IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

GRAY FINANCIAL GROUP, INC., *et al.*, *Plaintiffs*, v. U.S. SECURITIES AND EXCHANGE COMMISSION, *Defendant*.	No. 15-cv-492-LMM

DEFENDANT'S MOTION TO STAY
PRELIMINARY INJUNCTION PENDING APPEAL

Pursuant to Federal Rule of Civil Procedure 62(c) and consistent with Federal Rule of Appellate Procedure 8(a)(1), Defendant, the Securities and Exchange Commission (the "SEC" or the "Commission"), respectfully moves this Court to stay pending appeal the preliminary injunction issued by this Court on August 4, 2015, ECF No. 56, enjoining the SEC from proceeding with its administrative enforcement action against Plaintiffs.

This Court ruled that it has jurisdiction, slip op. at 10-25; that Plaintiffs are likely to prevail on their claim that the SEC administrative law judge ("ALJ") who is presiding over the initial stage of the proceeding is an inferior officer who

was not appointed in accordance with Article II of the Constitution, *id.* at 26-36; and that Plaintiffs' mere participation in the administrative proceeding would cause them irreparable harm, *id.* at 36-37. The Commission has filed a notice of appeal and respectfully submits that it is likely to prevail before the Eleventh Circuit and that the balance of harms tilts sharply in favor of the Commission's continued ability to proceed administratively in this case to determine whether Plaintiffs' conduct warrants barring them from offering investment advice.

To start, this Court lacks jurisdiction over Plaintiffs' claims. And this Court's holding on Plaintiffs' Appointments Clause challenge is incorrect because, contrary to the Court's decision, SEC ALJs are not inferior officers. SEC ALJs' powers are not "nearly identical" to those of the Tax Court's special trial judges held to be inferior officers in *Freytag v. Commissioner*, 501 U.S. 868 (1991), and the Court's reasoning that ALJs are officers of the United States even though they "do not have final order authority," slip op. at 30 n.8, 32, conflicts with the reasoning of the only court of appeals to consider the constitutional status of any agency's ALJs, *see id.* at 29-32; *Landry v. FDIC*, 204 F.3d 1125, 1132-34 (D.C. Cir. 2000). The Commission is also likely to prevail on appeal with respect to its argument that Plaintiffs cannot make the showing of irreparable harm necessary to sustain an award of preliminary relief.

All of the other factors also tip in favor of a stay. The preliminary injunction harms both the SEC and the public interest because it interferes with the SEC's ability to enforce the federal securities laws and to deter future securities violations through its enforcement actions. The harm to the public interest is particularly acute in this case, which involves a registered investment advisor that has billions of dollars under management. The SEC has charged Plaintiffs with conduct that, if proven, would warrant action to protect Plaintiffs' current and prospective clients—such as barring Plaintiffs from the industry and revoking the institutional Plaintiff's registration with the SEC. In addition, the preliminary injunction permits the SEC to continue its enforcement action against Plaintiffs only if it modifies its existing enforcement scheme or otherwise forgoes an important enforcement tool Congress has granted the agency. Furthermore, because Supreme Court precedent establishes that any cost or burden to Plaintiffs of participating in the administrative proceeding does not constitute irreparable harm, there is no countervailing harm to balance against the injunction's harm to the SEC and the public.

STANDARD OF REVIEW

Federal Rule of Civil Procedure 62(c) provides in relevant part: "When an appeal is taken from an interlocutory or final judgment granting . . . an

injunction, the court in its discretion may suspend . . . an injunction" during the pendency of the appeal. District courts considering a motion for such a stay pending appeal consider the same factors as a court of appeals would in considering a similar motion: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987). Before seeking a stay from the court of appeals, a party must ordinarily move first in the district court for an order suspending an injunction pending appeal. Fed. R. App. P. 8(a).

ARGUMENT

I. The SEC Has A Strong Likelihood Of Success On Appeal

Three legal errors in the Court's Order, each of which provides sufficient ground for reversal, establish that the SEC has a strong likelihood of success on appeal.

1. Jurisdiction

The SEC respectfully submits that in finding jurisdiction to enjoin the SEC's administrative proceeding, the Court erroneously conflated the SEC's

choice of forum with the review scheme in the securities laws for the administrative proceedings that are the subject of Plaintiffs' challenges. *See* slip op. at 11-12. This Court concluded that because the SEC can pursue civil penalties in either a federal court or an administrative proceeding, it follows that the statutory review provisions governing administrative proceedings—which require that challenges to such proceedings first be heard by the Commission and then in an appropriate federal court of appeals, 15 U.S.C. §§ 77i(a), 78y(a)(1), 80a-42(a), 80b-13(a)—do not establish an exclusive avenue for review.

That reasoning is flawed because the fact that Congress gave the SEC a choice of forum in which to initiate enforcement proceedings by no means shows that Congress intended to give a respondent in an SEC administrative enforcement proceeding a similar choice once the SEC has selected its forum. Indeed, the statutory review provisions are to the contrary, as the Second Circuit has held in *Altman v. SEC*, 687 F.3d 44, 46 (2d Cir. 2012) (per curiam) ("Section 25(a) [of the Exchange Act, 15 U.S.C. § 78y(a)] does, under this Circuit's precedent, supply the jurisdictional route that Altman must follow to challenge the SEC action."). And the Supreme Court in *Thunder Basin Coal Co. v. Reich* found the review scheme in that case—which is like the one here—to be exclusive where the statute permitted the agency to bring enforcement actions in

district court in certain circumstances. 510 U.S. 200, 207, 209 (1994) (noting that the agency may bring certain enforcement proceedings in district court but, when the agency chooses to proceed administratively, "mine operators *enjoy no corresponding right* [to proceed in district court] but are to complain to the Commission and then to the court of appeals" (emphasis added)). This Court sought to distinguish *Thunder Basin* based on "the nature of the claims at issue," slip op. at 14, but did not identify any material difference between the two statutory schemes.

This Court also relied on a 1979 Second Circuit decision, *Touche Ross & Co. v. SEC*, 609 F.2d 570, 577 (2d Cir.), which found an exception to the administrative exhaustion requirement in the federal securities laws. *See* slip op. at 18. In *Altman*, however, the Second Circuit specifically held that the "exception identified in *Touche Ross* did not apply" in a case where, as here, a litigant sought to challenge in district court the SEC's constitutional authority to impose sanctions against him in an administrative proceeding. 687 F.3d at 46; *see also Altman v. SEC*, 768 F. Supp. 2d 554, 562 (S.D.N.Y. 2011) ("Courts have read *Touche Ross* narrowly . . . and found its application especially inappropriate when a litigant invokes it to avoid agency review procedures, or when the agency in question is not acting plainly beyond its jurisdiction." (quotation marks

omitted)), *aff'd*, 687 F.3d 44. Instead, in *Altman*, the Second Circuit found that "none of the factors in *Thunder Basin/Free Enterprise* militated in favor of district court jurisdiction." 687 F.3d at 46. As Defendant has already demonstrated in its opposition to Plaintiffs' motion for preliminary injunction, the same is true here.

A related but separate principle likewise precludes a district court from enjoining proceedings that are subject to direct oversight in the court of appeals. The Eleventh Circuit and other courts have explained that "[w]here a statute commits review of agency action to the Court of Appeals, any suit seeking relief that might affect the Circuit Court's future jurisdiction is subject to the *exclusive* review of the Court of Appeals." *George Kabeller, Inc. v. Busey*, 999 F.2d 1417, 1421 (11th Cir. 1983) (quoting *Telecomms. Research & Action Ctr. (TRAC) v. FCC,* 750 F.2d 70, 78-79 (D.C. Cir. 1984)). Thus, relying on the *TRAC* analysis, the Ninth Circuit in *Public Utility Commissioner of Oregon v. Bonneville Power Administration*, 767 F.2d 622 (9th Cir. 1985) (Kennedy, J.), held that a district court lacked jurisdiction to consider a constitutional challenge to an agency proceeding based on the asserted bias of the agency decision maker. The court explained that because "disposition of petitioners' claim of bias could affect our future statutory review authority, we have exclusive jurisdiction to consider it." *Id.* at 627. The Ninth Circuit determined it would consider the challenge to the fairness of the

proceeding only on review of final action, noting that doing so would "avoid the disruption, delay, and piecemeal review that accompany interference with pending administrative proceedings." *Id.* at 629. The Eleventh Circuit has favorably cited the Ninth Circuit's analysis. *See George Kabeller, Inc.*, 999 F.2d at 1421. The D.C. Circuit reached the same conclusion in *Air Line Pilots Ass'n, International v. Civil Aeronautics Board*, 750 F.2d 81 (D.C. Cir. 1984), and declined to exercise its own mandamus authority to address a claim of agency bias, observing that "[t]o stay the administrative processes while a court was engaged in an extended inquiry into the claimed disqualification of members of the administrative body could lead to a breakdown in the administrative process which has long been criticized for its slow pace." *Id.* at 88 (quoting *SEC v. R.A. Holman & Co.*, 323 F.2d 284, 287 (D.C. Cir. 1963)).

Likewise here, Plaintiffs' challenges to the Commission's authority to proceed against them through administrative proceedings affect the prospective jurisdiction of the court of appeals—either the Eleventh Circuit or the D.C. Circuit—over the Commission's final order. Under *TRAC* principles, therefore, judicial review of plaintiffs' claims is exclusively vested in the courts of appeals. Nothing in the federal securities laws contemplates the district court entertaining collateral challenges to enjoin the Commission's enforcement proceedings.

2. Inferior Officer Status

This Court also incorrectly determined that SEC ALJs are likely inferior officers. Despite finding that SEC ALJs have no final decision-making authority, the Court concluded that SEC ALJs' "powers" are "nearly identical" to those of the Tax Court's special trial judges, who were held to be inferior officers in *Freytag*. *See* slip op. at 32. The Court noted that both "take testimony, conduct trial, rule on the admissibility of evidence, and can issue sanctions, up to and including excluding people (including attorneys) from hearings and entering default. 17 C.F.R. §§ 200.14 (powers); 201.180 (sanctions)." Slip op. at 29.

The Court's reasoning, however, fails to account for the fact that an ALJ is acting merely in aid of his employing agency's exercise of its power, and solely because the agency elected to delegate certain powers to the ALJ. In this context, an employee's mere performance of judge-like functions does not make him an inferior officer. In other words, in assessing the SEC ALJ's authority, it is inadequate to simply list the tasks SEC ALJs perform. Rather, those duties must be viewed in the context of the Commission's plenary authority over the entire administrative process, under which the SEC ALJ's initial decision is merely "advisory in nature," *Attorney General's Manual on the Administrative Procedure Act* (1947) at 83, and the fact that ALJs are "subordinate" to their employing

agencies "in matters of policy and interpretation of law," *Nash v. Bowen*, 869 F.2d 675, 680 (2d Cir. 1989) (collecting cases). As such, SEC ALJs are mere aides to the Commission.[1]

SEC ALJs' authority pales in comparison to that of special trial judges because SEC ALJs do not possess the judicial powers associated with judges who are inferior officers. Special trial judges have the power, for example, to issue subpoenas, 26 U.S.C. § 7456(a); Tax Court Rule 181, and "to enforce compliance with discovery orders," *Freytag*, 501 U.S. at 881-82. The Commission's ALJs may issue subpoenas, but an order from a federal district court is necessary to compel compliance, *see, e.g.*, 15 U.S.C. § 78u(e). And whereas special trial judges have the power "to grant certain injunctive relief" and "to order the Secretary of the Treasury to provide a refund of an overpayment determined by [the special trial judge]," *Freytag*, 501 U.S. at 891, SEC ALJs have no power to grant any injunctive relief. Further, SEC ALJs' authority to punish contemptuous conduct is limited,

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[1] This Court sought to distinguish *Landry* on the ground that SEC ALJs issue "initial decisions" while ALJs of the Federal Deposit Insurance Corporation issue "recommendary decisions." Slip op. at 31-32. But SEC regulations refer interchangeably to recommended and initial decisions, *see* 17 C.F.R. § 201.511(d)(4), 201.521(d)(4), and an SEC ALJ's decision does not ever "become[] the decision of the agency without further proceedings," 5 U.S.C. § 557(b), because even when there is no petition for review, an ALJ's decision has no legal force or effect unless the Commission issues a finality order after determining not to grant review on its own initiative, *see* 17 C.F.R. §§ 201.360(d)(2), 201.411(c).

see 17 C.F.R. § 201.180 ("Sanctions") (hearing officer may exclude a person from a hearing or suspend that person from representing others in the proceeding), and their entry of default or imposition of sanctions has no force or effect absent further action by the Commission. In sum, the substantive authority that SEC ALJs exercise is significantly less weighty than that exercised by special trial judges.

3. Irreparable Harm

The Court also erred in concluding that Plaintiffs have demonstrated irreparable harm. This Court credited Plaintiffs' claim that, without preliminary relief, they would "be subject to an unconstitutional administrative proceeding" for which "they would be unable to recover monetary damages," an injury that a court of appeals could not redress were Plaintiffs required to adhere to the federal securities laws' exclusive remedial scheme. Slip op. at 36. The Court's reasoning disregards Supreme Court precedent establishing that "the rules requiring exhaustion of the administrative remedy cannot be circumvented by asserting . . . that the mere holding of the prescribed administrative hearing would result in irreparable damage." *Myers v. Bethlehem Shipbuilding Corp.*, 303 U.S. 41, 52 (1938); *cf. Ticor Title Ins. Co. v. FTC*, 814 F.2d 731, 732 (D.C. Cir. 1987) (holding that plaintiff could not bring facial constitutional challenge to

administrative proceeding in district court while asserting nonconstitutional defenses in the ongoing proceeding). The SEC's sovereign immunity is irrelevant. Supreme Court and circuit precedent establish as a matter of law that the costs of participating in an administrative proceeding do not warrant injunctive relief even if they are "unrecoupable" due to sovereign immunity or for any other reason. *See FTC v. Standard Oil Co. of Cal.*, 449 U.S. 232, 244 (1980) ("Mere litigation expense, even substantial and unrecoupable cost, does not constitute irreparable injury." (internal quotation marks omitted)); *accord Imperial Carpet Mills, Inc. v. Consumer Prods. Safety Comm'n*, 634 F.2d 871, 874 (5th Cir. 1981) (per curiam).

II. The SEC And The Public Will Be Irreparably Harmed Absent A Stay

The SEC will be irreparably harmed unless the preliminary injunction is stayed. Absent a stay, the Court's order in this case will result in particularly acute harm to the SEC and the public, since Plaintiffs include a registered investment adviser with billions of dollars under management, and the administrative proceeding is aimed, in part, at determining whether Plaintiffs should be barred from the industry to protect current and prospective clients.

As a general matter, the preliminary injunction undermines Congress's decision to authorize the SEC to conduct administrative proceedings. *See*

Maryland v. King, 133 S. Ct. 1, 3 (2012) (Roberts, C.J., in chambers) ("'[A]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.'" (quoting *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977) (Rehnquist, J., in chambers))). The Commission has used administrative proceedings since its early days, and SEC ALJs have participated in the adjudication of thousands of enforcement matters over the years, culminating in significant financial penalties imposed by the Commission. Indeed, in expanding authority for administrative cease-and-desist proceedings in 1990, Congress recognized the importance of "enabl[ing] the SEC to move quickly in administrative proceedings, particularly in those situations where investor funds are at risk." S. Rep. 101-337 (1990), *reprinted in* 1990 WL 263550 (Leg. Hist.); *see also, e.g.*, H.R. Rep. 101-616 (1990), *reprinted in* 1990 U.S.C.C.A.N. 1379, 1391-92; *The Securities Law Enforcement Remedies Act of 1989; Hearings on S. 647 Before the Subcomm. on Securities of the S. Comm. on Banking, Housing, and Urban Affairs*, 101st Cong. 34, 56-7 (1990) (statement of Richard C. Breeden, Chairman, Securities and Exchange Commission) (explaining the need for "a more streamlined administrative procedure," which is "important because of the significant delays that the Commission often faces in seeking a judicial remedy"—delays that "frustrate"

"many enforcement objectives"). Congress has thus demonstrated significant concerns regarding the public interest in the availability of the SEC's administrative forum as part of the agency's administration of the securities laws.

As the Director of the SEC's Division of Enforcement explains in the attached declaration, the preliminary injunction "impedes several of the benefits of administrative proceedings from the standpoint of deterrence and investor protection." Declaration of Andrew Ceresney ("Ceresney Decl."), dated August 19, 2015, at ¶ 3 (Attachment 1). "In appropriate cases, the administrative forum facilitates the prompt airing, and in turn notice to the public, of alleged securities law violations." *Id.* An ALJ "generally has a specified number of days to issue an initial decision, typically following a hearing where evidence is presented by both sides." *Id.* "By contrast, cases in district court often move at a much slower pace, and can still be at the motion to dismiss stage or in the midst of discovery during that same time frame, with any trial still far down the road." *Id*. Thus, administrative proceedings "typically result in presentation of evidence when it is relatively fresh." *Id*. ¶ 4. That pacing is important because "[w]ith the passage of time, witnesses' memories might fade and some types of evidence can become stale." *Id.* "[B]ecause hearings in administrative proceedings usually occur much

sooner than trials in district court actions, the evidence is presented closer in time to the conduct at issue." *Id.* As the Director of the Division of Enforcement further explains, "[t]his, in turn, facilitates the SEC's strong interests in deterrence and in protecting investors and the integrity of the securities markets." *Id.* Finally, "pursuing an enforcement proceeding administratively allows the agency to bring to bear its significant expertise in adjudicating individual cases," as "the Commission has developed expert knowledge of the securities laws, and the types of entities, instruments, and practices that frequently appear in those cases." *Id.*¶ 5.

Moreover, in this case in particular there is a strong public interest in prompt adjudication on the merits of the SEC's allegations against Plaintiffs. In Plaintiffs' administrative proceeding, the SEC "alleges, among other misconduct, that [Plaintiff] Gray Financial [Group, Inc.] and its [co-Plaintiff] founder knowingly and/or recklessly recommended and sold to Georgia-based public pension clients certain investment funds that were unsuitable because they did not comply with the restrictions in Georgia law governing such investments; made specific material misrepresentations in recommending these investments; and thereby breached their fiduciary duty to their clients." *Id.* ¶ 6. Meanwhile,

Plaintiffs "continue to advise clients and hold client assets." *Id.* ¶ 7. Indeed, Gray Financial "currently has $6.4 billion in assets under management." *Id.*

One issue to be determined in Plaintiffs' administrative proceeding is whether limiting Plaintiffs' advising activities, including potentially imposing an industry bar on them, is appropriate to prevent future misconduct by Plaintiffs—a remedy that Congress has specifically authorized the SEC to seek only in administrative proceedings and not in district court. *See id.* ¶ 8. The SEC and Plaintiffs' current and prospective clients all share a strong interest in a prompt determination—in the SEC's chosen forum of an administrative proceeding—of "whether [Plaintiffs] here violated the securities laws and, if so, whether any such limitations are warranted to protect both [Plaintiffs'] current clients as well as future clients. The Court's injunction delays the ultimate resolution of the charges against [Plaintiffs] and, should unlawful conduct be found, significantly impairs the Commission's ability to place appropriate limitations on [their] future activities." *Id.* ¶ 9.[2]

[2] For the reasons discussed above, the SEC believes that this Court should have granted its motion to stay the injunction pending appeal in *Hill v. SEC. See* Order, 15-cv-1801 (N.D. Ga. Aug. 4, 2015), ECF No. 44 (denying motion). But even assuming that the stay motion was properly denied in *Hill*, the case-specific facts discussed above—including the possibility of public harm due to Plaintiffs' ongoing market activities—provide additional grounds for granting a stay here.

This Court's judgment that "there is no evidence the SEC would be prejudiced by a brief delay to allow this Court to fully address Plaintiffs' claims," slip op. at 37, thus conflicts with both that of Congress and of the expert Commission that Congress charged with enforcing securities laws. In this case, the Division of Enforcement began its investigation in 2013, received over 150,000 documents, and took 16 days of testimony, and Division staff were actively preparing for a one-week hearing set to begin in October 2015 when this Court issued the preliminary injunction. *See* Ceresney Decl. ¶ 10. Thus, the Commission has already invested considerable time and effort to seek to enforce the securities laws in the administrative process. The injunction in this collateral proceeding interferes with the Commission's significant enforcement efforts and results in precisely the substantial delay that Congress and the Commission have sought to avoid. Moreover, in addition to expressly authorizing administrative proceedings, Congress also determined that the public interest would be served by allowing the SEC to pursue a process in which legal issues—including constitutional issues—would be resolved on direct review by the court of appeals and not by a district court.

The Court erred, moreover, in viewing this case in isolation, rather than as one of many enforcement proceedings brought each year, when it minimized the

impact of its ruling by declaring that "the SEC is not foreclosed from pursuing Plaintiff[s] in federal court or in an administrative proceeding before an SEC Commissioner." Slip op. at 37-38. The SEC's interest in enforcing the securities laws through administrative proceedings more broadly does not make its interest in "each individual one negligible." *Nken v. Holder*, 556 U.S. 418, 435 (2009). Nor can the impact of the Court's decision be viewed as limited to one case when several other challenges to SEC ALJs' appointments are pending before this Court, and more are pending elsewhere.

The Court's suggestion that the SEC abandon the administrative process and pursue Plaintiffs in federal court merely restates its rejection of Congress's judgment that the administrative process has advantages for the enforcement of securities laws and should be an option. And the Court was on no firmer ground in suggesting that the SEC conduct the proceeding before a Commissioner. Under that reasoning, every respondent in an SEC enforcement proceeding might insist that a Commissioner personally preside over the hearing. Thus, whether limited to a single case or expanded across all pending administrative proceedings, the Court's decision marks a significant breach of inter-branch comity. *See INS v. Legalization Assistance Project*, 510 U.S. 1301, 1306 (1993) (O'Connor, J. in chambers) (staying district court injunction interfering with the

government's execution of the Immigration Reform and Control Act and noting injunction was "not merely an erroneous adjudication of a lawsuit between private litigants but an improper intrusion of the court into the workings of a coordinate branch of Government"); *Schweiker v. McClure*, 452 U.S. 1301, 1302-03 (1981) (Rehnquist, J., in chambers) (staying order enjoining the Department of Health and Human Services from utilizing an administrative process in which private insurance carriers, rather than the agency's ALJs, finally resolved certain Medicare benefits claims, explaining that the order would "cause hardship" to the agency because it "involve[d] a drastic restructuring of the appeals procedure carefully designed by Congress," and would require the agency to add to the workflow of its "already overloaded" ALJs). Nor is it reasonable at this juncture for the Court to expect that the Commission change its ALJ scheme. A stay is warranted to prevent irreparable harm to the SEC's enforcement of the securities laws.

III. Plaintiffs' Interest In Delaying SEC Enforcement Action Cannot Outweigh The Harm Caused By The Preliminary Injunction

The balance of equities also supports issuance of a stay. As discussed above, the harm that the Court concluded Plaintiffs would suffer without preliminary relief—that they will have to participate in an administrative proceeding that they consider unlawful—is not a valid consideration for

purposes of evaluating preliminary relief. Accordingly, there is no cognizable harm to Plaintiffs from a stay to balance against the harm to the SEC from the preliminary injunction.

IV. The Public Interest Favors A Stay

The stay factors addressing the public interest and harm to the SEC merge because the SEC is a government agency that represents the public interest. *See Nken*, 556 U.S. at 435 (stay factors "addressing the harm to the opposing party and weighing the public interest . . . merge when the Government is the opposing party"). As discussed above, *see* Part II, the circumstances of this case make the preliminary injunction's harm to the SEC and the public substantial. And notwithstanding the public interest in enforcement of the Constitution generally, slip op. at 37, that interest is not implicated where, as here, there is no constitutional violation.

CONCLUSION

For these reasons, the SEC respectfully requests that the Court stay pending appeal the preliminary injunction issued on August 4, 2015.

Dated: August 19, 2015

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to Local Rule 7.1(D), that the foregoing has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C).

/s/ Jean Lin
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CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2015, I electronically filed a copy of the foregoing. Notice of this filing will be sent via email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

/s/ Jean Lin
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