SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION
Civil Actions Branch

TWO RIVERS PUBLIC CHARTER SCHOOL, *et al.*, Plaintiffs, v. ROBERT WEILER, JR., *et al.*, Defendants.	Case No. 2015 CA 009512 B Civil II, Calendar No. 7 Judge Jeanette J. Clark Next Court Event: Mediation November 9 – December 9, 2016

DEFENDANT RUBY NICDAO'S MOTION FOR STAY PENDING APPEAL OR, IN THE ALTERNATIVE, AN ADDITIONAL EXTENSION OF TIME TO ANSWER PLAINTIFF'S COMPLAINT

Defendant Ruby Nicdao ("Nicdao"), by and through counsel, hereby moves for entry of an order: (a) staying all proceedings in this action pending disposition of Nicdao's appeal of this Court's April 29, 2016 Order (the "April 29 Order") denying her Special Motion to Dismiss Plaintiffs' Complaint under D.C. Code § 16-5502, on the grounds that the April 29 Order is immediately appealable under the collateral order doctrine, that Nicdao is likely to succeed on the merits, that she will suffer irreparable injury if the case is not stayed, that Plaintiff Two Rivers Public Charter School will not suffer appreciable harm if the stay is granted, and that the public interest favors granting the stay; and (b) alternatively, further extending the time for Nicdao to answer the Complaint until 10 days after the District of Columbia Court of Appeals issues a mandate resolving Nicdao's interlocutory appeal. The grounds for this Motion are more fully set forth in the Memorandum of Points and Authorities filed simultaneously herewith.

RULE 12-I(a) CERTIFICATE

Undersigned counsel hereby certifies that, despite diligent efforts, he was unable to obtain Plaintiffs' consent to Nicdao's Motion.

Dated: May 23, 2016

SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.

By: /s/ ALEXANDER C. VINCENT

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ORDER GRANTING DEFENDANT RUBY NICDAO'S MOTION FOR STAY PENDING APPEAL AND FOR ADDITIONAL EXTENSION OF TIME TO ANSWER PLAINTIFF'S COMPLAINT

THIS MATTER HAVING COME BEFORE THE COURT on Defendant Ruby Nicdao's Motion for Stay Pending Appeal and for Additional Extension of Time to Answer Plaintiffs' Complaint filed on May 23, 2016;

THE COURT HAVING CONSIDERED the Motion and its supporting papers, Plaintiffs' Opposition, and the entire record herein;

THE COURT HAVING DETERMINED that the Motion is well-taken; and

GOOD CAUSE OTHERWISE APPEARING,

IT IS, this ____ day of _____ 2016, hereby

ORDERED that Nicdao's Motion be, and it hereby is, in all respects GRANTED; and it is further

ORDERED that these proceedings be, and they hereby are, STAYED pending resolution of Nicdao's interlocutory appeal of this Court's April 29, 2016 Order denying Nicdao's Special

Motion to Dismiss under D.C. Code § 16-5502; and it is further

ORDERED that the time within which Nicdao may file an Answer to the Complaint be, and it hereby is, EXTENDED to a date that is 10 days after the Court of Appeals issues a mandate resolving her interlocutory appeal of this Court's April 29, 2016 Order denying Nicdao's Special Motion to Dismiss under D.C. Code § 16-5502.

Jeanette J. Clark
Judge of the Superior Court

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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT RUBY NICDAO'S MOTION FOR STAY PENDING APPEAL OR, IN THE ALTERNATIVE, AN ADDITIONAL EXTENSION OF TIME TO ANSWER PLAINTIFF'S COMPLAINT

Defendant Ruby Nicdao, by and through counsel, submits this Memorandum of Points and Authorities in support of her Motion for Stay Pending Appeal or, in the Alternative, an Additional Extension of Time Within Which to Answer Plaintiff's Complaint.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff Two Rivers Public Charter School ("Two Rivers") commenced this action on December 9, 2015. Defendant Nicdao and several other defendants filed a Special Motion to Dismiss under the District of Columbia's Anti-SLAPP Act, D.C. Code Ann. § 16-5501 to -5505 (West, Westlaw through Dec. 29, 2015), as well as a separate Motion to Dismiss for lack of subject matter jurisdiction. After briefing, those motions were heard by this Court on April 29, 2016. The Court ruled from the bench that the motions were denied[1], and proceeded to enter a Scheduling Order and set a trial date. On May 5, 2016, Nicdao filed her notice of appeal from

[1] The Court did dismiss one set of Plaintiffs, the Two Rivers Board of Trustees.

that portion of the Court's April 29, 2016 Order (the "April 29 Order") denying her Special Motion to Dismiss.[2] On May 11, 2016, Plaintiff filed a motion for preliminary injunction against Defendant Larry Cirignano. In lieu of an answer or other responsive pleading, Nicdao has now filed this motion for stay pending appeal and for a further extension of time to answer Plaintiffs' Complaint.

ARGUMENT

I. NICDAO'S APPEAL IS APPROPRIATE UNDER THE COLLATERAL ORDER DOCTRINE.

The District of Columbia Court of Appeals has jurisdiction over all "final orders and judgments" of the Superior Court, as well as certain categories of interlocutory orders. *See* D.C. Code §11-721 (a)(1), (a)(2). In addition, the Court of Appeals "has recognized that the collateral order doctrine, first articulated by the Supreme Court in *Cohen v. Beneficial Indus. Loan Corp.,* 337 U.S. 541, 546, 69 S. Ct. 1221, 93 L. Ed. 1528 (1949) and applied to the jurisdictional statute for the federal courts of appeals, *28 U.S.C. § 1291-92 (2012)*, likewise applies to *D.C. Code § 11-721*." *Doe No. 1 v. Burke*, 91 A.3d 1031, 1037 (D.C. 2014) (italics in original) (citations omitted).

The collateral order doctrine is not so much an exception to the final order rule as "'a practical construction of it.'" *Id.* (quoting *Will v. Hallock*, 546 U.S. 345, 349 (2006) (internal quotation marks omitted)). The doctrine confers appellate jurisdiction over a non-final order where the order: (1) conclusively determines a disputed question of law, (2) resolves an important issue separate from the merits, and (3) is effectively unreviewable on appeal from a final judgment. *McNair Builders, Inc. v. Taylor*, 3 A.3d 1132, 1135-36 (D.C. 2010) (citing *Cohen v. Beneficial Industrial Loan Corp*., 337 U.S. 541, 546 (1949)).

[2] Other Defendants have since filed notices of appeal of the Court's April 29, 2016 Order as well.

Although whether an order denying a Special Motion to Dismiss under the Anti-SLAPP Act may be appealed immediately technically is a question of first impression in the District of Columbia, where, as here, the intent of the Act is to provide immunity from suit rather than merely immunity from liability, the weight of authority from other jurisdictions holds that such an order is appealable immediately. *See, e.g., Godin v. Schencks*, 629 F.3d 79, 84 (1st Cir. 2010) (finding collateral order doctrine applied to appeal of denial of motion to dismiss under Maine's anti-SLAPP statute) (cited with approval in *Doe No. 1 v. Burke*); *Henry v. Lake Charles Am. Press*, 566 F.3d 164, 178 (5th Cir. 2009) (Anti-SLAPP Act "provides a right not to stand trial, as avoiding the costs of trial is the very purpose of the statute"; it is therefore "effectively destroyed" if unappealable) (cited with approval in *Doe No. 1 v. Burke*); *Batzel v. Smith*, 333 F.3d 1018, 1025 (9th Cir. 2003) (granting an immediate appeal of an anti-SLAPP motion to dismiss as a collateral order under California law); *Liberty Synergistics Inc. v. Microflo Ltd*., 718 F.3d 138, 147-48 (2d Cir. 2013) (same); *Fabre v. Walton*, 436 Mass. 517, 521, 781 N.E.2d 780 (2002) (noting that "[t]he protections afforded by the anti-SLAPP statute against the harassment and burdens of litigation are in large measure lost if the petitioner is forced to litigate a case to its conclusion before obtaining a definitive judgment through the appellate process"). *Cf. Metabolic Research, Inc. v. Ferrell*, 693 F.3d 795, 800 (9th Cir. 2012) (collateral order doctrine did not apply to Nevada anti-SLAPP statute because that statute was intended to provide only immunity from liability and not immunity from suit).

In the District of Columbia, as in California, the Anti-SLAPP Act is intended to provide immunity from the lawsuit itself. As stated by the District of Columbia Court of Appeals just two years ago, "a special motion to dismiss . . . *explicitly protects the right not to stand trial*." *Doe No. 1 v. Burke*, 91 A.3d 1031, 1038 (D.C. 2014) (emphasis added). Moreover, the District's Act

is "almost identical" to and modeled on California's act. *See Mann v. Nat'l Rev., Inc.*, No. 12-CA-8263 B, 2013 D.C. Super. LEXIS 7, at *15 (D.C. Super. Ct. 2013) ("The legislative history of the Anti-SLAPP Act, an almost identical act to the California act, indicates that the California act served as the model for the District of Columbia's Anti-SLAPP Act."). California's act provides an explicit right of appeal from denial of an anti-SLAPP motion. *See* Cal Code Civ. Proc. § 425.16 (i). The District of Columbia included an explicit right to appeal in the Council's initial draft of the legislation and only removed that provision from the bill that ultimately became law "because of the limitations placed on the D.C. Council under the Home Rule Act." *Burke*, 91 A.3d at 1039, n.12.

This case satisfies the requirements of the collateral order doctrine. First, this Court's April 29 Order conclusively determined a disputed question of law, namely whether Nicdao is entitled to the protection of the Anti-SLAPP Act. As the *Burke* court found, numerous federal appellate courts that have examined this issue also have held that this conclusivity element is easily met in the context of the denial of a motion to dismiss under an Anti-SLAPP Act. *Burke*, 91 A.3d at *1038 (citing *Godin v. Schencks*, 629 F.3d 79, 84, and *Henry v. Lake Charles Am. Press*, 566 F.3d 164, 174).[3]

Second, this case also satisfies the second element of the collateral order doctrine because it resolves an important issue separate from the merits. While some have argued that resolution of an anti-SLAPP motion is not separate from the merits because it entails some consideration of the merits, courts have almost uniformly concluded that the two issues are separate and thus that this element of the collateral order doctrine is met. As the District of Columbia Court of Appeals stated in *Burke*, even though a plaintiff may defeat a special motion to dismiss "by showing a

[3] The *Henry* court found significant that "Louisiana appellate courts apparently uniformly and automatically reviewed denials of anti-SLAPP motions under writs of supervision which appear to be similar in purpose to writs of mandamus." 566 F.3d at 178 n.1.

likelihood of success on the merits, the purpose of this inquiry is still 'to determine whether the defendant is being forced to defend against a meritless claim, not to determine whether the defendant actually committed the relevant tort.'" *Burke*, 91 A.3d at 1038 (quoting *Henry*, 566 F.3d at 175; internal quotation mark omitted). "Put another way, the '[d]enial of an *anti-SLAPP* motion resolves a question separate from the merits in that it merely finds that such merits may exist, without evaluating whether the plaintiff's claim will succeed.'" *Id.* at 1038-39 (quoting *Batzel v. Smith*, 333 F.3d 1018, 1025) (additional citations omitted). Nicdao's appeal therefore satisfies the second element of the collateral order doctrine.

Finally, Nicdao's appeal also meets the requirements of the third element of the collateral order doctrine because the Court's April 29 Order is effectively unreviewable on appeal from a final judgment. This is the prong on which courts diverge when analyzing appeals from the denial of an anti-SLAPP motion to dismiss under the collateral order doctrine. The "denial of a motion that asserts an immunity from being sued is the kind of ruling that is commonly found to meet the requirements of the collateral order doctrine and thus to be immediately appealable." *McNair Builders, Inc. v. Taylor*, 3 A.3d 1132, 1136 (D.C. 2010) (internal quotation marks omitted). As already noted, the *Burke* court emphatically has found that the D.C. Anti-SLAPP Act "explicitly protects the right not to stand trial," that is, an immunity from being sued. *Burke*, 91 A.3d at 1039. Given how the Court of Appeals views the statute, an order denying a special motion to dismiss therefore qualifies as meeting the requirements of the collateral order doctrine. The *Burke* court found not only that the provision in the D.C. Anti-SLAPP Act of a right to move to quash a subpoena in order to protect anonymity, but also that the denial of an immediate appeal of an order denying such a motion would impair a substantial public interest such that it also satisfies the U.S. Supreme Court's additional requirement set out in *Will v. Hallock*, 546

U.S. 345 (2006).

Nicdao's case is equally compelling. Denial of her appeal similarly would impair a substantial public interest, as has been well articulated in several federal appellate cases. As no less an authority than the Supreme Court of the United States has said, "[w]hen a policy is embodied in a constitutional or statutory provision entitling a party to immunity from suit (a rare form of protection), there is little room for the judiciary to gainsay its 'importance.'" *Digital Equipment Corp. v. Desktop Direct, Inc.*, 511 U.S. 863, 879 (1994); *see also Metabolic Research, Inc. v. Ferrell*, 693 F.3d 795, 799-800 (9th Cir. 2012) (discussing standard and distinguishing between different anti-SLAPP statutes on the basis of "the values underlying the particular anti-SLAPP statute"). "Denial of immunity in its various forms has been considered the embodiment of a ruling that is unreviewable from a final judgment, 'for the essence of absolute immunity is its possessor's entitlement not to have to answer for his conduct in a civil damages action.'" *McNair Builders, Inc. v. Taylor*, 3 A.3d 1132, 1137 (quoting *Mitchell v. Forsyth*, 472 U.S. 511, 525 (1985)).

Given the foregoing authority, the anonymity that the District of Columbia Court of Appeals found sufficiently important to warrant invocation of the collateral order doctrine in *Doe No. 1 v. Burke*, 91 A.3d 1031 (D.C. 2014), is itself derivative of the fundamental right of free speech and advocacy on issues of public concern protected explicitly by the First Amendment. That fundamental right of freedom of expression is at risk here if Nicdao is forced to litigate while her interlocutory appeal is pending. As such, the interests sought to be protected by the Supreme Court in *Will* are the very interests at risk here, and the third prong of the collateral order doctrine is satisfied.

Nicdao's appeal is thus well-taken, and an appeal lies from the denial of her Special

Motion to Dismiss under the Anti-SLAPP Act.

II. THIS COURT IS EFFECTIVELY WITHOUT JURISDICTION.

The general rule is that "[t]he filing of a notice of appeal is an event of jurisdictional significance -- it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Discount Co*., 459 U.S. 56, 58 (1982); *see also Abrams v. Abrams*, 245 A.2d 843, 844 (D.C. 1968) ("An appeal is perfected, and our jurisdiction attaches, upon the timely filing of a notice of appeal with the Clerk of the Court of General Sessions, and at that same time the trial court loses its jurisdiction."). The District of Columbia Court of Appeals has written:

> [w]hile the line that marks the division between what the trial court may and may not do is usually cast in terms of "lack of jurisdiction," the doctrine is judge-made, designed to avoid the confusion and waste of time that might flow from having two courts deal with a single case at the same time. Hence, it is subject to a common-sense flexibility in application.

Carter v. Cathedral Ave. Coop., 532 A.2d 681, 684 n. 7 (D.C. 1987).

Regardless whether the doctrine is strictly jurisdictional or a judge-made rule, its application to the case at bar leads to only one reasonable conclusion: this Court no longer possesses jurisdiction over these proceedings in any capacity, at least insofar as Nicdao is concerned. Her appeal encompasses the entire proceedings in this Court, from discovery to pre-trial motions to the trial itself. This is so because, as shown above, the District of Columbia Anti-SLAPP Act confers immunity not simply from liability after a trial, but from the lawsuit itself.

The legislative history is replete with statements to the effect that the Act is intended to provide "substantive rights with regard to a defendant's ability to fend off lawsuits . . . aimed to punish or prevent the expression of opposing points of view." *See* Comm. on Pub. Safety & the Judiciary, Council of D.C. Rep. on Bill 18-893, "Anti-SLAPP Act of 2010," at 1 (2010)

("Comm. Report.") *see also id.* at 4 ("*litigation itself* is the plaintiff's weapon of choice") (quoting Art Spitzer, Legal Director for the ACLU) (emphasis in original); *id.* ("Bill 18-893 provides a defendant to a SLAPP with substantive rights to expeditiously and economically dispense of litigation aimed to prevent their engaging in constitutionally protected actions on matters of public interest."); *id.* at 7 (explaining that as originally drafted, Act contained a "subsection (e) that would have provided a defendant with a right of immediate appeal from a court order denying a special motion to dismiss").

This right to immunity from suit would be nullified and rendered meaningless if this Court continues to exercise jurisdiction and impose upon Nicdao the burdens of undergoing discovery, pre-trial motions, and a trial, which has been scheduled to last at least two weeks. In addition, because Nicdao's appeal encompasses this immunity from suit, requiring Nicdao to defend this case through and including trial would mean that both the Court of Appeals and this Court would be exercising jurisdiction over the same aspects of the same case – which is exactly what the rule removing jurisdiction from the trial court upon the filing of a notice of appeal is intended to prevent. *See Stebbins v. Stebbins*, 673 A.2d 184, 190 (D.C. 1996) (discussing exceptions to general rule that appeal strips trial court of jurisdiction); *Padgett v. Padgett,* 478 A.2d 1098, 1100 (D.C.1984) (per curiam) ("a party may seek disposition in the trial court of *other* matters which do not result in revocation or alteration of the judgment on appeal") (emphasis added). By parity of reason, a party may *not* seek disposition of matters that *would* result in revocation or alteration of the judgment on appeal. Any ongoing proceedings in this Court necessarily would impinge on Nicdao's appeal. Accordingly, this Court is estopped from exercising continuing jurisdiction over Nicdao.

III. THE REQUIREMENTS OF A STAY PENDING APPEAL ARE MET HERE.

"'To prevail on a motion for stay, a movant must show that he or she is likely to succeed on the merits, that irreparable injury will result if the stay is denied, that opposing parties will not be harmed by a stay, and that the public interest favors the granting of a stay.'" *Salvattera v. Ramirez*, 105 A.3d 1003, 1005 (D.C. 2014) (quoting *Barry v. Washington Post Co*., 529 A.2d 319, 320-21 (D.C. 1987)). "'These factors interrelate on a sliding scale and must be balanced against each other.'" *Id.* (quoting *Serono Labs., Inc. v. Shalala*, 158 F.3d 1313, 1318, 332 U.S. App. D.C. 407 (D.C. Cir. 1998)). Given the background set forth above and the nature of the proceedings here, Nicdao satisfies the requirements for entry of a stay pending appeal here.

First, Nicdao is likely to succeed on the merits of her Special Motion to Dismiss because this action is based on her advocacy on a matter of public concern and Plaintiff has adduced no evidence that she has intentionally inflicted emotional distress on anyone or that she engaged in a private nuisance. Moreover, the only remedy Plaintiff seeks is injunctive relief, and Nicdao has been outside Two Rivers only once. Injunctive relief is not appropriate under these circumstances. *E.g., Los Angeles v. Lyons*, 461 U.S. 95, 105-06 (1983) (case dismissed for lack of case or controversy where equitable relief sought on the basis of single occurrence of alleged wrongdoing; allegation of single instance of past harm "does nothing to establish a real and immediate threat" that would recur if not enjoined).

Second, Nicdao will suffer irreparable injury if the stay is denied, because, as amply demonstrated above, the Anti-SLAPP Act is intended to provide her immunity from the lawsuit itself, not just from liability. Accordingly, to allow the case to proceed to trial pending resolution of Nicdao's appeal is to destroy her right to be immune from the litigation entirely, and no successful appeal after the fact can ever restore that right.

Third, Two Rivers will not be substantially harmed by the stay because: (a) Nicdao has not returned to the Two Rivers area in the first place; and (b) Two Rivers has little chance of succeeding against her at trial. The Complaint barely mentions Nicdao at all, referencing her substantively in only two of 88 numbered paragraphs. Two Rivers does not dispute that Nicdao has been to the premises only once in the more than six months this case has been pending. Most importantly, as shown immediately above, Two Rivers cannot hope to obtain injunctive relief – the only remedy it has requested – against Nicdao because her lone visit to the site fails to establish any real and immediate threat of future harm. As a result, Two Rivers will not suffer any harm from a stay of proceedings as against Nicdao.

Finally, the public interest favors granting the stay, because the protection of First Amendment rights is always in the public interest, which is best served by prompt resolution of an issue of first impression regarding the appealability and applicability of the Anti-SLAPP Act under these circumstances. *See, e.g., Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury") (internal quotation marks omitted); *Christian Legal Soc'y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006) ("[I]njunctions protecting First Amendment freedoms are always in the public interest."); *Syracuse Peace Council v. FCC*, 867 F.2d 654, 677 (D.C. Cir. 1989) ("the public interest is 'inextricably intertwined' with the First Amendment"). Just as injunctions protecting First Amendment freedoms are always in the public interest, so also would a stay protecting First Amendment freedoms be in the public interest here.

For these reasons, this Court should grant Nicdao's Motion and enter an order staying all proceedings pending resolution of Nicdao's appeal of the April 29 Order.

IV. ALTERNATIVELY, DEFENDANT NICDAO MOVES FOR AN ADDITIONAL EXTENSION OF TIME WITHIN WHICH TO FILE AN ANSWER TO THE COMPLAINT IF A STAY PENDING APPEAL IS DENIED.

In the alternative, in the event the Court denies Nicdao's Motion requesting a stay pending appeal, Nicdao moves this Court for an order extending the time within which to answer Two Rivers's Complaint. While Nicdao believes her motion for stay is meritorious and that this Court lacks jurisdiction to take further action in this proceeding until resolution of Nicdao's appeal, Two Rivers' counsel has taken the position in correspondence with Nicdao's counsel that her answer is presently due notwithstanding this Motion for a stay and the law dictating that the Court is without authority to further prosecute this case during the pendency of the appeal. As a result, Nicdao moves for alternative relief allowing her additional time to respond to the Complaint in the event the motion for stay is denied that is: (a) 10 days after the issuance of a mandate by the Court of Appeals resolving Nicdao's interlocutory appeal, in the event that this Court issues a stay; or (b) 10 days after the entry of an order by the Court of Appeals denying a stay, in the event that this Court declines to issue a stay.

There are several important reasons why the filing of Nicdao's answer should be deferred. First, requiring her to answer now could be deemed a waiver of her asserted immunity from suit under the D.C. Anti-SLAPP Act and therefore could render moot or otherwise impair her interlocutory appeal of the April 29 Order. Second, given the briefing and submission of Nicdao's Declaration in support of her Motions to Dismiss, Two Rivers is well aware of which allegations Nicdao would admit and which she would deny, even if she is not required to file an Answer now. Accordingly, Two Rivers would suffer no prejudice if the filing of Nicdao's Answer is deferred until, at the very least, the Court of Appeals determines that she is not entitled to a stay pending appeal (assuming that this Court declines to issue a stay). On the other

hand, Nicdao faces significant potential prejudice if she is required to file an Answer before her entitlement to a stay is resolved because such a filing potentially could be deemed a waiver of her asserted immunity. *See, e.g., Insurance Corp. of Ir. v. Compagnie Des Bauxites De Guinee*, 456 U.S. 694, 702-04 (1982) (discussing generally that an objection to the exercise of personal jurisdiction can be waived even if lack of subject-matter jurisdiction cannot); *Ausbrooks v. Ausbrooks*, 493 A.2d 324, 325 (D.C. 1985) (voluntary submission to jurisdiction of court may constitute waiver of objection, or consent, to exercise of personal jurisdiction). Because whether this Court has the authority to allow proceedings in this action to continue during the pendency of Nicdao's interlocutory appeal is not strictly a question of subject-matter jurisdiction, Nicdao wishes to avoid even the appearance of waiving her asserted right to immunity under the D.C. Anti-SLAPP Act by filing an Answer now.

For these reasons, this Court should further extend the time for Nicdao to answer the Complaint as prayed for herein.

Dated: May 23, 2016

Respectfully submitted,

SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.

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CERTIFICATE OF SERVICE

I hereby certify that, on this 23d day of May, 2016, I caused true and correct copies of the foregoing Defendant Ruby Nicdao's Motion for Stay Pending Appeal or, in the Alternative, an Additional Extension of Time within which to Respond to Plaintiff's Complaint, a memorandum of points and authorities in support thereof, and a proposed order thereon to be served upon the following parties via the CaseFileXpress System, addressed to:

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and to be served upon the following parties via first-class mail, postage prepaid, addressed to:

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/s/ ALEXANDER C. VINCENT
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