

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

-against-

ROBERT MENENDEZ et al.,

Defendants.

Case No. 23-cr-490 (SHS)

NOTICE OF MOTION AND MOTION TO DISMISS THE INDICTMENT

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law and the Declaration of Avi Weitzman and Exhibits thereto, Defendant Senator Robert Menendez will and hereby does respectfully move this Court before the Honorable Sidney H. Stein, United States District Judge, in Courtroom 23A at the United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York, 10007, on a date and time to be designated by the Court, for an Order Granting Senator Menendez’s First Motion to Dismiss the Second Superseding Indictment pursuant to Federal Rule of Criminal Procedure 12(b)(3), or, in the alternative, striking pursuant to Federal Rule of Criminal Procedure 7(d) those allegations that either offend the Speech and Debate Clause of the United States Constitution or concern acts that cannot constitute “official acts” under the Supreme Court’s decision in *McDonnell v. United States*, 579 U.S. 550 (2016).

PLEASE TAKE FURTHER NOTICE that by Order of the Court (ECF No. 112), any opposition papers shall be filed on or before February 5, 2024, and any reply shall be filed on or before February 12, 2024.

Dated: January 10, 2024

Respectfully submitted,

Yaakov M. Roth (*pro hac vice* pending)

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