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VIA ECF

The Honorable Kevin N. Fox
United States Magistrate Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Restis et al. v. American Coalition Against Nuclear Iran Inc. et al.*,
No 13-cv-5032 (ER)(KNF)

Dear Judge Fox:

On behalf of Plaintiffs, this responds to Defendants' purported request for leave to file a Second Supplemental Reply to Plaintiffs' Supplemental Opposition to Defendants' Motion to Compel the Deposition of Victor Restis (Dkt. 253). I say "purported" because the face of the filing demonstrates that it was more an excuse to dump other unfounded, foaming-at-the-mouth allegations at our client than to actually seek the relief requested – a U.S. deposition of Victor Restis. When they filed their latest diatribe, Defendants knew they had sought the Government's intervention to stop discovery in this case, and they knew the Government would be filing such a pleading that would obviate the very deposition they were pretending they wanted to take. So, their filing was a way to make crazy allegations in a court filing that they could not do in a non-judicial document without risking additional defamation actions. It was not really to get a deposition.

As to the "merits" of their wild claims, Defendants fail to inform this Court that their newest allegations against Mr. Restis have either been dismissed in the Greek judicial system or come from the same discredited sources as Defendants' defamatory claims that are the basis of this case. This Court should not entertain Defendants' bad-faith filing.

Defendants filed their purported request just hours before the Government filed its motion to stay this case and to dismiss on the basis of state secrets. *See* Dkt. 257. Knowing that they might soon lose the protection of judicial pleadings to smear Mr. Restis, Defendants launched one final volley in what they refer to as a "reputation destruction" or "name and shame" campaign against Mr. Restis. Realizing that Mr. Restis will not stand idly by and allow them to make false statements against him in UANI's normal press release campaigns without holding UANI accountable with a new suit or amended complaint, Defendants simply now use court filings to try the same tactic and seek the protection of privilege associated with

judicial proceedings. This is an abuse of the courts. Just as they failed to check their facts before falsely accusing Mr. Restis of being a “front man” for Iran despite the fact that Plaintiffs have steadfastly refused to do business with Iran or sanctioned entities, Defendants again make reckless attacks on Mr. Restis’ character with no concern about whether their allegations have any merit. They do not. Nor do any of their attacks have any bearing on whether Mr. Restis can currently travel to the United States to attend a deposition, which is Defendants’ purported reason for making their request for a supplemental reply.

Although Defendants could have submitted the documents they filed months ago,¹ they now ask the Court to take into consideration documents relating to three unsubstantiated and unrelated allegations in Greece that have no relationship to this case or to Defendants’ ability to depose Mr. Restis in Greece. Mr. Restis – a successful and respected businessman in an economically distressed country – is no stranger to extortion attempts by individuals who threaten to make false allegations against him if he does not pay them money. Plaintiffs now have no choice but to address these baseless accusations, wasting the Court’s valuable time and resources on another of Defendants’ detours.

First, Defendants repeat the defamatory allegations of Ionnas Dritsas, an embezzler who worked closely with Anastasios Pallis, the Greek con artist who faces a series of criminal charges including kidnapping, fraud, and weapons charges and who Plaintiffs believe authored the fraudulent documents that Defendants relied on to begin their defamation campaign. *See* Kanellopoulos Decl. at ¶¶ 11, 13. When he learned that Pallis (assisted by Dritsas) was embezzling money from him in early 2013, Mr. Restis filed civil and criminal charges against both of them. *Id.* This action triggered the series of demonstrably false allegations from Pallis and Dritsas that Defendants have maliciously and widely republished. Dritsas’ allegations against Mr. Restis are absurd on their face. According to the documents submitted by Defendants, Dritsas claims that Mr. Restis was somehow involved in the theft of his briefcase (which Dritsas then actually characterizes as a “murder attempt”) based on “an anonymous letter which had come into [Dritsas’] possession.” *See* Dkt. 253-4 at 2-3; Dkt. 253-5 at 3-4. Greek authorities have taken no action against Mr. Restis in response to Dritsas’ bizarre allegations. Yet Defendants use this silliness to claim being terrified to travel to Greece.

¹ Despite Defendants’ claim that the Greek judicial documents that they are attempting to submit “recently became available,” each of these documents is at least a year old, and some are as old as five years. If Defendants truly believed that these documents provided any additional support to their motion to compel, they surely could have included them in any of their previous filings. On this basis alone, Defendants’ untimely request should be denied.

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Second, Defendants submit a complaint by Alexandros Kapellaris (Dkt. 253-6) that was filed more than three years ago. Defendants fail to inform this Court that the allegations referred to in this criminal complaint that Mr. Restis threatened Kapellaris – including with a baseball bat – have been “archived” by Greek judicial authorities, meaning that they have been investigated and then rejected with no action taken against Mr. Restis. *See Kanellopoulos Decl. at ¶ 14.* Although Greek authorities found no basis to substantiate these allegations against Mr. Restis, Defendants submit them to this Court as if they were current, pending and true without ever checking their facts. Mr. Restis has subsequently filed a defamation complaint against Kapellaris, which is currently being litigated in Greece. These dismissed allegations provide no basis for Defendants’ purported fear of traveling to Greece.

Finally, the complaint filed by Glam Management (Dkt. 253-7) was filed fully five years ago. This is the clearest example of Defendants’ attempt to mislead the court with irrelevant false allegations. These allegations relate to a business dispute in which Glam Management refused to vacate premises despite an expired lease and a judgment ordering them to vacate. *See id. at ¶ 15.* The police were subsequently called to evict the former tenants, and they did so. *Id.* After fully investigating Glam Management’s unsubstantiated allegations that Mr. Restis somehow induced the police to use excessive force, Greek judicial authorities brought no charges against Mr. Restis relating to the assault allegations. He was charged with misdemeanor instigation of breach of duty based on the business agreement, but he was fully acquitted on this charge in December 2013. *Id.* As is Defendants’ standard operating procedure, they have offered the Court incomplete and false descriptions of events that in fact found that Mr. Restis had not committed any wrongdoing.

For the foregoing reasons, the Court should deny Defendants’ request for leave to file their Second Supplemental Reply. In addition, for the reasons of timing and lack of substance detailed above, Plaintiffs believe that Defendants’ latest filing is so “without a colorable basis” as to warrant sanctions, since it serves no purpose but to further their attempts to besmirch Mr. Restis, which they have succeeded in doing by their past unsubstantiated but widely published allegations. *See Schlaifer Nance and Co. v. Estate of Warhol*, 194 F.3d 323, 337 (2d Cir. 1999).

Respectfully Submitted,

/s/ Abbe David Lowell

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