

United States District Court  
Southern District of Ohio  
200 West Second Street  
Dayton, Ohio 45402

Michael R. Merz  
Magistrate Judge

Tel. 937-512-1550  
Fax 937-512-1650

June 11, 2001

Michael A. Galluzzo  
P.O. Box 710  
307 E. Main Street  
St. Paris, Ohio 43072

Jack W. Whitesell, Jr., Esq.  
Champaign County Prosecutor's Office  
200 W. Main Street  
Urbana, Ohio 43078

Dear Messrs. Galluzzo and Whitesell:

Re: *Galluzzo v. Champaign County*  
*Common Pleas Court, et al.*  
Case No. C-3-01-174

This case was assigned to Chief Judge Walter H. Rice upon initial filing in this Court. Judge Rice has now referred the case to me.

As a United States Magistrate Judge, I have been designated by the Judges of this Court to conduct trials upon the consent of the parties. Therefore, whenever a case is referred to me by one of the Judges, we remind the parties of their right to consent to magistrate trial jurisdiction as one of the options for handling this case. If you exercise that option, I will handle the case through trial, with a jury if properly demanded, and any appeal would be to the Sixth Circuit.

Consent is completely voluntary and must be unanimous; failure to consent will have no adverse substantive consequences. Chief Judge Rice's trial docket is crowded, and cases are subject to being re-set because of criminal speedy trial requirements or other docket congestion reasons. Therefore, consent can sometimes produce an earlier and/or firmer trial date.

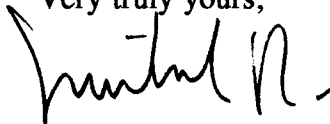
In order to acquaint you with my background, I enclose a copy of my professional resume. Also, enclosed is a form for granting consent. So that we can have some basis for

June 11, 2001  
Page Two

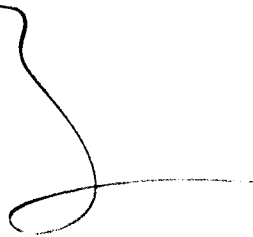
docket planning, we would appreciate it if you would consider the consent question now and notify my Courtroom Deputy Clerk, Karla Evans-Clark at (937) 512-1553 whether you wish to consent or not **within the next two weeks**.

If you have questions about these matters, please feel free to call me or Ms. Evans-Clark at (937) 512-1553.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael R. Merz". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael R. Merz  
United States Magistrate Judge

A large, stylized handwritten flourish or signature in black ink, extending from the right side of the signature block. It features a large loop and a long horizontal tail.

MRM/vkk

Copy: Case file

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

MICHAEL A. GALLUZZO,

Plaintiff,

-vs-

CHAMPAIGN COUNTY COURT  
OF COMMON PLEAS, et al.,

Defendant.

:

Case No. C-3-01-174

:

Chief Judge Walter Herbert Rice  
Magistrate Judge Michael R. Merz

:

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**CONSENT TO MAGISTRATE JUDGE JURISDICTION**

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The undersigned as a party to the above-captioned action pursuant to Fed. R. Civ. P. 73(b), hereby consents to the exercise of civil jurisdiction in this case by United States Magistrate Judge Michael R. Merz under 28 U.S.C. § 636(c). Such jurisdiction shall include all pre-trial matters, whether or not dispositive, trial, whether to the Court or by Jury, the entry of judgment and any post-trial matters.

\_\_\_\_\_  
Signature of Party or Counsel

\_\_\_\_\_  
Please Print Name

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

MICHAEL A. GALLUZZO,

Plaintiff,

-vs-

CHAMPAIGN COUNTY COURT  
OF COMMON PLEAS, et al.,

Defendant.

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Case No. C-3-01-174

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Chief Judge Walter Herbert Rice  
Magistrate Judge Michael R. Merz

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*Declined*  
→

\_\_\_\_\_  
Signature of Party or Counsel

\_\_\_\_\_  
Please Print Name

**Michael R. Merz**  
**United States Magistrate Judge**  
902 Federal Building  
200 West Second Street  
Dayton, Ohio 45402  
(937) 512-1550 Fax (937) 512-1650

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P R O F E S S I O N A L   E X P E R I E N C E

**United States Magistrate Judge** **1984 to Present**

Member of the Court's Local Rules, Civil Justice Reform, Computer and Security Committees

Trial experience as U. S. Magistrate Judge includes both court and jury trials in the areas of products liability, securities fraud, employment and housing discrimination, trade secret, trademark, and patent litigation, federal agency litigation, arbitration matters, and prisoner civil rights and habeas corpus cases.

**Adjunct Professor**  
**University of Dayton School of Law** **1979 to Present**

Courses in Antitrust, Professional Responsibility, Federal Jurisdiction, Evidence, and General Jurisprudence.

**Ohio Judicial College** **1979 to Present**

Instructor on Contempt of Court and other topics.

**Judge, Dayton Municipal Court** **1977 to 1984**

**Smith & Schnacke, Dayton, Ohio** **1970 to 1977**

Associate, 1970-1975  
Partner, 1976-1977  
Admitted to Ohio Sixth Circuit, and United States Supreme Court bars

**Saxbe for Senate Campaign** **Summer, 1968**  
Assistant Research Director

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E D U C A T I O N

<b><i>Chaminade High School</i></b> Dayton, Ohio	1963
<b><i>Harvard College</i></b> A.B. cum laude	1967
<b><i>Harvard Law School</i></b> J.D.	1970
<b><i>National Judicial College</i></b> General Jurisdiction, Decision Making, Evidence Courses	
<b><i>Harvard Law School Program of Instruction for Lawyers</i></b>	1984, 1991

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P U B L I C A T I O N S

- "The Meaninglessness of the Plain Meaning Rule"  
4 Univ. Dayton L. Rev. 1 (1979).
- State v. Foreman*, 54 Ohio Misc. 31, 376 N.E.2d 987 (1978).
- City of Dayton v. Peterson*, 56 Ohio Misc. 12, 381 N.E.2d 1154 (1978).
- City of Dayton v. Schenck*, 63 Ohio Misc. 14, 409 N.E.2d 284 (1980).
- City of Dayton v. Rutledge*, 7 Ohio Misc. 2d 14, 454 N.E.2d 611 (1983).
- City of Dayton v. Strausbaugh*, 10 Ohio Misc.2d 29, 462 N.E.2d 462 (1984)
- State v. McGhee*, 12 Ohio Misc. 2d 18, 468 N.E.2d 400 (1984).
- Payne v. A.O. Smith Corp.*, 627 F. Supp. 226 (S. D. Ohio, 1985).
- United States v. Minisee*, 113 F.R.D. 121 (S.D. Ohio, 1986).
- Ullman v. Olwine*, 123 F.R.D. 237, 253, and 559 (S.D. Ohio 1987), *aff'd*, 857 F.2d 1475 (6th Cir. 1988), *cert. denied*, 489 U.S. 1080 (1989).
- Brown v. Springfield City Schools*, 689 F. Supp. 783 (S.D. Ohio, 1988).
- Miami Valley Carpenters District Council Pension Scheckelhoff*, 123 F.R.D. 263 (S.D. Ohio, 1988).
- Hopkins v. Elano Corp.*, 30 E.R.C. (BNA) 1782 (S.D. Ohio 1989).
- Babcock Swine, Inc. v. Shelbco, Inc.*, 126 F.R.D. 43 (S.D. Ohio 1989).
- Prather v. Dayton Power & Light Co.*, 54 F.E.P. 639 (S.D. Ohio 1989), *aff'd*, 918 F. 2d 1255 (6th Cir. 1990).

*Gall v. St. Elizabeth Medical Center*, 130 F.R.D. 85 (S.D.Ohio 1990).

*Dolly, Inc. v. Spalding & Evenflo Companies, Inc.*, 16 U.S.P.Q. 2d 1737 (1991).

*Insituform of North America, Inc. v. Midwest Pipeliners, Inc.*, 139 F.R.D. 622 (S.D.Ohio 1991).

*Insituform of North America, Inc. v. Midwest Pipeliners, Inc.*, 780 F.Supp. 479 (S.D.Ohio 1991).

*Dayco Products, Inc. v. Walker*, 142 F.R.D. 450 (S.D.Ohio1992).

*Hutchinson v. Cox*, 784 F. Supp. 1339 (S.D. Ohio 1992).

*Gearhardt v. Cadillac Plastics Group, Inc.*, 140 F.R.D. 349 (S.D.Ohio 1992).

*Knisley v. United States*, 817 F. Supp. 680 (S.D. Ohio 1993).

*DAP Products, Inc. v. Color Tile Mfg., Inc.*, 821 F. Supp. 488, 27 U.S.P.Q. 2d 1365 (S.D. Ohio 1993).

*McGruder v. Frank*, 825 F. Supp. 1300 (S.D. Ohio 1992), *aff'd.*, 995 F. 2d 1067 (6th Cir. 1993).

*Smith v. City of Dayton*, 830 F. Supp. 1066 (S.D. Ohio 1993), *aff'd.*, 37 F. 3d 1499 (6th Cir. 1994).

*Johnson, MacDonald & Associates v. Webster Plastics*, 856 F. Supp. 1249 (S.D. Ohio 1994).

*Holtvogt v. United States*, 887 F.Supp. 994 (S.D. Ohio 1995).

*Klusty v. Taco Bell Corp.*, 909 F.Supp. 516 (S.D. Ohio 1995).

*NCR Corp. NCR Corp. v. CBS Liquor Control, Inc.*, 874 F. Supp. 168 (S.D. Ohio), *modified*, 1993 WL 767119 (S.D. Ohio 1993), *aff'd.*, 43 F. 3d 1076 (6th Cir.), *cert. denied sub nom. Sac-Co., Inc. v. AT&T Global Information Solutions, Inc.*, \_\_\_ U.S. \_\_\_, 116 S. Ct. 272 (1995).

*Brennan v. Arkay Industries, Inc.*, 164 F.R.D. 464 (S.D. Ohio 1996).

*Naragon v. Dayton Power & Light Co.*, 934 F. Supp. 899 (S.D. Ohio, 1996)

*United States v. Andriacco*, 942 F.Supp.2d 1154 (S.D. Ohio 1997).

*Zuern v. Tate*, 938 F. Supp. 468 (S.D. Ohio 1996).

*United States v. Hughel*, 20 F.Supp.2d 1154 (S.D. Ohio 1997).

*Clarko Landfill Co. v. Clark County Solid Waste Mgmt. Dist.*, 20 F.Supp.2d 1185 (S.D. Ohio 1998).

**American Bar Association**

**Ohio State Bar Association**  
Federal Courts Committee

[Vice-Chair 1988 to 1989]

Judicial Administration and  
Legal Reform Committee

[Chair 1989 to 1990]

**Dayton Bar Association**

**Federal Bar Association**

**Federal Magistrate Judges Association**  
Sixth Circuit Trustee

1997 to present

**Ohio Supreme Court Rules Advisory Committee**  
Chair, Civil Rules Subcommittee

1989 to 1996  
1991 to 1996

**Carl D. Kessler Inn of Court** - Master of the Bench  
President

1993 to 1995

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C I V I C I N V O L V E M E N T

**Board of Directors, United Way of Greater Dayton**  
(Chairman of Board 1989-91)

1981 to 1995

**Archdiocese of Cincinnati Due Process Board**

**Harvard College Schools and Scholarship Committee** 1970 to 1991

**Harvard Law School Ass'n. of Ohio** - President

1989 to 1990

**Dayton and Montgomery  
County Public Library** -Trustee  
(President of the Board 1992-93).

1991 to present

**Ohio Library Council** - Trustee

1997 to present

**National Conference of Christians and Jews,  
Dayton Chapter** -Trustee

1988 to 1992

**Montgomery County Historical Society** - President

1995 to present

**Sinclair Community College Legal  
Assisting Program Advisory Committee**

1995 to present

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P E R S O N A L

Born March 29, 1945, in Dayton, Ohio.

Married Marguerite Logan LeBreton on September 7, 1968.

Sons Peter, age 27, and Nicholas, age 24.