UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

JOAN JARA, in her individual capacity, and in her capacity as the personal representative of the ESTATE OF VICTOR JARA,

AMANDA JARA TURNER, in her individual capacity,

and MANUELA BUNSTER, in her individual capacity,

Plaintiffs.

v.

PEDRO PABLO BARRIENTOS NUNEZ.

Defendant.

Case No.: 6:13-cv-01426-RBD-GJK

DEFENDANT'S MOTION TO DISMISS

COMES NOW the Defendant, by and through undersigned counsel, pursuant to Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6), and moves this Honorable Court to dismiss Plaintiffs' Second Amended Complaint. In support, Defendant states:

FACTS AND PROCEDURAL HISTORY

This dispute arises from the 1973 killing of Chilean musician and political activist Victor Jara, which occurred in the context of a military coup which deposed Salvador Allende and installed a *junta* led by General Augusto Pinochet in power.

The crux of Plaintiffs' complaint against Mr. Barrientos is that Mr. Barrientos, as a lieutenant with the Tejas Verde Regiment of the Chilean Army, personally participated in the alleged torture and extrajudicial killing of Victor Jara, which occurred at Chile Stadium in September of 1973. *See, e.g.*, Second Amended Complaint (Doc. 68) at para. 34-37. To support

these allegations, Plaintiffs point to the testimony of former conscript Jose Adolfo Paredes Marquez ("Paredes"), apparently the only eyewitness who affirmatively claims to have seen Mr. Barrientos personally participate in the killing of Victor Jara. *See id.* at para. 47; Plaintiffs' Statement of Non-Opposition to Defendant's Motion to Vacate Judgment (Doc. 77) at 2-3. Paredes gave sworn statements to investigators recanting these allegations. Exhibit B to Defendant's Motion to Set Aside Default Judgment (Doc. 73). Plaintiffs acknowledge that "Mr. Paredes has made multiple statements, and some of his past statements are not consistent …" Doc. 77 at 3.

Plaintiffs filed their original complaint against Mr. Barrientos on September 4, 2013—40 years after Victor Jara's death, and 24 years after Mr. Barrientos first became subject to the personal jurisdiction of U.S. courts by virtue of physically moving to the United States in 1989. Mr. Barrientos did not appear[1] in this lawsuit until January 27, 2015, by which point this Court has previously entered an Order granting, in part, Plaintiffs' motion for default judgment (Doc. 71). While Plaintiffs expressed their position with great care and circumspection, they ultimately agreed "that everyone is entitled to have their fundamental rights protected, including the right to a fair trial." Doc. 77 at 1. In a February 24, 2015 order (Doc. 80), this Court accordingly granted Mr. Barrientos' Motion to Set Aside Default Judgment, and vacated its November 20, 2014 Order (Doc. 71).

Mr. Barrientos now moves this Court to dismiss the Plaintiffs' Second Amended Complaint pursuant to Rule 12(b)(1) and 12(b)(6). At this stage, Mr. Barrientos asks this Court to consider two issues: 1) whether this Court lacks subject matter jurisdiction over Plaintiffs'

[1] Mr. Barrientos disputes that he "deliberately [went] into hiding" or otherwise acted in "bad faith" by failing to respond. Rather, as stated in his Affidavit, Mr. Barrientos' failure to respond is attributable to bad "legal" advice by a non-lawyer, Mr. Eladio Armesto, and his overall circumstances. *See* Exhibit A to Doc. 73.

Alien Torts Statute ("ATS") claims in light of *Kiobel v. Royal Dutch Petroleum Co.*, 133 S. Ct. 1659 (2013); and 2) whether Plaintiffs' claims, including Plaintiffs' Torture Victims Protection Act ("TVPA") claims, are time-barred under the applicable statute of limitations.

ARGUMENT AND MEMORANDUM OF LAW

I. Applicable Standard

In general:

> A motion to dismiss, pursuant to Rule 12(b)(6) […] is a motion attacking the legal sufficiency of a complaint. In ruling on a Rule 12(b)(6) motion to dismiss, the Court must accept the factual allegations set forth in the complaint as true. […] In addition, all reasonable inferences should be drawn in favor of the plaintiff.

Haddad v. Dudek, 784 F.Supp.2d 1308, 1313-14 (M.D. Fla. 2011) (internal citations omitted). A party is permitted to use a Rule 12(b)(6) motion to dismiss as a vehicle to challenge a complaint on statute of limitations grounds. *Lesti v. Wells Fargo Bank, N.A.*, 960 F.Supp.2d 1311, 1316-17 (M.D. Fla. 2013). "A Rule 12(b)(6) motion to dismiss on statute of limitations grounds may be granted … if it is apparent from the face of the complaint that the claim is time-barred." *Id. See also La Grasta v. First Union Securities, Inc.*, 358 F.3d 840, 845 (11th Cir. 2004).

A motion to dismiss pursuant to Rule 12(b)(1) may assert a facial or factual challenge to the Court's subject matter jurisdiction. *Haddad*, 784 F. Supp. 2d at 1313 n.2. "In a facial challenge, a court assumes the allegations in the complaint are true and determines whether the complaint sufficiently alleges a basis for subject matter jurisdiction." *Id.*

II. This Court Lacks Subject Matter Jurisdiction to Hear Plaintiffs' ATS Claims

Mr. Barrientos begins with an issue which this Court has previously decided. *See* Doc. 71 at 3-4. Because this Court vacated its November 20, 2014 Order (Doc. 71), which dismissed Plaintiffs' ATS claims, Mr. Barrientos feels compelled to re-address the matter out of an

abundance of caution and for clarity. Mr. Barrientos now moves the Court to once again dismiss Plaintiffs' ATS claims, since this Court lacks subject matter jurisdiction over those claims based on *Kiobel*. Mr. Barrientos finds himself in agreement with the position this Court adopted regarding Plaintiffs' ATS claims in its November 20, 2014 Order (Doc. 71), and urges the Court to once again apply that position.

The Plaintiffs' position with respect to *Kiobel* is that Mr. Barrientos' U.S. citizenship and residency alone touch and concern U.S. territory with sufficient force to displace the presumption against extraterritorial application. *See* Doc. 50 at 13-14. This position was squarely repudiated by the Eleventh Circuit in the recent case of *Baloco v. Drummond Company, Inc.*, 767 F.3d 1229 (11th Cir. 2014).

Baloco involved the 2001 murders of three individuals who worked for Drummond, a U.S. company, at the hands of Colombian paramilitaries inside Colombia. 767 F.3d at 1233. Besides noting that Drummond was a U.S. entity at the time of the killings, the *Baloco* plaintiffs further alleged that "Drummond aided and abetted or conspired with the AUC [the Colombian paramilitary group] by directly funding some of its operations and that it collaborated with the AUC to commit these murders." *Id.* Some portion of this aiding and abetting, according to the Plaintiffs, actually took place inside the United States. *Id.* at 1236. Applying *Kiobel*, the Eleventh Circuit held "that allowing Plaintiffs' ATS claims to proceed under the facts of this case would run afoul of the presumption against extraterritorial application." *Id.* at 1235-36.

The *Baloco* Court squarely rejected Plaintiffs' position that a Defendant's citizenship or nationality is sufficient to displace the presumption against the extraterritorial application of the ATS: "although the two Drummond entities, Adkins, and Tracy are United States nationals, the majority in *Kiobel* did not place significant weight on the defendants' nationality; certainly none

sufficient to warrant the extraterritorial application of the ATS to situations in which the alleged relevant conduct occurred abroad." *Id.* at 1236. To further support this proposition, the *Baloco* Court cited a Second Circuit case, *Balintulo v. Daimler AG*, 727 F.3d 174, 190 & n. 24 (2d Cir. 2013), which the *Baloco* Court interpreted to hold "that the rule of law applied in *Kiobel* does not turn on a defendant's citizenship." 767 F.3d at 1236 n.6. Indeed, the *Balintulo* Court did clearly state that irrespective of a defendant's citizenship, "if all the relevant conduct occurred abroad, that is simply the end of the matter under *Kiobel*." 727 F.3d at 190.

The *Baloco* Court ultimately noted that "the issue is not whether the murders 'touch and concern' the United States, as Plaintiffs suggest, but rather whether the murders 'touch and concern the *territory* of the United States.'" 767 F.3d at 1236 (emphasis original). Here, all of the relevant conduct occurred in Chile. Moreover, unlike the defendants in *Baloco*, at the time of the alleged conduct in 1973, Mr. Barrientos was not even a citizen or resident of the United States. The Plaintiffs' ATS claims are thus clearly barred, because they do not touch and concern the territory of the United States with sufficient force to displace the presumption against extraterritorial application.

III. All of Plaintiffs' Claims, Including their TVPA Claims, are Barred by the Statute of Limitations

The TVPA contains an express 10-year statute of limitations, which states: "No action shall be maintained under this section unless it is commenced within 10 years after the cause of action arose." 28 U.S.C. § 1350 note section 2(c) (1991). "The [ATS] and the TVPA share the same ten-year statute of limitations." *Cabello v. Fernandez-Larios*, 402 F.3d 1148, 1153 (11th Cir. 2005). A statute of limitations typically "begins to run when the cause of action accrues."

Id. at 1320. In the case of the TVPA,[2] the Eleventh Circuit held that the doctrine of equitable tolling applies, and further clarified: "[w]hen a statute is equitably tolled, the statutory period does not begin to run until the impediment to filing a cause of action is removed." *Cabello*, 402 F. 3d at 1156. In this case, it is apparent from the face of Plaintiffs' Second Amended Complaint that all claims are time-barred, even after applying the doctrine of equitable tolling.

This action has been brought 40 years after the fact, 24 years after Mr. Barrientos first became available for personal service by physically relocating to the United States, and 23 years after Augusto Pinochet was removed from power in Chile. Plaintiffs' position, however, is that the statute of limitations in this case should be tolled until at least 2009. Most recently, Plaintiffs have summarized their position thus:

> As Plaintiffs argued in the motion for default judgment, their efforts to uncover the circumstances surrounding Victor Jara's death were frustrated by government and military suppression of evidence. (Doc. No. 50 at 15-19). It was not until 2009 that Barrientos was identified as a culpable party and 2012 when his whereabouts were uncovered … Plaintiffs' Second Amended Complaint and additional briefing in support of the motion for default judgment detail the nearly forty years of Plaintiffs' diligence in investigating the circumstances surrounding Victor Jara's death.

Doc. 77 at 10. Plaintiffs' position does not demonstrate extraordinary circumstances sufficient to justify equitable tolling.

As a general matter, "equitable tolling is an extraordinary remedy which should be extended only sparingly, […] it is appropriate only when a plaintiff's untimely filing is due to *extraordinary circumstances* that are both beyond his control and unavoidable even with diligence." *Arrington v. United Parcel Service*, 384 Fed.Appx. 851, 852 (11th Cir. 2010) (internal quotations and citation omitted) (emphasis in original). More specifically, and within

[2] And, by extension, the ATS.

the context of TVPA claims, the Eleventh Circuit held that "equitable tolling is appropriate in situations where the defendant misleads the plaintiff, allowing the statutory period to lapse; or when the plaintiff has no reasonable way of discovering the wrong perpetrated against [Plaintiff] … Additionally, in order to apply equitable tolling, courts usually require some affirmative misconduct, such as deliberate concealment." *Cabello*, 402 F. 3d at 1155 (internal quotations and citations omitted).

The Eleventh Circuit has held that a strict approach should be applied to equitable tolling:

> Mere ambient conflict in another country does not, by itself, justify tolling for suits filed in the United States. From the standpoint of the United States, many countries oppress their citizens today, and many countries have oppressed their citizens in decades and centuries past. A lenient approach to equitable tolling would revive claims dating back decades, if not centuries, when most or all of the eye witnesses would no longer be alive to provide their accounts of the events in question.

Arce v. Garcia, 434 F.3d 1254, 1265 (11th Cir. 2006) (emphasis added). As Mr. Barrientos previously stated in his Motion to Set Aside Default Judgment (Doc. 73), Plaintiffs' position would have this Court apply "a lenient approach" to equitable tolling, thereby reviving an untimely claim dating back four decades, under circumstances where "most or all of the eye witnesses would no longer be alive to provide their accounts of the events in question." *Arce*, 434 F.3d at 1265.

A close examination of the pleadings reveals that Plaintiffs failed to plead or establish sufficient facts to justify extraordinary circumstances and thus justify equitable tolling under the Eleventh Circuit's strict approach. Plaintiffs *argue* "that their efforts to uncover the circumstances surrounding Victor Jara's death were frustrated by the persistent suppression of evidence by the Chilean authorities." Doc. 77 at 11. Yet, despite over a year of motion practice and supporting documents submitted in support of their claims, Plaintiffs can point to no facts

which even remotely suggest that Chilean authorities persistently suppressed or concealed evidence. In fact, Plaintiffs' pleadings and supporting documents actually suggest the very opposite.

For instance, Plaintiffs filed an affidavit from Chilean attorney Francisco Javier Ugas Tapia in support of their claims. Doc. 48. Ugas actually notes that the 1978 Investigation into Victor Jara's death "remained pending until 1982[,]" and this investigation actually concluded "that although the evidence collected by the police demonstrated the existence of a criminal offense, there was insufficient evidence to charge any individual as a principal or accessory to the crime." Doc. 48 at para. 5. That the authorities under the regime of the very Augusto Pinochet whose supporters allegedly murdered Victor Jara would conclude that "a criminal offense" has occurred is itself quite remarkable.[3] Rather than suggesting that Chilean authorities concealed or suppressed evidence, Plaintiffs' pleadings establish the opposite: the Plaintiffs' claims were investigated, albeit not to Plaintiffs' satisfaction.

In *Cabello*, by contrast, the Chilean government deliberately concealed the manner of Winston Cabello's death and his place of burial, even going so far as to "[create] great confusion by sending three conflicting death certificates to the Cabello family." 402 F.3d at 1155 (emphasis added). Thus, the *Cabello* Plaintiffs could not even know whether Cabello was tortured, or how he was killed. *Id.*

This is not the case here. Joan Jara learned of the circumstances surrounding her husband's death, including his ill treatment, on September 18, 1973. Doc. 63 at para 38. She learned this information due to her contact with other detainees from Chile Stadium, as well as

[3] Consider alternative possible conclusions: "shot while trying to escape," "duly executed pursuant to lawful military authority," "killed as an enemy combatant while trying to resist," or, perhaps, "duly released without incident [then presumably killed by unknown individuals]."

other witnesses who informed her about her husband's death, enabling her to retrieve his body and make funeral arrangements. *Id.* at para. 32, 38. Equitable tolling is therefore not appropriate in this case. *See Cabello* at 1155 ("As a result of this deliberate concealment by Chilean authorities, equitable tolling is appropriate in this case.") (emphasis added).

In *Arce*, the Eleventh Circuit also recognized that

> The quest for domestic and international legitimacy and power may provide regimes with the incentive to intimidate witnesses, to suppress evidence, and to commit additional human rights abuses against those who speak out against the regime. Such circumstances exemplify "extraordinary circumstances" and may require equitable tolling so long as the perpetrating regime remains in power.

434 F.3d at 1262 (emphasis added). The *Arce* Court therefore found that under the circumstances of the civil war in El Salvador, equitable tolling was appropriate until the war's end in 1992, because of legitimate fears of reprisal and "state-sponsored acts of violence and oppression," which continued until 1992. *Id.* at 1265. Similarly, in *Cabello*, the Eleventh Circuit equitably tolled the statute of limitations until 1990—the date General Pinochet was removed from power in Chile. 402 F.3d at 1156. See also *Jean v. Dorelien*, 431 F.3d 776, 780 (11th Cir. 2005) ("We note that every court that has considered the question of whether a civil war and a repressive authoritarian regime constitute 'extraordinary circumstances' which toll the statutes of limitations of the [ATS] and TVPA has answered in the affirmative.").

In this case, Plaintiffs do not plead or allege how "state-sponsored acts of violence and oppression" thwarted their investigation. If anything, the fact that authorities did investigate Victor Jara's killing from 1978 to 1982, and actually concluded that "a criminal offense" occurred, suggests the very opposite. *See* Doc. 63 at para. 39-40. The Plaintiffs failed to identify or allege any actual misconduct or concealment by Chilean authorities in this case, such as falsifying the names of the military personnel involved in the killing. Plaintiffs also do not

allege that Chilean authorities threatened them with reprisals in retaliation for filing an application to open a criminal investigation. However, the Plaintiffs' Second Amended Complaint does make general allegations concerning arbitrary detention, torture, and disappearances during the period September 1973 to March 1990. Doc. 63 at para. 21. Viewed in the light most favorable to the Plaintiffs, and in light of the language in *Arce* and *Jean*, these allegations suggest that equitable tolling might be appropriate until 1990: the date General Pinochet's regime was toppled, and democracy restored in Chile.

In support of their argument that equitable tolling should be applied beyond 1990, Plaintiffs point to an act of clemency—the 1978 Amnesty Law—to justify their claim of "extraordinary circumstances." Doc. 63 at para. 41. The Amnesty Law, even if interpreted in the light most favorable to the Plaintiffs, simply does not rise to the level of extraordinary circumstances established by the Eleventh Circuit. The Amnesty Law did not seal, conceal, or falsify the identities of those military personnel involved in various operations—it merely precluded their official prosecution—at least until 1998. *See* Doc. 63 at para. 41-44. This is clearly distinguishable from the situation in *Cabello*, where Chilean authorities took affirmative steps, such as sending three conflicting death certificates to the family, thereby directly obfuscating and falsifying the circumstances of Cabello's death.

The Amnesty Law, however, was interpreted "consistently and strictly" only until 1998. Doc. 48 at para. 8. Even assuming *arguendo* that the Amnesty Law constituted some type of justifiable bar to Plaintiffs' claims, Plaintiffs' argument, at best, would warrant equitable tolling until 1998, which still makes their claims untimely under the applicable 10-year statute of limitations.

In this case, it is undisputed that Mr. Barrientos was physically present in the United States as early as 1989, and took no steps to affirmatively conceal his identity. This is therefore not a case where lack of personal jurisdiction can be used as a basis to justify equitable tolling. *See, e.g., Jean*, 431 F.3d at 779-80 ("the statute of limitations must be tolled at least until Dorélien entered the United States and personal jurisdiction could be obtained over him."). There is no evidence that Mr. Barrientos' military records were concealed or falsified. This is also not a case where Victor Jara died at the hands of clandestine paramilitary units or secret intelligence operatives. To the contrary, the Plaintiffs knew which units of the Chilean military were involved in the events surrounding Victor Jara's death—the *Tejas Verde*, *Blindados No. 2*, *Esmeralda*, and *Maipo* regiments. Doc. 63 at para. 26. The order of battle, command structure, and membership roster of these regular military formations is a matter of public record, and Plaintiffs do not allege that this information was deliberately concealed or falsified, whether by operation of the Amnesty Law or otherwise. The Plaintiffs' general threadbare allegation that the Pinochet regime "had every incentive to ensure that the scope of the investigation was limited and, whenever possible, would not result in prosecutions[,]" doc. 63 at para. 40, is a far cry from demonstrating active concealment or other deliberate misconduct.

The Plaintiffs take issue with the thoroughness of the Chilean government's multiple investigations into the matter without being able to identify specific misconduct on the authorities' part. These types of arguments are reminiscent of the arguments deployed in the wrongful death and piggyback section 1983 case of *McGinley v. Jetton*, No. 8:11–CV–322–T–EAK–MAP, 2013 WL 6768352 (M.D. Fla. Dec. 19, 2013). Kevin McGinely was struck and killed by a UPS vehicle. The crash was investigated by the Florida Highway Patrol, and "concluded the UPS driver could not take evasive actions to prevent the collision, and, thus, did

not legally contribute to Kevin McGinley's death." *Id.* at *1. After four years of subsequent investigations and considerable wrangling, Plaintiffs initiated a wrongful death action in 2002, which was dismissed due to the statute of limitations. *Id.* at *2. Plaintiffs then filed a section 1983 action against various state employee defendants, claiming that "they were misled with respect to Kevin McGinley's cause of death, unaware of the necessary facts to bring a wrongful death action against UPS before the limitation period expired February 13, 2000 …" *Id.* This lawsuit was also barred by the statute of limitations, but Plaintiffs beseeched the Court to apply equitable tolling "based on what Plaintiffs characterize a 'grossly negligent' investigation and supervision, as well as continual acts to cover up said actions." *Id.* at *7.

This is also, in essence, what the Plaintiffs are claiming in this case. In *McGinley*, the plaintiffs

> continually criticized FHP's investigation and channels of command, retained multiple experts to reconstruct and evaluate the evidence, presented those evaluations via reports to authorities to highlight conflicts and inconsistencies in Defendant Jetton's conclusions, and suspected law enforcement officers of sinister motivation and criminal wrongdoing to the extent they demanded an independent criminal investigation through the Governor's Office as early as 2000.

The *McGinley* Court rejected the application of equitable tolling under those circumstances, and this Court should likewise reject the Plaintiffs' equitable tolling arguments here. Like in *McGinley*, the Plaintiffs here knew that they had a cause of action related to the ill treatment and killing of Victor Jara as early as 1973. In 1989, Mr. Barrientos became available for personal service in Florida. In 1990, the Pinochet regime was toppled in Chile, removing whatever threats of reprisal or intimidation may have previously existed.

Plaintiffs also claim that equitable tolling is justified due to "an unwillingness on the part of those with knowledge to come forward." Doc. 63 at para. 46. It is clear from the Eleventh Circuit's precedent in *Cabello*, *Jean*, and *Arce* that affirmative misconduct rising to the level of

active, deliberate concealment—not difficulties in identifying witnesses or a general unwillingness by witnesses to come forward—is required before equitable tolling becomes appropriate. No such conduct is alleged here. In fact, the 40-year delay in the filing of this lawsuit has created the very witness problem addressed in *Arce*: many, if not most, eyewitnesses, including alibi witnesses for Mr. Barrientos, may "no longer be alive to provide their accounts of the events in question." *Arce*, 434 F.3d at 1265. These circumstances compel the conclusion that this dispute is untimely.

Plaintiffs complain about the adequacy of the Chilean authorities' investigation into the matter, but fail to allege how the Chilean government deliberately concealed or falsified information during those investigations. Plaintiffs fail to allege how "state sponsored acts of violence and oppression" precluded them from investigating, particularly after 1990. Plaintiffs cite the 1978 Amensty Law as a bar to criminal prosecution within Chile up to 1998, but fail to allege how the Amnesty Law precluded them from consulting public records to learn the names of the military personnel involved in operations at Chile Stadium, especially after 1990. Plaintiffs also cite a general unwillingness on the part of witnesses to come forward, again without alleging any type of deliberate concealment. None of these allegations constitute extraordinary circumstances required to justify equitable tolling in the Eleventh Circuit. To the contrary, witness problems caused by the death of numerous eyewitnesses in the 40-year time period between 1973 and 2013 support the conclusion that Plaintiffs' claims are time-barred.

It is therefore apparent from the face of the Plaintiffs' Second Amended Complaint that all claims are time-barred, and Plaintiffs failed to allege facts sufficient to justify extending the extraordinary remedy of equitable tolling in this case. Accordingly, this Court should dismiss the Plaintiffs' Second Amended Complaint as time-barred.

CONCLUSION

The Plaintiffs' ATS claims must be dismissed, because this Court is without subject matter jurisdiction in light of *Kiobel* and *Baloco*. The Plaintiffs' claims, including their TVPA claims, must also be dismissed, because it is apparent from the face of the Second Amended Complaint that all claims are time-barred. Even when accepted as true and viewed in a light most favorable to the Plaintiffs, the allegations in the Second Amended Complaint do not demonstrate extraordinary circumstances required to justify equitable tolling beyond 1990.

WHEREFORE, Defendant Pedro Barrientos respectfully requests that this Court dismiss the Plaintiffs' Second Amended Complaint.

Dated: March 3, 2015

Respectfully submitted,

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 3.01(G)

I certify that, pursuant to Local Rule 3.01(g), undersigned counsel for Defendant/movant Pedro Barrientos conferred telephonically with Mark Beckett, Christina Hioureas, and Kathleen Roberts, opposing counsel representing Plaintiffs. Plaintiffs' counsel will contest both aspects of the present motion, and intend to file a memorandum in opposition stating their position.

/s/ P. Jan Kubicz, Esq.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was electronically filed with the Clerk of this Court by using the CM/ECF system, which will send a notice of the electronic filing to counsel for Plaintiffs: Christian Urrutia, Esq., Christina Hioureas, Esq., James Arthur Bolling, Esq., Marc

Suskin, Esq., Mark D. Beckett, Esq., Nushin Sarkarati, Esq., Serine Consolino, Esq., Stephen D. Busey, Esq., L. Kathleen Roberts, Esq.

Dated: March 3, 2015

Respectfully Submitted,

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