

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

BNY MELLON, NATIONAL ASSOCIATION
and THE BANK OF NEW YORK MELLON,

Plaintiffs,

OCCUPY PITTSBURGH, an unincorporated
association, JANE DOES (1-50), and JOHN
DOES (1-50),

Defendants.

CIVIL DIVISION

No.: GD 11-025549

DEFENDANT'S RESPONSE TO
BNY'S EMERGENCY MOTION

Filed on behalf of Defendant
Occupy Pittsburgh

Counsel of Record for this Party

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ALLEGHENY COUNTY PA

record. Ironically, it shows that Mellon Security is viewing meetings of the General Assembly of Occupy Pittsburgh posted on its web site..²

c. The record is clear that Mellon has allowed the occupiers to self enforce its own rules on the site. This “evidence” is consistent with the record.

2. The evidence Mellon wishes to present is hearsay and not probative because:

a. It relies on statements by speakers not identified by full name at a general meeting that the record shows could be attended by members and non-members alike of Occupy Pittsburgh. Their identify would be subject to guesswork.

b. The statements are not specific as to time and place of the alleged incidents.

c. If admitted, they would require a hearing for cross-examination of unnamed persons, a virtual impossibility.

3. Mellon' goal at this point in the procedure is not to introduce truly supplemental relevant evidence but inadmissible evidence of a prejudicial nature whose prejudicial nature greatly outweighs its probative value in violation of Rule 403 of the Pennsylvania Rules of Evidence.

WHEREFORE, Occupy Pittsburgh respectfully requests that the Plaintiffs' Emergency Motion to supplement the record be denied.

Monday, January 30, 2012

Respectfully submitted,



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² Defendant presumes it is doubtful that the Board of Directors of Mellon Bank would allow such access to its meetings.

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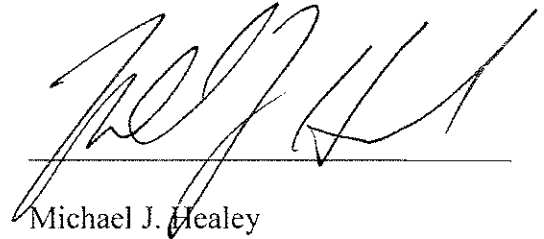
Attorneys for Defendant, Occupy Pittsburgh

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served this 30th day of January 2012 by personal service and email upon counsel for Plaintiffs as follows:

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