

- (a) The Order describes CIR 112 as “suggest[ing] that the Plaintiffs cooperated in Russian interference with the U.S. presidential election.” Order at 19;
- (b) In the same vein, the Order states that a “reader could reasonably infer that inclusion of CIR 112 in a collection of reports relating to Russian interference in the 2016 U.S. presidential election was not gratuitous, and CIR 112 is capable of bearing the meaning that that [stet] the nature of the overall relationship between Plaintiffs and the Russian government creates a reasonable possibility that they were involved, as advisors or participants, in any Russian interference in the U.S. election.” Order at 19-20.

In these ways, the Order reaches a conclusion, contrary to Defendants’ argument in their pending 12(b)(6) motion that CIR 112 is purportedly not capable of defamatory meaning because “the cooperation referenced in the title [of CIR 112] does not relate to the U.S. presidential election.” *See* Dkt. # 27 at 5.

The Notice also exaggerates the significance of the Order [e.g., as “particularly relevant supplemental authority”]. Instead, apart from the Order’s finding that the headline of CIR 112 *does* suggest election interference by Plaintiffs, it is likely to be inconsequential to the pending motions. As the Court is aware, Plaintiffs argue that: (a) Defendants filed their Anti-Slapp motion after the expiration of the strict 45 day statutory deadline for making such a motion; and (b) the D.C. Anti-Slapp statute may not be invoked in federal district court because it conflicts with procedures mandated by the Federal Rules of Civil Procedure. Indeed, since Plaintiffs filed their opposition to

Defendants' Anti-Slapp motion, two Judges in this District have held that *Abbas* continues to preclude the use of the D.C. Anti-Slapp statute in federal court. Plaintiffs are providing those decisions in a separate notice of supplemental authority.

To the extent that Judge Epstein's Order addresses issues that this Court may theoretically reach, Plaintiffs respectfully submit that the Order – which Plaintiffs intend to appeal – is seriously flawed in multiple respects. Plaintiffs are separately moving for permission to be heard [either in a written submission, at oral argument, or both] so that Plaintiffs can explain in detail how the Order overlooks specific evidence and governing legal principles in a way that undermines its conclusion.

Dated: New York, New York
August 23, 2018

Respectfully submitted,

/s/ Alan S. Lewis

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of August 2018, I electronically filed and served the foregoing Response to Notice of Supplemental Authority using the CM/ECF system.

/s/ Alan S. Lewis

Alan S. Lewis