UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

----------x Civil Docket No. 11-2303

Nicholas E. Purpura, *pro se*
Donald R. Laster Jr. *pro se*
et al.

Plaintiffs/Appellants

REPLY TO GOVERNMENTS COMBINED OPPOSITION TO PLAINTIFFS MOTION TO VACATE THE CLERKS ORDER GRANTING EXTENSION OF TIME And MOTION FOR TEMPORARY RESTRAINING ORDER

v.

Request For Declaratory Judgment
Individually & in their Official Capacity
UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES;
KATHLEEN SEBELIUS, in her official capacity
Individually & in their Official Capacity as the
Secretary of the United States, Department of Health
And Human Services;
UNITED STATES DEPARTMENT OF THE TREASURY;
TIMOTHY F. GEITHNER, in his official capacity as the
Secretary of the United States Department of the Treasury;
UNITED STATES DEPARTMENT OF LABOR; and HILDA
L. SOLIS, in her official capacity as Secretary of the United States
Department of Labor,

Respondents/Defendants
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Respondents again show contempt for the Court, as well as the *Fed. Rules of Civ. P.*, by failing to properly respond to the Appellants' Opposition Motion for an Extension of Time and Appellants' Show Cause Order for a TRO. Appellants will address both ingenuous, fallacious, or should we say juvenile responses now before this Honorable Court.

Extension of Time Argument:

Appellants say again, the "Extension of Time" was improperly granted. Respondents unquestionably failed to demonstrate "good cause". Respondents claim, with hundreds of attorneys at their beck and call, that they are too busy at this time to reply because they are

defending three other actions related to the *'Patient Protection and Affordable Care'* Act. When is being too busy justification for an extension of time proper under the rules? That is what the 11 lines at the end of their ridiculous motion states.

Such self-indulgent and lack of respect for the Third Circuit Court and its rules of procedure are beyond the pale. What this Honorable Court must make Respondents understand is that they are not above the rules. And surely ask: what don't they understand about the rule that specifically states: *"**… or that counsel is too busy, are not sufficient***"?

Allowing Respondents/Appellees extension of time motion to be granted by an authorized Clerk in this particular incident, the approval of the motion for an extension of time, is clearly prohibited under the Local Appellate Rules (LAR) 31.4 which specifically states:

> A party's first request for an extension of time to file a brief must set forth good cause. **Generalities, such as that the purpose of the motion is not for delay or that counsel is too busy, are not sufficient.** A first request for an extension of **14 days or less** may be made by telephone or in writing. Counsel should endeavor to notify opposing counsel in advance that such a request is being made. The grant or denial by the clerk of the extension must be entered on the court docket. If a request for extension of time is made and granted orally, counsel must file a confirming letter to the clerk and to opposing counsel within 7 days. A first request for an extension of time should be made at least 3 days in advance of the due date for filing the brief. A motion filed less than 3 days in advance of the due date must be in writing **and must demonstrate that the good cause on which the motion is based** did not exist earlier or could not with due diligence have been known or communicated to the court earlier. Subsequent requests for an extension of time must be made in writing and will be granted only upon a showing of good cause that was not foreseeable at the time the first request was made. Only one motion for extension of time to file a reply brief may be granted." [Emphasis Added]

The issue is the Rules of Procedure, as stated in the *FRAP*, only states a Clerk may be authorized to approve certain types of motions and the Third Circuit has allowed these types of motions to be approved by a Clerk. The Clerk is still obligated to adhere to the Local Appellate Rules of the Third Circuit, in this case see Rule 31.4.

As *pro se* litigants, Appellants have diligently adhered to "Black Letter Law" unlike Respondents. Precedent is legion in all the Circuit Courts including this Third Circuit, to include the Supreme Court of the United States, that it is the *pro se* litigants that are to be given latitude - lawyers are supposed to have been trained in, know, and follow the rules. Respondents have repeatedly submitted procedurally infirm extensions of time in order to protract the proceeding

that began in the District Court. In-of-itself is good cause for this Court to deny Respondents motion for any extension of time. That is unless the Department of Justice is operating under some special exemption provision, exclusionary rule, or dispensation that the public has not been informed of?

Respondents Opposition to the "Temporary Restraining Order" and Standing:

Respondents have demonstrated a complete lack of respect for this Courts' intelligence and shear contempt for Appellants *pro se* that this Court should treated as an insignificant nuisance disregarding the fact that the Petition has been publically touted as the most comprehensive legal opposition to "H.R.3590" in the United States.

Respondents' opposition is a rehash of faulty arguments that are of no moment. What this Court should find more disturbing is Respondents' argument consisted of two incomplete misstatements related to two (2) violations, taken out of context, of nineteen (19) violations of the Constitution to include four (4) Statutes contained in the 15-Count Petition. Obviously, a reading comprehension course is in order. Especially in light of the recent Supreme Court ruling in *Bond v United States* (09-1227) in relationship to standing (Did they read it?). Even the Sixth Circuit's recent ruling in *Thomas More Law Center v Obama* 10-2388 expounded the same argument for standing we put forth to establish the Court's authority to adjudicate.

It is without argument Appellants' Petition was authorized under Amendment 1 concerning standing. The Supreme Court unanimously 9-0 confirmed and reinforced in *Bond v United States* (09-1227) Petitioners' standing. Petitioners' Petition specifically addresses nineteen (19) violations of the U.S. Constitution and four (4) existing Statutes.

Respondent/Appellees failed to answer the original Petition and the Summary Judgment for Default within the timeframe required by law, as stated in the FRCP, which warranted a default on all fifteen counts. When forced to answer, consistently failed to answer six (6) Counts and gave spurious replies to nine (9) Counts. As we stated in our prior Show Cause Order: "One can only expect this behavior to continue based upon the current actions". As we said, they just keep on giving, the opposition's submitted papers, submitted by Respondents cannot even be considered an argument - legal or otherwise. Again, they failed to answer anything before this prayerfully Honorable Court.

Please Take Special Judicial Notice: Respondents to either try and curry favor or prejudice this Court cites a previous case in which Petitioner *pro se*, then Plaintiff, in the legal dispute *Purpura v. Bushkin, Gaims, Gains, Jonas & Stream*, 317 Fed. Appx. 263, 266 (3rd Cir 2009) saying: "(discussing plaintiff Purpura's "abusive and vexatious litigation in this Circuit)".

Their irrelevant citing of this case requires a response and unfortunately forces us to respond and potentially embarrass the Third Circuit and the District Court of New Jersey, Trenton, Judge Freda L. Wolfson presiding.

If this Circuit Court reviews the questionable behavior in the referenced action above, and the misapplication of their "[NOT PRECEDENTIAL] ORDER" for dismissal based on the *Rooker-Feldmen* Doctrine. The three Judges panel; Rendell, Hardiman, and Greenberg presiding; should have to rightfully recuse themselves from this case for the following reasons. Their intentional misapplication of the Doctrine to protect an inept District Court Judge, Freda L. Wolfson, they intentionally: (1) ignored the fact that no Court in the State of New York or New Jersey can produce an Order issued by the State of New York's Court of Appeals that addressed Purpura's Constitutional and Civil Rights violations which was necessary to invoke the *Rooker-Feldmen* doctrine; and, (2) this same three Judge panel made note of the fact that whistle-blowing was at the root of the litigation and ignored the action had nothing to do with the matrimonial decision but the use of the matrimonial proceeding as a weapon to bankrupt Purpura for his whistle-blowing. The State of New York at the time was being bilked out of no-less than 500 MILLION DOLLARS ($500,000,000.00). Documentary evidence available upon request.

The same Judge Wolfson repeatedly ignored; (1) existing law, (2) precedent, and, (3) rules of procedure. As she is blatantly guilty in this current Petition in order to ingratiate herself within the DOJ. In the previous litigation it was proven she was to protecting as what can be described as "hoodlums in Black-robes" in the State of New York.

Just as she illegally did in that action, committing the same procedural due process violations, that took place concerning the Petition before the Appeal of her decision concerning "H.R.3590". It appears Respondents, then Defendants, and the Court fear any open hearing and the establishment of a legitimate Court record!

That being said Mr. Purpura would welcome a public debate to demonstrate each Judge that took part in that prior action referenced by the DOJ to attempt to influence the Court should resign or be removed from the bench for violations of their fiduciary duty and disrespect for the laws of the United States!

We would also note the loss of all Mr Purpura assets as punishment for whistle-blowing in an attempt to protect the Taxpayers of State of New York, at the time, was certainly an injustice. But in the scheme of things one individual and his family being hurt is a micro-injustice when compared to the *"Patients Protection and Affordable Care Act*", "H.R.3590" which is a macro-injustice that strips all Americans of the guaranteed freedoms as set forth in the Constitution.

If citing Mr. Purpua's past and legitimate litigation is the Department of Justice's best argument to influence this Court to rule in their favor, we welcome it! It's time the DOJ received a verbal spanking from two *pro se* for mocking our laws and the integrity of the Court and Judicial System. That is if we are allowed the proper proceedings and "*We the People*" are blessed with an impartial panel of Judges that respect the law, and the oath they swore before God to uphold the United States Constitution.

WHEREFORE, the Appellants prays this Court immediately recall and vacate the Clerks ORDER of June 23, 2011 based upon the law and true facts presented;

Immediately issue a Temporary Restraining Order; as should have been done *ex parte* based on the facts and law; and,

Sanction Respondents attorneys for unnecessary delaying tactics, frivolous motion practices and contempt for the Court's Rules of Procedure.

Respectfully submitted,

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Nicholas E. Purpura,	Donald R. Laster, Jr.	July 5, 2011
pro se	*pro se*	