NO. 25-_____

In the Supreme Court of the United States

AMERICAN TELECOM CO., L.L.C.,

Petitioner,

v.

THE REPUBLIC OF LEBANON,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR A WRIT OF CERTIORARI

Timothy P. Brady
KAUFMAN, PAYTON & CHAPA
30833 Northwestern Hwy., #200
Farmington Hills, MI 48334
(248) 453-9759
tbrady@kaufmanlaw.com

Sheldon L. Miller
Counsel of Record
LAW OFFICE OF SHELDON L. MILLER
30300 Northwestern Hwy., Ste 230
Farmington Hills, MI 48334
(248) 538-3400
slm1936@aol.com

March 19, 2026 *Counsel for Petitioner*

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QUESTIONS PRESENTED

1. Did the District Court unreasonably deny Plaintiff's arguments that newly discovered evidence should require a) reversal of prior dismissal; and b) allow for discovery on the newly discovered evidence?

2. Did the District Court err by refusing to a) address the recusal/disqualification motion by labeling it "moot"; and b) should Judge Edmonds recuse/ disqualify herself from this matter?

PARTIES TO THE PROCEEDINGS

Petitioner and Plaintiff-Appellant below

- American Telecom Co LLC

Respondent and Defendant-Appellee below

- Republic of Lebanon

Plaintiff below

- American Telecom Group-USA LLC

RULE 29.6 DISCLOSURE STATEMENT

American Telecom Co LLC certifies that it is not a publicly traded corporations and has no corporate parent. No publicly held corporation owns 10% or more of American Telecom Co LLC.

LIST OF PROCEEDINGS

U.S. Court of Appeals for the Sixth Circuit

No. 25-1506

American Telecom Co., LLC, et al., Plaintiff-Appellant *v. Republic of Lebanon*, Defendant-Appellee

Opinion: December 19, 2025

U.S. District Court, E.D. Michigan

No. 2:04-cv-72596

American Telecom Co., LLC, et al., Plaintiff *v. Republic of Lebanon*, Defendant

Order to Dismiss: September 9, 2005

Final Order Denying Reinstatement: March 10, 2025

Reconsideration Denial: April 29, 2025

U.S. Court of Appeals for the Sixth Circuit

No. 05-2408

American Telecom Co., LLC, et al., Plaintiffs-Appellants *v. Republic of Lebanon*, Defendant-Appellee

Judgment: August 31, 2007 (Note: document also bears a date stamp August 29, 2007, but ECF date is August 31, 2007)

Supreme Court of the United States

No. 07-721

American Telecom Co., LLC, et al., Petitioners v. *Republic of Lebanon*, Respondent

Certiorari Denied: March 3, 2008

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The opinion of the 6th Circuit Court of Appeals was unreported. (App.1a). This opinion affirmed the decision of the U.S. District Court, E.D. Michigan to deny reinstatement of the case. (App.10a, 17a).

JURISDICTION

The Court of Appeals entered judgment on December 19, 2025. (App.1a). This Court has jurisdiction under § 1254(1).

STATUTORY PROVISIONS AND JUDICIAL RULES INVOLVED

The relevant statutory provisions are included in the body of this petition, notably the following: 28 U.S.C.S. § 1605(a)(2); 28 U.S.C. § 455(a); and Judicial Canon 3C.

INTRODUCTION

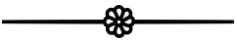
This case was inexplicably dismissed after its filing in 2004 based on the Court's finding absolute immunity for The Republic of Lebanon under the Foreign Sovereign Immunity Act ("FSIA"), 28 U.S.C. § 1602, et seq. American Telecom Company contended that the Defendant's actions fell squarely in the commercial activity exception of the FSIA because Defendant conducted an act outside the United States in connection with a commercial activity of the foreign state, and that act caused a direct impact in the United States.

The case was initially dismissed by Judge Edmunds at the District Court level, who relied on the argument that Lebanon's alleged improper acts had no direct effect on to the United States and opined that Plaintiffs' arguments regarding "good faith" and "fair dealing" were not supported by documentation. Subsequently, new documentation came to light through diplomatic cables, that were certified and translated, making them admissible evidence showing that an actual fraud occurred. This fraud has a direct effect in the United States, and therefore and exception to the FSIA immunity applies.

The bottom line is Defendant went to great lengths and took considerable expense from Plaintiff to participate in a fraud bidding process. The direct effect was a cost of over $530,000.00 in preparations for a bid that was, in essence, fruitless.

It is unrefuted that the documents evidencing the fraud were unavailable at the time of the initial arguments in this matter. This rose to the level of false affidavits being provided to the Court, which is supported by the translated and certified diplomatic cables.

Interestingly, this court recently heard oral arguments on the case of *Exxon Mobil Corporation v. Corporación Cimex, S.A. (Cuba), et al.* which also involved a claim against a foreign government and a claimed exception under the FSIA. While this case does not discuss the "direct effect" exception, there was a statute on point, the Helms-Burton Act. The parallel between the case at hand and the *Exxon v. Cuba* matter are that fraud occurred, and American corporations should be afforded the right to pierce the immunity of the foreign entity based on that fraud.



STATEMENT OF THE CASE

A. Factual and Procedural Background

1. This case was initially filed in 2004 and cited as *Am. Telecom Co., L.L.C. v. Republic of Leb.*, 408 F. Supp. 2d 409 (E.D. Mich. 2005). American Telecom Company, LLC and American Telecom Group-USA, LLC, collectively referred to as "Plaintiff," sued the defendant, Republic of Lebanon, a foreign country, for breach of contract, breach of an implied contract, promissory estoppel, fraudulent misrepresentation, and fraud in the inducement in connection with the company's bid proposals for two commercial contracts to manage cellular phone networks in Lebanon. (ECF

No. 1). Jurisdiction in that Court was supported by 28 U.S.C. § 1330, as this was a lawsuit brought against a "foreign state." Jurisdiction was also proper based upon 28 U.S.C. § 1331, because the claims brought against Respondent allegedly did not run afoul of the FSIA because of the exceptions to foreign states' immunity provided under 28 U.S.C. 1605. Finally, jurisdiction in that Court was proper under 28 U.S.C. § 1332, because there is complete diversity of jurisdiction between the parties.

2. Plaintiff filed the Complaint on July 14, 2004. On August 24, 2004, Plaintiff served the Summons and the Complaint on the Defendant Lebanon via the Consulate General Office of Lebanon in Detroit, Michigan, pursuant to a special arrangement for service in accordance with 28 U.S.C. § 1608(a)(1). The Answer was due by September 13, 2004. Despite receiving proper service, Defendant failed to respond by October 25, 2004, as required under 28 U.S.C. § 1608(d). As a result, Plaintiff requested a clerk's entry of default on January 7, 2005, which was granted on January 27, 2005. Thereafter, the Plaintiff moved for a default judgment on February 4, 2005, by filing a certificate of service on February 14, 2005, followed by a notice of a hearing set for March 9, 2005. During the hearing, the Court entered a default judgment in the Plaintiff's favor on March 11, 2005. The same day Plaintiff served Defendant with the Default Judgment pursuant to the special arrangement for service between the parties.

3. Subsequently, Defendant entered a limited appearance through Butzel Long attorneys on April 7, 2005, and filed an *ex-parte* motion to extend the time to appeal the default judgment asserting improper service. Defendant further claimed that the Plaintiff misrep-

resented the Court regarding the "special arrangement" for services between the parties as it does not exist. The Court granted Defendant's *ex-parte* motion to extend the time to Appeal Default Judgment on April 8, 2005.

4. On April 15, 2005, the Defendant filed a Motion to set aside the default judgment and to dismiss the case asserting that the Court lacked subject matter and personal jurisdiction over the case because it is entitled to absolute immunity under the Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. § 1602, et seq. On May 2, 2005, Plaintiff filed the Response to the Defendant's Motion to set aside a default judgment, asserting that the court has subject matter jurisdiction under 28 U.S.C. § 1330 and the FSIA. The Plaintiff contended that the Defendant's action falls squarely in the commercial activity exception, because the Defendant conducted an act outside the United States ("US") in connection with a commercial activity of the foreign state and that act caused a direct effect in the US.

5. The main arguments Plaintiff presented were that this Court has personal jurisdiction over Defendant under 28 U.S.C. §§ 1330 and 1608, claiming the service was proper under 28 U.S.C. § 1608. Plaintiff further claims that it did not commit fraud, misrepresentation, or other misconduct under Fed. R. Civ. P. 60(b)(3) and that there is no mistake, inadvertence, surprise, or excusable neglect under Fed. R. Civ. P. 60(b)(1) and that Fed. R. Civ. P. 60(b)(6) does not apply. Finally, the Plaintiff contends that even if this court finds that Fed. R. Civ. P. 60(b) has been satisfied, which it has not, this court still should not set aside the default judgment because the Fed. R. Civ. P. 55 factors have not been met. On May 6, 2005, the Defendant filed its

Reply emphasizing that the default judgment is void under Fed. R. Civ. P. 60(b) and should be set aside because of its immunity under FSIA.

6. On May 9, 2005, the Court issued its Opinion and Order granting Defendant's Motion to Set Aside the March 9, 2005 Default Judgment in the amount of $420,001,183.

7. Also on May 9, 2005, Defendant filed a motion to quash the subpoena issued by Dr. Ali Ajami and for a protective order under Federal Rules of Civil Procedure 26 and 45, which the court later deemed moot, and denied on May 11, 2005, as Dr. Ajami was not called to testify.

8. On June 3, 2005, Defendant withdrew its earlier motion to dismiss dated April 15, 2005, and subsequently filed a new motion, disregarding the court's deadline by asserting lack of subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1) and immunity under the FSIA by arguing that none of the exceptions to immunity established by the FSIA apply to this action, particularly pointing out that its actions had no direct effect in the United States as required by the exception at 28 U.S.C. § 1605(a)(2).

9. On June 28, 2005, in response, Plaintiff argued in favor of the court's jurisdiction under 28 U.S.C. § 1330 and the FSIA, emphasizing the Defendant's commercial activities in the United States and the direct effects thereof including the untimeliness and violations of court instructions by the Defendant. The Defendant countered, emphasizing the absence of a "direct effect" in the United States and the inapplicability of the commercial activity exception listed in 28 U.S.C. § 1605(a)(2).

10. On June 29, 2005, the Plaintiff, represented by Jeffrey Morganroth, served a Certificate of Service regarding their response to the Motion to Dismiss.

11. On July 12, 2005, the Defendant filed a Reply in support of its Motion to Dismiss. The Defendant argued that the lack of subject matter jurisdiction in the case stemmed from the absence of a "direct effect" in the United States, citing the FSIA. They contended that the commercial activity exception to immunity listed in 28 U.S.C. § 1605(a)(2) was not applicable, emphasizing that the entire transaction involving the bidding process and management of GSM networks for the Defendant was intended to occur within Lebanon's borders. The Defendant stated that there was no contract or obligation for them to pay anything to the Plaintiff in the U.S. The Defendant further contended that Plaintiff's speculative claims lack substantiation by admitting their bid disqualification and failure to secure the contract.

12. Finally, on September 9, 2005, the Court granted the Defendant's Motion to Dismiss, leading to judgment in favor of the Defendant Lebanon against the Plaintiff. The issue presented in Defendant's motion was whether the FSIA's commercial activity exception, 28 U.S.C. § 1605(a)(2), applied here. The Court examined the FSIA's commercial activity exception and focused on whether the Defendant's conduct had a direct effect in the United States. The Court found that the Plaintiff failed to demonstrate such an effect, leading to the granting of Lebanon's Motion to Dismiss.

13. In her September 9, 2005 Opinion, Judge Nancy Edmunds granted Lebanon's Motion and dismissed the case. Judge Edmunds based her dismissal upon the FSIA's commercial activity exception, 28 U.S.C.

§ 1605(a)(2). She opined that Plaintiff failed to persuade the Court that the allegedly improper conduct had a direct effect in the United States. Therefore, the exception did not apply and Lebanon was entitled to immunity. (ECF No 23).

14. Judge Edmunds relied on the *Republic of Arg. v. Weltover, Inc.*, 504 U.S. 607, 112 S. Ct. 2160 (1992) case, which states:

> When a foreign government acts, not as regulator of a market, but in the manner of a private player within it, the foreign sovereign's actions are "commercial" within the meaning of the Foreign Sovereign Immunities Act of 1976 (FSIA), 28 U.S.C.S. § 1602 et seq. Moreover, because the FSIA provides that the commercial character of an act is to be determined by reference to its "nature" rather than its "purpose," § 1603(d), the question is not whether the foreign government is acting with a profit motive or instead with the aim of fulfilling uniquely sovereign objectives. Rather, the issue is whether the particular actions that the foreign state performs (whatever the motive behind them) are the type of actions by which a private party engages in trade and traffic or commerce. *Id.* (ECF No. 23).

15. Specifically, Judge Edmunds relied on the argument that Lebanon's allegedly improper actions had no direct effect in the United States. The US Supreme Court, in *Weltover*, further stated, "an effect is direct if it follows as an immediate consequence of the defendant's activity". *Id* at 619. Judge Edmunds previously opined that Plaintiff's arguments regarding

"good faith" and "fair dealing" were not expressly supported by the application documents. However, new evidence has come to light through diplomatic cables that there was an *actual fraud* that occurred. Notably, a fraud claim is asserted in the original Complaint (ECF No. 1) and, therefore, the fraud committed by the Lebanese government has a *direct effect* or is the clear cause of the damages suffered by Plaintiff.

16. Relative to Lebanon's bad faith, the sequence of events at the time of the Court's September 9, 2005 ruling was such that the full extent of Lebanon's actions was not entered into evidence. As a consequence of the Court's ruling, Dr. Ali Ajmi, Lebanon's Consul General in Detroit, was never called to testify, the Court's decision having rendered Dr. Ajmi's testimony moot. From the evidence on-hand, it is clear that Lebanon went to great lengths to secure bids specifically from Plaintiff with no intention of allowing Plaintiff to actually participate in the bidding process. As detailed in ECF No. 47, Page ID., Dr. Ajmi was instructed by Mr. Moussa Khoury that "[American Telecom] had been excluded from the mobile phone tender in Lebanon based on high-level orders given to the minister [of telecommunications]" – evidence that Plaintiff was never going to be seriously considered as an applicant. This fraudulent inducement to participate in the bidding process directly cost the American Plaintiff over $530,000.00 in preparations that would never bear fruit. Moreover, based on the newly obtained diplomatic cables between Lebanon's consul, Dr. Ajmi, and various persons in the Lebanese Ministry of Foreign Affairs and Expatriates, Dr. Ajmi was directed by the Ministry to provide this Court with a false Affidavit in support of making Plaintiff's lawsuit dis-

appear as quickly and as cheaply as possible. This coverup attempt in relation to Lebanon's Motion to Dismiss, in combination with the diplomatic cables newly obtained from Lebanon and translated into English, are clear evidence of the bad faith with which Lebanon ensnared, manipulated, and profited from Plaintiff in this matter.

17. The Republic of Lebanon, and its lawyers' actions, in 2005 prove that both the party and its attorneys knew of the potential impact, were attempting to cover it up by having the lawsuit dismissed on a jurisdictional argument before the evidence came out. Notably, in November 2023, Plaintiff obtained copies of all files from the Lebanese court for the Complaint that was filed in Lebanon, and also petitioned the copies of the files from the Ministry of Foreign Affairs and Expatriates. The Lebanese court granted Plaintiff access to these documents, which are attached as Exhibits 3-8. Please note that each Exhibit 3-8 consists of an English translation followed by the original Arabic document. These are original documents, certified via affidavit by a translator. Diplomatic cables are admissible evidence.

18. The people involved in the translated documents are as follows:

a. Ali Ajmi, who was the Consul General for Lebanon in Detroit, Michigan. He accepted service of process on all documents.

b. Moussa Khoury, an attorney who was the Advisor to the Lebanon Minister of Telecommunications.

19. This is a letter (Exhibit 3, dated April 6, 2005, almost one month after the Default Judgement)

from Ali Ajmi, the Counsel General for Lebanon in Detroit, Michigan, which indicates that Moussa Khoury, representing the Minister of Telecommunications is coming to Detroit, Michigan to meet with a number of attorneys known to the General Counsel (none of these persons were hired).

20. This is a letter (Exhibit 4, dated April 8, 2005 marked "Very, Very Urgent") from Ali Ajmi, Consul General in Detroit, which expresses his concern that Butzel Long attorneys representing Lebanon in this matter have asked him to deny receipt of the service of process he had received, as well as what would happen if Judge Nancy Edmunds discovered that he lied and provided a false affidavit. He indicates that the attorneys assured him not to worry since he has diplomatic immunity, and also "they got the judge already predisposed to rule in favor of the defendant" (emphasis added).

21. This is a letter (Exhibit 5, dated April 12, 2005 and signed by the Minister of Telecommunications) from the Director of Political and Consular Affairs, in response to the letter from Ali Ajmi (Exhibit 4), advising him as follows: "We do not have any objection to the Consul General providing affidavit that would assist the law firm in defending the interests of the State, as appointed by our legal advisor, Lawyer Moussa Khoury. Kindly review and take necessary action." Khoury, in other words, requested Ali to go along with this scheme by giving a false affidavit.

22. This is a letter (Exhibit 6, dated April 15, 2005) from Ali Ajmi, Consul General to the Minister of Foreign Affairs and Expatriates Directorate of Political and Consular Affairs Section indicating that Butzel Long lawyers had been appointed by the Minister of

Telecommunications to handle the law suit filed by American Telecom Company. He also stated: "They (The Attorneys) informed me that they had contacted Judge Henry Saad and Senator Spencer Abraham (Both Lebanese origin) and requested them to contact Judge Nancy Edmunds regarding this lawsuit. They drew her attention to the current precarious situation in Lebanon, the resignation of the government, and the existence of what appears to be constitutional vacuum, among other things. I will keep you updated with any developments." (Emphasis added)

23. This is another letter (Exhibit 7, also dated April 15, 2005) from Ali Ajmi the Consul General, to the same persons as the previous letter (*see* Exhibit 6), First reporting that Advisor Moussa Khoury has met with a number of Attorneys, and after consulting with the Minister of Telecommunications, he had hired the attorneys at Butzel Long, and "Secondly" he had met with Moussa Khoury and the Attorneys had given him an "affidavit with this information to be used as evidence in court. He then asked his higher-ups as follows: "Please study the matter and provide me with your instructions on whether it is possible to provide this statement or not."

Again, this Exhibit 7 shows that Ali Ajmi was very concerned about signing a statement, which he knew to be false, in the case as requested by the attorneys and Moussa Khoury.

24. Finally, Exhibit 8 consists of two sets of Minutes from the Lebanese Cabinet. The first is dated May 21, 2005, and delays the approval of the hiring of Butzel Long Law Firm with a retainer of $100,000.00 US dollars. The second set of Minutes, also dated May 21, 2005, the Cabinet approved the hiring of Butzel

Long on May 18, 2005, and paid them a retainer of the $100,000.00 US dollars. These minutes were sent out to all departments of the Lebanon Cabinet.

25. The *newly discovered admissible evidence* (discovered in November, 2023) contains claims that Defendant's prior lawyers told their client, [the lawyers] "they got the judge already predisposed to rule in favor of the defendant" (emphasis added). (*See* Exhibit 9). In denying Plaintiff's unopposed motions on 3/10/25, in lieu of allowing discovery on this issue, or even addressing this, the Court involved itself. In footnote 1 of the Court's opinion, the Court *vaguely* addresses the disturbing claim, above, by essentially threatening Plaintiff or its counsel (this is in lieu of allowing discovery or addressing the issue head on). By doing this, the Court made it personal against Plaintiff or its counsel by stating, simply, "[t]o the extent Plaintiff has submitted letters calling in to question the impartiality of this Court and tarnishing the reputation of certain officials, these claims are not well taken". (*See* Exhibit B). What is the purpose of this footnote other than to take a personal or pejorative attack on Plaintiff and/or its counsel. Most importantly, these "certain letters" were *drafted by Defendant and reference ITS lawyers*. To use the colloquial term the Court is essentially gaslighting Plaintiff on this issue. It's a factual document that Plaintiff played no role in drafting nor certainly did it contribute to its content.

26. In March 2025, the district court denied American Telecom's motion to reinstate the case under Rule 60(B) stating that it was untimely under rule 60(c)(1), because it was filed more than a year after entry of final judgment. The Court also held that the new evidence did not alter the FSIA jurisdictional anal-

ysis, but supported the dismissal, and the new evidence did not justify the relief.

27. On December 19, 2025, the 6th Circuit Court of Appeals issued its opinion and judgment affirming the District Court's decision. The Court affirmed the district court's decision to deny the motion to reinstate under Rule 60(B) because of an alleged lack of showing fraud by clear and convincing evidence. The court also affirmed the District Court's denial of the motion for recusal under 28 U.S.C. § 455(a) because it ruled that the district court judge did not evidence bias. Plaintiff vehemently disagrees.

REASONS FOR GRANTING THE PETITION

I. The Decision Below is Wrong

Both the Court of Appeals and the District Court indicated the "unsworn documents" did not alter the FSIA jurisdictional analysis and they did not establish fraud by clear and convincing evidence to otherwise justify relief. The documents are sworn by a translator and are diplomatic cables. The inference by the District Court that these were unsworn documents is *wrong*. American Telecom contends that the diplomatic cables, which were part of the mission archive, and were not widely disseminated, are admissible on their own existence. In the Court of Appeals (civil division) on appeal from the High Court of Justice, Queen's Bench Division, Administrative Court, the British Supreme Court ruled that diplomatic cables associated with Wiki-Leaks *were admissible*. This is a case of first impression in the United States in the

civil context, regarding the admissibility of diplomatic cables.

A. The New Evidence Abrogates the Sovereign Immunity of the Republic of Lebanon

In the initial case, Defendant claimed immunity under 28 U.S.C.S. § 1604 of the Foreign Sovereign Immunities Act (F.S.I.A.), 28 U.S.C.S. § 1602 et. sec. More specifically, in response, Plaintiff asserted that the "Commercial Activity Exception" of 28 U.S.C.S. § 1605(a)(2) applied. Nevertheless, Judge Edmunds ruled as follows:

> The Court now examines the conduct of the Lebanese Government that Plaintiffs complain about in this suit to determine what effects, if any, will follow in the United States as an immediate consequence of that challenged activity. The gist of Plaintiffs' complaint is that Lebanon made fraudulent misrepresentations in connection with the application to bid process, fraudulently induced it to take part in the New Public Tender application process, and breached agreements to be fair and to consider, in good faith, Plaintiffs' applications to participate in the Auction-Tender and the New Public Tender bidding process. In their brief, Plaintiffs do not discuss the direct effects in the United States of Lebanon's alleged fraudulent misrepresentations or its fraudulent inducement. 1 Rather, Plaintiffs focus on their breach of contract claims.

Plaintiffs speculate that, if their applications had been considered fairly and in good faith, then they would have been chosen as a Selected Participant for one or both of the two contracts at issue and further speculate that they would have subsequently been chosen to enter into a Management Agreement with the Lebanese Government. This, in turn, would provide these American companies, as sole shareholders in the Lebanese subsidiary, with huge profits and the corresponding opportunity to hire American workers in addition to the retained Lebanese employees, to export American-made goods, and to pay taxes to the United States Government.

There are several problems with these arguments. First, the chain of events Plaintiffs describe are not the immediate consequence of Lebanon's challenged activity. The immediate consequence would be the denial of their application. Second, contrary to the documentation presented to the Court, Plaintiffs' argument implies terms of good faith and fair dealing that are not expressed in the application documents. In the EOI and NDU, Plaintiffs acknowledged their understanding that the Lebanese Ministry was not obligated to Plaintiffs in any manner and that the Ministry was under "no obligation to accept any offer or proposal . . . made by the Applicant or on the Applicant's behalf." (Def.'s Ex. B, NDU at 2, ¶ 2(f).) The Preface to the TIP further emphasized that "The Republic of Lebanon reserves the right to reject the offer

> to manage either of the Mobile Businesses . . . at any time for any reason." (Def.'s Ex. C, TIP at ii.)
>
> Plaintiffs' final argument likewise fails. Plaintiffs speculate that, if they had been chosen as a Selected Participant in the New Public Tender bidding process and failed to perform as required in that bidding process, then the $2 million Tender Bond they obtained from an American bank would require payment from that American Bank to the Lebanese Government. The chain of events Plaintiffs describe in this scenario are not the immediate consequence of any activity on the part of the Lebanese Government that Plaintiffs challenge in this suit. Rather, they speculate about a breach of the Tender Bond by Plaintiffs that would trigger action by Lebanon for payments obligated to be paid to Lebanon; actions that would have a direct effect in Lebanon, not the United States.
>
> Because Plaintiffs have not shown that the FSIA's commercial activity applies here, Lebanon's motion to dismiss is GRANTED. (*See* Exhibit 2)

In order to succeed, Plaintiff must show: 1) Plaintiff was correct in its original argument that Lebanon's actions had a *direct economic impact* in the United States; and 2) Lebanon's bad faith was the *direct cause* of this economic loss.

Judge Edmunds previously opined that Plaintiff's arguments regarding "good faith" and "fair dealing" were not expressly supported by the application

documents. However, new evidence has come to light through diplomatic cables that there was an *actual fraud* that occurred. Notably, a fraud claim is asserted in the original Complaint (*See* Exhibit 2) and, therefore, the fraud committed by the Lebanese government has a *direct effect* or is the clear cause of the damages suffered by Plaintiff. Unfortunately, the Court did not address this new evidence in any substantive manner. In fact, appellant strongly believes that if this new evidence were available in real time, *i.e.*; in 2004, the Court and the 6th Circuit Court of Appeals would have come to different conclusions/rulings.

Relative to the question of whether Lebanon's actions had a direct economic impact in the United States, Plaintiff provided extensive evidence about the costs incurred to commence the application process in the first place – costs that would not have been incurred but for Lebanon's bad-faith solicitation of Plaintiff's bid. Judge Edmunds's opinion disregards these incurred transactional costs, which amount to over $530,000.00 in direct outlays as well as $32,000,000.00 in performance bonds and bank guarantees – all in the United States. Instead, Judge Edmunds focuses solely on the claimed damages resulting from denial of Plaintiff's application. While it is Plaintiff's position that the damages resulting from the denial of the application are real and actionable (and, with newly discovered evidence, mathematically provable), Plaintiff concedes that there is room for argument as to the calculation. What is not arguable is the fact that Lebanon's fraudulent actions led Plaintiff to needlessly incur costs of over $530,000.00.

The new evidence is what it is, and is real, demonstrative evidence that a fraud was perpetrated on the

Court. The Lebanese officials were dishonest in statements that led to the dismissal of a default judgment. The fact that the default judgment was granted in the first place shows that it was, according to the Court, viable, at some point. Despite the rulings from 2004 and 2005, this new evidence shows the Court that, *at the very least*, an evidentiary hearing should have been conducted to explore the veracity of these claims. It must be noted that the evidence relates to documents created by Defendant and Defendant alone. This is conspicuous and telling. The documents also establish that the factual basis for setting aside the default judgment was likely based on false or misleading evidence.

B. The Diplomatic Cables were Admissible Evidence and the Judge's Admonishment Should Have Resulted in Recusal

The *newly discovered evidence* (discovered in November, 2023) contains claims that Defendant's prior lawyers told their client, [the lawyers] "<u>they got the judge already predisposed to rule in favor of the defendant</u>" (emphasis added). (*See* Exhibit A). In denying Plaintiff's unopposed motions on 3/10/25, in lieu of allowing discovery on this issue, or even addressing this, the Court involved itself. In footnote 1 of the Court's opinion, the Court *vaguely* addresses the disturbing claim, above, by essentially threatening Plaintiff or its counsel (this is in lieu of allowing discovery or addressing the issue head on). By doing this, the Court made it personal against Plaintiff or its counsel by stating, simply, "[t]o the extent Plaintiff has submitted letters calling in to question the impartiality of this Court and tarnishing the reputation of certain officials, these claims are not well taken". (*See* Exhibit B). What is the purpose of

this footnote other than to take a personal or pejorative attack on Plaintiff and/or its counsel. Most importantly, these "certain letters" were *drafted by Defendant and reference ITS lawyers*. To use the colloquial term, the Court essentially gaslit Plaintiff on this issue. It's a factual document that Plaintiff played no role in drafting nor certainly did it contribute to its content.

The applicable statute controlling disqualification /recusal is 28 U.S.C. § 455. This statute states:

> (a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
>
> (b) He shall also disqualify himself in the following circumstances:
>
> (1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
>
> (2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;
>
> (3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

(c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

(1) "proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(2) the degree of relationship is calculated according to the civil law system;

(3) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(4) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(e) No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in

> subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.
>
> (f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate judge, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate judge, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.
>
> (June 25, 1948, ch. 646, 62 Stat. 908; Pub. L. 93–512, § 1, Dec. 5, 1974, 88 Stat. 1609; Pub. L. 95–598, title II, § 214(a), (b), Nov. 6, 1978, 92 Stat. 2661; Pub. L. 100–702, title X, § 1007, Nov. 19, 1988, 102 Stat. 4667; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

The applicable portion of the statute is 28 U.S.C. § 455(a). Where there is a strong possibility that the Judge's decision will be biased, or that the Judge's impartiality may be reasonably questioned by a reasonable person, recusal is proper. The instant case satisfies this standard based on the:

- Discovery of the diplomatic document drafted by Defendant that references potential special treatment by this Honorable Court;
- This Court's 3/10/25 Opinion and Order Denying Plaintiff's two 2024 motions, essentially ignores the allegations made in the cables by DEFENDANT (not Plaintiff), and, instead, chastises Plaintiff; and
- This Court's footnote 1 to the 3/10/25 Opinion and Order where a veiled or vague threat is made by this Court against Plaintiff and/or its counsel

These facts, which are admissible evidence, show this Court's potential bias or possible impropriety as alleged by DEFENDANT. The Appellate Courts assess whether a reasonable person, with knowledge of all circumstances, would question the judge's impartiality. This review includes examining the trial court's record, submitted motions, and oral arguments. *Williams v. Pennsylvania*, 579 US ___ (2016). Clearly a reasonable person would look at the evidence above and be confused as to a) the Judge's intent with the footnote; b) the Court's failure to actually address the allegations in the diplomatic cables, and c) why the Court would not allow simple/limited discovery on this issue to result in clarity of the Court's opinion. It is potentially evidence of bias or impartiality, but without discussion, oral argument, or specificity, this cannot be determined on its face.

Next, the Court should look to the Code of Conduct for United States Judges, specifically Canon 3C, which reads:

> CANON 3: A JUDGE SHOULD PERFORM THE DUTIES OF THE OFFICE FAIRLY, IMPARTIALLY AND DILIGENTLY
>
> The duties of judicial office take precedence over all other activities. The judge should perform those duties with respect for others, and should not engage in behavior that is harassing, abusive, prejudiced, or biased. The judge should adhere to the following standards:
>
> C. Disqualification
>
> (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which:
>
> (a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

Defendant, again unrepresented at present, alleges in the diplomatic cables, that Judge Edmonds *did have knowledge of disputed evidentiary facts concerning the proceeding*, by stating that she will be predisposed to rule in favor of Defendant. But, in lieu of examining this claim, or exhausting any allegations of impropriety, this Court decided to chastise the moving party.

There are three justifications for the disqualification rule: 1) fair process; 2) court legitimacy; and 3) civic virtue. This supports the public policy considerations of a party having a fair hearing before an impartial judge, to encourage public confidence in the impartiality District Court Judges, and the existence

of a section on "disqualification" in the Code of Conduct for United States Judges. Judges should step aside when their impartiality "might reasonably be questioned". It is obvious that disqualification in this case will lead to the three ideals above best being supported and exhibited.

Any circumstances under which a judge's impartiality might reasonably be questioned under 28 U.S.C. § 455(a) require disqualification, even if the circumstances are not enumerated in 28 U.S.C. § 455 (b). *Liljberg v. Health Servs. Acquisition Corp.*, 486 US 847, 860 n. 8 (1988). 28 U.S.C. § 455 was enacted in 1974 shifted the balance away from discouraging disqualification, and supporting the ideal of requiring disqualification whenever a judge's impartiality "might" reasonably be questioned. *H.R Rep. No. 93-1453*, at 5 (1974), *reprinted* in 1974 U.S.C. C.A.N. 6351, 6355. The Sixth Circuit has said that close questions should be decided in favor of disqualification. *United States v. Dandy*, 998 F.2d 1344, 1349 (6th Cir. 1993). Here, the parties cannot know the veracity of the claims in the diplomatic cables without discovery. This Court's denial of discovery, denial of oral argument, and vague reference to the allegation of impropriety while essentially accusing Plaintiff of drafting or contributing to its content, which is nonsensical. This satisfies the standards set by the US Congress in enacting this statute, the applicable Cannon of Code of Conduct, and the 6th Circuit's support of disqualification in these situations.

To the extent this Court will question the timeliness of this request and chalk it up to "sour grapes" for losing the 2024 motions, this argument will fail. 28 U.S.C. § 455 has no explicit requirement for time to be filed; it must be brought "at the earliest moment after

knowledge of the facts demonstrating the basis for such disqualification. *Travelers Ins. Co. v. Liljeberg Enters., Inc.*, 38 F.3d 1404, 1410 (5th Cir. 1994). *See also Apple v. Jewish Hosp. & Med. Ctr.*, 829 F.2d 326, 333 (2nd Cir. 1987); *In re National Union Fire Ins. Co.*, 839 F.2d 1226, 1232 (7th Cir. 1988). Counsel learned of the allegations in a document drafted by Plaintiff back in 2005 only as soon as November, 2023. The further issues arose in the 3/10/25 Opinion and Order issued by this Court, and discussed ad nauseum above, and this is a viable and serious appeal.

II. The Decision Below Warrants Immediate Review

This Court's review is warranted because both the Court of Appeals and the District Court ruled that the translated diplomatic cables were "unsworn" and did not alter the FSIA jurisdictional analysis that supported the opinions, however, the admissibility of diplomatic cables has not been addressed by the United States Court's outside of the criminal context. The court of appeals and district court both cite "hearsay," but there is no explanation of what, exactly, is hearsay. Furthermore, based on the current global stage, a swift resolution of this matter is material.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

Sheldon L. Miller
Counsel of Record
LAW OFFICE OF SHELDON L. MILLER
30300 Northwestern Hwy., Ste 230
Farmington Hills, MI 48334
(248) 538-3400
slm1936@aol.com

Timothy P. Brady
KAUFMAN, PAYTON & CHAPA
30833 Northwestern Hwy., #200
Farmington Hills, MI 48334
(248) 453-9759
tbrady@kaufmanlaw.com

Counsel for Petitioner

March 19, 2026