SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

SIMON BRONNER, MICHAEL ROCKLAND, CHARLES D. KUPFER, and MICHAEL L. BARTON, Plaintiffs, v. LISA DUGGAN, CURTIS MAREZ, NEFERTI TADIAR, SUNAINA MAIRA, CHANDAN REDDY, J. KEHAULANI KAUANUI, JASBIR PUAR, STEVEN SALAITA, JOHN STEPHENS, and THE AMERICAN STUDIES ASSOCIATION, Defendants.	Case No. 2019 CA 001712 B Judge Robert R. Rigsby Civil 2, Calendar 10 Next Court Date: October 27, 2022, 3:30 p.m. Event: Motion Hearing

STEVEN SALAITA'S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF HIS SPECIAL MOTION TO DISMISS PLAINTIFFS' COMPLAINT PURSUANT TO D.C. CODE § 16-5501, *et seq.*

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Defendant Steven Salaita hereby renews his Motion to specially dismiss Plaintiffs' Unredacted Complaint ("Compl.") of June 21, 2019 pursuant to the District of Columbia Anti-SLAPP Act of 2010 ("Anti-SLAPP Act" or "Act"), D.C. Code § 16-5501, *et seq.*, and this Court's February 25, 2022 Scheduling Order.[1] Dr. Salaita also adopts and incorporates the arguments set forth in his co- Defendants' memoranda, to the extent they are not inconsistent with his arguments.

STATEMENT OF FACTS

In 2013, the American Studies Association ("ASA") adopted a public Resolution endorsing the call of Palestinian civil society for a boycott of Israeli academic institutions (the "Resolution"). Compl. ¶¶ 4, 5. Defendant Dr. Steven Salaita's term on the ASA's National Council began July 1, 2015, after the 2013 Resolution was adopted, and ended June 30, 2018. *Id*. ¶ 26. The first of two allegations against Dr. Salaita in the lengthy Complaint are that before he was on the National Council, he advocated for the Boycott Resolution (concededly on an issue of public interest), as evidenced by a 2014 public op-ed he wrote. *Id*. ¶ 46. In the piece, Dr. Salaita stated that he worked with the United States Campaign for the Academic and Cultural Boycott of Israel ("USACBI") "for around five years—closely during the process to pass the American Studies Association resolution." *Id*.; *see also* ¶ 337.

Plaintiffs also assert that Dr. Salaita was a member of the National Council "when large withdrawals were taken to cover expenses related to the Academic Boycott." *Id*. ¶ 26. Such withdrawals were allegedly taken to defend the ASA against litigation related to the Resolution. *Id*. ¶ 175. Plaintiffs did not sue any other National Council member who began serving after the

[1] On May 6, 2019, Dr. Salaita brought a Special Motion to Dismiss Plaintiffs' Complaint Pursuant to the Anti-SLAPP Act, D.C. Code § 16-5501, *Et Seq.,* and in the Alternative, Motion to Dismiss Pursuant to Super. Ct. Civ. R. 12(b). On November 15, 2019, this Court denied Defendants' Anti-SLAPP Motions, but dismissed Plaintiffs' claims in part for failure to state a claim under Rule 12(b)(6). This Court amended its Order on December 12, 2019. Defendants appealed, and on September 30, 2021, the D.C. Court of Appeals vacated the denial of the Special Motion to Dismiss and remanded for further proceedings consistent with its opinion.

Resolution was passed, *id*. ¶¶ 19-27, and they do not allege that Dr. Salaita had any personal involvement in *any* of the acts or omissions they complain of while he was on the National Council.

ARGUMENT

I. The Requirements of the D.C. Anti-SLAPP Act.

A SLAPP, or Strategic Lawsuit Against Public Participation, is "an action filed by one side of a political or public policy debate aimed to punish or prevent the expression of opposing points of view."[2] D.C.'s Anti-SLAPP Act provides protections from claims that "aris[e] from an act in furtherance of the right of advocacy on issues of public interest." D.C. Code § 16-5502(a). Defendants must show that "the claim at issue 'arises from' some form of speech — a 'written or oral statement' or other 'expression or expressive conduct' — of the specified character." *Am. Studies Ass'n v. Bronner*, 259 A.3d 728, 744 (D.C. 2021). To satisfy this requirement, Defendants "must show the claim has a substantial connection or nexus to a protected act." *Id.* at 746. They "must show that some form of speech within the Anti-SLAPP Act's protection is the basis of the asserted cause of action." *Id*. "A legally objectionable aspect of the protected speech itself — e.g., that the speech is defamatory or otherwise tortious, or violates a contract's prohibition — therefore must be the subject of the claim or an element of the cause of action asserted." *Id*.

The burden then shifts to Plaintiffs to show they are likely to succeed on the merits, D.C. Code § 16-5502(b), which "requires more than mere reliance on allegations in the complaint, and mandates the production or proffer of evidence that supports the claim." *Competitive Enter. Inst. v. Mann*, 150 A.3d 1213, 1233 (D.C. 2016), *as amended* (Dec. 13, 2018). Plaintiffs must make a "proffer of admissible, credible evidence" "supporting the well-pled claim and overcoming any defenses asserted against it." *Bronner*, 259 A.3d at 740. "[A] claim is not 'likely to succeed

[2] D.C. Council, Rep. of Comm. on Pub. Safety & the Judiciary on Bill 18-893, at 1 (Nov. 18, 2010).

on the merits' within the meaning of the Anti-SLAPP Act if the claim is subject to dismissal under Rule 12(b)(6)," and courts are "required to determine likelihood of success on a claim-by-claim basis." *Id.* at 734. Finally, a movant "who prevails, in whole or in part" may be awarded "the costs of litigation, including reasonable attorneys' fees," D.C. Code § 16-5504(a), and "is presumptively entitled to an award of fees unless special circumstances make a fee award unjust." *Mann*, 150 A.3d at 1238 (citing *Doe v. Burke*, 133 A.3d 569, 571 (D.C. 2016)).

II. Each Count Against Dr. Salaita Should Be Dismissed Under the Anti-SLAPP Act.

A. Counts I, III, IV, V, and Part of Count II Against Dr. Salaita Must Be Dismissed Under the Anti-SLAPP Act.

Plaintiffs cannot succeed on the merits of Counts I, III, IV, V, and part of Count II because this Court dismissed them against Dr. Salaita or all Defendants. Am. Order of Dec. 12, 2019 at 19–23, 29. Those Counts arise out of Dr. Salaita's protected expression and therefore must be dismissed under the Anti-SLAPP Act. All these Counts relate to events that occurred before Dr. Salaita's tenure on the National Council, which began in July 2015. The only allegation about Dr. Salaita before he was a member of the National Council is that, as a member of USACBI, he advocated for the 2013 Resolution. Compl. ¶ 46. In other words, he expressed support for it to members of the ASA. Therefore, any claims against him under these Counts arise from an act in furtherance of the right of advocacy—specifically expression that involves "communicating views to members of the public in connection with an issue of public interest." D.C. Code § 16-5501(1)(B); *see infra*, Section II.J.1. Independently, every Count against Dr. Salaita must be dismissed under the Anti-SLAPP Act because they each arise from protected activity allegedly committed by Defendants generally, and are unlikely to succeed on the merits, as detailed below.

B. Count I: Breach of Fiduciary Duty for Material Misrepresentations and Omissions in Connection with Elections to Office and Seeking Member Approval of Academic Boycott

1. Count I arises from an act in furtherance of the right of advocacy.

In Count I, Plaintiffs allege that Defendants breached their fiduciary duties "by making or causing to be made material misrepresentations and omissions to members" regarding their "personal political agenda" to "advance the purposes of the USACBI" by causing the ASA to adopt the Resolution. Compl. ¶ 262. Plaintiffs allege Defendants breached their fiduciary duty in connection with the 2012 ASA elections by failing to disclose their political agenda to pass a boycott of Israeli academic institutions, alleging that some Defendants failed to mention (or sufficiently mention) USACBI, Israel, and/or academic boycotts in their written candidate statements that went to approximately 4,000 ASA members. Compl. ¶¶ 64, 66, 67, 95. Plaintiffs also claim Defendants withheld information and dissenting viewpoints in connection with the vote on the Boycott Resolution. *Id*. ¶¶ 101, 105, 113, 117. They allege Defendants disseminated such "pro-boycott propaganda," *id*. ¶ 117, on the ASA's website, as well as directly to the ASA membership, the academic community, and the press. *Id*. ¶¶ 114, 119, 120. Finally, Plaintiffs allege that Defendants made misrepresentations or omissions regarding the expected costs of the Resolution, *id.* ¶ 262, alleging that Defendants did not tell members that the ASA would be "widely attacked" because of the Resolution, *id*. ¶ 113, and that it "would be destructive," "divisive," *id*. ¶ 116, as well as costly. *Id*. ¶ 262.

Plaintiffs' allegations that Defendants communicated misleading views in order to pass the Resolution form the basis of Count I, and constitute expressions that involve "communicating views to members of the public in connection with an issue of public interest." D.C. Code § 16-5501(1)(B). The Anti-SLAPP Act applies to speech allegations regarding what information was conveyed, as well as what was allegedly omitted. *See, e.g., Riley v. Nat'l Fed'n of the Blind of*

N.C., Inc., 487 U.S. 781, 797 (1988) ("freedom of speech" is "a term necessarily comprising the decision of both what to say and what *not* to say"); *see also Navellier v. Sletten*, 52 P.3d 703, 709 (Cal. 2002) (protecting misrepresentations, failure to disclose, and omissions under the Anti-SLAPP Act); *Suarez v. Trigg Labs., Inc.,* 207 Cal. Rptr. 3d 411, 415 (Cal. Ct. App. 2016) (same).[3]

Some of these allegations relate to statements posted on (or omitted from) the ASA's website, *see, e.g.,* Compl. ¶ 114, which also come under the Anti-SLAPP Act as statements made "[i]n a place open to the public or a public forum." D.C. Code § 16-5501(1)(A)(ii). Finally, these statements that form the basis of Count I were made "[i]n connection with an issue under consideration" by an "official proceeding authorized by law," *id*. at § 16-5501(1)(A)(i), namely the election for ASA leadership and the vote for the Resolution, which were official proceedings authorized by the D.C. Nonprofit Corporation Act, D.C. Code §§ 29-405.20–26 (voting procedures), 29-405.27 (voting for directors). *See, e.g., Kibler v. N. Inyo Cnty. Local Hosp. Dist.*, 138 P.3d 193, 198-99 (Cal. 2006), *as modified* (July 20, 2006) (statements made "'in connection with' (but not during the course of) the hospital's peer review proceeding" are protected under California anti-SLAPP law "as an 'official proceeding authorized by law'. . . because that procedure is required under Business and Professions Code section 805 et seq."). Those statements were also made "in connection with an issue of public interest"—namely, a boycott of Israel—whether they related to Defendants' views on the boycott, the merits of the boycott, or the possible effect of passing such a boycott. *See, e.g.,* Am. Order 35. Count I therefore arises from acts in furtherance of the rights of advocacy.

[3] Moreover, the *only* allegations Plaintiffs make against Dr. Salaita prior to his joining the National Council in 2015 are that he advocated for the Boycott Resolution, which constitutes expressions that involve "communicating views to members of the public in connection with an issue of public interest." D.C. Code § 16-5501(1)(B).

2. Count I is not likely to succeed against Dr. Salaita.

This Court found that Plaintiffs' Count I failed to state a claim against Dr. Salaita because he was not alleged to have made any misrepresentations when he ran for his position. Am. Order 29. Plaintiffs are unlikely to succeed against Dr. Salaita on Count I, which must be dismissed under the Anti-SLAPP Act.

C. Count II: Breach of Fiduciary Duty (Duty of Loyalty and Good Faith, Misappropriation and Misuse of Assets of the American Studies Association)

1. Count II arises from an act in furtherance of the right of advocacy.

In Count II, Plaintiffs claim that Dr. Salaita, along with other Defendants, breached his fiduciary duties by "misappropriating, misusing and diverting" the ASA's funds and other assets "to further [his] personal political interests." Compl. ¶ 266. Plaintiffs' claims against Dr. Salaita under this Count can only be based on the use of ASA resources after he became a fiduciary of the ASA in July 2015. The funds that Plaintiffs allege were "misuse[d]" since 2016 are legal fees for defending the ASA against Plaintiffs' own litigation. *Compare* Compl. ¶¶ 189–90 (describing legal expenditures in fiscal years 2016 and 2017) *with* Compl. ¶¶ 186, 194 (describing other expenditures that occurred in 2013 and 2014).[4]

[4] Even the claims based on the use of ASA resources before Dr. Salaita's tenure on the National Council are based on the alleged misuse of the ASA website and other communication tools to share information about the Boycott Resolution, which this Court ruled is an issue of public interest, Am. Order at 35, or other issues of public interest. *See, e.g.,* Compl. ¶¶ 76, 83 (describing use of ASA "website and blogs" and "communications from the Executive Officers and National Council to the membership" to share information about the Boycott Resolution), ¶ 86 (describing the alleged misuse of ASA membership list to "disseminate[]" "free publicity" about the use of boycotts), ¶ 186 (describing the use of ASA funds for media and public relations to defend the Boycott Resolution and to establish the "Scholars Under Attack" program); Press Release, *Nationwide Initiative Launched to Document Attacks on Academic Freedom and Higher Education*, AM. STUDIES ASS'N (Jan. 12, 2015), https://www.theasa.net/about/news-events/announcements/nationwide-initiative-launched-document-assaults-academic-freedom ("Scholars Under Attack" program "document[s] examples of assaults on academic freedom, program cuts, labor organizing and political protests"). Therefore, these claims arise from expression that involves "communicating views to members of the public in connection with an issue of public interest," and "written or oral statements made . . . [i]n a place open to the public or a public forum in connection with an issue of public interest." D.C. Code §§ 16-5501(1)(A)(ii), (1)(B).

As these legal expenses are the only objectionable expenditures that Plaintiffs allege were made during Dr. Salaita's tenure on the National Council, Plaintiffs' claims against him under Count II can only "arise from" those expenditures, which therefore "form the basis" of those claims and have a "substantial connection or nexus" to them. *Bronner,* 259 A.3d at 746-47. But the funding of litigation—including using ASA funds to defend the ASA against Plaintiffs' lawsuits—is "expressive conduct that involves petitioning the government" or a "statement made . . . [i]n connection with an issue under . . . review by a . . . judicial body," protected under the D.C. Anti-SLAPP Act. D.C. Code §§ 16-5501(1)(A)(i), (1)(B). *See NAACP v. Button*, 371 U.S. 415, 428 (1963) (holding that NAACP's financing of litigation is a form of "expression . . . protected by the [First Amendment]"); *Borough of Duryea v. Guarnieri*, 564 U.S. 379, 387 (2011) ("the Petition Clause protects the right of individuals to appeal to courts . . . for resolution of legal disputes"). The Court of Appeals noted that Defendants "may be correct" in this analysis. *Bronner*, 259 A.3d at 745 n.62.

Indeed, California courts have found that funding litigation is protected by California's anti-SLAPP law. The California Supreme Court has noted that funding a civil action is protected "communicative conduct," *Rusheen v. Cohen*, 128 P.3d 713, 718 (Cal. 2006), which is akin to "expressive conduct" protected by the D.C. Anti-SLAPP Act. And in a fiduciary duty case like this one, a California appellate court granted an anti-SLAPP motion for claims arising from decisions to fund litigation. *Sheley v. Harrop*, 215 Cal. Rptr. 3d 606 (Cal. Ct. App. 2017). *Sheley* found litigation funding decisions fall under Cal. Civ. Proc. Code § 425.16 (e)(2), *id.* at 620, which protects any statement "made in connection with an issue under consideration or review by a . . . judicial body," a provision identical to D.C. Code § 16-5501(1)(A)(i).[5] Count II against Dr. Salaita,

[5] In *Sheley,* the minority owner of a company sued the majority owners, claiming they misused corporate assets to fund the "frivolous lawsuit against [her]." 215 Cal. Rptr. 3d at 620. The court held that "insofar as a cause of

for a decision to fund the defense of the ASA against Plaintiffs' litigation, is protected under D.C.'s Anti-SLAPP Act.

2. Count II is not likely to succeed against Dr. Salaita.

Plaintiffs' Count II for breach of fiduciary duty for misappropriating and misusing ASA assets is not likely to succeed for several reasons. First, any conduct alleged to occur before March 2016 is time-barred against Dr. Salaita. This Court found that the "misuse of the membership lists and funds in order to promote the individual Defendants' own goals, is likely preserved by the discovery rule," Am. Order 20, because Plaintiffs were likely not aware of Defendants' efforts until they "received emails stating their purpose." *Id.* at 21. But this reasoning does not apply to Dr. Salaita, as he had publicly made his involvement clear in a 2014 op-ed, when he stated that he had worked with USACBI "closely during the process to pass" the ASA Resolution. Compl. ¶ 46. Plaintiffs have not alleged, much less provided evidence, that they recently discovered information essential to an element of this cause of action against Dr. Salaita. The discovery rule does not preserve this part of Count II as to Dr. Salaita, so it is time-barred and must be dismissed. *See Bronner*, 259 A.3d at 741 (when a claim fails as a matter of law, including when it is barred by the statute of limitations, it is not likely to succeed on the merits).

Moreover, Dr. Salaita owed no fiduciary duty prior to joining the National Council in July 2015. Compl. ¶ 26; *see also id.* ¶ 5 (defendants breached "fiduciary duties they assumed when they succeeded in obtaining positions as officers" of the ASA). It may be that a fiduciary relationship could begin "while running for office or while officer elect," Am. Order 28, but Dr. Salaita is not

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action is based on the payment of funds to maintain a lawsuit, this constitutes protected activity that will be subject to a special motion to strike . . ." *Id*. *See also Takhar v. People ex rel. Feather River Air Quality Mgmt. Dist.*, 237 Cal. Rptr. 3d 759, 769 (Cal. Ct. App. 2018) (funding civil action is protected petitioning activity under anti-SLAPP law); *Richmond v. Mikkelson*, No. D076375, 2021 WL 2274888, at *15 (Cal. Ct. App. June 4, 2021) ("[defendant's] approval and expenditure of corporate funds to defend himself for actions he took in his capacity as a corporate officer . . . is similarly protected communicative conduct in furtherance of the right to petition.").

alleged to have had any relationship with the ASA that would have created a fiduciary duty prior to his joining the National Council.

There was also no breach of fiduciary duty. Although the part of Count II regarding ASA funds that were allegedly misused since March 2016 is not time-barred, Am. Order 21, those funds were used to defend the ASA against litigation brought by Plaintiffs themselves. *See supra,* Section II.B.1. Defendants breached no fiduciary duty by defending litigation against the ASA. Claims against officers of a corporation are consistently "foreclosed when they merely allege damages based on the potential costs of investigating, defending, or satisfying a judgment or settlement for what might be unlawful conduct." *In re Cray Inc. Derivative Litig*., 431 F. Supp. 2d 1114, 1134 (W.D. Wash. 2006) (citing cases finding that derivative claim for potential costs of litigation are insufficient to state claims for breach of fiduciary duty and corporate waste).[6] In fact, "[d]irectors and officers usually have a duty to engage lawyers to defend the corporation even if they individually have failed to perform in some way that caused the litigation." *Kaplan v. First Hartford Corp.*, 484 F. Supp. 2d 131, 144 (D. Me. 2007).[7] Count II is therefore unlikely to succeed, so must be dismissed under the Anti-SLAPP Act.[8]

Even if the expenditure of "legal costs defending the Resolution" (Compl. ¶ 187) were a breach of fiduciary duty, which it is not, Plaintiffs lack standing, as they have not shown that they suffered any injury. Plaintiffs in fact caused any such injury by bringing suit, and any injury would

[6] *See also In re Symbol Techs. Sec. Litig.*, 762 F. Supp. 510, 516 (E.D.N.Y. 1991) ("defendants cannot be held liable for the costs of defending a potentially baseless suit," which included fiduciary duty and corporate waste claim); 3A FLETCHER CYC. CORP. § 1112 (West 2021) ("the payment of an attorney for legal services performed for the company is not improper.").

[7] Moreover, the "duty of loyalty is transgressed when a corporate fiduciary . . . uses their corporate office to promote, advance or effectuate a transaction between the corporation and such person and that transaction is not substantively fair to the corporation." 3 FLETCHER CYC. CORP. § 837.60 (West 2021). No such transaction is alleged here.

[8] This Court also found that the part of the claim for "manipulation of the voting process, miscounting votes, and denying members the right to vote, is barred by the statute of limitations." Am. Order 21. That aspect of Count II (which does not even apply to Dr. Salaita) is therefore also unlikely to succeed.

be to the ASA. Plaintiffs have not alleged that they paid ASA dues since 2014,[9] and they must proffer evidence that they have been injured in order to survive this Anti-SLAPP Motion.

Finally, Plaintiffs do not allege any facts to support that Dr. Salaita himself took any actions with regard to the use of ASA funds (and they did not sue the 20+ other members of the National Council at the time). Because Plaintiffs have not pled "factual content that allows [a] reasonable inference" that Dr. Salaita "is liable for the misconduct alleged," Count II is not plausible against Dr. Salaita. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). And Plaintiffs have certainly not proffered evidence to demonstrate that Count II is likely to succeed against Dr. Salaita, so it must be dismissed under the Anti-SLAPP Act.

D. Count III: Ultra Vires and Breach of Contract for Failure to Nominate Officers and National Council Reflecting Diversity of Membership

1. Count III arises from an act in furtherance of the right of advocacy.

In Count III, Plaintiffs' *ultra vires* and breach of contract claims assert that Defendants violated the ASA Constitution requiring nominees for any elected position to represent "the diversity of the association's membership" by failing to nominate enough candidates who did not endorse USACBI. Compl. ¶¶ 63-65, 269. The basis of Plaintiffs' claim is that the candidates' endorsement—or publicly stated support—of USACBI was the reason they were nominated. *Id.* ¶ 62. Plaintiffs allege that too many candidates expressed such support for USACBI, and that more ASA members who did not express support for USACBI should have been nominated. *Id.* ¶ 63-64. Plaintiffs' Count III therefore arises from expressions that involved "communicating views to members of the public in connection with an issue of public interest." D.C. Code § 16-5501(1)(B).

[9] Bronner and Rockland are honorary lifetime ASA members so do not pay dues. Compl. ¶¶ 14, 15, Ex. A, ASA Constitution & Bylaws, Bylaws Art. II § 1(c). Kupfer let his membership lapse in 2014. *Id.* ¶ 17. Barton only rejoined the ASA in 2013 to vote against the Resolution—*see id.* ¶ 137 (Defendants "accept[ed] the dues payment from Professor Barton, knowing that the reason for the payment would not be fulfilled")—Barton does not allege he continued to pay dues after that.

2. Count III is not likely to succeed against Dr. Salaita.

This Court already found that Plaintiffs' Count III failed to state a claim because it is barred by the statute of limitations. Am. Order 22. Therefore, Plaintiffs are not likely to succeed on the merits on this Count against Dr. Salaita, and it should be dismissed under the Anti-SLAPP Act.

E. Count IV: Ultra Vires and Breach of Contract for Freezing Membership Rolls to Prohibit Voting

1. Count IV arises from an act in furtherance of the right of advocacy.

Plaintiffs' Count IV asserts that Defendants denied Plaintiff Barton (and other lapsed or new ASA members) the right to vote "solely on the basis of their beliefs," because they opposed the Boycott Resolution, thereby acting *ultra vires* and in violation of the ASA Constitution. Compl. ¶¶ 283, 281, 128. The only allegation against Dr. Salaita related to the time period in which membership rolls were frozen is that he advocated for the Boycott Resolution; he was not on the National Council at the time, and did not hold any other ASA leadership position. *Id.* ¶¶ 26, 46. Dr. Salaita's advocacy for the Resolution must therefore be the basis for his asserted liability under Count IV. His advocacy is protected under the Anti-SLAPP Act as expressions that involved "communicating views to members of the public in connection with an issue of public interest." D.C. Code § 16-5501(1)(B); *see infra*, Section II.J.1.

2. Count IV is not likely to succeed against Dr. Salaita.

This Court already found that Plaintiffs' Count IV failed to state a claim because it is barred by the statute of limitations. Am. Order 22. Under *Bronner*, Plaintiffs are therefore not likely to succeed against Dr. Salaita on Count IV.

F. Count V: Ultra Vires and Breach of Contract for Substantial Part of Activities Attempting to Influence Legislation

1. Count V arises from an act in furtherance of the right of advocacy.

Plaintiffs claim that adopting and supporting the Resolution "required Defendants to commit a substantial part of the organization's efforts to influencing U.S. legislation," Compl. ¶ 153, in violation of the ASA's Statement of Election. *Id.* ¶¶ 289-292. This included efforts to block state and federal legislation directed at the ASA in response to the Resolution. *Id.* ¶¶ 154-56. Plaintiffs also allege that the ASA Resolution adopts USACBI's platform, which demands changes in Israeli law, so the Resolution itself is an attempt to influence Israeli legislation. *Id*. ¶¶ 145, 148, 149. Count V is therefore based on the Resolution, which the Court of Appeals recognized, stating it "casts the Resolution as an improper attempt to influence Israeli and American legislation," so Count V "appear[s] to be based on the 2013 Resolution." *Bronner*, 259 A.3d at 749.

Moreover, allegations of influencing or opposing legislation irrefutably arise out of an act in furtherance of the right of advocacy, namely the ASA's efforts to oppose "an issue under consideration or review by a legislative . . . body" that might affect the organization. D.C. Code § 16-5501(1)(A)(i); *see, e.g., Abbas v. Foreign Policy Grp., LLC*, 975 F. Supp. 2d 1, 13 (D.D.C. 2013), *aff'd on other grounds*, 783 F.3d 1328 (D.C. Cir. 2015) (defendant's statements testifying before Congress and in a magazine article regarding U.S. aid to Palestinians fall under D.C. Code § 16-5501(1)(A)(i)). Legislative advocacy is also covered by the Anti-SLAPP Act as "[a]ny other expression . . . that involves petitioning the government." D.C. Code § 16-5501(1)(B).

2. Count V is not likely to succeed against Dr. Salaita.

This Court already found that Plaintiffs' Count V failed to state a claim because it is barred by the statute of limitations. Am. Order 22-23 (citing Compl. ¶¶ 290-91) (efforts to influence

legislation from July 2013-June 2015). Plaintiffs are therefore not likely to succeed against Dr. Salaita on Count V, and it should be dismissed under the Anti-SLAPP Act.[10]

G. Count IX: Corporate Waste

1. Count IX arises from an act in furtherance of the right of advocacy.

In Count IX, Plaintiffs claim that Defendants wasted corporate assets by using them to "advocate, conduct a vote on, declare enacted, and then support the Academic Boycott" to "advance their own personal political goals."[11] Compl. ¶ 316. As the Court of Appeals noted, Count IX, for the "use of funds to 'declare enacted' the 2013 Resolution," appears to be based on the 2013 Resolution. *Bronner,* 259 A.3d at 749. As this Court has ruled, the 2013 Resolution was a "communication of views to members of the public" on a matter "of public interest." Am. Order 35; D.C. Code § 16-5501(1)(B). Plaintiffs allege that Defendants diverted assets and exploited the ASA by misusing the website, blogs, or communications to the membership to share information about the Resolution, Compl. ¶ 76; such communications, whether advocating or "promot[ing] the adoption of the Academic Boycott," Compl. ¶¶ 83, 114, or declaring the Resolution enacted, are not only based on the 2013 Resolution, but they are independently protected as any "expression . . . that involves . . . communicating views to members of the public in connection with an issue of public interest." D.C. Code § 16-5501(1)(B); *see infra,* Section II.J.1. Finally, as argued above, any claim that Dr. Salaita wasted corporate assets to "support" the 2013 Resolution can only be based on the use of funds to finance defense against Plaintiffs' litigation, and is therefore protected under the Anti-SLAPP Act. *Id.* at §§ 16-5501(1)(A)(i), (1)(B); *supra,* Section II.C.1.

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[10] Counts VI, VII, and VIII were brought against the ASA only. Compl. pp. 115-117.

[11] Plaintiffs note political positions (with which they presumably agree) that Defendants should have addressed through the ASA instead, including "the overuse of adjunct, part-time, and temporary instructors at the sacrifice of tenure-track positions with benefits." Compl. ¶ 82. Although Plaintiffs claim that Defendants' political agenda "subverts the apolitical mission" of the ASA, *id.* ¶ 1, they clearly do not object to the use of ASA resources to advance political goals; they object to the political goal of boycotting Israeli academic institutions. The basis of their corporate waste claim is the content of Defendants' political advocacy.

2. Count IX is not likely to succeed against Dr. Salaita.

As this Court found, "waste that happened prior to March 2016 would be barred by the statute of limitations, but those decisions that happened after March 2016 would not be." Am. Order 24. As discussed regarding Count II, the only alleged ASA waste attributable to decisions after March 2016 relates to funding the defense of this litigation. *See supra,* Section II.C. And as argued above, claims against corporate officers for the cost of defending litigation cannot state a claim for relief. *See supra,* Section II.C.2; *see, e.g., In re Cray Inc. Derivative Litig*., 431 F. Supp. 2d at 1134. On the contrary, it is a duty of corporate directors. *See, e.g., Kaplan*, 484 F. Supp. 2d at 144.[12]

H. Count X: Breach of Fiduciary Duty for Removal of Plaintiff Bronner from Position as Editor of the Encyclopedia, *Ex Officio* Officer, and Member of the National Council

1. Count X arises from an act in furtherance of the right of advocacy.

Under Count X, Plaintiff Bronner claims[13] that some Defendants made statements criticizing him when he opposed the 2013 Resolution, which led to a decision, after he had sued the ASA in federal court, to not renew his contract as editor of the Encyclopedia of American Studies. Compl. ¶¶ 319–26. Under this Count, Bronner must show that "(1) defendant owed plaintiff a fiduciary duty; (2) defendant breached that duty; and (3) to the extent plaintiff seeks compensatory damages—the breach proximately caused an injury." *Henok v. Chase Home Fin., LLC*, 915 F. Supp. 2d 162, 168 (D.D.C. 2013) (citations omitted). Bronner attempts to satisfy the second element by claiming that Defendants breached their fiduciary duty in part

[12] Moreover, as noted *supra,* Section II.C.2, note 9, Plaintiffs have not demonstrated that they have paid any dues to ASA since 2014, so they have not suffered any injury.

[13] Plaintiffs Rockland, Kupfer, and Barton lack standing to bring these claims as they have not alleged that they suffered any injury under Counts X or XI, and cannot allege any injury as a result of Bronner no longer being editor of the Encyclopedia, or by the current editor not being an *ex officio* officer or member of the National Council.

"by spreading false information about [him] to convince others that he should be removed as an editor of the Encyclopedia" and "shutting down the Encyclopedia." Compl. ¶¶ 323–24.

First, any claim based on "spreading false information" arises from a "written or oral statement." *Bronner*, 259 A.3d at 744 (describing cases where direct link between claims and speech are apparent). The subject of Count X is emails written by Defendants (though none of them by Dr. Salaita) and "widely shared by Defendants with other members of the National Council and outside of the National Council," Compl. ¶ 326, stating that Bronner undermined the ASA by publicly opposing the Resolution and by leaking the confidential vote to the media. *Id.* ¶¶ 203, 204, 207, 208, 215. These are protected expressions that involve "communicating views to members of the public in connection with an issue of public interest," D.C. Code § 16-5501(1)(B), because they were about disagreements with the Resolution, which this Court ruled is an issue of public interest. Am. Order 35.[14]

Second, Plaintiffs' claim that Defendants breached their fiduciary duties by "shutting down the Encyclopedia" is based on their allegation that the ASA has refrained from publishing entries into the Encyclopedia since 2016. Compl. ¶¶ 236–38. But this is protected under the Anti-SLAPP Act, as the decision not to publish written entries is itself a form of expression. *Riley*, 487 U.S. at 797 ("freedom of speech" is "a term necessarily comprising the decision of both what to say and what *not* to say."). The Encyclopedia is a website which is "open to the public,"[15] D.C. Code § 16–5501(1)(A(ii), and that "communicat[es] views to members of the public in connection with an issue of public interest."[16] D.C. Code § 16–5501(1)(B).

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[14] These statements were also "[i]n connection with an issue under . . . review by [an] official proceeding authorized by law," D.C. Code § 16-5501(1)(A)(i), because the vote was an "official proceeding authorized by" the D.C. Nonprofit Corporation Act, D.C. Code §§ 29-405.20–28. *See, e.g., Kibler,* 138 P.3d at 198-99, 201-02.

[15] *See Abbas*, 975 F. Supp. 2d at 11 (under the Anti-SLAPP Act, a public "website is a 'place open to the public,' because anyone with a working internet connection or access to one can view it.").

[16] Encyclopedia of American Studies, *History of the Encyclopedia of American Studies*, JOHNS HOPKINS UNIV. PRESS (2018), https://eas-ref.press.jhu.edu/about/history.html (purpose of the Encyclopedia is to "serve the

2. Count X is not likely to succeed against Dr. Salaita.

Plaintiff Bronner is not likely to succeed under Count X against Dr. Salaita as there is no mention of Dr. Salaita in 27 pages of allegations (Compl. pp. 76–104), except in a footnote on an issue that has nothing to do with Bronner (Compl. ¶ 200, n.1). Plaintiffs have simply not stated a plausible claim against Dr. Salaita. *See, e.g., Iqbal,* 556 U.S. at 678. Moreover, Plaintiffs have not proffered any evidence to show that Dr. Salaita made any statements related to Bronner's tenure as editor, participated in any decision related to the reappointment of Bronner or appointment of anyone else as editor,[17] or did anything to shut down the Encyclopedia. Additionally, by the time his contract expired, Bronner was in active litigation against the ASA. It is not a breach of fiduciary duty to not renew the contract of someone who is suing the corporation.[18]

I. Count XI: Tortious Interference with Contractual Business Relations

1. Count XI arises from an act in furtherance of the right of advocacy.

Under Count XI, a claim of tortious interference with a contractual or business relation, Plaintiff Bronner must show: "(1) existence of a valid contractual or other business relationship; (2) the defendant's knowledge of the relationship; (3) intentional interference with that relationship by the defendant; and (4) resulting damages." *Onyeoziri v. Spivok*, 44 A.3d 279, 286 (D.C. 2012) (quotations omitted). Bronner attempts to satisfy the third element by claiming that Defendants

needs of scholars, graduate students, college students and a high school audience [and] cover the range of American history, philosophy, arts, and cultures from various perspectives.").

[17] In fact, Dr. Salaita had no duty related to Bronner's contract after it expired. The Bylaws at the time required the Executive Committee (which Dr. Salaita was not on) to designate the editor of the Encyclopedia; Dr. Salaita's role on the National Council would have been only to ratify that designation. Compl., Ex. B, ASA Constitution & Bylaws, Bylaws Art. IV § 8. Bronner is not alleged to have been designated as editor by the Executive Committee, so Dr. Salaita cannot have played any role in any decision about his contract.

[18] Bronner has also failed to show under Count X that amendment of the Bylaws to remove the position of editor as *ex officio* officer and non-voting member of the National Council is a breach of fiduciary duty. Compl. ¶¶ 243–46. The Bylaws plainly allow such an amendment and do not require notice of the change to be sent to the full membership, and Plaintiffs have not proffered evidence to the contrary. Compl., Ex. B, ASA Constitution & Bylaws, Bylaws Art. XIV; Compl. ¶ 248.

interfered with the renewal of his contract in part by "by making false and pejorative statements about him to the entire National Council, and to others." Compl. ¶¶ 329, 331. These statements were about Bronner undermining the ASA by publicly opposing the Resolution and by leaking a confidential vote. *Id*. ¶¶ 203, 204, 207, 208, 215. Such statements involve "communicating views to members of the public in connection with an issue of public interest," D.C. Code § 16-5501(1)(B), and were also made "[i]n connection with an issue under . . . review by [an] official proceeding authorized by law," D.C. Code § 16-5501(1)(A)(i).[19] Indeed, tortious interference claims often arise out of protected speech. *See, e.g., Farah v. Esquire Magazine*, 736 F.3d 528, 540 (D.C. Cir. 2013) (blog post was entitled to First Amendment protection and could not form the basis of a tortious interference claim); *Doe No. 1 v. Burke*, 91 A.3d 1031, 1043-44 (D.C. 2014) (tortious interference claim arose out of protected expression).

2. Count XI is not likely to succeed against Dr. Salaita.

As Plaintiffs admit, Count XI can only be based on actions taken when Dr. Salaita was not a fiduciary, Compl. ¶ 332,[20] so before his tenure on the National Council began in July 2015. This Count fails because Bronner has not alleged, much less proffered evidence, to show that Dr. Salaita even knew about Bronner's contract, much less did anything to interfere with it. And because this Count can only be based on actions Dr. Salaita took before July 2015, it is barred by the three-year statute of limitations.

Additionally, as with Count X, Bronner does not allege, much less proffer evidence, that he had a contractual right or a reasonable expectation that his editor contract would be

[19] *See also Hecimovich v. Encinal Sch. Parent Teacher Org.*, 137 Cal. Rptr. 3d 455 (Cal. Ct. App. 2012) (claims arising from calls to fire plaintiff high school baseball coach qualified for anti-SLAPP treatment).

[20] *See also Paul v. Howard Univ.*, 754 A.2d 297, 309 (D.C. 2000) (officers of a University act as the University's agents and thus cannot be held liable for tortiously interfering with a contract between the University and a third party).

renewed. Bronner's "editorial contract with the ASA expired on December 31, 2016, and it was not renewed." *Bronner*, 259 A.3d at 735. Even if historically the editor's contract had been renewed at the end of each term, Compl. ¶ 223, it is not reasonable to expect that it would be once Bronner had sued the ASA. A claim of tortious interference cannot be satisfied when a contract simply comes to an end and there is no longer a right or a reasonable expectation of a future contractual relationship.[21]

J. Count XII: Aiding and Abetting Breach of Fiduciary Duty

1. Count XII arises from an act in furtherance of the right of advocacy.

Plaintiffs' aiding and abetting claim against Dr. Salaita is that he "acknowledged publicly that he was heavily involved in the effort to pass the Academic Boycott before he was a member of the National Council,"[22] and that this "substantial assistance . . . constitutes aiding and abetting breach of fiduciary duty." Compl. ¶ 337.[23] This Count is based on acts in furtherance of the right of advocacy, as Plaintiffs allege that Dr. Salaita's advocacy with ASA members—his speech supporting a boycott—aided and abetted passage of the Resolution. Dr. Salaita's advocacy to ASA members for adoption of a boycott constituted "communicating views to members of the public in connection with an issue of public interest." D.C. Code § 16-5501(1)(B). Dr. Salaita communicated his views on the Boycott Resolution to ASA members, who are "members of the

[21] *See Paul*, 754 A.2d at 309 (plaintiff "had no contractual right to indefinite tenure; hence the [defendants] could not have interfered with her contractual relations"); *Robertson v. Cartinhour*, 867 F. Supp. 2d 37, 60 (D.D.C. 2012), *aff'd*, 553 F. App'x 1 (D.C. Cir. 2014) (internal quotations omitted) ("To state a claim for tortious interference the business expectancy must be commercially reasonable to anticipate" and requires a probability, not "mere possibility," of future contractual relationship).

[22] This is a reference to Dr. Salaita's 2014 op-ed stating that he worked with USACBI "closely during the process to pass" the ASA Resolution. Compl. ¶ 46. USACBI is a "United States-based campaign focused on a boycott of Israeli academic and cultural institutions." *Id.* ¶ 35. It "lobbies organizations to boycott Israeli academic and cultural institutions as a form of protest against the state's treatment of Palestinians." *Bronner*, 259 A.3d at 735.

[23] "Aiding-abetting includes the following elements: (1) the party whom the defendant aids must perform a wrongful act that causes an injury; (2) the defendant must be generally aware of his role as part of an overall illegal or tortious activity at the time that he provides the assistance; (3) the defendant must knowingly and substantially assist the principal violation." *Halberstam v. Welch*, 705 F.2d 472, 477 (D.C. Cir. 1983).

public."[24] Moreover, the Resolution itself is, of course, a written or oral statement made in a public place "in connection with an issue of public interest." D.C. Code § 16-5501(1)(A)(ii)).[25]

2. Count XII is not likely to succeed against Dr. Salaita.

Plaintiffs' claim against Dr. Salaita for aiding and abetting passage of the Resolution in 2013 is barred by the statute of limitations, and the discovery rule cannot preserve the Count XII claim against him. The only factual allegation supporting Plaintiffs' claim against Dr. Salaita is based on his 2014 public op-ed; Plaintiffs have thus had notice of Dr. Salaita's role since 2014, when, as they allege, he publicly acknowledged it in an op-ed. Compl. ¶ 337.[26] Plaintiffs have not alleged that they subsequently obtained information necessary to bring this claim against Dr. Salaita, much less provided any evidence to support it, so the discovery rule does not apply, and Count XII must be dismissed against Dr. Salaita.

Moreover, Plaintiffs allege no facts, much less provide any evidence, to support that Dr. Salaita knew of a breach of fiduciary duty, or that he knowingly substantially assisted any such breach. This Court must disregard "formulaic recitation of the elements of a cause of action."[27] Plaintiffs' conclusory recital of the elements of an aiding and abetting claim do not suffice on the

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[24] *See, e.g., Nat'l Treasury Emps. Union v. U.S. Dep't of Treasury*, 487 F. Supp. 1321, 1323 (D.D.C. 1980) (with regard to a federal statute, "the Court believes that Congress used this critical phrase [members of the public] to distinguish the public at large from those who work for the federal government"); *see also Cummock v. Gore*, 180 F.3d 282 (D.C. Cir. 1999) (comparing rights of government commission member to rights of members of the public). D.C.'s Anti-SLAPP Act protects advocacy in several contexts: in connection with an official proceeding (D.C. Code § 16-5501(1)(A)(i)); in a public place or forum (§ 16-5501(1)(A)(ii)); involving petitioning the government (the first clause of § 16-5501(1)(B)); and involving communicating views to members of the public (the second clause of § 16-5501(1)(B)).

[25] Statements advocating for an ASA boycott were also made in connection with an issue under consideration by an official proceeding authorized by law—namely, the vote to pass the Resolution. *See supra,* Section II.B.1. Plaintiffs allege that the Resolution had been pending for at least a year before it was adopted. *See, e.g.,* Compl. ¶¶ 69, 87.

[26] An allegation that Dr. Salaita was on (not that he *sent*) email communications with Defendants when he was part of the USACBI Organizing Collective (Compl. ¶ 99) does not add to the content of his 2014 op-ed, which stated that he worked with USACBI "closely during the process to pass" the ASA Resolution. *Id.* ¶ 46.

[27] *Iqbal*, 556 U.S. at 678 (quoting *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 555 (2007)). *See also Bereston v. UHS of Del., Inc.*, 180 A.3d 95, 99 (D.C. 2018) ("allegations of . . . knowledge . . . must be supported by well-pleaded factual allegations in order to be accorded the presumption of veracity").

pleadings, and most certainly do not suffice under the Anti-SLAPP Act, where Plaintiffs have provided no evidence to show that Dr. Salaita knowingly provided substantial assistance to a fiduciary duty breach.[28]

CONCLUSION

Dr. Salaita respectfully requests dismissal of each of Plaintiffs' claims against him under the Anti-SLAPP Act, with prejudice, and seeks costs, attorneys' fees and any other relief the Court deems appropriate.

[28] Moreover, the First Amendment protects any peaceful advocacy Dr. Salaita conducted prior to his term on the National Council. *See, e.g., Snyder v. Phelps*, 562 U.S. 443, 460 (2011) (finding that the First Amendment bars liability for state torts, including "civil conspiracy based on those torts," for peaceful picketing on a matter of public concern); *see also NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 913 (1982) (peaceful political boycotts constitute "expression on public issues" and therefore "rest[] on the highest rung of the hierarchy of First Amendment values" (internal quotations omitted)).

POINTS AND AUTHORITIES

1. *Abbas v. Foreign Policy Grp., LLC*, 975 F. Supp. 2d 1 (D.D.C. 2013), *aff'd on other grounds*, 783 F.3d 1328 (D.C. Cir. 2015)

2. *Am. Studies Ass'n v. Bronner*, 259 A.3d 728 (D.C. 2021)

3. *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)

4. *Bell Atl. Corp. v. Twombly,* 550 U.S. 544 (2007)

5. *Bereston v. UHS of Del., Inc.*, 180 A.3d 95 (D.C. 2018)

6. *Borough of Duryea v. Guarnieri*, 564 U.S. 379 (2011)

7. *Competitive Enter. Inst. v. Mann*, 150 A.3d 1213 (D.C. 2016), *as amended* (Dec. 13, 2018)

8. *Cummock v. Gore*, 180 F.3d 282 (D.C. Cir. 1999)

9. *Doe v. Burke*, 133 A.3d 569 (D.C. 2016)

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

11. *Farah v. Esquire Magazine*, 736 F.3d 528 (D.C. Cir. 2013)

12. *In re Cray Inc. Derivative Litig*., 431 F. Supp. 2d 1114 (W.D. Wash. 2006)

13. *In re Symbol Techs. Sec. Litig.*, 762 F. Supp. 510 (E.D.N.Y. 1991)

14. *Kaplan v. First Hartford Corp.*, 484 F. Supp. 2d 131 (D. Me. 2007)

15. *Kibler v. N. Inyo Cnty. Local Hosp. Dist.*, 138 P.3d 193 (Cal. 2006), *as modified* (July 20, 2006)

16. *Halberstam v. Welch*, 705 F.2d 472 (D.C. Cir. 1983)

17. *Hecimovich v. Encinal Sch. Parent Teacher Org.*, 137 Cal. Rptr. 3d 455 (Cal. Ct. App. 2012)

18. *Henok v. Chase Home Fin., LLC*, 915 F. Supp. 2d 162 (D.D.C. 2013)

19. *NAACP v. Button*, 371 U.S. 415 (1963)

20. *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982)

21. *Nat'l Treasury Emps. Union v. U.S. Dep't of Treasury*, 487 F. Supp. 1321 (D.D.C. 1980)

22. *Navellier v. Sletten*, 52 P.3d 703 (Cal. 2002)

23. *Onyeoziri v. Spivok*, 44 A.3d 279 (D.C. 2012)

24. *Paul v. Howard Univ.*, 754 A.2d 297 (D.C. 2000)

25. *Richmond v. Mikkelson*, No. D076375, 2021 WL 2274888 (Cal. Ct. App. June 4, 2021)

26. *Riley v. Nat'l Fed'n of the Blind of N.C., Inc.*, 487 U.S. 781 (1988)

27. *Robertson v. Cartinhour*, 867 F. Supp. 2d 37 (D.D.C. 2012), *aff'd*, 553 F. App'x 1 (D.C. Cir. 2014)

28. *Rusheen v. Cohen*, 128 P.3d 713 (Cal. 2006)

29. *Sheley v. Harrop*, 215 Cal. Rptr. 3d 606 (Cal. Ct. App. 2017)

30. *Snyder v. Phelps*, 562 U.S. 443 (2011)

31. *Suarez v. Trigg Labs., Inc.,* 207 Cal. Rptr. 3d 411 (Cal. Ct. App. 2016)

32. *Takhar v. People ex rel. Feather River Air Quality Mgmt. Dist.*, 237 Cal. Rptr. 3d 759 (Cal. Ct. App. 2018)

33. Cal. Civ. Proc. Code § 425.16 (e)(2)

34. D.C. Code § 16-5501

35. D.C. Code § 16-5501(1)(A)(i)

36. D.C. Code § 16-5501(1)(A)(ii)

37. D.C. Code § 16-5501(1)(B)

38. D.C. Code § 16-5502(a)

39. D.C. Code § 16-5502(b)

40. D.C. Code § 16-5504(a)

41. D.C. Code § 29-405.20

42. D.C. Code § 29-405.21

43. D.C. Code § 29-405.22

44. D.C. Code § 29-405.23

45. D.C. Code § 29-405.24

46. D.C. Code § 29-405.25

47. D.C. Code § 29-405.26

48. D.C. Code § 29-405.27

49. D.C. Code § 29-405.28

50. D.C. Council, Rep. of Comm. on Pub. Safety & the Judiciary on Bill 18-893 (Nov. 18, 2010)

51. Super. Ct. Civ. R. 12(b)(6)

52. 3 FLETCHER CYC. CORP. § 837.60 (West 2021)

53. 3A FLETCHER CYC. CORP. § 1112 (West 2021)

54. ASA Constitution & Bylaws, Bylaws Art. II § 1(c)

55. ASA Constitution & Bylaws, Bylaws Art. IV § 8

56. ASA Constitution & Bylaws, Bylaws Art. XIV

57. Encyclopedia of American Studies, *History of the Encyclopedia of American Studies*, JOHNS HOPKINS UNIV. PRESS (2018), https://eas-ref.press.jhu.edu/about/history.html

58. Press Release, *Nationwide Initiative Launched to Document Attacks on Academic Freedom and Higher Education*, AM. STUDIES ASS'N (Jan. 12, 2015), https://www.theasa.net/about/news-events/announcements/nationwide-initiative-launched-document-assaults-academic-freedom

Dated: April 1, 2022

Respectfully Submitted,

/s/Maria C. LaHood

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

SIMON BRONNER, MICHAEL ROCKLAND, CHARLES D. KUPFER, and MICHAEL L. BARTON, Plaintiffs, v. LISA DUGGAN, CURTIS MAREZ, NEFERTI TADIAR, SUNAINA MAIRA, CHANDAN REDDY, J. KEHAULANI KAUANUI, JASBIR PUAR, STEVEN SALAITA, JOHN STEPHENS, and THE AMERICAN STUDIES ASSOCIATION, Defendants.	Case No. 2019 CA 001712 B Judge Robert R. Rigsby Civil 2, Calendar 10 Next Court Date: October 27, 2022, 3:30 p.m. Event: Motion Hearing

[PROPOSED] ORDER GRANTING DEFENDANT STEVEN SALAITA'S SPECIAL MOTION TO DISMISS PLAINTIFFS' COMPLAINT PURSUANT TO D.C. CODE § 16-5501, *et seq.*

Upon consideration of Defendant Steven Salaita's Supplemental Memorandum in Support of his Special Motion to Dismiss Plaintiffs' Complaint Pursuant to D.C. Code § 16-5501, *et seq.*, Plaintiffs' opposition brief, and Defendant Salaita's reply brief, it is hereby

ORDERED that Defendant Salaita's Special Motion to Dismiss Plaintiffs' Complaint Pursuant to D.C. Code § 16-5501, *et seq.* is GRANTED in its entirety, and that all claims for relief against Defendant Salaita are hereby DISMISSED with prejudice and without leave to amend;

ORDERED that pursuant to D.C. Code § 16-5504 (a), Defendant Salaita, as the prevailing party, is awarded the costs of litigation, including reasonable attorneys' fees; and

ORDERED that Defendant Salaita shall submit a motion for award of costs and attorneys' fees within __ days of the date of this Order.

IT IS SO ORDERED.

Dated: _____, 2022

_____
Robert R. Rigsby
Superior Court Judge

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CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2022, I electronically filed the foregoing Supplemental Memorandum in Support of Special Motion to Dismiss Plaintiffs' Complaint Pursuant to D.C. Code § 16-5501, *et seq.* and proposed order through the CaseFileXpress system, which sends notification to counsel of record who have entered appearances.

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