

LEAVE TO FILE GRANTED

*Ch. R. Coy* 10/20/17

**In the District Court of the United States  
for the District of Columbia**

|                                       |   |  |
|---------------------------------------|---|--|
| <b>Mark Crumpacker,</b>               | § |  |
| <b>Plaintiff</b>                      | § |  |
| v.                                    | § | <b>District Cause No. 1:16-CV-1053 (CRC)</b> |
| <b>Ms. C. Ciruolo-Klepper, et al,</b> | § |  |
| <b>Defendants</b>                     | § |  |
| <hr/>                                 |   |  |
| <b>United States of America,</b>      | § |  |
| <b>Counterclaim Plaintiff,</b>        | § |  |
| v.                                    | § | <b>COUNTERCLAIM</b>                          |
| <b>Mark Crumpacker,</b>               | § |  |
| <b>Michael Ellis, and</b>             | § |  |
| <b>Robert McNeil,</b>                 | § |  |
| <b>Counterclaim Defendants,</b>       | § |  |

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**Counterclaim Defendants’  
REPLY to JESSIE K. LIU  
“OPPOSITION TO MOTION TO RECUSE”  
WITH DECLARATIONS IN SUPPORT**

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In her “Opposition” (Doc. 59, 10/11/17) to Counterclaim Defendants’ Motion to Recuse Mr. Cooper, (filed by and through her subordinate Ryan O’Connor McMonagle), U.S. Attorney Jessie K. Liu does not discuss and cannot dispute the following FACTS, supported by the incontrovertible public record and by Defendants’ sworn Declarations:

A. Christopher Cooper was assigned Class case 16-cv-00420 *Dwaileebe v. Martineau* on or about February 29, 2016;

B. Mr. Cooper took **no** action whatsoever in *Dwaileebe* from February 29, 2016 until shortly after September 27, 2016, the date when an extra-judicial meeting occurred between him,

Amy Berman Jackson and possibly others of the “Calendar and Case Management Committee”, (CCMC) of the District of Columbia Federal Court; that

C. On or about August 30, 2016, Judge Jackson’s docket received the randomly assigned new case filed by IRS victim Adele Podgorny, 1:16-cv-01768, *Podgorny v. RYAN O’CONNOR McMONAGLE*; that

D. When Judge Jackson noted the obvious similarity of *Podgorny v. RYAN O’CONNOR McMONAGLE* to *Ellis v. Commissioner* in D.D.C. cause 14-cv-471, Ms. Jackson issued a Show Cause order on September 2, 2016 to explain why *Podgorny* should not be dismissed on the same ground as Jackson dismissed *Ellis*; that

E. On or about September 22, 2016, Podgorny filed her respectful Response to Show Cause and Motion to Recuse Judge Jackson, exposing Ms. Jackson’s fabrication and attribution to Ellis of relief he did not seek,<sup>1</sup> (i.e. that he supposedly sought to enjoin IRS preparation of substitute income tax returns, despite his contention they don’t exist), thus bringing *Ellis*, by fraud, within the prohibitions of the Anti-Injunction Act and avoiding adjudication of *Ellis* on its merits; that

F. Ms. Jackson responded to the Motion to Recuse her filed on September 22, 2016 in *Podgorny*, by colluding extra-judicially with other attorneys, including Christopher R. Cooper, to defeat class cases and terminate the rights to access courts of litigants Ellis and McNeil, (whose efforts to end the underlying IRS record falsification program are applauded by all who love justice); that

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<sup>1</sup> Despite disingenuous attorney claims that victims of IRS are filing suit seeking to enjoin “IRS’ performance of SFRs”, no attorney could fail to understand Class plaintiffs’ actual complaint gravamen: IRS never prepares substitute income tax returns on any date shown in IRS’ falsified digital and paper records concerning targeted nontaxpayers, which lacuna IRS has repeatedly conceded results from “constitutional issues.”

G. During said extra-judicial meeting of September 27, 2016, Mr. Cooper learned from Ms. Jackson how to avoid adjudicating the merits of Class cases, by falsifying the record to reflect that litigants filing suit were supposedly seeking to enjoin IRS preparation of substitute income tax returns, which pretended form of relief Mr. Cooper learned could be claimed as supposedly violative of Anti-Injunction Act prohibitions, thus providing him and other judges involved in the collusion, (G. Michael Harvey, Emmet Sullivan, Dale Drozd, et al), colorable justification for dismissing class cases without adjudicating their ACTUAL merits; that

H. Mr. Cooper did NOT learn from any complaint filed by Class victims that they sought to enjoin IRS preparation of substitute income tax returns, because the litigants NEVER sought such relief, but instead he learned from his extra-judicial source, Amy Berman Jackson, how to fabricate, and falsely attribute to his litigant victims, such pretended relief; that

I. At the meeting of the CCMC of the District of Columbia on or about September 27, 2016, the judges extra-judicially agreed to consolidate all remaining, undismissed Class cases onto Mr. Cooper's docket for dismissal without addressing the actual merits of victims' complaints, pursuant to the "success" Ms. Jackson had in dismissing *Ellis* on the basis of her fabrications; that

J. Ms. Jackson and Mr. Cooper also agreed to terminate the rights to access courts of victims complaining of the underlying IRS scheme, by baldly claiming their unadjudicated cases were "frivolous", "malicious" or "harassing", but without presenting supporting evidence; that

K. Mr. Cooper agreed extra-judicially at the CCMC meeting on September 27, 2016 with Amy Berman Jackson to commit the same criminal falsification of court records Ms. Jackson had committed in *Ellis*, i.e., to attribute to litigants/victims of the IRS record falsification program that they supposedly sought to enjoin IRS preparation of substitute income tax returns,

when no such relief was sought or requested, thus justifying dismissal of all Class cases on his docket without adjudicating their merits; that

L. After Judge Cooper's extra-judicial agreement with Judge Jackson and other CCMC judges on or around September 27, 2016 to falsify the records of all class cases with respect to relief sought, suspicious Class victims responded to the surprise secret consolidation by the CCMC of all their cases onto his docket, by filing various Motions. [For example, see **Objection to Consolidation...and Motion to Recuse The Hon. Judge Cooper**, filed in *Crumpacker*, 16-cv-1053, on or about October 17, 2016, [Doc. No. 16]]. Victims respectfully suggested therein to Mr. Cooper he had been appointed by the CCMC and Ms. Jackson *to commit misprision*, in support of the IRS record falsification program, by adopting and reiterating her fabrication concerning the relief victims sought; that

M. Pursuant to Mr. Cooper's extra-judicial agreement with Ms. Jackson on or about September 27, 2016 to falsify the record of all Class cases, and after months of indecision as to how he should "handle" *Dwaileebe*, Mr. Cooper fulfilled the expectations of the CCMC and Ms. Jackson, by adopting and citing on October 21, 2016 Jackson's false "finding" concerning relief Class litigants seek, precisely as Ms. Jackson instructed, and his victims predicted; that

N. More specifically, in his Order issued on that date, [See 16-cv-1053 *Crumpacker* Doc. #18, Order October 21, 2016], Mr. Cooper (1.) ignored, thus evaded, the core issue the Class sought to adjudicate, i.e.,: whether IRS prepares substitute income tax returns on the dates shown in IRS records,<sup>2</sup> and he 2.) held that all class cases were consolidated because they supposedly concern "the IRS's preparation of substitute tax returns for non-filers", (even though Class

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<sup>2</sup> On March 8, 2017, a DoJ attorney correctly identified the core act IRS victims have been seeking to enjoin:

"The United States is aware that plaintiffs allege that the Service never actually prepares substitutes for [income tax] returns, but rather inputs computer codes to make it appear as

victims discovered and, in excruciating detail, alleged that no such thing existed on any date shown in IRS-falsified records).

O. Finally, pursuant to his extra-judicial collusion to dismiss all cases without adjudicating their merits, Christopher Cooper dismissed all six cases consolidated on his bench on Saturday evening December 31, 2016 at 5:38 pm, citing, as justification, the fabrication initially created by Ms. Jackson.<sup>3</sup> Thus, precisely as he and Ms. Jackson colluded to do on September 27, 2016, Mr. Cooper left, unadjudicated, victims' ACTUAL gravamen issue: Does IRS prepare substitute income tax returns on any date shown in IRS' falsified records concerning targeted nontaxpayers?<sup>4</sup>

P. Finally, Ms. Liu concedes, without discussing, that, on September 26, 2017, the Treasury Inspector General for Tax Administration announced the suspension of the IRS record falsification scheme known as the Automated Substitute for Return program.<sup>5</sup> She also failed to

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though a substitute return has been filed. **The United States categorically denies this allegation.**" [Judge Cooper is again requested to judicially notice 17-00022, *Stanley, et al, v. Lynch, et al, Motion to Consolidate Cases*, March 8, 2017, Doc. 11, Pg. 3, FN 1]

Every government-employed attorney has been assiduously concealing that issue and refusing to address it and adjudicate it, including Ryan O'Connor McMonagle.

<sup>3</sup> Mr. Cooper relentlessly, and viciously, repeats his fable that Class litigants supposedly seek to enjoin "IRS's preparation or alleged falsification of SFRs." [See, for another example, Mem. Op., April 19, 2017, Pg. 6, first full sentence.] Once again, **his victims categorically deny seeking such ludicrous relief**, since IRS never "prepares" or "falsifies SFRs". Instead, Mr. Cooper knows IRS falsifies its records to provide the appearance IRS prepared substitute income tax returns, which do not exist, in reality.

<sup>4</sup> "The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws..." *Long v. Rasmussen*, 281 F.236@238 (1922).

<sup>5</sup> The "ASFR" program manipulates IRS's "Individual Master File" and "Audit Information Management System" databases resulting in the falsification of the IMF annual module concerning targeted nontaxpayers, making it appear IRS prepares substitute income tax returns on claimed dates, when no such thing happens. Falsifying government records is proscribed by Congress at 18 USC §1001.

enlighten the Court as to the reasons for that suspension, which should surely have aroused her attention, and this Court's interest.

**Claimed Defects to Motion to Recuse**

**A. Liu Failures to Mention**

It is important to note from the outset that Ms. Liu failed to mention in her "Opposition", and likely will never mention, the specific falsifications by Mr. Cooper of federal records which Ellis and McNeil claim supports his recusal, i.e., that Cooper fabricated, pursuant to his extra-judicial collusion with Amy Berman Jackson, that litigants supposedly seek to enjoin IRS' preparation of substitute income tax returns, despite the fact no such relief was ever sought by litigants. Possibly Ms. Liu finds his acts so repulsive and violative of due process, that she can't bring herself to mention them. Alternatively, she may simply lack integrity.<sup>6</sup> In her Opposition, Ms. Liu also failed to mention the actual issue victims/litigants seek to have adjudicated: that IRS never prepares substitute income tax returns on any date shown in IRS-falsified records concerning victims. Those related failures appear to reasonable observers as tacit admissions of the bankruptcy of her position in regard to Mr. Cooper's very necessary recusal, (and his removal from the federal bench).

**B. Unconvincing Liu-Suggested Reasons Recusal Supposedly Inappropriate**

In her "Opposition", Ms. Liu correctly defines the recusal standard as an objective one, e.g., whether a reasonable, informed person might question the impartiality of Mr. Cooper. But, she posits only two utterly unconvincing reasons he should not recuse.

First, though she concedes that judicial orders can justify recusal if they "display a deep-seated favoritism or antagonism that would make fair judgment impossible," she never applies that

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<sup>6</sup> As does her subordinate, Ryan O'Connor McMonagle, frighteningly demonstrating his lack of fidelity over many years of class litigation. Why obstruct justice, Mr. McMonagle? Is it just a paycheck to you?

rationale to any of Mr. Cooper's orders. Particularly, she failed to address his refusal to adjudicate his victims' cases on their ACTUAL merits, and his fabrication, and attribution to Plaintiffs, of the form of relief Ms. Jackson instructed him to use.

Second, she claims that only bias or prejudice resulting "from an extrajudicial source [which] resulted in an opinion on the merits on some basis other than what the judge learned from his participation in the case" can merit recusal, that Ellis and McNeil supposedly failed to make such allegations, hence that lacuna is supposedly 'fatal' to the recusal motion. Defendants disagree.

### **Argument**

Because Mr. Cooper repeatedly falsified the record of this case and all Class cases before his bench IN HIS ORDERS with respect to the form of relief victims seek, and because he refused to adjudicate the ACTUAL core issue raised by victims,<sup>7</sup> any reasonable, informed person could have questioned his impartiality by noting those actions alone. In fact, a REASONABLE person could conclude Mr. Cooper's orders reveal such favoritism of the underlying IRS record falsification enterprise, and such overwhelming personal antagonism toward his victims, that it would be IMPOSSIBLE for him to render fair judgment in regard to both the motion to sanction Ellis and McNeil, and their motion to recuse him.

But, far more importantly, as demonstrated above in exquisite detail, since Mr. Cooper has been involved in an extra-judicial collusion with other attorneys, including Amy Berman Jackson, who taught him how to falsify the type of relief litigants seek, in a transparent drive to **jointly** obstruct justice and prolong the underlying IRS record falsification enterprise, a reasonable person could question his impartiality in regard to any motion by the Government seeking to

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<sup>7</sup> Restated yet again: Does IRS prepare substitute income tax returns on any date shown in IRS records concerning targeted nontaxpayers?

sanction Ellis and McNeil, who have been thrust by Cooper into the role of his adversaries. (They respectfully decline the role he's assigned, and simply ask him to leave their cases.)

Finally, since any reasonable person could conclude his acts favor the Government by concealing and prolonging the nine (9) step record falsification program used by IRS to enforce the income tax exaction on targeted nontaxpayers, Mr. Cooper should recuse forthwith, and should resign from the bench.

### **Notice Requested**

Once again, the Court is requested to notice the September 26, 2017 announcement by the Office of the Treasury Inspector General for Tax Administration (TIGTA), that TIGTA is soon to suspend operation of the Automated Substitute for Return (ASFR) record falsification program. Suspension of the ASFR program by TIGTA simultaneously brings into question all claims by attorneys that victims have been filing "meritless", "frivolous" lawsuits by seeking to terminate the entire layered enterprise, while providing possible confirmation of the merit of those suits.

### **Summary**

It is overwhelming evidence of partiality when a judge defeats the equitable jurisdiction of her court by colluding extra-judicially to fabricate and attribute to litigants relief they did not seek. It is an even greater injustice when she terminates victims' rights to access courts on the basis of her fabrications.<sup>8</sup> And, in most delicious irony, a reasonable person could conclude that Mr. Cooper ignored, and left unadjudicated, the merits of his victims' cases, that he fabricated and attributed to his victims allegations they did NOT make and relief they did NOT seek, then

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<sup>8</sup> Counterclaim Defendants respectfully requested, via Rule 59, that Mr. Cooper remedy those apparent injustices by quoting specifically from Complaints filed by litigants where victims present language supporting his bald finding they supposedly claim "IRS's preparation and use of substitute tax returns amounts to a 'record-falsification scheme'", and where victims supposedly "challenge the IRS's preparation or alleged falsification of SFRs." Cooper failed to even address the issues raised when denying Rule 59 relief. He is knowingly committing a vast fraud on his own Court.

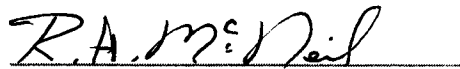


declared his own mutant, deviant version of their cases “meritless” in order to justify sanctioning Ellis and McNeil. No more disgraceful parody of justice has ever been rendered in the history of law.

**Relief Requested**

In light of the just-announced termination by IRS of its ASFR program, in light of the joint extrajudicial collusion taken by Mr. Cooper with Ms. Jackson and other attorneys including Ryan O. McMonagle (as set forth above, and sworn below as to accuracy), to prevent adjudication of Class cases on their merits, Ellis and McNeil respectfully suggest Mr. Cooper has a duty to recuse himself and resign from the bench, allowing others to adjudicate Mr. McMonagle’s facially frivolous Motion for Sanctions.

Sincerely,



Robert A. McNeil  
729 Grapevine Hwy. #148  
Hurst, Texas 76054

Dated: 10/16/17



Michael B. Ellis  
5052 N.E. County Road 0220  
Rice, Texas 75155

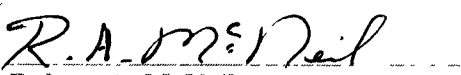
Dated: Oct 16, 2017

**Declaration**

Comes now Counterclaim Defendants, declaring under penalty of perjury, pursuant to 28 U.S.C. §1746, that every single word and FACT set forth in the foregoing **REPLY to LIU OPPOSITION TO MOTION TO RECUSE...** is true and accurate to the very best of their knowledge and belief. This filing is not intended to harass anyone, but by the open statement of the truth, commend ourselves to everyone's conscience, in the sight of God.

  
Michael B. Ellis

  
Date:

  
Robert A. McNeil

10/16/17  
Date:

**CERTIFICATE of SERVICE**

I certify that a copy of the forgoing **Reply to Liu Opposition to MOTION TO RECUSE...** was served via United States Mail on or about 16 October 2017, to the following:

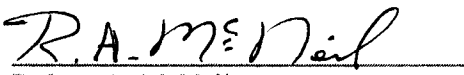
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