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

William Keisling	)	
Plaintiff	)	CIVIL ACTION LAW
	)	
v.	)	
	)	No. 1:09-CV-2181
Richard Renn, et al	)	
	)	Hon. JOHN E. JONES III
Defendants	)	
	)	JURY TRIAL DEMANDED

PLAINTIFF'S MEMORANDUM IN SUPPORT OF HIS MOTION FOR THE RECUSAL OF HON. JUDGE JOHN E. JONES AND CHANGE OF VENUE FROM THE MIDDLE DISTRICT COURT OF PENNSYLVANIA

NOW COMES Plaintiff William Keisling to present the following:

Pro se Plaintiff William Keisling motions for the recusal of Judge John E. Jones due to personal and political conflicts of interests Judge Jones has with Plaintiff Keisling, and the resulting unconstitutional violations to Keisling's free speech and equal protection rights before the courts brought about by these conflicts, as well as blatantly prejudical and derogatory filings composed by Judge Jones against Keisling, as discussed below. As well, Keisling here motions for a change of venue from the U.S. Middle District Court of Pennsylvania. Keisling's Memorandum in Support of these Motions reads as follows:

Judge Jones served as co-chair to Pennsylvania Republican Governor Tom Ridge's transition team in 1994 and 1995. My understanding is that Judge Jones held other political, campaign and/or fundraising positions for Tom Ridge. Tom Ridge is one of Judge Jones' political patrons. I only learned of these conflicts in the last few weeks, fol-

lowing an April 2009 federal court deposition in which litigants discussed Judge Jones' political background.

Judge Jones has a conflict of interest with me insofar as I was an active political opponent of Judge Jones' political patron, Tom Ridge. As a political opponent of Gov. Tom Ridge, I received 64,620 votes in the 1998 Pennsylvania Democratic primary, as noted in the attached election tally sheet. On this tally sheet, it's noteworthy to mention, my profession is listed as "Author."

Judge Jones was later appointed by Gov. Ridge to the Pennsylvania Liquor Control Board. Judge Jones served as Chairman of the LCB from 1995 to 2002. Defendant's Russell Wantz and the Schaad Detective Agency provide security services for the Pennsylvania Liquor Control Board, and Defendant MediaNews Group continues to suppress information that Defendant Wantz was allegedly engaged in paid sex and human trafficking activities in the period during which Judge Jones served as Chairman of the PA LCB. As such, Judge Jones may be called as a witness in this and other proceedings involving Wantz, MediaNews, and myself.

In his role as co-chair of Gov. Ridge's transition team, Judge Jones ironically worked in a similar position as that of my father, William Keisling III. My father served on the transition team of Democratic Governor Robert P. Casey, before he assumed the duties of Gov. Casey's chief of staff.

I witnessed first hand the work of my father on Gov. Casey's transition team, so I have has some knowledge of the far-reaching responsibilities of the task, and the associated political appointments and patronage involved. The word patronage, after all, has its root in the Latin masculine gender noun "pater," or father.

I have been actively writing books, essays and articles concerning Pennsylvania state government and federal court issues since 1987, when I wrote my fifth book, *The Sin of Our Fathers. The Sins of Our Fathers* examines the tragic 1986 federal criminal trial of Republican Pennsylvania Treasurer R. Budd Dwyer in the U.S. Court for the Middle District of Pennsylvania before Judge Malcolm Muir. The book is subtitled*: A profile of Pennsylvania Attorney General LeRoy S. Zimmerman and a historic explanation of the suicide of state Treasurer R. Budd Dwyer.* This book, among other subjects, examines the failure of the Middle District Court's Magistrate Judge J. Andrew Smyser to properly and honestly investigate long-standing allegations of criminal misconduct on the part of Mr. Zimmerman. Mr. Zimmerman also has been Magistrate Smyser's political and professional patron.

My involvement and insight into Pennsylvania government and politics dates far back to the early 1960s, when my father served as aide to Gov. William Scranton. As a

pre-schooler, my father would take me along on some weekends to the governor's office, where I was invited to sit at the governor's ceremonial desk and practice writing my alphabet. As a young boy, sitting alone at the governor's desk, I'd look up to find the expectant gaze of the portraits of several *great* Pennsylvania governors, including Benjamin Franklin and Gifford Pinchot. So both the act of writing, and the issues of Pennsylvania government, have been at once first nature, and natural, to me my *entire* life, as many who are involved in Pennsylvania politics and government can tell you.

Upon my father's appointment to Gov. Casey's transition team in 1986, my father and I had many spirited conversations on the subject of political patronage. Decades earlier, in the early 1960s, during the Scranton administration, the Pennsylvania governor's office controlled nearly 100,000 patronage jobs. These patronage jobs were awarded by the victorious political party on the basis of loyalty to the party. Upon assuming his duties in 1986 on the transition team of Gov. Casey, my father noted that patronage jobs and appointments had dwindled to "only several thousand jobs." Judge Jones, serving on Gov. Ridge's transition team, presumably knows this to be true.

This sea change in political patronage was brought about by several decisions of the U. S. Supreme Court, including the 1976 case *Elrod v. Burns* (427 U.S. 347 [1976]), and the 1980 case *Branti v. Finkel* (445 U.S. 507 [1980]).

In *Elrod,* a newly elected Democratic sheriff was found to have unconstitutionally dismissed office workers and replaced them with supporters from his own party. Justice William Brennan wrote that the court in *Elrod* reasoned, "conditioning employment on political activity pressures employees to pledge political allegiance to a party which they prefer not to associate, to work for the election of a political candidate they do not support, and to contribute money to be used to further policies with which they do not agree." This, the plurality noted, had been recognized by the U.S. Supreme Court as "tantamount to coerced belief."

In the *Elrod* decision, the court cited among other precedents a 1972 due process case, *Perry v. Sindermann,* (408 U.S. 593 [1972]) in which it held that a teacher was unconstitutionally refused a new contract by a school board "because he had been publicly critical of its policies."

In the 1980 *Branti* case, the court further decided that the First Amendment prohibited a newly appointed Democratic public defender from discharging assistant public defenders who weren't Democrats.

My resulting interest in the fascinating ongoing issues of political patronage in Pennsylvania caused me to write my 1993 book, *When the Levee Breaks: The Patronage Crisis at the Pennsylvania Turnpike, the General Assembly and the State Supreme Court.*

The book concerns the 1990 U.S. Supreme Court case *Rutan v. the Republican Party of Illinois* (497 U.S. 62 [1990]). I even testified as an expert on the subject before the Pennsylvania General Assembly.

My book *When the Levee Breaks* discusses the ongoing First Amendment violations in Pennsylvania courts, government and political circles, and the far-reaching implications of *Rutan* in Pennsylvania. The court held that political patronage activities, such as those now evident in my case now before you, *Keisling v. Renn,* are a violation of First Amendment Rights.

In my case, it's evident that the *U.S. District Court for the Middle District of Pennsylvania* is blatantly violating my rights to free speech and equal protection, and due process.

"To the victor belong only those spoils that may be constitutionally obtained," wryly wrote Mr. Justice Brennan in *Rutan.* "...The same First Amendment concerns that underlay our decisions in *Elrod,* and *Branti,* are implicated here. Employees who do not compromise their beliefs stand to lose the considerable increases in pay and job satisfaction attendant to promotions... and even their jobs... These are significant penalties and are imposed for the exercise of rights guaranteed by the First Amendment."

In the U.S. District Court for the Middle District Court of Pennsylvania, I continue to be coerced and ridiculed for my informed belief that this federal court is largely composed of a political old-boy network, which in turn suppresses or otherwise exploits the *many* victims of a related *political old-boy network in the state courts.*

The federal and state courts in Pennsylvania cry out for close public scrutiny, and congressional, or other, investigation. Ultimately all corrupt courts, unable to appropriately govern themselves, put at risk their own judicial independence.

Due to the case that I have filed in the federal court, *Keisling v. Renn,* I am paying a penalty in the loss of my First Amendment rights, and my rights to due process and equal protection before the courts, undoubtedly because I am a political opponent of, and have written critically about, the political patrons of Judge Jones and Magistrate Smyser: Gov. Tom Ridge, and Attorney General LeRoy Zimmerman, respectively, and inclusively.

I find myself ridiculed and coerced into silence by these politically appointed judges of the Pennsylvania Middle District court because I have felt it necessary to exercise my First Amendment rights to criticize the apparent and obvious long-standing political nature of this court, and other courts in Pennsylvania, some of which, simply put, are infamously criminal in nature, and without proper oversight from the federal courts.

These conflicts of interests between several judges of the federal court and myself

are all the more striking since the political patrons of both Judges John Jones and Andrew Smyser today enjoy positions on the Hershey Trust. The Hershey Trust is charged with overseeing the will of the late chocolate manufacturer Milton S. Hershey. The Trust is supposed to care for underprivileged children in Pennsylvania; instead it has been misappropriated to care for over-the-hill Republican political officials, and their cronies.

The Hershey Trust and its overseers have, as a result of Magistrate Judge Smyser's past employment, become a subject in the filings of my case. You don't have to look too far to see the workings of political patronage, and the old-boy network, at play in the Hershey Trust, as in this court.

Former Gov. Tom Ridge was appointed to the Hershey Company's Executive Board in 2007, while former Pennsylvania Attorney General LeRoy Zimmerman currently sits as Chairman of the Board of the Hershey Trust. Gov. Ridge's former press spokesman, Tim Reeves, is a spokesman for the Trust. Former Republican Pennsylvania Attorney General Mike Fisher, now a judge on Pennsylvania's Third Circuit Court of Appeals, was involved in this reformation of the trust's board. Judge Fisher has also recently been involved in my federal court case.

The Hershey Trust has become an old-fashioned, old-boy patronage dumping ground for high-level Pennsylvania Republicans, including the political patrons of the federal judges Jones and Smyser, currently presiding on my federal court case.

A February 10, 2010, Philadelphia Inquirer article, titled "A Sticky Situation at Hershey," points out that you don't even have to be a Republican political has-been to be involved with the Hershey Trust: you can be a never-was. The Inquirer notes that even unsuccessful GOP gubernatorial candidate Lynn Swann, a political opponent of the current Democratic governor, was awarded a seat on one of the Trust's boards.

As my federal court case has unfolded, I have been given cause to wonder, in the reading of Judges Jones' and Smyser's orders, whether these federal judges are protecting their own personal interests, the interests of their fellow party judges in Pennsylvania courts, or the interests of their personal political patrons at the Hershey Trust. Orders filed recently by both Judges Jones and Smyser in my case go further to suggest that I am in fact a victim of coercion — and certainly derision and ridicule — by these judges in apparent retaliation for my professional writings, and for my filing of my federal case, activities which are my constitutional right.

There are striking similarities between the state judges who are defendants in my case, and Judges Jones and Smyser, who are presiding on my case. The defendant state court judges are all Republican, as are the federal judges. I have also written profession-

ally about several of the state and federal judges involved.

More troubling, and at the core of the unconstitutional treatment of me before the federal Middle District Court of Pennsylvania, is that each of the state and federal judges have written in their opinions that I am not a writer. And so, they clearly imply, I have no guaranteed First Amendment rights.

Defendant state Judge Richard Renn is not only a subject of my 2004 book *The Midnight Ride of Jonathan Luna*. Statements by Judge Renn, and his private business associate, Dr. Neil Blumberg, caused me to write the book, which concerns rampant corruption in Pennsylvania courts. In a 2009 hearing involving the same book where his own misconduct is questioned, Judge Renn refused to recuse himself and instead ruled that I am not a writer, and that I am not entitled to First Amendment or state shield law protections.

Defendant state Judge Musti Cook, also a subject of my professional writings, approved, in 2007, without a hearing, Defendants Heim and Wantz's Motion to similarly disregard my First Amendment rights. Judge Cook's Order, in fact, was simply *written on the stationery* of the Defendant law firm Katherman, Heim and Perry. The law firm Katherman, Heim and Perry also held political fundraising events for Judge Cook, and referred legal work to her while she was in private law practice. As well, Robert Katherman, of that Defendant firm, served as Judge Cook's political campaign chairman for her state judgeship election. Again we see blatant politics, inside dealing, favoritism, and patronage in the workings of these courts.

Magistrate Judge Smyser, in his Memorandum and Order filed on April 16, 2010, in which he refuses to recuse himself from my case, writes that Plaintiff Keisling "presents himself as an individual who is both a writer and a litigator." Judge Smyser implies here not only that I am not a writer with constitutional rights who has written about Judge Smyser, but also that I'm not, in his opinion, even a legitimate Plaintiff. That's certainly pre-judgment on his part.

Magistrate Judge Smyser even writes in this Order that Plaintiff Keisling "has stated negative things about United States District Court Judges," as well as state judges. That may be, but I also write positive things about American judges, such as my comments about Justice Brennan above, and I have my right to form and express my opinions. Judge Smyser here openly displays his antipathy and rage both against his own critical biographer, Keisling, and American freedoms.

As for his personal conflict of interest with my writings, Magistrate Smyser goes on to write about the workings of political patronage in Judge Smyser's past, and present roles, involving our federal courts, and his former job with the U.S. Department of

Justice.

"The plaintiff's inferences and speculations about the undersigned judge in his former capacity as an Assistant United States Attorney are wrong," Judge Smyser writes in his Order of April 19, 2010. "I was not in a decision-making capacity about the course of the investigation to which the plaintiff refers in his writings. The United States Attorney was aware of my prior employment and did not assign me to matters that would give rise to a conflict on my part. I would have disqualified myself from any matter involving the investigation of, the consideration of charges or the prosecution of a former superior of mine (i.e. his political patron, LeRoy Zimmerman) in prior employment if that potential assignment had been presented to me by the United States Attorney."

Judge Smyser continues, "A judge's knowledge that untrue inferences have been drawn and incorrect assumptions have been made by a person who has written about matters about which the judge has personal knowledge can cause the judge to doubt the reliability of the process used by that person to draw inferences and to form opinions." An uninterested third party would certainly be a better a judge of the conduct of Mr. Smyser, than would Mr. Smyser.

What we see here is judicial tyranny. Judge Smyser is misusing his trust, position, and oath to censor his own past, and to ignore my constitutional rights, and to ridicule and coerce me. He's also blatantly announcing his prejudice against me, and his intent to pre-judge me, without benefit of evidence, witnesses, or hearings.

Many people who are the subjects of books, newspaper and magazine articles dispute the accuracy of the writings about them. Few, unlike Judge Smyser and Judge Renn, are allowed the opportunity and the undoubted selfish pleasure to misuse their public trust and oaths to retaliate against the writer and bearer of the news, as we see here.

"News is what somebody somewhere wants to suppress; all the rest is advertising,' Lord Northcliffe, a newspaper magnate, observed. Judge Smyser obviously is unhappy with my professional writings, and is now not only engaged in suppressing the news, but he is misusing his government position to coerce me. In my own public life many have criticized me, but I understand that comes with the territory of public and political life. "If you can't stand the heat, get out of the kitchen," used to be said of public officials. Instead, Judge Smyser would prefer to misuse his government position to simply turn down the heat, and light, in the public's kitchen.

In my case, the proper thing for Judge Smyser to do is to get off this case, as I have requested. I obviously have nowhere to go but the court with my legal complaint. Other judges with no conflicts involving me presumably are available somewhere in the

United States to hear my case. I am entitled not only to impartiality and fairness, but the *appearance* of impartiality and fairness, the standards of both of which are sorely lacking here. Instead, Judge Smyser's writings here have left open the obvious question as to whether Judge Smyser is protecting himself, and his political patron, and not my constitutional rights. And that speaks for itself.

Without rehashing the contents of my book *The Sins of Our Fathers,* wherein I write about Judge Smyser, I reported in the book the recollections of *two* high-ranking retired police officers that Assistant U.S. Attorney Smyser was in fact sitting in the room when decisions were made to not investigate nor to prosecute Smyser's political patron, Mr. Zimmerman. I'd also note that state Treasurer R. Budd Dwyer, moments before publicly killing himself, implicated Mr. Zimmerman in a notorious bribery scandal, and further alleged a cover-up involving the U.S. Justice Department. There obviously is a controversy between Judge Smyser and other law enforcement officials about his role, yet Judge Smyser has chosen to blame me for his own actions or inactions. In so doing, Judge Smyser blatantly violates my First Amendment rights, and my rights to due process and equal protection before the courts. I'd also point out that my book *The Sins of Our Fathers* enjoyed a wide readership, and Judge Smyser never once before now disputed its accuracy since its publication in 1988. Judge Smyser ought not to be using his court filings to inappropriately do so now. To use Judge Smyser's own word, his protestations, after 22 years, are hardly "timely."

Because of this ongoing controversy, I was forced to introduce into the record of my case a FBI transcript which clearly states that Judge Smyser's political patron, LeRoy Zimmerman, became a subject of criminal investigation involving alleged gambling and organized crime activities, but that Mr. Zimmerman was protected from investigation by Mr. Smyser and his political cohorts in the U.S. Attorney's office. It's quite clear whom Judge Smyser is protecting, and why. Judge Smyser is a walking example of the old-boy patronage network protecting its own, and using partisan Pennsylvania courts to do so.

Judge Smyser goes on to write, "A recusal motion must be timely. A party may not reasonably be permitted to await a judge's ruling(s) before seeking the disqualification of the judge, particularly not when the grounds that the party would assert are known to the party at the time of case assignment."

In fact, I early on requested that *every* judge in federal Middle District court of Pennsylvania not preside on my case. Now Judge Smyser refuses to disqualify himself from a case involving his own interests. Now I must question not only Mr. Smyser's lack of honesty and fair play today, but also his lack of integrity in the past. Who is Mr. Smyser protecting, and why? And why now is Judge Smyser not protecting my constitu-

tional rights, in violation of his oath of office?

In fact, in this case, Judge Smyser's argument is simply disingenuous. Judge Smyser, like state court Judge Renn, is playing a game meant solely to deprive me of my First and Fourteenth Amendment Rights. Judge Renn and Judge Smyser both proclaim at various times that recusal motions were presented too early; or they were presented too late; or that they were presented improperly; or my lawyer didn't approve; or they were submitted without a lawyer. In reality, neither judge ever had any intention of doing anything other than to misuse their positions of great public trustvto retaliate against me, to subvert my rights, and to threaten and coerce me. Both judges are dealing from the bottom of the deck and intend to subvert my rights as an American citizen for reasons of their own hubris and personal gain. The quality of mercy, Shakespeare noted, is not strained. Nor does the quality of impartiality have a set time limit to a fair and honorable judge.

As well as the practical impossibility of a so-called instant and immediate recusal motions as proposed by Judge Smyser, it's not even the law in federal or state courts. Rather, impartiality, and the equal application of law and constitutional rights for *all* court litigants, is the law.

The ignored case law concerning the impartiality of a judge reads like this: Impartiality and even the appearance of impartiality in a judicial officer are the *sine qua non* ("without which there is nothing") of the American judicial system, *Lewis v. Curtis,* 671 F2d 779 (C.A. 3 1982). Elsewhere, in state and federal courts: A Judge is required to disqualify himself when his impartiality can reasonably be questioned, see *Commonwealth v. Bryant,* 476 A.2d 422 (Pa. Super 1984). While extra judicial considerations are preferred when ruling upon Motions for Disqualification, *sometimes opinions formed entirely from information learned in court proceedings are sufficient to disqualify a jurist who cannot abide an obligation to remain impartial.* See *Commonwealth v. Bryant,* supra. Opinions formed by the judge upon the basis of the facts introduced or events occurring in the course of the current proceeding may under limited circumstances constitute a valid basis for his disqualification. *Sales v. Grant,* 158 F3d 768 (C.A. 1998), quoting *Liteky v United States,* 510 U.S. 540 (1994). If through obduracy, honest mistake or simple inability to obtain self knowledge, the judge fails to acknowledge a disqualifying predisposition or circumstances, an appellate court must order recusal no matter what the source. Ibid. *Liteky.* The integrity of the judiciary must not be compromised by appearances of impropriety and the conduct at issue need not rise to the level of actual prejudice. *Commonwealth v. Sharp,* 683 d 1219 (Pa. Super 1996).

Judge Smyser is not merely laughing at me; he's laughing at the great impartial

tradition of our independent American judiciary.

But then, after all, Judge Smyser obviously has little or no respect for independent American writers: why should he care about independent courts, or our constitutional protections and freedoms?

I'd also point out that Judge Smyser only got around to sending me a "Case Management Order" on May 13, 2010. In this Order I was informed that I "may consent to have a magistrate judge conduct all proceedings." *I do not consent* to Judge Smyser's dishonest and self-serving involvement in my case *at all*.

As I pointed out in my Objections to Judge Smyser's Order, which I filed on May 4, 2010, I applied for a Writ of Mandamus with the 3rd Circuit Court of Appeals on January 7, 2010, shortly after this case was filed. At that time I pleaded for a Change of Venue away from the Middle District of Pennsylvania.

I naturally reserve the right to careful research and write the filings in this case, and to not shoot from the hip. In Judge Smyser's case, I had to carefully review records, interviews, transcripts, and other materials going back 25 years, at the same time I was otherwise conducting my complicated federal court case.

In my Writ of Mandamus of January 7, 2010, I told the 3rd Circuit that, "Keisling has been, and continues to be, grievously deprived of his most basic rights before these state and federal courts, including, the right to a fair and impartial hearing before a fair and impartial judge; the right to discovery; the right to introduce evidence; the right to a day in court; and rights of appeal."

Moreover, I petitioned the 3rd Circuit, "A change of venue to a judge or panel of judges outside the Middle District of Pennsylvania is made all the more necessary because of ongoing and unceasing 14th Amendment violations in this instant case involving the defendant judges... (J)udges continue to sit on cases involving their personal and private interests, about which Keisling has written and continues to write about, while at the same time they openly announce they will rule against Keisling, and will also ignore all of his rights to due process, equal protection, and appeal rights. ... The need for an out-of-state judge, or judges, to hear the instant case is made all the more necessary because Keisling's instant Complaint specifically names several judges sitting on the U.S. Middle District Court for the Middle District of Pennsylvania." At the time I termed Judge Smyser's involvement and actions in this case "repugnant." Judge Smyser pretends he did not read this filing. Or maybe, as we see in the case of his patron, Mr. Smyser only reads what he wants to read, sees what he wants to see, and hears what he wants to hear.

Having reviewed the record, and having taken the time to form an opinion, it has

also become apparent to me that my First Amendment rights are also being violated in the federal Middzle District Court of Pennsylvania, as commonly happens in other instances involving political patronage. Simply, I am being coerced because my writings and court filings are offensive to court officials here, and my writings as well are clearly problematic to political and professional patrons of the court, and their sycophantic lackeys.

My First Amendment rights are ignored due in no small part to political patronage and corruption in the Middle District Court, and state courts, which I write about critically. I understand the political nature of federal court appointments, but it is incumbent on judicial appointees to leave their political and patronage interests at the door, and instead to focus on the equal application of law and the constitution for all of our citizens. Sadly that's not what's happening with my case.

The impractical and unconstitutional aspects of Judge Smyser's demand for "instant" recusal motions became apparent when I filed my Objections to Judge Smyser's Recusal Order on May 4, 2010. The essence of Judge Smsyer's position is that conflicts of interest or other problems requiring disqualification of a judge must be laid on the table in an unconsidered, half-baked, or immediate fashion, or forever hold your piece, as it were. The unconstitutional problems of requiring a working writer or journalist who covers a court system to announce his prior intentions to a set of judges about whom he is writing are manifest in my Objections, and amount to prior restraint, and judicial tyranny.

Judge Smyser is basically demanding that I announce to the court my intentions to write about a subject *before* the exercise of my First Amendment rights, and that I in effect ask permission of the court to do so. Elsewise, I am coerced by the court not to write or speak my beliefs, or to adopt coerced beliefs, as we see Judge Smyser demand of me in the case of his political patron, Mr. Zimmerman.

That's not only an infringement of my First and Fourteenth Amendment rights, it entails a demand of government pre-approval of writing, suppression, and prior restraint. And again, it's nothing less than judicial tyranny.

Among the subjects that I quickly addressed in my Objections were rampant courthouse discussions and derisions that Judge Jones is for some reason obsessed about the size(s) of the male reproductive organ. "Judge Jones has a hang-up about size," the courthouse joke goes. I offer my sincere apologies to Judge Jones for repeating this.

No disrespect of Judge Jones, or his authority as a judge, is *at all* intended. However, this unusual "joking" repeatedly directed at me was immediately objectionable and very troubling to me, as one of my beloved family members is well-known to be

transsexual. This is akin to joking in a courthouse to a family member of one who has been lynched that a judge on the case attends Klan meetings. My reaction was immediate, and visceral. And immediate reactions often bypass the intellect.

And, in fact, I motioned to the court for additional time so that my many required federal court filings could be "intelligent and intelligible," a request which was ignored by Judge Jones until *after* my deadline to file had passed, forcing me, again, to work quickly, in an exhausted state, without time for much reflection.

To follow Judge Smyser's requirement for an instant and "timely" motion involving this or any other particularly sensitive issue shows the ridiculous dimensions, as it were, of his own argument. Surely such a delicate point should not be raised prematurely. I could not be certain the issue could be raised at all, let alone that it could be made to stand up in court. The conflict in fact could be a very small one. As Samuel Johnson sagely advises, "A cucumber should be well-sliced, dressed with pepper and vinegar, and then thrown out." This presumably applies to smaller vegetables than the cucumber.

Nevertheless, I feel compelled, due to the outrageous judicial misconduct displayed here, to note for the record, without shame and with malice toward none, on behalf of all those who suffer through their lives with gender identity disorder, that there is no proper penis size. Nor in fact is there a "proper" penis. More than half the population has, in fact, *no penis whatsoever.* These individuals, for the benefit of the old boys of this court who may not know, are called "women."

That fact that I have been here coerced to discuss an American judge's penis size in court is outrageous to me, and distasteful. But again, considering the etymological root of the word patronage, "father," it is after all somehow appropriate, for this and other reasons, as we'll see.

Obviously angry and enflamed by my defensive filing, which after all was brought about by my attempt to defend myself against Magistrate Smyser's demands, Judge Jones within days dismissed my case against the judicial defendants, including Judge Renn and several others, and upheld Judge Smyser's biased and tainted findings whole cloth.

Most troubling of all, Judge Jones, in his Order of May 10, 2010, curiously, and with dripping sarcasm, pregnant bias, and pre-judgment, states that I am a "self proclaimed 'professional writer of books.'" But is that the long and short of it?

This in fact is what Judge Jones has in common with Judge Smyser, and state court Judges Renn and Musti Cook, aside from their political affiliation and professional kinship.

Judge Jones, in this statement, like each of the other judges, makes clear his biased and personal opinion that I am not a "real" American writer, and so, it follows, I

am not entitled to First Amendment protections. In fact, the opposite is true: these judges are willfully ignoring and trampling my First Amendment rights, and coercing me to confirm my beliefs and opinions to theirs.

Writers in the United States do not have to be "proclaimed" as a writer by anyone. No political patrons are necessary to become a writer in the United States. There is no Senate confirmation. Nor is permission required from the government, or the courts, to research, form opinions, to write, or to publish, as we see Judge Smyser demanding here, with Judge Jones' acquiescence.

These judges in fact are expressing their opinion that I am not a "big" writer, who writes, say, for *The New York Times*. Though, suffice it to say, if I had written about these judges in the *Times,* or the *Philadelphia Inquirer,* they would immediately recuse themselves from any case involving themselves and the writer in question, less they face stern court discipline and swift public condemnation.

I have been unable to find any case law in the United States involving any judge who insisted on sitting on a case before a writer or reporter who wrote critically of the judge, in a case involving those writings, as we see here. It's simply antithetical in a free society.

That I am not "big enough" for Judge Jones tastes is not only an unconstitutionally contemptuous idea, it obviously brings to mind the earlier stated concerns that certain body parts may be too small for Judge Jones' approval. Yet our constitution protects all Americans, regardless of size, or wealth. The First Amendment is not only for the wealthy, or corporate interests, as we lamentably see lately expressed by our American courts.

By writing my books, I have always sought to bring honor to my family; my home state, the Commonwealth of Pennsylvania; and to my country, the United States of America.

When I write my books I seldom, if ever, seek to "proclaim" or to promote myself. I have been blessed with readers who enjoy my books. More than just about anything I steal delight seeing my writing take root in the quiet mind of even a single reader.

For three decades I have been writing and selling my books to a surprising audience: to individuals, to schools, to libraries, and even to government institutions, as the attached exhibit shows. I enjoy chatting with my readers, whom I find engaging, intelligent, curious, and concerned.

Even if a writer had no readers, he or she can still be a writer, if they choose, and would still be protected by our First Amendment. Many great and wonderful writers and thinkers in fact produce no books or audience whatsoever in their lifetimes. Emily

Dickinson, Franz Kafka, and Anne Frank come to mind. Oliver Wendell Holmes, Sr., himself an accomplished writer, chose instead to work as a physician, while his son, Oliver Wendell Holmes, Jr., a frustrated writer, had to settle on a lesser station in life and so became a U.S. Supreme Court justice. Holmes, Jr., went on to lay the foundation for much of American common law, including the decidedly unsettled concepts of judicial immunity at the center of my case.

I'm certain Mr. Justice Holmes would agree: A judge, and a court, can chose to be biased, and unfair, and partial, and even ridiculous, as we see here; but a partial judge can never be a great judge, and an unfair court likewise can never be a great court. Likewise, a court is free to make a laughingstock of itself, but it is not free to trample the constitutional rights of American citizens, or to make a joke of them.

I would comment to Judge Jones that writers are naturally selected, and not selected by government officials. Judge John E. Jones III is perhaps familiar with the work of Gregor Mendel, the Augustinian monk.

In 1865 Mendel presented a research paper titled "Experiments on Plant Hybridization," concerning his arduous work involving some 28,000 tiny pea plants. Mendel's paper was all but ignored in his lifetime, and cited only three times in scientific journals over the next 35 years. At his own expense, Mendel reprinted his paper and sent 40 copies to leading biologists around Europe, including to Charles Darwin. No one knew of the obscure monk, and everyone ignored his paper. Mendel was apparently "too small" to matter. Darwin's copy of Mendel's paper was later found with its double pages uncut: it had not even been read.

The powerful truth of Mendel's insights involving laws of heredity have gone on to change the world, as Judge Jones well should know. Small things often become big things. And that, Plaintiff has faith, *will* stand up in court. Hard truth cannot be crushed, as blatantly biased court officials are attempting to do here.

Due to the issues of conflicts of interest and the manifest partiality expressed against Plaintiff Keisling above, and due to the obvious fact that Plaintiff Keisling cannot receive a fair and impartial hearing before Judge Jones or any judge in the federal court for the Middle District of Pennsylvania, Keisling makes this Motion for the Recusal of Judge John E. Jones III, and for a change a venue from the Middle District Court of Pennsylvania.

Wherefore, Plaintiff Keisling respectfully requests the recusal of Judge John E. Jones III, and also requests a change of venue from the Middle District of Pennsylvania to a court outside the political patronage influence of Pennsylvania.

Respectfully Submitted,

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