SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

THE INSTITUTE FOR GULF AFFAIRS P.O. Box 262 McLean, VA 22101 and ALI AL-AHMED P.O. Box 262 McLean, VA 22101 Plaintiffs, v. THE SAUDI AMERICAN PUBLIC RELATION AFFAIRS COMMITTEE 1101 30th Street NW, Suite 315 Washington, DC 20007 and SALMAN AL-ANSARI 1101 30th Street NW, Suite 315 Washington, DC 20007 Defendants.	Case No. 2018 CA 004709 B Judge Robert R. Rigsby Next Scheduled Event: Initial Scheduling Conference, Nov. 9, 2018

DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES IN REPLY TO PLAINTIFFS' OPPOSITION TO DEFENDANTS' SPECIAL MOTION TO DISMISS PURSUANT TO THE D.C. ANTI-SLAPP ACT AND MOTION TO DISMISS PURSUANT TO D.C. SUPER. CT. CIV. R. 12(B)(6)

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

CONSTITUTIONS

STATUTES

RULES

OTHER AUTHORITIES

INTRODUCTION AND SUMMARY OF ARGUMENT[1]

The frivolousness of Plaintiffs the Institute for Gulf Affairs ("IGA") and Ali Al-Ahmed's ("Al-Ahmed") claims are readily apparent in Plaintiffs' Opposition. Despite Defendants easily making their prima facie showing, Plaintiffs all but abandon their burden under the District of Columbia Anti-SLAPP Act of 2010, D.C. Code § 16-5502(a) (the "Anti-SLAPP Act" or "D.C. Anti-SLAPP Act") to demonstrate with evidence that their claims are likely to succeed on the merits, including Plaintiffs' egregious omission of evidence that Salman Al-Ansari ("Al-Ansari") actually published the alleged statements that form the basis for the claims in this strategic lawsuit against public participation ("SLAPP"). Given that Al-Ansari did not make any of the alleged statements and Defendants stated such, Defs.' Mot. 1, 8, 15, 30, 32, Plaintiffs' omission of such evidence should set off massive warning bells to the Court as to Plaintiffs' true intentions in bringing this SLAPP.[2] But, the signs of a meritless suit do not end there. Plaintiffs' Opposition relies heavily on a combination of selective self-serving uses of the concept of context, hypocritical arguments, and unpersuasive California law. Moreover, Plaintiffs employ a thinly veiled attempt to shield their claim from the demanding standards of the special motion to dismiss pursuant to the D.C. Anti-SLAPP Act by frontloading and focusing Plaintiffs' Opposition on arguments and law pertaining to the motion to dismiss pursuant to D.C. Super. Ct. Civ. R. 12(b)(6).

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[1] Defendants' Special Motion to Dismiss pursuant to the District of Columbia Anti-SLAPP Act of 2010, D.C. Code § 16-5502(a) and Motion to Dismiss pursuant to D.C. Superior Court Civil Rule 12(b)(6) ("Defendants' Motion" or "Defs.' Mot.") articulates the applicable law and Defendants' position. To the extent that Defendants do not reply in this brief to a specific argument or alleged fact Plaintiffs raise in Plaintiffs' Memorandum of Points and Authorities in Opposition to Defendants' Motion ("Plaintiffs' Opposition" or "Pls.' Opp'n"), Defendants reserve all defenses and arguments to, and do not concede, the argument or alleged fact; instead, that simply means Defendants' Motion already fully articulates the applicable law and Defendants' position and/or Plaintiffs' argument or alleged fact lacks sufficient merit to warrant a reply at all.

[2] Plaintiffs have repeatedly claimed that IGA is "non-partisan" and "independent," Pls.' Compl. ¶ 8 and Pls.' Opp'n 1, yet, Plaintiffs' Counsel posted a video announcing this lawsuit in which Plaintiffs' Counsel admits that the "nation of Qatar … stems from the Institute for Gulf Affairs." David Schwartz (@SchwartzDefense), Twitter (Aug. 25, 2018, 1:27 PM), https://twitter.com/SchwartzDefense/status/1033450924855971840.

Plaintiffs did not file this frivolous SLAPP to win, but rather Plaintiffs are actively trying to deter and intimidate Al-Ansari and the Saudi American Public Relation Affairs Committee's ("SAPRAC") advocacy to promote dialogue on the need for mutual understanding between people of all faiths in the United States and Middle East, which is precisely the type of conduct that the Anti-SLAPP Act was enacted to protect against. *See Competitive Enter. Inst. v. Mann*, 150 A.3d 1213, 1226 (D.C. 2016) ("CEI") (citing Council of the District of Columbia, Report of Committee on Public Safety and the Judiciary on Bill 18–893, at 1, 4 (Nov. 18, 2010) ("Report on Bill 18–893")). This frivolous litigation itself is Plaintiffs' "weapon of choice." Report on Bill 18–893 at 4. Plaintiffs' baseless allegations have attacked Al-Ansari's and SAPRAC's reputations, have wasted Defendants' time and resources, and should be promptly dismissed with prejudice.

ARGUMENT

I. Al-Ansari And SAPRAC Are Entitled To Protections And Substantive Rights Under The D.C. Anti-SLAPP Act.

Al-Ansari and SAPRAC easily satisfy their burden to "[make] a prima facie showing that the claim at issue arises from an act in furtherance of the right of advocacy on issues of public interest." D.C. Code § 16-5502(b); *See* Defs.' Mot. 7-15. First, the alleged statements attributed to Al-Ansari and SAPRAC in the Complaint are an act in furtherance of the right of advocacy on issues of public interest. *See* Defs.' Mot. 9-14; *see also* Defs.' Mot. Ex. 3. And second, Al-Ansari and SAPRAC's involvement in helping arrange for Dr. Muhammad bin Abdul Karim Issa, the Secretary General of the World Muslim League, to give a keynote address on April 27, 2018 in New York at the Conference of Presidents of Major American Jewish Organizations ("the April event") promoting dialogue on the need for mutual understanding between people of all faiths in the United States and Middle East is an act in furtherance of the right of advocacy on issues of public interest. *See* Defs.' Mot. 14-15; *see also* Defs.' Mot. Ex. 3.

Plaintiffs concede that Al-Ansari's alleged statements were published in a place open to the public, and accordingly, narrow their unconvincing digressive attack on Defendants' two prima facie showings to defining an "issue of public interest." *See* Pls.' Opp'n 24. Plaintiffs attempt to use California law to provide guiding principles for how this Court should interpret whether an issue is one of public interest, which is strange (and ineffective) for a few reasons. *See* Pls.' Opp'n 25. First, Plaintiffs rely on two cases that do not support applying California law in this instance. *See* id. In *Abbas*, the court stated that it was looking to decisions from other jurisdictions in construing D.C.'s Anti-SLAPP Act because the D.C. Court of Appeals had yet to publish an opinion interpreting the Anti-SLAPP Act on which the Court could rely for guidance. *Abbas v. Foreign Policy Grp., LLC*, 975 F. Supp. 2d 1, 9 (D.D.C. 2013). However, after *Abbas*, the D.C. Court of Appeals published their seminal opinion on the Anti-SLAPP Act in *CEI* in 2016. Any need to rely on California law for guidance on the Anti-SLAPP Act has been obviated by *CEI*. In *Farah*, the court mentioned other Anti-SLAPP laws in passing but ultimately based its decision on the D.C. Anti-SLAPP Act. *See Farah v. Esquire Magazine, Inc.*, 863 F. Supp. 2d 29, 37 (D.D.C. 2012).

Second, the California Anti-SLAPP Act (Cal. Civ. Proc. Code § 425.16 (West 2015) differs from the D.C. Anti-SLAPP Act in key aspects. Most notably here, California's Anti-SLAPP Act does not define an "issue of public interest" whereas the D.C. Anti-SLAPP Act does. *Compare* Cal. Civ. Proc. Code § 425.16 (West 2015) with D.C. Code § 16-5501(3). Yet, despite the D.C. Anti-SLAPP Act providing a clear definition of an "issue of public interest," Plaintiffs inexplicably ask the Court to also interpret the issue of public interest in this case applying California's guiding principles, Pls.' Opp'n 24-25, which developed as they have because California's statute does not provide such a definition. *See Weinberg v. Feisel*, 110 Cal. App. 4th 1122, 1132 (2003).

Lastly, despite Plaintiffs' obvious attempt at forum shopping in asking the court to apply California's guiding principles, Plaintiffs' request is especially strange because the irrelevant California guiding principles are also utterly unpersuasive here. Promoting dialogue on the need for mutual understanding between people of all faiths in the United States and Middle East is a mainstream issue of public interest that concerns hundreds of millions of people. Al-Ahmed inserted himself into that issue of public interest when Al-Ahmed wrote and published the "Is SAPRAC a Wolf in Sheep's Clothing?" article bashing Al-Ansari and SAPRAC's advocacy for the issue of public interest at the April event. *See* Defs.' Mot. 12-14, Ex. 3. Al-Ansari's alleged statements defend Al-Ansari and SAPRAC's advocacy by calling into question Al-Ahmed's motives and credibility in writing and publishing his scathing article about the April event, and therefore are closely related to and focused on the issue of public interest. Thus, even California's guiding principles support Defendants' position that this claim involves an issue of public interest.

Plaintiffs employ a self-serving and illogical concept of context in arguing that the Court legally cannot consider any arguments pertaining to the April event. Pls.' Opp'n 27-28. Plaintiffs' entire premise for why Al-Ansari allegedly made the statements at issue is to supposedly "enact his revenge against Plaintiffs" for writing the "Is SAPRAC a Wolf in Sheep's Clothing?" article. Compl. ¶¶ 12-13. Moreover, Plaintiffs refer to Al-Ahmed's article as "material evidence" of Al-Ansari's supposed motive for the alleged statements. Pls.' Opp'n 31. Because Al-Ahmed's article is referred to in, and central to, Plaintiffs' Complaint, it is absolutely necessary and appropriate for the Court to consider the content of Al-Ahmed's article, which includes information about the April event. *See* Defs.' Mot. 2 n.1, Ex. 3.

The proper context to consider both ways in which Al-Ansari and SAPRAC easily satisfy their prima facie burden is clear. Al-Ansari and SAPRAC helped organize the April event

promoting dialogue on the need for mutual understanding between people of all faiths in the United States and Middle East. Defs.' *See* Defs.' Mot. Ex. 3. On May 20, 2018, Al-Ahmed published the "Is SAPRAC A Wolf In Sheep's Clothing?" article on IGA's website deriding Defendants' advocacy work in organizing the April event. *Id.* On or about May 28, 2018, Al-Ansari allegedly made statements in defense of Defendants' advocacy work on the April event in response to Al-Ahmed's article by calling into question Al-Ahmed's motives and credibility for publishing the article. *See* Compl. ¶¶ 13-15, Ex. A. Plaintiffs hypocritically want to portray Al-Ansari's alleged statements as mere personal attacks motivated by a self-interested revenge for Al-Ahmed publishing the May 20, 2018 article but do not want the Court to consider the content of Al-Ahmed's article that supposedly is the motive for the alleged defamatory statements and is evidence of Defendants' advocacy on an issue of public interest. *See* Pls.' Opp'n 26-28. It is illogical not to allow the Court to consider the April event as it would actually require the Court to analyze Plaintiffs' claims out of context.

Plaintiffs also conflate whether the alleged statements are of concern to a considerable number of people with whether a considerable number of people have actually read the alleged statements. *See* Pls.' Opp'n 27. Certainly, advocacy to promote dialogue on the need for mutual understanding between people of all faiths in the United States and Middle East, or in other words, advocacy to increase religious tolerance in the United States and Middle East, is an issue of public interest to hundreds of millions of people. Given that Al-Ansari's alleged statements defending such advocacy pertained to an issue of public interest and that Plaintiffs concede that Al-Ansari's alleged statements were published in a place open to the public, *see* Pls.' Opp'n 24, and Plaintiffs' citation to *Tropio v. Dixieline Builders Fund Control, Inc.,* No. D056127, 2011 WL 2930204, at *6 (Cal. Ct. App. 2011), is irrelevant, unpersuasive, and easily distinguished. *See* Pls.' Opp'n 26.

Plaintiffs hypocritically argue that because Spencer Tripens' ("Tripens") article had at most approximately 65 total views at the time Plaintiffs filed their Complaint, Al-Ansari's alleged statements are not of concern to a considerable number of people. *See* Pls.' Opp'n 27. However, Plaintiffs also argue that Al-Ansari's alleged statements ruined Plaintiffs' global standing and caused Al-Ahmed to be despised by people "worldwide," which strongly suggests the alleged statements were of concern to a considerable number of people. Pls.' Opp'n 11, 33; Compl. ¶ 19.

Al-Ansari's alleged statements also address an "issue of public interest" because Al-Ahmed is "a public figure." D.C. Code § 16-5501(3); *see* Defs.' Mot. 12-14. Plaintiffs omit that Al-Ansari's alleged statements were in defense of the April event claiming in part that because Al-Ansari's alleged statements were not published "until over a month after" the April event, any link between the alleged statements and the April event is "far too attenuated by superseding events." Pls.' Opp'n 15. However, Al-Ansari's alleged statements were supposedly in response to Al-Ahmed's scathing article published just eight days before the alleged statements were supposedly made. *See* Compl. ¶¶ 12-13. Furthermore, Al-Ahmed stated that Dr. Alissa "delivered a historic keynote address about peace, tolerance and moderate Islam." Defs.' Mot. Ex. 3. The dispute's resolution will allow Defendants to continue such advocacy on an issue of public interest that affects hundreds of millions of people.

Plaintiffs' final argument against Al-Ansari's alleged statements addressing an issue of public interest asks the Court to consider irrelevant California law that is actually nonciteable. *See* Pls.' Opp'n 29. *Hui v. Huang* is an unpublished nonciteable opinion, which pursuant to Cal. Rules of Court, Rule 8.1115(a) "must not be cited or relied on by a court or a party in any other action." No. B279426, 2018 WL 3018652 (Cal. Ct. App. June 18, 2018). So, Plaintiffs would like the Court to rely on California law on which not even California courts can rely. Moreover, *Hui* is easily

distinguished as the court based its denial of relief under California's Anti-SLAPP Act on "Huang's denial that she made the statements, *coupled with* her failure to demonstrate the alleged statements were protected as [concerning] a matter of public interest." *Hui*, 2018 WL 3018652 at *1 (emphasis added). Here, Defendants have thoroughly demonstrated how the alleged statements involved an issue of public interest. *See* Defs.' Mot. 7-15. In addition, Plaintiffs ignore that the basic requirement under the D.C. Anti-SLAPP Act is merely for Plaintiffs to "make[] a prima facie showing that the *claim at issue* arises from an act in furtherance of the right of advocacy on issues of public interest." D.C. Code § 16-5502(b). (emphasis added). Plaintiffs' allegations in their Complaint, taken in the proper context, are the claims at issue. It would be against public policy and contradictory for a political opponent to be able to completely fabricate supposedly defamatory statements and avoid the protections provided defendants by the Anti-SLAPP Act. Thus, Plaintiffs' attempt to slither out from under the demands of the Anti-SLAPP Act on the premise that their actions may be even more egregiously frivolous than typical Anti-SLAPP actions should fail.

II. Plaintiffs' Complaint Should Be Dismissed With Prejudice Because Plaintiffs Cannot Demonstrate That They Are Likely To Succeed On The Merits.

Because Al-Ansari and SAPRAC can make their prima facie showing, *see* Defs.' Mot. 8-15, Plaintiffs have the heavy burden to produce or proffer evidence that their claims for defamation per se, false light invasion of privacy, and intentional infliction of emotional distress ("IIED") are likely to succeed on the merits. *See* D.C. Code § 16-5502(b); *see also CEI*, 150 A.3d at 1232-33. Since Al-Ahmed is a limited-purpose public figure, *see* Defs.' Mot. 12-14, Plaintiffs must demonstrate by clear and convincing evidence that Defendants acted with actual malice in supposedly publishing the alleged statements. *See* Defs.' Mot. 30-32. However, Plaintiffs have essentially abandoned their burden by choosing not to produce or proffer sufficient evidence to show Plaintiffs are likely to succeed on the merits. As a result, a jury properly instructed on the

law, including the applicable heightened fault and proof requirements of actual malice and clear and convincing evidence, could not reasonably find for Plaintiffs based on the evidence presented, *see CEI*, 150 A.3d at 1236; thus, Plaintiffs' claims should be promptly dismissed with prejudice.

A. Plaintiffs are unlikely to succeed on the merits of their claim for defamation per se.

Al-Ansari's alleged statements are pure opinion and do not state, imply, or rely upon provably false facts. *See* Defs.' Mot. 18-24. In addition, Al-Ansari's alleged statements constitute rhetorical hyperbole and cannot reasonably be interpreted to be stating actual facts about Plaintiffs. *See* Defs.' Mot. 24-28. Plaintiffs argue that Al-Ansari's alleged statements "carried an implicit factual foundation that made them provably and actually false," and thus not pure opinion or rhetorical hyperbole. Pls.' Opp'n 7. Plaintiffs identify the alleged implicit factual foundation as a single statement: the alleged "claim that Al-Ahmed would 'use any means to exterminate the prospects of a peaceful world.'" Compl. ¶ 14; Pls.' Opp'n 7. However, that single alleged statement does not contain a factual statement, implicit or otherwise. It is too subjective and capable of multiple interpretations to be susceptible to proof of particular, articulable content. *See* Defs'. Mot. 19-22. For example, just as the word "dangerous" is not a statement of fact capable of being proved or rebutted, the same is true for its antonym of "peaceful." *See id.* Interestingly, Plaintiffs' Opposition substitutes "will" for "would" and subtly changes the tense of the alleged foundational statement from the future tense to the conditional tense. Pls.' Opp'n 7. The correct alleged statement is that Al-Ahmed "*will* use any means to exterminate the prospects of a peaceful world." Compl. Ex. A (emphasis added). Since such a statement was not provably false at the time the statement was allegedly made, the alleged statement is one of pure opinion, is constitutionally protected, and is not actionable. *See* Defs.' Mot. 23-24. Because the other alleged statements depend on this single statement for their factual foundation, they too are not actionable.

Plaintiffs' arguments regarding the term "terrorist" and its derivatives fail for multiple reasons. First, unlike Defendants whose position is supported by judicial interpretations of D.C. law, *see* Defs.' Mot. 19-22, Plaintiffs offered no controlling or persuasive law finding that "terrorist" or its derivative terms can be actionable for defamation. Pls.' Opp'n 7-13. Second, having a definition listed in the federal code does not mean a term is incapable of multiple interpretations. There is nothing to suggest from the alleged statements that a third party would have reasonably thought the alleged statements were referencing "terrorism" and "terrorist organization" as defined in the statute used by the Secretary of State for the designation of foreign terrorist organizations under the Antiterrorism and Effective Death Penalty Act of 1996 and the annual country reports on terrorism. *See* 8 U.S.C. § 1189; *see also* 22 U.S.C. § 2656f; Pls.' Opp'n 8-9. In fact, the alleged reference to Plaintiffs' "own brand of terrorism" suggests an additional unique interpretation. Compl. Ex. A. Finally, the court in *Carpenter* made its determination in 2011, well after the above-mentioned federal statutes were enacted, that calling the plaintiff a "dangerous terrorist" is not the type of statement that would be actionable because "it would not be a statement of fact capable of being proved or rebutted." *Carpenter v. King*, 792 F. Supp. 2d 29, 36-37 (D.D.C. 2011) (citing *Guilford Transp. Indus., Inc.*, 760 A.2d at 597) (citations omitted); *See* Defs.' Mot. 19-20.

Plaintiffs use their own self-serving concept of context to argue that in determining whether the alleged "terrorist"-related statements are capable of being false, the Court should consider Al-Ahmed's and Al-Ansari's Saudi Arabian heritage. Pls.' Opp'n 9. Plaintiffs are intentionally trying to get the Court to conflate stereotypes with factual background information. Stereotypes associated with a person's heritage do not inherently make something more reasonably interpretable as true. Meanwhile, Plaintiffs ignore the obvious background information that does

exist about Al-Ahmed. Al-Ahmed is a media personality who runs a think tank in McLean, VA. *See* Compl. ¶¶ 8-9. He is not some shadowy figure functioning in the deep Web or some mercenary fighting in the Middle East. He wrote a critical review and personal attack against Defendants and Defendants' advocacy pertaining to a conference on religious tolerance. Defs.' Mot. Ex. 3. Given the context, Al-Ansari's alleged statements are clearly rhetorical hyperbole. *See* Defs.' Mot. 27.

Perhaps most importantly, Plaintiffs cannot demonstrate that Al-Ansari published the alleged statements. Defs.' Mot. 29-30. Plaintiffs rely entirely on Tripens' article as their evidentiary proof of the alleged publication. Pls.' Opp'n 30-31. Unlike in *CEI*, where the defendants published articles under their own bylines on defendants' own websites, the alleged statements here are not published under Al-Ansari's byline nor were the statements published on SAPRAC's website. *CEI*, 150 A.3d at 1223-24, 27; Compl. Ex. A. The alleged statements are entirely unsubstantiated hearsay. Plaintiffs proffered no additional information about Tripens, the alleged interview, or Tripens' blog. *See* Pls.' Opp'n 30-31. Plaintiffs provided no additional evidence such as an affidavit from Tripens or notes or a recording from the alleged interview. *See id.* Given that Al-Ansari specifically denied in Defendants' Motion ever making the alleged statements or ever speaking to someone by the name of Spencer Tripens, Defs.' Mot. 1, 8, 15, 30, 32, it should be a massive red flag to the Court as to the merit of Plaintiffs' claim that Plaintiffs provided no additional proffer or evidence suggesting that the alleged statements were actually made. Tripens' article is woefully insufficient for a properly instructed jury to find by clear and convincing evidence that Defendants made the alleged defamatory statements with actual malice.

B. Plaintiffs are unlikely to succeed on the merits of their claims for false light invasion of privacy and for intentional infliction of emotional distress.

Because Plaintiffs' claim for defamation fails and Plaintiffs' claims for defamation, false light, and IIED are based on the same allegations, the claims for false light and IIED also

necessarily fail. *See* Defs.' Mot. 33-35. Plaintiffs ignore this reality in addressing false light in Plaintiffs' Opposition. *See* Pls.' Opp'n 18-19, 32. Regarding IIED, Plaintiffs baldly assert Defendants have misstated the law without citing legal support or analysis of their own. *See* Pls.' Opp'n 20. The law is clear and cited in Defendants' Motion. *See* Defs.' Mot. 34-35. Additionally, Plaintiffs facetiously claim that Defendants did not seek dismissal of the IIED claim on the ground that Defendants' alleged conduct was not intentional. *See* Pls.' Opp'n 22. If Al-Ansari did not make the alleged statements, Al-Ansari cannot possibly have acted intentionally.

III. Plaintiffs' Complaint Should Be Dismissed With Prejudice Pursuant To D.C. Super. Ct. Civ. R. 12(B)(6).

Plaintiffs' frontloading and focusing Plaintiffs' Opposition on arguments and law pertaining to the motion to dismiss pursuant to D.C. Super. Ct. Civ. R. 12(b)(6) does not magically make the R. 12(b)(6) standards applicable to the above special motion to dismiss analysis. *See* Pls.' Opp'n 4-23. Even assuming all of Plaintiffs' allegations as factually true, Plaintiffs' claims still fail as a matter of law and fail to plead specific facts demonstrating that Defendants acted with actual malice, so Plaintiffs' claims should be dismissed with prejudice. *See* Defs.' Mot. 37-40.

IV. The Court Should Deny Plaintiffs' Last Ditch Effort To Save Its Frivolous Litigation.

Defense Counsel respectfully refers the Court to Defendants' Opposed Motion for Leave to File Motion Exceeding Fifteen Pages filed on September 24, 2018 ("Defendants' Motion for Leave"), which addresses this issue. Defendants also provide the following supplemental information. On or about July 11, 2018, Dickinson Wright obtained a copy of Plaintiffs' Complaint from the D.C. Superior Court website's webpage for this case. That copy did not contain the Court's Initial Order and Addendum assigning Judge Rigsby to this case. Nothing in the online Court docket indicated that Plaintiffs' Complaint was subsequently modified to include additional information. Moreover, the online case website listed no judge under either the "Event Judge" or

"Case Judge" categories. When Defense Counsel filed Defendants' Motion, Judge Rigsby was not listed as a recipient of electronic service as His Honor was when Defense Counsel filed Defendants' Motion for Leave. Defense Counsel's diligence, though not perfect, was reasonable as was Defense Counsel's belief that a judge had not yet been assigned to this case when Defense Counsel filed Defendants' Motion.

Defense Counsel apologizes for the oversight and respectfully requests that Your Honor grant leave for Defendants' Motion to exceed fifteen pages in length. A Special Motion to Dismiss pursuant to the Anti-SLAPP Act is inherently extraordinary; its name even distinguishes the motion as "Special." Plaintiffs' request that the Court dismiss Defendants' Motion for exceeding the Court's page limit would be unjustly punitive and only cause unnecessary delay and expense to resolving this case. Moreover, Plaintiffs have already filed Plaintiffs' Opposition exceeding fifteen pages, so they have had full opportunity to respond. Given the important purpose of the Special Motion to Dismiss, the complexity of a Special Motion to Dismiss, and the fact intensive nature of this case, there are extraordinary circumstances to support Your Honor granting leave for Defendants' Motion and Plaintiffs' Opposition to exceed fifteen pages in length.

CONCLUSION

For all of the foregoing reasons, we respectfully request that the Court promptly dismiss Plaintiffs' complaint with prejudice.

This 9th day of October, 2018.

Respectfully submitted,

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