IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

SIMON BRONNER, et al., **Plaintiffs,** **v.** **LISA DUGGAN, et al.,** **Defendants**	**Civ. No. 2019 CA 001712 B** **Judge Robert R. Rigsby** **Next Event: Status Hearing, October 27, 2022**

REPLY MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS UNDER ANTI-SLAPP ACT

COME NOW the Defendants, American Studies Association ("ASA"), Lisa Duggan, Sunaina Maira, Curtis Marez, Chandan Reddy, John Stephens and Neferti Tadiar, by and through the undersigned counsel, and hereby reply to Plaintiffs' Opposition to Defendant's Motion to Dismiss Under the Anti-SLAPP Act, D.C. Code § 16-5501 *et seq.* As argued more fully below, Plaintiffs' positions are unsupportable.

As with Defendants' Supplemental Memorandum, to the extent not inconsistent with the arguments contained herein, these Defendants adopt and incorporate the arguments in the Reply Briefs submitted by the other Defendants in this action.

A. Plaintiff's Memorandum Is Not Properly Filed

As a preliminary matter, Defendants are required to note that Plaintiffs' Memorandum On Remand is not signed by any counsel admitted to the Bar of the District of Columbia. Neither Jerome Marcus nor Lori Marcus are members of the DC Bar. Jerome Marcus was admitted *pro hac vice* for this case, and although the signature block suggests that Lori Marcus was also admitted *pro hac vice*, there is nothing in the Court docket to suggest that she applied for special admission, nor that the Court ever granted such an application. Moreover, Mr.

Marcus' application for *pro hac* admission stated that he would associate with Jennifer Gross, who is a member of the DC Bar. Ms. Gross, however, did not sign the Memorandum, and according to the docket, the last two notices sent to her by the Court were returned as undelivered. Mr. Marcus has also informed counsel that Ms. Gross is no longer associated with this case. *See* e-mail of February 12, 2022 from Jerome Marcus (Exhibit A).

By all appearances, therefore, Lori Marcus is holding herself out as admitted *pro hac vice*, when such is not the case, and Jerome Marcus, although admitted *pro hac vice*, is proceeding in the absence of any local counsel, in violation of Rules 49 of the Rules of the Court of Appeals and 101 of the Rules of the Superior Court. The undersigned counsel believes they have no choice but to bring it to the attention of the Court.

B. Plaintiffs Have Failed To Rebut the Prima Facie Showing Under the Anti-SLAPP Act

In their Memorandum, Plaintiffs devote all their energy to arguing the general nature of their claims, as if there were any importance to the fact that other lawsuits might properly assert other claims of corporate mismanagement under different sets of facts. They seek to divert the Court's attention away from the key issues by claiming that they are merely pressing "garden variety claim[s] regarding corporate governance," and that such claims are common in shareholder litigation. *See*, *e.g.*, Memorandum at 4, 5, 6, 7. These protestations, however, cannot hide the fact that Plaintiffs' claims *arise out of* "an exercise of an act in furtherance of the right of advocacy on issues of public interest." D.C. Code § 16-5502(b). There can be little question that the Academic Resolution itself is such an "exercise of an act …" Thus, as long as Plaintiffs' claims "arise from" the Resolution, the first prong of the Anti-Slapp Act analysis is satisfied.

Nor, for that matter, is the Court is constrained by Plaintiffs' choice as to how to characterize their claims. *See D.C. v. White*, 442 A.2d 159, 162 (D.C. 1982); *Kelton v. District of Columbia*, 413 A.2d 919, 922 (D.C. 1980); *see also Hardy v. Hamburg*, 69 F.Supp.3d 1, 16 (D.D.C. 2014), *appeal dismissed sub nom. Vishnuvajjala v. Shuren*, 2017 WL 11676130 (D.C.Cir. 2017) ("plaintiffs cannot bypass the CSRA by merely recasting prohibited personnel actions that fall under the CSRA as constitutional violations …"); *Digital Equipment Corp. v. Desktop Direct, Inc.*, 511 U.S. 863, 872, 114 S.Ct. 1992, 1198, 128 L.Ed.2d 842 (1994) ("our cases have been at least as emphatic in recognizing that the jurisdiction of the courts of appeals should not, and cannot, depend on a party's agility in so characterizing the right asserted."). The same disdain for "artful pleading" applies to SLAPP motions, for the protections of the D.C. Anti-SLAPP Act would be rendered illusory if plaintiffs could escape simply by arguing that their claims were "run-of-the-mill" tort claims. As the California court stated in *Finke v. The Walt Disney Co.*, 2 Cal.Rptr.3d 436, 445 (2nd Dist.), *review granted* 110 CalAppl4th 1210 (2003) *and dismissed as settled*, 79 P.3d 541 (Cal. 2003), "[A] plaintiff cannot frustrate the purposes of the SLAPP statute through a pleading tactic of combining allegations of protected and nonprotected activity under the label of one 'cause of action.'" (*quoting Fox Searchlight Pictures, Inc. v. Paladino* 89 Cal.App.4th 294, 308, 106 Cal.Rptr.2d 906 (2001)); *see also Haight Ashbury Free Clinics. Inc. v. Happening House Ventures*, 184 Cal.App.4th 1539, 110 Cal.Rptr.3d 129 (1st Dist. 2010). In the latter case, the plaintiff argued that its claim was merely one of breach of fiduciary duty; the court replied that "[t]hese arguments miss the point. The SLAPP statute does not provide a defense to a claim or a license to do anything. It merely subjects certain causes of action to closer scrutiny because they target certain activities." 184 Cal.App.4th at 1550, 110 Cal.Rptr.3d at 138.

As the D.C. Court of Appeals has noted, "SLAPPs 'masquerade as ordinary lawsuits' … but a SLAPP plaintiff's true objective is to use litigation as a weapon to chill or silence speech." *Doe No. 1 v. Burke*, 91 A.3d 1031, 1033 (D.C. 2014) (*quoting Batzel v. Smith*, 333 F.3d 1018, 1024 (9th Cir.2003)). The relevant inquiry, therefore, is not whether Plaintiffs believe (or, at least, whether they allege) that their concerns are merely asserted to protect proper "corporate governance." The fact remains that all of Plaintiffs' claims – however Plaintiffs may wish to paint them – arise from Plaintiffs' unwavering opposition to the Academic Resolution and to those individuals involved in the support for, adoption of, and subsequent defense of, that Resolution. As such, all the claims in the Complaint arise out of the Academic Resolution.

Plaintiffs also cite to the Court of Appeals' statement that the Act does not "call for an inquiry into the plaintiff's motives …" Opinion at 40. This, however, does not mean what the Plaintiffs think it means. In so holding, the Court of Appeals cited favorably to *Equilon Enters.v. Consumer Cause, Inc.*, 124 Cal.Rptr.2d 507, 29 Cal.4th 53, 52 P.3d 685 (Cal. 2002), which held that the California Anti-SLAPP statute did not require, as part of the overall burden of proof, that the movant show that the plaintiff intended to chill the movant's "exercise of speech or petition rights" (124 Cal.Rptr.2d at 511). Where the claim arises out of an exercise of advocacy, no evidence of subjective intent is needed. The purpose of the Act is to protect a party from "meritless" litigation and to thwart any lawsuit "aimed to punish or prevent the expression of opposing points of view." *Saudi American Pub. Rels. Aff. Comm. v. Inst. For Gulf Affs.*, 242 A.3d 602, 605 (D.C. 2020). As long as a claim arises from an exercise of advocacy, the *prima facie* threshold showing is made. Thus, the fact that the court does not inquire into the Plaintiffs' motives does not mean that intent is never to be considered; it merely means that proof of bad faith is not required for an Anti-SLAPP motion.

This is not to say, however, that the Court must remain oblivious to the manner in which Plaintiffs have set their own allegations. The Complaint in this case is not a dispassionate challenge to "garden-variety" corporate governance issues. Rather, it is an all-out assault on the Academic Resolution and anyone who might choose to support it. As Defendants have already noted, numerous paragraphs of the 126-page Complaint have nothing to do with ASA at all, but attack PACBI and USACBI and *its* members (*see*, *e.g.*, Complaint, ¶¶ 35 – 46). Further, Plaintiffs have targeted these specific Defendants because of their support of USACBI, involving in this litigation only those ASA leaders whom Plaintiffs believe embody the BDS Movement. As already noted, the *only* factual allegation against Dr. Salaita is that he penned an op-ed supporting the Resolution (Complaint ¶¶ 46, 337), yet he is called to task for actions of the National Council, of which he is only one of 23 members yet for which he is the *only* named party. These Defendants were clearly singled out because of their advocacy of the Resolution. In light of the vitriol in their Complaint, Plaintiffs' protestations of "viewpoint neutrality" ring hollow.

The *prima facie* showing that a claim arises out of an exercise of advocacy is not a difficult threshold to meet. *See Doe No. 1*, *supra* 91 A.3d at 1043; *Little v. United States*, 613 A.2d 880, 885 (D.C. 1992). Viewed in its totality, the instant Complaint is the paradigm of a SLAPP suit. Taking as their postulate the belief that the adoption of the Academic Resolution was wrong-headed, Plaintiffs proceed to challenge every aspect of that adoption. They challenge the nomination and election of the members who supported it; they challenge the method by which it was debated, presented to the membership and voted on; they challenge the effect of its adoption; and they challenge the decision not to accede to their demands that it be abandoned. The entire lawsuit is meant to punish the Defendants for supporting the Academic Resolution.

1. Each Count of the Complaint Arises Out of the Academic Resolution

Defendants have argued, in their original Memorandum, that each of the Counts in the Complaint sufficiently arise from the Resolution to meet the *prima facie* threshold for the first prong of the Anti-SLAPP Act. Those arguments will not be repeated here; rather, we respond below to those points specifically raised by Plaintiffs.

Plaintiffs argue that Counts One and Three are not intended to suppress speech, because those Counts only focus on what was kept silent – in Count One, the claim is that the Defendants did not disclose their support of the Resolution, while Count Three claims that Defendants stifled opposing voices. While their arguments are imaginative, the fact remains both of these Counts attack the nomination and election of specific individuals to ASA leadership solely because they supported the Resolution. Count One claims that the Defendants breached their fiduciary duty by not disclosing their support; Count Three claims that the nominations were *ultra vires* because they failed to satisfy the "diversity" required by the ASA Bylaws. Each Count thus arises out of the Plaintiffs' belief that the Defendants' articulated support for the Resolution somehow disqualifies them from serving in leadership positions.

Interestingly, while Plaintiffs argue that these Counts do not arise out of the Resolution, they also claim that the materiality of Defendants' support for the Resolution must be left to the fact-finder (Brief at 6). Plaintiffs cannot avoid the intended effect of the waste claim: "to punish or prevent the expression of" Defendants' opposing points of view. *Saudi American Pub. Rels. Aff. Comm.,* 242 A.3d 602, 605 (D.C. 2020). While they argue that Count One could not possibly run afoul of the Act, because Defendants "did NOT speak and did NOT express their views on this issue" (Memorandum, p. 4), they nonetheless retain "this issue" – an act of advocacy – as the pivotal part of their calculus and the gravamen of their claim. The Plaintiffs

themselves make this point: "[t]he Complaint alleges clearly that these facts [Defendants' support of BDS and the Resolution] were not disclosed and it alleges that they were material …" Memorandum p. 5. Clearly, if support for the Resolution is a material fact for Counts One and Three, then those Counts arise out of the Resolution for purposes of Anti-SLAPP.[1]

This diversionary pattern persists throughout the opposition. Plaintiffs claim that Counts Two and Nine "focus[] on simple questions of … whether access to the corporation's assets was allocated fairly" (Brief at 6). This cannot change the fact that both counts are for corporate waste, which lies only where "the challenged transaction served no corporate purpose or where the corporation received no consideration at all." *White v. Panic*, 783 A.2d 543, 554 (Del. 2001). Waste exists only where no "reasonable person might conclude that the deal made sense …" *In re Lear Corp. Shareholder Litigation*, 967 A.2d 640, 656 (Del.Ch. 2008). Far from being "unrelated to the substance of anyone's views", as Plaintiffs protest (Brief at 6), this is a direct attack on the Academic Resolution itself.

Again, Plaintiffs betray the true nature of their claims in footnote 1 of their memorandum, where they reference the "forbidden reasons" for the Defendants' use of ASA fund. Plaintiffs describe the waste claim thus: "… they broke into the cookie jar, … precisely in order to create for themselves the power to invade the ASA's endowment so it could be raided for this purpose." The "forbidden reasons," and "this purpose" was support for the Resolution, and is thus the only basis for any claim of "waste." Ultimately, the Plaintiffs cannot help themselves.

---

[1] The two cases cited by Plaintiffs also do them no favors. *Franchi v. Firestone*, 2021 Del. Chanc. LEXIS 91 (Del Chanc. May 10, 2021) does not examine whether specific facts were material; the motion to dismiss was granted because the plaintiff failed to show *any* material facts. *IP Network Sols, Inc. v. Nutanix, Inc.*, 2022 Del Super. LEXIS 62 at *26 (DE Super. Feb. 8, 2022) involved an exclusivity clause in a service contract. What that court held was that whether a *breach* of the clause was material was a matter for the fact-finder.

Similarly, Counts Four, Six, Seven and Eight (and, as they claim, parts of Count Two), are all painted as nothing more than assertions that ASA did not follow its own rules governing the rights of members to vote (Brief at 7). Counts Four and Eight claim that Defendants, in an *ultra vires* act (¶ 281) and a breach of the contractual right to vote (¶ 312), decided to freeze the voting rolls as of the day before announcement of the Resolution vote (¶¶ 123, 135). As Defendants have already argued, closing the voting rolls is a permissible action. The thrust of Counts Four and Eight, however, is that this option was exercised in connection with the Resolution – and because that Resolution is odious, any action taken to support it is tortious. Counts Four and Eight thus arise out of the Resolution.

Counts Six and Seven, for their part, argue that by its very nature, adoption of the Resolution required either a two-third majority (Count Six) or a majority vote of the entire membership, not just those who attended the Annual Meeting. There is no allegation that any other action taken at the Annual Meeting had similar requirements, and as Defendants have already noted, Plaintiffs do not challenge any other vote recorded at that meeting. Both of these Counts are based on the perceived special character of the Resolution, and thus arise directly out of the Resolution.

Finally, Count Five claims that the Resolution is *ultra vires* because it attempts to influence legislation. How this could *not* arise out of the Resolution is difficult to conceive, but Plaintiffs gamely argue that they must have some forum within which to enforce the "ban on lobbying by tax-exempt non-profits" (Brief at 8). Again, Plaintiffs seem to think that, if a cause of action exists in the abstract, it could not be the subject of SLAPP motion, even if in the particular instance it clearly arises out of an expression of advocacy. Their position lacks coherence.

This leaves only Counts Ten through Twelve, which Plaintiffs lump together as "related to the Defendants' mistreatment of Plaintiff Simon Bronner" (Brief at 9). As noted previously, Bronner's contract terminated of its own terms, and ASA had plenary authority not to renew it. Also, Plaintiffs freely admit that Bronner was actively undermining ASA: his Department at Penn State voted to leave ASA in protest (Complaint ¶ 205 n. 13), and by mid-2016 he was an active litigant against ASA. The only way that Plaintiffs could claim that the Defendants acted improperly in not renewing Bronner's contract would be if Bronner's actions in *opposing* the Resolution were reasonable and proper, while the Defendants' actions in *supporting* it were unreasonable and a breach of their fiduciary duty. Again, Plaintiffs claim that no reasonable person would support the Resolution, and the actions of the Defendants therefore were unlawful. As such, Count Ten arises out of the Resolution, and the first prong of the Anti-SLAPP analysis is met.

Finally, Counts Eleven and Twelve are catch-all claims: for those Defendants who were not actually on the Executive Council when Bronner's contract ended, Plaintiffs hope in Count Eleven to impose liability by claiming that they "tortiously interfered" with that contract. In Count Twelve, Plaintiffs hope to show that those Defendants "aided and abetted" the Council through their common support for USACBI. These Counts rest solely on the Defendants' support for the Resolution and USACBI, and therefore arise out of their advocacy on a matter of public interest. Too, given that these Counts relate back to the prior claims – which also arise out of the Resolution – Counts Eleven and Twelve equally arise from the Resolution itself.

2. Plaintiffs Have Not Demonstrated a Likelihood of Success On the Merits

Once the movant has made a *prima facie* case and met the first prong of the Anti-SLAPP motion, the burden falls on the non-moving party – Plaintiffs here – to demonstrate that his

claims are likely to succeed on the merits. This, in turn, "mandates the production or proffer of evidence that supports the claim." *Fridman v. Orbis Business Intelligence, Ltd.*, 229 A.3d 494, 506 (2020) (*quoting Competitive Enter. Inst. v. Mann*, 150 A.3d 1213, 1240 (D.C. 2016), *as amended* (Dec. 13, 2018), *cert denied sub nom. Nat'l Review, Inc. v. Mann*, 140 S.Ct. 344 (2019)). "If the non-moving party fails to meet that standard, then the motion must be granted and the case will be dismissed with prejudice." *Fridman*, *supra* 229 A.3d at 502.

Plaintiffs have not met this burden. Plaintiffs have not even tried to meet this burden. Their Brief on Remand makes no proffer of evidence whatsoever. Plaintiffs attach no exhibits, reference no documents produced in discovery in the federal case, and point to no facts to support any of their claims. As Plaintiffs have repeatedly claimed, both in the prior federal lawsuit and in this case, Defendants have already produced thousands of documents in discovery pursuant to a court-entered Protective Order. They can hardly claim that they are unable to proffer evidence in support of their claims; they have simply failed to do so.

Plaintiffs do make one argument on the merits of their claims. Specifically, they assert that *Neill v. D.C. Public Employee Relations Bd.*, 234 A.3d 177 (2020) eliminates, or at least calls into question, the long-standing rule against equitable tolling of the statute of limitations. *See* Brief at 9-10. Any resemblance between Plaintiffs' summary of that case and the actual opinion appears to be purely coincidental. In *Neill*, the plaintiff, a former Metropolitan Police Officer, was sued for breach of contract, and retained private counsel to defend him. Only belatedly did the officer seek representation from his Union, which demand was rejected on July 31, 2001. After subsequent demands for reimbursement of attorneys' fees in 2008 and 2010, plaintiff filed a complaint with the Public Employees Relations Board ("PERB"). That complaint was dismissed as untimely: PERB Rule 544.4 mandated filing of a complaint within

120 days from the date of the alleged violation. The Court of Appeals found that the PERB correctly found that even were Rule 544.4 not deemed to be jurisdictional, there could be no justification in waiting nine years to bring the complaint.

This Court has already found that the pendency of the Plaintiffs' claims in federal court did not work to equitably toll the statute of limitations. *See Stewart-Veal v. District of Columbia*, 896 A.2d 232, 237 (2006); *Namerdy v. Generalcar*, 217 A.2d 109, 113 (D.C. 1966). Neither *Neill* nor the precedent it distinguished, *Brewer v. District of Columbia Office of Emp. Appeals*, 163 A.3d 799 (D.C. 2017), alters this long-standing doctrine one iota. Both *Brewer* and *Neill* turn on whether an administrative rule should be considered jurisdictional or waivable on equitable grounds. This is, however, a far cry from any implication that the statute of limitations might somehow be considered elastic.

The Anti-SLAPP Act required that Plaintiffs put forward affirmative evidence to suggest that their claims had a "likelihood of success on the merits." They utterly failed to do so, relying instead on a fallacious argument that the legal ban in the District of Columbia against equitable tolling of the statute of limitations might somehow have fallen into disfavor. Given that Plaintiffs have not met their burden of production under the second prong of the Anti-SLAPP Act, Defendants' Special Motions to Dismiss should be granted, and Defendants should be awarded their attorneys fees.

CONCLUSION

As argued more fully above and in Defendants' original Memorandum, for each of the counts dismissed by the Court under Rule 12(b)(6), the Resolution and Plaintiffs' opposition thereto form an integral part of the underlying claim, and Plaintiffs cannot meet their burden under the second prong. For the remaining claims, each Count arises from the Resolution, and

each Count must fail as a matter of law. For these reasons, Defendants respectfully request that the Court dismiss the Complaint with prejudice under the D.C. Anti-SLAPP Act, and award Defendants their attorneys' fees and costs.

POINTS AND AUTHORITIES

1. *Batzel v. Smith*, 333 F.3d 1018, 1024 (9th Cir.2003)

2. *Brewer v. District of Columbia Office of Emp. Appeals*, 163 A.3d 799 (D.C. 2017)

3. *Competitive Enter. Inst. v. Mann*, 150 A.3d 1213, 1240 (D.C. 2016), *as amended* (Dec. 13, 2018), *cert denied sub nom. Nat'l Review, Inc. v. Mann*, 140 S.Ct. 344 (2019)

4. *D.C. v. White*, 442 A.2d 159, 162 (D.C. 1982)

5. *Digital Equipment Corp. v. Desktop Direct, Inc.*, 511 U.S. 863, 872, 114 S.Ct. 1992, 1198, 128 L.Ed.2d 842 (1994)

6. *Doe No. 1 v. Burke*, 91 A.3d 1031, 1033 (D.C. 2014)

7. *Equilon Enters.v. Consumer Cause, Inc.*, 124 Cal.Rptr.2d 507, 29 Cal.4th 53, 52 P.3d 685 (Cal. 2002)

8. *Finke v. The Walt Disney Co.*, 2 Cal.Rptr.3d 436, 445 (2nd Dist.), *review granted* 110 CalAppl4th 1210 (2003) *and dismissed as settled*, 79 P.3d 541 (Cal. 2003)

9. *Fox Searchlight Pictures, Inc. v. Paladino* 89 Cal.App.4th 294, 308, 106 Cal.Rptr.2d 906 (2001)

10. *Franchi v. Firestone*, 2021 Del. Chanc. LEXIS 91 (Del Chanc. May 10, 2021)

11. *Fridman v. Orbis Business Intelligence, Ltd.*, 229 A.3d 494, 506 (2020)

12. *Haight Ashbury Free Clinics. Inc. v. Happening House Ventures*, 184 Cal.App.4th 1539, 110 Cal.Rptr.3d 129 (1st Dist. 2010)

13. *Hardy v. Hamburg*, 69 F.Supp.3d 1, 16 (D.D.C. 2014), *appeal dismissed sub nom. Vishnuvajjala v. Shuren*, 2017 WL 11676130 (D.C.Cir. 2017)

14. *In re Lear Corp. Shareholder Litigation*, 967 A.2d 640, 656 (Del.Ch. 2008)

15. *IP Network Sols, Inc. v. Nutanix, Inc.*, 2022 Del Super. LEXIS 62 at *26 (DE Super. Feb. 8, 2022)

16. *Kelton v. District of Columbia*, 413 A.2d 919, 922 (D.C. 1980)

17. *Little v. United States*, 613 A.2d 880, 885 (D.C. 1992)

18. *Namerdy v. Generalcar*, 217 A.2d 109, 113 (D.C. 1966)

19. *Neill v. D.C. Public Employee Relations Bd.*, 234 A.3d 177 (2020)

20. *Saudi American Pub. Rels. Aff. Comm. v. Inst. For Gulf Affs.*, 242 A.3d 602, 605 (D.C. 2020)

21. *Stewart-Veal v. District of Columbia*, 896 A.2d 232, 237 (2006)

22. *White v. Panic*, 783 A.2d 543, 554 (Del. 2001)

23. D.C. Code § 16-5501 *et seq*

24. D.C. Code § 16-5502(b)

25. Court of Appeals Rule 49

26. Superior Court Rule 101

Respectfully submitted,

/s/ Thomas Mugavero
John J. Hathway (#412664)
Thomas Mugavero (#431512)
Whiteford, Taylor & Preston L.L.P.
1800 M Street, N.W., Suite 450N
Washington, D.C. 20036-5405
(202) 659-6800
jhathway@wtplaw.com
tmugavero@wtplaw.com

/s/ Jeff C. Seaman
Jeff C. Seaman (#466509)
Whiteford, Taylor & Preston L.L.P.
7501 Wisconsin Avenue
Suite 700W
Bethesda, MD 20816
(301) 804-3610
jseaman@wtplaw.com

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing was served via the Court's electronic filing service, this 27th day of May, 2022, upon:

Jennifer Gross
The Deborah Project, Inc.
7315 Wisconsin Avenue
Suite 400 West
Bethesda, MD 20814
Jenniegross10@gmail.com

Joel Friedlander
Friedlander & Gorris, P.A.
1201 N. Market Street
Suite 2200
Wilmington, DE 19801
jfriedlander@friedlandergorris.com

Jerome M. Marcus
Marcus & Auerbach, LLC
1121 N. Bethlehem Pike
Suite 60-242
Spring House, PA 19477
jmarcus@marcusauerbach.com

Eric D. Roiter
Boston University School of Law
765 Commonwealth Avenue
Boston, MA 02215
eroiter@bu.edu

Maria C. LaHood
Shayana D. Kadidal
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012

Mark Allen Kleinman
Kleiman/Rajaram
2525 Main Street
Suite 204
Santa Monica, CA 90405

/s/ *Thomas C. Mugavero*
Thomas Mugavero