

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>KENNETH MALIK MILLER</b>  v.  <b>MICHAEL M. WENEROWICZ</b>	<b>CIVIL ACTION</b>  <b>NO. 12-CV-1720</b>
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**ORDER RE DEFENDANT'S MOTION TO DISMISS FOR  
FAILURE TO STATE A CLAIM**

**AND NOW**, this   5th   day of February 2014, upon consideration of Defendant's Motion to Dismiss (ECF 28), Plaintiffs' Response in Opposition to the Motion (ECF 32), and after a hearing on the motion (ECF No. 34), it is hereby **ORDERED** that Defendant's Motion to Dismiss is **DENIED in part and GRANTED in part**. Defendant's Motion to Dismiss Count I of the Complaint is **DENIED**. Defendant's Motion to Dismiss Counts II and III of the Complaint is **GRANTED**.

**BY THE COURT:**

*/s/ Michael M. Baylson*

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**MICHAEL M. BAYLSON, U.S.D.J.**