

disadvantage in cross-examining Steinweg on deposition abroad. Defendant points out that Steinweg's deposition is intended to serve as his trial testimony; that, therefore, more than normal routine objections may be raised at the deposition, and, if taken abroad, the court would not be available to rule on such objections at the time, an important factor when one is dealing with material that will be used as trial testimony. While this consideration alone would not be decisive, it supports the conclusion that the deposition—of a principal to be used for trial purposes—should be conducted in the forum in which plaintiff has chosen to sue.

This court's order of November 18, 1970 is irrelevant to the motion at hand. There we stated that if the deposition of Steinweg were taken in Germany by *defendant*, plaintiff should not be required to pay travel expenses to defendant or its counsel. However, in this case *plaintiff* is asking to depose Steinweg outside the forum of its own choosing at a substantial distance and in a foreign country.

Plaintiff's reliance on *Haviland & Co. v. Montgomery Ward & Co.*, supra at 580, is misplaced. In that case *defendant* (not, as here, plaintiff) sought plaintiff's deposition in a foreign country. And, unlike the instant action, in *Haviland* plaintiff submitted a physician's affidavit of compelling significance which demonstrated that the witness could not travel without seriously impairing his health. Finally, the court granted the relief sought by plaintiff only on condition that the deposing party pay to the other party the expenses of foreign travel. Even then, the Court remarked that the relief granted was rare and unusual.

The motion for a protective order is granted.

Submit order on notice.

**UNITED STATES ex rel. Gerald MAYO  
v.**

**SATAN AND HIS STAFF.**

Misc. No. 5357.

United States District Court,  
W. D. Pennsylvania.

Dec. 3, 1971.

Civil rights action against Satan and his servants who allegedly placed deliberate obstacles in plaintiff's path and caused his downfall, wherein plaintiff prayed for leave to proceed in forma pauperis. The District Court, Weber, J., held that plaintiff would not be granted leave to proceed in forma pauperis who in view of questions of personal jurisdiction over defendant, propriety of class action, and plaintiff's failure to include instructions for directions as to service of process.

Prayer denied.

**Federal Civil Procedure** Ⓒ2734

Plaintiff would not be granted leave to proceed in forma pauperis in civil rights action against Satan and his servants, who allegedly placed deliberate obstacles in plaintiff's path and caused his downfall, in view of questions of personal jurisdiction over defendant, propriety of class action, and plaintiff's failure to include instructions for directions as to service of process. Fed. Rules Civ. Proc. rule 23, 28 U.S.C.A.; 18 U.S.C.A. § 241; 28 U.S.C.A. § 1343; 42 U.S.C.A. § 1983.

Gerald Mayo, pro se.

**MEMORANDUM ORDER**

WEBER, District Judge.

Plaintiff, alleging jurisdiction under 18 U.S.C. § 241, 28 U.S.C. § 1343, and 42 U.S.C. § 1983 prays for leave to file a complaint for violation of his civil rights

in forma pauperis. He alleges that Satan has on numerous occasions caused plaintiff misery and unwarranted threats, against the will of plaintiff, that Satan has placed deliberate obstacles in his path and has caused plaintiff's downfall.

Plaintiff alleges that by reason of these acts Satan has deprived him of his constitutional rights.

We feel that the application to file and proceed in forma pauperis must be denied. Even if plaintiff's complaint reveals a prima facie recital of the infringement of the civil rights of a citizen of the United States, the Court has serious doubts that the complaint reveals a cause of action upon which relief can be granted by the court. We question whether plaintiff may obtain personal jurisdiction over the defendant in this judicial district. The complaint contains no allegation of residence in this district. While the official reports disclose no case where this defendant has appeared as defendant there is an unofficial account of a trial in New Hampshire where this defendant filed an action of mortgage foreclosure as plaintiff. The defendant in that action was represented by the preeminent advocate of that day, and raised the defense that the plaintiff was a foreign prince with no standing to sue in an American Court. This defense was overcome by overwhelming evidence to the contrary. Whether or not this would raise an estoppel in the present case we are unable to determine at this time.

If such action were to be allowed we would also face the question of whether it may be maintained as a class action. It appears to meet the requirements of Fed.R. of Civ.P. 23 that the class is so numerous that joinder of all members is impracticable, there are questions of law and fact common to the class, and the claims of the representative party is typical of the claims of the class. We cannot now determine if the representa-

tive party will fairly protect the interests of the class.

We note that the plaintiff has failed to include with his complaint the required form of instructions for the United States Marshal for directions as to service of process.

For the foregoing reasons we must exercise our discretion to refuse the prayer of plaintiff to proceed in forma pauperis.

It is ordered that the complaint be given a miscellaneous docket number and leave to proceed in forma pauperis be denied.



**In the Matter of the Complaint of PAN-OCEANIC TANKERS CORPORATION,  
as Owner of the Steamship PANOCE-  
ANIC FAITH, for Exoneration from,  
or Limitation of, Liability.**

**No. 67 Civ. 4489.**

United States District Court,  
S. D. New York.  
March 8, 1971.

Motion was made for pretrial ruling on admissibility of evidence at trial. The District Court, Cooper, J., held that testimony given under oath before official hearing of United States Coast Guard by witnesses who were unavailable at trial or were without jurisdiction of court was admissible at trial subject to objections including relevancy and hearsay, where plaintiff was represented throughout the Coast Guard proceedings by its present attorney and was given unlimited right to and did examine and cross-examine such witnesses.

Motion granted.

See also D.C., 332 F.Supp. 313.