

## Slam the Gavel - Show Links Menu

**Robert Bauchwitz**

March 11, 2024

rpb@amerares.com

(1) About Robert Bauchwitz

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(2) Federal False Claims Act science fraud case

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A landing page with five affidavits and related documents

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## Excerpts from the preceding linked documents

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### UNITED STATES'S STATEMENT OF INTEREST

“even in qui tam cases in which it declines to intervene, the United States remains a real party in interest. ... In the event the Relator prevails in the instant case, the United States is entitled to receive up to 75% of the judgment against the Defendants.”

“The Defendants’ motions to dismiss raise **two erroneous arguments** that this Court should reject, should the Court find it necessary to reach these issues when resolving the Defendants’ motions to dismiss.<sup>1</sup> First, contrary to Defendants’ position, when a relator files an amended complaint, it relates back to the original, sealed qui tam complaint, and nothing in the text or structure of Federal Rule of Civil Procedure 15(c) or of the FCA bars relation back or suggests that it is inapplicable in this context. Second, the statute of limitations under the FCA begins to run not when false statements are submitted to the Government, but when the grant payments themselves are disbursed.”

[The grant payments extend to the end of the grants. A clawback of funds obtained under false pretenses should have been allowed based on the date of the last payment, not limited to the date of the first.]

### AFFIDAVIT OF PLAINTIFF AND RELATOR ROBERT P. BAUCHWITZ, M.D., PH.D.

#### **“I. PURPOSE**

1. The following is based upon information provided in support of motions to recuse Judge Timothy J. Savage of the federal district court, Eastern District of Pennsylvania in the cases *Wallace v. Kmart*, *Stanley v. St. Criox Basic Services*, *Thomas v. Centennial Communications*, *Vitalis v. Sun Contractors*, *Canton v. Kmart*, *Ragguette v. Premier Wines and Spirits*, and *Alexis v. Hovenssa*.

2. I provided this information to Attorney Leslie Rohn in order to detail my experience with Judge Timothy J. Savage, which I believe strongly supports observations made of his behavior in a separate case, *Alexis v. Hovenssa*, No. 2007-91 (D. V.I. June 2, 2010) (Plaintiff’s Motion to Recuse the Presiding Judge and Brief in Support).

3. The information I provided<sup>1</sup> has now been supplemented with additional detail beyond that originally focused on Judge Savage. I seek to have this more complete description of key events assessed in order to determine whether there was misconduct by any officer of the court. Additional concerns for possible action are discussed in the Addendum.”

[AFFIDAVIT OF MISCONDUCT Concerning Attorney Marc S. Raspanti](#)

“Marc Raspanti was the lead attorney for two of the defendants in the *qui tam* case cited in the caption above. I was the relator and plaintiff. Of great concern to me, Mr. Raspanti had been the very first attorney I contacted in 2004 about representing me, as he held himself out as exclusively representing plaintiffs in *qui tam* cases. He took case information from me and then recommended my first attorney, whom he knew. She continued to communicate with him while the case was under seal, prior to the time the defendants were served with the complaint. Yet in 2007, Raspanti entered his appearance for the defendants. ...

“another attorney who reviewed the matter wrote:

“Raspanti clearly took information from you that was confidential. You obviously had the belief that the information was confidential and privilege[d]. Raspanti ultimately referred your case to another attorney [Poserina] and later, possessing what was labeled and concluded to be confidential information, ***took it upon himself and his firm to defend a Defendant on the very claims he reviewed with you as Plaintiff.*** This is unethical and clearly if the information you have supplied is accurate, amounts to a violation of the Professional Rules of Attorney Conduct.”

In addition to the above, of primary concern here are serious misrepresentations which were made by defense attorney **Marc Raspanti** in his **letter of January 29, 2010** to the Court and other counsel in the case *United States ex rel Bauchwitz v. Holloman et. al.* (See “[1\\_Raspanti Harvard Letter and Attachments of 012910.pdf](#)” and “[2\\_Harvard Lopez to Morse 1207.pdf](#) for comparison to [Raspanti Tab A 0110.pdf](#)”). Raspanti’s misrepresentations were **subsequently introduced into the court record** prior to settlement of the case.”

[AFFIDAVIT OF MISCONDUCT Concerning Defense Counsel John C. Grugan](#)

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[3a]

[Failures to recuse or disqualify a family court judge Letter to President Judge](#)

“It has been my continuing concern that there have been numerous serious irregularities in the manner in which my divorce and associated support cases were handled. For details, please see my filing, enclosed: “MOTION OF INQUIRY and PETITION PURSUANT TO RECUSAL AND DISQUALIFICATION” of January 4, 2023.

In brief, among several due process and other concerns specified in the preceding filing:

(1) The trial judge has a connection to the opposing party via his cousin, which was revealed upon inquiry. The cousin is a judge in the same city as the trial judge.

(2) Trial judge Edward Marsico stopped a hearing in progress, with Husband's experts present, for no exigent reason stated. I feel that I have been greatly prejudiced by this action."

No response to the litigant, nor any other known response, was taken by President Judge Cherry of Dauphin County Court, Pennsylvania.

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[MOTION OF INQUIRY and PETITION PURSUANT TO RECUSAL AND DISQUALIFICATION](#)

**“V. SUMMARY OF FACTS AND LAW**

118. Husband asserts that, as the facts and appearances detailed and alleged above currently stand, such facts and appearances would raise serious concerns among ordinary reasonable people as to the existence of a **determined prejudice against Husband** by this trial court, whether or not implicitly or explicitly influenced by personal or other connections, and should thereby lead to recusal and/or disqualification of Judge Edward M. Marsico from further involvement in this case.

119. In summary thereof, the following points of facts claimed and law cited above are provided:

(1) No opportunity was given for hearing on the POA matter which took Husband's property and power of attorney rights. Instead, the judge returned matter to the adjudicator whose decisions were at issue.

(2) No opportunity was provided for hearing before a second reversal of APL on March 24, 2021. Instead, the trial court issued a *sua sponte* order attempting to create funds by equitable distribution, in place of APL, against prior order, without hearing, and without any determination of the time to receive such funds, were they even to be relevant.

(3) No opportunity was given for hearing in the transcript remand action, despite prior order stating such opportunity would be given. Instead, Judge Edward Marsico took partial corrections by the court reporter as

complete and accurate, without allowing discovery or hearing, including expert testimony, regarding numerous and material issues remaining.

(4) Trial judge Edward Marsico aborted a hearing in progress, with Husband's experts present, for no exigent reason stated. Then, the judge claimed by order that the aborted hearing would be suspended until such time as docketed documents sent for appeal were returned to the trial court prothonotary. The latter order has raised questions, upon initial investigation, as to whether comparable documents would have been available to allow hearing.

(5) The trial judge has a connection to the opposing party via his cousin, which was revealed upon inquiry. The cousin is a judge in the same city as the trial judge.

Furthermore, cousin Ronald S. Marsico was appointed a judge in the same year, 2020<sup>18</sup>, as Justice Daniel McCaffery was appointed to the same court. Daniel McCaffery was the author of the Superior Court opinion upholding Judge Edward M. Marsico in the companion case 2017-cv-6699.<sup>19</sup>

(6) "[P]rocedural due process requires not only adequate notice and an opportunity to be heard, but also 'the chance to defend oneself before a fair and impartial tribunal ...'" *S.T. v. R.W.*, 192 A.3d 1155 (Pa. Super. Ct. 2018).

(7) Facts of a case can be sufficient to show "inability to render fair judgment" which thereby "warrants and supports a bias or partiality challenge". (*Liteky v. United States*, 510 U.S. 551 (1994)).

(8) Disqualification is required under Rule 2.11 of the Pennsylvania Code of Judicial Conduct in which "the judge's impartiality might reasonably be questioned, including but not limited to ... The judge knows ... a person within the third degree of relationship ... who has more than a de minimis interest that could be substantially affected by the proceeding", which **Husband asserts could include the former target of a party's lobbying.**

(9) **Recusal is appropriate even in the absence of a disqualifying fact or circumstance when** "an objective disinterested observer fully informed of the facts underlying the grounds on which recusal was sought would entertain significant doubt that justice would be done in this case". (*Schoenberg v. State Farm Ins. Co.*, PICS Case No. 16-1112 (C.P. Lackawanna Aug. 10, 2016).")

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**Due Process Violations**

[MOTION TO VACATE ORDER OF JULY 27, 2021 DELAYING APL DECISION](#) RR 1960a - 1961a

“Due process issues

30. The key principle motivating the present motion to vacate, and the associated proposed orders, is based on due process. **It is clear that Husband’s funds were taken without affording him necessary hearing**, as now confirmed by the trial court’s order of July 27, 2021. If a dispute remains, as the trial court’s order now indicates it believes, then no action against Plaintiff should have been taken against his financial interests prior to hearing.

31. The Fourteenth Amendment of the United States Constitution, Section 1 states: “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, **without due process of law**; nor deny to any person within its jurisdiction the equal protection of the laws.”

32. Judge Henry J. Friendly of the United States Court of Appeals, Second Circuit, produced a **list of basic due process rights** which apply equally to civil and criminal proceedings:

1. “An unbiased tribunal.
2. Notice of the proposed action and the grounds asserted for it.
3. Opportunity to present reasons why the proposed action should not be taken.
4. The right to present evidence, including the right to call witnesses.
5. The **right to know opposing evidence**.
6. The **right to cross-examine** adverse witnesses.
7. A decision based **exclusively** on the evidence presented.
8. Opportunity to be represented by counsel.
9. Requirement that the tribunal prepare a record of the evidence presented.
10. **Requirement that the tribunal prepare written findings of fact and reasons for its decision.** (Henry J. Friendly, “Some Kind of Hearing”, Owen J. Roberts Lecture, University of Pennsylvania Law School, April 3, 1975.)

33. Clearly, **Husband had, and still has, no knowledge of the opposing party’s evidence, nor has he had any opportunity to cross-examine it, even in a filing.** The reason is simple: no financial evidence has been presented by Wife and her counsel since the very first challenge the filed to Husband’s APL immediately following release of the Master’s report of March 13, 2020. (Defendant’s Petition to Terminate or Suspend APL of May 18, 2020). No written basis for the termination of APL has been made.

34. Therefore, it follows that until such time as a hearing is completed, and a new decision is made on APL, it is manifest that, in addition to failing to demonstrate no material basis under

Rule 1910.19 to terminate APL, there is also a more general due process violation in that Husband's right to know the evidence against him has been denied.

35. Consequently, APL should be restored until such time as appropriate due process is afforded."

By Attorney for Husband, regarding one of several due process failures of the Divorce Master:

"A citizen has a due process right under the **Due Process Clause of the Fourteenth Amendment of the United States Constitution** to access to the court system where a fundamental interest, such as the right to divorce, is implicated. *See, generally, Boddie v. Connecticut*, 401 U.S. 371 (1971). In reaching its decision, U.S. Supreme Court said that "due process requires, at a minimum, that absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process **must be given a meaningful opportunity to be heard.**" *Boddie*, 401 U.S. at 377. Procedural due process requires that a litigant be afforded the opportunity to respond and be heard where legal claims are raised.

**Husband was afforded no opportunity to respond and be heard on Wife's contempt petition before a recommended award of counsel fees was made. Due process requires that Husband be afforded the opportunity for a hearing on such matters before counsel fees are awarded.** In proceeding as she did, **the divorce master deprived Husband of due process**, and the master's recommendation must be stricken and a hearing must occur on Wife's petition at which time Husband is afforded the opportunity to be heard.

"

Family Court Judge Marsico ruled:

"Husband lastly argues that the Divorce Master erred and deprived him of due process by awarding Wife counsel fees on her Petition for Contempt and Special Relief where no evidentiary hearing was conducted. **We grant Husband's exception** in this regard.

"

[N.B. A "mistake" was made in the original order issued by the judge on this matter, suggesting Wife had prevailed, which is likely what most people, including other attorneys, will see published, not the corrected/amended order.]

[Application for Reargument](#) filed with the PA Supreme Court :

"(3) Repeated due process violations As this court has noted:

"Recently, we confirmed procedural due process requires not only adequate notice and an opportunity to be heard, but also 'the **chance to defend oneself before a fair and impartial tribunal** having jurisdiction over the case.' *S.T. v. R.W.*, 192 A.3d 1155

(Pa. Super. Ct. 2018) citing J.M. v. K.W., 164 A.3d 1260, n.5 (Pa. Super. 2017)(en banc)(citing Everett,889 A.2d at 580)(emphasis added).”

But in numerous important instances, such rights have not been afforded Husband in this case.

For example, **property rights were unilaterally taken without hearing** (by the trial court; R.0382a), **fees for purported contempt were issued without hearing** based on what Husband has appealed as errors of law (by the master; PAA pp.34-35; ARBr pp.20-23) 2, **APL funds were cut off before hearing** (by the trial court; R. pp.1960a-1961a), and **conclusions about “credibility” of a party were drawn from impermissible *ex parte* judicial investigations mislabeled as “judicial notice”** (by the master; ARBr pp.24-26).

The very idea that a master can make her own “observations” that contribute to testimony concerning credibility, either by assessments of demeanor or *ex parte* investigations, can lead to significant questions of whether an impartial tribunal has been afforded a litigant.”

See also due process in **II. PRIOR PROCEDURAL DUE PROCESS CONCERNS RAISED**, (p.6) which reviews those matters involving family court Judge Marsico in petitioning for his recusal and/or disqualification. In particular, with respect to **handling of disputed transcriptions:**

“80. The basis for cutting off a hearing indicated by prior order (as well as thereby denying subpoenas for court reporting data that should have been retained by law (201 Pa. Code § 4016), was challenged by Husband in a subsequent filing to the Superior Court:

“Importantly, the trial court did not take notice that **the court reporter had not addressed most of the issues raised by Appellant**, including several of the most obvious or material of those ... . Instead the trial court concluded that because none of the problems that the court reporter *did* correct seemed “substantive”, the request for hearing and further discovery was denied by order of April 28, 2021, and the remand thereby ended.

FN3: Appellant asserts that **such selective handling of the evidence would be improper in most if not all modern fields of endeavor, and cannot represent reasonable discretion.**” (Application For Reconsideration of Original Record Appeal Quashing, 647 MDA 2021; see also link in footnote 3 of this document.)”

[If a scientist did what this judge did, it would be termed falsification of the record/data, which is considered major misconduct.]

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[5]

Concerns that racketeering-like activity by counsel were being permitted by the family law court.

(APL: alimony pendite lite, which is support prior to finalizing a divorce)

(With font emphasis added.)

[MOTION TO VACATE ORDER RESUMING EQUITABLE DISTRIBUTION TRANSFERS](#)

Reproduced Record to the Pennsylvania Appellate Courts RR:1316a - 1317a

**“Frivolous and vexatious filings not only permit financial warfare against a weaker party that has been denied APL, but in the absence of any attempt by the court to enforce due diligence requirements over its court officers, also permit operation of a racket that can enrich all counsel to the detriment of litigants throughout its jurisdiction**

30. Husband has several times demonstrated with detailed evidence that Wife and her counsel have shown a **pattern of making baseless and outright false claims**. (See Husband’s Declaration of January 4, 2021, in the support case, re-filed on May 3, 2021, in the above captioned case as the First Declaration, and his Second Declaration of March 30, 2021 in the support case, also attached here.) This emphasizes why it is essential to any legal system that opposing parties be given a right to respond.

31. Just as importantly, the ability of Wife’s counsel to file at will in bad faith and without due diligence, and apparently without fear of sanction, clearly could be expected to force Husband to expend substantial sums in legal fees (not to mention providing a distraction from writing his appeal.) Husband asserts that permitting this form of financial warfare undermines the legal system in the United States.

32. To permit these sorts of unsubstantiated and material false claims in filings not only **prejudices a party not given opportunity to respond before an order is issued in favor the movant**, but more generally **it allows a form of what can be seen as racketeering**, in which **counsel simply grants himself, and his opposing colleague, billings in the case**, each in return for “protecting” their clients’ interests. This behavior is **particularly egregious when it is repetitive**, even on the very same points already answered.

33. Thus, Husband avers that it is vital that the courts prevent what could be seen as racketeering by its court officers through **failure to police repetitive, frivolous claims**. While **federal courts have Rule 11 due diligence requirements**, as far as Husband is aware only the Pennsylvania Code of Professional Conduct addresses such behavior, without any true mandate. **Litigants alone are in no position to provide the oversight necessary to address such systemic flaws** that can influence all counsel involved.”

The Exhibits to the preceding MTV ED Order includes Husband’s Second Declaration, which has the following on BAD FAITH failure to present evidence:

d. Thus **Wife's claims are yet again presented without a single number or any evidence at all in support**, or by citation to any law.

e. It is not surprising that no numbers or evidence were presented by Wife, given that her income of nearly half a million dollars per year has been in the top 1-5% of U.S. incomes. The **loud, persistent claims by Wife through her counsel that she would suffer financial harms and injustice from the man she dismissed precipitously without recourse under potentially criminal circumstances** (see more below), and thereby whose financial future was manifestly and irreparably damaged, requires us to note yet another term which has repeatedly surfaced with respect to claims of Wife: **bad faith**:

**"Dishonesty of belief or purpose** <the lawyer filed the pleading in bad faith>. – Also termed mala fides." (Black's Law Dictionary 9TH Ed., 2009). RR 1337a

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#### [VOCATIONAL AND SOCIAL IMPACT OF ONLINE JUDICIAL PUBLICATIONS](#)

"2. In the earlier assessments, Plaintiff had noted the substantial negative effect he attributed to retaliation against him for working on a federal False Claims Act case (loss of academic title in 2004), and from a memorandum opinion published online by a federal court on the case in 2009.

3. Importantly, Plaintiff believes that since those previous assessments, an even more significant development has occurred in 2022 which has further greatly impacted his earning capacity.

4. Specifically, on February 4, 2022, a memorandum opinion about a divorce case involving Plaintiff was published online by the Superior Court of Pennsylvania.

5. In the following sections, Plaintiff reviews the text published about him in the two judicial opinions of December 2009 and February 2022, which appear very high in the search results for Plaintiff's name ("Robert Bauchwitz") in search engines (such as Google).

6. By providing specific quotes from the aforementioned documents, Plaintiff will illustrate the potential for great harm to his employability, as well as, with the more recent 2022 divorce- related judicial publication, his ability to socialize."

...

**The [federal judge Timothy J.] Savage opinion published online repeats deliberately falsified and defamatory claims against Bauchwitz**

15. Even more important than the biased, one-sided presentation of the final orders online, the claims made within that opinion are **falsified and highly defamatory** to Plaintiff Bauchwitz.

...

19. Therefore, the **key, false and defamatory statement** repeated by Judge Savage in his published opinion was that [federal Office of Research Integrity] ORI ***“did not view the statements at issue as intentionally false”***, when, in reality, the ORI had written, in variations (see preceding), that it believed that the ***“evidence is inadequate and generally unobtainable to prove that the questioned statements are intentionally false”***.

20. Thus, ORI did **NOT** conclude that, or “view”, the grant statements by the Defendants as ***not intentionally false***.

21. Bauchwitz persevered, after the December 2009 opinion dismissed part of the case, to issue one round of subpoenas. In so doing, Bauchwitz demonstrated conclusively that the “government” (ORI) had been completely **INCORRECT** about the availability of evidence.<sup>2</sup>

22. Nevertheless, such repeated, published statements by Judge Savage seemed to imply that Bauchwitz was making potentially false or frivolous allegations of fraud against **those the government saw as not having acted with any intent to defraud**.

23. Savage would then make such an inference even harder to miss in the very last statement he made in his opinion (end of footnote 84):

**“At this point, we do not decide whether the relator can ultimately prevail on the only remaining claim. See United States ex rel. Milam v. Regents of the University of California, ... (holding that ORI’s *findings* that the defendants did not engage in scientific misconduct and that there was insufficient evidence to warrant further investigation was admissible as an admission by a party-opponent under F.R.E. 801(d)(2)A).”**

24. Thus, with his false analogy to another scientific fraud False Claims Act case, Savage was implying that Bauchwitz had made false allegations against a party the “government” (ORI) had purportedly ***“found”*** not engaged in scientific misconduct.

25. This last footnote was not only extreme after it was written and published, but it had ***already been used as a threat*** in a settlement conference by Judge Savage [...]

26. Therefore, Bauchwitz concluded that **Timothy J. Savage** had engaged in **KNOWING, PREMEDITATED acts of serious misconduct, by deliberately publishing falsified**

statements intended to threaten and then gravely injure a litigant (who would subsequently have been shown to have acted **meritoriously**).

## II. THE SAVAGE OPINION FINDS ITS WAY INTO ANOTHER LEGAL MATTER INVOLVING BAUCHWITZ

27. The highly negative impact of the above defamatory claims published online against any individual would be severely damaging to that person's employment prospects. This was well appreciated by the spouse of the target, Bauchwitz, and in a subsequent legal case initiated more than seven years later, a divorce master wrote:

“Wife admitted that because Husband brought a whistleblower lawsuit against his former employer, he most likely would not be able to obtain employment in the research area” (R.0429a).”<sup>3</sup> (PAA)

...

29. The harmful impact of the aforementioned statements were cited by the divorce master, Cindy S. Conley, of Dauphin Family Court in Harrisburg PA, as some basis by which to conclude that Bauchwitz (and not, for example, Timothy J. Savage, the judge), had impaired credibility. Conley first quoted Savage's online opinion in her master's report of March 2020 ...

32. Nevertheless, having not actually investigated the case, or provided due process opportunity for Husband to respond to what she was going to produce in her report, Conley then went on to, in effect, herself fabricate a claim she attributed to Bauchwitz, namely by writing:

“the *fact* that Husband felt it *necessary* to **embellish** the importance of the lawsuit by *implying* that the Federal government was *one-hundred percent* behind it when, in actuality, the Federal government declined to intervene in the suit *does impact somewhat negatively on Husband's credibility*.” (MRep pp.18- 19).”

33. As Bauchwitz noted in appealing Conley's claim to the Supreme Court of Pennsylvania:

“there is nothing in the actual record that would remotely show any “fact” that Husband “implied” that the U.S. Department of Justice, or any other portion of the federal government, was “100%”, or any other percent, behind entering the *qui tam* suit. Again, use of specific quotations, and presentation of search terms used to assess the complete case record, might go a long way towards reducing the discretionary disasters that can be repeatedly imposed by such court officials.”<sup>4</sup> (AFR: <https://tinyurl.com/Applic-Rearg- SupremeCt>).

34. Regardless of motive, fraudulent statements by one judge (Savage), appeared to have opened the door for subsequent antagonists (ex-Wife) to achieve seeming impeachment of

Bauchwitz, simply by quoting Savage’s published false claims, and as necessary making additional “inferences”.

35. There was frequently no due process provided for Bauchwitz to respond to or correct the claims made against him by citing to the Savage opinion (**such as** by Conley’s purportedly taking “judicial notice” of his published opinion).

36. Even when Bauchwitz’ responses were made in the **court** record, they do not appear online, and thereby have little to no impact on protecting the litigant from defamations by a judge or any other jurist who might follow.

### **III. APPEAL OF THE MASTER’S CLAIMS LED TO THE PUBLICATION OF EVEN MORE DAMAGING, DEFAMATORY COMMENTS**

37. A Superior Court Memorandum Opinion authored by **Justice Daniel D. McCaffery**, published on the Internet on or about February 4, 2022, makes assertions about Robert Bauchwitz, which Bauchwitz considers to represent pervasive and extremely defamatory falsifications of the record.<sup>5</sup>

One of Husband’s vocational experts would later testify in a related part of the case (dealing with unpaid alimony pendite lite):

For Husband: What impact can negative reputational findings online have on an applicant's chances for employment?

Expert: It would preclude them from employment. They would be considered poison in regarding a new job.

...

#### **Further harms to Bauchwitz from the Superior Court’s selective writings**

61. The harms to Husband/Bauchwitz from the online publication of the Superior Court have extended well beyond a gravely enhanced crippling of his employability, as well as his capacity to be successful in any self-employed business in his own name.

62. McCaffery, apparently **with the acquiescence of his Superior Court panel colleagues, Justices Bender and Collins**, also grossly falsified the record by omitting vital information regarding marital misconduct, which claims were not only extremely biased against Husband, but have also greatly harmed his ability to socialize with others: ...

FN Re: <sup>6</sup>“Evidencing”. These jurists, had they made the slightest attempt to examine the record, would have easily observed that Bauchwitz **strongly contested** that such images [date-stamped 2002 from Wife] were “evidence” of anything except further fraud by wife and her counsel. (For example, Husband believes that the red material seemingly flowing down the nose of wife, in an image, is almost certainly a SHADOW, for which the

color balance was altered in the image.) It is impossible to believe that legitimately motivated justices would have made such claims as “evidencing”, as if unchallenged evidence had been placed into the record by Conley.

...

Husband further specified in his appeal that the master, as if testifying on behalf of Wife, wrote in her report regarding [Husband’s evidence of Wife’s assaults of 2016 and 2017](#), that Husband had submitted such evidence to the police after Wife left the marriage “to bolster Husband's position in the divorce action”. (PAA p.40)

Yet the real question is not the imputation of some improper motive in submitting evidence (made within the statute of limitations), but rather, whether the evidence Husband submitted did in fact bolster his case. **The quality of the evidence of record can be judged by the public, and certainly by this point should have been so by the trial and Superior Courts.**

Therefore, the Supreme Court should finally rectify these matters of evidentiary handling of marital misconduct issues in order to preserve the credibility of its oversight process.

65. Bauchwitz subsequently has had an expert review done of the images he received from his attorney, which had been provided by ex-Wife’s attorney.

66. As Bauchwitz informed ex-Wife’s counsel on January 11, 2023:

“I have now had forensic examination made of the images you gave to my then counsel. The conclusion of my expert’s report states:

“Based on the forensic analysis of the imagery in this case, I find the following to a high degree of forensic certainty: The analyzed photographs are **not consistent with authentic original images and should not be relied upon as an accurate record of the subject pictured.** ...”. (November 15, 2022.)”

[May 9, 2023 additional relevant testimony]

An offer of proof of the image expert’s testimony was made in court on May 9, 2023. Ann Rogers had refused to present any of the evidence requested in discovery in support of her images.<sup>8</sup>

FN <sup>8</sup> Similarly, Ann Rogers refused in discovery to present the documents she claimed she had which went to the primary fault in the case, namely that her father’s medications had not been withdrawn shortly before his death. This issue precipitated the sudden and unexpected divorce. **Yet despite these major failures to present critical evidence, the master, and judges above her, found it appropriate to simply ignore the obvious implications that the evidence either did not exist, or did not show what was claimed.**

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Recommendations to the Supreme Court of Pennsylvania with respect to the handling of observational and records evidence.

[APPLICATION FOR REARGUMENT](#) pp. 16-17

“More generally, based on observations made in this case, and presented in this and earlier appellate filings, there are some initial, concrete steps that the Supreme Court [of Pennsylvania] could take to reduce the risk of problematic handling of evidence in decisions by court officers:

- 1) overrule *Carney*, and **prevent completely any introduction of observational conclusions by adjudicators that are not based on sound, expert foundations and due process;**
- 2) set a **non-discretionary requirement for counsel and adjudicators to quote the complete record equally for all parties** 3;
- 3) **require masters and courts at all levels to provide the search terms used to assess the current, complete record for each point of evidence addressed.**

By presenting lists of search terms used to assess a complete case record, **litigants and the public might be much better able to confirm that the courts effectively read the material presented to them** by the parties, and thereby **also greatly reduce the “overlooking” and “misapprehensions” of evidence** that could be taking up the time of the appellate courts, especially the Supreme Court, as in this case.”

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[Evidentiary Audit and The Vetting Project](#)

“Many aggrieved whistleblowers, litigants, and others who have been involved in various forms of adjudication, feel cheated because the process ignored, or otherwise mishandled, the evidence they presented. In addition, judgments were frequently made upon insufficient evidence or against the evidence.

Upon suffering what they believe be serious injustice, the aggrieved often try to get redress by complaining online. However, claims by aggrieved persons are themselves sometimes unsupported by evidence, or if linked to evidence, it is too much material to expect most casual readers to examine.

Therefore, there is a need to have some third party attempt to certify the credibility of the claims of aggrieved parties. There is essentially no independent audit of the U.S. legal system, and legal misconduct claims to that system are almost entirely unsuccessful.

To try to remedy this situation, we work with aggrieved parties to assemble and review the evidence in their cases. We will then attempt to produce a report summarizing findings about various evidentiary points. Finally, we will, if appropriate, issue a brief statement and/or rating as to what we believe about the merits of points within the case and whether we believe further review or other action would be warranted.”

[Additional information:](#)

“we will offer a process that will allow those who have had troubles in the courts to present their concerns and associated evidence in a form which could help permit third parties, such as ourselves, to determine whether there might be significant substance to allegations of misconduct and malpractice.

We cannot provide any legal advice or determinations about a legal case, particularly not in the United States, in which the judiciary protects itself with unlicensed practice of law (UPL) codes. But what we can do is look at submitted evidence and provide a form of “evidentiary audit“, by which we mean **to gather user and other opinions as to whether the public might have cause for concern about conduct at issue.**

If we can obtain a complete, searchable record of the submitting party’s case(s), we may be able to review the evidence presented, particularly on various points of concern to the aggrieved party. While we are not able to make any explicit claims about the legal issues, we can come to our own conclusions by reading the record, and **we can and will comment on any instance in which it seems from what was presented to us that there was insufficient credible evidence of record to support a claim.**

In addition to trying to help aggrieved individuals, **our intention is [also] to develop a database of substantiated complaints**, by which legislatures can be persuaded **to introduce credible, timely, and independent oversight and audit of the judiciary in the U.S.**

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