Consolidated Case Nos. 08-7008, 08-7009
United States Court of Appeals for the
District of Columbia Circuit

HAIDAR MUHSIN SALEH et al., *Plaintiffs-Appellants*
ILHAM NASSIR IBRAHIM, et al., *Plaintiffs-Appellants*
v.
TITAN CORPORATION. et al., *Defendants-Appellees*

HAIDAR MUHSIN SALEH, *et al.*, *Plaintiffs-Appellees*
ILHAM NASSIR IBRAHIM, *et al.*, *Plaintiffs-Appellees*
v.
CACI INTERNATIONAL INC., *et al.*, *Defendants-Appellants*

On Appeal from the United States District Court for the District of Columbia in Case Nos. 04-cv-1248 and 05-cv-1165 (Hon. James Robertson, Judge)

PETITION FOR REHEARING EN BANC

SUSAN L. BURKE (D.C. Bar No. 414939)
WILLIAM T. O'NEIL (D.C. Bar No. 426107)
BURKE O'NEIL LLC
1000 Potomac Street, Suite 150
Washington, D.C. 20007
(202) 232-5504

KATHERINE GALLAGHER
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, NY 10012

Counsel for Saleh Plaintiffs-Appellants

L. PALMER FORET (D.C. Bar No. 260356)
THE LAW FIRM OF L. PALMER FORET, P.C.
5069 Overlook Road, N.W.
Washington, D.C 20016
(202) 332-2404

CRAIG T. JONES
PAGE PERRY LLC
1040 Crown Pointe Parkway, Suite 1050
Atlanta, GA 30338

RODERICK E. EDMOND
EDMOND & LINDSAY LLP
127 Peachtree Street, NE, Suite 410
Atlanta, GA 30303

Counsel for Ibrahim Plaintiffs-Appellants

Rule 35 Statement: The Majority's holding is unprincipled, as it contradicts federal law enacted by Congress, ignores policies adopted by the Executive, and disregards controlling precedents issued by the Supreme Court. The Majority rules on an issue of exceptional importance by simply creating a novel "battle-field preemption" policy that *it* believes best serves this Nation's warmaking interests. *En banc* review is merited for four reasons: The Majority (1) ignored the Supreme Court's and this Circuit's prohibition against making factual findings in the absence of discovery, (2) untethered the "government contractor defense" from the limits set by the Supreme Court in *Boyle v. United Technologies*, (3) judicially expanded field preemption to the point of direct conflict with the Federal Tort Claims Act, and (4) created a circuit split by holding that the Alien Tort Statute does not permits claims to be asserted against corporations. For all the reasons Judge Garland set forth in his well-reasoned and persuasive dissent, the Majority's refusal to give deference to the Executive and Congressional branches of government is troubling and should not stand.

I. THE MAJORITY IMPERMISSIBLY ADJUDICATED FACTS.

First, the Majority ignored the procedural posture of this Appeal, and failed to follow controlling Supreme Court decisions in *Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit*, 507 U.S. 163, 164 (1993), *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 257 (1986), and *Celotex Corp. v. Catrett*, 477

U.S. 317, 322 (1986). The Majority based its reasoning on the flawed premise that Plaintiffs failed to establish that they were tortured at Abu Ghraib prison. The Majority opined, "***after discovery*** and the summary judgment proceeding, for whatever reason, plaintiffs did not refer to those allegations in their briefs on appeal. Indeed, no accusation of "torture" or specific "war crimes" is made against Titan interpreters in the briefs before us. *We are entitled, therefore to take the plaintiffs' cases as they present them to us*." Slip op. at 4 (attached) (emphasis added). This passage reveals the Majority disregarded the allegations in the Complaints, and assumed Plaintiffs were not able to prove that they were tortured.

The Majority cannot adjudicate this fact, as the parties were not permitted any merits discovery. As was alleged in the Complaint and will be shown when a record is permitted to be built, Plaintiffs were tortured. They appear in the infamous Abu Ghraib photographs, as do their corporate torturers from CACI and Titan, and they will be able to establish with admissible evidence at trial that they were tortured at Abu Ghraib. As the Majority knows or should have known, the facts regarding the torture of Plaintiffs are not on the record because the District Court ruled that no discovery on the merits could occur until *after* the Court resolved whether CACI and Titan were entitled to the "government contractor defense."

The District Court did not reject or ignore Plaintiffs' claims that they were the victims of torture and war crimes.[1] *Saleh v. Titan Corp.*, 433 F. Supp. 2d 55, 56 (D.D.C. 2006) (Plaintiffs "bring allegations of nearly unspeakable acts of torture"); *id.* at 59 ("The complaint asserts Alien Tort Statute claims for…war crimes"); *Ibrahim v. Titan Corp.*, 391 F. Supp. 2d 10, 12 (D.D.C. 2005); *Ibrahim v. Titan Corp.*, 556 F. Supp. 2d 1, 2 (D.D.C. 2007). Instead, the District Court simply postponed any discovery and judgment on the merits of those claims until after this Court reviewed on interlocutory appeal the *bona fides* of the corporations' invocation of the contractor defense. *See also Ibrahim*, 391 F. Supp. 2d at 18-19; Slip op. dissent at 6. The District Court permitted discovery limited to this "government contractor defense" to proceed, and Defendants sought summary judgment at the close of that limited discovery. At that juncture, the District Court held Titan enjoyed the preemption of state tort claims afforded by

[1] During oral argument, the Majority, knowing nothing of the facts on the merits other than what may be gleaned from media reports, deemed "aburd" Plaintiffs' counsel characterization of the conduct as war crimes. *Saleh* Slip Op. at 27. Plaintiffs' counsel, not the Majority, is privy to the facts, and the conduct indeed constitutes "war crimes." *See, e.g.* 18 U.S.C. § 2441(c)(1) (grave breaches of the Geneva Conventions are war crimes under U.S. law); 18 U.S.C. § 2441(d) (1)(H) (sexual assault or abuse of prisoners is a war crime).

the "government contractor defense" but CACI did not. The District Court certified the "government contractor defense" issue for interlocutory review. [2]

The evidentiary record transmitted to this Court does not include any evidence whatsoever on the merits. No discovery was permitted on the torture, as the District Court expressly ordered Plaintiffs to refrain from conducting any merits discovery. Yet the Majority erroneously proceeds as if Plaintiffs failed to prove, or abandoned, their allegations of torture and war crimes, citing lack of action by the Department of Justice ("DOJ") . As the Dissent explains, lack of action by DOJ in prosecuting any corporate employees cannot be elevated to a factual finding that Plaintiffs were not tortured by Defendants.

As a result of this procedural posture in which Plaintiffs were not given *any* discovery on the merits, the Majority acted well beyond its judicial authority and contravened controlling Supreme Court precedents by basing its reasoning on its own view of the merits. *Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit*, 507 U.S. 163, 164 (1993); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 257 (1986); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). *See also McCready v. Nicholson*, 465 F.3d 1, 19 (D.C. Cir. 2006); *Maydak v. United States*, 363 F.3d 512, 521 (D.C. Cir. 2004) ("a question of fact entirely undeveloped in the

[2] Plaintiffs cross-appealed the District Court's Rule 12(b)(6) dismissal of the Alien Tort Statute claims, which is discussed below in Section IV.

record… provides no basis for summary judgment at this time."); *Americable Int'l, Inc. v. Dep't. of the Navy*, 129 F.3d 1271, 1274 (D.C. Cir. 1997) ; *First Chicago Int'l v. United Exch. Co.*, 836 F.2d 1375, 1376 (D.C. Cir. 1988). The Majority's disregard for the scope of the issue being presented on appeal results in this Circuit now being at odds with the decisional law developed in the majority of circuits. *See Gibson v. City of Chicago*, 910 F.2d 1510, 1520-21 (7th Cir. 1990); *Robison v. Canterbury Village, Inc.*, 848 F.2d 424, 426, 429 (3d Cir.1988); *Chipanno v. Champion Int'l Corp.*, 702 F.2d 827, 831 n.2 (9th Cir.1983). The Dissent clearly and persuasively explains why the Majority's error impacted its reasoning. *See* slip op. dissent at 6. The Majority's mistake merits *en banc* review.

II. THE MAJORITY'S DECISION CONTRADICTS THE PLAIN LANGUAGE OF THE FEDERAL TORT CLAIMS ACT AND IGNORES THE SUPREME COURT'S LIMITATIONS SET FORTH IN *BOYLE V. UNITED TECHNOLOGIES CORP.*

Second, the Majority, resting on the "fact" that Defendants did not torture Plaintiffs, creates a brand-new "battle-field" preemption that directly contradicts the Federal Tort Claims Act ("FTCA") and the Supreme Court reasoning in *Boyle v. United Technologies Corp.*, 487 U.S. 500 (1988). This new "battle-field" preemption protects any and all corporations or individuals who contracted with the United States from being subjected to any civil claims for any misconduct, regardless of whether the acts in question violated federal law, regulations, the terms of the contract or federal policy. The Majority requires only a showing by

Defendants that they were "integrated" into military operations, and thereafter effectively immunizes them for all state law claims. The Majority asserts "when a contractor's individual employees under a service contract are integrated into a military operational mission, the contractor should be regarded as an extension of the military for immunity purposes." Slip op. at 9.

This "battle-field preemption" has no textual or policy-based limits. For example, an independent contractor named Passaro was convicted by an American jury in North Carolina of beating a prisoner to death. *United States v. Passaro*, 577 F.3d 207 (4th Cir. 2009). Yet under the Majority's "battle-field" immunity, the family members could not sue Passaro in civil court for the wrongful death. What if a CACI or Titan corporate employee in Iraq shot and killed American soldier who tried to stop them from torturing prisoners? The Majority's rule would insulate them from liability if the American soldier's family sought civil damages for that wrongful death. As noted by the Dissent, the Majority bestows *more* immunity on corporations than is enjoyed by American soldiers, who would be insulated from civil liability for such misconduct only if the United States willingly substituted itself in as the Defendant under the Westfall Act. Slip op. dissent at 20-21. Here, the United States has not sought to substitute itself for the Defendants.

The Supreme Court has made clear detainees cannot lawfully be tortured. *See Hamdan v. Rumsfeld,* 548 U.S. 557, 560-563 (2006). CACI and Titan clearly

therefore were not lawfully empowered to torture and abuse the detainees. But Defendants did not submit any evidence claiming that a governmental or military official improperly empowered them to torture prisoners. *C.f., Correctional Servs. Corp. v. Malesko*, 534 U.S. 61, 74 n.6 (2001). Defendants argued only that they were "integrated" into the military, and that integration suffices to insulate them from accountability for torture.

The Majority in essence assumes without evidence that the military chain of command knew that Defendants were torturing prisoners, and wanted them to do so. Yet the military testimony does not support that finding, as the military is unable to give *any* binding orders to private contractors who fall outside the chain of command, [3] let alone unlawful orders to torture that violate the contracts, military regulations, and the law of both this nation and international law. *See* Plaintiffs'-Appellants Final Br. 08-7008 at 15-17, 45. Nor is there any evidence to support Defendants' claim that the military should be forced to expend its own resources to supervise corporate employees.

[3] The Supreme Court holds that there is no civilian equivalent to the military's structure of command and control. *See Orloff v. Willoughby*, 345 U.S. 83, 94 (1953); United States v. Brown, 348 U.S. 110, 112 (1954); *Parker v. Levy*, 417 U.S. 733, 743 (1974); *Schlesinger v. Councilman*, 420 U.S. 738, 757 (1975); *Chappell v. Wallace*, 462 U.S. 296, 300 (1983). Command must include the ability not only to give directives or assign tasks, but also the ability to enforce such directives or orders. *See In re Yamashita*, 327 U.S. 1, 15 (1946). Yet the military cannot court-martial, discipline or terminate corporate employees.

How then does the Majority insulate the corporate torturers from civil actions? The Majority relies on the FTCA. Yet the FTCA applies only to claims brought against the United States for acts by employees. 28 U.S.C. §§ 1346(b)(1). The FTCA expressly excludes independent contractors from its scope. *See* 28 U.S.C. § 2671. The Majority's holding, not permitting the lawsuit to go forward, frustrates the purpose of a federal scheme. Slip op. at 21, fn.8. The federal scheme applies only to governmental employees.

Further, even if the United States had been sued, the Majority equates "any claim arising out of combatant activities" with ***any*** claim occurring during time of war. Plaintiffs were tortured in prison, not on the battlefield. Slip op. at 13. Yet Congress defined "combatant activities" as a precise subset of conduct occurring "during time of war." See § 2680(j). The Majority's definition of "combatant activities" exceeds that of the Supreme Court, *see Hamdi v. Rumsfeld*, 542 U.S. 507, 518 (2004)(detention only "an important incident[] of war," not combat), and conflicts with that employed in other Circuits. *See, e.g., Johnson v. United States,* 170 F.2d 770 (9th Cir. 1948).

The Majority cites for support *Boyle v. United Technologies Corp.*, 487 U.S. 500 (1988). Slip op. at 9. There, the Supreme Court held that a corporation under contract with the federal government could be insulated from the reach of state product liability laws if the conduct in question was directed by the federal

government. The Supreme Court cautioned that the affirmative defense cannot be invoked if the state-law duty imposed is consistent with the contract, only when the state-law duty *contradicts* the federal interest or policy reflected in the contract. 487 U.S. at 507-09, 512. The Supreme Court carefully limited the reach of its judicially-created defense to ensure it protected the United States' interests, not corporate interests. *Boyle*, 487 U.S. at 515. Here, the Majority immunizes two Defendants who acted contrary to directives by the United States. *Malesko v. Correctional Servs. Corp.*, 229 F.3d 374 (2d. Cir. 2000), *rev'd on other grounds*, *Correctional Servs. Corp. v. Malesko*, 534 U.S. 61 (2001). This is unprecedented. As the Dissent observes, "*Boyle* has never been applied to protect a contractor from liability resulting from the contractor's violation of federal law and policy." Slip op. dissent at 13,[4]

The Majority substitutes its views for Congressional views on what is needed in "combat situations, where risk-taking is the rule." Slip op. at 12. If Congress wanted to remove *all* tort liability arising from foreign battlefields or theatres of war for civilian contractors, it easily could have done so by including them within the scope of the FTCA's preemptions for lawsuits arising from

[4] As the Dissent warns, the majority's understanding of the policy embodied in this exception may run counter to the Executive's guiding principle that "people will be held to account" for the torture and abuse of Iraqi detainees, and the majority's expansive preemption "removed an important tool from the Executive's foreign policy toolbox." Slip op. dissent at 25.

conduct abroad or assaults and batteries. If the Executive (Department of Defense) wanted to insulate its corporate contractors from liability arising in Iraq, it also could have easily done so by contract, or by seeking to substitute itself as Defendants here under the Westfall Act. Instead, the Executive (Department of Defense) has expressed in regulations and comments that contractors can and should be held liable for common law torts when they act outside the scope of the government's directives.[5]

It is not for the judiciary to step in and adopt a policy that directly and expressly contravenes federal law, as well as the policy pronouncements of both Congress and the Executive. *Wyeth v. Levine*, 129 S. Ct. 1187, 1195 (2009); *see also W. Va. Univ. Hosps., Inc. c. Casey*, 499 U.S. 83, 98 (1991). Such a ruling cannot stand. *See, e.g., United States v. Johnson*, 481 U.S. 681, 700 (1987) (Scalia, J., dissenting and joined by Brennan, Marshall, and Stevens, JJ.) The Majority's holding is unprincipled, ignores mandates from both Congress and the Supreme Court, and needs to be reviewed *en banc*.

---

[5] *See* 73 Fed. Reg. 16764, 16768 (Mar. 31, 2008) (emphasis added) (stating government contractor defense should be available "only when injuries to third parties are caused by the actions or decisions of the Government…..[***T]o the extent that contractors are currently seeking to avoid accountability to third parties for their own actions by raising defenses based on the sovereignty of the United States, this rule should not send a signal that would invite courts to shift the risk of loss to innocent third parties***.")

III. THE MAJORITY'S ALTERNATE "BATTLE-FIELD PREEMPTION" THEORY CONTRADICTS SUPREME COURT JURISPRUDENCE.

Third, the Majority, perhaps implicitly recognizing that it had run afoul of the Supreme Court's holding in *Boyle*, provides an alternate argument for its "battle-field preemption." Starting from the premise that federal prerogatives are particularly compelling in a time of war, the Majority relies on the Supreme Court's holdings in *American Insurance Ass'n. v. Garamendi,* 539 U.S. 396 (2003), and *Crosby v. Nat'l Foreign Trade Council,* 530 U.S. 363 (2000) to find any claims related in any way to "warmaking" should be off limits to the judiciary. As with the Majority's reliance on *Boyle*, the Majority ignores the reasoning of the controlling Supreme Court precedents to reach its desired result.

In *Garamendi* , *Crosby*, and other field preemption cases, the Supreme Court found the state laws in question conflicted with a clearly ascertainable, published legal tenet of the federal government that involved the conduct of affairs with a foreign sovereign. *See generally Garamendi,* 539 U.S. at 408-409 (ruling on state legislation designed to force payment by defaulting insurers to Holocaust survivors in a manner contrary to federal international agreement); *Crosby,* 530 U.S. at 367 (state law banning business with Burma); *Japan Line, Ltd. v. County of Los Angeles,* 441 U.S. 434, 437 (1979) (placing added state taxes only on foreign-owned property); *Zschernig v. Miller,* 389 U.S. 429, 430-31 (1968) (probate law

escheating estates of nonresident alien); and *Hines v. Davidowitz*, 312 U.S. 52, 53 (1941) (requiring aliens residing in the state to register annually with the state).

These targeted legislative forays into international policymaking that threatened to disrupt relations with foreign sovereigns are not at all comparable to the common law assault and battery torts at issue here. The Majority expresses concern that "the states . . . [should] have no involvement in federal wartime policymaking." Slip op. at 20. But the state laws at issue are common law torts, not any legislative initiatives designed to control the Executive's conduct.

In *Garamendi* and *Crosby*, the Supreme Court confronted state statutes drawn so narrowly as to apply *only* in the realm of foreign relations and commerce as it intersects with state affairs. In *Garamendi*, the Supreme Court limited its analysis to those state laws designed to involve a state (there, California) into international policy regarding World War II reparations. *Garamendi*, 539 U.S. at 426. The Court noted the state law was "quite unlike a generally applicable "blue sky" law," *id.* at 425, such as a generally applicable tort law. As the Dissent noted, the Supreme Court has sharply limited preemption of state laws in the foreign affairs, characterizing *Garamendi* as nothing more than a "claims-settlement case[] involve[ing] a narrow set of circumstances," *Medellin v. Texas*, 128 S. Ct. 1346, 1371-72 (2008); *see also* Slip op. dissent at 17 fn.9. Those decisions simply do not

apply here, where Plaintiffs seek to use neutral "blue sky" common law torts to recover civil damages for conduct that violates federal law.

The Majority cannot identify any federal policy or Constitutional article that conflicts with permitting the torture victims' lawsuit to proceed. The contrary is the case: as noted above, the Executive (Department of Defense) has expressed in regulations that contractors can and should be held liable for common law torts when they act outside the scope of the government's directives, as was the case here. The Majority views itself as better able than the Department of Defense to judge whether letting corporations be sued under the common law intrudes on this nation's warmaking needs. But it is not. *En banc* review is needed to prevent this Circuit from usurping the Executive's prerogatives on warmaking by improperly insulating corporate defense contractors from common law liabilities that are expressly incorporated by reference in the contracts themselves.

IV. THE MAJORITY CREATES A CIRCUIT SPLIT.

Fourth, the Majority creates a Circuit split by failing to apply the analytical framework developed by the Supreme Court in *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004). In that decision, the Supreme Court gave guidance on when persons may bring claims under the Alien Tort Statute ("ATS"). The Second and Eleventh Circuits, as well as various district courts, applied the *Sosa* framework and reached the conclusion that war crimes by private actors, including corporations, are

actionable under the Alien Tort Statute. *Khulumani v. Barclay Nat'l Bank, Ltd.*, 504 F.3d 254, 282 (2d Cir. 2007); *Romero v. Drummond Co., Inc.*, 552 F.3d 1303, 1315-16 (11th Cir. 2008). *See also Kadić v. Karadžić*, 70 F. 3d 232, 239, 242-44 (2d Cir. 1995); *Doe v. Unocal Corp.*, 395 F.3d 932 (9th Cir. 2002), *vacated, reh'g en banc granted by* 395 F.3d 978 (9th Cir. 2003).

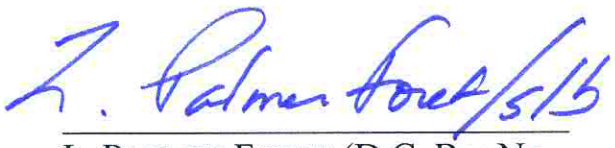
These holdings are hardly surprising, given that Congress has passed legislation finding that war crimes committed by private actors are violations of the law of nations.[6] The War Crimes Act provides for criminal liability when "the person committing such war crime or the victim of such war crime is a member of the Armed Forces of the United States *or a national of the United States.*" 18 U.S.C. § 2441(b) (2008) (emphasis added). Accordingly, the Department of Defense requires civilian contractors to inform their employees that the employees can be prosecuted individually under the War Crimes Act for violations of the laws of war. *See* 48 C.F.R. § 252.225-7040(e)(2)(ii). Congress and the Executive have reaffirmed the culpability of private actors for war crimes in the wake of the terrorist attacks of September 11, 2001. *See* the 2006 Military Commissions Act, which defines torture, intentionally causing serious bodily injury, sexual assault or abuse as war crimes triable by military commissions. 10 U.S.C. § 948a(1)(A), §

[6] Notably, this legislation was enacted after the Circuit precedent upon which the Majority relies, namely *Tel-Oren v. Libyan Arab Republic*, 726 F.2d 774 (D.C. Cir. 1984), and *Sanchez-Espinoza v. Reagan*, 770 F.2d 202 (D.C. Cir. 1985),

948c, §§ 950v(b)(1), (11)-(15), (20)-(22), (28). *See also* 68 Fed. Reg. 39381-39387 (Department of Defense Order provides that non-state actors can be tried by military commissions for war crimes, including torture, if their actions "took place in the context of and w[ere] associated with armed conflict.") International law in the last two decades is to the same effect. Statutes creating various international tribunals (the International Criminal Tribunals for the former Yugoslavia and Rwanda, the Special Court for Sierra Leone, and the International Criminal Court) have affirmed the Nuremberg Tribunal's recognition that private parties can be guilty of war crimes. All of those tribunals have charged private parties with war crimes and crimes against humanity. *See* Plaintiffs-Appellants Br. at 62-64, and sources cited therein.

The Supreme Court held that ATS claims "must be gauged against the *current* state of international law." *Sosa v. Alvarez-Machain*, 542 U.S. 692, 733 (2004) (emphasis added). Yet the Majority, ignoring this mandate and ignoring the decisions of the other circuits, held that Plaintiffs cannot assert torture and war crimes claims against private corporate parties such as CACI and Titan. This holding creates a circuit split that merits *en banc* review.

RESPECTFULLY SUBMITTED,



L. PALMER FORET (D.C. Bar No. 260356)
THE LAW FIRM OF L. PALMER FORET, P.C.
5069 Overlook Road, N.W.
Washington, D.C 20016
(202) 332-2404

SUSAN L. BURKE (D.C. Bar No. 414939)
WILLIAM T. O'NEIL (D.C. Bar No. 426107)
BURKE O'NEIL LLC
1000 Potomac Street, Suite 150
Washington, D.C. 20007
(202) 232-5504

CRAIG T. JONES
PAGE PERRY LLC
1040 Crown Pointe Parkway, Suite 1050
Atlanta, GA 30338
(770) 673-0047

KATHERINE GALLAGHER
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, NY 10012

Counsel for Saleh Plaintiffs-Appellants

RODERICK E. EDMOND
EDMOND & LINDSAY LLP
127 Peachtree Street, NE, Suite 410
Atlanta, GA 30303
(404) 525-1080

Counsel for Ibrahim Plaintiffs-Appellants

CERTIFICATE OF SERVICE

I certify that I caused a true copy of the foregoing Plaintiffs' Petition for Rehearing En Banc to be served via the court CM/ECF system and by e-mail this 14th day of October, 2009, on the following counsel of record:

J. William Koegel, Esq.
John F. O'Connor, Esq.
Steptoe & Johnson, LLP
1330 Connecticut Ave., NW
Washington, DC 20036

Ari Zymelman, Esq.
Greg Bowman, Esq.
Williams & Connolly LLP
725 12th Street, NW
Washington, D.C. 20005

/s/
William T. O'Neil