IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

REV. XIU HUI "JOSEPH" JIANG,	)	
Plaintiffs,	)	
v.	)	Case No. 4:15-cv-01008
TONYA LEVETTE PORTER, JAIMIE D. PITTERLE, CITY OF ST. LOUIS, MISSOURI, A.M., N.M., SURVIVORS NETWORK OF THOSE ABUSED BY PRIESTS, DAVID CLOHESSY, and BARBARA DORRIS,	)	JURY TRIAL DEMANDED
Defendants.	)	

REPLY IN SUPPORT OF THE SNAP DEFENDANTS' MOTION TO DISMISS UNDER MISSOURI'S ANTI-SLAPP STATUTE AND RULE 12(b)

Introduction

Certain undeniable realities color this entire procedure and show it for what it is -- a SLAPP lawsuit, plain and simple. It has long been recognized that "Plaintiffs file SLAPPs not with the intent of recovering from defendants, but rather to silence individuals and groups that have publicly opposed the plaintiff's actions or interests with the threat of costly, time-consuming, and potentially reputation-damaging litigation." Barylack, C., "Reducing Uncertainty in Anti-SLAPP Protection," Ohio State L. J., Vol. 71: 4. That's clearly what has happened here.

So that there is no mistake in assessing the true intent behind this lawsuit and its SLAPP nature, plaintiff – a Catholic priest accused in two separate fora of sexually abusing children – has sued (1) a non-profit entity formed to prevent child sexual abuse and help victims of child

sexual abuse, with no money to pay any such judgment should one even be entered and with a long history of disputes with the Catholic Church hierarchy; (2) the parents of a sexual abuse victim also without substantial wherewithal to pay and who are potential witnesses against plaintiff in a criminal matter; and (3) state and city officials with clear immunity from such suits and who investigated the allegations against plaintiff in their official capacities. And, there is a potential for reviving the charges.

Plaintiff himself would have to testify to support his case, and the likelihood of Fifth Amendment silence is a near certainty. Tellingly, plaintiff submitted no affidavit or testimony to support his opposition. He has thus not even attempted to meet the shifting burdens which anti-SLAPP case law and commentators have recognized. *See, e.g., See Missouri's New Anti-SLAPP Law*, J. of Mo. Bar, Kling, S (May-June 2005) ("Upon the filing of a special motion authorized by Missouri's anti-SLAPP statute, the burden shifts to the plaintiff, without the aid of discovery, to show by credible and admissible evidence that the defendant's petitioning activities were not immunized by the first amendment").

As the commentator above noted, the intent here is clearly thus ***not*** recovery, but "rather to silence individuals and groups that have publicly opposed the plaintiff's actions or interests with the threat of costly, time-consuming, and potentially reputation-damaging litigation." It is a SLAPP suit, plain and simple. *See ex rel. Diehl v. Kintz,* 162 S.W.3d 152 (Mo. App. 2005).

With regard to the "public" nature of the petitioning activities alleged and why the statute's aim is satisfied here, plaintiff's Complaint expressly alleges that the statements of the SNAP defendants were made to place "pressure on the City of St. Louis and Police Defendants to maintain the prosecution against" plaintiff. Complaint at 84. This allegation of the SNAP defendants' supposed "intent" implicates ***exactly*** what anti-SLAPP statutes prohibit – namely,

lawsuits against those petitioning the government in violation of the petitioners' First Amendment rights to attempt to silence them.

It is not alleged that SNAP was seeking money, revenge, or some other motive in making its alleged statements, nor could it be. Rather, plaintiff is expressly suing the SNAP defendants for seeking government action. That is why the Court must invoke the statute to protect the SNAP defendants' First Amendment rights. These undeniable and admitted procedural realities are why we are here and why the Court must dismiss the case and award fees.

Substantively, plaintiff's response conflates the very premise underlying anti-SLAPP statutes and would render Missouri's statute a toothless animal in the fight against SLAPP suits such as this. To that end, plaintiff argues that Missouri's statute is solely and exclusively just a procedural vehicle to expedite motions to dismiss and to stay discovery while the motion is pending. There are so many fundamental problems, however, with plaintiff's position legally, aside from the procedural issues above, that it is difficult to know where to begin.

As shown above and below, the Court must dismiss plaintiff's Complaint and award the SNAP defendants their attorneys' fees and costs.

Reply

I. Missouri's Anti-SLAPP Statute is Substantive.

Plaintiff's first argument is that the Missouri Anti-SLAPP statute does not provide any ***substantive*** rights and is thus procedural only. He argues that the Statute grants defendants only two things: (1) an expedited decision on a motion to dismiss under some unknown standard, and (2) no discovery during the pendency of that motion. That's it.

This reading, however, conflicts with the very language of the statute and would render it toothless to protect public speech, its very aim. In reality, it is a hybrid statute, with both

procedural ***and*** substantive aspects. To that end, plaintiff first ignores 537.528(2), which states: "2. If the ***rights*** afforded by this section are raised as an ***affirmative defense*** and if a court grants a motion to dismiss …" then it "shall award" attorneys' fees. Thus, the statute expressly contemplates the "rights" of the statute being raised via an "affirmative defense" that a defendant may raise, and that such is expressly a "right" afforded by the statute.

Indeed, in a separate section of his brief – not in the "procedural" argument beginning his response – plaintiff is forced to concede that the statute is in fact substantive. Plaintiff cites *Ferrell v. W. Bend Mut. Ins. Co.*, 393 F.3d 786, 796 (8th Cir. 2005), in which the Eighth Circuit held that fee-shifting statutes such as here are in fact substantive. Procedural timing arguments about ***when*** an argument will be decided and ***how*** discovery will not occur surely are ***not*** "rights" that may be raised via affirmative defenses.

Affirmative defenses under Missouri law are substantive defenses to a plaintiff's claim that defeats the claim. *See* Mo. R. C.P. 55. The statute would make no sense if it were solely procedural as he argues because it expressly includes "rights afforded by this section," which may be raised as an "affirmative defense." What are those "rights" then? Plaintiff never says.

Plaintiff's argument also would render the statute toothless to its goal because only the "normal" affirmative defenses would apply to claims such as this – e.g., is the allegation "true." The statute, however, looks beyond that and creates in essence an "affirmative defense" for speech made in connection with public hearings, ***regardless*** of its truth.

To that end, plaintiff mistakenly equates ***remedies*** of a plaintiff with the ***affirmative defense*** "rights" afforded by the section. He quotes 537.528(5), which states: "Nothing in this section ***limits or prohibits*** the exercise of a right or remedy of a party granted pursuant to another constitutional, statutory, common law or administrative provision, including civil actions for

defamation." Brief at 4-5. He then, however, ignores section 7, which states: "The provisions of this section shall apply to all causes of actions." 537.528(7). It is the "affirmative defense" language – the "right afforded by this section" -- that applies to "all causes of actions."

Thus, while the statute does not "limit" or "prohibit" the "exercise of a right or remedy" – e.g., a plaintiff can file a defamation claim -- plaintiff ignores that the statute actually ***creates*** the "rights afforded by this section," which may expressly be raised via "affirmative defense." The statute thus does not "limit" or "prohibit" rights, including defamation, but ***adds*** "rights" that may be raised as an affirmative defense to defeat such claims. That is why it applies "to all causes of actions." 537.528(7). The court in *Cedar Green Land Acquisition v. Baker*, 212 S.W.3d 225 (Mo. App. 2007), recognized that the rights of the statute may be raised as an "affirmative defense."

Plaintiff cites to the statute's "title" as addressing "procedural" issues, but the "title" of a statute does not affect the ***substance*** of the statute. If it were otherwise, the "rights afforded" by this section language and "affirmative defense" by which such "rights afforded" may be asserted would be meaningless. The canons of statutory interpretation prohibit results that would render statutes "meaningless." The Eighth Circuit has recently held: "A reading that turns an entire subsection into a meaningless aside 'is inadmissible, unless the words require it.' Marbury, 5 U.S. (1 Cranch) at 174." *Lucas v. Jerusalem Café LLC*, (8th Cir. 2013).

Underscoring plaintiff's confusion between "the rights afforded" to be raised as an "affirmative defense" under the section and the nothing "limits or prohibits the rights or remedies" language, he cites *Zike v. Advance America*, Case No. 4:09-cv-0199-TCM, 2009 WL 3698429, at *6 (E.D. Mo. Nov. 3, 2009). He quotes the court as stating: "There is nothing in the language of § 537.528, nor in any legislative history cited by Defendants, that suggests that the

Missouri legislature intended to abrogate the tort of malicious prosecution when enacting § 537.528." *Id.*

While that unremarkable premise is true – nothing in the statute in fact "abrogates the tort of malicious prosecution" – that assertion does not address the "rights afforded by this section" to be raised via an "affirmative defense" language of the statute. Again, plaintiff confuses the "nothing limits or prohibits" language with the new "rights afforded by this section" language.

Plaintiff also cites *Hallmark Cards v. Monitor Clipper Partners,* Case No. 08-0840- CV-W-ODS, 2010 WL 4853848, at *1 (W.D. Mo. Nov. 22, 2010), but that court did not address the "rights afforded" or "affirmative defense" language of the statute either. Thus, when it stated "[T]he statute does not provide any special defenses or immunities," it did so without addressing the meaning of "rights afforded" by the section or the "affirmative defense" provision. Ironically, the court in fact considered the special motion to dismiss, while plaintiff here claims federal courts cannot. That case is nonetheless factually different, where it assuredly was not a non-profit entity invoking the statute to address alleged defamatory statements made in connection with public hearings but a business competitor of Hallmark.

While accusing SNAP's interpretation of leading to absurd results, it is actually plaintiff's interpretation that does so by rendering the statute meaningless. Under plaintiff's interpretation, the Court is merely to (1) hear a normal motion to dismiss on an expedited basis and (2) stay discovery. That's it. It would not have to determine if the allegation implicated speech "in connection with" a "public hearing." That would be irrelevant, as just the timing of decision and lack of discovery would occur. His interpretation undermines the entire purpose of the statute and reads out the "standard" or prerequisite for the special motion to dismiss that the statute provides, as well as "the rights afforded" by the statute.

Accordingly, plaintiff's argument that the statute contains no substantive rights fails under the plain language of the statute.

II. The Anti-SLAPP Statute Applies to Statements Made in Connection With Judicial Proceedings as a Matter of Fact and Law.

Commentators have noted that "The Missouri anti-SLAPP statute's coverage is very broad." Stephen L. Kling, Missouri's New Anti-SLAPP Law, 61 J. MO. B. 124 (May-June 2005). This "broad coverage" is consistent with the U.S. Supreme Court's findings that "circulars, speeches, newspaper articles, editorials, magazine articles, memoranda and ***all other documents"*** espousing a petitioner's viewpoint deserve First Amendment petition clause immunity when they are part of an overall effort "to influence government action." *Eastern R.R. Presidents Conference v. Noerr Motor Freight,* 365 U.S. 127, 142-43 (1961). The *Noerr* decision formed the backbone of the initial legal cases serving as the judicial predecessors to anti-SLAPP statutes. *Kling*, at 125.

Contrary to the statute's "broad coverage" and First Amendment protections for "all documents" and speech, however, plaintiff argues for a very narrow interpretation here – one that would undermine the purpose of the statute. To that end, this entire issue really comes down to whether the term "public hearing" contained in the statute includes judicial hearings.

In other words, is speech or conduct "in connection with" a ***criminal hearing,*** and expressly alleged to have been made to spur government action, subject to the "rights afforded" by the anti-SLAPP statute? Recent case law in Missouri defining the term "hearing" in a statutory context, and given the broad nature and intent of the statute, shows that it is.

The statute, 537.528, states: "Any action against a person for conduct or speech undertaken or made in connection with a ***public hearing*** or public meeting, in a quasi-judicial proceeding before a tribunal or decision-making body of the state or ***any political subdivision of***

the state is subject to a special motion to dismiss …." This statutory language supports the protection of speech "made in connection with" a criminal judicial hearing, which is defined in Missouri as a public hearing.

1. A Judicial Proceeding is a Public Hearing.

In arguing that a judicial proceeding is not a "public hearing," and while citing the uses of that term in several statutory contexts, plaintiff tellingly ignores that just six months ago the Missouri Supreme Court defined the term "hearing" in a statutory context. That plaintiff's brief – which shows the fruit of obviously fairly exhaustive research, including the actual counting of statutes -- omitted the one Missouri case actually defining "hearing" in a statutory context is extremely telling. Not surprisingly, in light of plaintiff's omission of this definition, the Missouri Supreme Court's "hearing" definition encompasses judicial hearings.

Specifically, in *Campbell v. County Commission of Franklin County*, SC94339 (Mo. 2015), the Missouri Supreme Court recognized that the term "hearing" had not been defined before. It thus utilized basic statutory interpretation principles, and consulted the dictionary. It then stated: "A 'hearing' is 'a session ... in which testimony is taken from witnesses,' [includes] an 'opportunity to be heard, to present one's side of a case, or to be generally known or appreciated,' and 'a listening to arguments.'" *Id. quoting* MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 574 (11th ed. 2012). Obviously, the statutory definition of "hearing" in Missouri contains many indicia of a judicial proceeding – testimony, presenting one's side of "a case," and listening to arguments.

Under this definition, a criminal judicial proceeding is thus clearly a "public hearing." Testimony is "taken from witnesses." An "opportunity to be heard" is provided. There is a "listening to arguments." It is also a "public hearing," as the public is certainly free to attend and

the "public" or "people" are given the opportunity to "present their case" via their designated agent for such purposes – the prosecutor -- and perhaps by the public acting as witnesses. After all, the criminal case was *State v. Jiang*.

Further, as mentioned, the ***express allegation*** in the Complaint directed to the SNAP defendants is an alleged defamatory statements to influence governmental action – namely, "to place improper pressure on the City of St. Louis and Police Defendants to maintain the prosecution against [plaintiff] …." Complaint at Par. 84. Courts have held that if the defendant "was seeking a governmental result," the case should be dismissed, and it does not matter if the defendant's motives are impure or the defendant uses "improper means." *Columbia v. Omni Outdoor Advertising, Inc.,* 499 U.S. 365, 380 (1991).

Indeed, plaintiff's own Complaint states that the alleged defamatory statements included those expressly made ***in connection*** with a "hearing." Complaint at Par. 81(g) ("This document was issued just three days before a critical ***hearing*** was scheduled in Fr. Joseph's criminal case"). Plaintiff thus tied temporally the alleged defamatory statement to a "hearing." Despite all this, plaintiff now claims that the "hearing" his own Complaint cites is not really a "public hearing" under the statute. His position, however, fails under the Supreme Court's definition of "hearing."

Further, even without the Supreme Court's recent definition of "hearing," plaintiff's argument fails. In particular, the argument that the legislature chose to enact a "narrower" statute than those of other states expressly including "judicial proceedings" does not explain why it did not expressly ***exclude*** same from the statute if that truly were its intent. It easily could have. For example, the Arizona legislature expressly ***excluded*** judicial proceedings from its anti-SLAPP statute. A.R.S. 12-751 ("Governmental proceeding" means any proceeding, ***other***

than a judicial proceeding …"). Some statutes expressly included, as plaintiff points out. Other expressly excluded. Missouri did neither, choosing the "public hearing" language.

Thus, plaintiff's same argument applies in reverse when he states: "The fact that the Missouri legislature enacted a narrower anti-SLAPP statute, that did not include reference to 'judicial proceedings,' strongly implies that § 537.528 does not apply to judicial proceedings." Resp. at 10. The fact, however, that the Legislature ***did not*** exclude "judicial proceedings" in discussing "public hearings" strongly "implies that 537.528 ***does*** apply to judicial proceedings."

In reality, the same First Amendment stifling concerns are present regarding judicial proceedings as any other governmental public hearings or meetings. We have, after all, open courts in this country. Reporters report on public judicial proceedings. The legislature certainly could have and should have expressly omitted public ***judicial*** proceedings from the term "public hearings" if it intended to exclude them, but it did not.

In light of the foregoing, including the Missouri Supreme Court's recent definition of hearing, the omission of an exclusion of judicial proceedings from coverage, and the arguments above, it is clear that the "public hearing" referenced in the statute includes criminal hearings.

III. Anti-SLAPP Statutes Apply in Federal Court

Ironically, after citing two federal district court opinions addressing motions under Missouri's anti-SLAPP statute, plaintiff argues that the statute does not apply in federal court after all. It is ironic because neither of those opinions agreed with plaintiff's position, and both applied, substantively, Missouri's anti-SLAPP statute. While they each found the statute did not support dismissal in those specific factual scenarios, unlike the facts here, neither questioned whether the statute in fact applied. *See Hallmark* and *Zike, supra.*

Given that Missouri's anti-SLAPP statute contains remedial, as well as procedural provisions, it is understandable why neither of those courts even questioned its applicability. Plaintiff is also forced to cite *Ferrell v. W. Bend Mut. Ins. Co.*, 393 F.3d 786, 796 (8th Cir. 2005), in which the Eighth Circuit held that fee-shifting statutes such as here are in fact substantive. He then provides a circular, one-sentence argument to try and get around it, stating: "As explained above, the 'rights afforded by' the statute do not apply in federal court and thus cannot be raised successfully in federal court so as to warrant a fee award." Resp. at 14. Whether something is substantive or procedural, however, does not and cannot depend on the result a party envisions. The determination of the issue is substantive regardless of the result.

It is also important to note that this is the only place in plaintiff's response where he even mentions "the rights afforded" by the statutory language, which defeats his entire "solely-procedural" argument, as discussed above in Section I.

Accordingly, the statute is substantive and applies in federal court.

IV. Plaintiff Fails to Meet His Burden of Demonstrating No First Amendment Protection.

Given that the statute applies in federal court, it is substantive, and applies to the statements made here, plaintiff has not met his burden of defeating the motion. "Upon the filing of the special motion authorized by Missouri's anti-SLAPP statute, the burden shifts to the plaintiff, without the aid of discovery, to show by credible and admissible evidence that the defendant's petitioning activities were not immunized by the First Amendment." Stephen L. Kling, Missouri's New Anti-SLAPP Law, 61 J. MO. B. 124 (May-June 2005) (citing *Mountain Environment v. Dist. Court*, 677 P.2d 1361 (Colo. 1984)). See, e.g., *Moschenross v. St. Louis County*, 188 S.W.3d 13, 24 (Mo. Ct. App. 2006). Here, plaintiff submitted no "admissible"

evidence to defeat the claim of anti-SLAPP or the statements were not "immunized by the First Amendment."

In addition to free speech, the First Amendment "guarantees citizen access to government, and its broad protection covers any peaceful, lawful attempt to promote or discourage government action at all levels and branches of government, including circulating petitions, testifying at public hearings, writing to government officials, reporting violations of law and lobbying for legislation." Stephen L. Kling, Missouri's New Anti-SLAPP Law, 61 J. MO. B. 124 (May-June 2005) (citation omitted). Finally, when reviewing a special motion to dismiss, "the Court should view the evidence in the light most favorable to the moving party because the responding party bears the burden of proof when the statute applies." *Morse Bros., Inc. v. Webster*, 772 A.2d 842, 849 (Me. 2001).

And to be sure, the same dismissal result would have occurred absent the SLAPP statute's enactment. This case is extremely similar to *State ex rel. Diehl v. Kintz,* 162 S.W.3d 152 (Mo. App. 2005), decided before the SLAPP statute's enactment. In *Diehl,* the defendant was opposed to the plaintiff trash company's landfill and started a coalition against the landfill called "Stop Fred Weber Fund."

The defendant prepared a flyer referring to Fred Weber, Inc. as "Trash Terrorists," among other content, and distributed it in connection with a public hearing on the landfill. Fred Weber sued the defendant for defamation. The trial court denied the coalition's motion to dismiss but the Court of Appeals granted a writ of prohibition and reversed. It found that the term "trash terrorist" was not defamatory but "imaginative expression" or "rhetorical hyperbole" as a matter of law. *Id.* at 156.

It also stated, indicating it would have granted SLAPP relief had the statute been in existence at the time of filing:

> The alleged defamation occurred before, during, and after a public hearing on the proposed trash transfer station. Public hearings are conducted in part to encourage public discourse. Further, the free exchange of ideas between citizens and government is a hallmark of democracy.
>
> The Missouri Legislature, in enacting section 537.528 in 2004, has recognized the importance of expedited judicial consideration and prevention of unnecessary litigation expenses for actions seeking money damages from "a person for conduct or speech undertaken or made in connection with a public hearing or public meeting.. . ." Although this statute was not in effect to grant Diehl an immediate remedy, the same concerns that animated the legislature in enacting this statute may guide the exercise of our discretion in issuing a writ.

Id. at 157-58.

The term allegedly used here – "predator priest" – is akin to "trash terrorist" used in *Diehl.* The alleged statements were likewise made in connection with a "public hearing" here, and even plaintiff's Complaint ties the defamation to a "hearing." *See* Complaint. Further, the express, alleged intent of the claimed defamation, as in *Diehl*, was to place "pressure on the City of St. Louis and Police Defendants to maintain the prosecution against" plaintiff. Complaint at 84.

Thus, plaintiff's own allegations establish that they are attempting to stop SNAP's petitioning of the government – namely, the prosecution of plaintiff. *See Columbia v. Omni Outdoor Advertising, Inc.*, 499 U.S. 365, 380 (1991) (holding that if the defendant "was seeking a governmental result," the case should be dismissed, and it does not matter if the defendant's motives are impure or the defendant uses "improper means"). Plaintiff here ***admits*** he is seeking to stop the "government result" SNAP seeks. The lawsuit must be dismissed.

V. Plaintiff's Complaint Should be Dismissed Under Rule 12(b).

1. Count VII: Civil Conspiracy

Plaintiff attempts to make a distinction between conspiracy under Missouri and Federal Law. Yet under either, plaintiff fails to set forth facts demonstrating a conspiracy or agreement to do anything. Specifically, "the plaintiff must allege with particularity and specifically demonstrate with material facts that the defendants reached an agreement." *Davis v. Jefferson Hosp. Ass'n*, 685 F.3d 675, 685 (8th Cir. 2012) quoting *City of Omaha Emps. Betterment Ass'n v. City of Omaha*, 883 F.2d 650, 652 (8th Cir. 1989).

Plaintiff's Complaint, however, provides no allegation regarding any "agreement" between the SNAP Defendants and any other defendant. Plaintiff argues that SNAP's alleged statements "encouraged" the prosecution, were intended to influence a jury pool, etc., but none of these things are specific facts demonstrating any agreement to do anything. The Conspiracy Count (Count VII) against the SNAP defendants must be dismissed.

2. Count XIII: Intentional Infliction of Emotional Distress.

Plaintiff argues that he pleads infliction of emotional distress because in Paragraph 157 he alleges conduct outside of the arrest and prosecution of Plaintiff by way of the alleged defamatory statements. While the paragraph still does not identify which conduct was allegedly undertaken by SNAP, "A cause of action for **intentional** infliction of emotional distress 'does not lie when the offending conduct consists *only* of a defamation.'" *Rice v. Hodapp*, 919 S.W.2d 240 (Mo banc 1996). If the allegedly defamatory statements form the only basis for this Count, then the Count should be dismissed.

3. Count XV: Defamation Against the SNAP Defendants.

Plaintiff acknowledges the specificity requirement for defamation allegations, but claims that because some of the alleged defamatory statements have been identified, that the entire count should stand. Plaintiffs cite no authority for this proposition. As it stands, plaintiff

admittedly purports to set forth "examples" of the allegedly defamatory statements, and states that the claim includes these statements "but is not limited to" them. Complaint, Paragraph 81. Additionally, paragraph 79 gives only a general description of the alleged defamatory statements.

SNAP is not required to defend against amorphous defamatory statements not specifically identified in the Complaint. Any defamatory statements not specifically identified must be excluded from consideration in this case. Plaintiff claims that more defamatory statements may come to light in discovery, but this does nothing to fix the underlying insufficiency of the pleading at this time. Thus, Count XV should be dismissed.

VI. Plaintiff's Motion to Strike is Without Merit.

Plaintiff filed a 32-page public Complaint attacking and accusing a minor child of lying about being raped, interjecting irrelevant facts about the child's sexual orientation and problems with bullies, accusing that child's parents of making up the story for money, and accusing the SNAP defendants of lying and engaging in a conspiracy with the government to discriminate against Plaintiff based on his race and religion. After reading the gratuitous allegations of the Complaint, it is the height of irony that Plaintiff would now complain about the details of these crimes appearing in Defendants' Motion by way of background. Plaintiff placed these facts squarely at issue by filing this suit. Plaintiff cites no authority that supports striking or disregarding any part of the motion in these circumstances, and the request is without merit.

WHEREFORE, the SNAP Defendants respectfully request that the Court dismiss the claims against the SNAP defendants, for its attorneys' fees in this matter, and for such further relief as is just and appropriate in these circumstances.

Respectfully submitted:

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of August, 2015, a copy of the foregoing was electronically filed with the Court, and will be sent electronically by the Court to counsel of Record:

/s/ Amy Lorenz-Moser