

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,
MARISSA BLAIR, APRIL MUÑIZ,
MARCUS MARTIN, NATALIE ROMERO,
CHELSEA ALVARADO, JOHN DOE, and
THOMAS BAKER,

Plaintiffs,

v.

JASON KESSLER, et al.,

Defendants.

Civil Action No. 3:17-cv-00072-NKM

JURY TRIAL DEMANDED

**PLAINTIFFS' RESPONSE TO BURT COLUCCI'S
EMAIL TO THE COURT**

Plaintiffs file this response to the email sent by Burt Colucci, the “Commander” of Defendant National Socialist Movement (“NSM”), on June 25, 2020, at 3:45 a.m., which the Court struck from the docket as improperly filed on June 26, 2020. *See* ECF Nos. 781, 782. In his email, Mr. Colucci asked the Court whether he has “any rights in this case” and claimed that he and NSM lacked notice of Plaintiffs’ Motion to Compel Discovery from NSM, which Plaintiffs filed on March 11, 2020, and which the Court granted on June 23, 2020. *See* ECF Nos. 674, 774. Plaintiffs agree that Mr. Colucci’s email was improperly filed. In addition, Mr. Colucci has made several false assertions in his communication with the Court, and Plaintiffs write to correct the record.

Mr. Colucci appears to claim that he and NSM lacked notice and an opportunity to respond to Plaintiffs’ motion to compel because he is “not receiving any legal documentation” and has “no council [*sic*] to advise me on how to proceed.” To the contrary, as the Court knows, NSM is represented by counsel. Mr. Edward ReBrook has represented NSM since March 2019. *See* ECF

Nos. 451, 742, 774. Mr. Colucci also claims that he and NSM have had “absolutely no contact with Mr. ReBrook since December 2019.” That is similarly untrue for at least the reasons set forth below.

First, on May 28, 2020, Mr. ReBrook contacted Mr. Colucci to request that Mr. Colucci comply with his discovery obligations by providing information on potential NSM custodians, providing credentials to NSM’s social media accounts, and turning over NSM electronic devices to the discovery vendor for imaging. Mr. Colucci responded and told Mr. ReBrook to “no longer contact me regarding these matters.” *See* ReBrook Email to Phillips and Bloch, May 28, 2020 (attached as Exhibit A).

Second, on April 17, 2020, Mr. ReBrook’s assistant, Acacia Dietz, provided Mr. Colucci with filings in this case; informed Mr. Colucci that “the judge will most likely hold the Florida nonprofit NSM as the same NSM named in this current litigation” and that “you/NSM will be required to cooperate/participate in this discovery process”; and asked Mr. Colucci “to cooperate and participate in this litigation and discovery process.” ECF No. 712-1 at 2-3. Mr. Colucci responded, “Other than you agreeing to listen in on behalf of the NSM Detroit at my deposition, have I retained you?” *Id.* at 2.

Third, in a filing on April 20, 2020, Mr. ReBrook represented to the Court that he has made “efforts to persuade Mr. Colucci” that “the Florida NSM would be required to participate and cooperate with discovery,” and that Mr. ReBrook has “attempted to represent the NSM in this litigation for the past year with little to no cooperation from its current leadership.” ECF No. 712 at 2.

Mr. Colucci should not be excused from his and NSM's discovery obligations based on the false claim that he is not receiving notice or due process when he has purposefully chosen to be absent from the litigation.

Dated: June 26, 2020

Respectfully submitted,

/s/ Robert T. Cahill

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2020, I filed the foregoing with the Clerk of Court through the CM/ECF system, which will send a notice of electronic filing to:

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I further hereby certify that on June 26, 2020, I also served the following non-ECF participants, via electronic mail, as follows:

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/s/ Robert T. Cahill

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Counsel for Plaintiffs

EXHIBIT A

From: [Edward ReBrook, ESQ](#)
To: [Jessica Phillips](#); [Michael Bloch](#)
Subject: Fwd: Motion to Withdraw Denied
Date: Thursday, May 28, 2020 6:49:20 PM

Ms. Phillips and Mr. Bloch:

Please see the below email from me to Mr. Collucci and his subsequent response. Perhaps this will give a little better insight to what I have been dealing with.

Best regards,

W. EDWARD ReBROOK, IV
Attorney & Counselor at Law
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----- Forwarded message -----

From: **CommanderBurt** <CommanderBurt@nsm88.org>
Date: Thu, May 28, 2020 at 6:17 PM
Subject: Re: Motion to Withdraw Denied
To: Edward ReBrook, ESQ <rebrooklaw@gmail.com>
Cc: Acacia Dietz <acacia.dietz@outlook.com>

Mr. Rebrook,

It appears that I was not clear enough in the last email to you. Neither myself nor The National Socialist Movement Corporation have ever retained you to represent this organization. I just double checked the LARA database website in Michigan and clearly states that James Hart stern is the head of that organization you apparently represent.

Please no longer contact me regarding these matters.



Commander Burt Colucci

Democracy is talking itself to death. The people do not know what they want; they do not know what is the best for them. There is too much foolishness, too much lost motion. I have stopped the talk and the nonsense. I am a man of action. Democracy is beautiful in

theory; in practice it is a fallacy. You in America will see that some day.-Benito Mussolini

National Socialist Movement Corporation

The information in this email is confidential and may be legally privileged. Furthermore, the NSM is not responsible for the content of this e-mail, and anything written in this e-mail does not necessarily reflect the NSM's views or opinions. Access to this email by anyone other than the intended addressee is unauthorized. If you are not the intended recipient of this message, any review, disclosure, copying, distribution, retention, or any action taken or omitted to be taken in reliance on it is prohibited and may be unlawful. If you have received this mail in error, please destroy the copy in your possession and <mailto:chiefstaff@nsm88.org>

On Thu, May 28, 2020 at 5:08 PM, Edward ReBrook, ESQ <rebrooklaw@gmail.com> wrote:

Burt:

My motion to withdraw as counsel for NSM and NF was rejected by Judge Hoppe. As such, I am still the NSM's attorney for *Sines v. Kessler*. Again, I must urge you to provide the following information:

- The names, titles, addresses, and phone numbers of all of NSM's officers.
- The names/passwords to any websites, chat rooms, or other electronic mediums by which the group has communicated.
- any electronic devices with discoverable information, including officers' cell phones and computers and any cell phones/computers owned by the NSM.

Ms. Dietz can coordinate with you regarding the process of turning over equipment to the vendor for imaging. But this must be done ASAP. I realize the inconvenience that this must cause, but as I've said from the beginning to Mr. Schoep, if there was never a conspiracy to incite violence, then there is nothing to fear by turning over the information.

In any case, I have been ordered to get this discoverable information from you; therefore, you are also being ordered by the court to cooperate. Please discuss with Ms. Dietz and come up with a plan to get this all to the Vendor by next week.

Trial is scheduled for October. Since I believe that plaintiff's are grasping at straws to make their case, I suspect we will prevail at litigation.

Best regards,

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THE ReBROOK LAW OFFICE

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