

**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.)	
_____)	

MOTION TO VACATE NOTICE OF DISMISSAL

Defendants NBC Universal, MSNBC and Rachel Maddow (collectively “the MSNBC parties”), by and through their respective undersigned counsel, hereby move to vacate the Notice of Dismissal filed by Plaintiffs on February 21, 2012, on the grounds that the MSNBC parties’ Special Motion to Dismiss and Motion to Dismiss, which were supported by matters outside the pleadings, deprived Plaintiffs of the right of voluntary dismissal.

Even if Plaintiffs had properly moved for dismissal, such a belated and baseless request would severely prejudice the MSNBC parties. Forum shopping – Plaintiffs’ admitted motivation for the dismissal – is an improper basis for dismissal and the motions should proceed to an adjudication on the merits.

The MSNBC parties urge vacatur of the dismissal. If the Court nevertheless permits dismissal, at a minimum, it should be conditioned on payment of costs and non-duplicative fees. Failure to comply with these conditions should result in dismissal with prejudice.

In support of this motion, the MSNBC parties rely upon their Memorandum of Points and Authorities. The MSNBC parties respectfully request oral argument.

Superior Court Rule 12-I(a) Certification

Pursuant to Superior Court Rule 12-I(a), undersigned counsel certifies that counsel for the MSNBC parties consulted with counsel for the Plaintiffs and for the District of Columbia on February 27, 2012, regarding whether they would consent to the relief sought herein. Plaintiffs do not consent, and the District of Columbia takes no position.

Dated: February 27, 2012

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*