IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WILLIAM C. TOTH JR., et al.,

Plaintiffs,

v.

LEIGH M. CHAPMAN, et al.,

Defendants.

v.

CAROL ANN CARTER, et al.,

Intervenor-Defendants.

No. 1:22-cv-00208-JPW-KAJ-PS

Three Judge Panel Convened Pursuant to 28 U.S.C. § 2284(a)

CARTER PETITIONERS' MOTION TO DISMISS THE SECOND AMENDED COMPLAINT

Carol Ann Carter, Monica Parrilla, Rebecca Poyourow, William Tung, Roseanne Milazzo, Burt Siegel, Susan Cassanelli, Lee Cassanelli, Lynn Wachman, Michael Guttman, Maya Fonkeu, Brady Hill, Mary Ellen Balchunis, Tom Dewall, and Stephanie McNulty (the "Carter Petitioners") hereby move, pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss Claim 3 of the Second Amended Complaint of William C. Toth Jr., William J. Hall, James Bognet, Aaron Bashir, and Alan M. Hall (ECF No. 49) with prejudice for failure to state a claim upon which relief can be granted.¹

¹ The Carter Petitioners' motion to dismiss Claims 1 and 2 of the Second Amended Complaint (ECF No. 58) is currently pending with this Court.

The Carter Petitioners shall submit a memorandum of law in support of this Motion within 14 days, as set forth in Local Rule 7.5, or at such time as the Court may direct at the scheduling conference that will be convened on March 17, 2022.

Counsel for the Carter Petitioners have consulted with Plaintiffs' and Defendants' counsel regarding this Motion. Counsel for Defendants have indicated that they do not oppose this Motion. Counsel for Plaintiffs have indicated that they oppose this Motion.

WHEREFORE, the Carter Petitioners respectfully request that this Court enter an order granting this Motion to Dismiss and dismissing Claim 3 of the Second Amended Complaint with prejudice.

Dated: March 14, 2022

Abha Khanna**
Elias Law Group LLP
1700 Seventh Ave, Suite 2100
Seattle, WA 98101
akhanna@elias.law
T: (206) 656-0177

Lalitha D. Madduri**
Jyoti Jasrasaria**
Christina Ford**
Joseph Posimato**
Tina Meng**
Elias Law Group LLP
10 G St. NE, Suite 600
Washington, D.C. 20002
lmadduri@elias.law
jjasrasaria@elias.law
tmeng@elias.law
T: (202) 968-4490

Matthew Gordon**
Perkins Coie LLP
1201 Third Avenue Suite 4900
Seattle, WA 98101
MGordon@perkinscoie.com
T: (206) 359-3552

Respectfully submitted,

/s/ Elizabeth V. Wingfield Timothy D. Katsiff (PA 75490) Elizabeth V. Wingfield (PA 32477) Edward D. Rogers (PA 69337) Marcel S. Pratt (PA 307483)* Robert J. Clark (PA 308105)* Michael R. McDonald (PA 326873)** Paul K. Ort (PA 326044) Ballard Spahr LLP 1735 Market Street, 51st Floor Philadelphia, PA 19103 KatsiffT@ballardspahr.com WingfieldE@ballardspahr.com RogersE@ballardspahr.com PrattM@ballardspahr.com ClarkR@ballardspahr.com McDonaldM@ballardspahr.com OrtP@ballardspahr.com T: (215) 665-8500

Counsel for Carter Petitioners

F: (215) 864-8999

*Motions for Pro Hac Vice Forthcoming **Admitted Pro Hac Vice

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WILLIAM C. TOTH JR., et al.,	:
Plaintiffs,	· :
v. LEIGH M. CHAPMAN, et al.,	:
	: No. 1:22-cv-00208-JPW-KAJ-PS
Defendants. v.	: Three Judge Panel Convened: Pursuant to 28 U.S.C. § 2284(a):
CAROL ANN CARTER, et al.,	:
Intervenor-Defendants.	· :
<u>ORDER</u>	
AND NOW, on this day of, 2022, upon	
consideration of the Carter Petitioners' Motion to Dismiss Claim 3 of Plaintiffs'	
Second Amended Complaint, and any	y responses thereto, IT IS HEREBY
ORDERED that the Carter Petitioners' N	Motion is GRANTED and Claim 3 of the
Second Amended Complaint is DISMISS	ED WITH PREJUDICE.
	BY THE COURT: