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August 17, 2018

**VIA ECF**

Gino J. Agnello  
Clerk of the Court  
United States Court of Appeals for the Seventh Circuit  
Everett McKinley Dirksen United States Courthouse  
219 S. Dearborn Street, Room 2722  
Chicago, IL 60604

**Re: *Rhonda Kemper v. Deutsche Bank AG*, No. 18-1031  
Response to Defendant-Appellee Deutsche Bank AG's Citation of  
Supplemental Authority Under Fed. R. App. P. 28(j)**

Dear Mr. Agnello:

Deutsche Bank incorrectly argues that this case and *Owens v. BNP Paribas, S.A.*, No. 17-7037, 2018 WL 3595950 (D.C. Cir. July 27, 2018), “are materially identical,” and that the D.C. Circuit’s affirmance of the *Owens* dismissal compels the same result here.

The Court of Appeals noted that the *Owens* complaint was not “a model of clarity,” but assumed that plaintiffs’ aiding and abetting allegations asserted that BNPP was liable either as a primary violator for providing material support for terrorism or, alternatively, as a secondary/common law “aider and abettor of an ATA violation.” *Id.* at \*4 & n.7 (citation omitted). For the primary claim, the court’s causation analysis therefore focused on *aiding and abetting* and whether defendant’s own conduct was *itself* “a ‘substantial factor in the sequence of events’ that led to [plaintiffs’] injuries.” *Id.* at \*5, \*7 (citation omitted). The allegations failed that standard. The court then held that the secondary liability claim was foreclosed by *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164 (1994), as was any common law, rather than statutory, conspiracy claim plaintiffs might have intended to make. *Owens*, 2018 WL 3595950 at \*4 n.7, \*11 n.12.<sup>1</sup> It therefore did not discuss the causation question on that claim.

But *Kemper* involves a statutory conspiracy claim, which is cognizable as a

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<sup>1</sup> JASTA was unavailable because the attacks occurred before September 11, 2001. *Id.* at \*9.

primary claim under 18 U.S.C. § 2333(a) pursuant to this Court’s reasoning in *Boim III*—as the district court in *Owens*, 235 F. Supp. 3d 85, 91 (D.D.C. 2017), noted—and as a secondary claim under JASTA, 18 U.S.C. § 2333(d). Under conspiracy law, a person who has agreed to participate in unlawful acts is liable for any injury proximately caused by any co-conspirator’s overt act performed “pursuant to and in furtherance of” the conspiracy. *Owens*, 2018 WL 3595950 at \*4 n.7 (quoting *Halberstam v. Welch*, 705 F.2d 472, 477 (D.C. Cir. 1983)). There is no dispute here that Deutsche Bank’s co-conspirator Iran and its agents, Hezbollah and the IRGC-QF, proximately caused Plaintiff-Appellant’s son’s death.

Respectfully submitted,

By: /s/ Peter Raven-Hansen  
Peter Raven-Hansen

cc: Counsel of Record (via ECF)

**CERTIFICATE OF COMPLIANCE**

The foregoing complies with Fed. R. App. P. 28(j) because the body of this letter does not exceed 350 words.

/s/ Peter Raven-Hansen  
Peter Raven-Hansen

**CERTIFICATE OF SERVICE**

I hereby certify that on August 17, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Peter Raven-Hansen  
Peter Raven-Hansen