

IN THE COURT OF COMMON PLEAS OF BUTLER
COUNTY, PENNSYLVANIA
CIVIL DIVISION

JEAN COULTER, Pro Se Plaintiff

v. Case No.: 15-10340.

ALEXANDER H. LINDSAY JR., LINDSAY LAW
FIRM, JOSEPH VICTOR CHARLTON and
PATRICIA LINDSAY, Defendants

Fourth AMENDED COMPLAINT
FOR CIVIL ACTION

NOW COMES, Pro Se Plaintiff, JEAN COULTER and files Fifth Amended Complaint for Civil Action (in response to Defendants untimely filing of Preliminary Objections), to recover for injuries suffered as the result of intentional acts by all Defendants. As Defendants have refused to address the issues raised in Coulter's Preliminary Objections to Defendants' Preliminary Objections, this additional Amendment must address what Coulter assumes are the issues that Defendants intended to raised had Defendants chosen to raise their issues with sufficient specificity to permit amendment by Pro Se Plaintiff.

Transfer of this matter from the Federal Court is pursuant to 28 U.S. Code § 1367, which tolls the Statute of Limitations for claims presented in this matter, for a period of 30 days after the dismissal of Civil Action No. 15-289 in the Federal District Court on April 7, 2014 :

- (a) Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental

jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

...

(d) The period of limitations for any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.

In support of the requests for damages, Coulter has previously attached the Complaint filed in the Federal Court, which is transferred to this court pursuant to 28 U.S. Code § 1367. The previously attached Complaint was dismissed by the Federal Court's Order of April 7, 2015 (Document No. 10), denying Coulter's Motion to Amend the Findings Pursuant to Rule 52. The Federal Court's ruling was erroneously based exclusively on that Court's determination that the Federal Complaint was "related to or arising from the state court proceedings involving her criminal conviction" – when it instead arose exclusively from Defendants' supposed representation of Coulter in the Dependency Matter. So, the Complaint was in no manner "related" to any other case - despite the fact that the damages done by Defendants' actions

(including their actions to cover-up the initial damages) have caused (and continue to cause) Coulter to suffer from injuries which affect absolutely every aspect of Coulter's life (including the matters referenced by the Federal Court). Thus, in no manner have any of the "issues" presented in this case ever been considered in any prior proceeding – and therefore, no possible justification for the conclusion that there has been a "final judgment on the merits" of the Claims presented in this case.

It should be noted that the Federal Case was dismissed as a "sanction" of a Pro Se Plaintiff, who dares to ask the courts to hold Members of the Bar to the same standards as those citizens who have chosen careers outside of the "Justice System" – by a Federal District Court Judge who chose to enter into the cover-up of a criminal action by an attorney who committed a Misdemeanor through the filings submitted to the Federal Court. In this case as well, that same crime has been committed by Defendants/Defendants' Counsel, through the criminal release of records, under Pa Code Title 23, Sections 2915 and 2910 :

§ 2915. Court and agency records.

(a) General rule.--All court and agency records shall be maintained as a permanent record and withheld from inspection except as provided under this chapter.

§ 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.
Thus, Defendants and their Counsel are guilty of a
crime under Pennsylvania Statute, as well as
violation of Federal Color of Law Civil Rights
Violations, related to the Privacy Rights of Plaintiff.

Coulter further states:

1.) Pro Se Plaintiff, JEAN COULTER, is a
resident of New Jersey, with mailing address :

260 Pullman Square, PMB 172

Butler, PA 16001

412-616-9505

2.) Defendant ALEXANDER H. LINDSAY,
JR. is a resident of Pennsylvania, with address :

Lindsay Law Firm

110 East Diamond Street #301,

Butler, PA 16001

(724) 282-6600

3.) Defendant LINDSAY LAW FIRM, is a
Law Firm, located in Butler, Pennsylvania, with
address :

Lindsay Law Firm

110 East Diamond Street #301,

Butler, PA 16001

(724) 282-6600

4.) Defendant JOSEPH VICTOR
CHARLTON, is a Pennsylvania resident with
address :

Charlton & Charlton, Inc.

617 South Pike Road

Sarver, PA 16055

(724) 540-1161

5.) Defendant PATRICIA LINDSAY, is a
resident of Pennsylvania, with address :

Lindsay Law Firm

110 East Diamond Street #301,
Butler, PA 16001
(724) 282-6600

6.) Jurisdiction in this Court is pursuant to 28 U.S. Code § 1367, and Pennsylvania Statutes and Rules of Court.

7.) Defendants are responsible for significant injuries to Coulter, as the result of Defendants' acts of FRAUD as well as PERSONAL INJURIES resulting from Defendants' involvement in a CIVIL and CRIMINAL CONSPIRACY against Coulter. Because Defendants actions violated both the explicit as well as the implied terms of their contractual relationship, Defendants are also responsible for BREACH OF PROMISE/BREACH OF CONTRACT, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT (including those set forth in the Pennsylvania Code of Conduct for Attorneys and observance of all Criminal Statutes, among other implied conditions).

Factual Basis Upon Which The Claims Are Made

8.) In early "Spring" 2005, Plaintiff JEAN COULTER ("Coulter") hired LINDSAY LAW FIRM ("Firm"), to represent Coulter in cases in the Court of Common Pleas in Butler, Pennsylvania. (A written Contract for each was signed, but Coulter's copies of the contracts are unavailable at this time – possibly merely misplaced, and possibly taken at the time of thefts in Coulter's Mother's home where the records were stored, as Coulter's legal and financial records were stored near the valuables, and those Records were clearly "rooted through" during the burglary.)

9.) At their initial meeting, Coulter met primarily with Defendant ALEXANDER H.

LINDSAY ("Lindsay"), although Defendant PATRICIA LINDSAY ("Patricia") was present during portions of the initial meeting, and indeed, initial telephone contacts were exclusively with Patricia (whom Coulter was told was the only person designated by the Firm for initial contact).

10.) At the scheduled time for completion of the meeting between Coulter and Lindsay, in the offices of the Firm, Lindsay had Coulter remain behind (and subsequent appointments delayed or rescheduled) – expressing sincere concerns for Coulter's safety and well-being as Lindsay indicated that he noted significant signs that Coulter was mentally unstable. Lindsay also called Patricia into the office to join Lindsay and Coulter again. Coulter specifically stated that she was not suicidal, and Lindsay indicated that this was only one of his concerns. (Lindsay admitted to having a client commit suicide shortly after Lindsay noticed issues which concerned him in a manner somewhat similar to those which he had observed Coulter displayed.) Coulter informed Lindsay that she had already been in contact with a Mental Health Professional, and her immediate safety was not of concern to that Mental Health Professional. After receiving this reassurance Lindsay eventually agreed that Coulter could leave his offices, if she would agree to again seek immediate assistance from health professionals, if she had any feelings which might indicate that immediate treatment was required.

11.) Lindsay stated that he felt that Coulter presented symptoms of significant mental illness which would be an integral element in his representation of Coulter in the criminal matter. Around this same time, in response to Lindsay's

stated concerns about Coulter's current Mental Health Status, Coulter explained to Lindsay that she had spoken with the parent of one of the Child's friends and that the parent was also someone that Coulter had socialized with. Coulter explained that the "meeting" with the parent had been cut short when the parent began to back away from Coulter with a clear look of fear in the parent's eyes. Lindsay asked what Coulter had done to result in this action by someone that Coulter had previously socialized with – and Coulter explained that she had no idea what had caused that reaction in the woman.

12.) Despite the expressed concerns for Coulter's Mental Health, and the knowledge of charges pending against Coulter, Lindsay did not suggest an immediate evaluation of Coulter's current Mental Health Status. Indeed, there was an unexplained delay between Lindsay's first concerns about Coulter's Mental Status, and the first time that an evaluation for use in court was even discussed – and even later before the evaluation was scheduled.

Coulter never actually saw the Evaluation, and Coulter was actually told very little about it. Indeed, essentially the only thing that Coulter was told, was that the Evaluation indicated the presence of some degree of Paranoia – which Lindsay repeatedly insisted that Coulter must conceal, as according to Lindsay, even a suggestion of paranoia would be extremely bad for the court to learn of it. This supposed concern was repeatedly drilled into Coulter by Lindsay, on numerous occasions, such as when, months later, Coulter learned that mail had been stolen from the box on her porch, by a member of the Police Department, prior to the issuance of a

search warrant. This fact was easily proven from records of third parties, but Lindsay was only interested in Coulter keeping this fact secret, despite the fact that Coulter expressed that she felt this should raise issues with the Officer's testimony in both cases which Lindsay was representing Coulter in. (Lindsay showed absolutely no interest in exploring this possibility.)

13.) Lindsay, did (near the completion of their professional relationship, when Coulter was about to go to Trial) indicate that unlike Coulter's Mental Status at the time of their first meeting, Coulter "no longer looks crazy" (or similar wording). And, Lindsay then indicated that he saw no purpose in raising any mitigating factors even in relation to even Coulter's documented Mental Health Issues. (These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

14.) Eventually, the Firm and all Defendants were also employed to represent Coulter in the matter in the Juvenile Court.

Subsequently, during one of the hearings in Juvenile Court, the Child's Caseworker as well as the Police Officer who had stolen Coulter's mail, were testifying as to statements that the Child had made to them about allegations that the Child had made concerning Coulter inserting a child's marker into the child's anus. Only this hearsay testimony was provided by those prosecuting the matter. Coulter asked Lindsay to object to the hearsay testimony.

Coulter convinced Lindsay to ask if the witnesses believed the child, then why they had waited so long (5 days) after the event, to take the Child for medical evaluation (as the Child supposedly went to the police immediately after the supposed act). The witnesses provided vague and even “sketchy” answers which implied treatment/evaluation was provided which would support the claims of belief of the Child – although no specifics were provided, and no evidence of the medical assistance was yet provided to the Court. (And none was provided in the other case either.)

Several months later, when Coulter again raised this same issue (lack of medical care means they didn’t believe the allegation), Lindsay said that he hadn’t heard anything from those prosecuting Coulter. Therefore, Lindsay said that he didn’t feel that there was anything to learn from the Witnesses who had testified in the Juvenile Hearing - and that their failure to describe in detail the Child’s immediate medical care (“I think someone took her somewhere”, etc.), would not be useful even though Lindsay expected that those same Witnesses would again testify in the upcoming Criminal Case. (These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

16.) No further testimony of evidence was provided to the Juvenile Master, or to the Judge who subsequently affirmed the “finding” of sexual abuse, by Coulter. And, as with every other Juvenile Hearing, Lindsay had the opportunity to speak to/”question” the Child. But in every instance,

Lindsay refused to even attempt to take advantage of this opportunity to speak with Coulter's accuser.

17.) Coulter herself, researched legal precedent, and found a case almost exactly in line with the situation that Coulter was facing. In that case, two witnesses confirmed each other's account of a Child's allegations, and the appellate court completely dismissed the results as being based on what amounted to two employees of the same agency, providing self-serving confirmatory testimony. In both Coulter's situation and the case that Coulter uncovered, the second witness was not actually employed by CYS, but was "related" to the agency in a very similar manner to the relationship between the officer and CYS in Coulter's case. Coulter explained that she could easily locate the case as they spoke in Lindsay's office, because it contained the word "machinations", which Coulter could use to identify the case. And, while still sitting in his office, Coulter provided Lindsay with the identity of the case which would require the "finding" be overturned.

18.) Lindsay agreed to appeal the Judge's affirmation of the "finding" —stating that the Caselaw provided by Coulter would likely cause the finding to be reversed. And, Lindsay did timely file the Notice of Appeal.

19.) Coulter spoke with Defendant Lindsay concerning the next step now that they had filed the Notice of Appeal. At that time, Defendant Lindsay told Coulter that they would file a 1925(b) Statement which would list the issues to be considered by the Appellate Court. Coulter stated that she wanted them to file it immediately, but Lindsay refused, insisting that it would definitely be filed in a timely

manner – but that it would not be done until after the judge asked for the filing of the 1925(b) Statement. Coulter was also informed that anything which was not on the 1925(b) Statement would not be considered by the Appellate Court – so Coulter asked Lindsay, again to file it now, rather than potentially missing the filing date. And, Lindsay again promised that it would be filed in time, and said that he wanted more time to assure that absolutely every issues was included. Coulter reminded Lindsay about the case which Coulter found, which absolutely determined that without independent corroborating testimony, the judge was not permitted to make his “finding”. Coulter again explained that the CaseLaw had used the word “machinations”, so Coulter could easily find it again, if Lindsay had lost the Case’s name, etc.. Lindsay stated that he still had the information, which Coulter had previously located – and would definitely use it during the appeal – because the finding was made solely on the basis of the testimony of what the court would say were two (2) employees of CYS, and therefore unreliable as it would certainly be found to be slanted toward CYS’s wishes – just as the case that Coulter had “given” him had determined.

It is because of all Defendants’ failure to complete even this most preliminary step necessary to “perfect the appeal” (an action which Defendant Lindsay specifically guaranteed would be timely completed) that Coulter has been forced to suffer the consequences of an unjustified “Finding of Abuse” – and forms the basis of Coulter’s Claims of BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.

20.) Coulter called Lindsay when she noticed that the Judge had made a ruling related to Defendant's failure to timely file the 1925(b) Statement for Coulter. Coulter spoke with Lindsay, who at least seemed to be surprised about the situation which Coulter was now in. Lindsay called Patricia into his office and asked about why he had not received the Judge's Order for submission of the 1925(b) Statement, and Patricia admitted that she had received it, but did not understand that Lindsay needed it. Lindsay told Coulter that he and DEFENDANT JOSEPH VICTOR CHARLTON would ask the Judge to reconsider, and permit delayed filing of the 1925(b) Statement. (These facts which describe actions by Defendants which may be steps in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

21.) Following that phone call, and presumably Defendants' meeting with the judge, when Coulter next spoke with Defendants, Coulter was told that the issue was Interlocutory, and therefore not yet appealable, and therefore, the missed filing date was of no importance. Coulter believed what Defendants, Coulter's "legal counsel", were saying about the Order being not yet available for appeal. And indeed, it was not until the subsequent appeal of that "finding" was appealed (at the conclusion of the Dependency Matter), that Coulter learned that she had been lied to by Defendants, because appeal of the finding was quashed (March 2, 2011) as untimely! And it was this failure to timely file the 1925(b) Statement, which Defendant Lindsay personally and

completely promised to do, which serves as the basis for claims of FRAUD BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT, as it is unquestionably the responsibility of all Defendants to have filed the 1925(b) Statement – and Lindsay personally promised to timely file at the time that Plaintiff Coulter specifically requested that he file it (despite the fact that the Judge had not yet ordered it to be filed).

22.) Bills subsequently presented to Coulter for payment, included charges for the meeting with the judge by both Defendant Lindsay and Defendant Chartlton – which was supposedly for the sole purpose of convincing the judge to permit their late filing of the 1925(b) Statement.

And it was this failure to timely file the 1925(b) Statement, which Defendant Lindsay personally and completely promised to do, which serves as the basis for claims of FRAUD BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT, as it is unquestionably the responsibility of Defendants to have filed the 1925(b) Statement – and Lindsay personally promised to timely file at the time that Plaintiff Coulter specifically requested that he file it (despite the fact that the Judge had not yet ordered it to be filed).

23.) There has never been any indication that the opposition's attorneys were part of any such meeting, and it is therefore believed that the true purpose of the meeting was not as was claimed at that time. (These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as, possibly their intentional BREACH OF

PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

24.) At the time when Interlocutory Orders would be able to be appealed, Coulter personally filed Notice of Appeal of the “finding” of Abuse. On March 2, 2011, that Appeal was Quashed by the Superior Court, as untimely. It was at that moment that Coulter realized that she had been lied to in relation to such a critical issue, by all of the Defendants, and this lie occurred early in their professional relationship.

While Defendants now argue that this suit “clearly relates to the State Court proceedings involving some other unspecified cases, indeed, the claims presented clearly are instead related to the case in the Juvenile Division where Defendants had promised to represent Plaintiff Coulter’s interests.

25.) Around the time that Defendants destroyed Coulter’s chance to appeal the “finding” of abuse, Coulter learned that Defendants had a new “High Profile” Client who was also being charged with abuse, in that case, their client was a young teacher.

26.) But this was not the only thing that had been happening in relation to Defendants’ representation of Coulter in Butler County. In the Criminal Court, there had been a second set of charges being filed against Coulter. Indeed, at the Preliminary Hearing on the new charges, Lindsey learned from Coulter that at least some of the charges not only never took place, but indeed never could have occurred! While Lindsay briefly questioned the Child about the specific allegations that the Child had made (related to the alleged attempted “hanging”), Lindsay refused to attempt to

learn what had convinced the Child to develop this new list of allegations – which were clearly lies/fabrications.

In particular, Lindsay was shown that the Child's allegations related to a "hanging" never could have occurred - as for it to occur, the twine supposedly holding the Child in the air, would have had to magically float above the floor (due to the configuration of the staircase where the Child claimed this happened). Coulter repeatedly attempted to have Lindsay probe this issue, and point out to the Child that her claims were indeed impossible (which might have convinced the Child to recant), but Lindsay flatly refused without explanation of his reasons for missing this opportunity to speak with (and challenge) the Child!

These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.

27.) For the most part, the Criminal Proceedings were stalled, at the request of the District Attorneys' Office. But, despite the fact that the prosecutor had requested the delays, Coulter was told (by Charlton) that the Firm would accept responsibility for the delays. Lindsay confirmed Charlton's decision – stating that while forcing the prosecutors would help Coulter individually, Lindsay and the Firm, had to think of the bigger picture – although no specifics of how this would benefit even the Firm were ever even vaguely explained (despite the explanation being repeatedly requested).

It is apparent that the Judge would have granted the continuance regardless of the petitioner, but Lindsay was assisting the prosecutors in case they later needed more time, and would be up against the requirement for speedy trial (which potentially would cause charges to be permanently dropped). Details of manipulation of the Child, through efforts to convince the Child that her mother no longer care about her, as detailed in paragraph 29, bolster this conclusion.

28.) It is believed and therefore averred that the Prosecutors needed additional time to persuade the Child to testify against Coulter, as was subsequently shown to be the situation in the Juvenile case, after Lindsay was no longer representing Coulter in any manner. (These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

29.) In addition to refusing to attempt to discover what had happened which would cause the Child to fabricate a new set of allegations – particularly when the allegations were clearly false, Coulter learned that Lindsay had apparently been “considering” matters other than Coulter’s interests in his actions, concealing information from Coulter and refusing to act on unilateral “orders” by the Caseworker in the Juvenile matter. The actions by Lindsay resulted in significant “aid” to the District Attorney’s Office as it assisted in the manipulation of the Child, to assure the Child testify angrily – such manipulation having a lengthy history in all aspects of Coulter’s cases. Facts upon which the allegation

of manipulation of the Child, (often assisted by Lindsay) is made :

a.) Coulter has learned subsequent to the end of the Firm's employment, that repeatedly Lindsay was asked through the Caseworker, to have Coulter forward specific belongings to the Child. While Coulter was never informed of these requests, and the Agency had even encouraged Coulter to deliver presents (intended for the Child's Half-Birthday), to be delivered to the preliminary hearing on the second set of charges! The gifts were allowed to be wrapped, as long as the wrapping paper design did not concern anything birthday-related. (So, it appears that the Caseworker intended to "claim" to be the source of the gifts.)

b.) Subsequent to the end of the Firm's employment, Coulter learned that the Child had repeatedly inquired into where Coulter's gifts to her were (for birthdays, Christmas etc.). But, this information was never provided to Coulter, and Coulter had been waiting for instructions for how to have them delivered. (This was, supposedly a request that Lindsay accidentally over-looked, repeatedly.) The Child's requests were routed through the Foster Family, who was also not aware of the restriction which had secretly been implemented in conflict with the prior standards for the Child in this matter, without judicial input – and without Lindsay's intercession on Coulter's behalf.

Because the requests and questions were periodically repeated, it is apparent that the "determination" was concealed from the Child as well as the Foster Family and Coulter – but not Coulter's legal representatives (Defendants).

c.) Suddenly, out of the blue, the Agency announced that it would not forward items to the Child, only now claiming this constituted "Third Party Contact" (which would be forbidden by the criminal case). No judicial/CaseLaw determination was made known/announced concerning the Child's property in Coulter's home still – but because the requests were hidden from Coulter, Coulter was not aware that thus too was being denied. :

i.) It is suspicious that, out of the blue, CYS stated that they were not allowed to do this, and truly had erred in ever permitting it! However, the Caseworkers were certainly familiar with this type of situation and had never even limited gifts before that point.

ii.) It is suspicious that the Foster Family was not aware of this situation, had it been accurate, as the Foster Family was intimately related to the Agency – with a family member even employed by the Agency, and an extensive history of foster service to the Agency. And, it is suspicious that the Caseworker had not informed the Child of this fact, as to do otherwise would assure that the Child suffered emotional distress!

iii.) On one occasion, the caseworker even brought the Police Officer (who had stolen Coulter's mail) to the house, to pick up a list of items which the Child had requested. (Most certainly the Police Officer would have been aware of restrictions which he would be responsible for enforcing, but he too made no objections.) No one objected even when Coulter included numerous items which were not specified, including several very large stuffed animals.

iv.) It is doubtful that there ever was such limitation, much less that it was violated - especially in light of the gifts delivered to the preliminary hearing, were obviously occurred with the knowledge of the District Attorney's Office.

v.) It is suspicious that CYS never provided any judicial determination that the rules must be changed - even if it had been issued by the judge sua sponte and without even a request by anyone prosecuting cases against Coulter.

vi.) Finally, it was suspicious that Lindsay refused to "petition" the criminal court - or even suggested that the Caseworker must inform the Child of the new circumstance - even though Lindsay specifically stated that he too found it strange that suddenly the situation had changed so dramatically.

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

d.) Subsequent to the end of the Firm's employment, the Judge who took over the Juvenile Case (the same judge who met with Lindsay and Charlton) issued, sua sponte an Order restricting Coulter's access to the Child from that point forward - while simultaneously claiming that such restriction was always in place in the Case. This was factually inaccurate though, as Contact had been Ordered to be facilitated any time that the Child requested it. It has since been learned that the Child went to great lengths to have her request for contact heard, but significant cover-up occurred to

permit the Juvenile Judge (who ruled on the 19259b) tardiness) wanted contact to be denied, so it was, in conflict with Law of the Case.

The Judge carefully announced his decision to impose Sentence as part of a Juvenile Hearing (without authority), but never filed it, so it was unappealable – but was enforced during the time when access would have been required to be provided by the terms of the “Law of the Case”. (This example also does not directly involve Defendants, but is also included for evidence of an on-going conspiracy involving the Judge who Defendants had their ex parte discussion with.)

e.) The Child was even lied to in the presence of a Mental Health Evaluator, during the course of the evaluation sessions. The Child was informed that Coulter was able to make contact any time she chose, but only chose to do so a “handful of times”. Despite the fact that both aspects of this statement were known to be untrue, the Caseworker determined that the evaluator would be sufficiently corruptible, that the Statement would not affect his Report to the same Judge as Lindsay and Charlton “appealed” their untimely filing of 1925(b) Statement.

f.) Supposedly the Child had expressed fears of retribution by Coulter, so the Judge ordered the Child temporarily relocated, to clearly limit the Child’s ability to contact Coulter personally. Reports of the Child’s actions and statements show instead that the Child was depressed, fearing that Coulter would hurt herself before serving her Sentence.

g.) Coulter’s brother was able to visit with the Child after Sentence was imposed, but he

refused to continue contact, when supposedly the Child demanded that he discontinue contact with Coulter. However, Coulter's brother has had little to no contact with Coulter, or their sister, since their mother's death a decade ago.

Thus, it is evident that the Child was again being manipulated – with the active assistance of Defendants who were under contract to assist Coulter, instead of using their contractual relationship and Coulter's trust, to intentionally assist those who were intent on harming Coulter and the Child.

30.) Lindsay repeatedly warned Coulter that she must conceal any possible signs of paranoia (particularly when Coulter was questioning improper actions by Lindsay's apparent co-conspirators i.e. Judge, Caseworker, etc.), with the obvious "side-effect" of discouraging Coulter's questioning of all Defendants' actions.

Lindsay also, feigning genuine concern, repeatedly raised questions about the Child's recovery from emotional trauma. This was intended to repeatedly remind Coulter of her responsibility, and make Coulter more susceptible to acceptance of Lindsay's abuses of Coulter's trust which resulted from their professional relationship.

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD.)

31.) While Defendants prepared for the Trial of the High Profile Client (a young teacher charged with sexual contact with young girls whom he babysat over the summer), Coulter was unable to contact the Firm or its members as they were deeply involved in preparation for Trial.

32.) When the High profile Trial was completed, with victory for Lindsay and the Firm, Coulter was finally able to ask about preparation for her Trial. Lindsay assured Coulter that he had been working on her case. But, when Coulter asked about the Mental Health Report, Lindsay told Coulter that he was no longer planning on presenting information about Coulter's status – as it is almost impossible to prove temporary insanity. When Coulter stated that she still wanted to present it as a mitigating factor, Lindsay informed Coulter that he would be unable to get any more continuances, and that it was “unfortunate timing” (Lindsay's term), but because the expert had just testified in the High Profile Case, the Expert's testimony would be of little to no value, as the D.A. would argue that the Expert was finding the same thing every time he looked at a Defendant in a criminal matter. Coulter was told that other items needed preparation, and other cases were also waiting for attention, so like everyone else, Coulter would need to wait until it was her turn for Trial Preparation.

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

33.) Coulter had repeatedly asked about the lab report on the markers as Coulter believed it would be negative. Lindsay had repeatedly refused to ask, but eventually relented. It was at approximately this time, that Lindsay finally told Coulter that the markers were “negative for DNA evidence”. At this time, Lindsay told Coulter that

her insistence on having the markers tested was blowing up in her face as this now meant that the D.A. had this fact to use against Coulter – although Lindsay refused to explain how it could possibly be so. (Fecal contamination would be what should have been tested for – so it is now believed that Lindsay had fabricated the entire result.)

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

34.) Coulter asked when Trial Prep would begin, since Jury selection was going to occur soon. Lindsay told Coulter that there would be plenty of time even after the jury was seated in the jury box, as numerous motions needed to be decided – although Lindsay refused to explain what those motions would possibly be.

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD.)

35.) Eventually, Coulter was called into Lindsay's office to begin Trial Prep. As was often the case, Defendant Charlton was present during portions of the discussions any time the criminal case was on the agenda.

Coulter soon learned that the only issue to be discussed were details about the jury selection. Coulter continued to ask about witness lists and preparation of the witnesses, whether the jury would see the stairs of the house where the "hanging" never could have happened, etc., as well as what the prosecution had in mind, and was told that Lindsay

and Charlton did not have time to spend explaining these things, if Coulter wanted her case prepared. Lindsay again insisted that he could not speak to the victim, but refused to explain why he had not done so during the Juvenile Proceedings.

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

36.) Following Jury Selection, Coulter finally learned the status of preparation of her case. Coulter was shown what Lindsay called his "Trial Notebook". The notebook was nearly empty. Coulter asked about this, and Lindsay repeated that there would be days of motions, etc. during which the office would be working (under Lindsay's directions) on the case. And, Lindsay insisted that he typically held a marathon preparation session during the weekend before Trial begins. But, even with this in mind, Coulter had doubts that Lindsay could adequately prepare since he claimed that he did not even know who was scheduled to testify, although it is believed that this is untrue as the D.A. would be compelled (upon requests by Lindsay) to provide this information among other things.

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

37.) It was at this point, that Lindsay first raised the discussion of possible pleas. Coulter

indicated a willingness to consider a plea, so Lindsay contacted the D.A. When Lindsay returned from his talks with the D.A., he told Coulter that the D.A. had discussed two offers. One required a “guilty” plea, and the other would allow a “no contest plea”. The guilty plea would be to a charge with a maximum sentence of nine (9) months probation. The nolo plea would likely involve incarceration – but Lindsay expressed confidence that the Sentence could be minimized because of Coulter’s lack of prior record, and mitigating circumstances.

38.) Coulter told Lindsay that he must immediately contact the D.A. to accept the guilty plea. But Lindsay argued that he couldn’t do that because of his obligations to consider the effects on the Juvenile Case. Coulter insisted that she would accept the probation as the lesser likely cause of damage to her relationship with the Child. But, Lindsay adamantly refused to contact the D.A. until after the attorney who recently took over the Juvenile Case would weigh-in with his opinion. And, Lindsay said that Coulter must forget the guilty plea as it would expire before the Juvenile Case’s attorney would get back to him (as it would expire at the end of the day, which was just an hour or so away).

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

39.) Coulter said that she was going to approach the D.A. to accept the plea directly then. And, by the time that Coulter reached the D.A. in her office, the D.A.’s office was already anticipating

Coulter's contact – and adamantly refused to speak with Coulter until after Lindsay officially withdrew.

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD.)

40.) Between acceptance of the plea, and Sentencing, there was a significant period when Coulter was requesting access to the Child – as the criminal no contact order would no longer be applicable. But, again Lindsay barely even feigned any attempt to request this of the Court – instead again providing assistance to the “county”, instead of furthering Coulter's interests.

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

41.) Lindsay continued to conceal crucial information from Coulter, even failing to inform Coulter that she would need witnesses to prove that she had been gainfully employed (until assuming responsibility for her mother's daily care due to Alzheimer's Disease), as the District Attorney intended to argue that Coulter had never been a contributing member of society. Coulter could have readily disputed that assertion, as Coulter routinely both worked full-time, responsible positions in professional offices or labs, but Coulter had frequently done so while also attending school (often full-time).

42.) Because no expert testimony was available, and Coulter no longer “looked crazy”, but mainly because Coulter's attorneys had violated the

trust that they had been given and instead manipulated the situation - Coulter was given a severe Sentence.

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

43.) Lindsay realized that the Sentence was severe, beyond even the “aggravated range”, but he never explained this to Coulter.

(These facts which describe steps by Defendants in the CIVIL AND CRIMINAL CONSPIRACY also support claims of FRAUD as well as and BREACH OF PROMISE, BREACH OF CONTRACT and BREACH OF IMPLIED CONTRACT.)

44.) Coulter first filed this case in the Federal Court, but the case was dismissed completely without any form of consideration of the facts of the case, exclusively as the result of an extremely highly biased Federal Judge who has been investigated for personally taking criminal actions which have victimized Coulter.

While Defendants have repeatedly argued that the issue of res judicata applies, it is obvious that Defendants are well aware that this is simply not the case, as the recent (corrupt) decision of the Third Circuit (correctly) finds that “But the District Court’s March decision does not include “findings of fact” – and this finding most certainly precludes any possible determination that “there is a final judgment on the merits”. And, Defendants new arguments that Rule 233.1 applies need not be

addressed, as any such argument has been previously waived – as well as being obviously frivolous and vexacious. Tragically, it is equally clear that Defendants are relying on This Honorable Court to make a “meritless” determination that a dismissal which results from a decision which produces absolutely no findings of fact could possibly be interpreted as one which has considered the case on its “merits” - in order to assure that their actions are concealed from a jury which would certainly award Coulter’s full request for damages, which result from the actions of each of the Defendants!

Conclusion

Coulter had been repeatedly, over a period of nearly 18 months, been subjected to frequent/ periodic brainwashing to convince her to believe that Lindsay had Coulter’s interests at heart – just as he had demonstrated on the day that they first met. Coulter undoubtedly naïvely trusted that Lindsay was attempting to get the best result that Coulter could expect – knowing the idiosyncrasies of juries and Judges, so Coulter blindly accepted behaviors which she did not comprehend the reasons for. This happened all because Coulter had been tricked into blindly trusting someone who had, at one time, conned her into believing that he truly was concerned for her troubles – even the ones which Coulter was entirely responsible for.

Coulter believed Lindsay’s expressed concerns for the Child, and his statements that he understood the very short term illness which Coulter had suffered, and genuinely felt that Coulter should regain Custody of the Child, now that there was no chance of the Child being re-injured. And, in a way,

Coulter believed that she should be punished for what she actually subjected the Child to.

Coulter continued to believe that Defendants were behaving responsibly, and Coulter “fell” for the quick reasoning of a seasoned and talented litigator. It was not until Coulter learned of the absolute lies related to the missing 1925(b) Statement, that Coulter suddenly saw all of the pieces of the puzzle fall into place. Whether the 1925(b) Statement was accidentally missed, or whether the action was the first one of the Criminal and Civil Conspiracy, is unknown. It is certain though, that following that “error” by Defendants, that all Defendants chose to enter into the conspiracy. Only the reason for and timing of their acceptance of their roles in in conspiracy remain unknown. Perhaps it occurred exclusively for the benefits offered by the President Judge (who issued the Order about the missing 1925(b) Statement) in future case scheduling – perhaps to assure that Coulter would never be a “sympathetic plaintiff” for what would, at best, be termed Extreme Malpractice. Similarly, it is unknown whether Defendants had genuinely taken absolutely no steps to prepare for the Trail which they promised to represent Coulter in, or whether the Defendants merely chose to violate their duty, by “conning” Coulter into believing that her case was lost before she even walked into the courtroom. Either way, it is obvious that Defendants chose to enter into a Civil and Criminal Conspiracy to deny Coulter every aspect of Due Process in both the Criminal Case, as well as the case related to the Child. It really doesn’t matter if they failed to take any steps toward fulfilling their contract, or instead choose to convince Coulter that this was the situation

– either way, Defendants all defrauded Coulter resulting in the complete obliteration of their signed Contract with Coulter – and serious injuries to Coulter and the Child!

Damages

Coulter will continue to suffer the damages caused by an “unjustifiable” finding of sexual Abuse. What is particularly egregious is that this is a “charge” which even Children Services did not believe enough to require them to take the Child for a Medical Evaluation at a time which they supposedly believed was only minutes after a hard, large plastic object was inserted into the Child’s anus. So, Coulter carries this stigma for a “crime” which never occurred, and everyone involved with the case knows never even occurred.

Coulter acknowledges her role in the crime for which she was punished. But, Coulter should not have been subjected to such extreme punishment – and the prosecutors acknowledged as much with the significantly lesser plea offer. It was only due to Lindsay’s “refusal” to accept the plea, that Coulter was subjected to the extreme punishment. Lindsay should have rejected employment for Coulter’s case, if he was uncomfortable leaving the Sentencing up to the Court – or should have “quit” when he realized that he no longer intended to defend Coulter, choosing instead to assure that Coulter could never be a “Sympathetic Plaintiff”. Criminal Defense Attorneys have no right to take steps to assure that their client is more severely punished than the Courts would require! But, that is exactly what these Defendants have done.

It is readily apparent that Defendants received some significant form of financial incentive

for accepting a role in the conspiracy against Coulter. To disbelieve this assertion, would require that one believe that the Defendants were all willingly chose to violate the Code of Conduct for their Profession and chose to enter into a criminal conspiracy which should have resulted in lengthy imprisonment for these “legal professionals” –all without any “up-side” for these attorneys! Coulter has not named the other co-conspirators because proof of their identities, particularly with respect to the jurist who was involved (Juvenile or Criminal Court), does not yet exist. Either Judge seems equally likely. It is believed that without some degree of certainty of the identity of the “ring leader”, Coulter is unable to file suit against that jurist.

It is believed that Lindsay permitted repeated delays in Coulter’s case, in order to separate his payments to the conspiracy, so that Coulter’s Case would not come before the “High Profile Case”. It is also reasoned that Lindsay was demanding that his pay-day occur before he had nothing left to hold over his co-conspirators. (Once Coulter’s case was complete, Defendants no longer had leverage to use to assure that they received the “considerations” during the “High Profile Case”. This additional “consideration” was likely related to assignment of jurist, and prosecutor – as well as possible manipulation of the jury pool – all intended to bolster the Firm’s reputation as “Super lawyers” among Criminal Defense attorneys. So, the additional “compensation” received from the” Judicial Conspirator” and/or “D.A. Conspirator”, as payment for Defendants’ role in the injuries caused by the Breach of their Contract with Coulter and should also be considered at the time of fixing award to be

Ordered paid to Coulter (just as payments for the contract from Third Parties (i.e. insurance companies) are).

PRAYER FOR RELIEF

Coulter seeks recovery for injuries in the amount of \$100,000,000.00 (One Hundred Million Dollars and No Cents) for injuries suffered as well as Punitive Damages - along any other Relief which the Court finds appropriate.

Coulter exercises her right to TRIAL BY JURY in this matter.

Respectfully Submitted,

Jean Coulter, Pro Se Plaintiff
VERIFICATION

I verify that the statements made in this complaint are true and correct. I understand that false statements herein are made subject to penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsifications to authorities. Signed this 24th day of February, 2016.

Jean Coulter, Pro Se Plaintiff

159 A.3d 947 (2017)
2017 PA Super 92

Jean COULTER, Appellant

v.

**Alexander H. LINDSAY, Jr., Lindsay Law Firm,
Joseph Victor Charlton and Patricia Lindsay,
Appellees.**

No. 627 WDA 2016.

Superior Court of Pennsylvania.

Argued January 10, 2017.

Filed April 7, 2017.

Reargument Dismissed April 28, 2017.

949*949 Appeal from the Order Entered April 1, 2016, in the Court of Common Pleas of Butler County, Civil Division at No(s). Case No. 15-10340.

Jean Coulter, appellant, pro se.

David J. Rosenberg, Pittsburgh, for appellees.

BEFORE: FORD ELLIOTT, P.J.E., OLSON and STRASSBURGER,^[1] JJ.

OPINION PER CURIAM:

Serial Appellant, Jean Coulter, appeals *pro se* from the order entered on April 1, 2016. In this case, we hold that Pennsylvania Rule of Civil Procedure 233.1 is not void for vagueness under the federal and state constitutions and that our Supreme Court had the authority under the Pennsylvania Constitution to promulgate Rule 233.1. We also hold that Appellant's repeated, frivolous appeals to this Court warrant the awarding of attorney's fees and issuance of a filing injunction. Accordingly, we affirm the trial court's order and remand for further proceedings consistent with this Opinion and the accompanying order.

The relevant factual background and procedural history of this case are as follows. On May 11, 2007, Appellant pled *nolo contendere* to aggravated assault^[1] for the brutal abuse of her minor daughter. See Commonwealth v. Coulter, CP-

10-CR-0000727-2006 (C.C.P. Butler). As a result of the heinous abuse of her daughter, the Court of Common Pleas of Butler County terminated Appellant's parental rights as to her daughter. *See In the Interest of A.C.*, CP-10-DP-0000051-2006 (C.C.P. Butler). Alexander H. Lindsay, Jr., Lindsay Law Firm, Joseph Victor Charlton, and Patricia Lindsay (collectively "Appellees") represented Appellant during both the criminal and termination proceedings.

Over the ensuing decade, Appellant filed dozens of actions in both the state and federal courts of this Commonwealth. For example, on March 2, 2015, Appellant filed a complaint against Appellees in the United States District Court for the Western District of Pennsylvania. In that complaint, Appellant "allege[d] that [Appellees] conspired with one another to deny her [] due process in those court proceedings." *Coulter v. Lindsay*, 2015 WL 11117718, *1 (W.D.Pa. Mar. 6, 2015) (hereinafter "*Lindsay*").

That complaint was dismissed with prejudice. *See id.*

950*950 On May 4, 2015, Appellant instituted the instant action in the Court of Common Pleas of Butler County. In her complaint, Appellant conceded that she was raising the same exact claims that she raised in *Lindsay*. On December 22, 2015, Appellant filed a motion seeking the trial court's recusal.

Appellant's recusal motion was denied that same day. On February 8, 2016, Appellant filed her fifth amended complaint. On March 11, 2016, Appellees filed preliminary objections. In their preliminary objections, Appellees argued that Appellant's claims were barred by *res judicata*. Moreover, Appellees argued that, to the extent Appellant's claims were not barred by *res judicata*, the trial court should

dismiss the complaint under Pennsylvania Rule of Civil Procedure 233.1 (frivolous actions filed by *pro se* plaintiffs). Finally, Appellees argued that Appellant failed to state a claim upon which relief may be granted. On March 28, 2016, Appellant filed preliminary objections to Appellees' preliminary objections.

The trial court heard argument on Appellant's and Appellees' preliminary objections on April 1, 2016. That same day, the trial court overruled Appellant's preliminary objections, sustained Appellees' preliminary objections, and dismissed Appellant's complaint. This timely appeal followed.^[2] The appeal of this case was argued before this Court on January 10, 2017. On January 19, 2017, Appellant filed a motion seeking the recusal of all three members of this panel.

Appellant presents five issues for our review:

1. [Did the trial court err by denying Appellant's recusal motion?
2. Did the trial court err by concluding that Appellant's claims were barred by *res judicata* and by dismissing her complaint pursuant to Rule 233.1?
3. Does Rule 233.1 violate the United States and Pennsylvania constitutions?
4. Did the trial court err in concluding that Appellant's claims were barred by the statute of limitations?
5. Did the trial court err in concluding that Appellant failed to state a claim upon which relief could be granted?]

Appellant's Brief at 4-5.^[3]

Preliminarily, we must consider Appellant's recusal motion. Appellant argues that all three members of this panel should recuse from this case because the panel was not randomly assigned. She also argues that all three members of this panel are biased against her. This argument is waived. "A party seeking recusal or disqualification is required to raise the objection at the earliest possible moment, or that party will suffer the consequence of being time barred." In re Lokuta, 608 Pa. 223, 11 A.3d 427, 437 (2011) (internal alterations and citation omitted). In this case, the earliest opportunity to raise the recusal issue was at oral argument. Appellant, however, did not move for recusal until nine days after this case was argued. Accordingly, Appellant waived any argument related to the recusal of the three members of this panel.

951*951 Moreover, even if Appellant preserved her recusal claim, it is frivolous. This case was assigned to this panel pursuant to 210 Pa.Code § 65.5(C)(1)(a). Specifically, a member of this Court originally assigned to hear this case became unavailable to participate in the disposition of this case and the President Judge appointed a replacement.^[4] Accordingly, all relevant internal operating procedures regarding panel composition were followed with respect to this case.

As to Appellant's claims of bias, when

considering a recusal request, the jurist must first make a conscientious determination of his or her ability to assess the case in an impartial manner, free of personal bias or interest in the

outcome. The jurist must then consider whether his or her continued involvement in the case creates an appearance of impropriety and/or would tend to undermine public confidence in the judiciary.

Commonwealth v. Brown, 141 A.3d 491, 498 (Pa. Super. 2016) (citation omitted).

All three members of this panel individually determined that they are capable of assessing the case in an impartial manner, free of personal bias. Moreover, all three members of this panel individually determined that their involvement in this case does not create the appearance of impropriety and will not undermine public confidence in the judiciary. Although all three judges of this panel are familiar with Appellant, that fact does not necessitate recusal. *Cf. Commonwealth v. Abu-Jamal*, 553 Pa. 485; 720 A.2d 79, 90 (1998) (Familiarity with the defendant and prior adverse rulings do not require recusal). Moreover, as discussed *infra*, there are few (if any) members of this Court who are unfamiliar with Appellant and her repeated, vexatious, and frivolous litigation. Accordingly, we deny Appellant's recusal motion directed at the members of this panel.

Turning to the merits of the issues raised by Appellant, she first argues that the trial court erred in denying her recusal motion. We review "the trial court's denial of the recusal motion for abuse of discretion." Becker v. M.S. Reilly, Inc., 123 A.3d 776, 778 (Pa. Super. 2015) (citation omitted). The trial court was required to apply the same standard that the members of this panel applied when ruling on

Appellant's recusal motion. *See Brown*, 141 A.3d at 498 (citation omitted).

Appellant's claims of bias, and the appearance of bias, are frivolous. Appellant argues that the trial court took all necessary actions in order to get its desired result. The record belies this assertion. The trial court acted with great restraint in permitting Appellant to continually amend her frivolous complaint and held a hearing on the parties' respective preliminary objections. Instead of imposing harsh sanctions for her violations of the rules of civil procedure, the trial court instead simply overruled Appellant's preliminary objections and sustained Appellees' preliminary objections. We ascertain no abuse of discretion in the trial court's denial of Appellant's recusal motion.

In her second issue, Appellant argues that the trial court erred in dismissing her complaint pursuant to Pennsylvania Rule of Civil Procedure 233.1, which provides, in relevant part: 952*952

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.

Pa.R.C.P. 233.1(a). "To the extent that the question presented involves interpretation of rules of civil procedure, our standard of review is *de novo*. To the

extent that this question involves an exercise of the trial court's discretion in granting a motion to dismiss, our standard of review is abuse of discretion." Coulter v. Ramsden, 94 A.3d 1080, 1086 (Pa. Super. 2014), appeal denied, 631 Pa. 719, 110 A.3d 998 (2014) (hereinafter "*Ramsden III*").

As this Court has explained, Rule 233.1 does not 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." 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 [Rule 233.1'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[.]"

Gray v. Buonopane, 53 A.3d 829, 836 (Pa. Super. 2012), appeal denied, 619 Pa. 716, 64 A.3d 632 (2013) (citations omitted).

Appellant contends that her claims are not "related" to her prior lawsuits; however, she conceded in her complaint that her claims are identical to those raised in *Lindsay*. See Appellant's Fifth Amended Complaint, 2/8/16, at 1. As such, the claims are the "same," as required by Rule 233.1(a)(1). Moreover, Appellant's claims were "resolved" in *Lindsay*. See *Lindsay*, 2015 WL 11117718 at *1. Specifically, the United States District Court for the Western District of Pennsylvania dismissed the claims with prejudice. See *id.* The dismissal of the claims in *Lindsay* satisfied the requirements of Rule 233.1(a)(2) as the dismissal resolved Appellant's claims against Appellees. Accordingly, the trial court properly dismissed Appellant's complaint under Rule 233.1.^[5]

In her third issue, Appellant argues that our Supreme Court lacked the authority under Pennsylvania's Constitution to promulgate Rule 233.1. She also argues that Rule 233.1 is unconstitutionally vague. We review the constitutionality of a 953*953 rule of civil procedure *de novo* and our scope of review is plenary. See Laudenberger v. Port Auth. of Allegheny Cty., 496 Pa. 52, 436 A.2d 147, 150-157 (1981) (reviewing *de novo* determination that rule of civil procedure was unconstitutional).

The Pennsylvania Constitution provides that our "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." Pa. Const. art IV, § 10(c). Our Supreme Court has held that when determining if a rule is substantive or procedural in nature, "we must [] seek to determine the purpose of the rule in order to properly characterize its nature." Laudenberger, 436 A.2d at 150.

In this case, the explanatory comment to Rule 233.1 indicates that the purpose behind Rule 233.1 is to ease congestion in the courts by eliminating frivolous *pro se* litigation. As our Supreme Court noted in *Laudenberger*, that purpose makes the rule procedural and not substantive. *See id.* at 151. Moreover, even assuming *arguendo* that Rule 233.1 impacts Appellant's substantive rights, our Supreme Court is not "prevented from exercising its duty to resolve procedural questions merely because of a collateral effect on a substantive right." *Id.* at 155. Any effect upon Appellant's substantive rights is collateral as Rule 233.1 preserves Appellant's right to at least one prior substantive presentation of her claims. Accordingly, our Supreme Court had the authority to promulgate Rule 233.1.

Next, Appellant argues that Rule 233.1 is void for vagueness under both the United States and Pennsylvania constitutions. A vague rule offends the United States and Pennsylvania constitutions' due process clauses^[6] if it "result[s] in arbitrary and discriminatory enforcement in the absence of explicit guidelines for [its] application[.]" *In re William L.*, 477 Pa. 322, 383 A.2d 1228, 1232 (1978).

Rule 233.1 is not vague so as to result in arbitrary and discriminatory enforcement. To the

contrary, Rule 233.1 provides very specific guidelines for when a trial court may dismiss a *pro se* complaint. First, the complaint must be related to, or the same, as a previously filed complaint by the plaintiff. Appellant's argument that determining whether a complaint is "related" is arbitrary is frivolous. A complaint is related when it deals with the same subject matter as a previous complaint.^[7] Similarly, 954*954 Rule 233.1's requirement that the previous litigation be "resolved" is not vague. A claim is resolved when there has been a definite decision thereon. *See Black's Law Dictionary*, 1505 (10th ed. 2014). Accordingly, we conclude that Rule 233.1 is not void for vagueness.

"Having disposed of h[er] issues in this appeal, we cannot ignore [Appellant's] repeated abuse of our judicial system. Under the Rules of Appellate Procedure, we *sua sponte* may impose upon [Appellant attorney's] fees." *Morgan v. Morgan*, 117 A.3d 757, 762 (Pa. Super. 2015) (citation omitted). Pennsylvania Rule of Appellate Procedure 2744 provides that:

In addition to other costs allowable by general rule or Act of Assembly, an appellate court may award as further costs damages as may be just, including [] a reasonable counsel fee ... if it determines that an appeal is frivolous or taken solely for delay or that the conduct of the participant against whom costs are to be imposed is dilatory, obdurate[,] or vexatious.

Pa.R.A.P. 2744.

Appellant's conduct is the definition of vexatious. Although it is impractical to calculate the exact

number of cases Appellant has initiated over the past decade in the various courts of common pleas, Appellant has filed at least 78 appeals over the past decade related to her criminal case and/or the termination of her parental rights. *See* 2078 WDA 2007; 2181 WDA 2007; 1953 WDA 2009; 1981 WDA 2009; 2086 WDA 2009; 2116 WDA 2009; 2140 WDA 2009; 185 WDA 2010; 265 WDA 2010; 428 WDA 2010; 574 WDA 2010; 586 WDA 2010; 807 WDA 2010; 808 WDA 2010; 853 WDA 2010; 1181 WDA 2010; 1373 WDA 2010; 1860 WDA 2010; 266 WDA 2011; 267 WDA 2011; 268 WDA 2011; 269 WDA 2011; 270 WDA 2011; 271 WDA 2011; 294 WDA 2011; 295 WDA 2011; 296 WDA 2011; 297 WDA 2011; 298 WDA 2011; 299 WDA 2011; 300 WDA 2011; 301 WDA 2011; 302 WDA 2011; 303 WDA 2011; 304 WDA 2011; 305 WDA 2011; 306 WDA 2011; 307 WDA 2011; 308 WDA 2011; 309 WDA 2011; 310 WDA 2011; 311 WDA 2011; 312 WDA 2011; 313 WDA 2011; 314 WDA 2011; 315 WDA 2011; 316 WDA 2011; 317 WDA 2011; 318 WDA 2011; 319 WDA 2011; 447 WDA 2011; 555 WDA 2011; 662 WDA 2011; 676 WDA 2011; 1070 WDA 2011; 1437 WDA 2011; 30 WDM 2011; 1013 WDA 2012; 1199 MDA 2013; 582 WDA 2013; 583 WDA 2013; 584 WDA 2013; 585 WDA 2013; 586 WDA 2013; 678 WDA 2013; 679 WDA 2013; 1046 WDA 2013; 1213 WDA 2013; 1277 WDA 2014; 1278 WDA 2014; 1279 WDA 2014; 1890 WDA 2014; 2080 WDA 2014; 895 MDA 2015; 779 MDA 2016; and this appeal.

This Court has not granted Appellant relief on a single one of those 78 appeals and our Supreme Court has denied allocatur in every case in which Appellant petitioned for review of this Court's

decision. *See Coulter v. Mahood*, 2016 WL 3364893 (Pa. Super. June 16, 2016) (unpublished memorandum), *appeal denied*, 2017 WL 213194 (Pa. Jan. 18, 2017); *Coulter v. Levenson*, 122 A.3d 1140, 2015 WL 6957054 (Pa. Super. 2015) (unpublished memorandum); *Coulter v. Doerr*, 105 A.3d 40, 2014 WL 10917585 (Pa. Super. 2014) (unpublished memorandum), *appeal denied*, 631 Pa. 719, 110 A.3d 998 (2014); *Coulter v. Mahood*, 105 A.3d 39, 2014 WL 10917636 (Pa. Super. 2014) (unpublished memorandum), *appeal denied*, 631 Pa. 719, 110 A.3d 998 (2014); *Coulter v. Ramsden*, 105 A.3d 39, 2014 WL 10916977 (Pa. Super. 2014) (unpublished memorandum), *appeal denied*, 631 Pa. 719, 110 A.3d 998 (2014); *Coulter v. Allegheny Cty. Bar Ass'n*, 105 A.3d 39, 2014 WL 10919339 (Pa. Super. 2014) (unpublished memorandum), 955*955 *appeal denied*, 631 Pa. 719, 110 A.3d 998 (2014); *Coulter v. Lope*, 105 A.3d 39, 2014 WL 10917622 (Pa. Super. 2014) (unpublished memorandum), *appeal denied*, 631 Pa. 719, 110 A.3d 998 (2014); *Coulter v. Gale*, 105 A.3d 39, 2014 WL 10916978 (Pa. Super. 2014) (unpublished memorandum), *appeal denied*, 631 Pa. 719, 110 A.3d 998 (2014); *Coulter v. Butler Cty. Children & Youth Servs.*, 100 A.3d 295, 2014 WL 10965724 (Pa. Super. 2014) (*per curiam*) (unpublished judgment order), *appeal denied*, 627 Pa. 759, 99 A.3d 926 (2014); *Ramsden III*, 94 A.3d at 1080; *In re A.C.*, 64 A.3d 28 (Pa. Super. 2012) (unpublished memorandum); *In re A.C.*, 48 A.3d 469 (Pa. Super. 2012) (unpublished memorandum), *appeal denied*, 616 Pa. 649, 49 A.3d 441 (2012); *CYS. Butler Co. v. J.C.*, 47 A.3d 1256 (Pa. Super. 2012) (unpublished memorandum), *appeal denied*, 616 Pa. 649, 49 A.3d 441 (2012); *In re A.C.*, 47 A.3d 1242 (Pa.

Super. 2012) (unpublished memorandum), *appeal denied*, 616 Pa. 649, 49 A.3d 441 (2012); *Wilder & Mahood, PC v. Coulter*, 46 A.3d 824 (Pa. Super. 2012) (unpublished memorandum), *appeal denied*, 616 Pa. 660, 50 A.3d 126 (2012); *In re A.C.*, 38 A.3d 928 (Pa. Super. 2011) (unpublished memorandum), *appeal denied*, 615 Pa. 782, 42 A.3d 1058 (2012); *Commonwealth v. Coulter*, 24 A.3d 467 (Pa. Super. 2011) (unpublished memorandum), *appeal denied*, 612 Pa. 696, 30 A.3d 486 (Pa. 2011); *In re Adoption of A.C.*, 23 A.3d 577 (Pa. Super. 2010) (unpublished memorandum), *appeal denied*, 610 Pa. 589, 20 A.3d 482 (2011).

Moreover, Appellant has filed at least 11 cases in the United States District Court for the Western District of Pennsylvania stemming from her criminal case and/or the termination of her parental rights. *Coulter v. Forrest*, 10cv965; *Coulter v. Doerr*, 11cv1201; *Coulter v. Studeny*, 12cv60; *Coulter v. Butler Cty. Children & Youth Servs.*, 12cv338; *Coulter v. Allegheny Cty. Bar Ass'n*, 12cv641; *Coulter v. Ramsden*, 12cv978; *Coulter v. Ramsden*, 12cv1050; *Coulter v. Mahood*, 12cv1241; *Coulter v. Gale*, 12cv1461; *Coulter v. Lindsay*, 15cv289; *Coulter v. Bissoon*, 16cv1881. Appellant has similarly filed at least two actions in the United States District Court for the Middle District of Pennsylvania. *Coulter v. Forrest*, 12cv2050; *Coulter v. Unknown Probation Officer*, 12cv2067. As in the state court proceedings, Appellant has not prevailed in a single federal case. As a result of this vexatious litigation, the United States District Court for the Western District of Pennsylvania issued a filing injunction barring Appellant from filing further civil actions related to her criminal case and/or the termination of her

parental rights. Coulter v. Ramsden, 2012 WL 6592597, *3 (W.D. Pa. Dec. 18, 2012), *aff'd*, 13-1077 (3d Cir. Aug. 1, 2013) (hereinafter "*Ramsden II*").

This, therefore, is at least the 91st time that Appellant has litigated a frivolous case in this Court or the federal courts in this Commonwealth. "[I]t is clear [A]ppellant's insistence on repeatedly raising previously litigated issues goes beyond the conduct tolerated by our judicial system. This case is a clear example of a litigant who has abused the process of the courts of this Commonwealth. Accordingly, we [impose] costs, fees[,] and damages." Winpenny v. Winpenny, 775 A.2d 815, 818 (Pa. Super. 2001).

Finally, we consider whether a filing injunction is appropriate in this case. *See Bolick v. Commonwealth*, 69 A.3d 1267, 1269 (Pa. Super. 2013), *appeal denied*, 624 Pa. 660, 84 A.3d 1061 (2014) (issuing a filing injunction); *Lal v. Borough of Kennett Square*, 786 A.2d 1019, 1022 (Pa. Cmwlth. 2001), *appeal denied*, 569 Pa. 711, 805 A.2d 527 (2002) (same); Winpenny, 775 A.2d at 818 (same); *see also* 956*956 Chippis v. U.S.D.C. for the M.D. of Pa., 882 F.2d 72, 73 (3d Cir. 1989) ("[A] pattern of groundless and vexatious litigation will justify an order prohibiting further filings without permission of the court.").

As noted above, the United States District Court for the Western District of Pennsylvania has issued a filing injunction against Appellant. *See Ramsden II*, 2012 WL 6592597 at *3. The Court of Common Pleas of Allegheny County has similarly issued a filing injunction against Appellant. *See Coulter v. Ignelzi*, GD-15-002176 (C.C.P. Allegheny Dec. 15, 2015).

Both state and federal trial courts have issued filing injunctions against Appellant because of her continued vexatious litigation. Nonetheless, she continues to file frivolous lawsuits and appeal to this Court after trial courts properly dismiss her claims. We conclude that it is necessary to take the extraordinary measure of issuing a filing injunction at the appellate level. The vast amount of judicial resources that this Court expends affirming dismissals of Appellant's frivolous lawsuits is beyond that required by both the United States and Pennsylvania constitutions' due process clauses. *Cf. In re McDonald*, 489 U.S. 180, 184, 109 S.Ct. 993, 103 L.Ed.2d 158 (1989) (*per curiam*) ("Every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice."). Accordingly, we bar Appellant from taking any further *pro se* appeals in non-criminal matters to this Court without prior leave of this Court.

In sum, we conclude that the trial court did not abuse its discretion in denying Appellant's recusal motion. We hold that Pennsylvania Rule of Civil Procedure 233.1 is not void for vagueness under the federal and state constitutions. We also hold that our Supreme Court had the authority under the Pennsylvania Constitution to promulgate Rule 233.1. We conclude that the trial court properly dismissed Appellant's complaint under Rule 233.1. Finally, we hold that Appellant's continued vexatious conduct before this Court warrants the awarding of attorney's fees and issuance of a filing injunction.

Order affirmed. Case remanded. Jurisdiction relinquished.

[*] Retired Senior Judge assigned to the Superior Court

[1] 18 Pa.C.S.A. § 2702(a)(4).

[2] On May 5, 2016, the trial court ordered Appellant to file a concise statement of errors complained of on appeal ("concise statement"). *See* Pa.R.A.P. 1925(b). On May 24, 2016, Appellant filed her concise statement. On June 13, 2016, the trial court issued its Rule 1925(a) opinion. All issues raised on appeal were included in Appellant's concise statement.

[3] We have re-numbered the issues for ease of disposition.

[4] Appellant's argument that the member of this Court who recused herself from this case abused her discretion in so recusing is without merit. *Cf. Commonwealth v. King*, 576 Pa. 318, 839 A.2d 237, 239-240 (2003) (When a judge recuses herself, that decision is reviewed for an abuse of discretion.). Appellant has failed to indicate how recusal of this judge was an abuse of discretion.

[5] As the trial court properly dismissed Appellant's complaint under Rule 233.1, we decline to address Appellant's arguments related to *res judicata*, the statute of limitations, and Appellees' demurrer for failure to state a claim.

[6] As this Court recently explained:

Appellant specifically refers neither to the Due Process Clause of the Fourteenth Amendment of the United States Constitution nor to Article I, Section 9 of the Pennsylvania Constitution, but instead expresses a generic due process claim. The lack of specificity is of no moment to our review, however, as our courts have generally treated the Due Process Clause of the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution as coextensive.

Commonwealth v. Romeo, 153 A.3d 1084, 1087-88 n.4 (Pa. Super. Jan. 3, 2017) (citation omitted).

[7] At least two courts have rejected arguments similar to Appellant's. Specifically, the United States District Court for the Middle District of Florida held that whether an activity is "related" to religious worship is not an arbitrary determination. Konikov v. Orange Cty., Fla., 302 F.Supp.2d 1328, 1355-1356 (M.D. Fla. 2004), *rev'd in part on other grounds*, 410 F.3d 1317 (11th Cir. 2005). The United States District Court for the Southern District of Ohio held that whether an action is "related" to employment is not an arbitrary determination. Dayton Christian Sch. v. Ohio Civil Rights Comm'n, 578 F.Supp. 1004, 1027 (S.D. Ohio 1984), *rev'd on other grounds*, 477 U.S. 619, 106 S.Ct. 2718, 91 L.Ed.2d 512 (1986).

*Section of the Table of Contents for Coulter's Petition
for Allowance of Appeal in the matter of Coulter v.
Gale*

...

3. Argument

A. The Panel incorrectly determined that the
issue of Jurisdiction was waived, and thus refused to

...

B. The Panel incorrectly determined that the
federal court “considered” state claims, prior to the
dismissal for Lack of Subject Matter Jurisdiction.
and on that basis, determined that dismissal
pursuant to Rule 233.1 is permissible as claims had
been “considered” during the federal court’s review of
allegation necessary for “Original Jurisdiction”...

*Section of the Table of Contents for Coulter's Brief in
the PA Superior Court in the matter of Coulter v.
Gale*

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...

IV. MUST THE TRIAL COURT’S ORDER
DISMISSING THE COMPLAINT PURSUANT TO
RULE 233.1 BE OVER-TURNED BECAUSE THE
TRIAL COURT PROPERLY DETERMINED THAT
RULE 1510.3 (b) APPLIES, BUT IMPROPERLY

DETERMINED THAT A PREVIOUS DECISION
RESULTED IN THE CONSIDERATION AND
RESOLUTION OF “STATE” CLAIMS ? 99

*Section of the State Superior Court for Coulter' v.
Gale*

JEAN COULTER, Appellant,

v.

CHRISTINE GALE, FRANK GALE BAILS
MURCKO & POCRASS, ELAN WELTER LEWIS
AND THOMAS DOERR, Appellees.

No. 678 WDA 2013.

Filed: June 20, 2014.

Superior Court of Pennsylvania.

BEFORE: SHOGAN, OLSON and WECHT, JJ.

NON-PRECEDENTIAL DECISION — SEE

SUPERIOR COURT I.O.P. 65.37

MEMORANDUM BY SHOGAN, J

...

As previously stated, in the federal court action docketed at D.C. Civ. No. 12-cv-01461, as well as in the instant action, Coulter acted pro se. In both actions, Coulter raised similar causes of action against the same or related defendants. The main difference between the claims Coulter raises now in comparison to the claims she raised in the federal court action is that, herein, she has altered language in a minor fashion and essentially alleges additional instances where the defendants failed to properly handle her case before the Court of Common Pleas of Butler County. We further observe that the claims in federal court were resolved pursuant to a court proceeding, i.e., the federal court entered an order dismissing the action.

Thus, the parties and claims in the federal court action and in the present action were sufficiently related to inform the trial court that Coulter's current claim has been considered and resolved. Coulter has failed to establish that the trial court abused its discretion by dismissing her complaint pursuant to Pa.R.C.P. 233.1 or by barring her from pursuing additional pro se litigation against Appellees pursuant to Rule 233.1(c). Accordingly, we conclude that her contrary claim lacks merit.

Portion of the decision from the Trial Court in the matter of Coulter v. Gale, et. al. (as well as all of the Allegheny County cases considered by This Honorable Court in Coulter's Petition for Cert. docketed on April 16, 2015 in Case No. 14-1316)

IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

JEAN COULTER, Plaintiff No. GD 12-12905

v.

CHARLES J. AVALLI, LOUIS C. LONG,
ALLEGHENY COUNTY BAR
ASSOCIATION, WILDER & MAHOOD,
JAMES E. MAHOOD, ESQUIRE,
THOMAS J. DOERR, MELAINE S.
ROTHEY, PENNSYLVANIA BAR
ASSOCIATION, Defendants

MEMORANDUM ORDER

O'Reilly, J.

I have received five (5) documents styled
"petition for Reconsideration" in five matters. A

counterpart of this Order is entered in each case. The Petitions all refer to an Argument that I heard on February 8, 2013 regarding Preliminary Objections to Complaints and Amendments thereto filed by Plaintiff, Jean Coulter (Coulter). Those cases are Jean Coulter as Plaintiff versus :

- James E. Mahood, Susan B. Lope, Wilder & Mahood, Thomas J. Doerr, Elizabeth Smith, Unknown Clerk, Office of Butler County Clerk of Courts – GD 12-24620;
- Charles J. Avalli, Louis C. Long, Allegheny County Sar Association, Wilder & Mahood, James E. Mahood, Esquire, Thomas J. Doerr, Melanie S. Rothery, Pennsylvania Sar Association - GO 12-12905;
- Thomas Doerr, Mary Suzanne Ramsden, Stephanie Anderson, Raphael, Ramsden and Seher as Dennis McCurdy - GO 13-00579 ;
- James E. Mahood, Brian McKinley, Wilder & Mahood, Butler County Children and Youth Services, Thomas J. Doerr, Rochelle Graham, Dennis McCurdy, Elizabeth A. Smith, Susan Lope, Melanie S. Rothery, Charles J. Avalli, Louis C. Long, Pennsylvania Sar Association and Allegheny County Sar Association - GO 13-00745; and
- Mary Suzanne Ramsden, Stephanie Anderson, Raphael, Ramsden & Seher, Dennis McCurdy, Susan Lope, Elizabeth Smith, Rochelle Graham, Butler County Children and Youth Services and Thomas DoerrGO 13-00774.

The gravamen of her complaints relate to a Family Court matter in Butler County which had

come before the Honorable Thomas Doerr, Judge of the Court of Common Pleas of Butler County. Coulter had retained the law firm of Wilder and Mahood to represent her. She had signed an attorney retention and Fee Agreement which contained an arbitration provision. That provision called for arbitration before the Fee Dispute Committee of the Allegheny County Bar Association.

The matter before Judge Doerr did not go well for Coulter and ... [t]he law firm that had represented her, Wilder and Mahood (W&M), billed her for services rendered. On failure of payment they invoked the arbitration provision of the Fee Agreement. The Arbitration was conducted under the auspices of the Allegheny County Bar Association and the 3 member panel entered an award in favor of W&M ... Coulter appealed that award but was unsuccessful and the Superior Court dismissed her Appeal.

Coulter, in an effort to avoid the aforesaid Award, has filed the within Complaint against every person or entity that touched the case. These captions have not been consolidated but they have been treated together because of certain common issues. Coulter is seeking a variety of relief, including setting aside the \$97,000 Award, (now judgment) and also alleging misconduct or conspiracy among the Defendants. She also claims civil rights violations.

As noted, I heard argument on February 8, 2013. I reviewed the Superior Court opinion which affirmed the Arbitration Award and which had been entered on February 22, 2012 in Wilder & Mahood v. Jean Coulter, 1373 WDA 2010, GD 10-11635.

explained to Coulter that while she feels aggrieved by the course of this case she is without recourse in view of the Superior Court ruling which affirmed the Arbitration Award. With that court order, all of Ms. Coulter's claims for relief died. Further, any action against Judge Doerr is barred by the Doctrine of Judicial Immunity,

I therefore sustained the Preliminary Objections filed by all defendants and dismissed the complaints. I did so from the bench and signed the orders presented to me after I made the above explanation and had orally sustained the Preliminary Objections.

I have executed this Order in 5 counterparts and filed one at each docket number.

So Ordered.

BY THE COURT,

3-26-13

Portion of the decision from the Federal Court in the matter of Coulter v. Gale, et. al. (where the Federal Judge specifies that the remaining State Claims should be eligible for transfer to the State Court

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

JEAN COULTER, Plaintiff,) Civil Action No. 12-1461

v.) Judge Cathy Bissoon

) Magistrate Judge

CHRISTINE GALE, et al.,) Mitchell

Defendants.)

ORDER

Jean Coulter (“Plaintiff”) brings the instant cause of action pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1983, et seq. Plaintiff alleges that Defendants violated her rights under First and Fourteenth Amendments to the Constitution of the United States, as well as her “fundamental rights as a parent,” due to their alleged acts and omissions in connection with proceedings to terminate her parental rights in the Court of Common Pleas of Butler County, Pennsylvania.¹ (Doc. 1 at 14-16). It appears from the complaint that Plaintiff may be attempting to raise state law fraud, contract and malpractice claims as well. *Id.* at 14-16.

Plaintiff does not explicitly allege the subject of the underlying state court proceedings in her complaint, preferring instead to refer to it obliquely as “matters.” (Doc. 1 at 2). However, Plaintiff is no stranger to this Court, and has filed no fewer than eight civil rights lawsuits involving these and related “matters” since September of 2011. Compare *Civ. A.* Nos. 11-1201, 12-60, 12-338, 12-641, 12-978, 12-1050, and 12-1241, and 12-1461. Plaintiff appealed from the dismissal of 11-1201 on March 26, 2012. The dismissal of that case was affirmed summarily on May 30, 2012. See *Coulter v. Doerr*, No. 12-1864, 2012 WL 1941594 (3d Cir. May 30, 2012). Chief United States District Judge Gary L. Lancaster dismissed 12-641 for lack of jurisdiction on June 17, 2012, and that decision also has been affirmed by the Court of Appeals. See *Coulter v. Allegheny Cnty. Bar Assoc.*, No. 12-2988, 2012 WL 4015082 (3d Cir. Sept. 13, 2012). This Court dismissed 12-978 for lack of subject matter jurisdiction on August 21, 2012, and notice of

appeal from that decision was filed on September 19, 2012. See *Coulter v. Ramsden*, No. 12- 3685 (3d Cir. filed Sep 19, 2012). 12-338 was dismissed on September 13, 2012, and Plaintiff filed notice of appeal on October 9, 2012. 12-60 was dismissed on October 12, 2012. Orders to show cause currently are pending in 12-60, 12-1050 and 12-1241. Because of Plaintiff's history
(continued. . .)

On October 11, 2012, the magistrate judge issued an order that Plaintiff show good cause why her complaint should not be dismissed for lack of subject matter jurisdiction. (Doc. 2 at 1) Plaintiff timely filed a response thereto on November 1, 2012. (Doc. 3). As Plaintiff is well aware,² two threshold requirements must be met in order to state a claim under Section 1983: first, the alleged misconduct giving rise to the cause of action must have been committed by a person acting under color of state law; and second, the defendant's conduct must have deprived the plaintiff of rights, privileges, or immunities secured by the Constitution or laws of the United States. *Parratt v. Taylor*, 451 U.S. 527, 535 (1981), overruled in part on other grounds, *Daniels v. Williams*, 474 U.S. 327, 330-331 (1986). An otherwise private person acts "under color of" state law when he or she enters into a conspiracy with state officials to deprive another of his or her federal rights. See *Dennis v. Sparks*, 449 U.S. 24, 27-28 (1980). However, when pleading such a conspiracy, a plaintiff cannot rely on subjective suspicions and unsupported speculation. *Young v. Kann*, 926 F.2d 1396, 1405 n.16 (3d Cir. 1991)); see also *Loftus v. Se. Pa. Transp. Auth.*, 843 F. Supp. 981, 987 (E.D. Pa. 1994) ("[w]hile of filing related –

and indeed duplicative – cases, the magistrate judge, the undersigned and the Court of Appeals have had the opportunity to explain to Plaintiff, ad nauseam, the reasons why her repetitive arguments lack merit. To date, Plaintiff remains willfully blind to those explanations. See *Coulter v. Ramsden*, No. 12-978, 2012 WL 3611282 (W.D. Pa. July 31, 2012) (Report and Recommendation adopted by 2012 WL 3595387 (W.D. Pa. Aug. 21, 2012)). The allegations in *Ramsden*, in pertinent part, are strikingly similar to those made in the case at bar. In *Ramsden*, Plaintiff alleged that certain non-state actors violated a myriad of her constitutional rights in connection with their alleged acts and omissions during the course of her 2010 state court termination proceedings. Those defendants included another set of attorneys who represented her during those proceedings, as well as their law firm. 2012 WL 3611282, at * 1. Plaintiff attempted to turn those individuals into state actors by making conclusory allegations that they conspired with Defendant Doerr – a party to that case, as well as the present one, and a frequent target of Plaintiff's malicious, duplicative lawsuits. Her allegations were lacking, and that case was dismissed. the pleading standard under Rule 8 is a liberal one, mere incantation of the words 'conspiracy' or 'acted in concert' does not talismanically satisfy the Rule's requirements"). Nor may a plaintiff rely on broad or conclusory allegations. *D.R. by L.R. v. Middle Bucks Area Voc'l Tech'l Sch.*, 972 F.2d 1364, 1377 (3d Cir. 1992); *Rose v. Bartle*, 871 F.2d 331, 366 (3d Cir. 1989); *Durre v. Dempsey*, 869 F.2d 543, 545 (10th Cir. 1989). A complaint alleging a conspiracy must make "factual allegations of combination, agreement, or

understanding among all or between any of the defendants [or coconspirators] to plot, plan, or conspire to carry out the alleged chain of events.” *Spencer v. Steinman*, 968 F. Supp. 1011, 1020 (E.D. Pa. 1997). The Court of Appeals for the Third Circuit has noted that a civil rights conspiracy claim is sufficiently alleged if the complaint details the following: (1) the specific conduct that violated the plaintiff’s rights; (2) the time and the place of the conduct; and (3) the identity of the officials responsible for the conduct. *Oatess v. Sobolevitch*, 914 F.2d 428, 431 n.8 (3d Cir. 1990). Only Defendant Doerr – the judge who presided over Plaintiff’s termination proceedings – qualifies as a state actor in the instant case. While Plaintiff attempts to salvage her constitutional claims against the other Defendants with accusations of conspiracy, her allegations, even if true, do not “nudge[] [her] claims across the line from conceivable to plausible” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). To the contrary, Plaintiff’s allegations of fact do not so much as hint at the existence of a conspiracy between Defendant Doerr and any other person. Moreover, it is clear from her allegations that any leave

For reasons with which Plaintiff is quite familiar, Defendant Doerr is immune from suit in this case under both the Eleventh Amendment to the Constitution and the doctrine of absolute judicial immunity. See *Coulter v. Doerr*, No. 12-1864, 2012 WL 1941594, at *2 (3d Cir. May 30, 2012). See also *Ramsden*, 2012 WL 3611282, at *3 (W.D. Pa. July 31, 2012) (adopted by 2012 WL 3595387 (W.D. Pa. Aug. 21, 2012)). Sadly, this fact – no matter how often it is

explained – has not dissuaded Plaintiff from continuing to file multiple malicious, meritless lawsuits naming this individual as a defendant. to amend would be futile. As such, Plaintiff's federal claims will be dismissed with prejudice. See Fletcher-Harlee Corp. v. Pote Concrete Contractors, Inc., 482 F.3d 247, 251 (3d Cir. 2007).

Finally, in light of the fact that all of Plaintiff's federal claims have been disposed of, this Court declines to exercise supplemental jurisdiction over her claims under state law, pursuant to 28 U.S.C § 1367(c)(3). These claims will be dismissed without prejudice to Plaintiff raising them in state court, if appropriate.

AND NOW, this 19th day of November, 2012, IT IS HEREBY ORDERED that this case is dismissed for lack of subject matter jurisdiction. Plaintiff's state law claims are dismissed without prejudice to refiling in state court, if appropriate.

BY THE COURT:

s/Cathy Bissoon

CATHY BISSOON

UNITED STATES DISTRICT JUDGE

cc:

JEAN COULTER

4000 Presidential Boulevard

Apartment #507

Philadelphia, PA 19131