the state court, and after a full-bench recusal, Senior Judge Reed was assigned (apparently) through the appropriately authorized procedures.

After Senior Judge Reed reviewed Defendants' filings, he determined that he should personally undertake an investigation to find any/all other case(s) which Coulter may have filed at some point :

> "This Court found it necessary to review Plaintiff Coulter's approximately two dozen prior lawsuits in order to determine if there was any interconnectedness of her numerous lawsuits. i.e. "related parties" and "related claims" **(11a.)**

While some of the cases reviewed and cited by Sr. Judge Reed were among those cited in Defendants' filings in this matter, not all of them were. And, in this manner the Trial Court purposefully chose to violate Coulter's Right to Due Process. **(101a.)** Despite Coulter's Argument that "The doctrine of Judicial Notice cannot be invoked to cover evidentiary gaps of a party who has failed to meet a burden of proof', the Trial Court refused to recuse.

The **retired** Senior Judge spent more than six (6) months (from June 10, 2015 to December 17, 2015), **back on the state's payroll**, independently researching and fabricating a basis for dismissal. The result was a "Daisy Chain" **(33a.)** that the Trial Court claims proves that the Claims are related – and essentially **determines that every judge is "related to" every other judge, as well as every attorney - and every member of law enforcement and all attorneys are related to all judges as well as all members of law enforcement - and vise versa** (as Rule **233.1** requires that the Parties as well as the claims, be simply "related") :

> "... Each case filed by Coulter related to either her criminal proceedings or the dependency

and termination of parental rights proceedings. Each case filed by Coulter named as defendants individuals and agencies involved in either her criminal proceedings or the dependency and termination of parental rights proceedings. All of these cases and their progeny have been decided adversely to Coulter.

Clearly, however, the Superior Court agreed with Sr. Judge O'Reilly that all of the cases subject to his Dismissal Order involved "related parties" and "related actions." ..."

Thus the Trial Court's decision essentially says, each case involved events that were related to some other court case, and each of the defendants in those cases were somehow involved with every defendant in one or the other of those court cases – so the Parties and Claims must be "related". (**36a.**)

The Point at Which the Federal Issues Were First Raised in the State Courts

For all of these issues, the state's highest court has been notified, in the Petition for Allowance of Appeal that I filed recently in another matter – in which the Trial Court in a civil action involving damages to a home (owned jointly with my sister) was dismissed pursuant to the identical order which forms the basis for this Petition for Certiorari (**113a.**):

"... Pursuant to the Order of Court ... December 17, 2015, entered ... at Docket No. GD-15-002176 ..."

despite the fact that when that Trial Court *sua sponte* mentioned the Order, Coulter explained that by its own terms it does not apply as it does not

apply to matters pending at that time (and the case against the neighbors had been filed several months earlier). It is easy to see the similarity between this Petition and the state court filing (in the appendix beginning at (**113a.**)), as the argument portion of that petition in the state court, is essentially an earlier draft of the argument presented here.

The point at which the state courts had *direct* notification of the issues

1. The federal question involving the **Unconstitutionality of Rule 233.1** was raised in the Trial Court in Coulter's Motion for Reconsideration. In the Trial Court's decision the Trial Court merely stated that the state's highest court had promulgated the rule, and thus the Trial Court would not consider questioning it. (**4a. - 5a.**)

> "**Rule 233.1 violates the Pennsylvania – as it obviously abriges and/or modifies Coulter's Right to access the courts to settle disputes. ...** Without substantial legal authority, this Court is not inclined to determine that the actions of the Pennsylvania Supreme Court are unconstitutional."

The state's highest court was made aware of Coulter's argument that **Rule 233.1** is unconstitutional, when the Trial Court acknowledged that Coulter continued to fight the application of **Rule 233.1** and that acknowledgment was part of the exhibits to the Petition for Writ of Mandamus (**108a. - 110a.**) Because Mandamus was denied, the state's highest court passed on considering this issue.

2. The specific federal issue of the **"unconstitutionally vague"** wording of **Rule 233.1**

is was raised in Coulter's Renewed Motion for Special Relief (**102a.**) in paragraph 4.

3. The violation of **Due Process** was also in this Renewed Motion for Special Relief : "... without permitting Coulter to protect her Right to Due Process...". (**103a.**)

The state's highest court

> "... That Order of December 23, 2015, was undoubtedly the most blatant example of judicial bias resulting from the use of Extra-Judicial information by any judge in any jurisdiction! Further, it is readily apparent that the Trial Court's Order of December 23, 2015, was produced as the result of "considerations" provided to that Senior Judge ..." (**107a.**)

4. The issue of Pervasive bias was presented to the state's highest court in Coulter's Petition for Writ of Mandamus (**105a.**) :

> "Mandamus is required as the Clerk of Civil Records in Allegheny County has refused to issue a second Default Judgment against the Defendants - without support by any judicial officer. Thus, Coulter's Right to obtain Default Judgment against these Defendants has been denied, and Coulter has been unable to have her claims against these same Defendants, yet again." (**107a.**)
>
> ...
>
> It is further believed that all of the involved Jurists, as well as the Allegheny County Civil Records Clerk have continued to act in this manner, in order to assure that the obviously criminal actions by so many of the jurists in Pennsylvania will be concealed from the eyes

of the Public, the Media, and Jurists from other Regions of the State and the Country – as well as the World.

This issue was also passed on by the state's highest court.

(h) Argument

1. Pa. R.C.P. Rule 233.1 violates the Constitution of the United States as it violates the restrictions placed on the rule-making authority of the Pennsylvania Supreme Court, as found in the Constitution of Pennsylvania, and thereby violates the guarantees of Equal Protection and Due Process in the United States Constitution - as Pa. R.C.P. Rule 233.1 restricts access to the courts by causing Civil Complaints filed by Coulter (and all other Pro Se Plaintiffs) to be adjudicated differently/ more expansively than Civil Complaints filed by Plaintiff(s) represented by licensed counsel.

There is no dispute that **Pa. R.C.P. Rule 233.1** ("**Rule 233.1**") changes Pro Se Litigants' access to the Pennsylvania courts and even the state's lower appellate court acknowledges that it alters the manner in which the judge who is hearing the case can determine if the matter will be dismissed. This is because the judge is permitted to dismiss a Pro Se Complaint based exclusively upon a determination that Parties and Claims are somehow "related" to those in some prior matter - rather than on the basis of res judicata and collateral estopple. This fact has even been publicly extolled by the Pennsylvania Superior Court (the lower appellate

court), in the Pennsylvania Precedential case **Gray v. Buonopane**:

> "... Contrary to Gray's suggestion, neither the language of the Rule nor the explanatory comment mandate the technical identity of parties or claims imposed by res judicata or collateral estoppel; rather, ***it merely requires that the parties and the claims raised in the current action be "related" to those in the prior action and that those prior claims have been "resolved."*** Pa.R.C.P. 233.1(a). These two terms are noteworthy in their omission of the technical precision otherwise associated with claim and issue preclusion; ***whereas parties and/or claims are to be "identical" under the purview of those doctrines***, Rule 233.1 requires only that they be sufficiently related to inform the trial court, in the exercise of its discretion, whether the plaintiff's claim has in fact been considered and "resolved." The drafting committee's recourse to the word "resolved" in this context is equally significant. In the Rule's requirement that the matter have been "resolved pursuant to a written settlement agreement or a court proceeding," the language assures that the pro se litigant is availed of a chance to address his claim subject to the contractual guarantee of a settlement agreement or to the procedural safeguards that attend a court proceeding. It does not require, however, that the matter has progressed to a "final judgment on the merits," *Columbia Medical Group, Inc.*, 829 A.2d at 1190, nor does it require the "identify of the

quality or capacity in the persons for or against whom the claim is made[,]" Daley, 37 A.3d at 1189-90. ..." (**62a.**) (***emphasis added***)

Summary of the Argument

The Pennsylvania Constitution clearly requires that Coulter have access to the courts : "All courts shall be open; and every man for an injury done him ... shall have remedy by due course of law..." :

"CONSTITUTION
of the
COMMONWEALTH OF PENNSYLVANIA
Article I
DECLARATION OF RIGHTS

That the general, great and essential principles of liberty and free government may be recognized and unalterably established, WE DECLARE THAT –

...

§ 11. Courts to be open; suits against the Commonwealth. All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct. (**45a.**)

And, while the Pennsylvania Constitution permits the Pennsylvania Supreme Court to "prescribe general rules governing practice, procedure and the conduct of all courts", those rules must comply with

the restriction that the rules proscribed by the Supreme Court : "neither abridge, enlarge nor modify the substantive rights of any litigant" :

"ARTICLE V
THE JUDICIARY

§ 10. Judicial administration.

... I The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts ... ***if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant***, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. ..." (***emphasis added***) **(47a.)**

It is readily apparent that Coulter's Right to access to the courts (like that of all Pro Se Plaintiff's) has, at the very least, been **modified** by **Rule 233.1**. It is also readily seen that the limitations on Coulter's filings are imposed simply based on the single fact that Coulter is not represented by Counsel. **Rule 233.1**'s differing (and significantly more severe) treatment of Coulter is based exclusively on the fact that **Rule 233.1 permits a judge to rule on Coulter's Civil Complaint based on a different set of rules**, simply because Coulter is part a "class" of litigants who are not represented by Counsel. So, if it is determined that Coulter's Right to access has not restricted to exclusively procedural modifications, then the restrictions placed on all Pro Se Plaintiffs (including

Coulter) violates the restrictions on the Rule, as clearly stated in the Pennsylvania Constitution.

Argument- **Rule 233.1** violates the restrictions on the rule making authority of the Pennsylvania Supreme Court

In **Section § 10. Judicial administration**, the **Pennsylvania Constitution** specifically prohibits any rule/rules to even "modify" Coulter's substantive rights – and the specific wording of Pennsylvania **Rule 233.1** appears to be "borrowed" directly from **28 U.S.C. §2072** which defines the limits on this court's powers using the identical wording as is used in the Pennsylvania Constitution :

> "**28 U.S. Code § 2072. Rules of procedure and evidence; power to prescribe**
> (a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.
> (b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. ..."

And just like **§2072**, the authority for the Pennsylvania Supreme Court to promulgate **Rule 233.1** or any other Rule of Court, requires that the rule must comply with restrictions of **§ 10. Judicial administration**, of **Pennsylvania's Constitution**. **Section 10** requires that the Pennsylvania Supreme

Court is also authorized only to prescribe general rules which : "...neither abridge, enlarge nor modify the substantive rights of any litigant".

As both this court and the Pennsylvania Supreme Court are bound by the identically worded restrictions on the court's promulgation of rules (with respect to that rule's affects on the litigants rights), it should be reasonable to look at this court's decision with respect to this courts authority to promulgate rules – as there exists absolutely no Case Law regarding the Pennsylvania Supreme Court's authority with respect to Pennsylvania **Rule 233.1**, simply because the PA Supreme Court has refused to ever permit such a consideration to occur, as the state's highest court has discretionary review.

Decisions as related to 28 U.S.C. §2072

Decisions by this court, with respect to 28 U.S.C. §2072, explain that a procedural rule may affect substantive rights, but that rule is only valid when/if it only merely incidentally affects the person's substantive rights.

28 U.S.C. §2072, also referred to as the "Rules Enabling Act" authorize this court to create its own procedural rules. However, this court's authority in declaring those rules is not unlimited (just as the state court's authority is also limited), as **28 U.S.C. §2072** require that :

> Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

Because the Pennsylvania Constitution utilizes the identical wording as is used by **28 U.S.C. §2072**, it is believed that the rule-making authority of the

Pennsylvania Supreme Court is restricted in a manner similar to that with which this court is restricted – so examination of the determinations with respect to **28 U.S.C. §2072**, should provide guidance for this court's determination.

As this court determined in Shady Grove Orthopedic Associates v. Allstate Ins., 559 US 393 - **Supreme Court 2010,** citing **Mississippi Pub. Corp. v. Murphree**, 326 U. S. 438, this court explains what is meant by the wording of **28 U.S. Code § 2072 :**

> "... The test is not whether the Rule affects a litigant's substantive rights; most procedural rules do. *Mississippi Publishing Corp. v. Murphree*, 326 U.S. 438, 445, 66 S.Ct. 242, 90 L.Ed. 185 (1946). What matters is what the Rule itself regulates: **If it governs only "the manner and the means" by which the litigants' rights are "enforced," it is valid; if it alters "the rules of decision by which [the] court will adjudicate [those] rights," it is not. *Id.* at 446, 66 S.Ct. 242** (internal quotation marks omitted). ..." (**emphasis added**)

In the Instant Matter, the Trial Court, acting *sua sponte,* undertook an extensive research of cases filed by Coulter, and after determining that Coulter's Complaint did not violate **Rule 233.1** with respect to the cases advances by Defendants "

> " It is not alleged that Coulter is suing the "same defendants" in the above-captioned action. Coulter has never previously filed suit against the Defendants Bagnato, Folino,

Lenzi, . Cipriani & Werner, Ignalzi, O'Reilly, or Wecht.

There is some dispute whether Coulter is alleging the "same claims" raised in prior actions because in several of Coulter's prior actions, she has also claimed that the defendants therein "conspired to deprive Coulter of her rights, breach of contract, fraud, etc." However, the basis of Coulter's claims of "breach of contract, fraud, etc." are alleged to have arisen through the conduct of those defendants named in those prior law Suits, not the conduct of the Defendants herein. Therefore, a strict construction of the "prior claims" provision would lead to the conclusion that the claims raised in the above-captioned action are not the same claims raised in these prior cases.

Since they are not the "same defendants" nor the "same claims," Coulter's instant action is not "frivolous" under Rule 233.1(a) — unless the Defendants herein are "related defendants" and the claims herein are "related claims" as argued by Defendants.

...

It is obvious that Coulter has created a "daisy chain," each link being represented by another lawsuit wherein that link references a prior lawsuit, i.e. a previous link.

...

In this manner, Coulter has fashioned and tied together an elaborate chain of events, ... She has construed the conduct of virtually everyone who has had any role in her

numerous cases as evidence of a common design and conspiracy to cause her injury. ..." (***emphasis added***) **(36a.)**

Indeed, by the Trial Court's own logic and expressions, "Since they are not the "same defendants" nor the "same claims," Coulter's instant action is not "frivolous" under Rule 233.1(a) — unless the Defendants herein are "related defendants" and the claims herein are "related claims" as argued by Defendants.", and it is upon the basis of the Trial Court's own determination of the existence of a "**daisy chain" "relating" the various parties and claims, which provides the Trial Court's support for a determination that Rule 233.1 applies** and therefore Coulter's Civil Complaints could be dismissed pursuant to **Rule 233.1**.

It is readily apparent however, that the Trial Court would never have been able to "justify" the dismissal of Coulter's Civil Complaint, had it not been for the fact that **Rule 233.1** "**alters "the rules of decision by which [the] court will adjudicate**" – which means that **Rule 233.1** violates the restrictions as have been determined by this court for **28 U.S.C. §2072**, as well as those imposed on the rule-making authority of the Pennsylvania Supreme Court by the Pennsylvania Constitution

Once it has been determined that Pennsylvania Rule 233.1 violates the Constitution of Pennsylvania by Unconstitutionally altering a Pro Se Litigant's access to the courts, it must be found that Rule 233.1 also violates the United States Constitution.

The United States Supreme Court decision in **Ross v. Moffitt**, 417 US 600 – Supreme Court 1974 has determined that, pursuant to the requirements of the **14th Amendment to the Constitution of the United States** – that the state acts unconstitutionally, when the state treats the members of two group differently and the differing treatment results in lesser rights being afforded to the members of one of those groups:

> "Language invoking equal protection notions is prominent both in Douglas and in other cases treating the rights of indigents on appeal. The Court in Douglas, for example, stated :
>
> > "[W]here the merits of the one and only appeal an indigent has as of right are decided without benefit of counsel, we think an unconstitutional line has been drawn between rich and poor." 372 U. S., at 357. (Emphasis in original.)
>
> The Court in Burns v. Ohio, stated the issue in the following terms :
>
> > "[O]nce the State chooses to establish appellate review in criminal cases, it may not foreclose indigents from access to any phase of that procedure because of their poverty." 360 U.S., at 257.
>
> ... The Fourteenth Amendment "does not require absolute equality or precisely equal advantages," San Antonio Independent School District v. Rodriguez, 411 U. S. 1, 24 (1973), ... It does require that the state appellate system be "free of unreasoned distinctions," Rinaldi v. Yeager, 384 U. S. 305, 310 (1966), and ... have an adequate opportunity to present their

claims fairly within the adversary system. Griffin v. Illinois, supra; Draper v. Washington, 372 U. S. 487 (1963)... "

In the Instant Matter, the "unconstitutional line" that is drawn between groups, concerns those represented by counsel and those presenting their cases pro se, which in many cases, is identical to the line being drawn between rich and poor - or perhaps more frequently, between those seeking "justice" from members of the "Justice System" and those seeking recovery from one of their fellow "civilians".

Thus, it seems obvious that **Rule 233.1** violates both the Equal Protection and the Due Process Clauses of the United States Constitution through its application of different state rules upon different classes of litigants – particularly when one looks back at that this court's determinations in **Ross v. Moffitt**, which makes the connection between the **Fourteenth Amendment** and the basic concept that the Law should not be based on "unreasoned distinctions" as they ultimately result in inequitable treatment :

> "... The Fourteenth Amendment "does not require absolute equality or precisely equal advantages," San Antonio Independent School District v. Rodriguez, 411 U. S. 1, 24 (1973), ... It does require that the state appellate system be "free of unreasoned distinctions, ..."

Further, Due Process is required in Civil Matters just as it is in Criminal Matters. Any situation where one's Property or Rights may be affected, requires Procedural Due Process, as explained in **Baldwin v. Hale**, 68 US 223 - Supreme Court 1864 :

"Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified. Common justice requires that no man shall be condemned in his person or property without notice and an opportunity to make his defence. *Nations et al. v. Johnson et al., 24 How., 203; Boswell's Lessee v. Otis et al., 9 How., 350; Oakley v. Aspinwall, 4 Comst., 514.* ..."

Because Pro Se Plaintiffs are not permitted to have equal access to the state courts by **Rule 233.1**, the Right of Due Process under the United States Constitution are violated because **Pa.R.C.P. Rule 233.1 unconstitutionally restricts Coulter's access to the courts – in violation of the Constitution of the United States!**

2. Rule 233.1 violates both the United States Constitution as well as the Pennsylvania Constitution and is unconstitutional because the wording of Rule 233.1 is unconstitutionally vague.

This court has explained that "an enactment is void for vagueness if its prohibitions are not clearly defined, in Grayned v. City of Rockford, 408 US 104 – Supreme Court 1972 :

"... A. Vagueness

It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, ... we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may

act accordingly. ... A vague law impermissibly delegates 109*109 basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.[5] Third, but related, **where a vague statute "abut[s] upon** sensitive areas ... **"[6] it "operates to inhibit the exercise of [those] freedoms** ..."

Indeed, the decision by the Pennsylvania Superior Court in Gray v. Buonopane, 53 A. 3d 829 – Pa: Superior Court 2012 recognizes the inherent "vagueness" of the Rule's wording, and even highlights that characteristic in the decision :

"... Pa.R.C.P. 233.1 Comment.
Contrary to Gray's suggestion, ***neither the language of the Rule nor the explanatory comment mandate the technical identity of parties or claims imposed by res judicata or collateral estoppel; rather, it merely requires that the parties and the claims raised in the current action be "related" to those in the prior action and that those prior claims have been "resolved." Pa.R.C.P. 233.1(a).*** These two terms are noteworthy in their omission of the technical precision otherwise associated with claim and issue preclusion; whereas parties and/or claims are to be "identical" under the purview of those doctrines, Rule 233.1 requires only that they be sufficiently related to inform the trial court, in the exercise of its

discretion, whether the plaintiff's claim has in fact been considered and "resolved." ..." (***emphasis added***)

Previously, This Court has seen in matters presented by Coulter that the lower courts have determined that each and every judge is "related" to every other judge – as well as being "related" to every "Attorney", and every member of "Law Enforcement" to – and that Attorneys and members of Law Enforcement are also related to those in both of the other "groups" also, are related to each other. However, similar cases which are not subject to **Rule 233.1** are only dismiss-able when the defendants are identical and the claims are also identical – pursuant to Res Judicata and Collateral Estopple. Thus, had **Rule 233.1** not been applied in the Instant Matter, Coulter's Complaints could not have been dismissed and this is simply possible because of the vagueness inherent in the carefully chosen wording of Pennsylvania's **Rule 233.1.**

Due Process is required in Civil Matters just as it is in Criminal Matters. Any situation where one's Property or Rights may be affected, requires Procedural Due Process, as explained in **Baldwin v. Hale**, 68 US 223 - Supreme Court 1864 :

"Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified. Common justice requires that no man shall be condemned in his person or property without notice and an opportunity to make his defence. *Nations et al. v. Johnson et al., 24 How., 203; Boswell's Lessee v. Otis et al., 9 How., 350; Oakley v. Aspinwall, 4 Comst., 514.* ..."

As explained by **In re Disciplinary Proceeding Against Haley**, 126 P. 3d 1262 - Wash: Supreme Court 2006 :

> "statute, rule, regulation, or order is fatally vague only when it exposes a potential actor to some risk or detriment without giving fair warning of the nature of the proscribed conduct"); see also In re Ruffalo, 390 U.S. 544, 552, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968) (holding that, in state disbarment proceeding, "absence of fair notice as to the reach of the grievance procedure" violated attorney's due process rights"

Because of the Unconstitutionally vague wording of **Pa. R.C.P. Rule 233.1,** determinations cannot be reasonably expected to be applied uniformly as each jurist must make significant interpretations which may well differ from jurist to jurist and case to case. Therefore, the unconstitutionally vague wording of Rule 233.1, results in inequitable application of the Rule as its enforcement is inconsistent, at best – simply because the wording of the Rule does not make it clear what the limitations on its application are intended to be – and **Rule 233.1 must be determined to be unconstitutionally vague and therefore void!**

3. Pervasive Bias within the Pennsylvania Courts System-Wide, makes it essentially impossible for any Plaintiff to successfully recover from a defendant or defendants, if any one of those defendants are members of the "Justice System" (employed as judges, attorneys, members of law enforcement) or

associated in some manner with one or more of these groups.

Although there is no shortage of Case Law on the issue of Pervasive Bias, essentially every decision determines that there is not sufficient evidence in that particular matter, for The Court to recognize this exception to the Extrajudicial Source Doctrine. In this case though, there is clearly more than enough evidence to prove not merely bias against Coulter personally, but also that the evidence conclusively shows that in Pennsylvania's Courts, a judge's bias against a Pro Se Litigant is not merely "accepted", it is actually encouraged – especially when one or more of the Defendants are members of the Justice System.

1. There is clear evidence of bias by Defendant/Respondent Ignelzi despite Ignelzi having no knowledge of Coulter (beyond the fact that she had filed suit against the ACBA)[2]

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2 Coulter's attorney had arranged for their "fee dispute" to be heard by a Panel at the ACBA. Even before the date of the Hearing, Coulter repeatedly explained to ACBA's employee in charge of the Fee Dispute Committee - that the written agreement with her attorney (which did contain an Arbitration Clause), had expired, by its own terms, following the "investigative" period which Mahood required in order to decide whether he could accept the case as it was already well underway when they first met – and that Coulter absolutely refused to take part in Arbitration :

> "...In the event that we determine to represent Ms.Coulter after our consultation as above described, we will do so by separate letter and retainer at that time. ... " **(107a.)**

However, there was never an agreement signed to replace the one exclusively for the "investigation" period and there was never an Oral Agreement for Coulter and her attorney to

Evidence of the extreme and Pervasive Bias against all Pro Se Plaintiff's exist in every level of the Pennsylvania courts. In the Trial Court, Judge Ignelzi, who is assigned to the Criminal Division, chose to accept a (very short-termed) assignment to the Civil Division – for 5 days, with the obvious intent of assuring that Coulter's case against the ACBA would be dismissed instantaneously so that the wrong-doings of both Coulter's attorney and the ACBA could be swept under the rug! Coulter and Ignelzi have never met, and as Ignelzi was assigned exclusively to the Criminal Division, it is highly unlikely that Ignelzi ever heard of Coulter and certainly Ignelzi had no way of knowing that the suit against the ACBA was not the first Civil Complaint that Coulter had ever filed. **Still though, Ignelzi was willing to become part of what is likely a criminal act, to assure that Coulter's Right to Due Process was violated "Under the Color of Law".**

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continue the terms of the old agreement. Indeed, as the result of **secret** conversations with the Judge in Butler County (which Coulter did not learn of until shortly before the Parties went before the ACBA Panel Mahood had intentionally concealed many facts from Coulter. Mahood had asked Coulter to agree that he would conceal all information (ostensibly because he was concerned that their written communications might be left lying around for some unidentified others to read). When Coulter refused, Mahood apparently chose to not provide a written agreement at all - as without Coulter's agreement (that she be kept entitely in the dark), **Mahood clearly would be violating either his Contract with Coulter or his secret agreement with the Judge in Butler County.**

When, near the end of the hearing, the Panel asked Mahood why he had kept Coulter in the dark for so long, Mahood responded saying only that in retrospect he no longer believed that his decision to do so was the right one.

2. There is clear evidence of bias by Defendant/Respondent Bagnota, who refused to file Coulter's Preliminary Objections based on Questions of Fact, thus allowing the Defendants in her case(s) to be heard that very day – rather than requiring rescheduling (as is absolutely required by Local Rule). (76a.)

Indeed, Bagnato, the "Motions Clerk" expressed clear bias, stating that he Bagnato **was certain that Coulter's Preliminary Objections were untruthful** (76a.) – and Bagnato absolutely refused to file Coulter's document. This bias was clearly expressed – and proves blatantly open bias toward a Plaintiff unknown to Bagnato (to the extent that Bagnato refused to even perform the responsibilities of his job). And Bagnato was refusing to do his job, despite the fact that Bagnato and Coulter had never before met, and as the Motions Clerk, Bagnato would have had no personal knowledge of Coulter as Coulter had never even had paperwork go through his hands. (This is simply because Coulter, like literally everyone else, chose (whenever possible) to attend exclusively Judge Wettick's Motions Court (which was held every Friday) as Judge Wettick had a reputation for well reasoned and fair decisions – and Bagnato had nothing to do with matters heard by Judge Wettick each week. (Judge Wettick was so well thought of that only Judge Wettick (among all of the Senior Judges) had a sizeable staff assigned exclusively to Judge Wettick, for every task that Bagnato could possibly perform).

It is therefore likely that Bagnato either accidentally overheard some of the County Judges

discussing the matter – or perhaps more likely that he was directly requested to become a participant in the likely criminal actions taken against Coulter during Motions Court. Either way, it is apparent that Bagnato was merely "echoing" the opinions of members of the county court – and is evidence of Pervasive Bias.

3. There is evidence of Pervasive Bias of Sr. Judge Wettick, and his understanding of the true intentions behind Rule 233.1 – and displays the fact that even such a learned and trusted jurist is willing to ignore his education and his principles to protect one of his Brethren.

In 2012, Senior Judge Wettick heard a matter involving the Carnegie Library of Pittsburgh (the City of Pittsburgh's public library system) and Thomas Crock. (**148a.**) The text of the appeal explains that Crock had been barred from the Carnegie Libraries in 2008. At that time Crock received a letter from the Carnegie Libraries that, because of his behavior, he was being banned for a period of one year – and what Mr. Crock would be required to do in order to have his access reinstated. The letter explained that if Mr.Crock wished to be permitted to use the libraries again, that Mr. Crock must make a written request to the library and the a meeting to discuss the libraries rules, and their expectations of him. And, Mr. Crock filed a Civil Suit (AR-10-000826), for damages caused by the restrictions on his use of the library. Mr. Cross lost that case.

At a point in 2012, Mr. Crock decided to return to the library without following the requirements placed on his use – as was explained to

him in 2008. And, upon again being barred from using the library, Mr. Crock filed suit. And, again, Mr. Crock attempted to sue the library system. (AR-12-2843) PA Superior Court appeal 1564 WDA 2012. **(153a.)** Judge Wettick's Decision in the matter explains that **Rule 233.1** does not apply because the claims presented in the second case, are different from those in the first. There is no lengthy discussion, just an acknowledgment that when the events occurred a couple of years apart, and concerned a second refusal to permit Crock to utilize the library – with this time being because Crock refused to comply with the requirement that he meet with library staff, while the first time was because Crock's behaviors inside the library were disruptive :

> " I am denying the request to dismiss pursuant to Rule 233.1.
>
> In the previous case (*Crock v. Carnegie Library*, AR-10-000826), Mr. Crock sought damages based on a decision of the Library, contained in a letter to plaintiff, banning him from Carnegie Library for a year.
>
> In the present case, he seeks monetary damages based on activities occurring after the conclusion of the one-year ban.
>
> Rule 233.1 does not apply. Plaintiff is not raising the same or related claims which he raised in the prior action." **(172a.)**

However, in Coulter's case, the Senior Judge determined that various injuries caused by various people under two different sets of circumstances are somehow "related", but only to the extent that the then Instant Matter concerns "claims arising out of" two cases in other divisions of the court – and Coulter had previously had those cases dismissed.

Clearly, Crock's two cases both concerned the library refusing to permit Crock to enter – yet the Senior Judge (properly) determined that the claims would not qualify for dismissal under the conditions applied when the plaintiff is represented by Counsel.

Thus, it is readily apparent that when the defendants are part of the Just Us System (as the claims arose out events which occurred during a prior court case rather than events which occurred during a visit to the library) **the Senior Judge's bias (in favor of the members of the Just Us System), resulted in a decision that just as clearly states the same sentiment that Sr. Judge O'Reilly stated in open court :**

> **"It's true that the courts are for Justice but they are also for Finality. YOU ARE GETTING FINALITY! It's over, put it behind you." (93a.)**

when Defendant O'Reilly bellowed his preference for "loyalty" over truth and justice and duty. (see also page 6 of this document)

4. And, the extreme bias evidenced in the appellate courts of Pennsylvania is no less blatant and no less extreme!

Indeed, the bias displayed by the En Banc Superior Court decision is so extreme that the En Banc Court has taken steps which clearly cross the line between actions taken under the Authority of Law and those taken Under the Color of Law!

In an earlier case in the Pennsylvania Superior Court, the Panel dismissed Coulter's appeal entirely improperly, and then relinquished jurisdiction (in order to permit the Trial Court to

require that Coulter pay the Defendant's (an attorney's) legal expenses for the appeal.

However, following the docketing of the dismissal (and remand to the Trial Court), there is another anonymous Order which requires that Coulter request permission to file Notice of Appeal, or face potential criminal sanctions. (**175a.**) It appears that the author of the "untimely" Order (requiring Coulter request permission to exercised her Constitutional Right of Appeal) (**46a.**) had intended (somehow) to direct whoever would be on any subsequent Motions Panel, to simply stall, until after the date for filing Notice of Appeal had passed, and thus "trick" Coulter into denying herself (by missing the filing date for appeal), the Right of Appeal which is guaranteed, without restriction, in Pennsylvania by the **Pennsylvania Constitution**. (**175a.** and **178a.**)

However, Coulter was concerned that the Motions Panel would not make their decision in time for Coulter to be able to avoid traveling to the Butler Courthouse so she could hand-deliver the Notice of Appeal in Butler County – **during a Pandemic**. So, Coulter sent a copy of her Notice of Appeal, and a check for the fees to the Prothonotary of the Superior Court with instructions to hold on to the paperwork until after the Panel released its decision – which Coulter felt certain would permit appeal, as to do otherwise would blatantly violate Coulter's Constitutional Rights.[3] While I cannot say with 100% certainty, it appears that this "insurance" is

3 In Pennsylvania, when the Notice of Appeal is sent to the incorrect court, the filing date in the Trial Court is considered to be the date that the Notice is received in the Appellate Court (for calculating timeliness).

what caused the Motions Panel to chose to deny appeal. But what surprised even Coulter, a die-hard believer that there is not a single honest judge anywhere in Pennsylvania, is that the En Banc Reconsideration of the Order denying Coulter her Constitutional Right of Appeal, also resulted in at least a majority of the Superior Court (a total of 15 judges), also chose to act outside of their authority to do so – and Ordered that Coulter is not permitted to exercise her Constitutional Right of Appeal! (**144a.**)

Coulter has never had any form of contact with with any member of the state's intermediate appellate court other than through official filings and their very limited contact during Oral Argument. And, it is believed that none of the state's appellate judges is even personally aware of any of the circumstances surrounding Coulter's Complaints or Appeals, outside of those shown in the official court records. (While Coulter is aware of the periodic meetings of all of the state's jurists, Coulter is completely unaware of what is done or said at those meetings.)

It is impossible to imagine there being more blatant proof of extreme and Pervasive Bias, than for a minimum of EIGHT appellate court judges to chose to deny Coulter her Constitutional Rights to Due Process - and for any/all dissenters to violate their Code of Conduct as well (by failing to report the criminal actions of their Brethren)!

i. CONCLUSION .

From my research, Pennsylvania is the only state to promulgate a Rule of Court like this, which is clearly intended to end every civil case against

every member of the "Justice System, still however, **This Honorable Court must accept this matter for consideration – or immediately Issue a Decision which will declare Pa.R.C.P. Rule 233.1 void, and overturn any matters involving this Rule of Court**, as to do otherwise would signal the Pennsylvania Judiciary that This Court will look the other way to such blatant violation of the Constitutional Rights of everyone who is injured by a member of Pennsylvania's "Justice System"!

Further, it is necessary, for a possibly extended period of time, to remove the process of dismissal on technicalities, from the hands of the state's jurists, any time that a member of the "Justice System" is being brought into court to pay for damages they have inflicted upon any "civilian". **It has become painfully obviously that as long as one member of the Justice System can use their official position to shield one of their "Brethren", the public will not be afforded any protection against the indiscriminate abuses inflicted by those who are part of the "Just Us System"!**

Proposed Solution

This protection could be "easily" provided by placing every decision in cases involving one or mere Defendants from the "Justice System" - into the hands of a "jury" (or panel of civilians (who are not associated in any manner with a member of the Justice Ssytem)). For example, when considering an argument that the Complaint "fails to state a claim", the "jury" (or panel, etc.) could be given a check-list

of the necessary "elements" which must be pled for each category of claim. Thus, when the checklist is used in conjunctions with instructions which explain that the juror must read the Complaint and then determine that, if they were presented with evidence or testimony that would support that Claim, they must vote to permit the case to be prepared for Trial. Essentially, of course, this is what the judge is supposed to do when the judge considers those matter in a case brought before him. **However, all too often the judge's bias assures only that their "Brethren" will be protected – regardless of the effects upon their victim or even the public as a whole!**

I appreciate your thoughtful consideration of this Petition for Certiorari, and ask that you recognize the very real effects that your decision in this matter will have on others who have been (or may in the future be) injured either intentionally or unintentionally by members of our Justice System. Perhaps you have noticed the series of articles which the Boston Globe has run – there have been two or three different series since 2018 – that are related to issues in the state's Justice System. The first one that I became aware of concerned **Massachusetts's "Secret Courts" where frequently state employees or elected officials have their criminal acts "considered" and then covered-up.** The most recent series reports on blatant crimes, like drunk driving, which have caused serious injuries to innocent "civilians" – but the Justice System closes ranks and, when needed,

under the guise of incompetence, assures that the perpetrator of those injuries can never be brought to justice.

The processes which allow Law Enforcement, Attorneys, and yes, even judges, to escape the repercussions of their actions continues to injure so very many people, and we must all take immediate action so these abuses will be swiftly brought to an end. This Court must act now, to end the injuries which are being inflicted upon Americans by those who are sworn to protect and uphold the law. This is especially important as it is "crucial to our system of justice" to assure that true Justice is available to everyone, and no group is more equal than any other.

As Mr. Chief Justice Burger, stated in the case of In re Griffiths, 413 US 717 - Supreme Court 1973, raising this very Issue:

> "The role of a lawyer as an officer of the court predates the Constitution; ... **always within—never outside—the law**... That this is often unenforceable, that departures from it remain undetected, and that judges and bar associations have been singularly tolerant of misdeeds of their brethren, renders it no less important to a profession ... It is as crucial to our system of justice as the independence of judges themselves." **(emphasis added)**

Respectfully Submitted,

Jean Coulter, Petitioner