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Attorney for Plaintiffs

MARC J. RANDAZZA, JENNIFER RANDAZZA, and NATALIA RANDAZZA

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MARC J. RANDAZZA, an individual,)	Case No. 2:12-cv-02040
JENNIFER RANDAZZA, an individual, and)	
NATALIA RANDAZZA, a minor,)	PLAINTIFFS' OPPOSITION TO
)	DEFENDANT COX'S MOTION TO
Plaintiffs,)	PROCEED IN FORMA PAUPERIS
)	
vs.)	
)	
CRYSTAL COX, an individual, and ELIOT)	
BERNSTEIN, an individual,)	
)	
Defendants.)	

Plaintiffs Marc J. Randazza, Jennifer Randazza, and Natalia Randazza, through counsel, hereby submit their Opposition to Defendant Crystal Cox's Motion to Proceed *In Forma Pauperis* (ECF 70). Cox's motion, though filed with the Court as a notice, is deficient under 28 U.S.C. § 1915 and this Court's local rules, and should be denied.

I. Argument

Cox's motion to proceed *in forma pauperis* should be denied on several grounds. First, she has failed to follow the requirements of 28 U.S.C. § 1915 that would demonstrate poverty to the Court. Second, evidence shows that Cox continues to maintain more than 1,200 blogs, with annual domain name registration fees of approximately \$10 each, and has continued to register new domain names since this litigation commenced. In sum, Cox has not shown that she is incapable of

1 paying the costs of pursuing her counterclaim; in fact, she likely is perfectly capable of doing so,
2 but wishes to shift that burden onto the Court. Her petition to enlist the Court to effect service for
3 her, so that she may save herself the inconvenience of bearing the costs of prosecuting a
4 counterclaim she filed against dozens of unrelated counter-defendants scattered across the nation,
5 should be denied.

6 **A. Cox Failed to Comply With the Requirements of 28 U.S.C. § 1915.**

7 Applications to proceed *in forma pauperis* are governed by 28 U.S.C. § 1915. Much like
8 qualifying for the services of the Federal Public Defenders, parties seeking to proceed *in forma*
9 *pauperis* are required to submit documentation of their assets, and demonstrate an inability to
10 prepay fees and costs, or give security for them. *Brown-Younger v. Mosen*, Case No. 2:11-cv-
11 00554, 2011 WL 5240371 at *1 (D. Nev. Nov. 1, 2011). In particular, section 1915(a) requires a
12 movant to provide a statement of “all assets,” demonstrating that he or she is “unable” to pay the
13 costs and fees of litigation “or give security therefor.” Additionally, the affidavit must “state the
14 nature of the action, defense or appeal and affiant’s belief that the person is entitled to redress.” *Id.*
15 Cox has not submitted any affidavit to this Court, and thus failed to satisfy this dispositive prong of
16 section 1915.

17 The only evidence of penury Cox submits for the record is an unsworn assertion that a
18 judgment for \$2.5 million has been entered against her. Ironically, that judgment arises from
19 *Obsidian Finance Group LLC v. Cox*, Case No. 3:11-cv-57 (D. Ore. 2011), where she was held
20 liable for the same exact conduct underlying this lawsuit. The only substantive difference between
21 that case and this one is that the *Obsidian* plaintiffs sued for defamation, while Plaintiffs in this
22 action pursue trademark, cyberpiracy, and right of publicity actions. Cox’s efforts in the Oregon
23 court, including posting a Rule 62 *supersedeas* bond, have prevented the *Obsidian* plaintiffs from
24 executing their judgment pending Cox’s appeal – ensuring that the \$2.5 million judgment has no
25 effect on her finances. Case No. 3:11-cv-57 (ECF 142, 152, 153) (D. Ore. 2012-2013).

26 **B. Cox’s Motion Violates LSR 1-7 and is Premature.**

27 The Local Rules for Special Proceedings within this District allow the Court to limit an
28 applicant’s use of *in forma pauperis* upon finding that he or she has abused the privilege. LSR 1-7.

As is clear from the record in this case, Cox's intent is to recruit the United States Marshals to serve a wide range of defendants, from Apple to National Public Radio to Proskauer Rose LLP to Plaintiffs' counsel to the Judge herself, so that they may be faced with an incomprehensible counterclaim and forced to bear the costs of litigation – namely responding to Cox's high volume of unusual "notices" and motions for unavailable relief (ECF 22, 47, 53, 59, 60, 67; *see* ECF 27, 69).

For reasons fully explained in Plaintiffs' pending Motion to Strike and Second Motion to Strike (ECF 48, 63), Cox's amended counterclaim should be stricken. Expending the United States Marshals' resources to serve dozens of defendants nationwide would be imprudent, as the counterclaim should be stricken in its entirety. Furthermore, based on Cox's filings, it is clear that she is using her submissions to the Court in the same manner as her websites: Making wild allegations that will stop only when she has received a suitable payment – within this context, settlements from well-heeled companies such as Apple, Intel, and others.¹ (*See* ECF 24, 53, 54, 57, 59, 60, 62, 66) Using the United States Marshals to further this scheme by serving the defendants

¹ Cox has previously stated, erroneously, that her motives to proceed *pro se* in district court actions was to ensure that all of her statements would be protected from an action for defamation under the litigation privilege:

"I recommend that everyone go pro se and lawyer up for the appeal, this way you get to introduce more elements into the case and others pick up the case and whatever you right [sic] in your motions to the court is then under 'Absolute Privilege' as a matter of law and can't be considered defamation."

Curtis Cartier, *Comment of the Day: Why 'Non-Journalist' Blogger Crystal Cox Didn't Get a Lawyer*, Seattle Weekly (Dec. 7, 2011), http://blogs.seattleweekly.com/dailyweekly/2011/12/comment_of_the_day_why_non-jou.php (*last accessed* Feb. 7, 2013). This is consistent with Cox's pattern of making false, harassing statements *ad nauseam*, and then seeking payment for halting the damage that she herself caused (ECF 2-10, 28-1, 28-2). *Obsidian*, 2012 WL 1065484 at *7 (D. Ore. Mar. 27, 2012) ("the uncontroverted evidence at trial was that after receiving a demand to stop posting what plaintiffs believed to be false and defamatory material on several websites, including allegations that Padrick had committed tax fraud, defendant offered 'PR,' 'search engine management,' and online reputation repair services to Obsidian Finance, for a price of \$2,500 per month. [] The suggestion was that defendant offered to repair the very damage she caused for a small but tasteful monthly fee").

as Cox requests would be an inappropriate use of their services, and prejudicial to parties in legitimate need of assistance when proceeding *in forma pauperis*.

C. Cox's Own Actions and Admissions Reveal Her Financial Ability.

Cox has admitted to the Court that she owns more than 1,200 blogs (ECF 29 at 3 ("I, Crystal L. Cox [...] have over 1200 blogs[.]")). If Cox owns the domain names for each blog, then she is incurring approximately \$12,000 per year in domain name registrations alone. (Each domain name costs approximately \$10 per year to maintain. See GoDaddy.com, <http://www.godaddy.com/domains/search.aspx?ci=78118> (last accessed Feb. 7, 2013).) During this litigation, Cox has purchased still more domain names wholly incorporating individuals' full names, including <MarkVena.com> (registered Dec. 30, 2012), <AriBass.com> (registered Dec. 30, 2012), and <JosephRakofsky.com> (registered Feb. 2, 2013). These represent only the domain names that Plaintiffs know of, and there likely are more. As previously noted, Cox posted a *supersedeas* bond in the Obsidian Finance litigation during 2013 as well. *Obsidian*, Case No. 3:11-cv-57 (ECF 153) (D. Ore. 2013).

The pattern of Cox's conduct is clear, and reveals why she did not file an affidavit declaring her assets with the Court: She *can* pay for her own litigation, but does not *wish* to do so. Rather than fund her Counterclaim, Cox prefers to devote her resources to buying domain names that wholly incorporate individuals' full names in order to harass an ever-expanding universe of unrelated people. Based on the foregoing, it can only be surmised that Cox has sufficient financial resources to pursue her Counterclaim if she wishes to do so. It is not the role of the Court or United States Marshals to indulge Cox's comfort or convenience when she merely would prefer not to devote sufficient resources to the litigation of her case.

II. Conclusion

Cox's motion to proceed *in forma pauperis* should be denied. Cox has failed to comply with the unambiguous requirements of 28 U.S.C. § 1915(a), precluding the Court from granting her motion. Even if Cox's motion were properly before the Court, her "Counterclaim," such as it is, should be stricken. If Cox's Amended Counterclaim is not stricken in its entirety, then Cox's request has still been made for an improper purpose. Cox's conduct during this litigation belies her

1 claims of poverty, and by all appearances she is capable of footing the costs of her Counterclaim.
2 Cox's wants should not be conflated with needs, and her motion should properly be denied.

3
4 Dated: February 7, 2013

Respectfully submitted,

5 /s/Ronald D. Green

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure 5(b), I hereby certify that the foregoing document was filed using this Court's CM/ECF system on February 7, 2013.

Dated: February 7, 2013

Respectfully Submitted,



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