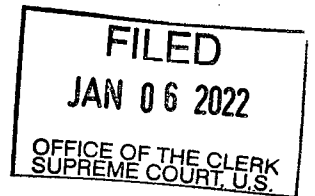


Case No. 21-989

ORIGINAL

**THE SUPREME COURT
OF
THE UNITED STATES**

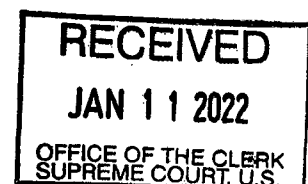


Jean Coulter, Petitioner
v.
Paul Laurence Dunbar Community Center,
et. al., Respondents

On Petition for Certiorari
to the United States Court of Appeals
for the Third Circuit

Petition for Writ of Certiorari

Jean Coulter, Petitioner
3000 Chestnut Street
P.O. Box 8094
Philadelphia, PA 19101
412-616-9505



This case concerns a District Judge with an extensive history of Bias and violations of the Extrajudicial Source Doctrine - who is confident that Pervasive Bias will again protect him from the repercussions of his decisions to abuse his authority. From the very start, District Judge Schwab *sua sponte* reviewed other cases and used that knowledge to "support" an order blatantly/adversely affecting Petitioner's ability to respond - ultimately dismissing the Civil Action to avoid ruling on the *pending* Recusal Motion which cited the specifics of his clear bias in severely restricting Coulter's time for responses. The decision to research and dismiss before ruling on a "then-mooted" Recusal Motion resulted in only a private/quiet reprimand saying doing so was "not ideal". A subsequent Recusal Request cited the District Court's record of abuse - and the jurist responded by listing the contents of all of Coulter's case he could find. **Still this jurist refuses to recuse, despite twice violating Extra-Judicial Source Doctrine - and defying the Circuit (always without penalty).** Now, on its 3rd appeal, Defendants' litigation insurance is gone, so the Circuit En Banc upheld the Summary Judgment, **rather than *again* removing this judge from yet another case!**

(a.) Questions Presented

1. Has Bias/Pervasive Bias violated Due Process in both the District Court and the Third Circuit?
2. Must procedures be instituted to assure that Appellate Courts act to end any violations of the Extrajudicial Source Doctrine - as acting otherwise **means that legitimate decisions cannot be expected?**

¹ Judge Schwab was removed from U.S. v. Wecht (08-579 Cert. denied), West Penn Allegheny Health System v UPMC and twenty-one (21) Federal Public Defender case.

(b.) Parties in the Third Circuit .

- (i.) Appellant - Jean Coulter
Appellees - Paul Laurence Dunbar Community Center, Grace Youth and Family Foundation
Officers - Catherine Donnelly, Heather D. Dovenspike,
Board Members - William M.Halle, John L. Wise III, Douglas Frost, Leeann Meals, Robert Pater, Matthew Perotti (treasurer), Clarice Shay, Eric Weimer, Louise Bauldauf (vice president), Jennifer Linn, The Linn Law Group, Min Offstein, Lorraine J. DiDomenico (Board president), Joyce Klara, Unknown Board Member Employed By Butler Area School District and Unknown Board Member

- (iii.) Trial Court - United States District Court for the Western District of Pennsylvania
Case No. 16-cv-125
Jean Coulter, Plaintiff v. Paul Laurence Dunbar Community Center, et. al., Defendants.

Appellate Court - Third Circuit Court of Appeals

Case No. 16-2809
Jean Coulter v. Paul Laurence Dunbar Community Center, et. al.

Case No. 17-2868
Jean Coulter v. Paul Laurence Dunbar Community Center, et. al.

Case No. 17-2950
Jean Coulter v. Paul Laurence Dunbar Community Center, et. al.

Case No. 17-3404

Jean Coulter v. Paul Laurence Dunbar Community
Center, et. al.

Case No. 17-3495

Jean Coulter v. Paul Laurence Dunbar Community
Center, et. al.

Case No. 19-2396

In re : Jean Coulter

Case No. 19-3595

Jean Coulter v. Paul Laurence Dunbar Community
Center, et. al.

Case No. 21-1164

Jean Coulter v. Paul Laurence Dunbar Community
Center, et. al.

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(d.) Reports of Opinions and Orders .

In Case Number 16-cv-125, the District Judge Schwab issued the Order Granting Summary Judgment for all Defendants on all Claims except Breach of Contract and Granting Judgment on the Claim of Breach of Contract against the (long defunct) Paul Laurence Dunbar was issued on November 3, 2020.

In Case Number 21-1164, the Third Circuit affirmed the Judgment of the District Court on July 8, 2021 in a Non-Precedential decision and En Banc Rehearing was denied on August 9, 2021.

(e.) Basis for Jurisdiction in this Court .

(i.) The decision by the Third Circuit in Case Number 21-1164, was issued on July 8, 2021.

(ii.) The decision for the En Banc Rehearing, was issued on August 9, 2021. The Order granting an extension of time to file the petition for a writ of certiorari until January 6, 2022 , was issued by Justice Alito on November 4, 2021 (at 21A127).

(iv.) Jurisdiction in this Honorable Court, is pursuant to 28 USC § 1254 :

"Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree; ..."

(f.) Constitutional Provisions, Statutes and Regulations .

U. S. Constitution - Amendment V

"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."

U. S. Constitution - Amendment XIV

Section 1

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.

28 U.S. Code § 1332 - Diversity of citizenship; amount in controversy; costs

"(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—

(1) citizens of different States; ..."

Title 23 - Domestic Relations

Chapter 29. Decrees and Records

Subchapter A

General Provisions

23 Pa. C.S.A. § 2910.

Penalty for unauthorized disclosure.

Any officer or employee of the court, other than a judge thereof, ... who willfully discloses impounded or otherwise confidential information ..., other than as expressly authorized and provided in this chapter, commits a misdemeanor of the third degree.

23 Pa. C.S.A. § 2915. Court and Agency Records.

...(b) Who may access court or agency records. - -

Only the following are authorized to access court or agency records for the purpose of releasing nonidentifying or identifying information under this chapter :

- (1) The court which finalized the adoption.
- (2) The agency that coordinated the adoption.
- (3) A successor agency authorized by the court which finalized the adoption.

23 Pa. C.S.A. § 2931. Access to information.

(a) Who may access information. - - The following individuals may file a written request for ... information ... with the court which finalized the adoption the agency which coordinated the adoption or a successor agency ..."

(g) Concise Statement of the Case

District Court's Subject Matter Jurisdiction

The Instant Matter concerns Claims by Coulter, a Citizen of New Jersey, against Citizens of Pennsylvania who are officers or directors of a now long-defunct Community Center (located in Butler,

Pennsylvania). Thus, jurisdiction in the District Court is pursuant to 28 U.S. Code § 1332 -

Diversity of citizenship :

"28 U.S. Code § 1332 - Diversity of citizenship; amount in controversy; costs

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—

(1) citizens of different States; ..."

**Facts Material to Consideration
of the Questions Presented**

History of the Case

In 1996, Petitioner Jean Coulter ("Coulter") moved with her young daughter from Chicago, to Butler, PA to help Coulter's elderly mother (who was in the early stages of Alzheimer's Disease). Because the young child had enjoyed a challenging and active life in Chicago, in about 1999, Coulter looked to Respondent Paul Laurence Dunbar Community Center ("Dunbar Center") for both social and educational opportunities for the child. Initially Dunbar Center had very few programs intended for young children, but Coulter and her family became more involved through the years - particularly because the Director of the community center, Respondent Kate Donnelly ("Donnelly") made a point of implementing programs at Dunbar Center, whenever Donnelly found a "community need" that was not yet being fulfilled. Indeed, Donnelly/Dunbar Center started a "Caregivers Support Group" in response to Coulter's experiences in caring for her

mother and a Homeschooler's Group to address problems encountered by Coulter's daughter and other families in the area.

Ultimately, Donnelly asked Coulter to join Dunbar's Board of Directors, and while Coulter felt it necessary to refuse the position (because she was already serving on the very active Board of another local non-profit) - Coulter became even more thoroughly involved in both the day-to-day and long-term planning for Dunbar Center. It was through these "official" and "unofficial" interactions, Coulter learned about many of the inner workings of the Dunbar Center. One day, Coulter learned that Dunbar Center's Board required Donnelly to have the Board's Treasurer sign a check to permit Donnelly to purchase even a single roll of stamps. (58a., 59a.) Another day, while Coulter was busy in the community center, she saw Donnelly enter the front door with a stack of mail in her hands. Upon seeing Coulter sitting in the middle of the room, Donnelly asked Coulter to go to the mailbox (located just outside of the front door) - and bring in the only remaining piece of mail. (56a.) Coulter silently rolled her eyes" (as the task seemed absurd), but Coulter went to the box and returned with one thin envelope. Coulter was told by Donnelly that **Donnelly was specifically prohibited from even touching any bank documents until after the Dunbar Center's Treasurer first opened that envelope.** Donnelly asked Coulter to personally hold onto the unopened envelope which held Dunbar Center's bank statement, until Dunbar Center's Treasurer at that time, Betty Bauer, would arrive to pick it up.

Donnelly also testified that Dunbar Center's Treasurer never sees the Bank

Statements at all - and indeed only Donnelly ever looked at those Statements - and thus, none of Dunbar Center's Board (since well before Betty Bauer was their Treasurer) has felt it necessary or even desirable to glance at (much less actually review) the documents to assure that Dunbar Center was appropriately handling its finances - or at least that is what Donnelly testified in her deposition.

It should be noted though that during her deposition, Donnelly testified that the requirement that Donnelly must not even touch the bank statement in any manner, was only in effect during the time when George Frost served as the Board's Treasurer - a time before Betty Bauer was Dunbar Center's Treasurer and long before Coulter was first introduced to Dunbar Center. However, that, of course would mean that Coulter never would have been asked to bring in that piece of mail ... but she was! (56a.-57a.)

Coulter also witnessed a portion of what was occurring "behind the scenes" with Respondent Heather Dovenspike ("Dovenspike"). Dovenspike had, ostensibly been brought in to act exclusively as a professional fundraiser in approximately 2010. (By 2010, Coulter and her child had moved away from the area, so Coulter is uncertain exactly when Dovenspike was hired.) Coulter both heard "lots of talk" and also directly observed that Dovenspike "talked a good game", but didn't seem to follow through on much (if any) of it. Indeed, Coulter remembers that, on at least two (2) separate occasions, Donnelly took everyone in the community center out to lunch (Dutch Treat), as she wanted to

assure that no one would be there when Dovenspike arrived - as Dovenspike had, once again, decided to reschedule after Dovenspike had called a scheduled meeting and then failed to appear at that meeting, and now expected everyone to clear their schedules to meet that very afternoon - at Dovenspike's convenience.

Indeed, the only times that Coulter saw Dovenspike in the building, was when Dovenspike was there ostensibly to "correct" the entries which Dovenspike stated her "assistant" had made into the accounting system on the computer. Now that Coulter has learned of the true financial situation of the community center, it seems readily apparent that **Dovenspike was not "correcting" the mis-categorized entries, but was (likely) instead simply fabricating supposed donations** in order to assure that Dunbar Center's Board could have Plausible deniability for believing that Dovenspike was successfully raising funds for Dunbar Center.

While Respondent William Halle ("Halle") testified, in his deposition, that he had "corrected" the "books" of Dunbar Center in 2014, because many in-kind (non-cash) donations had been erroneously booked as cash - and that is why Dunbar Center's "books" made it appear that the community center had **tens of thousands of dollars of available cash** (51a.) which, of course, never appeared in their bank statements. However, Halle's testimony does not seem accurate both because **Donnelly testified in her deposition both that the accounting software would make that "error" nearly impossible!**

It should be noted that, while it is true that Coulter was only in the building occasionally at that

point, the small building in which Dunbar Center was housed, was no more than 20' x 20' (for the larger of the two stories, the upper level), and Coulter never observed anything even approaching the large quantities of in-kind donations which could possibly have been mistakenly mis-identified and yet worth tens of thousands of dollars in Dunbar Center's Records! Instead, it now seems obvious that Dovenspike was simply coming into the building to make entries on the computer which were fictional "donations" (for the purpose of covering-up for Dovenspike's complete failure to generate income for the community center). And, Dovenspike's deception was for obvious and nefarious purpose - to assure that Dovenspike could continue to receive her exorbitant salary (exorbitant by non-profits' standards) - for a job that Dovenspike never even pretended to do, and indeed, rarely even appeared in the building or at fundraisers held by members and/or staff (which is why I have referred to it as a no-show job).

Dovenspike never treated Dunbar Center's bank account in the way that Coulter had seen in the non-profit on which Coulter was a Board Member. both **Dovenspike and her "assistant" would frequently encourage staffers to go out and buy whatever they needed, rather than ever even bothering to make a single phone call to ask one of the local businesses to donate the items - whether it meant buying foods for the Breakfast with Santa (rather than getting donations of fruit and donuts from the supermarket and bakeries) or buying Pirate Hats from the online catalog (rather**

than asking Long John Silvers to donate their advertising products).

When Donnelly took an extended vacation (approximately 6 weeks after she cashed the check for the \$50,000 Loan - and about 3 months before the first date that the Board learned of the Loan), Dovenspike began purchasing new furniture for the building, and paying overtime to the staffers (hired to run the afterschool program), to have them tear out the old built-in closet so that it could be replaced with a plastic Rubbermaid storage unit, and purchasing new bookshelves to replace ones that had been built when the the buildings walls were being completed, **solely because the built-ins which existed at that time, did not meet Dovenspike's "aesthetic"**. Eventually, Dovenspike even had the cabinetry in the kitchen area torn out - and the basement floor painted with an extremely high gloss paint, all in the name of improving a building which Dovenspike was, ostensibly, receiving donations to be demolished when Dunbar Center moved to its new building.

When Coulter explained to Donnelly that she was concerned about Dovenspike's spending - Donnelly clearly displayed her displeasure with Coulter, and (in the Fall of 2013/Winter of 2014) Coulter began attempting to speak with Dunbar Center's Board, as Coulter began to question what the Board knew about the finances under which Dunbar Center was operating. **This behavior certainly supports Coulter's Statements that she never would have loaned the money to Dunbar Center, had she not believed Donnelly when she said that the Board had approved the Loan - and was discussed during the**

depositions. Indeed, the testimony of more than one of the Board Members indicated that they remembered receiving the (certified) letter - which Coulter had expected would arrive before Dunbar Center's financial were beyond the point of no return - unfortunately, it was already too late!

By the time that Respondent William Halle ("Halle") and Respondent Grace Youth and Family Foundation ("GYFF") became involved with the community center, it seems to have been common knowledge that Dunbar was most certainly going to close - and that is why Halle became involved. This is particularly true as Halle has an "unsavory" reputation in town. **In fact, contrary to Halle's supposedly truthful statements during his deposition it was actually GYFF which was forced to seek-out a connection with Dunbar Center**, as Dunbar Center was able to receive government grants - unlike GYFF, which, because of its discriminatory practices (specifically refusing to be involved in any manner with Muslims), is unable to qualify for any government grants. The discriminatory practices of GYFF have been brought to the attention of this court in the amicus brief for case **21-144** (Seattle's Union Gospel Mission, Petitioner v. Matthew S. Woods, Respondent) and in the news, in an article titled **Butler County Homeless Shelter Vows to Not Sign Anti-Discrimination Contract, Stands to Lose Federal Funding** from the Tribune (<https://archive.triblive.com/news/butler-county-homeless-shelter-vows-to-not-sign-anti-discrimination-contract-stands-to-lose-federal-funding/>).

Procedural History

On February 1, 2016, Coulter filed the Civil Complaint. On March 2, 2016, the Magistrate Judge who was randomly assigned to the case recused without explanation of any form - and Judge Schwab was assigned to the case (without any mention of a substitute Magistrate Judge).

On March 4, just about 48 hours after he was ostensibly randomly assigned to the case, Judge Schwab ordered that Coulter begin filing exclusively electronically, or explain why she should not be required to do so, stating only :

"... Because it is apparent that Plaintiff has access to and uses computers and the internet (see 2:15-cv-0967-CB, doc. No. 1 in which Plaintiff displays her email address and quotes from email correspondence), Plaintiff shall register for the Courts Electronic Case Files system (ECF or CM/ECF) and comply with the Court rules, orders, policies and procedures governing the use of ECF before she files her Response to Defendants' Motion to Dismiss by March 14, 2016 as ordered by Doc. No. 14; or she shall show good cause why she is unable to register for the ECF system by March 14, 2016. Signed by Judge Arthur J. Schwab on 3/4/2016. Text-only entry; no PDF will issue. ..."

It seems readily apparent that the District Court determined that its first priority should be to do some "independent research" to learn what he could about the people involved (violating the Extrajudicial Source Doctrine) - in order to provide the jurist with background information on the Parties which might permit

him to distort the proceedings in a manner which could provide him with some sort of perverse "satisfaction". It should be noted that there is no record of any of the Parties having any prior contact with Judge Schwab before the order was issued - and the fact that Judge Schwab chose to take this step, ought to cause an investigation to be ordered into how and/or why the District Court chose to take this extraordinary step. **There is no imaginable reason why Judge Schwab would legitimately have either a need or even a reason to read the official filings in 2:15-cv-0967-CB , a case which was closed a year before this matter was even filed!** And similarly there was no legitimate reason for Judge Schwab to Order Coulter to file electronically, Indeed, the website of the U. S. District Court for the Western District of Pennsylvania explains that **Pro Se Litigants are only permitted to file electronically, if they receive prior permission to do so** - and complete training was supposed to be available, either on-line or in-person (although even in 2016, Coulter was told that the courts no longer offer the in-person training).

Coulter filed numerous Motions for Recusal - as from the very first days, the District Court made it clear that Coulter would be given a difficult time, and then left with empty hands! Indeed, the Order that Coulter immediately begin filing exclusively electronically, which required that Coulter quickly study the 55 page training manual (https://www.pawd.uscourts.gov/sites/pawd/files/PA_WD_Manual_201702.pdf) and research/purchase a scanner suitable for use in the district court - as well as discovering how Coulter

could obtain the required higher quality internet access - which might permit Coulter to work on a computer without traveling to the local library multiple times over the next weeks).

But, even without the workload inflicted by requiring that she immediately begin filing exclusively electronically, Coulter was also subjected to an Order of Court that **forced Coulter to respond to the filings made by Defendants' attorneys, on an extremely abbreviated timeline - less than one-half of the time that Judge Schwab's Chamber Rules permit for every other Plaintiff to have to Respond to Dispositive Motions!** (Doc. 35 pages 3-4)

Further, because the date that Judge Schwab set for filing of Coulter's Response to Defendants' Motions to Dismiss, March 14, 2016, fell on a Monday - and because each day, the Clerk's Office receives mail from the prior day's delivery (because the Mail Room delivers first thing in the morning) - the jurist was forcing Coulter to overnight her Response by Thursday March 10 - so that it would be received by the mailroom on Friday, and delivered to the Clerk's Office for docketing on Monday, March 16. Therefore, as clearly Judge Schwab was aware, his Order required that Coulter prepare her and mail her Response just 6 (six) days after the Order was issued - and assuming that Coulter's mail took 3 days to arrive (which is the standard typically allowed for service by mail) - that meant that Coulter was forced to research and write her Response within just 3 (three) days!

Judge Schwab continued to act in a manner which at least should be considered outside of the

bounds of the appropriate behavior for a jurist in any case - even **refusing to rule on Coulter's Motion for Recusal**, apparently because it clearly spelled out just how far "out of bounds" the Court was. (Doc. 35 pages 3-4) However, when the Panel in the Third Circuit learned what Judge Schwab had done (in Coulter's appeal which was "heard" a short while later), their response was only to say that deciding to dismiss a case before even considering a Motion for Recusal, was "not ideal" :

"... Coulter also argues that the District Court abused its discretion by waiting to rule on her renewed motion for disqualification until it already had decided to dismiss her complaint and then denying her motion as moot. Taking that approach was not ideal. ..."

Clearly Judge Schwab's actions are far below the minimum acceptable behavior for any jurist - but until This Honorable Court acts to protect the citizens of Western Pennsylvania from his "acting out" (as we label such behavior in children) - it seems likely that **before the end of that jurist's Life-Time Tenure, several other Litigants will be abused as their Rights are trampled while the general reputation of the courts will be further tarnished!**

(h.)	Argument
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"a. United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter" or "has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a

departure by a lower court, as to call for an exercise of this Court's supervisory power"

Bias/Pervasive Bias

Both "Traditional" Bias resulting from violations of the Extrajudicial Source Doctrine and Pervasive Bias - favoring the preservation of the actions of another jurist - in this matter, have resulted in violation of Coulter's Due Process Rights.

The District Court repeatedly refused to Recuse, despite that fact that it is clear that Judge Schwab had a bias against Coulter prior to even being assigned the case - and the bias was so deeply seated that the jurist **did not hesitate to boast of the extent and the source of his bias :**

"... Because it is apparent that Plaintiff has access to and uses computers and the internet (see 2:15-cv-0967-CB, doc. No. 1 in which Plaintiff displays her email address and quotes from email correspondence), Plaintiff shall register for the Courts Electronic Case Files system (ECF or CM/ECF) and comply with the Court rules, orders, policies and procedures governing the use of ECF before she files her Response to Defendants' Motion to Dismiss by March 14, 2016 as ordered by Doc. No. 14; or she shall show good cause why she is unable to register for the ECF system by March 14, 2016. Signed by Judge Arthur J. Schwab on 3/4/2016. Text-only entry; no PDF will issue. ..."

The case cited by Judge Schwab only stayed in the District Court for a few weeks, as it was filed under

Diversity Jurisdiction, and District Judge Cathy Bissoon (one of Judge Schwab's co-workers if judges in the same court can be referred to as "co-workers") ruled that both Coulter (Plaintiff in 15-cv-0967) and her brother (Defendant in 15-cv-0967) were citizens of Pennsylvania and thus the federal courts lacked Subject-Matter Jurisdiction.

Pervasive Bias and Extrajudicial Source Doctrine

In this case, it is readily apparent both that District Judge Schwab felt it was unnecessary to even conceal either the strength and depth of his bias - or the source from which his bias sprung! Indeed, in almost his first official act in this case, on March 3, 2016, the District Court issued an Order which boasts of the extent and source of Judge Schwab's bias against Respondent Coulter (the Plaintiff Coulter) :

"... Because it is apparent that Plaintiff has access to and uses computers and the internet (see 2:15-cv-0967-CB, doc. No. 1 in which Plaintiff displays her email address and quotes from email correspondence), Plaintiff shall register for the Courts Electronic Case Files system (ECF or CM/ECF) and comply with the Court rules, orders, policies and procedures governing the use of ECF before she files her Response to Defendants' Motion to Dismiss by March 14, 2016 as ordered by Doc. No. 14; or she shall show good cause why she is unable to register for the ECF system by March 14, 2016. Signed by Judge Arthur J. Schwab on 3/4/2016. Text-only entry; no PDF will issue. ..."

Someone who is not familiar with the procedures of

the federal courts, might assume that, just as all Licensed Attorneys are required to file electronically, also all *Pro Se* Litigants are required to file exclusively electronically, and for some reason, Coulter had failed previously to comply with that requirement. This however is not the situation in the federal courts as is explained on the federal court's website at <https://www.pawd.uscourts.gov/cmecf-policies-procedures> :

"UNITED STATES DISTRICT COURT
Western District of Pennsylvania
Mark R. Hornak, Chief Judge - Joshua C.
Lewis, Clerk of Court

...
CM/ECF Policies & Procedures..."

The first link on that page, titled "CM/ECF User Manual" goes to a document titled "A GUIDE TO WORKING WITH CM / ECF", a 55 page instruction manual which explains the steps and equipment required to file using the federal courts' electronic filing system. And on page 6, the Manual clearly explains that the policies in place in the federal court, do **not require pro se filers to file electronically** - however, all attorneys are specifically required to file exclusively electronically, except when there are technical problems which for the moment will not allow them to do so :

"... A party who is not represented by counsel may file papers with the clerk in the traditional manner, but is not precluded from filing electronically.

All attorneys listed on the docket, including "of

counsel" and those admitted pro hac vice, must become registered users or else they must show cause why they are not a registered user.

SANCTION/PROCESSING FEE

If an attorney insists on filing a document on paper and is a Registered ECF user, Intake will notify the Judge of such filing and the Judge will enter and Order Requesting Processing Fee and Sanction. ..." (emphasis in original)

Indeed, the document titled :

"PRO SE PACKAGE

**A SIMPLE GUIDE TO FILING A CIVIL ACTION IN
THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA
JUNE 2021"**

specifically describes the content and manner for Pro Se Filers to file paper documents in the federal courts, on page 3 of this document : "All pleadings submitted to this court must be on 8 1/2 x 11" paper. See Rule 5.1 of the Local Rules of this Court.". And, as the link to Rule 5.1 specifically explains that pro se Litigants are expected to file on paper :

**LCvR 5.1 GENERAL FORMAT OF PAPERS
PRESENTED FOR FILING ..**

2 A. Filing and Paper Size

...

2 C. Printing on One Side"

While it is certainly true that all Parties in any case may be permitted to file electronically, it is believed that Judge Schwab's decision to require that Coulter file exclusively electronically is unusual, to say the least - even when considering only cases

assigned to Judge Schwab. Yet, this requirement alone is not sufficient to argue that Judge Schwab's Order of March 4, 2016 is the produce of a display of Bias by the District Court.

However, Judge Schwab's March 4, 2016 Order also requires that Coulter's Response to Defendants' Motion for Dismissal, a clearly "dispositive motion", also requires that Coulter's Response must be filed in the Clerk's Office by March 16, 2016. What makes this Order specifically noteworthy though, is the fact that the even Judge Schwab's "Chamber Rules" specify that Responses to dispositive motions will be allowed 14 days to file the Response, as explained in Coulter's Renewed Motion for Recusal (Doc. 35) :

... it seems patently obvious that the Court has decided that Coulter should not be permitted the appropriate time to respond (17 days by the Standing Order of the District, 14 by the court's own Chamber Rules). And, any "reasonable man" would question the ability of a judge to rule impartially when it is so obvious that the Court wants to prejudice a Pro Se Plaintiff by severely restricting the Pro Se Plaintiffs time to respond to filings by multiple Defendants.

It is obvious therefore that Judge Schwab has decided to restrict the time for Coulter to file her defense for the Claims she has made in her Complaint by permitting Coulter only 71% of the time which the District Court's own "Chamber Rules" allow for all other litigants - and restricting the time to file a document must be assumed to be likely to provide less opportunity for Coulter to succeed in fighting the "attack" upon her Complaint -

otherwise, the Court would be derelict in his responsibilities to assure timely justice in his courtroom for the Parties who oppose a Plaintiff who is routinely being given excess time to respond - Justice Delayed is Justice Denied". However, Coulter's Renewed Motion for Recusal looks beyond the District Court's own Chamber Rules for guidance as to what other judges in the Western District of Pennsylvania view as being sufficient for the Plaintiff without being unduly burdensome for the Defendant(s) in each case, enumerating the various time-lines for responding to Dispositive Motions by each of the jurists in the Western District of Pennsylvania, (Doc. 35) :

"... And, this is not the first time that the Court has, on its own initiative, chosen to severely restrict the time for Coulter's Responses - again providing Coulter with **less than one-half (1/2) of the time that is allowed by the majority of the other Judges within the District as well as significantly less than is provided by both the Standing Orders for the Western District of Pennsylvania. as well as the Court's own Chamber's Rules.**

Senior Judge Donetta W. Ambrose No rule in place.

Magistrate Judge Susan Paradise Baxter No rule in place.

Judge Cathy Bissoon "...Responses to Rule 12 motions shall be filed within twenty (20) **calendar** days ..." (emphasis in original)

Senior Judge Alan N. Bloch No rule in place

Judge David Stewart Cercone "... for a dispositive motion, which shall be filed within twenty eight (28) days of service."

Senior Judge Maurice B. Cohill ,Jr.

"Generally, a party will have 21 days to file a response to a dispositive motion ..."

Judge Joy Flowers Conti "Responses to all other motions shall be filed 21 days after the date of service of the motion."

Senior Judge Gustave Diamond "Judge Diamond's pretrial order requires a respondent to file a response to a motion within 11 days after service of the motion ..."

Magistrate Judge Cynthia Reed Eddy "... and responses to dispositive motions shall be filed within thirty (30) days of service, ... "

Judge Nora Barry Fischer "Parties are generally given twenty-one (21) days to file a response to a dispositive motion

Judge Kim R. Gibson "All Other Motions Responses to all other motions shall be filed within 21 days from the date of service of the motion."

Judge Mark R. Hornak No rule in place, but it should be noted that Judge Hornak is the author of the District's "Standing Order on Civil Motions Practice" which provides fourteen (14) days (and for summary judgment, thirty (30) days), for responses to be filed.

Magistrate Judge Maureen P. Kelly "... and responses to dispositive motions shall be filed within thirty (30) days of service."

Magistrate Judge Lisa Pupo Lenihan "Responses to motions to dismiss shall be filed within twenty-one (21) days of service."

Magistrate Judge Robert C. Mitchell "The Judge will usually order a response to be filed

within twenty-one days of receipt of the motion."

Senior Judge Terrence F. McVerry "Response schedule ... (2) Motions to Dismiss - twenty-one (21) days ..."

Magistrate Judge Keith A. Pesto "... on motions to dismiss or for summary judgment must be filed 20 days thereafter, ..."

While the shortest number of days permitted for response to a Dispositive Motion is eleven (11) by only one jurist, this is still longer than the Court has provided. And, it is notable that the "average" time permitted by these seventeen (17) jurists, is more than eighteen (18) days, but less than 22 days. (The mean is >18 days, the mode is 21 days and the median is 21 days - all of which are different measures of "average".) And, that "mean" average is equal to, or just shy of twice what this Court has permitted Coulter in each instance (definitely more than twice. If inclusion of time required by Local Rules to allow for delays due to mail or other service methods is included (of three (3) days). ..."

However, Judge Schwab has not merely decided that Coulter must file in 71% of the time that he routinely allows for filing, as he also knows that Coulter must file by mail, as Coulter's home is in New Jersey. Instead, because the date that Judge Schwab set for filing of Coulter's Response to Defendants' Motions to Dismiss, March 14, 2016, fell on a Monday - and because each day, the Clerk's Office receives and docket only the mail received at the court's address on Grant Street in Pittsburgh from the prior day's delivery (because the Mail Room delivers first thing

in the morning, after it was sorted at some point after it was received the day before) - the jurist was forcing Coulter to overnight her Response by Thursday March 10 - so that it would be received by the mailroom on Friday, and delivered to the Clerk's Office for docketing on Monday, March 16.

Therefore, Judge Schwab clearly intended for his Order to require that Coulter prepare her and mail her Response just 6 (six) days after the Order was issued - and assuming that Coulter's mail took 3 days to arrive (which is the standard typically allowed for service by mail) - that meant that Coulter was forced to research and write her Response within just 3 (three) days!

But, this too, even in conjunction with the portion of the Order requiring that Coulter file exclusively electronically might be insufficient to result in a "reasonable person" - however, the March 4, 2016 Order does not just require that Coulter file on an accelerated time table and also require that Coulter file electronically - **it also cites as support for that requirement (to file electronically), information which the District Court somehow knew which came from another, completely unrelated case which Judge Schwab was never involved with in any manner - at least not formally or transparently.**

The decision to research and then utilize that information to restrict Coulter's ability to respond to a Dispositive Motion, therefore, not merely violates the Extrajudicial Source Doctrine, it would also make a "reasonable person" question Judge Schwab's ability to rule objectively in this matter.

As this court explained in Liteky v. United States, 510 US 540 - Supreme Court 1994 :

"... *Berger v. United States*, 255 U. S. 22, 31 (1921). The cited passage from *Berger*, it turns out, does not bear the weight *Grinnell* places on it, but stands for the more limited proposition that the alleged bias "must be 560*560 based upon something other than rulings in the case." 255 U. S., at 31..."

Similarly, United States v. Rosenberg, 806 F. 2d 1169 - Court of Appeals, 3rd Circuit 1986 explains that :

The proper procedure for disqualification for bias or prejudice is governed by 28 U.S.C. § 144 (1982).[2] For the purpose of this statute, the alleged bias or prejudice must stem from an extrajudicial source rather than from facts which the judge has learned from his participation in the case. See United States v. Grinnell Corp., 384 U.S. 563, 583, 86 S.Ct. 1698, 1710, 16 L.Ed.2d 778 (1966); Beverly Hills Bancorp., 752 F.2d 1334, 1341 (9th Cir.1984). Recusal motions pursuant to this statute must be timely filed, contain a good faith certificate of counsel, and include an affidavit stating material facts with particularity which, if true, would lead a reasonable person to the conclusion that the district judge harbored a special bias or prejudice towards defendants. See generally United States v. Thompson, 483 F.2d 527 (3d Cir.1973).

There seems to be disagreement between

different regions and different court systems about whether a jurist can be expected to rule impartially in a case, when that Judge also has information from a prior matter in which the judge was serving. However, that is not the situation in this case. Here, though Judge Schwab chose to go out of his way to check the Records of another, unrelated matter, for which Judge Schwab had no reason to know anything about - simply so the District Court could find some "plausible" basis for requiring Coulter to not merely Respond to a Dispositive Motion within 6 calendar days (instead of the 17 days allowed by his own Chamber Rules (14 + 3 (because of delays allowed for when service is by mail))). **For any judge to devote his time to scrolling through the records of other judges' cases, in order to find an excuse (and purported support for that excuse), must meet the "text-book definition" of Bias!**

And, were this not the only display of blatant bias displayed by the District Court, the Coulter would not be asking This Honorable Court to either grant Certiorari at this time - or to simply overturn the lower courts' decisions and require that Coulter's case be permitted to be transferred to another Circuit.

However, the Scheduling Order was only the first overt display of Bias by Judge Schwab, and **the fact that the District Court subsequently, repeatedly, chose to again produce similarly blatantly biased determinations and that should not come as any surprise to any of the Judges in the Third Circuit (*especially as the Third Circuit had already, on two separate***

occasions Removed Judge Schwab from cases in the District Court as mentioned in the Questions Presented section of this Petition for Writ of Certiorari)!

Bias in the District Court's Order Dismissing the Claims of Fraud in Inducement, Penalty and Interest

Bias as Displayed in Dismissal of Coulter's Claim of Fraud in Inducement - with respect to the false statements made by Dunbar Center's Executive Director, Respondent Donnelly

Coulter's Complaint charges Claims for Fraud in Inducement related to Donnelly's statements prior to Coulter making the Loan to Dunbar Center both that the community center's financial issues were exclusively due to the delays in reimbursement by the state (for the Food Program in the schools which Dunbar Center was running pursuant to a Grant from the state Department of Education) and that Donnelly had gotten the Board of Dunbar Center's approval to accept the Loan.

On July 8, 2021, the Third Circuit wrote (4a.):

"... Under Pennsylvania law, a plaintiff alleging fraud in the inducement must prove the following elements by clear and convincing evidence: "(1) a representation; (2) which is material to the transaction at hand; (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another into relying on it; (5) justifiable reliance on the misrepresentation; and (6) the resulting injury

was proximately caused by the reliance.”
Freeman v. Pittsburgh Glass Works, LLC, 709
F.3d 240, 256-57 (3d Cir. 2013) (quoting EBC,
Inc. v. Clark Bldg. Sys., 618 F.3d 253, 275 (3d
Cir. 2010)). Coulter claimed that she “was
deceived into making the Loan, based on
knowingly untruthful statements by Donnelly
about both the Center’s financial
circumstances at that time, as well as
Donnelly’s assurances that Donnelly had
secured the approval of the Center’s Board of
Directors for Donnelly to accept the terms of
the Loan Agreement (while Donnelly was
acting in her role as Executive Director of the
Community Center).” (ECF 302 at 5).

...

Coulter asserted that she was induced
into making the loan based on Donnelly’s
representation that the Dunbar Center was in
financial trouble solely because the
Commonwealth of Pennsylvania had failed to
reimburse the Center for expenses related to a
food program. ... But that evidence does not
establish that Donnelly’s statement about the
Center’s finances was false. Instead, it merely
provides a partial picture of the Dunbar’s
finances over the course of several years. ..."

However, what both the District Court and the Third
Circuit chose to overlook was **Halle's testimony
that explained that tens of thousands of dollars**
(a figure which I believe drastically understates the
amount involved, as Dunbar Center's account had
held more than a half-million dollars only a couple of
years earlier) **which was supposed to be in the
account of Dunbar Center simply was not in**

that account. (15a.) However, while taking note of the fact that Halle found that tens of thousands of dollars which appeared to be in Dunbar Center's bank account, had never been deposited into that account **the District Court failed to take note of the fact that Respondent Donnelly saw the Bank Statements every month, as well as the reports generated by the community center's accounting system - but failed to bring such a large discrepancy to the attention of either the Board - or to accurately present the financial condition of the community center to Coulter** (particularly as this situation had been going on for years and years, and thus it was readily apparent that Donnelly could not possibly have relied upon a belief that it was simply the bank's error somehow! :

"Prior to joining the Dunbar Community Center's Board, Halle asked to look at the Center's balance sheet, and saw numerous errors. (*Id.* at 356). One error Halle discovered was that whenever the Center would receive an in-kind donation, i.e., a non-monetary donation, the donation would be entered into the Center's accounting system as an asset. (*Id.*). This error was one reason why the Center showed numerous assets, valued at tens of thousands of dollars, for which no one could account. (*Id.* at 356-357). Halle straightened out, eliminated, and cleaned up the Center's balance sheets. (*Id.* at 357)."

Even if somehow the District Court did not realize that when Coulter relied upon what she was told by the Director of the community center - the fact is that no one has ever denied that Coulter was told that the community center's financial issues were

exclusively the result of delayed re-imbursements by the state. There can be no conceivable reason why Coulter would expect that those funds would not eventually be paid, and Dunbar's financial picture would again be "rosey" as the result of the enormous Bequest that the community center had received before Respondent Dovenspike was hired - however, the District Court's decision also explains that because of accounting or bureaucratic reasons (supposedly) outside of Dunbar Center's control - the community center had been informed by the state that there would never be reimbursement of the funds, as the books had closed on that year's funding.

However, Donnelly was aware that Coulter had taken part in many of the community center's fund-raisers, and even obtained a Disney Grant for Dunbar Center's benefit! And, Donnelly knew that Coulter was aware that the community center watched its cash very closely, even requiring special permission for purchase of even a single roll of stamps. So, there can be no question that Donnelly both **knew both that the community center's financial situation was bleak** (as Donnelly saw the Bank Statements every month) **and that the situation was not going to improve any time in the foreseeable future - that is unless Donnelly somehow found a source of funds to make payroll for August 1, 2013!**

In 2013, at the time of the phone call when the Fraud in Inducement was committed, Coulter and Donnelly had known each other for roughly 13 years. Donnelly and Coulter had been in each-others' homes, and had worked side-by-side on projects related to Donnelly's work at, and Coulter's use of the programming at, the community center. While

Donnelly did not initiate the discussion of a Loan, as Coulter has previously explained (in the Original and First Amended Complaints (Doc. 29, page 9), Donnelly did request that the amount of the loan be increased to exactly align with the amount of unreimbursed expenses from the after-school/food program being run by Dunbar Center :

" 2.) At the time of the initial discussions, Defendant Donnelly specifically requested that the loan be for the exact amount of the tardy reimbursement payments, but Coulter declined to increase the loan, and Donnelly indicated that she was interested (and grateful), but needed approval of the Board of Directors of Dunbar, before she could proceed with agreeing to a loan...."

Donnelly was well aware that Coulter would be unwilling to make a Loan to the community center because in order to repay the loan, Dunbar Center would be forced to sell its only asset beyond the contents of Dunbar Center's bank account. The District Court made much out of the fact that Donnelly never told Coulter that the only asset beyond the contents of their bank account, was the building which Dunbar occupied. However, Coulter was clearly aware that Dunbar Center ran on a shoe-string budget - as Coulter had observed (and commented to Donnelly) that Coulter respected the commitment to having a small footprint which Donnelly displayed by using the back of duplicates, etc. - to use for all of the files in Dunbar Center's business records. At the time that Coulter made the comment, Donnelly explained that it was not because Donnelly was trying to minimize the ecological impact of the community center's files - but rather

because Donnelly was trying to save money. **The mantra of saving money was one that was frequently heard and seen at Dunbar Center,** Indeed, as Donnelly acknowledged in her deposition, the purse-strings were held so tightly at Dunbar Center, that Donnelly even needed to have a check signed so that she could purchase a roll of stamps for use at the community center! (58a., 59a.)

There would be no reason for Donnelly to have knowingly made such untruthful statements to someone with whom she had both a professional and personal relationship, and who was considering loaning a significant amount of money to the community center, except if Donnelly both wished and expected that Coulter would rely on those statements - after all, that was the context in which Donnelly made the statement to Coulter!

Further, Donnelly's Fraud in Inducement was not restricted to telling Coulter that Dunbar Center's financial problems were exclusively the result of the delayed reimbursement from the after-school food program. Indeed, Dunbar volunteered that she would need the Board's approval for accepting a Loan. But that too was clearly stated at the time of the discussion of issuance of the Loan - and not just a chat between the two friends, when perhaps Donnelly wanted to leave the restaurant early (perhaps to justify leaving Coulter to find another way home). No, the statement was made exclusively during the discussion of the loan - and indeed, it was made when Coulter was indicating that she wanted to speak with members of the board.

Unfortunately for both Coulter and the community, Donnelly lied when she told Coulter that

she had received permission to accept the Loan from Coulter. **Both the District Court and the appellate judges have chosen to completely disregard the testimony in the depositions - which explains that the first mention of the Loan came in November or December 2013, and long after the entire amount of the Loan had been exhausted, as explained in the depositions of Respondents Baldauf and Linn (now Pullar) who are the only people to testify that they had any recollection of when Donnelly informed the Board of the existence of the Loan (51a.) :**

"... So you stayed on pretty much until the bitter

end. Do you remember when Kate left?

A. I'm not sure of the date. I know she turned in her resignation. I can't remember what date.

Q. Well, just for -- just to let you relax tonight and not have to think about it, that was in February of 2014 that she left. So at that point did you have any idea whether it was long before that or shortly before that that you heard about the loan that I had made to the community center?

A. Shortly before that.

Q. So you're talking about maybe a month or two, or is six months shortly before?

A. A couple of months.

Q. Now, did you attend most of the meetings? I know your name was always --

A. Yes. ..."

The Board's President, respondent DiDomenico

testified that she had no idea when she was told
about the Loan (52a.) :

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L. DiDomenico - by Ms. Coulter

Not me specifically, but when was the first
time

that you heard there was a \$50,000 loan to the
community center?

A. Kate said that she has getting some
type of a loan from a friend that cared about
Dunbar and that it was anonymous and that it
was

interest free. That's what I remember, that we
didn't have to pay any interest.

Q. Except I'm asking when?

A. Oh, jeez, Jean.

Q. Was it near the time when you got
the letter from me that explained about it?
Was

it after that when Kate told you about it?

A. I honestly, in my heart of hearts,
have to tell you, I can't remember a lot of this.
I was lucky to be at a meeting once every
month

or every have two months. So I don't
remember I
can't remember.

Q. I realize it's been a while and
it's been a while particularly because we have
to

keep going on appeal and on appeal after the
judge comes up one after another decisions
that

get overturned on appeal, but -- and it's also the younger people are avoiding testifying.
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CONCLUSION

Beginning with his Opening Salvo, the District Court has, once again, made a conscious choice to ignore that fact, ignore the law, and do whatever is within his power - to assure that the case before him ends in the way that he would like it to end. And, perhaps, if it weren't for the extensive history of District Court Judge Schwab's extreme bias, perhaps the actions of the Third Circuit might be considered to be actions taken within their discretion. However, the jurists in the Third Circuit are just as responsible as Judge Schwab at this point, as they too have chosen to accept their paychecks, while refusing to do the actual work for which they have trained for so long, and for which they are now being paid to do.

When, for example, during the discussions immediately preceding the handshake, on the terms of a Loan, Donnelly told Coulter that Dunbar Center's financial issues were caused exclusively by the delay in reimbursement by the state - well, the timing alone confirms that Donnelly's false statements were for the sole purpose of inducing Coulter to agree to make the Loan. **However, the District Court ruled that there was insufficient evidence that Donnelly's statements were made for any nefarious purpose - and the Third Circuit chose to "rubber stamp" that clearly spurious finding!**

Until This Honorable Court overturns this decision and "suggests" that perhaps Judge Schwab

should no longer be given the opportunity to torture citizens who are only seeking justice. Judge Schwab has had his chance to show remorse and behave in a manner which befits the lofty position for which he is being employed.

Respectfully Submitted,

Jean Coulter, Petitioner