

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

**BARBARA STONE and the
ESTATE OF HELEN STONE, et al.,**

Plaintiffs,

vs.

Case No. 4:20cv568-MW-MAF

RONALD DESANTIS, et al.,

Defendants.

_____ /

ORDER

This case was initiated by the submission of a “verified emergency complaint,” ECF No. 1. Although purportedly submitted by numerous Plaintiffs, the only valid signature was of Plaintiff Barbara Stone. ECF No. 1 at 141. Because the signatures of the other five Plaintiffs were electronic, which is not authorized for pro se litigants pursuant to N.D. Fla. Loc. R. 5.1(E), an Order was entered advising that the complaint could not proceed as filed because of that deficiency, and because it exceeded the 25-page limitation of Local Rule 5.7(B) and did not comply with Federal Rule of Civil Procedure 8. ECF No. 6.

That Order also advised that this case could not proceed because the filing fee had not been paid. *Id.* The Order required either payment of the filing fee, or proper motions for in forma pauperis status submitted by all persons joined as Plaintiffs. *Id.*

Plaintiffs have now filed an objection to that Order and “demand for mandatory fee waiver.” ECF No. 12. Plaintiffs contend that there has been an “illegal demand for payment by this Court” which violates 18 U.S.C. § 1512. *Id.* at 3. Plaintiffs further contend that the prior Order entered by the undersigned “constitutes a form of intimidation and coercion” *Id.* Plaintiffs argue “there is no law mandating such form of application for fee waiver.” *Id.* at 4. Plaintiffs are mistaken.

Federal law, as passed by Congress, requires the payment of a filing fee to proceed in federal court. 28 U.S.C. § 1914. Congress did, however, provide that “any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit” which demonstrates “that the person is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a). Plaintiffs were advised of the requirements to proceed with in

forma pauperis, but have not done so. This action cannot proceed until they comply. To the degree Plaintiffs “demand” the filing fee be waived, ECF No. 12, that motion is denied as baseless and the Court lacks authority to do so until Plaintiffs comply with Section 1915.

Plaintiffs also filed a “demand for pacer filing” and to be reimbursed the costs of mailing. ECF No. 11. Plaintiffs contend that “[p]acer filing is mandatory and automatic” and that not permitting them to use pacer for electronic filing violates the Equal Protection clause. *Id.* at 3. Included within that document is Plaintiff’s “[d]emand to remove magistrate and vacating magistrate’s illegal void orders” *Id.* at 3. Again, Plaintiffs are incorrect.

The Local Rules of this Court require use of the electronic filing system (pacer) by attorneys; documents filed by pro se parties must be filed “in hard copy.” N.D. Fla. Loc. R. 5.4(A). The equal protection principle generally requires a rational basis for differential treatment of like-situated persons. Attorneys and pro se litigants are not like-situated, and there is a rational basis for treating them differently.

An attorney who is admitted to this Court’s bar (and who, thus, may file documents electronically, without prior review by the Clerk’s office for

compliance with the rules) has successfully graduated from approximately three years of law school, passed a state bar examination, passed an exacting background investigation, and met other requirements. An attorney is more likely to understand, and comply, with the various applicable rules and is less likely to cause harm by making improper filings.

Thus far, Plaintiffs have not complied with the Rules of Civil Procedure, nor have they complied with the Rules of this Court. Although some Plaintiffs may have the ability to do so, and Plaintiffs may assert that they will do so going forward, this Court has announced a bright line ruling applicable to all - attorneys may file electronically while pro se litigants may not. The alternative approach is not conducive to the most efficient judicial process, and a case by case examination of pro se litigants would be an unwise investment of court resources. Plaintiffs are not permitted to file documents electronically in this Court, and they will not be reimbursed costs for mailing by this Court. This motion, ECF No. 11, is denied.

Plaintiffs also object to the issuance of orders by a magistrate judge and “demand to remove” the undersigned. ECF No. 9. The motion is deemed to be a motion for recusal; such a motion is governed by 28 U.S.C. § 455(b). That statute lists the circumstances in which a judge,

including a magistrate judge, must disqualify himself. None of those circumstances are applicable here. The instant motion is based on Plaintiffs' displeasure with prior orders entered in this case. That is insufficient. Pursuant to § 455, recusal is only required when an alleged bias is personal in nature. Phillips v. Joint Legislative Comm., 637 F.2d 1014, 1020 (5th Cir. 1981), *cert. denied*, 456 U.S. 960 (1982). A judge's rulings are not valid grounds for recusal. Berger v. United States, 255 U.S. 22, 31, 41 S. Ct. 230, 232, 65 L. Ed. 481 (1921); Liteky v. United States, 510 U.S. 540, 555, 114 S.Ct. 1147, 127 L.Ed.2d 474 (1994) (pointing out that "judicial rulings alone almost never constitute valid basis for a bias or partiality motion."). Therefore, Plaintiff's motion is denied.

The Clerk of Court shall provide an in forma pauperis application packet which is used in this Court to lead Plaintiff, Barbara Stone. If Plaintiff desires to continue with this case, she shall have until **February 19, 2021**, to either pay the filing fee (\$402.00), or file a proper in forma pauperis motion supported by a proper financial affidavit, sworn under penalty of perjury, in compliance with Local Rule 5.3.

Furthermore, this case must proceed with only one Plaintiff. The joining together of multiple persons as Plaintiffs with one person drafting

the pleadings will not be permitted. Each pro se party must file his or her own case, setting forth separate claims and the facts concerning that Plaintiff. If it later appears that the cases are related and should, for sake of judicial economy be joined together, the Court will do so on its own motion. However, this case will proceed only in the name of Plaintiff Barbara Stone. Because she is not a licensed attorney, she is not permitted to represent the interests of other persons.

Accordingly, it is

ORDERED:

1. Plaintiffs' "demand for mandatory fee waiver," ECF No. 12, is **DENIED**.
2. Plaintiffs' demand for reimbursement of mailing costs and permission to file electronically, ECF No. 13, is **DENIED**.
3. Plaintiffs' demand to remove Magistrate, ECF No. 9, construed as a motion for recusal, is **DENIED**.
4. The Clerk of Court shall provide Plaintiff Barbara Stone with an application packet for requesting in forma pauperis status by a non-prisoner.

5. Plaintiff Stone has until **February 19, 2021**, in which to either pay the filing fee for this case or submit a proper in forma pauperis motion supported by a properly signed financial affidavit.

6. **Failure to comply with this Court Order will result in a recommendation of dismissal of this action.**

7. The Clerk of Court shall return this file upon Plaintiff Stone's compliance with this Order, or no later than February 19, 2021.

DONE AND ORDERED on February 4, 2021.

S/ Martin A. Fitzpatrick_____
MARTIN A. FITZPATRICK
UNITED STATES MAGISTRATE JUDGE