SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

BRADLEE DEAN, ET AL.,	
Plaintiffs,	2011 CA 006055 B
v.	
NBC UNIVERSAL (NBC), ET AL.,	
	Judge: Hon. Joan Zeldon
Defendants.	

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO VACATE NOTICE OF DISMISSAL

Laura R. Handman (D.C. Bar No. 444386)
John Rory Eastburg (D.C. Bar No. 984434)
1919 Pennsylvania Ave., N.W., Suite 800
Washington, D.C. 20006-3401
(202) 973-4200
laurahandman@dwt.com
roryeastburg@dwt.com

Susan Weiner (pro hac vice)
Chelley E. Talbert (pro hac vice)
NBCUniversal Media, LLC
30 Rockefeller Plaza
New York, New York 10112-0002
(212) 664-2806
susan.weiner@nbcuni.com
chelley.talbert@nbcuni.com

Attorneys for Defendants NBC Universal, MSNBC and Rachel Maddow

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

INTRODUCTION 1

ARGUMENT 2

I. A MOTION TO DISMISS, SUPPORTED BY MATTERS OUTSIDE THE PLEADING, EXTINGUISHES THE RIGHT OF VOLUNTARY DISMISSAL 2

II. DISMISSAL WITHOUT PREJUDICE IS INAPPROPRIATE WHERE, AS HERE, DISMISSAL WILL CAUSE LEGAL PREJUDICE TO THE DEFENDANTS 5

II. EVEN WHEN DISMISSAL WITHOUT PREJUDICE IS ORDERED, FEES AND COSTS ARE AWARDED "AS A MATTER OF COURSE" 8

CONCLUSION 10

TABLE OF AUTHORITIES

Page(s)

FEDERAL CASES

3M Co. v. Boulter,
No. 11-cv-1527, 2012 WL 386488 (D.D.C. Feb. 2, 2012) 1

Armstrong v. Frostie Co.,
453 F.2d 914 (4th Cir. 1971) 5

Bangor Baptist Church v. Maine, Dep't of Educ. & Cultural Servs.,
92 F.R.D. 123 (D. Me. 19819) 5

Belle-Midwest, Inc. v. Missouri Prop. & Cas. Ins. Guar. Ass'n,
56 F.3d 977 (8th Cir. 1995) 9

Central Mont. Rail v. BNSF Ry. Co.,
422 F. App'x 636 (9th Cir. 2011) 6

Chambers v. Gesell,
120 F.R.D. 1 (D.D.C. 1988) 4

Choice Hotels Int'l, Inc. v. Goodwin & Boone,
11 F.3d 469 (4th Cir. 1993) 9

County of Santa Fe v. Public Serv. Co. of N.M.,
311 F.3d 1031 (10th Cir. 2002) 5

Davis v. Bonanno,
No. CV 08-03449, 2008 WL 4330296 (C.D. Cal. Sept. 19, 2008) 7

Davis v. USX Corp.,
819 F.2d 1270 (4th Cir. 1987) 9

Doe v. Urohealth Sys., Inc.,
216 F.3d 157 (1st Cir. 2000) 6

Finley Lines Joint Protective Bd. Unit 200 v. Norfolk S. Corp.,
109 F.3d 993 (4th Cir. 997) 4

Herring v. Whitehall,
804 F.2d 464 (8th Cir. 1986) 9

In re Fannie Mae Derivative Litig.,
725 F. Supp. 2d 159 (D.D.C. 2010) 6, 8

Kern Oil & Refining Co. v. Tenneco Oil Co.,
792 F.2d 1380 (9th Cir. 1986) 6

Kurkowski v. Volcker,
819 F.2d 201 (8th Cir. 1987) 3

Lau v. Glendora Unified Sch. Dist.,
792 F.2d 929 (9th Cir. 1986) 9

Levine v. Voorhees Bd. of Educ.,
No. 07-1614, 2009 WL 2424687 (D.N.J. Aug. 6, 2009) 7

Microsensor, Inc. v. SMK Corp.,
228 F.R.D. 39 (D.D.C. 2005) 4

Pace v. Southern Express Co.,
409 F.2d 331 (7th Cir. 1969) 8

Taragan v. Eli Lilly & Co.,
267 U.S. App. D.C. 387, 838 F.2d 1337 (D.C. Cir. 1988) 8

Thatcher v. Hanover Ins. Group, Inc.,
659 F.3d 1212 (8th Cir. 2011) 6

Yosef v. Passamaquoddy Tribe,
876 F.2d 283 (2d Cir. 1989) 3

STATE CASES

Bernay v. Sales,
435 A.2d 398 (D.C. 1981) 2, 3

In re Calomiris,
3 A.3d 308 (D.C. 2010) 9

Schoonover v. Chavous,
974 A.2d 876 (D.C. 2009) 3, 5, 8

Thoubboron v. Ford Motor Co.,
809 A.2d 1204 (D.C. 2002) 2, 6, 8, 9

RULES

Sup. Ct. Civ. R. 12(B) 2, 3, 4, 5

Sup. Ct. Civ. R. 41(a) 2, 3, 5, 8

OTHER AUTHORITIES

8 Moore's Federal Practice § 41.33[5][c][viii][B] (3d ed. 2005) 3

8 Moore's Federal Practice § 41.40[10][d][vii] (3d ed. 2005) 6

8 Moore's Federal Practice § 41.40[7][b][vii] (3d ed. 2005) 7

In support of their Motion to Vacate Notice of Dismissal, Defendants NBC Universal, MSNBC and Rachel Maddow (collectively "the MSNBC parties") respectfully submit this Memorandum of Points and Authorities.

INTRODUCTION

On September 9, 2011, the MSNBC parties filed a Special Motion to Dismiss Pursuant to D.C. Anti-SLAPP Act of 2010 and Motion to Dismiss Pursuant to Super. Ct. Civ. R. 12(B)(6). The motions were supported by the Affidavit of Laura R. Handman and forty exhibits consisting of recordings, videos, transcripts, web pages, and articles. The Court repeatedly gave the parties notice pursuant to Rule 12(b) that it was considering converting the motion to dismiss to a motion for summary judgment, including via a formal written order on February 8 that provided the parties "an opportunity to present all material made pertinent to Defendants' motion for summary judgment." The MSNBC parties did so on February 14, filing a Statement of Material Facts Pursuant to Sup. Ct. Civ. R. 12(K) (governing motions for summary judgment).

Long after briefing was completed, and just one week before oral argument on the motions, Plaintiffs' counsel stated on a telephonic conference on February 17, 2012, with the Court that he intended to advise Plaintiffs to dismiss the present action and re-file in federal court because he believed a recent decision suggested that the federal forum would be more reluctant to apply the Anti-SLAPP Act. On February 21, Plaintiffs filed a Notice of Dismissal Without Prejudice which makes clear that they had already re-filed in the "U.S. District Court for the District of Columbia due to the Court's recent decision in *3M v. Boulter*," which declined to apply the Anti-SLAPP Act of 2010 due to *Erie* concerns. Plaintiffs' federal complaint is identical in every material respect. *Dean v. NBC Universal*, 1:12-cv-00283-RJL (Feb. 21, 2012).

Plaintiffs' notice of dismissal is invalid. A "12(b)(6) motion to dismiss, if supported by 'matters outside the pleading,' deprives a plaintiff of the right of voluntary dismissal." *Bernay v. Sales*, 435 A.2d 398, 400-01 (D.C. 1981). The MSNBC parties' motions were supported by a sworn affidavit, dozens of exhibits, and a Rule 12(K) statement of material facts. At this late date, dismissal is available only by stipulation or by "order of the Court and upon such terms and conditions as the Court deems proper." Super. Ct. Civ. R. 41(a)(2). Even if Plaintiffs *had* properly moved for dismissal, such a belated and baseless request should be denied because it would severely prejudice the MSNBC parties. Forum shopping – the admitted motivation for the dismissal – is an improper basis for dismissal. This is especially true where the case has been pending for more than six months and has been fully briefed.

For these reasons, the MSNBC parties respectfully request that the Court vacate Plaintiffs' Notice of Dismissal and schedule argument on the pending dispositive motions. At the very least, this action cannot be dismissed without a condition that the non-duplicative fees and costs of the MSNBC parties be paid. This condition is imposed "as a matter of course" in the District of Columbia. *Thoubboron v. Ford Motor Co.*, 809 A.2d 1204, 1211 n.7 (D.C. 2002).

ARGUMENT

I. A MOTION TO DISMISS, SUPPORTED BY MATTERS OUTSIDE THE PLEADING, EXTINGUISHES THE RIGHT OF VOLUNTARY DISMISSAL

Under this Court's rules, "a defendant's 12(b)(6) motion to dismiss, if supported by 'matters outside the pleading,' deprives a plaintiff of the right of voluntary dismissal." *Bernay*, 435 A.2d at 400-01. Likewise, the consensus of the courts applying the identical federal rule is that "[a] plaintiff's right to a voluntary dismissal may be extinguished by a Rule 12(b)(6) motion

to dismiss for failure to state a claim that has been converted to a motion for summary judgment." 8 Moore's Federal Practice § 41.33[5][c][viii][B] (3d ed. 2005). [1]

In *Bernay*, as in this case, the defendant filed a 12(b)(6) motion and was met with a notice of dismissal. The court ruled that:

> Superior Ct. Civ. R. 41(a)(1)(i) permits a plaintiff voluntarily to dismiss an action without prejudice "at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs . . . ." A court must treat a motion to dismiss for failure to state a claim for which relief can be granted as a motion for summary judgment when "matters outside the pleading are presented to and not excluded by the court." Accordingly, a defendant's 12(b)(6) motion to dismiss, if supported by "matters outside the pleading," deprives a plaintiff of the right of voluntary dismissal.

Id. at 401 (citations and footnotes omitted). The Court added that "affidavits generally constitute 'matters outside the pleading'" sufficient to extinguish a plaintiff's right to voluntary dismissal. The court permitted the voluntary dismissal in that case because the 12(b)(6) motion at issue was not supported by materials beyond the pleadings. *Id.* (citations omitted).

Bernay held that "[a] *defendant* has the power to cut off a plaintiff's unilateral right to voluntary dismissal by *filing* an answer or a motion for summary judgment (or the equivalent Rule 12(b)(6) motion) accompanied by 'matters outside the pleadings')." *Bernay*, 435 A.2d at 403 (emphasis added). This is in line with the views of several circuits, which have ruled that, "where a 12(b)(6) motion ripens into one for summary judgment, the right to voluntary dismissal is extinguished *at the time the motion is served.*" *Yosef v. Passamaquoddy Tribe*, 876 F.2d 283, 286 (2d Cir. 1989) (emphasis added); *see Kurkowski v. Volcker*, 819 F.2d 201, 203 (8th Cir. 1987) ("[A] defendant's motion to dismiss is transformed into a motion for summary judgment

[1] "Superior Court Rule 41 is 'substantially identical' to the corresponding federal rule and is 'to be construed in light of the meaning of that federal rule.'" *Schoonover v. Chavous*, 974 A.2d 876, 880 n.3 (D.C. 2009) (citations omitted).

when matters outside the pleadings are also submitted to the court."); *see also Chambers v. Gesell*, 120 F.R.D. 1, 2 (D.D.C. 1988) ("[B]ecause defendant's 12(b)(6) motion relies on matters outside of the pleadings, we conclude that plaintiff no longer has an unconditional right to withdraw his complaint without prejudice."). Other courts have found that conversion takes place and the right to voluntarily dismiss is extinguished when the court indicates that it is not excluding material presented beyond the pleadings and invites the parties to submit any additional materials necessary for determination of a summary judgment. *See Finley Lines Joint Protective Bd. Unit 200 v. Norfolk S. Corp.*, 109 F.3d 993, 995-97 (4th Cir. 1997); *Microsensor, Inc. v. SMK Corp.*, 228 F.R.D. 39, 40 (D.D.C. 2005) (court must "recognize, or rely upon, or [at] least indicate that it is not excluding material outside the pleading before a motion to dismiss 'converts' to a motion for summary judgment" for purposes of Rule 41 dismissal).

The standard was easily met here. The MSNBC parties' Special Motion to Dismiss Pursuant to D.C. Anti-SLAPP Act of 2010 and Motion to Dismiss Pursuant to Super. Ct. Civ. R. 12(B)(6) was supported by "matters outside the pleading" – the Affidavit of Laura R. Handman and forty exhibits consisting of recordings, videos, websites, and newspaper articles. Moreover, the Court several times gave the parties notice pursuant to Rule 12(b) that it was considering matters outside the pleadings and converting the 12(b)(6) motion to a motion for summary judgment, including a formal written order on February 8, 2012, that provided the parties "an opportunity to present all material made pertinent to Defendants' motion for summary judgment, including any additional memorandum of law that they wish the Court to consider by no later than midnight February 21, 2012." The MSNBC parties, in fact, did so on February 14, filing a Statement of Material Facts Pursuant to Sup. Ct. Civ. R. 12(K). The Court then reiterated via telephone conference that Plaintiffs would be well advised to submit an affidavit from Bradlee

Dean because the court was inclined to convert the motion to dismiss into one for summary judgment. It is clear both that the MSNBC parties submitted materials outside the pleadings – common when moving under both 12(b)(6) and a SLAPP statute – and that the Court signaled its intent to treat the 12(b)(6) motion as a motion for summary judgment and invited the parties to submit additional materials. A notice of dismissal at this stage is a legal nullity.

II. DISMISSAL WITHOUT PREJUDICE IS INAPPROPRIATE WHERE, AS HERE, DISMISSAL WILL CAUSE LEGAL PREJUDICE TO THE DEFENDANTS

Presented with a notice of dismissal that is invalid because it was filed after a motion to dismiss supported by materials outside the pleadings, the Court may simply vacate the voluntary dismissal and decide the pending dispositive motions. *Armstrong v. Frostie Co.*, 453 F.2d 914, 916 (4th Cir. 1971). Alternatively, it may convert the notice into a motion under Rule 41(a)(2). *Bangor Baptist Church v. Maine, Dep't of Educ. & Cultural Servs.*, 92 F.R.D. 123, 124 (D. Me. 1981).

Where a party "waited too long to dismiss [its] cross-claim as a matter of right, and did not have a stipulation of dismissal signed by all parties," its request is "governed by Rule 41(a)(2), which provides that 'an action shall not be dismissed at the plaintiff's instance save upon order of the Court and upon such terms and conditions as the Court deems proper.'" *Schoonover*, 974 A.2d at 880 (quoting Super. Ct. Civ. R. 41(a)(2)). "The purpose of the rule is "primarily to prevent voluntary dismissals which unfairly affect the other side, and to permit the imposition of curative conditions." *County of Santa Fe v. Public Serv. Co. of N.M.*, 311 F.3d 1031, 1047 (10th Cir. 2002) (citation omitted).

In light of the purpose of the rule, "[b]efore granting a motion for voluntary dismissal, the Court must satisfy itself of the following: (1) that the motion is sought in good faith, and (2) that the defendants will not suffer 'legal prejudice' if the case is dismissed." *In re Fannie Mae*

Derivative Litig., 725 F. Supp. 2d 159, 165 (D.D.C. 2010). In turn, "'[l]egal prejudice' is determined by considering four factors: (1) the defendants' effort and expense in preparation for trial; (2) excessive delay or lack of diligence on the plaintiffs' part in prosecuting the action; (3) the adequacy of the plaintiffs' explanation for voluntary dismissal; and (4) the stage of the litigation at the time the motion to dismiss is made." *Id.*[2] Courts "need not analyze each factor or limit their consideration to these factors." *Doe v. Urohealth Sys., Inc.*, 216 F.3d 157, 160 (1st Cir. 2000). But these factors provide at least three reasons that Plaintiffs should not be permitted to dismiss their case without prejudice.

First, the MSNBC parties will suffer legal prejudice because, even if made in good faith, the "adequacy of the plaintiffs' explanation for voluntary dismissal" is lacking. "In addressing whether a district court should allow voluntary dismissal," courts "have repeatedly stated that it is inappropriate for a plaintiff to use voluntary dismissal as an avenue for seeking a more favorable forum." *Thatcher v. Hanover Ins. Group, Inc.*, 659 F.3d 1212, 1214 (8th Cir. 2011); *see also Central Mont. Rail v. BNSF Ry. Co.*, 422 F. App'x 636, 638 (9th Cir. 2011) (district court's conclusion that Rule 41(a)(2) motion was motivated by forum shopping was proper ground for denying the motion) (citing *Kern Oil & Refining Co. v. Tenneco Oil Co.*, 792 F.2d 1380, 1389-90 (9th Cir. 1986)). As one court recently noted, a Rule 41(a) "dismissal should not be granted if it is sought to . . . to seek more a favorable forum," because "Rule 41(a) is a plaintiff's vehicle to back-out of an action in good faith; it is not properly a mechanism for procedural gamesmanship or to gain strategic advantage in the course of litigation." *Levine v.*

[2] The Court also "may impose a condition on a voluntary dismissal requiring that the dismissal be with prejudice. The factors considered in determining whether the dismissal should be with prejudice are essentially the same as those considered in whether the dismissal should be permitted at all." 8 Moore's Federal Practice § 41.40[10][d][vii] (3d ed. 2005). In the event that a plaintiff finds the conditions too onerous, the plaintiff is permitted to simply withdraw the dismissal within a reasonable time. *Thoubboron*, 809 A.2d at 1212.

Voorhees Bd. of Educ., No. 07-1614, 2009 WL 2424687, at *3 (D.N.J. Aug. 6, 2009). In this case, Plaintiffs' Notice of Dismissal makes clear that they re-filed in federal court in order to take advantage of a "recent decision in *3M v. Boulter*" refusing to apply the Anti-SLAPP Act. The MSNBC parties submit that review of the transcripts of the February 17 and February 22 telephonic conferences will confirm Plaintiffs' stated intention to move to federal court in an attempt to avoid the Anti-SLAPP Act, even in the face of the suggestion that this might be considered forum shopping.[3]

Second, "[t]he court should deny a motion for a voluntary dismissal that will prejudice the defendant by subjecting it to the law of a different forum when it had already invested time, effort, and money in preparation for the law of the original forum." 8 Moore's Federal Practice § 41.40[7][b][vii] (3d ed. 2005). This is especially true here because, if Plaintiffs' supposition regarding the federal court is correct, the MSNBC parties will be deprived of the substantive (and extensively briefed) legal immunity provided by the Anti-SLAPP Act, including the potential award of attorney's fees. A California federal court similarly considered the question of whether a 41(a)(2) motion to voluntarily dismiss without prejudice should be denied because the plaintiffs' plan to re-file in Arizona would deprive the defendants of the protections of California's Anti-SLAPP statute. *Davis v. Bonanno*, No. CV 08-03449, 2008 WL 4330296 (C.D. Cal. Sept. 19, 2008). The court permitted dismissal in part because "Arizona ... provides similar protections against SLAPP ... lawsuits, thereby obviating the prejudice to any legal argument or claim Defendants may choose to make." *Id.* at *4. Of course, Plaintiffs' notice of

[3] Plaintiffs' counsel filed an identical notice of voluntary dismissal on the same day in another libel case pending in D.C. Superior Court before Judge Edelman. *See* Notice of Voluntary Dismissal Without Prejudice, *Forras v. Rauf*, No. 2011 CA 008122 B (D.C. Super. Ct. Feb. 22, 2012). That case, too, has been re-filed in the District Court. *See Forras v. Rauf*, No. 1:12-cv-00282-RWR (D.D.C. filed Feb. 21, 2012). Plaintiffs' counsel is himself a plaintiff in that case.

dismissal was filed solely in the hope that the District Court will *not* provide "similar protections against SLAPP ... lawsuits" in light of the *3M* decision.

Third, "the defendants' effort and expense in preparation for trial" and "the stage of the litigation" both counsel against permitting dismissal without prejudice at this late date. For example, "the fact that the defendants had already filed a dispositive motion in this case" weighs against voluntary dismissal. *In re Fannie Mae Derivative Litig.*, 725 F. Supp. 2d at 166; *see also Doe*, 216 F.3d at 160 (whether "a motion for summary judgment has been filed" is relevant to whether to order dismissal without prejudice) (quoting *Pace v. Southern Express Co.*, 409 F.2d 331, 334 (7th Cir. 1969)). In this case, the parties, the District of Columbia, and the Court have expended significant resources in briefing motions to dismiss and participating in telephonic conferences discussing the motions. The notice was filed *three days* before oral argument on the dispositive motions. For these reasons, the Court should not permit dismissal without prejudice.

III. EVEN WHEN DISMISSAL WITHOUT PREJUDICE IS ORDERED, FEES AND COSTS ARE AWARDED "AS A MATTER OF COURSE"

Even if the Court were to consider dismissal without prejudice appropriate in this case, another question would remain. Rule 41(a)(2) provides that "an action shall not be dismissed at the plaintiff's instance save upon . . . such terms and conditions as the Court deems proper." Super. Ct. Civ. R. 41(a)(2). Thus, "the court often may impose terms and conditions that compensate a defendant for the wasted expenditure of funds." *Schoonover*, 974 A.2d 876. The purpose of the conditions is "to protect a defendant from any prejudice or inconvenience that may result from a plaintiff's voluntary dismissal." *Thoubboron*, 809 A.2d at 1211 (quoting *Taragan v. Eli Lilly & Co.*, 267 U.S. App. D.C. 387, 390, 838 F.2d 1337, 1340 (D.C. Cir. 1988)).

The most common condition is payment of costs and attorney's fees. "Generally, courts condition the voluntary dismissal on the requirement that the plaintiff pay defendant's attorney's

fees and costs in order 'to compensate the defendant for the unnecessary expense that the litigation has caused' because 'the defendant may have to defend again at a later time and incur duplicative legal expenses.' Thus, conditioning a voluntary dismissal on the payment of defendant's legal fees and costs is envisioned as a means to protect the defendant's interests." *Id.* at 1211 (citations omitted). Of course, "[a]ttorney's fees and costs are limited to the amount expended for work that cannot be applied to the subsequent lawsuit concerning the same claims, and this amount 'must be supported by evidence in the record.'" *Id.* (citation omitted).

An award of fees and costs is the *rule*, not the exception. "Such conditions should be imposed as a matter of course in most cases." *Id.* at 1211 n.7 (quoting *Davis v. USX Corp.*, 819 F.2d 1270, 1276 (4th Cir. 1987)); *see also In re Calomiris*, 3 A.3d 308, 314 (D.C. 2010) (same). Indeed, some courts have held that "a court's failure to condition a voluntary dismissal upon the plaintiff's payment of attorney's fees and costs may constitute an abuse of discretion." *Id.* (citing *Belle-Midwest, Inc. v. Missouri Prop. & Cas. Ins. Guar. Ass'n*, 56 F.3d 977, 978 (8th Cir. 1995)).

In addition, "'[t]he requirement that such fees and costs be paid has been referred to as a 'precondition to appellants' refiling their complaint.'" *Id.* at 1211 (quoting *Herring v. Whitehall*, 804 F.2d 464, 466 (8th Cir. 1986)); see also *id.* ("The language of Rule 41(a)(2) indicates that the dismissal of the action is contingent *both* 'upon order of the court' *and* 'upon such terms and conditions as the court deems proper'") (quoting *Lau v. Glendora Unified Sch. Dist.*, 792 F.2d 929, 930 (9th Cir. 1986)). Thus, the Court may "dismiss the plaintiff's action without prejudice but with conditions that the plaintiff must satisfy, and . . . specify that the dismissal will become prejudicial if the plaintiff fails to satisfy the conditions." *Choice Hotels Int'l, Inc. v. Goodwin & Boone*, 11 F.3d 469, 471 (4th Cir. 1993).

If any dismissal without prejudice is contemplated, the MSNBC parties respectfully request the opportunity to submit an accounting of non-duplicative fees and costs. The MSNBC parties respectfully request an order requiring Plaintiffs to pay these within 30 days of dismissal, and making clear that failure to do so would convert the dismissal into a dismissal *with* prejudice.

CONCLUSION

Plaintiffs are not free to unilaterally dismiss without prejudice at this late date, and they have provided no legitimate reason for their request to dismiss – and the only reason provided, forum shopping, is *per se* illegitimate. For this reason, their Notice of Dismissal should be vacated and the NBC Parties' fully-briefed dispositive motions should be re-set for argument. If dismissal without prejudice is nevertheless permitted, it should be conditioned on payment of fees and costs.

Dated: February 27, 2011

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

Laura Handman /s/

Laura R. Handman (D.C. Bar No. 444386)
John Rory Eastburg (D.C. Bar No. 984434)
1919 Pennsylvania Ave., N.W., Suite 800
Washington, D.C. 20006-3401
(202) 973-4200
laurahandman@dwt.com; roryeastburg@dwt.com

Susan Weiner (pro hac vice)
Chelley E. Talbert (pro hac vice)
NBCUniversal Media, LLC
30 Rockefeller Plaza
New York, New York 10112-0002
(212) 664-2806
susan.weiner@nbcuni.com;
chelley.talbert@nbcuni.com

Attorneys for Defendants NBC Universal, MSNBC and Rachel Maddow