

EXHIBIT A

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA

v.

KEVIN JOHNSON & TYLER LANG

No. 14-CR-390

Hon. Milton I. Shadur

**MEMORANDUM OF AMICUS CURIAE PROFESSOR SUDHA SETTY
IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS INDICTMENT**

Being labeled by the criminal justice system as an alleged or convicted “terrorist” not only carries significant societal stigma, but can also have serious consequences in terms of limiting or delaying access to counsel, allowing evidence into trial that would otherwise be excluded, and increasing significantly the prison sentences for those convicted of terrorism-related offenses. It is essential as a matter of substantive due process to ensure that the definition of terrorism is used appropriately. The Animal Enterprise Terrorism Act of 2006 (“AETA”) misapplies the label of “terrorist” in a manner that causes significant harm to defendants, causing a substantive due process violation.

The legal definition of the term “terrorism” has been a matter of significant dispute for many years. The United Nations General Assembly has never been able to achieve the necessary consensus to define terrorism, individual nations use varied definitions of terrorism, and U.S. federal law includes about two dozen different definitions of terrorism. However, despite this variety, certain elements are common to almost all definitions:

- a criminal act against civilians,
- committed with the intent to cause death or serious injury,

- with the purpose of provoking terror in the public or particular group, or to compel a government to act in a certain way.

Although this standard may seem very broad and inclusive of all types of crime—for example, a fistfight in a bar among civilians may involve the intent to cause serious injury, and may provoke a strong sense of fear or terror in the bar patrons in close proximity to the fight—it would be extraordinary for counterterrorism laws to treat such an incident as “terrorism” because the laws generally have been interpreted in a limited fashion to apply to certain categories of criminal behavior, including politically or religiously motivated violence against civilians that is intended to intimidate and coerce a civilian population and that will often include mass destruction, assassination, or kidnapping.

The application of the term “terrorism” to the criminal activities identified under the AETA is inapposite, as those crimes do not qualify as “terrorism” under all international and U.S. domestic standards except those identified in the AETA itself.

ARGUMENT

I. International Definitions of Terrorism

The quest to establish a universal definition of terrorism is entangled in questions of law, history, philosophy, morality, and religion. Many believe that the definitional question is, by nature, a subjective one that eludes large-scale consensus. However, counterterrorism law and policy depends on definition. If the international community or any individual nation is to address the problem of terrorist activity, it must first define terrorism’s parameters. This foundational question is of the utmost importance in determining who a state, nation or international body will consider a terrorist and, therefore, who will be subject to the stricter laws, diminished rights protections, and harsher penalties that are concomitant with the designation of

“terrorism.” The definitional ambiguity gives rise to international concern that governments will undercut civil liberties and civil rights by defining terrorism in an overly broad manner, allowing them to unfairly punish those who would not, in the ordinary course, be considered by the international community as “terrorists.”¹

The United Nations General Assembly has attempted to establish an internationally accepted definition of terrorism numerous times since the 1960s,² with the belief that “the effectiveness of the struggle against terrorism could be enhanced by the establishment of a generally agreed upon definition of international terrorism.”³ Each effort, however, failed based on the perceived subjectivity of any such definition, but almost all nations agreed that the definition of “terrorism” included common core elements such as the purposeful killing of civilians.

With a strong post-September 11 mandate to establish robust counterterrorism measures,⁴ but without universal definition of terrorism on which to depend, the United Nations Security Council has established partial measures, such as including general descriptions of acts that fall within the rubric of terrorist activity without purporting to fully define terrorism. Security Council Resolution 1566, for example, offers this partial explanation of what constitutes a terrorist act:

criminal acts, including against civilians, committed with the intent to cause

¹ See U.N. Econ. & Soc. Council, Comm’n on Human Rights, Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, PP 26-27, U.N. Doc. E/CN.4/2006/98 (Sept. 28, 2005), at 27 (“[R]epeated calls by the international community for action to eliminate terrorism, in the absence of a universal and comprehensive definition of the term, may give rise to adverse consequences for human rights.”)

² The search for a supranational definition of terrorism dates at least back to 1937, when the League of Nations considered the Convention for the Prevention and Punishment of Terrorism, Nov. 16, 1938, 19 League of Nations O. J. 23. Article 1(2) of the proposed Convention defined terrorism as “criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons, or a group of persons or the general public.” Id. art. 1(2).

³ G.A. Res. 42/159, U.N. Doc. A/RES/42/159 (Dec. 17, 1987).

⁴ See S.C. Res. 1373, U.N. Doc. S/RES/1373 (Sept. 28, 2001) [hereinafter S.C. Res. 1373] (mandating that all U.N. member nations take proactive steps to combat terrorism, including increasing criminalization and implementing harsher sentencing for terrorist acts, freezing funds of those financing terrorist acts, sharing intelligence information with other member nations, and tightening border controls to prevent the migration of terrorists).

death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism⁵

Although seemingly expansive, Resolution 1566 limits the use of the label of “terrorism” to offenses that are recognized in previously agreed upon international conventions and protocols, thereby tethering the implementation of Resolution 1566 to offenses commonly understood to fall under the umbrella of terrorism. Further, the language of the resolution limits its application to acts that are intended to provoke terror and/or compel a political response from a government. Even with these interpretive limitations, the Security Council went further in protecting individuals and organizations from inappropriate designation as “terrorists” given the harsh consequences of such a designation. The Security Council designated an Ombudsperson to field petitions from individuals and organizations seeking to be delisted from being subject to international sanctions as terrorists.⁶ Concerned about the severe repercussions of being designated as a terrorist, various Member States also moved for a process by which the designation process became more transparent, allowed for a challenge and delisting process for individuals and organizations, and strengthened international security by improving the perceived legitimacy of the United Nations as an international regulator of security matters.⁷

II. United States Definitions of Terrorism

In the United States, federal law and agencies utilize dozens of different definitions of

⁵ See S.C. Res. 1566, P 1, U.N. Doc. S/RES/1566, at ¶ 3 (Oct. 8, 2004) (condemning all forms of terrorism, regardless of its motivations).

⁶ See S.C. Res. 1904, P 20, U.N. Doc. S/RES/1904 (Dec. 17, 2009) (mandating that “when considering delisting requests, the [Counter-Terrorism] Committee shall be assisted by an Office of the Ombudsperson”).

⁷ E.g., Press Release, Security Council, Security Council Amends United Nations Al-Qaida/Taliban Sanctions Regime, Authorizes Appointment of Ombudsperson to Handle Delisting Issues, P 14, U.N. Press Release SC/9825 (Dec. 17, 2009), available at <http://www.un.org/News/Press/docs/2009/sc9825.doc.htm> (noting the concern of delegations from various nations that the process of designating terrorists be made more accessible, transparent, and equitable).

terrorism based on the function of the agency and the purpose for which the definition is used.⁸ Each of the following definitions⁹ is an important tool in U.S. counterterrorism (as the term is ordinarily understood) efforts.

A. The Anti-Terrorism and Effective Death Penalty Act of 1996

The Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA)¹⁰ was enacted in response to the 1993 World Trade Center bombings and the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City as part of a broader plan to prevent material support to terrorists that was seen as essential to those bombings. Under the AEDPA, terrorism is defined as:

An activity that involves a violent act or an act dangerous to human life, property, or infrastructure, and appears to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of government by mass destruction,

⁸ See Nicholas J. Perry, *The Numerous Federal Legal Definitions of Terrorism: The Problem of Too Many Grails*, 30 J. Legis. 249, 249-50 (2004) (examining twenty-two definitions of terrorism under U.S. federal law).

⁹ Other commonly used federal statutes with definitions of terrorism overlap with the definitions analyzed in this Chapter, but vary in scope and applicability. For example, under 8 U.S.C. §1182(a)(3)(B)(iii) “terrorist activity” is defined as:

any activity which ... involves any of the following:

- (I) The highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).
- (II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.
- (III) A violent attack upon an internationally protected person (as defined in section 1116 (b)(4) of title 18) or upon the liberty of such a person.
- (IV) An assassination.
- (V) The use of any—
 - (a) biological agent, chemical agent, or nuclear weapon or device, or
 - (b) explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain),with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.
- (VI) A threat, attempt, or conspiracy to do any of the foregoing.

Another important definition can be found in 22 U.S.C. § 2656f(d)(2) (2006), which is used by the State Department for reporting under Security Council Resolution 1373 and other international obligations, defines terrorism as “premeditated, politically motivated violence perpetuated against noncombatant targets.” *Id.*

¹⁰ See Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. No. 104-132, 110 Stat. 1217 (codified in scatter sections of 8, 18, and 28 U.S.C.) (authorizing the Secretary to designate foreign organizations as terrorists if they engage in terrorist activity as defined by the statute).

assassination, kidnapping, or hostage-taking.¹¹

The AEDPA is a wide-reaching statute, defining terrorism for the purpose of designating Foreign Terrorist Organizations (FTOs) and freezing the assets of such organizations.¹² Because the consequences of FTO designation can be severe—financial institutions may block or freeze assets of an FTO,¹³ individuals may be barred from entry into the United States,¹⁴ and material support to such an organization is a criminal offense carrying potentially lengthy prison sentences¹⁵--the procedural safeguards, however limited, are crucial.

One such safeguard in the FTO designation process is the opportunity to contest the designation proposed by the State Department. This layer of judicial review protects against arbitrariness in the designation that might otherwise constitute a substantive due process violation, and requires some disclosure of the basis upon which the State Department made its determination.¹⁶ A second important safeguard is the mandatory review and renewal process for the Secretary of State. If no State Department review has been made of an FTO designation for five years, the Secretary of State must review the listing to determine whether it should be revoked due to a change in the organization's mission and actions, or a change in the national

¹¹ See Exec. Order No. 13224, 31 C.F.R. 594 (explaining Congressional findings and purpose).

¹² See, e.g., AEDPA §§ 219(a)(1)(A)-(C), 219(a)(2)(C) (codified in 8 USC §1189(a)) (finding that anyone who interacts with FTOs is violating the statute, and authorizing the Secretary of the Treasury to freeze the assets of entities designated as FTOs). President Clinton signed Executive Order 12,947 in January 1995, which was geared toward facilitating a peace agreement in the Middle East, but gave broad authority to cabinet departments to designate Foreign Terrorist Organizations (FTOs) with the purpose of disrupting their financial and operational capabilities, thereby laying the foundation for the authority granted under the AEDPA.

¹³ 18 U.S.C. § 2339B(a)(2) (2006).

¹⁴ 8 U.S.C. §§ 1182(a)(3)(B)(i)(IV)-(V) (2006).

¹⁵ 18 U.S.C. § 2339B(a)(1) (2006). The constitutionality of the FTO designation process authorized by Executive Order No. 13,224 and various statutes was upheld by the U.S. Supreme Court in *Humanitarian Law Project v. Holder*. *Holder v. Humanitarian Law Project*, 130 S. Ct. 2705 (2010).

¹⁶ Under the AEDPA, courts have the power to set aside the State Department designation of an FTO if it is arbitrary, capricious, and an abuse of discretion, or if it is not based on substantial evidence. AEDPA § 302(b)(3) (codified as 8 U.S.C. § 1189(c)(3)). Courts have, however, been extremely deferential to the State Department, choosing not to review classified evidence in some instances, but relying instead on State Department affirmations of substantial evidence to support its designation decision. E.g., *People's Mojahedin Org. of Iran*, 327 F.3d 1238, 1244 (D.C. Cir. 2003).

security assessment by the United States.¹⁷ These safeguards echo the review and delisting process that the United Nations adopted to improve procedural protections against erroneously being designated a terrorist and suffering the ramifications of that inappropriate designation.

B. The USA PATRIOT Act

The USA PATRIOT Act (“Patriot Act”),¹⁸ passed in the weeks immediately following the September 11, 2001 attacks, offered a panoply of counterterrorism resources to the government, including an increase in surveillance powers and government authority to conduct intelligence-gathering operations in matters of suspected terrorism, as well as allowing for the civil seizure of assets based only on probable cause, and heightened punishments for any of the underlying crimes related to the newly broadened understanding of “domestic terrorism,” which includes:

[A]cts dangerous to human life that are a violation of the criminal laws of the United States or of any State [that] appear to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or kidnapping; and occur primarily within the territorial jurisdiction of the United States.¹⁹

Critics of this broad definition have noted that such language could encompass numerous activist groups, including Greenpeace, protestors of the World Trade Organization, Operation Rescue, and protestors of bomb-testing facilities on the island of Vieques.²⁰ Unlike the AETA, however, the Patriot Act definition includes reference to some commonly understood elements of terrorism: acts that are dangerous to human life and that are intended to intimidate a civilian

¹⁷ 8 U.S.C. § 1189(a)(4)(C), (a)(6) (2006).

¹⁸ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (codified as amended in scattered sections of U.S.C.) [hereinafter Patriot Act].

¹⁹ Id. § 802.

²⁰ See How the USA PATRIOT Act redefines “Domestic Terrorism,” Am. Civ. Liberties Union (Dec. 6, 2002), <http://www.aclu.org/national-security/how-usa-patriot-act-redefines-domestic-terrorism> (analyzing the effect of the Patriot Act definition of terrorism if the government applied the act to Vieques protesters).

population are included, and common underlying crimes, such as mass destruction, assassination or kidnapping, are identified as exemplars.

The definition of terrorism used in the Patriot Act was imported from the Foreign Intelligence Surveillance Act of 1978 (“FISA”).²¹ Like other definitions already examined, the definition of international terrorism in FISA includes several elements: that it “involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;” that it “appear to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping” and occur totally outside the United States, or transcend national boundaries.

Given the far-reaching consequences of being suspected of terrorism and the broad powers for surveillance authorized under FISA at the time of its enactment, Congress expressed significant concern over the implications of FISA on civil liberties, and the potential for government overreach. This concern led to numerous safeguards beyond the limited scope of application of the legislation, including the reporting requirements of the Attorney General to Congress regarding the nature and extent of FISA-based surveillance conducted,²² the mandated minimization procedures to ensure that individual privacy rights are safeguarded to some extent,²³ and the penalties available to punish those who conduct unlawful and overreaching surveillance.²⁴

²¹ See Foreign Intelligence Surveillance Act, 50 U.S.C. § 1801(c) (2006).

²² See 50 U.S.C. §§ 1807, 1808 (2006) (describing the reports required by the Attorney General and other congressional oversight measures).

²³ See, e.g., 50 U.S.C. § 1801(h) (2006) (directing the use of minimization procedures to “minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons”)

²⁴ E.g., 50 U.S.C. §§ 1809, 1810 (2006) (describing civil liability and criminal sanctions for breaches of FISA).

It remains problematic that the Patriot Act uses the FISA definition of terrorism without the concomitant FISA safeguards in place, especially in light of the limited original application of the FISA definition to the non-criminal purpose of intelligence-gathering. The lack of parallel due process protections in the application of the Patriot Act exacerbates the problems inherent in applying conflicting definitions of terrorism, including the potential lack of notice to individuals as to whether they will be categorized as a terrorist and exactly what kind of conduct is prohibited.²⁵ Even with some safeguards in place, vagueness in these statutes has led to concern of potential abuse if definitions are repurposed to punish non-terrorist activity, precisely what occurred in New York in the case of *People v. Morales*.

III. New York's Terrorism Statute

Six days after the September 11, 2001 terrorist attacks, New York became the first state in the United States to pass its own anti-terrorism statute, the Anti-Terrorism Act of 2001.²⁶ This law ratchets up the potential penalties where an underlying criminal act is committed with the intent to “intimidate or coerce a civilian population; influence the policy of a unit of government by intimidation or coercion; or affect the conduct of a unit of government by murder, assassination or kidnapping.”²⁷

The only use of this provision has been in the case of *People v. Morales*. Edgar Morales was allegedly involved in a gang-related shooting at a 2002 christening in the Bronx in which a child was killed and another bystander was severely injured.²⁸ The Bronx district attorney indicted Morales on charges of murder, attempted murder, manslaughter, gang assault and criminal possession of a handgun, but also indicted Morales on those same charges under the New York

²⁵ See, e.g., Perry, *supra* note 8, at 270 (arguing that conflicting definitions of terrorism could result in confusion and ambiguity).

²⁶ Anti-Terrorism Act of 2001, 2001 N.Y. Laws, Ch. 300 (Sept. 17, 2001).

²⁷ N.Y. Penal Law §490.25 (1) (defining the act of terrorism for the purposes of the Anti-Terrorism Act of 2001).

²⁸ See *People v. Morales*, 20 N.Y. 3d 240, 244-45 (NY 2012).

terrorism statute on the theory that Morales acted with the intent to intimidate the Mexican-American civilian population living in the area of the shooting.²⁹ Morales was found guilty of both terrorism and non-terrorism offenses and sentenced to 40 years to life in prison.³⁰

The intermediate appellate court modified the sentence based on its findings that Morales' gang-related activity in a civilian neighborhood did not qualify as terrorist activity.³¹ In doing so, the appellate court looked to the language of the Anti-Terrorism Act itself, notably the examples given by the New York state legislature as prior terrorist activity that helped motivate the passage of the statute. In addition to the September 11 attacks, the legislature cited the 1993 attack on the World Trade Center, the 1998 bombings of U.S. embassies in Kenya and Tanzania, the 1995 Oklahoma City federal building bombing, the 1988 downing of Pan Am flight 103 over Lockerbie, Scotland, a 1997 shooting at the Empire State Building, and the 1994 murder of a teenager on the Brooklyn Bridge as acts of terrorism.³²

The appellate court further considered examples of international terrorism that motivated the passage of FISA,³³ since the New York terrorism act was informed by language from FISA. The court took note that the legislative history of FISA included examples of terrorism such as “the detonation of bombs in a metropolitan area” and “the deliberate assassination of persons to strike

²⁹ *Id.* at 245.

³⁰ *Id.* at 246.

³¹ See *People v. Morales*, 86 A.D. 3d 147, 157 (NY 1st Dep't 2011).

³² See N.Y. Penal Law §490.00 (2001). Whether all of those acts should have been described as “terrorism” remains a matter of debate. See Shaila K. Dewan, U.S. Decides '94 Attack on Hasidim Was a Lone Act, *nytimes.com*, Dec. 6, 2000, available at <http://www.nytimes.com/2000/12/06/nyregion/us-decides-94-attack-on-hasidim-was-lone-act.html> (noting that the U.S. Attorney had, in 2000, re-characterized the 1994 murder of Ari Halberstam on the Brooklyn Bridge as a “terrorist act”); but see Glenn Greenwald, *New York's top court highlights the meaninglessness and menace of the term “terrorism,”* *theguardian.com*, Dec. 16, 2012, available at <http://www.theguardian.com/commentisfree/2012/dec/16/court-terrorism-morales-gangs-meaningless> (critiquing the inclusion of all of these highly differentiated crimes as terrorist acts, opining that the single common theme for six of these seven acts is that they were committed by Muslims against non-Muslims, and suggesting that the label of “terrorism” is a tool used to create a lesser system of justice for Muslim defendants).

³³ Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. § 1801 et seq.

fear into others to deter them from exercising their rights.”³⁴ And the court noted that a 1986 federal statute specifically distinguished terrorism from “nonterrorist violence” such as “normal street crime.”³⁵

The Court of Appeals in New York went further, ordering a new trial for Morales based on the finding that the entire trial was tainted by the unreasonable categorization of Morales’ acts as terrorism as opposed to “gang-on-gang street violence.”³⁶ The Court offered further clarification of what does not constitute terrorism: drive-by shootings, “ordinary violent crimes” such as robbery or personal vendettas, or the orchestration of a murder by an organized crime family of another syndicate’s soldier.³⁷

C. The AETA Is A Problematic Outlier

The AETA differs from *Morales* on the fundamental definitional issue. Unlike New York’s terrorism statute’s arguably vague provisions, the AETA explicitly contemplates property damage against an animal enterprise as an act of terrorism.³⁸ However, the essential problem identified by the appellate courts in *Morales* holds even truer for defendants Johnson and Lang. In both instances, defendants suffer from the misuse of the term “terrorism” with regard to the

³⁴ *People v. Morales*, 86 A.D. 3d at 158.

³⁵ *Id.* at 159.

³⁶ *See People v. Morales*, 20 N.Y. 3d at 248, 250.

³⁷ *Id.* at 249.

³⁸ The AETA definition of terrorism includes, in part:

(a) Travel[] in interstate or foreign commerce, or use[] or cause[] to be used the mail or any facility of interstate or foreign commerce--

(1) for the purpose of damaging or interfering with the operations of an animal enterprise; and
(2) in connection with such purpose--

(A) intentionally damage[] or cause[] the loss of any real or personal property (including animals or records) used by an animal enterprise, or any real or personal property of a person or entity having a connection to, relationship with, or transactions with an animal enterprise;

(B) intentionally place[] a person in reasonable fear of the death of, or serious bodily injury to that person, a member of the immediate family... of that person, or a spouse or intimate partner of that person by a course of conduct involving threats, acts of vandalism, property damage, criminal trespass, harassment, or intimidation; or

(C) conspire[] or attempt[] to do so[.]

18 U.S.C. 43(a).

alleged criminal activity. In *Morales* it was the prosecutor's misapplication of vague statutory language to try to encompass non-terrorist activity in the purview of a counterterrorism statute; in this case, the AETA piggybacks on the vagueness problems of defining terrorism in international and federal law to explicitly define terrorism as something it is not. Further, whereas the international community and U.S. government have often sought to ameliorate the stigma and legal impact of being erroneously labeled a terrorist by establishing safeguards against inappropriate designation as a "terrorist," the AETA moves in the opposite direction by explicitly attaching the "terrorist" label where it does not belong.

Looking at international working definitions and every other definition used by the U.S. federal government in its counterterrorism efforts,³⁹ it is clear that the AETA standard of what constitutes "terrorism" is a problematic outlier. To label vandalism and property destruction as terrorism is not only a misnomer and a substantive due process violation, but it also dilutes efforts to combat actual terrorism. Although it has been impossible thus far for the international community to achieve consensus on the definition of terrorism, it is in some ways simpler to assess what does not qualify as terrorism. Vandalism and property destruction of the sort allegedly committed by Johnson and Lang are crimes, but they are not terrorism. The acts that the AETA deems to be "terrorist" activity—trespassing, releasing animals, vandalism, and destroying records—may very well be criminal, but they do not satisfy international or non-AETA federal definitions of terrorism; to mislabel them as such constitutes a violation of the defendants' substantive due process.

³⁹ For example, the FBI's website on its counterterrorism efforts lists multiple definitions of terrorism under federal law, none of which resemble the AETA definition. See Federal Bureau of Investigation, *Definitions of Terrorism in the U.S. Code*, available at <http://www.fbi.gov/about-us/investigate/terrorism/terrorism-definition> (visited October 31, 2014).

Respectfully Submitted,

/s/ Sudha Setty

Professor Sudha Setty

(pro hac vice motion pending)

Western New England University School of Law

1215 Wilbraham Road

Springfield, MA 01119

Tel: (413) 782-1431