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June 1, 2020

## VIA ECF

Hon. Judge Freeman  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St.  
New York, NY 10007

*Re: Doe v. Indyke et al., No. 19-cv-8673-KPF (S.D.N.Y.)*

Dear Judge Freeman:

We write on behalf of both parties in the above-referenced action pursuant to this Court's Order dated April 21, 2020 (Doc. No. 60) to update the Court as to the status of discovery and the progress of settlement discussions.

**Discovery.** As the Court is aware, fact discovery in this matter began on January 21, 2020 (Doc. No. 48), and the parties exchanged their First Sets of Interrogatories and Requests for Production of Documents on March 10, 2020. Since that time, the parties have met and conferred repeatedly on the scope and timeline of discovery, including issues pertaining to specifically to electronically-stored information (ESI) discovery. The parties have made substantial progress on narrowing the areas of dispute between them and on agreeing to a process for searching and producing ESI. While some disputes remain, discussions between the parties are ongoing and, as a result, there are no issues that parties wish to raise with the Court at this time, though both parties reserves their rights to do so in future if necessary.

Since the commencement of fact discovery, Plaintiff has made two productions of documents and is on track to substantially complete her production of documents by the week of June 8, 2020. Defendants have not yet produced any documents; however, they have represented to Plaintiff that they are working to remedy this and intend to begin production of documents this week.

**Settlement.** With respect to settlement, the parties have had no meaningful discussions since the last status conference before this Court on February 11, 2020. On May 29, 2020, Jordana Feldman, the program administrator selected by the Estate, sent Plaintiff's counsel a final version of the protocol for the Program and indicated that she will be reaching out to plaintiffs' counsel directly to discuss the process. Earlier today, the Co-Executors filed in the

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Superior Court of the Virgin Islands the status report attached hereto as Exhibit A. As stated therein, the Co-Executors, with the support of claimants' counsel and the USVI Attorney General, intend to authorize commencement of the Program on Monday, June 15, 2020.

While Plaintiff remains open to continued dialogue about the program, she continues to believe that her best option is to proceed to trial before Judge Failla and is unlikely to agree to any stay of the proceedings pending any discussions with Ms. Feldman and her colleagues.<sup>1</sup> Indeed, at the conference before Judge Failla on December 11, 2019, Plaintiff already offered to waive her right to a jury trial and proceed with a bench trial. Plaintiff's view is that this concession should mitigate, if not eliminate, many of the logistical concerns presented by the current pandemic.

***Motion to Dismiss.*** Defendants' motion to dismiss Plaintiff's claim for punitive damages has been fully briefed since February 8, 2020 and remains pending before Judge Failla.

Respectfully submitted,



Roberta A. Kaplan

cc: Judge Failla  
Counsel of Record

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<sup>1</sup> The protocol established by the claims administrator explicitly states that to claimants can or should be required to stay her case in order to participate in the claims program. *See* Ex. A at 13.