No. 26-___

IN THE

Supreme Court of the United States

KATHLEEN ASHTON, *et al.*,

Petitioners,

v.

THE TALIBAN, *et al.*,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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August 31, 2026

WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D.C. 20002

QUESTION PRESENTED

The panel below held that the Executive Branch's recognition of a "notional state" of Afghanistan is dispositive of whether the Taliban and its instrumentalities qualify as a "foreign state" entitled to immunity under the Foreign Sovereign Immunities Act ("FSIA").[1]

The question presented is:

Whether, in light of the Court's intervening decision in *Exxon Mobil Corp. v. Corporación CIMEX, S.A. (Cuba)*, 146 S. Ct. 1909 (2026), which confirms that a court—not the Executive Branch—must resolve through ordinary statutory construction whether an entity is a "foreign state" entitled to sovereign immunity, the judgment below should be vacated and remanded so that the Second Circuit must reconsider, under the correct framework, whether the Taliban and its instrumentalities are entitled to immunity under the FSIA.

[1] The panel separately held that an entity's status as an "agency or instrumentality" of a terrorist party under § 201(a) of the Terrorism Risk Insurance Act ("TRIA") must be assessed as of the date the relevant assets were blocked. As to that holding, Petitioners join in the petition for a writ of certiorari filed by the *Havlish* petitioners arising from the same judgment. *See infra* p. 3. As set forth in that petition, the panel's TRIA holding was in error. This separate petition is filed in support of, and to accompany, that petition, not to duplicate it.

RELATIONSHIP TO OTHER PETITIONS

The *Ashton* Petitioners are among the judgment holders whose efforts to execute judgments against Taliban-controlled assets at Da Afghanistan Bank ("DAB") were thwarted by the Second Circuit's newly minted rule that an entity's status as a terrorist party's "agency or instrumentality" must be fixed as of the date the assets were blocked—in this case, a date that is before the Taliban ever controlled DAB. App. 46a–51a.

Petitioners understand that other victim groups intend to seek, or have sought, certiorari on two related questions: (1) whether the Second Circuit erred in treating Executive recognition of a "notional state" as dispositive of foreign sovereign immunity under the FSIA, and (2) whether the "blocking date" rule itself is incorrect as a matter of TRIA's text and purpose, including whether it conflicts with the Ninth and Eleventh Circuits' treatment of the same timing question. Petitioners join and support the plenary-review arguments and do not repeat them here. As to the first point, however, this Court's intervening decision in *Cimex*—handed down after the judgment below and after the denial of rehearing en banc—supplies an independent, narrower basis for relief that the other petitions do not present: vacatur and remand for reconsideration under the correct framework, addressed as the question presented above.

This Petition arises from the ruling of the Southern District of New York in cases brought by victims of terrorism and consolidated for pretrial purposes by the Judicial Panel on Multidistrict Litigation pursuant to 28 U.S.C. § 1407. Petitioners represent the largest group of claimants in the MDL among the claimants who were before the Second Circuit below. Under *Gelboim v. Bank of America Corp.*, 574 U.S. 405 (2015), a judgment in an MDL proceeding attaches to each individual case and, consequently, a petition by one plaintiff cannot foreclose other plaintiffs from asserting their own grounds for relief.

Nonetheless, this is not a matter of multiple petitions raising similar issues. This Petition raises a distinct question of whether, in light of *Cimex*, the lower court decision should be vacated and the case remanded. Petitioners respectfully request that certiorari review be consolidated if the Court grants review of any petitions arising from this judgment.

PARTIES TO THE PROCEEDING

Petitioners are more than 3,000 family members and estates of victims of the 9/11 terrorist attacks who hold judgments against the Taliban and are seeking to execute those judgments against DAB's blocked assets. This is a substantial group among the claimants against the Taliban in the proceedings below. Petitioners are designated as the "*Ashton* plaintiffs." Respondents are the Taliban (also known as the Islamic Emirate of Afghanistan) and the Federal Reserve Bank of New York, nominal holder of the blocked assets. Petitioners are listed in the Appendix at App. 176a–317a.

Other plaintiffs-appellants before the Second Circuit, who are or may be petitioning for certiorari review separately, are listed in the Appendix at App. 318a–328a.

RELATED PROCEEDINGS

Ashton v. Al Qaeda Islamic Army, No. 23-444, U.S. Court of Appeals for the Second Circuit (April 10, 2026).

Federal Insurance Co. v. Al Qaida, No. 23-346, U.S. Court of Appeals for the Second Circuit (April 10, 2026).

Havlish v. The Taliban, and Federal Reserve Bank of New York, No. 23-258, U.S. Court of Appeals for the Second Circuit (April 10, 2026).

John Does 1 through 7 v. The Taliban, No. 23-263, U.S. Court of Appeals for the Second Circuit (April 10, 2026).

Smith v. The Islamic Emirate of Afghanistan, No. 23-304, U.S. Court of Appeals for the Second Circuit (April 10, 2026).

Owens. v. Taliban, No. 23-797, U.S. Court of Appeals for the Second Circuit (April 10, 2026).

Owens v. Taliban., No. 23-354, U.S. Court of Appeals for the Second Circuit (April 10, 2026).

Ashton v. Al Qaeda Islamic, No. 02-cv-06977, U.S. District Court for the Southern District of New York (February 21, 2023).

Federal Insurance Co. v. Al Qaida, No. 03-cv-06978, U.S. District Court for the Southern District of New York (February 21, 2023).

Havlish, et al. v. Federal Reserve Bank of New York, No. 03-cv-09848, U.S. District Court for the Southern District of New York (February 21, 2023).

John Does 1 through 7 v. The Taliban and *Federal Reserve Bank of New York*, No. 1:20-mc-00740, U.S. District Court for the Southern District of New York (February 21, 2023).

Smith v. The Islamic Emirate of Afghanistan, No. 01-cv-10132, U.S. District Court for the Southern District of New York (February 21, 2023).

In re Terrorist Attacks on September 11, 2001, No. 03-md-01570, U.S. District Court for the Southern District of New York (February 21, 2023).

Owens v. Taliban, No. 22-cv-01949, U.S. District Court for the Southern District of New York (February 24, 2023).

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PETITION FOR WRIT OF CERTIORARI

Petitioners respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit.

OPINIONS BELOW

The opinions of the Second Circuit directly at issue in this appeal are published at 152 F.4th 339 and 170 F.4th 100 and are reproduced at App. 1a and App. 72a, respectively. The district court opinion is published at 657 F. Supp. 3d 311 and is reproduced at App. 112a.

JURISDICTIONAL STATEMENT

The Second Circuit decision affirming the order that denied a motion for attachment made by Petitioners was entered on August 26, 2025. Petitioners timely filed a Petition for Panel Rehearing or Rehearing En Banc which was denied on April 3, 2026, and March 19, 2026, respectively. *See* App. 149a, 72a. Justice Sotomayor granted Petitioners' motion to extend the time to file the petition to August 31, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT STATUTORY PROVISIONS

Pub. L. No. 107-297, § 201, 116 Stat. 2322, 2337–40 (codified as amended 28 U.S.C. § 1610 note) (Terrorism Risk Insurance Act of 2002), is reproduced in relevant part at App. 151a.

28 U.S.C. §§ 1330, 1602–11 (Foreign Sovereign Immunities Act) is reproduced in relevant part at App. 154a.

INTRODUCTION

This Petition addresses an issue as straightforward as it is compelling. A divided panel of the Second Circuit denied thousands of victims of Taliban-sponsored terrorism access to billions of dollars in assets frozen at the Federal Reserve Bank of New York. These funds have been held on reserve for DAB, an entity the Taliban has controlled since it returned to power in 2021. App. 5a–6a. The panel reached that result through two independent holdings, each of which substantially undermines national commitments to the fight against terrorism. Both were wrong, and both were wrong for a related reason: each treated a question that this Court, or Congress, had already answered as an occasion for the panel to supply its own rule instead.

First, the panel held that DAB and the Taliban are entitled to baseline immunity under the FSIA because the Executive Branch continues to "formally recognize" a "notional state" of Afghanistan, even though the Executive refuses to recognize the Taliban as that state's government. *Id.* at 50a. In the panel's view, Executive recognition of a notional state is not merely relevant to, but dispositive of, whether an entity qualifies as a "foreign state" under the FSIA—a rule that forecloses any independent judicial inquiry into the question. Both holdings drew sharp dissents at the panel and en banc stages. *See id.* at 77a (Sullivan, J., dissenting from denial of reh'g en banc); *id.* at 89a (Menashi, J., dissenting from denial of reh'g en banc).

Second, the panel held that an entity's status as an "agency or instrumentality" of a terrorist party under

§ 201(a) of the Terrorism Risk Insurance Act ("TRIA") must be assessed as of the date the relevant assets were blocked—here, August 15, 2021, the day Kabul fell and before the Taliban had installed its own officials at DAB—rather than as of the date turnover was sought, when DAB was indisputably Taliban-controlled. *Id.* at 46a–51a. The panel claimed that TRIA's text supplies "no guidance" on that timing question and inserted its own "blocking date" rule. *Id.*

This petition is filed alongside the petitions for certiorari filed by other petitioners arising from the same judgment. Petitioners join and support the plenary-review arguments made in the *Havlish* petition concerning the panel's error in construing TRIA. Petitioners do not repeat those arguments here. This petition instead presents one question that petition does not raise.

That question addresses the FSIA holding in light of this Court's intervening decision in *Exxon Mobil Corp. v. Corporación CIMEX, S.A. (Cuba)*, 146 S. Ct. 1909 (2026), which was decided after the judgment below. *Cimex* confirms that courts—not the Executive—must resolve through ordinary statutory construction whether an entity qualifies as a foreign state entitled to immunity. Petitioners ask the Court to grant, vacate, and remand for reconsideration under the correct framework.

Petitioners respectfully request that certiorari review be consolidated if the Court grants review of any petition arising from this judgment.

STATEMENT OF THE CASE

The Taliban ruled Afghanistan from 1996 to 2001 and, during that period, supported al-Qaeda's terrorist campaign against the United States, including the

September 11, 2001 attacks. After U.S. forces withdrew in 2021, the Taliban retook Kabul and, within months, installed loyalists—including designated terrorists—throughout DAB, Afghanistan's former central bank. App. 9a. DAB holds assets in an account at the Federal Reserve Bank of New York that the Treasury Department blocked on the day Kabul fell, before the Taliban had taken control of DAB.

The *Ashton* Petitioners are among the largest groups of claimants that hold judgments against the Taliban arising from acts of terrorism and seek to execute those judgments against DAB's blocked assets under TRIA § 201(a), which subjects "the blocked assets of [a] terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party)" to execution. The district court, sitting as an MDL transferee court, dismissed on immunity grounds, App. 147a, and a divided panel of the Second Circuit affirmed, *id.* at 7a.

The panel held that DAB and the Taliban are entitled to the FSIA's baseline immunity because the Executive Branch continues to "formally recognize[]" Afghanistan as a notional state, even though the Executive refuses to recognize the Taliban as that state's government and has taken affirmative steps—including blocking DAB's assets and transferring similar assets to non-Taliban representatives of the Afghan people—to keep those assets from the Taliban's control. *Id.* at 25a, 10a–12a. In the panel's view, "[t]he Executive Branch's formal recognition of a state or government establishes [it] as a foreign state for purposes" of the FSIA, full stop. *Id.* at 50a. Judge Sullivan's dissent, joined by three colleagues, explained that this holding "confuses the [Executive's] power to recognize foreign nations and governments" with "the separate and narrower authority to determine when statutorily created FSIA immunity should attach in civil litigation, which clearly belongs to the Judiciary." *Id.* at 82a-83a (Sullivan, J., dissenting from denial of reh'g en banc).

On June 23, 2026—after the panel decided this case and after the full court denied rehearing en banc—this Court decided *Exxon Mobil Corp. v. Corporación CIMEX, S.A. (Cuba)*, 146 S. Ct. 1909, a case presenting the closely related question of whether a plaintiff suing a foreign government-owned entity under a specific federal statute must also satisfy the FSIA's general exceptions to immunity. This Court held that the answer turns on ordinary statutory construction of the particular statute at issue—not on any threshold act of Executive recognition—and reaffirmed that the FSIA itself "transferred 'primary responsibility for deciding claims of foreign states to immunity' from the State Department to the courts." *Cimex*, 146 S. Ct. at 1917 (quoting *Samantar v. Yousuf*, 560 U.S. 305, 313 (2010)). Neither the panel nor the en banc court had the benefit of *Cimex* when they decided this case.

REASONS FOR GRANTING THE WRIT

I. In Light of the Intervening Decision in *Cimex*, the Judgment Below Should Be Vacated and Remanded for Reconsideration of the FSIA Question.

The panel's FSIA ruling was wrong when it was rendered. Nothing in the FSIA's text conditions a court's threshold determination that an entity is a "foreign state" on the Executive Branch's act of diplomatic recognition. The statute instead directs courts to determine, as "a pure question of statutory construction," whether a defendant "is a 'foreign state' within the meaning of the [Act]." *Republic of Austria v. Altmann*, 541 U.S. 677, 679–95 (2004); *Samantar*, 560 U.S. at 313. This Court has never suggested that the FSIA "interpretation" question is entitled to "special deference" to the Executive's views. *Altmann*, 541 U.S. at 701.

Treating Executive recognition as dispositive—rather than as one input into an ordinary interpretive inquiry—conflicts with decisions of the First and Third Circuits, which hold that a court applying the FSIA's undefined term "foreign state" performs "the core judicial work of parsing" that term, without treating Executive recognition as controlling. *See Ungar v. Palestine Liberation Org.*, 402 F.3d 274, 280–83 (1st Cir. 2005) (holding that a court's FSIA "immunity decision neither signal[s] an official position on behalf of the United States with respect to political recognition" nor invades the Executive's recognition power); *OI Eur. Grp. B.V. v. Bolivarian Republic of Venezuela*, 73 F.4th 157, 170 (3d Cir. 2023) (rejecting the notion that a prior Executive non-recognition decision is "binding" for FSIA purposes, because that approach "would undermine the principal purpose of the FSIA" of transferring immunity determinations "from the State Department to the courts") (quoting *Samantar*, 560 U.S. at 313).

The panel's invocation of *Zivotofsky ex rel. Zivotofsky v. Kerry*, 576 U.S. 1 (2015), does not bridge that conflict. *Zivotofsky* held only that "[t]he Executive's exclusive power extends no further than his formal recognition determination," *id.* at 30, and a court's statutory classification of an entity as a "foreign state" for purposes of civil litigation does not purport to make, unmake, or contradict any recognition determination at all.

Congress's choice was deliberate, not incidental. The FSIA's own text declares that "[c]laims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter." 28 U.S.C. § 1602. That word—henceforth—marks a legislative break from the pre-1976 regime, under which district courts routinely surrendered jurisdiction whenever the State Department filed a "suggestion of immunity," and decided the immunity question itself only when the Executive declined to act. *See Samantar*, 560 U.S. at 311–12 (describing the pre-FSIA regime). Congress did not preserve that case-by-case executive role for some threshold immunity determinations while eliminating it for others; it superseded the practice across the board. *Id.* at 325 ("Congress clearly intended to supersede the common-law regime for claims against foreign states."). The panel's rule—treating Executive recognition as dispositive of an entity's "foreign state" status—reintroduces exactly the case-by-case executive determination that § 1602 abolished.

This Court need not resolve that conflict on plenary review to grant relief. The intervening decision in *Cimex* independently confirms the error below and supplies a narrower, more targeted path to correction. *Cimex* reaffirms, in language echoing *Samantar* almost verbatim, that the FSIA "transferred 'primary responsibility for deciding claims of foreign states to immunity' from the State Department to the courts," and that even where a specific federal statute intersects with sensitive questions of foreign affairs, the question whether that statute displaces the FSIA's ordinary architecture is answered by parsing the statute's text and structure—not by asking what foreign entity the Executive currently recognizes.

Cimex, 146 S. Ct. at 1917–20. *Cimex* identified the textual and structural features that answer that inquiry: whether the statute's cause of action expressly applies against foreign agencies or instrumentalities; whether applying the FSIA's exceptions would leave the cause of action a dead letter; whether the statute's jurisdictional grant runs through the FSIA or through an independent provision; and whether Congress assigned the Executive an express gatekeeping role over the statute's cause of action, as opposed to the general threshold immunity determination the FSIA otherwise commits to courts. *Id.* at 1919–20.

The panel undertook none of that analysis. It never asked whether TRIA's own text and structure—which reaches "the blocked assets of [a] terrorist party" "notwithstanding any other provision of law," TRIA § 201(a), and which Congress designed to override "the executive branch's statutory authority to defeat . . . enforcement," 148 Cong. Rec. S11524, S11528 (Nov. 19, 2002) (statement of Sen. Harkin)—itself supplies the kind of express statutory override of ordinary FSIA immunity principles that *Cimex* holds courts must identify through textual analysis.

Instead, the panel treated the FSIA's threshold "foreign state" gate as answered exclusively by Executive recognition, foreclosing any inquiry into whether TRIA's own architecture—like the Helms-Burton Act's in *Cimex*—already resolves the immunity question on its own terms. App. 20a–21a. That is precisely the kind of premise "that the lower court would reject if given the opportunity for further consideration" in light of an intervening decision of this Court. *Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (per curiam).

The certiorari petition this Court granted in *Cimex* confirms the mapping. The question there was: "Whether the Helms-Burton Act abrogates foreign sovereign immunity in cases against Cuban instrumentalities, or whether parties proceeding under that Act must also satisfy an exception under the Foreign Sovereign Immunities Act." Petition for Writ of Certiorari at i, *Exxon Mobil Corp. v. Corporación CIMEX, S.A. (Cuba)*, No. 24-699 (U.S. filed Dec. 27, 2024). This Court answered that question by holding that the Helms-Burton Act's own "architecture"—its cause of action expressly running against foreign agencies and instrumentalities, the self-defeating-statute problem that would result from requiring an FSIA exception, its provision that suits proceed under 28 U.S.C. § 1331 rather than the FSIA's § 1330, and its express grant of suspension authority to the President—clearly abrogated ordinary FSIA immunity without requiring a separate showing under an FSIA exception. *Cimex*, 146 S. Ct. at 1918.

Notably, Justice Kagan's dissent, joined by Justices Sotomayor and Jackson, disagreed with that conclusion, but not with the method. Justice Kagan too parsed the Helms-Burton Act's text and structure, provision by provision, and concluded only that the signals the majority relied on fell short of the "unmistakably clear" showing this Court's sovereign-immunity precedents demand before a specific statute will be read to displace the FSIA's ordinary architecture. *Id.* at 1926 (Kagan, J., dissenting). Critically, neither opinion assigns the Executive Branch's recognition of a foreign state—as opposed to the specific statute's own text and structure—any role whatsoever in deciding whether the FSIA's ordinary architecture applies or is displaced.

That is the point on which the panel majority went astray, and on which Judge Sullivan's dissent had it right. Whichever side of *Cimex*'s own disagreement one credits—the majority's willingness to infer abrogation from converging structural signals, or the dissent's insistence on a more exacting textual showing—both begin and end with the same method: parsing the specific statute Congress enacted to determine whether, and how, it interacts with the FSIA's general immunity architecture. The panel majority below did neither. It never asked whether TRIA's cause of action, its "notwithstanding any other provision of law" language, or any other feature of its "architecture"—the very inquiry *Cimex* directs—displaces ordinary FSIA principles here just as the Helms-Burton Act's architecture did in *Cimex*. It instead treated Executive recognition as dispositive, foreclosing the statutory analysis *Cimex* requires.

The panel's approach cannot survive scrutiny under *Cimex*. Judge Sullivan's dissent, by contrast, insisted that "the separate and narrower authority to determine when statutorily created FSIA immunity should attach in civil litigation . . . clearly belongs to the Judiciary"—precisely the methodological premise both opinions in *Cimex* share, whatever else divided them. App. 82a–83a (Sullivan, J., dissenting from denial of reh'g en banc). Simply put, the panel's methodology finds no home in the Court's intervening, controlling decision. The panel lacked the benefit of *Cimex* and remand is warranted so that the Second Circuit may undertake, for the first time, the statutory analysis *Cimex* requires.

As a general matter, a GVR is warranted where "intervening developments . . . reveal a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration, and where it appears that such a redetermination may determine the ultimate outcome" of the case. *Lawrence*, 516 U.S. at 167. Both conditions are met here. First, the panel's categorical rule that Executive recognition alone answers the FSIA's threshold "foreign state" inquiry is difficult to reconcile with *Cimex*'s instruction that this kind of question is resolved by parsing the relevant statute's own text and structure, particularly where, as here, the statute at issue was designed to override ordinary immunity limitations. Second, if the Second Circuit is not bound to treat Executive recognition as dispositive, it must undertake the textual and structural analysis Judge Sullivan's dissent describes—including whether DAB is properly understood as an instrumentality of the Taliban rather than of a "notional" state of Afghanistan, and whether TRIA's own text forecloses the FSIA immunity the panel assumed applied—a redetermination that will in all likelihood compel a different result below.

A GVR, rather than plenary review, is the appropriate vehicle for correcting this error. It "conserv[es] the scarce resources of this Court," "assist[s] the court below by flagging a particular issue that it does not appear to have fully considered"—as it could not have, since *Cimex* postdates both the panel's decision and the denial of rehearing en banc—and "procur[es] the benefit of the lower court's insight before [this Court] rules on the merits." *Lawrence*, 516 U.S. at 167. If the Court prefers plenary review of that question to a GVR, Petitioners have no objection; either disposition corrects the same error. But at minimum, *Cimex* supplies an independent basis for relief that requires no resolution of the underlying circuit conflict. The panel's framework rested on a premise this Court's most recent, controlling decision in this area rejects, and the Second Circuit should have the first opportunity to apply the correct one.

CONCLUSION

The petition for a writ of certiorari should be granted and the Court should, at minimum, vacate the judgment below and remand for reconsideration of the FSIA question in light of *Cimex*. In the alternative, should the Court grant certiorari on the petition(s) filed by other petitioners, this petition should be consolidated with that review.

Respectfully submitted,

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August 31, 2026

APPENDIX

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APPENDIX A

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

AUGUST TERM 2024

No. 23-258-cv (L)
No. 23-263-cv (CON)
No. 23-304-cv (CON)
No. 23-346-cv (CON)
No. 23-444-cv (CON)

FIONA HAVLISH, ET AL., JOHN DOES 1 THROUGH 7, FEDERAL INSURANCE CO., ET AL., RAYMOND ANTHONY SMITH, ET AL., KATHLEEN ASHTON, ET AL.,
Plaintiffs-Appellants,

v.

THE TALIBAN,
Defendant-Appellee,

FEDERAL RESERVE BANK OF NEW YORK,
Garnishee-Interested-Party-Appellee,[1]

On Appeal from the United States District Court
for the Southern District of New York

No. 23-354-cv (L)
No. 23-797-cv (C)

[1] The Clerk of Court is directed to amend the official caption as shown above.

ESTATE OF JESSE NATHANAEL ALIGANGA, ET AL., RIZWAN KHALIQ, ET AL., JAMES OWENS, ET AL.,
Plaintiffs-Appellants,

v.

TALIBAN, AKA THE ISLAMIC EMIRATE OF AFGHANISTAN,
Defendant-Appellee.

On Appeal from the United States District Court for the Southern District of New York

ARGUED: OCTOBER 9, 2024
DECIDED: AUGUST 26, 2025

Before: CALABRESI, CABRANES, and SULLIVAN, *Circuit Judges*.

We consider here claims brought by two different sets of plaintiffs. The first set of plaintiffs, the Pre-Judgment Plaintiffs, sought confirmation of a prejudgment attachment order concerning "blocked" funds held by the Afghan central bank (Da Afghanistan Bank, or "DAB") at the Federal Reserve Bank of New York (the "FRBNY"). Pre-Judgment Plaintiffs did so to preserve their chance to collect on a potential future judgment in their lawsuit against the Taliban for its alleged role in the East Africa embassy bombings of August 7, 1998. The United States District Court for the Southern District of New York (Valerie E. Caproni, *Judge*) denied their motion in an Opinion and Order dated February 24, 2023.

The second set of plaintiffs (comprising four groups of judgment creditors), the Judgment Plaintiffs, moved for turnover of those same "blocked" funds held by DAB at the FRBNY to satisfy judgments they held against the Taliban stemming, primarily, from the terrorist attacks of September 11, 2001. The United States District Court for the Southern District of New York (George B. Daniels, *Judge*) denied their motion in a Memorandum Decision and Order dated February 21, 2023.

There are two principal questions before us. The first is whether the Afghan central bank, DAB, is immune from attachment under the Foreign Sovereign Immunities Act (the "FSIA"), 28 U.S.C. §§ 1602-1611. If it is, then Pre-Judgment Plaintiffs' pre-judgment attachment order as to its assets must fail.

The second question is whether § 201 of the Terrorism Risk Insurance Act of 2002 (the "TRIA") applies to blocked assets in DAB's name held at the FRBNY. To do so, the TRIA would need to (1) abrogate any immunity afforded to DAB by the FSIA *and* (2) have each of its statutory prerequisites satisfied. If the TRIA does not so apply, Judgment Plaintiffs' turnover motions as to DAB's assets, likewise, must fail.

Judge Sullivan concurs in part and dissents in part.

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Jesse Nathanael Aliganga, et al., Rizwan Khaliq, et al., and James Owens, et al.

IAN HEATH GERSHENGORN, Jenner & Block LLP, Washington, D.C. (Douglass A. Mitchell, Jenner & Block LLP, Washington, D.C.; Lee Wolosky, Benjamin D. Alter, Jenner & Block LLP, New York, NY; Andrianna D. Kastanek, Jenner & Block LLP, Chicago, IL; David A. Barrett, Boies Schiller Flexner LLP, New York, NY; Stuart H. Singer, Boies Schiller Flexner, Fort Lauderdale, FL;

Timothy B. Fleming, Wiggins Childs Pantazis Fisher Goldfarb, PLLC, Washington, D.C., *on the brief*), *for Plaintiffs-Appellants* Fiona Havlish, et al., *Appellants* in 23-258.

SAMUEL ISSACHAROFF, New York University School of Law, New York, NY (Andrew J. Maloney, III, Kreindler & Kreindler LLP, New York, NY; Noam Biale, Sher Tremonte, LLP, New York, NY, *on the brief*), *for Plaintiffs-Appellants* Kathleen Ashton, et al., *Appellants* in 23-444.

John Thornton, Orlando do Campo, do Campo & Thornton, P.A., Miami, FL, *for Plaintiffs-Appellants* John Does 1 through 7, *Appellants* in 23-263.

Sean P. Carter, Stephen A. Cozen, Cozen O'Connor, Philadelphia, PA; Richard Klingler, Ellis George Cipollone O'Brien Annaguey LLP, Washington, D.C.; Carter G. Phillips, Sidley Austin LLP, Washington, D.C., *for Plaintiffs-Appellants* Federal Insurance Co., et al., *Appellants* in 23-346.

Dion G. Rassias, The Beasley Firm, LLC, Philadelphia, PA, *for Plaintiffs-Appellants*

Raymond Anthony Smith, et al., *Appellants* in 23-304.

JOSÉ A. CABRANES, *Circuit Judge*:

We consider here claims brought by two different sets of plaintiffs. The first set of plaintiffs, the Pre-Judgment Plaintiffs, sought confirmation of a pre-judgment attachment order concerning "blocked" funds held by the Afghan central bank (Da Afghanistan Bank, or "DAB") at the Federal Reserve Bank of New York (the "FRBNY"). Pre-Judgment Plaintiffs did so to preserve their chance to collect on a potential future judgment in their lawsuit against the Taliban for its alleged role in the East Africa embassy bombings of August 7, 1998. The United States District Court for the Southern District of New York (Valerie E. Caproni, *Judge*, hereinafter District Court [VEC]) denied their motion in an Opinion and Order dated February 24, 2023.

The second set of plaintiffs (comprising four groups of judgment creditors), the Judgment Plaintiffs, moved for turnover of those same "blocked" funds held by DAB at the FRBNY to satisfy judgments they held against the Taliban stemming, primarily, from the terrorist attacks of September 11, 2001. The United States District Court for the Southern District of New York (George B. Daniels, *Judge*, hereinafter District Court [GBD]) denied their motion in a Memorandum Decision and Order dated February 21, 2023.

There are two principal questions before us. The first is whether the Afghan central bank, DAB, is immune from attachment under the Foreign Sovereign Immunities Act (the "FSIA"), 28 U.S.C. §§ 1602-1611. If it is, then Pre-Judgment Plaintiffs' pre-judgment attachment order as to its assets must fail.

The second question is whether § 201 of the Terrorism Risk Insurance Act of 2002 (the "TRIA") applies to blocked assets in DAB's name held at the FRBNY. To do so, the TRIA would need to (1) abrogate any immunity afforded to DAB by the FSIA *and* (2) have each of its statutory prerequisites satisfied. If the TRIA does not so apply, Judgment Plaintiffs' turnover motions as to DAB's assets, likewise, must fail.

We answer the question of whether DAB is immune from attachment under the FSIA in the affirmative. DAB is the agency or instrumentality of the foreign state of Afghanistan, which itself continues to be recognized as an independent state by the Executive Branch of the United States. This makes DAB itself a "foreign state" pursuant to § 1603(a) and (b) of the FSIA and imbues it with attachment and execution immunity under § 1609. Moreover, none of the exceptions to attachment and execution immunity in § 1610 pertain.

We therefore **AFFIRM** the order of the District Court (VEC) denying Pre-Judgment Plaintiffs' motion to confirm the pre-judgment attachment order on the basis that DAB's funds are immune from attachment under the FSIA.

We answer the question of whether § 201 of the TRIA applies to blocked assets in DAB's name held at the FRBNY in the negative. Although we conclude that the TRIA abrogates any immunity afforded to DAB under the FSIA, we find that at least one of the

TRIA's statutory prerequisites is not satisfied—to wit, we find that DAB is not an agency or instrumentality of a terrorist party as required by the TRIA.

Consistent with our precedent, we evaluate the meaning of an "agency or instrumentality" under the TRIA differently from that same term's meaning under the FSIA. Similarly, we hold for the first time that the date at which we must determine an entity's agency or instrumentality status is different under the TRIA than it is under the FSIA. Specifically, an entity's agency or instrumentality status under § 201 of the TRIA must be determined as of the date that the assets sought in the turnover motion were blocked. Applying our TRIA-based definition of agency or instrumentality to DAB as of August 15, 2021—the date its FRBNY-held funds were blocked—we conclude that DAB is not an agency or instrumentality of the Taliban for purposes of the TRIA.

Accordingly, we likewise **AFFIRM** the order of the District Court (GBD) denying Judgment Plaintiffs' turnover motions. While we hold, contrary to the District Court, that the TRIA abrogates immunity granted to DAB by the FSIA and independently establishes subject matter jurisdiction, we agree that Judgment Plaintiffs fail to satisfy the TRIA's requirement that the blocked assets be either the assets of the terrorist party or the assets of the terrorist party's agency or instrumentality.

I. BACKGROUND

Today we decide two matters arising from a related set of facts. The first case is brought by plaintiffs (the "Pre-Judgment Plaintiffs") seeking pre-judgment attachment for damages they allege the Taliban has caused. The second case is brought by plaintiffs (the "Judgment Plaintiffs") seeking to satisfy judgments they hold against the Taliban for its role in various terrorist attacks. Both sets of plaintiffs target blocked funds of Da Afghanistan Bank ("DAB"), the central bank of the independent state of Afghanistan, that are held at the Federal Reserve Bank of New York (the "FRBNY").

A. Factual Background

These cases emerge from the atrocities committed by al-Qaeda—with support from the Afghan Taliban (the "Taliban")—on August 7, 1998, and September 11, 2001.[2]

On August 7, 1998, al-Qaeda perpetrated simultaneous suicide bombings at the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania. These embassy bombings killed over two hundred individuals and injured several thousand others. On September 11, 2001, al-Qaeda hijacked several passenger aircraft, flying them into the twin towers of the World Trade Center in New York, NY, the Pentagon in Washington, D.C., and an open field in Somerset County, PA. These aircraft hijackings killed several thousand individuals and injured many others.

The Taliban provided considerable support to al-Qaeda in both sets of devastating terrorist attacks. This includes the Taliban's provision to al-Qaeda of a "base of operations, training bases, and safe haven."[3] Indeed, the historical record reveals "that the [United

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[2] They also include a suicide bomb attack perpetrated by the Taliban on January 4, 2016. *See* Judgment Plaintiffs' Appendix ("Judgment App'x") at 326.

[3] Judgment App'x 256.

States Government] believed that the Taliban had the capacity to shut down Al Qaeda operations in Afghanistan but refused to do so."[4] Because of the Taliban's role in al-Qaeda's terrorist attacks and the ongoing threat it posed to the United States and U.S. nationals, the United States designated the Taliban as a Specially Designated Global Terrorist (an "SDGT") in July 2002.[5] To this day, the Taliban remains an SDGT.

The Taliban first rose to power in Afghanistan in 1996 and ruled until 2001, when the United States headed a coalition force that invaded Afghanistan and removed the Taliban from its position of de facto control. Though stripped of power, the Taliban maintained an insurgency in Afghanistan for the next two decades. Following an agreement that the United States formed with the Taliban in 2020 to withdraw U.S. troops from Afghanistan, and the subsequent withdrawal of those troops in the summer of 2021, the Taliban insurgency mounted an offensive which culminated in the capture of Afghanistan's capital, Kabul, on August 15, 2021. As a result, the Taliban once more seized de facto control over most of Afghanistan—but not formal authority, as no country has recognized the Taliban as Afghanistan's legitimate government.

That same day—August 15, 2021—the U.S. Treasury Department blocked all assets held in the Federal Reserve Bank of New York (the "FRBNY") by the central bank of Afghanistan, Da Afghanistan Bank

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[4] *Id.* at 516.

[5] Exec. Order No. 13,268, 67 Fed. Reg. 44751 (July 2, 2002); *see also* Exec. Order No. 13,224, 66 Fed. Reg. 49079 (Sep. 23, 2001).

("DAB").[6] By the time the Taliban was ousted (if only temporarily) in 2001, DAB had just $90,000 in foreign exchange reserves.[7] That sum swelled to over $10 billion in assets as of June 21, 2021,[8] consisting primarily of foreign exchange funds provided by international donors—such as the United States and other Western countries. The majority of DAB's assets—totaling approximately $7 billion—were held in the FRBNY.[9]

As the Taliban seized control over Afghanistan, many senior DAB officials—including its Acting Governor—either left Afghanistan or went into hiding. The Taliban proceeded to fill those leadership positions, which included appointing a new Acting Governor on August 23, 2021.[10] The Taliban also appears to have installed individuals designated as terrorists by the Department of the Treasury's Office of Foreign Assets Control ("OFAC") as DAB's First Deputy Governor and Second Deputy Governor.[11] There is little question that the Taliban has attained de facto control over DAB; as former Treasury Department and National Security Council official Adam Smith testified before the U.S. Senate Committee on Banking, Housing, and Urban Affairs on October 5, 2021, DAB

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[6] Clayton Thomas, CONG. RSCH. SERV., *Taliban Government in Afghanistan: Background and Issues for Congress* 39 (2021).

[7] *Id.* at 38.

[8] *Id.*

[9] Clayton Thomas, CONG. RSCH. SERV., *Taliban Government in Afghanistan: Background and Issues for Congress* 38-39 (2021).

[10] The new Acting Governor, Haji Mohammed Idris, was reported to be a "Taliban loyalist." Pre-Judgment Plaintiffs' Appendix ("Pre-Judgment App'x") at 338.

[11] Pre-Judgment App'x 340-54.

"is now under control of the Taliban."[12] From its position of de facto control over both Afghanistan and DAB, the Taliban demanded immediate receipt of the approximately $7 billion in DAB assets held in the FRBNY.

The United States did not accede to the Taliban's request. On February 11, 2022, then-President Joe Biden issued an Executive Order titled "Protecting Certain Property of Da Afghanistan Bank for the Benefit of the People of Afghanistan" (the "Executive Order").[13] The Executive Order asserted that Afghanistan was experiencing a "widespread humanitarian crisis" which, combined with "the potential for a deepening economic collapse in Afghanistan," constituted "an unusual and extraordinary threat to the national security and foreign policy of the United States."[14] It proclaimed a "national emergency" to address the threat and asserted that preserving the U.S.-held assets of DAB—which it defined as the "Central Bank of Afghanistan"—was "of the utmost importance to addressing this national emergency and the welfare of the people of Afghanistan."[15] Accordingly, the Executive Order formally blocked DAB's property in the United States and ordered that the property be transferred "into a consolidated account held at the [FRBNY]."[16] The Executive Order authorized the Secretary of the Treasury to "take

[12] *Id.* at 363.

[13] Exec. Order No. 14,064, 87 Fed. Reg. 8391 (Feb. 11, 2022).

[14] *Id.*

[15] *Id.* at 8391-92.

[16] *Id.* at 8391.

such actions . . . as may be necessary to carry out the purposes of this order."[17]

Later that day and pursuant to the authority granted by the Executive Order, OFAC issued a license (the "OFAC License") directing the FRBNY to transfer $3.5 billion to a separate blocked account.[18] The OFAC License set forth that the $3.5 billion could be transferred from the account "for the benefit of the people of Afghanistan" provided that the transfer was initiated by "individual(s) certified by the Secretary of State pursuant to Section 25B of the Federal Reserve Act."[19]

The Secretary of State has since certified two individuals as accredited representatives of Afghanistan, giving them joint control over the $3.5 billion that was transferred to a blocked account pursuant to the OFAC License.[20] These accredited representatives founded the Fund for the Afghan People (the "Afghan Fund") and transferred the $3.5 billion to an account at the Bank of International Settlements in Switzerland.[21]

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[17] *Id.* at 8392.

[18] Pre-Judgment App'x 297.

[19] *Id.* at 298. Section 25B(3) of the Federal Reserve Act provides that the certified individual must be "a representative of such foreign state who is recognized by the Secretary of State as being the accredited representative of such foreign state." *See* 12 U.S.C. § 632.

[20] Press Release, U.S. Dep't of the Treasury, Joint Statement by U.S. Treasury and State Department: The United States and Partners Announce Establishment of Fund for the People of Afghanistan (Sep. 14, 2022), https://home.treasury.gov/news/press-releases/jy0947 [https://perma.cc/952K-6TEY].

[21] *Id.* As of December 31, 2024, the Afghan Fund's assets totaled $3.94 billion. Gene Aloise, SIGAR Quarterly Report to the

The United States has represented that this approach enables the "$3.5 billion of Afghan central bank reserves to be used for the benefit of the people of Afghanistan while keeping them out of the hands of the Taliban and other malign actors."[22] While the United States recognizes these reserves as funds belonging to DAB, and in the long run envisions retuning these funds to DAB, it has "made clear that [it] will not support the return of these funds until DAB" meets three criteria, one of which concerns demonstrating independence from the Taliban.[23]

DAB's remaining U.S.-held assets—totaling approximately $3.5 billion—continue to reside at the FRBNY.[24] These assets lie at the crux of the instant litigation.

United States Congress, 45 (Jan. 30, 2025), https://www.sigar.mil/Portals/147/Files/Reports/Quarterly-Reports/2025-01-30qr.pdf [https://perma.cc/2KBA-2K9Z]. As of January 30, 2025, the Afghan Fund "ha[d] not yet made any disbursements to entities on behalf of Afghanistan." *Id.*

[22] Press Release, U.S. Dep't of the Treasury, Joint Statement by U.S. Treasury and State Department: The United States and Partners Announce Establishment of Fund for the People of Afghanistan (Sep. 14, 2022), https://home.treasury.gov/news/press-releases/jy0947 [https://perma.cc/952K-6TEY].

[23] *Id.* These three requirements are that DAB: "(1) Demonstrates its independence from political influence and interference; (2) Demonstrates it has instituted adequate anti-money laundering and countering-the-financing-of-terrorism (AML/CFT) controls; and (3) Completes a third-party needs assessment and onboards a reputable third-party monitor." *Id.*

[24] Martin A. Weiss, Clayton Thomas, & Jennifer K. Elsea, CONG. RSCH. SERV., *Afghanistan Central Bank Reserves* 1 (2023).

B. Procedural Background

We have before us two separate cases, each with its own set of Plaintiffs-Appellants.

The set of plaintiffs in the first case comprises victims of al-Qaeda's suicide bombings at the U.S. embassies on August 7, 1998 (the "Pre-Judgment Plaintiffs"). The set of plaintiffs in the second case comprises primarily victims of al-Qaeda's aircraft hijackings on September 11, 2001 (the "Judgment Plaintiffs").[25]

1. Pre-Judgment Plaintiffs

On March 8, 2022, Pre-Judgment Plaintiffs filed a complaint against the Taliban, alleging that it was directly and proximately liable for the embassy attacks and seeking compensatory damages.[26] That same day, Pre-Judgment Plaintiffs also filed an *ex parte* emergency motion to attach DAB's funds held at the FRBNY, alleging that those funds belonged to the Taliban.

The District Court (VEC) granted Pre-Judgment Plaintiffs' motion to attach on March 21, 2022, and issued its opinion regarding the same on April 11, 2022. Pre-Judgment Plaintiffs moved to confirm the order of attachment on May 2, 2022. In an Opinion and Order issued on February 24, 2023, the District Court declined to confirm its attachment order, finding that since DAB is the central bank of Afghanistan, its funds are immune from attachment under

[25] Judgment Plaintiffs also include victims of the Taliban's suicide bomb attack on January 4, 2016.

[26] While Pre-Judgment Plaintiffs initially filed their complaint on March 8, 2022, they modified it on March 9, 2022, after incurring a filing error.

the FSIA. It therefore denied Pre-Judgment Plaintiffs' motion to confirm and vacated its own order of March 21, 2022 (in which it had granted *ex parte* emergency attachment). The District Court subsequently denied Pre-Judgment Plaintiffs' motion to stay its decision denying confirmation of its pre-judgment attachment order. Pre-Judgment Plaintiffs timely appealed from the District Court's order denying their motion to confirm the *ex parte* attachment order and vacating the attachment.

2. Judgment Plaintiffs

Judgment Plaintiffs comprise four groups of judgment creditors who hold judgments against the Taliban for its role in terrorist attacks.[27] They seek to satisfy their judgments against the Taliban with the blocked DAB funds held at the FRBNY. On August 26, 2022, a magistrate judge recommended denying these turnover motions for three reasons: (1) DAB is immune to the district court's jurisdiction, (2) the district court is constitutionally restrained from finding that the TRIA mandates authorization of the turnover, and (3) the TRIA requires a consent-based agency relationship between DAB and the Taliban, which was lacking. Judgment Plaintiffs filed objections to the magistrate judge's Report and Recommendation

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[27] There is also a fifth group of plaintiffs-appellants: plaintiffs in Kathleen Ashton, et al. ("Ashton Plaintiffs"). Ashton Plaintiffs seek attachment, whereas Judgment Plaintiffs seek turnover. However, their arguments against the District Court (GBD)'s order largely overlap with those of Judgment Plaintiffs. Indeed, Ashton Plaintiffs note their agreement with Judgment Plaintiffs on "th[e] threshold legal issues." Ashton Plaintiffs' Br. at 3; *see also id.* at 17. Ashton Plaintiffs' remaining arguments as to the distribution of DAB's funds are mooted by our judgment.

on November 10, 2022. On February 21, 2023, the District Court (GBD) denied Judgment Plaintiffs' turnover motions, adopting the first two of the magistrate judge's three reasons for denial. Judgment Plaintiffs timely appealed from the District Court's order.

II. DISCUSSION

"We review the district court's ruling on a request for an order of attachment for abuse of discretion."[28] We likewise review "a denial of a . . . turnover order for abuse of discretion."[29] The district court abuses its discretion if it commits an error of law, such as in its application of the FSIA or the TRIA.[30] "We review *de novo* a district court's legal conclusions under the FSIA, including whether a foreign state or its property is or is not shielded by immunity."[31] A district court's legal conclusions under the TRIA are likewise subject to our *de novo* review.

We have jurisdiction over Pre-Judgment Plaintiffs' appeal under 28 U.S.C. § 1291 and the collateral-order doctrine. As instructed by the Supreme Court, district court orders denying security are immedi-

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[28] *Aurelius Capital Partners, LP v. Republic of Argentina*, 584 F.3d 120, 129 (2d Cir. 2009).

[29] *Mohammad Ladjevardian, Laina Corp. v. Republic of Argentina*, 663 F. App'x 77, 79 (2d Cir. 2016).

[30] *EM Ltd. v. Republic of Argentina*, 473 F.3d 463, 472 (2d Cir. 2007).

[31] *Kirschenbaum v. 650 Fifth Ave. & Related Props.*, 830 F.3d 107, 122 (2d Cir. 2016).

ately appealable pursuant to the collateral-order doctrine.[32]

We have jurisdiction over Judgment Plaintiffs' appeal under 28 U.S.C. § 1291, as the District Court (GBD)'s Memorandum Decision and Order denying their motions for turnover was a final order.

A. The District Court (VEC) Was Permitted to Address the Applicability of Attachment Immunity *Sua Sponte*

Pre-Judgment Plaintiffs contend that the District Court (VEC) erred when it addressed the applicability of an attachment immunity provision in the FSIA—namely, 28 U.S.C. § 1611(b)—*sua sponte*.[33] We disagree.

Section 1611(b) sets forth that "[n]otwithstanding the provisions of section 1610 of this chapter, the property of a foreign state *shall* be immune from attachment and from execution" provided certain conditions pertain.[34] We have previously determined that nearly identical language in the FSIA "places no limit on the district court's authority to recognize execution immunity."[35] We have further concluded that "the statute's use of the mandatory form—providing

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[32] *See Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 543, 546-47 (1949); *Swift & Co. Packers v. Compania Colombiana Del Caribe, S.A.*, 339 U.S. 684, 689 (1950).

[33] Pre-Judgment Plaintiffs' Br. at 35-41.

[34] 28 U.S.C. § 1611(b) (emphasis added).

[35] *Walters v. Indus. and Com. Bank of China, Ltd.*, 651 F.3d 280, 291 (2d Cir. 2011). The language to which we referred was section 1609's statement that "the property in the United States of a foreign state shall be immune from attachment[,] arrest[,] and execution except as provided in sections 1610 and 1611 of this chapter." 28 U.S.C. § 1609.

that such property 'shall be immune' from execution absent a statutory exception—signals that, at least where there is no dispute that the targeted property is owned by a foreign sovereign, execution immunity inures in the property itself and applies without regard to how the issue is raised."[36] These basic principles weigh heavily in favor of finding that district courts possess the authority to review attachment (and execution) immunity *sua sponte*.

Pre-Judgment Plaintiffs argue otherwise. In the main, they assert that an exception to the district court's authority to exercise its *sua sponte* review of immunity arises when "the sovereign status of the property at issue is disputed."[37] It is true that we have stopped short of expressly holding that a district court may consider attachment and execution immunity *sua sponte* in the face of a disputed foreign sovereign.[38] But in doing so, we explicitly left that issue open to be resolved another day.[39]

That day is upon us. Pre-Judgment Plaintiffs dispute whether DAB's assets are the property of a foreign sovereign,[40] and thus we must determine whether a district court may consider the attachment immunity and execution immunity of those assets *sua sponte*.

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[36] *Id*. at 291. The District Court (VEC) thus correctly noted that we have "signaled that Section 1611's use of the term 'shall' indicates that execution immunity inures in property that belongs to a foreign sovereign." *Owens v. Taliban*, No. 22-cv-1949, 2023 WL 2214887, at *5 (S.D.N.Y. Feb. 24, 2023).

[37] Pre-Judgment Plaintiffs' Br. at 35-36.

[38] *Walters*, 651 F.3d at 293-94.

[39] *Id*. at 294 n.11.

[40] Pre-Judgment Plaintiffs' Br. at 35.

We conclude that it may. We see no good reason to foreclose disputed sovereign assets from a court's *sua sponte* consideration of attachment or execution immunity. "Both the Supreme Court and the Second Circuit have long held that courts may dismiss actions on their own motion in a broad range of circumstances where they are not explicitly authorized to do so by statute or rule"[41] and we "identify no doctrinal bar to a district court's applying execution immunity on its own initiative consistent with the terms of the FSIA."[42] We add to that only to note that we likewise identify no doctrinal bar to a district court's *sua sponte* application of attachment or execution immunity even when the sovereign status of the property at issue is disputed.

B. As an Agency or Instrumentality of a Foreign State to Which No Enumerated Exceptions Apply, DAB Is Entitled to Execution Immunity Under the Foreign Sovereign Immunities Act

We next turn to the matter of whether DAB qualifies for execution immunity under the Foreign Sovereign Immunities Act (the "FSIA"). The FSIA is a statute containing "a comprehensive set of legal standards governing claims of immunity in every civil action against a foreign state or its political subdivisions, agencies or instrumentalities."[43] "[T]he FSIA imposes a bright-line rule: foreign states and their

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[41] *Snider v. Melindez*, 199 F.3d 108, 112 (2d Cir. 1999).

[42] *Walters*, 651 F.3d at 293.

[43] *Verlinden B.V. v. Central Bank of Nigeria*, 461 U.S. 480, 488 (1983).

instrumentalities are immune from suit unless one of the Act's enumerated exceptions applies."[44]

The FSIA was enacted in 1976 with the purpose of "codify[ing] the restrictive theory of sovereign immunity" presented in the Tate Letter.[45] In 1952, motivated by the "widespread and increasing practice on the part of governments of engaging in commercial activities,"[46] Acting Legal Advisor Jack Tate of "the State Department announced the 'restrictive' theory of foreign sovereign immunity, under which immunity was typically afforded in cases involving a foreign state's public acts, but not its strictly commercial acts."[47] However, during the following decades, "[d]ebates over the degree of immunity foreign sovereigns should enjoy in this Nation's courts followed."[48] Accordingly, the FSIA was introduced to "standardize the judicial process with respect to immunity for foreign sovereign entities in civil cases."[49]

Importantly, while the FSIA "defin[es] the circumstances in which foreign states are immune from suit," the FSIA emphatically does *not* charge the Judiciary with the threshold power to determine

[44] *CC/Devas (Mauritius) Ltd. v. Antrix Corp. Ltd.*, 145 S. Ct. 1572, 1578 (2025).

[45] *Samantar v. Yousuf*, 560 U.S. 305, 319 (2010); *see also Bartlett v. Baasiri*, 81 F.4th 28, 31-32 (2d Cir. 2023).

[46] *See* Letter from Acting Legal Adviser Jack B. Tate to Acting Attorney General Philip B. Perlman (May 19, 1952), *reprinted in Alfred Dunhill of London, Inc. v. Republic of Cuba*, 425 U.S. 682, 711-715 (1976).

[47] *Turkiye Halk Bankasi A.S. v. United States*, 598 U.S. 264, 271 (2023).

[48] *Republic of Hungary v. Simon*, 604 U.S. 115, 119 (2025).

[49] *Turkiye Halk Bankasi*, 598 U.S. at 272.

whether the basic legal existence of a foreign state is *recognized*, especially in contravention of the Executive.[50] The FSIA neither defines what a foreign state is nor provides the Judiciary with a statutory scheme to determine the "qualifications for statehood or [whether] a particular regime is the effective government of a state."[51]

Indeed, thirty-nine years after the FSIA was enacted, the Supreme Court held in *Zivotofsky ex rel. Zivotofsky v. Kerry* that it is the "exclusive power of the President to control recognition determinations, including formal statements by the Executive Branch acknowledging the legitimacy of a state or government."[52] Critically, the *Zivotofsky* Court explained that "[l]egal consequences follow formal recognition," including the "benefit [of] sovereign immunity when [recognized sovereigns] are sued."[53] And sovereign immunity is only of moment in the context of the FSIA, as both the Supreme Court[54] and the FSIA it-

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[50] *Id.* at 274 (internal quotation marks and citation omitted) (emphasis omitted).

[51] *Zivotofsky ex rel. Zivotofsky v. Kerry*, 576 U.S. 1, 11 (2015) (internal quotation marks and citation omitted).

[52] *Id*. at 32. Some international-law scholars distinguish between the recognition of states and the recognition of governments. *See* Ian Brownlie, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 134-156 (9th ed. 2019). *Zivotofsky* appears to hold that the President's exclusive power extends to both.

[53] *Id*. at 11.

[54] *See Argentine Republic v. Amerada Hess Shipping Corp.*, 488 U.S. 428, 434 (1989) ("We think that the text and structure of the FSIA demonstrate Congress' intention that the FSIA be the sole basis for obtaining jurisdiction over a foreign state in our courts."). One can read this holding as suggesting that while the FSIA is the means by which we answer the question of whether a foreign state is entitled to sovereign immunity, the

self[55] have made plain. As a result, while the FSIA's reach is a "pure question of statutory construction" that is "well within the province of the Judiciary," the FSIA must be interpreted in a manner consistent with the Constitutional authority of the Executive to legally recognize the existence of foreign states.[56]

We return, then, to the FSIA. The FSIA contemplates two types of immunity that can apply to the political subdivisions or agencies and instrumentalities of foreign states: jurisdictional immunity (or immunity from suit) and execution immunity (or immunity from attachment of property).

These two different types of immunity are covered in two different parts of the FSIA. 28 U.S.C. § 1604 sets forth that "a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter."[57] 28 U.S.C. § 1609 sets forth that "the property in the United States of a foreign state shall be immune from attachment[,] arrest[,]

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more basic question of whether a foreign state is legally recognized at all is assessed prior to, and independently of, the FSIA's framework. To analogize to mathematics or programming, a foreign state is an "input" used to generate results from the FSIA function, rather than an "output" of that function.

[55] *See* 28 U.S.C. § 1602 ("Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.").

[56] *Republic of Austria v. Altmann*, 541 U.S. 677, 701 (2004) (quoting *INS v. Cardoza-Fonseca*, 480 U.S. 421, 446, 448 (1987)); *see also* 28 U.S.C. § 1602.

[57] 28 U.S.C. § 1604.

and execution except as provided in sections 1610 and 1611 of this chapter."[58]

While both types of immunity turn on whether the relevant entity is a political subdivision or an agency or instrumentality of a foreign state, "the FSIA's provisions governing jurisdictional immunity, on the one hand, and execution immunity, on the other, operate independently."[59] In other words, exceptions to jurisdictional immunity do not compel a finding that execution immunity has also been abrogated, or vice versa.[60] This can also be seen from the fact that "the execution immunity afforded sovereign property is broader than the jurisdictional immunity afforded the sovereign itself."[61] This "special protection afforded to the property of a foreign sovereign"[62] derives from the fact that "at the time the FSIA was passed, the international community viewed execution against a foreign state's property as a greater affront to its sovereignty than merely permitting jurisdiction over the merits of an action."[63]

Here, the District Court (VEC) determined that DAB was entitled to execution immunity, and did not assess whether jurisdictional immunity applied. For DAB's assets held in the FRBNY to receive execution immunity under section 1609, DAB must be "a political subdivision of a foreign state or an agency or in-

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[58] *Id.* § 1609.

[59] *Walters v. Indus. and Com. Bank of China, Ltd.*, 651 F.3d 280, 288 (2d Cir. 2011).

[60] *Id*. at 289.

[61] *Id*.

[62] *Id*.

[63] *Id*. (quoting *Conn. Bank of Com. v. Republic of Congo*, 309 F.2d 240, 255-56 (5th Cir. 2002)).

strumentality of a foreign state as defined in subsection (b)" such that DAB itself qualifies as a "foreign state."[64]

Because DAB is an agency or instrumentality of the State of Afghanistan, which is itself recognized as a foreign state by the Executive, and because we find that no exceptions to immunity apply, we hold that DAB's assets held in the FRBNY are entitled to execution immunity under the FSIA.

1. *Afghanistan Is a Foreign State for the Purposes of the FSIA*

As DAB—a central bank—is not itself a foreign state, for it to be considered a "foreign state" under the FSIA it must either be the political subdivision or the agency or instrumentality of a foreign state.[65] In this case, the relevant foreign state is the independent state of Afghanistan.

As stated earlier, the FSIA does not define what a foreign state is. It merely provides that the category of "foreign state" is capacious enough to capture the undefined state's political subdivisions and agencies or instrumentalities. The FSIA's silence on this threshold issue makes sense. As the Supreme Court explained in *Zivotofsky*, it is the power of the Executive to legally determine whether "a particular entity possesses the qualifications for statehood or that a particular regime is the effective government of a

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[64] 28 U.S.C. § 1603(a). It is therefore the case that, under the FSIA, the definition of "foreign state" expands beyond foreign states (*i.e.*, foreign countries) themselves. Foreign states are "foreign states" under the FSIA, but so too are their political subdivisions and their agencies or instrumentalities.

[65] *Id.*

state," including for the purposes of sovereign immunity.[66]

The question of whether Afghanistan qualifies as a foreign state for the purposes of our FSIA analysis is not close. We find that the Executive Branch continues to afford formal recognition to the *state* of Afghanistan, even as it denies formal recognition of any *government* thereof. This is seen most plainly by reviewing the U.S. Department of State's "Fact Sheet" detailing the entities that the United States recognizes as "independent states," where that term is defined as "a people politically organized into a sovereign state with a definite territory recognized as independent by the [United States]."[67] One need only turn to the very top of the alphabetically arranged table of 197 independent states to find the state of Afghanistan counted among their ranks. This table was last updated in March 2025—well after Kabul fell to the Taliban. Consequently, while the *Taliban* is not a formally recognized *government*, *Afghanistan* continues to be a formally recognized *state*. With this determination by the Executive in hand, we are bound to acknowledge that Afghanistan is a foreign state for the purpose of our analysis of DAB under the FSIA.

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[66] *Zivotofsky,* 576 U.S. at 11 (internal quotation marks and citation omitted).

[67] U.S. Department of State, *Fact Sheet: Independent States in the World*, Bureau of Intelligence and Research (Mar. 12, 2025), https://www.state.gov/independent-states-in-the-world [https://perma.cc/XX9Q-KGPA]; *see also* Letter from the United States, 22-cv-1949, ECF No. 81 at 2 (Feb. 24, 2023) (in which the Department of Justice confirms that the official position of the United States is that DAB is the central bank of the State of Afghanistan).

Notably, Pre-Judgment Plaintiffs contend in a footnote in their brief that there is "good reason to conclude that Afghanistan no longer qualifies as a 'foreign state' for purposes of the FSIA."[68] But their reasoning relies entirely on the definition of statehood found in the Third Restatement of Foreign Relations Law of the United States—a definition which our Court has turned to only in the absence of formal recognition by the Executive Branch.[69] In such cases, we will only find a not-formally recognized state to qualify as a foreign state for purposes of the FSIA if it (1) "has a defined territory and a permanent population" that is (2) "under the control of its own government" and that (3) "engages in, or has the capaci-

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[68] Pre-Judgment Plaintiffs' Br. at 57 n.6.

[69] The Third Restatement identifies a two-step test for determining whether a foreign state legally exists for purposes of further analysis of the relevant state under the FSIA. First—and in complete consonance with the Supreme Court's later analysis in *Zivotofsky*—we are to look to the Executive Branch. A President's determination that a state is a foreign state is "binding on . . . the courts." Restatement (Third) of the Foreign Relations Law of the United States § 204(a) (1987). If the Executive so determines, we have our answer, and do not proceed to the second step.

Rather, we only move to step two—application of the Third Restatement's definition of statehood—"[i]n the absence of a Presidential decision." *Id.* At that point, we would decide for ourselves "whether to treat an entity as a state" by applying the definition we have adopted for a foreign state. *Id.*

This approach is consistent with that described in the Fourth Restatement, which sets forth that "[w]hether a particular party is a 'state' under the [FSIA] . . . is a question of statutory interpretation, informed by the views of the executive branch." Restatement (Fourth) of the Foreign Relations Law of the United States § 452(a) (2018).

ty to engage in, formal relations with other such entities."[70]

For example, in *Klinghoffer v. S.N.C. Achille Lauro Ed Altri-Gestione Motonave Achille Lauro in Amministrazione Straordinaria*, which was decided before *Zivotofsky*, we went beyond the explicit directives of the FSIA to evaluate whether the Palestinian Liberation Organization (the "PLO") was a foreign state entitled to immunity.[71] There, we were not able to rely on an express determination from the Executive Branch; the United States had "not recognized the PLO" or "extended it formal diplomatic recognition."[72] We thus proceeded to apply the Third Restatement to assess whether the PLO met the definition of a "state," and determined that it did not.

That same logic does not apply here. Here, we *do* have a determination from the Executive Branch: the United States continues to recognize Afghanistan as an independent state.[73] We can—and indeed *must*—rely upon the Executive's recognition of Afghanistan's statehood. This is our clear directive from *Zivotofsky*.[74]

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[70] *Nat'l Petrochemical Co. of Iran v. M/T Stolt Sheaf*, 860 F.2d 551, 553-554 (2d Cir. 1988) (quoting Restatement (Third) of the Foreign Relations Law of the United States § 201 (1987)).

[71] *Klinghoffer v. S.N.C. Achille Lauro Ed Altri-Gestione Motonave Achille Lauro in Amministrazione Straordinaria,* 937 F.2d 44 (2d Cir. 1991).

[72] *Id.* at 48-49.

[73] *See ante* note 67.

[74] In addition, as we explain in *ante* note 69, the very source of law upon which we based our "foreign state" analysis in *Klinghoffer*—the Third Restatement—makes plain that "a court will decide whether to treat an entity as a state" only "[i]n the

Finally, we emphasize, consistent with the FSIA's statutory scheme, that the question of whether the Executive has recognized the legal existence of a state is distinct from questions regarding which entities and activities of a foreign state enjoy sovereign immunity. Our more recent decision in *Kirschenbaum v. 650 Fifth Avenue & Related Properties* is instructive as to this distinction.[75] In *Kirschenbaum*, we inquired into whether a particular foundation and New York partnership with a relation to the state of Iran "bore traditional attributes of statehood (or otherwise qualified as a subdivision, agency, or instrumentality)."[76] Such a determination is undoubtedly the province of the Judiciary, to be evaluated according to the FSIA's text—and not by any proclamation of the Executive. Accordingly, we properly determined that while the Executive had issued an order that broadly defined "the 'Government of Iran' to include 'any person owned or controlled by, or acting for or on behalf of, the Government of Iran,'"[77] the Judiciary was not permitted to rely on that definition to "*expand* sovereign statehood under the FSIA for a single 'foreign state.'"[78] However, we did not apply the Third Restatement's definition to determine whether Iran, *itself*, was a foreign state. Instead, im-

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absence of a Presidential decision." Restatement (Third) of the Foreign Relations Law of the United States § 204 (1987).

[75] 830 F.3d 107 (2d Cir. 2016).

[76] *Id.* at 125.

[77] *Id.* at 124 (quoting Exec. Order No. 13,599, 77 Fed. Reg. 6659 (Feb. 5, 2012)).

[78] *Id.* at 125 (emphasis added).

plicitly relying on the Executive's formal recognition, we observed that Iran "certainly is" a foreign state.[79]

By contrast, Pre-Judgment Plaintiffs argue that in this highly unusual case, the Court should effectively withdraw the Executive's legal recognition of the state of Afghanistan based on the Court's own analysis of the changing use of force and territorial integrity of a region. Such an approach is inconsistent with the FSIA and this Court's precedents and contradicts the Supreme Court's clear direction in *Zivotofsky*. Accordingly, we proceed to analyze whether DAB is a political subdivision or an agency or instrumentality of the foreign state of Afghanistan under the FSIA.

2. DAB, as the Agency or Instrumentality of the State of Afghanistan, Is a "Foreign State" Under the FSIA

Having determined that Afghanistan is a foreign state under the FSIA, we proceed to consider whether DAB is its political subdivision or its agency or instrumentality. If it is, then DAB would also be considered a "foreign state" for purposes of the FSIA.[80] Both district courts below found that DAB was an agency or instrumentality of Afghanistan and, therefore, was a "foreign state" for purposes of the FSIA.[81] We agree.

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[79] *Id.*

[80] *See* 28 U.S.C. § 1603(a) ("A 'foreign state' . . . includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).").

[81] *Owens v. Taliban*, No. 22-cv-1949, 2023 WL 2214887, at *5 (S.D.N.Y. Feb. 24, 2023) (recognizing "DAB's status as Afghanistan's central bank, and, therefore, its status as a sovereign's agency or instrumentality whose assets are afforded immunity

Returning to the statute, we assess whether DAB is either (1) a political subdivision of Afghanistan or (2) an agency or instrumentality of Afghanistan.

While the FSIA fails to define the term "political subdivision," we have previously held that an entity is a political subdivision of a foreign state when its core functions are predominantly governmental rather than commercial.[82] This is known as the "core functions test."[83]

The FSIA draws clearer lines for us to follow in determining which entities are agencies or instrumentalities of foreign states. It sets forth that:

An "agency or instrumentality of a foreign state" means any entity—(1) which is a separate legal person, corporate or otherwise, and (2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and (3) which is neither a citizen of a State of the United States as defined in section 1332(c) and

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from attachment under the FSIA"); *In re Terrorist Attacks on September 11, 2001*, 657 F. Supp. 3d 311, 326 (S.D.N.Y. 2023) ("Therefore, as a central bank, DAB is the instrumentality of the foreign state of Afghanistan.").

[82] *Garb v. Republic of Poland*, 440 F.3d 579, 590-96 (2d Cir. 2006); *see also id.* at 599-600 (Straub, J., dissenting) ("The majority chooses the narrower core functions test, holding that *any* government entity whose core functions are governmental rather than commercial is by definition a political subdivision rather than an agency or instrumentality.").

[83] *See Schansman v. Sberbank of Russia PJSC*, 128 F.4th 70, 77 (2d Cir. 2025) (noting our articulation of "the core functions test" in *Garb*).

(e) of this title, nor created under the laws of any third country.[84]

Particularly relevant to our present inquiry is the fact that DAB is the central bank of the state of Afghanistan.[85] We have consistently recognized that central banks qualify as agencies or instrumentalities of foreign states under the FSIA.[86] Indeed, we have previously gone so far as to assert that central banks are "the paradigm of a state agency or instrumentality," noting that "the House Report . . . specifically identified state central banks . . . in its discussion of qualifying entities for purposes of § 1603(b)."[87] Accordingly, from the outset, it appears

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[84] 28 U.S.C. § 1603(b).

[85] Afghanistan Bank Law, art. 1.1 (Dec. 17, 2003), https://dab.gov.af/sites/default/files/2018-12/DABLaw1English_2.pdf [https://perma.cc/L2TR-Y5Z9] (setting forth that "Da Afghanistan Bank is the central bank of Afghanistan").

[86] *See, e.g.*, *S & S Mach. Co. v. Masinexportimport*, 706 F.2d 411, 414 (2d Cir. 1983) (holding that "[s]tate-owned central banks indisputably are included in the § 1603(b) definition" of an agency or instrumentality); *EM Ltd. v. Republic of Argentina*, 473 F.3d 463, 472 (2d Cir. 2007) (citing the aforementioned holding in *S & S Mach.*); *Chettri v. Nepal Rastra Bank*, 834 F.3d 50, 55 (2d Cir. 2016) (noting that plaintiffs-appellants "do not dispute the district court's determination that . . . Rastra Bank[, the central bank of Nepal,] is an agency or instrumentality of a foreign state"); *Daou v. BLC Bank, S.A.L.*, 42 F.4th 120, 133 (2d Cir. 2022) (noting that plaintiffs-appellants concede "that BDL, as the central bank of Lebanon, is an agency or instrumentality of the Lebanese state").

[87] *S & S Mach. Co.*, 706 F.2d at 414; *see also* H.R. Rep. No. 1487, 94th Cong., 2d Sess. 15-16, *reprinted in* 1976 U.S. Code Cong. & Ad. News 6604, 6614 ("[A]s a general matter, entities which meet the definition of an agency or instrumentality of a foreign state could assume a variety of forms, including . . . a central bank . . . .").

probable that DAB, as the central bank of the state of Afghanistan, is its agency or instrumentality. For that reason, we will first assess whether DAB is an agency or instrumentality of Afghanistan before considering whether it is a political subdivision of Afghanistan.

Pre-Judgment Plaintiffs argue that it is not. Specifically, they contend that DAB is not an agency or instrumentality of Afghanistan because it does not satisfy the criteria set forth in 28 U.S.C. § 1603(b)(2).[88] To satisfy this subsection, an entity must either (1) be "an organ of a foreign state or political subdivision thereof" or (2) have the "majority of [its] shares or other ownership interest . . . owned by a foreign state or political subdivision thereof."[89]

Pre-Judgment Plaintiffs argue that because "DAB is supposed to be 'entirely independent'" under "the Afghanistan banking law that originally created [it]," the second part of section 1603(b)(2) is inapplicable.[90] We disagree.

First, we note that the Afghanistan banking law referenced by Pre-Judgment Plaintiffs helpfully establishes the other two criteria that an entity must satisfy to be considered an agency or instrumentality under the FSIA: that the entity is "a separate legal person, corporate or otherwise" and that the entity "is neither a citizen of a State of the United States . . . nor created under the laws of any third country.[91]

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[88] Pre-Judgment Plaintiffs' Br. at 55.

[89] 28 U.S.C. § 1603(b)(2).

[90] Pre-Judgment Plaintiffs' Br. at 55.

[91] 28 U.S.C. § 1603(b)(1) and (b)(3). Article 1.1 of the Afghanistan Bank Law establishes DAB as "the central bank of Afghan-

Contrary to Pre-Judgment Plaintiffs' position, it also satisfies the contested criteria—namely, the second part of section 1603(b)(2), which requires that a majority of the entity's "shares or other ownership interest is owned by a foreign state or political subdivision thereof."[92]

Pre-Judgment Plaintiffs correctly observe that the Afghanistan banking law vests DAB with substantial autonomy.[93] But they mistakenly conclude from that premise that Afghanistan does not hold the majority of DAB's ownership interest. Significantly, the Afhanistan banking law sets forth the "[t]he capital of Da Afghanistan Bank shall belong to the State [of Afghanistan]."[94] And indeed, a study analyzing the structure of central banks finds that DAB is subject to "100% state ownership."[95]

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istan" and Article 1.2 establishes that DAB "is a juridical person with full capacity under the law." Afghanistan Bank Law, art. 1.1-1.2 (Dec. 17, 2003), https://dab.gov.af/sites/default/files/2018- 12/DABLaw1English_2.pdf [https://perma.cc/L2TR-Y5Z9]. Accordingly, DAB is a "separate legal person" under section 1603(b)(1) and is "neither a citizen of the United States . . . nor created under the laws of any third country" under section 1603(b)(3).

[92] 28 U.S.C. § 1603(b)(2). Accordingly, as 28 U.S.C. § 1603(b)(2) sets forth a disjunctive test, we do not need to consider whether DAB is also properly considered an "organ" of Afghanistan under the first part of that subsection.

[93] *See* Afghanistan Bank Law, art. 3 (Dec. 17, 2003), https://dab.gov.af/sites/default/files/2018-12/DABLaw1English_2.pdf [https://perma.cc/L2TR-Y5Z9].

[94] *Id.* at art. 27.2. The banking law further sets forth that "Da Afghanistan Bank shall establish and maintain the international reserves of Afghanistan." Art. 72.1.

[95] *See* Jan Weidner, The Organisation and Structure of Central Banks, Dissertation, Appendix Central Bank Handbook 192

Accordingly, DAB—a juridical person created under the laws of Afghanistan that is 100% owned by Afghanistan—meets each of the three requirements set forth in section 1603(b).[96] It is therefore an agency or instrumentality of Afghanistan under the FSIA.[97]

3. DAB Has Execution Immunity Under the FSIA

To conclude our FSIA analysis, we turn to 28 U.S.C. §§ 1609-1611 to determine if DAB's FRBNY-held assets are afforded execution immunity.

28 U.S.C. § 1609 states in relevant part that "the property in the United States of a foreign state shall be immune from attachment[,] arrest[,] and execution except as provided in sections 1610 and 1611 of this chapter."[98] None of the exceptions in section 1610 apply to DAB or the independent state of Afghanistan, and Pre-Judgment Plaintiffs do not argue otherwise.[99]

(2017), https://d-nb.info/1138787981/34 [https://perma.cc/P5TN-UZBY].

[96] There is therefore no need to assess whether DAB also qualifies as a political subdivision of Afghanistan, and we make no determinations on that front.

[97] We agree with Pre-Judgment Plaintiffs that the Judiciary cannot rely on an articulation by the Executive to resolve the matter of agencies or instrumentalities under the FSIA. *See* Pre-Judgment Plaintiffs' Br. at 42, 47-48. But as both courts below noted, and as we hold today, DAB unquestionably meets the FSIA's definition of agency or instrumentality by virtue of being Afghanistan's state-owned central bank.

[98] 28 U.S.C. § 1609.

[99] Section 1610 contains various exceptions to a foreign state's immunity from attachment or execution, but none apply to the case at hand. *See* 28 U.S.C. § 1610.

Section 1611 provides exceptions that, in effect, counteract the exceptions to immunity contained in section 1610: In other words, some of what section 1610 lays bare, section 1611 recloaks in immunity. As none of section 1610's exceptions apply, we need not reach section 1611.[100] Accordingly, we conclude that the FSIA also vests DAB with execution immunity.

C. The Terrorism Risk Insurance Act Abrogates Jurisdictional and Execution Immunity Afforded an Entity Under the Foreign Sovereign Immunities Act, but it Does Not Apply to This Case Because DAB Is Not an Agency or Instrumentality of the Taliban Under the TRIA

Having found that DAB has execution immunity under the FSIA, and assuming, *arguendo*, that DAB is also entitled to jurisdictional immunity under the FSIA (as was determined by the District Court [GBD]), we must now consider whether those grants of immunity withstand another statute: the Terrorism Risk Insurance Act of 2002 (the "TRIA"). If either or both survive the TRIA, and if jurisdictional immunity inures to DAB's benefit, then we lack subject matter jurisdiction to consider Judgment Plaintiffs' case, as the court below held. If neither survives, then we must move on to consider whether the TRIA applies to the facts before us.

1. The TRIA Abrogates Jurisdictional and Execution Immunity and Independently Provides Subject Matter Jurisdiction

[100] So, while we agree with the District Court (VEC) that DAB has execution immunity under the FSIA, we do not reach section 1611(b)(1) to make this determination; instead, we rely on section 1609. *See Owens v. Taliban*, No. 22-cv-1949, 2023 WL 2214887, at *5-6 (S.D.N.Y. Feb. 24, 2023).

Congress enacted the TRIA in 2002. Section 201(a) of the TRIA sets forth that:

> Notwithstanding any other provision of law, and except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim based upon an act of terrorism, or for which a terrorist party is not immune under section 1605(a)(7) of title 28, United States Code, the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy such judgment to the extent of any compensatory damages for which such terrorist party has been adjudged liable.[101]

The first clause of the statute—which provides that the TRIA applies "[n]otwithstanding any other provision of law"—carries great weight in our analysis of how the TRIA interacts with the FSIA. The Supreme Court has observed that "notwithstanding" clauses, like the one contained in the TRIA, have generally been "interpreted . . . to supersede all other laws," and that to provide a "clearer statement [of a drafter's intent that they so supersede] is difficult to imagine."[102] Indeed, the Supreme Court has spoken in

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[101] Terrorism Risk Insurance Act of 2002, Pub. L. No. 107-297, § 201(a), 116 Stat. 2337, 2337-40, *as amended*, Pub. L. No. 112-158, 126 Stat. 1214, 1260 (*codified at* note following 28 U.S.C. § 1610).

[102] *Cisneros v. Alpine Ridge Grp.*, 508 U.S. 10, 18 (1993) (internal quotation marks and citation omitted).

such terms of the TRIA's own "notwithstanding" clause.[103]

Our own, earlier consideration of the TRIA's "notwithstanding" clause had been to the same effect. We noted that it is a "broad provision"[104] that overcomes any other provision of the law that "conflicts with [the] TRIA."[105]

The question, then, is whether the immunity provisions in the FSIA conflict with the TRIA. If they do, those immunity provisions are rendered inoperative in the face of the TRIA.

The District Court (GBD) analyzed this question, finding that while the FSIA conflicted with the TRIA with respect to execution immunity, it did not with respect to jurisdictional immunity.[106] We agree with its first assessment, but differ on the second.

First, we pause to observe that there can be no doubt that the FSIA's execution immunity provisions are superseded by the TRIA. The Supreme Court has already held that "the FSIA's central-bank immunity provision," which provides for execution immunity under §§ 1609 and 1611(b)(1), does not "limit[] . . . the

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[103] *Bank Markazi v. Peterson*, 578 U.S. 212, 217 n.2 (2016) (identifying that the TRIA "take[s] precedence over 'any other provision of law'" and, therefore, is not limited by "the FSIA's central-bank immunity provision").

[104] *Peterson v. Islamic Republic of Iran*, 758 F.3d 185, 190 n.2 (2d Cir. 2014), *aff'd sub nom. Bank Markazi v. Peterson*, 578 U.S. 212 (2016).

[105] *Smith ex rel. Estate of Smith v. Fed. Reserve Bank of N.Y.*, 346 F.3d 264, 271 (2d Cir. 2003).

[106] *In re Terrorist Attacks on September 11, 2001*, 657 F. Supp. 3d 311, 328-29 (S.D.N.Y. 2023).

TRIA."[107] Binding Supreme Court precedent thus holds that the TRIA supersedes the FSIA's grant of execution immunity.

The tougher question is whether the TRIA also overrides any jurisdictional immunity that might be granted by the FSIA under § 1604. The District Court (GBD) determined that it does not, because no conflict exists between the FSIA and the TRIA as to jurisdictional immunity.[108] This is so because, according to the District Court, the TRIA is an execution statute, not a jurisdictional statute.[109] The District Court reasoned that the language of the TRIA closely resembled "the other execution immunity language in the FSIA, distinguishing it from the FSIA's language abrogating jurisdictional immunity" and, moreover, that TRIA § 201(a) exists as a note within 28 U.S.C. § 1610, which is the section of the FSIA governing exceptions to execution immunity.[110]

However well-reasoned the District Court (GBD)'s analysis may be, we find that it is foreclosed by our decision in *Weinstein v. Islamic Republic of Iran*.[111] In

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[107] *Bank Markazi v. Peterson*, 578 U.S. 212, 217 n.2 (2016). The Supreme Court explained that Congress enacted the TRIA "[t]o lessen . . . enforcement difficulties," with one of those difficulties being the execution immunity granted property of foreign central banks under section 1611(b)(1). *Id.* at 217. Unsurprisingly, a sister Circuit has likewise noted that "§ 201(a) of the TRIA supersedes" § 1609 of the FSIA. *Greenbaum v. Islamic Republic of Iran*, 67 F.4th 428, 432 (D.C. Cir. 2023).

[108] *In re Terrorist Attacks on September 11, 2011*, 657 F. Supp. 3d 311, 328-329 (S.D.N.Y. 2023).

[109] *Id.* at 329.

[110] *Id.* at 328.

[111] *Weinstein v. Islamic Republic of Iran*, 609 F.3d 43 (2d Cir. 2010).

Weinstein, Bank Melli, an instrumentality of a terrorist party (the state of Iran), argued that the TRIA did not establish jurisdiction over it. One of the reasons it offered to the court in support of this proposition was the fact that "the TRIA has been codified as a note to Section 1610 rather than in the sections of the FSIA more directly addressed to exceptions to jurisdictional immunity."[112] We disagreed. First, we explained that "the plain language of the statute cannot be overcome by its placement in the statutory scheme."[113] Turning to that plain language, we concluded that TRIA § 201(a)'s "notwithstanding" clause "mak[es] plain that the force of the section extends everywhere."[114]

Consistent with the foregoing, we hold that TRIA § 201(a) supersedes the FSIA's jurisdictional immunity provisions in addition to its execution immunity provisions. We therefore conclude that neither jurisdictional nor execution immunity can prevent us from subjecting DAB to our jurisdiction under the TRIA.[115]

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[112] *Id.* at 49.

[113] *Id.*

[114] *Id.*

[115] This finding is consistent with our prior observation that "at the time the FSIA was passed, the international community viewed execution against a foreign state's property as a greater affront to its sovereignty than merely permitting jurisdiction over the merits of an action." *Walters v. Indus. and Com. Bank of China, Ltd.*, 651 F.3d 280, 289 (2d Cir. 2011) (quoting *Conn. Bank of Com. v. Republic of Congo*, 309 F.3d 240, 255-56 (5th Cir. 2002)). It can therefore be of little surprise that the TRIA, which indisputably abrogates attachment and execution immunity—which *Walters* would characterize as the "greater affront"—also abrogates jurisdictional immunity—the lesser affront.

In the alternative, the District Court (GBD) held that TRIA § 201(a) does not provide it with the necessary subject matter jurisdiction to review the case at hand.[116] Not so. In *Weinstein*, we "f[ou]nd it *clear beyond cavil* that Section 201(a) of the TRIA provides courts with subject matter jurisdiction over post-judgment execution and attachment proceedings against property held in the hands of an instrumentality of the judgment-debtor, even if the instrumentality is not itself named in the judgment."[117]

The case before us concerns the post-judgment execution proceedings brought by Judgment Plaintiffs. It is against property (DAB's FRBNY-held funds) *allegedly* owned by an instrumentality (DAB) of the judgment-debtor (the Taliban). The TRIA thus plainly provided the District Court with subject matter jurisdiction.

The District Court (GBD) found otherwise, reading *Weinstein*'s holding as applying only to the instrumentalities and agencies of foreign states that have been stripped of immunity under the FSIA.[118] But the holding cannot be so limited. We reached it after examining the meaning of the TRIA and analyzing its

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[116] *In re Terrorist Attacks on September 11, 2011*, 657 F. Supp. 3d 311, 330-331 (S.D.N.Y. 2023).

[117] *Weinstein*, 609 F.3d at 50 (emphasis added).

[118] *In re Terrorist Attacks on September 11, 2001*, 657 F. Supp. 3d 311, 330-331 (S.D.N.Y. 2023) (examining *Weinstein* and concluding that the TRIA only grants subject matter jurisdiction over agencies and instrumentalities not named in the original judgment when "the sovereign's loss of jurisdictional immunity in the underlying judgment flows through to the instrumentality in the attachment proceeding").

legislative history, and we did not conclude that it had the limits now drawn by the District Court.[119]

Nor could we have done otherwise. As already discussed, the TRIA applies "[n]otwithstanding any other provision of the law."[120] Yet the District Court (GBD)'s proposed articulation of *Weinstein*'s holding suggests that the TRIA's subject matter jurisdiction is curtailed by the very law it was intended to supersede. It would mean that the TRIA, despite its clear language stating that the blocked assets of a terrorist party's agency or instrumentality "shall be subject to execution or attachment" notwithstanding "any other provision of law," would have a built-in exception for certain entities that, in addition to being the agencies or instrumentalities of a terrorist party, were also separately designated as the agencies or instrumentalities of a foreign state granted immunity under the FSIA. Such an interpretation would betray the plain language of the TRIA's "notwithstanding" clause by limiting its jurisdiction with back-reference to an FSIA immunity determination—marking an unmistakable conflict between the TRIA and the FSIA that is flatly prohibited by § 201(a)'s "notwithstanding" clause.[121]

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[119] *Weinstein*, 609 F.3d at 49-50 (finding that the "plain language of Section 201(a)" constituted "an independent grant of jurisdiction over the agencies and instrumentalities" and that "even if . . . there were an ambiguity here, it would be resolved in plaintiff's favor by the legislative history").

[120] TRIA § 201(a).

[121] This analysis also forecloses the suggestion that the TRIA could only be wielded against DAB if Afghanistan were designated as a state sponsor of terrorism. *In re Terrorist Attacks on September 11, 2001*, 657 F. Supp. 3d 311, 331-332 (S.D.N.Y. 2023).

In sum, we find that the TRIA overrides any jurisdictional or execution immunities granted to DAB by the FSIA and creates an independent basis for the court to exercise subject matter jurisdiction over DAB's blocked assets—provided that DAB is an agency or instrumentality of the Taliban.

2. DAB Is Not an Agency or Instrumentality of the Taliban Under the TRIA

Herein lies the rub. When reviewing the applicability of the TRIA, the District Court (GBD) went through the statutory criteria and held that Judgment Plaintiffs "satisf[ied] all but one element."[122] That one element was the TRIA's requirement that "the blocked assets must be the assets of the terrorist party or the terrorist party's agency or instrumentality."[123] We agree with the District Court that this element is missing (albeit for a different reason than the one articulated by the District Court [GBD]), and we find that the TRIA is ultimately inapplicable to the case before us.[124] We therefore af-

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[122] *In re Terrorist Attacks on September 11, 2001*, 657 F. Supp. 3d 311, 333 (S.D.N.Y. 2023).

[123] *Id.*

[124] The District Court (GBD) reaches this conclusion by reasoning that it was constitutionally restrained from finding that the Taliban controlled the funds of the central bank of Afghanistan, as doing so would recognize the Taliban as the government of Afghanistan and contravene the Executive's recognition power. *In re Terrorist Attacks on September 11, 2001*, 657 F. Supp. 3d 311, 333-336 (S.D.N.Y. 2023). We decide on a different ground, and thus do not reach this issue pursuant to our general rule regarding the avoidance of constitutional issues. *See Allstate Ins. Co. v. Serio*, 261 F.3d 143, 149-150 (2d Cir. 2001) ("It is axiomatic that the federal courts should, where possible, avoid reaching constitutional questions.").

firm the District Court's judgment denying Judgment Plaintiffs' motions for turnover of DAB funds.

As noted earlier, the TRIA sets forth in relevant part that "the blocked assets of th[e] terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment."[125] Judgment Plaintiffs argue that while the blocked assets are not those of the terrorist party at issue here (the Taliban), they *are* the blocked assets of an agency or instrumentality of the Taliban: DAB.[126] We must therefore determine whether DAB is properly considered an agency or instrumentality of the Taliban under the TRIA. We conclude that it is not.

Though we must first turn to the plain language of the statute, we note that, unlike the FSIA, the TRIA fails to provide a definition for "agency or instrumentality."[127] We have previously held that the FSIA's definition cannot double as the TRIA's,[128] and have instead fashioned our own definition of those terms "according to their ordinary meanings."[129] In that earlier case—*Kirschenbaum*—we held that an entity is an agency or instrumentality of a terrorist

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[125] TRIA § 201(a).

[126] Judgment Plaintiffs' Br. on behalf of *Havlish*, *Doe*, *Federal Insurance*, and *Smith* Creditors at 1.

[127] *See Kirschenbaum v. 650 Fifth Ave. and Related Props.*, 830 F.3d 107, 132 (2d Cir. 2016) ("While the FSIA defines 'agency or instrumentality,' the TRIA, unfortunately, does not." (internal citations omitted)).

[128] *Id.* at 133 (holding that "applying the FSIA's definition of agency or instrumentality" would "contravene a plain reading of the TRIA").

[129] *Id.* at 135.

party under the TRIA if it "(1) was a means through which a material function of the terrorist party is accomplished, (2) provided material services to, on behalf of, or in support of the terrorist party, *or* (3) was owned, controlled, or directed by the terrorist party."[130] As the disjunctive "or" indicates, an entity is an agency or instrumentality of a terrorist party under the TRIA as long as it satisfies at least one of these three conditions.

It is thus clear what definition we are to use to determine whether DAB is an agency or instrumentality of the Taliban. What is less clear is *when* we are to apply that definition to DAB.

In *Kirschenbaum*, the case in which we defined "agency or instrumentality" for purposes of the TRIA, we concluded that, under the FSIA, "an entity's agency or instrumentality status . . . 'is determined at the time of the filing of the complaint'" because "jurisdiction 'depends upon the state of things at the time . . . the action [is] brought'" and "not necessarily 'as of the time an alleged tort or other actionable wrong occurred.'"[131] Nowhere did we analyze when an entity's agency or instrumentality status should be determined *under the TRIA*. Instead, after holding that the FSIA's definition of "agency or instrumentality" does not apply to the TRIA, we appeared to transport, in passing and without explanation, the same timing test we use to make the "agency or instrumentality" determination under the FSIA.[132]

[130] *Id.*

[131] *Id.* at 126 (quoting *Dole Food Co. v. Patrickson*, 538 U.S. 468, 471, 478, 480 (2003)).

[132] *Id.* at 136 ("Further, insofar as Plaintiffs contend that Alavi itself was sufficiently owned, controlled, or directed by Iran to

But that timing test cannot be appropriate in the TRIA context for at least two reasons. First, the logic undergirding the timing test for FSIA agency or instrumentality determinations that we recounted in 2016 in *Kirschenbaum*—and, indeed, the test itself—no longer controls in our Circuit. In *Bartlett v. Baasiri* (2023), we held that "immunity under the [FSIA] may attach when a defendant becomes an instrumentality of a foreign sovereign *after* a suit is filed."[133] We made this determination by examining the "structure of the FSIA"[134] and the purposes of foreign sovereign immunity.[135] Accordingly, we can no longer say, as we seemed to suggest in *Kirschenbaum*, that FSIA immunity is determined at the time of the complaint's filing because jurisdiction depends on the state of affairs at the time the action was

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render it an agency or instrumentality of a terrorist party under the TRIA, questions of fact exist as to whether Alavi was so owned, controlled, or directed *at the time Plaintiffs' complaints were filed*." (emphasis added)).

[133] *Bartlett v. Baasiri*, 81 F.4th 28, 33 (2d Cir. 2023) (emphasis added). We reaffirmed this was so in a later case. *See Schansman v. Sberbank of Russia PJSC*, 128 F.4th 70, 79 (2d Cir. 2025) (holding that "an entity's status as an agency or instrumentality" need not be determined "at the time an action is filed," an issue that we "squarely decided" in *Bartlett*).

[134] *Bartlett*, 81 F.4th at 33 (noting that the FSIA "gives foreign states immunity not only from judgments, but from process, too," so there is "no reason why that protection should apply only if the defendant had sovereign status from the beginning of the suit").

[135] *Id.* (discussing the reason for foreign sovereign immunity as opposed to other immunities, and noting that it seeks to give foreign states "some protection from the inconvenience of suit as a gesture of comity between the United States and other sovereigns" (quoting *Dole Food*, 538 U.S. at 479)).

brought; both the rule and its rationale were plainly unseated by our holding in *Bartlett*.

Second, for the same reason that it is improper to simply adopt the FSIA's definition of "agency or instrumentality" for purposes of the TRIA, it is improper to transpose our rule governing the time at which we evaluate an entity's "agency or instrumentality" status for purposes of the FSIA onto our test governing the same under the TRIA. The TRIA is a fundamentally different statute than the FSIA, and it is a mistake to uncritically apply precepts from our FSIA jurisprudence in the TRIA context. Under the FSIA, we are using the "agency or instrumentality" test to, in substantial part, determine whether an entity should be granted jurisdictional or execution immunity. This is the logic that guides our new rule in *Bartlett* concerning *when* we evaluate an entity's possible status as an agency or instrumentality. But as set forth above, the TRIA cares nothing for immunity. Accordingly, ensuring that we capture an entity's present-day immunity eligibility under the FSIA cannot be the controlling factor for deciding the time at which we must evaluate whether an entity is an agency or instrumentality for purposes of the TRIA.

To determine what time *is* appropriate, we first turn to the text of the TRIA. While no guidance is provided there for determining the date of assessment, we find particularly relevant the TRIA's requirement that the property subject to execution or attachment is an entity's "blocked assets."[136] The TRIA sets forth that a "blocked asset" is "any asset seized or frozen by the United States" under one of three

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[136] TRIA § 201(a).

statutory provisions.[137] From review of these statutes, it emerges that "blocking" is a status imposed by the United States at a certain time. As blocking is also a critical factor upon which TRIA applicability turns, there is some immediate appeal to utilizing the blocking date as the relevant time at which to assess the agency or instrumentality question.

The attractiveness of this approach only deepens with further consideration of both what the blocking mechanism entails and the purpose of the TRIA. Once an entity's asset is seized or frozen, the entity can exert no control over it; the entity cannot use the asset to further its own objectives or the objectives of any party for which it operates as an agency or instrumentality.[138] There is thus great value in determining what a given entity's status was in relation to a given terrorist party at the time those assets were blocked: If an entity becomes an agency or instrumentality of a terrorist party *after* that entity's property is blocked, those blocked assets cannot have been utilized to further the mission of the terrorist party.

The blocking date therefore serves as a critical inflection point ripe for determining the time at which

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[137] TRIA § 201(d)(2)(A). Those statutory provisions are "section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b))" and "sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701; 1702)." *Id.*

[138] For example, the Office of Foreign Asset Control sets forth that when property is blocked, while "[t]itle to the blocked property remains with the blocked [entity] . . . the exercise of powers and privileges normally associated with ownership is prohibited without authorization from OFAC." United States Department of the Treasury, OFAC FAQs No. 9 (Sep. 10, 2002), https://ofac.treasury.gov/faqs/9 [https://perma.cc/2A8R-ZLTE] (last updated Aug. 21, 2024).

we should evaluate an entity's status under the TRIA as an agency or instrumentality. This approach is buttressed by consideration of the purpose of the statute. As Congress set forth, the purpose of TRIA § 201 is to enable the victims of terrorism to collect on judgments against terrorist parties "through the attachment of blocked assets of terrorist parties."[139] Surely, though, blocked assets are not "of" a terrorist party if those assets did not belong to either the terrorist party, or an entity then operating as an agency or instrumentality of the terrorist party, as of the date that the assets were blocked. Accordingly, while we apply a broader definition of agency or instrumentality under the TRIA than we do under the FSIA, understanding that terrorist parties "may operate with less transparency than other sovereign countries,"[140] we do not do so free of rational limits. Today we identify one such limit: When we determine whether an entity is an agency or instrumentality of a terrorist party under the TRIA, we assess that entity's status as of the date that the assets at issue were blocked.

In the case before us, it is uncontested that the blocking date was August 15, 2021—which, not coincidentally, was the same date that Kabul fell to the Taliban.[141] We therefore assess DAB's status as of that date and examine whether it satisfies any of the three independently sufficient prongs of the TRIA definition of "agency or instrumentality" that we set forth in *Kirschenbaum*. We find that it does not.

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[139] H.R. Conf. Rep. 107-779, 2002 WL 31529126, at *27 (2002).

[140] *Kirschenbaum*, 830 F.3d at 134.

[141] *See* Judgment Plaintiffs' Br. at 12, 24.

First, there is no evidence that DAB "was a means through which a material function of the [Taliban] is accomplished."[142] Indeed, it is hard to imagine how it could have been, when the Taliban did not even seize Kabul until August 15, 2021. There is no suggestion that DAB was aiding the Taliban in any manner as of the date its FRBNY-held assets were blocked.

Second, for similar reasons, there is no evidence that DAB "provided material services to, on behalf of, or in support of the [Taliban]" as of August 15, 2021.[143] Indeed, the President blocked the assets precisely to "keep[] them out of the hands of the Taliban and other malign actors."[144]

Third and finally, there is no evidence to suggest that DAB "was owned, controlled, or directed by the [Taliban]" as of that date.[145] Even assuming *arguendo* that the Taliban "controlled" DAB when it installed an alleged loyalist to head the organization, the Taliban did not do so until August 23, 2021—more than a week after the relevant date for evaluating "agency or instrumentality" status.[146]

In sum: There is quite simply no plausible foothold in the record that would enable Judgment Plaintiffs to mount a credible argument that DAB was an agency or instrumentality of the Taliban on the date

[142] *Kirschenbaum*, 830 F.3d at 135.

[143] *Id.*

[144] Press Release, U.S. Dep't of the Treasury, Joint Statement by U.S. Treasury and State Department: The United States and Partners Announce Establishment of Fund for the People of Afghanistan (Sep. 14, 2022), https://home.treasury.gov/news/press-releases/jy0947 [https://perma.cc/952K-6TEY].

[145] *Kirschenbaum*, 830 F.3d at 135.

[146] Judgment App'x 265-67.

its FRBNY-held funds were blocked on August 15, 2021. We are thus required to hold that DAB is not an agency or instrumentality of the Taliban under the TRIA, and consequently, that the TRIA does not apply to the case before us. We therefore affirm the District Court (GBD)'s denial of Judgment Plaintiffs' motions for turnover of DAB funds.

III. CONCLUSION

To summarize, we hold as follows:

(1) A district court may consider the applicability of attachment or execution immunity *sua sponte* even when the sovereign status of the property at issue is disputed;

(2) The Executive Branch's formal recognition of a state or government establishes that state or government as a foreign state for purposes of the Foreign Sovereign Immunities Act;

(3) Because the Executive Branch formally recognizes Afghanistan as an independent state, Afghanistan is a foreign state for the purpose of our analysis of DAB under the Foreign Sovereign Immunities Act;

(4) Under the Foreign Sovereign Immunities Act, DAB is an "agency or instrumentality" of the foreign state of Afghanistan, and is therefore entitled to execution immunity under 28 U.S.C. § 1609;

(5) The Terrorism Risk Insurance Act abrogates any jurisdictional or execution immunity granted by the Foreign Sovereign Immunities Act;

(6) The Terrorism Risk Insurance Act provides district courts with an independent basis to exercise subject matter jurisdiction over the blocked

assets of a terrorist party's agency or instrumentality;

(7) An entity's "agency or instrumentality" status under the Terrorism Risk Insurance Act is to be assessed as of the date that the assets at issue were blocked; and

(8) The Terrorism Risk Insurance Act does not apply to this case because DAB was not an agency or instrumentality of the Taliban when its FRBNY-held assets were blocked.

For the foregoing reasons, we **AFFIRM** the District Court (VEC)'s order denying Pre-Judgment Plaintiffs' motion to confirm the pre-judgment attachment and we likewise **AFFIRM** the District Court (GBD)'s order denying Judgment Plaintiffs' turnover motions.

23-258(L)
Havlish v. Taliban

RICHARD J. SULLIVAN, *Circuit Judge*, concurring in part and dissenting in part:

The Supreme Court has long made clear that interpretation of the "reach" of the Foreign Sovereign Immunities Act (the "FSIA") is a "pure question of statutory construction" that is "well within the province of the [j]udiciary." *Republic of Austria v. Altmann*, 541 U.S. 677, 701 (2004) (internal quotation marks omitted). Our caselaw likewise recognizes that the FSIA "vested *sole* responsibility for applying [its] standards in the federal judiciary." *Beierwaltes v. L'Office Federale de la Culture de la Confederation Suisse*, 999 F.3d 808, 818 (2d Cir. 2021) (emphasis added). Remarkably, the majority today turns those foundational principles on their head, concluding that "[t]he Executive Branch's formal recognition of a state or government establishes that state or government as a foreign state for purposes of the [FSIA]." Maj. Op. at 54. To reach this conclusion, the majority turns a blind eye to the history of the FSIA, ignores nearly thirty-five years of our own precedents, and misinterprets a single Supreme Court decision involving an unrelated statute to obscure the Court's clear precedent on the FSIA.

The majority's error is compounded by its flawed interpretation of the Terrorism Risk Insurance Act of 2002 ("TRIA"). Even though this issue was never considered by the district court, briefed by the parties, or discussed at oral argument, the majority reaches out to hold, for the first time, that "[a]n entity's 'agency or instrumentality' status under [TRIA] is to be assessed as of the date that the assets at issue were blocked." *Id.* at 55. This conclusion is unsupported by any legal authority. More importantly, it is at odds with the text and purpose of TRIA and our longstanding approach to determining immunity from execution, which looks to conditions at the time the writ of execution is issued.

The majority's interpretive gymnastics risk upending a carefully constructed statutory scheme and may have unforeseen downstream consequences for future FSIA (and TRIA) cases. It is for this reason the Supreme Court has taken pains to emphasize that "it is not our role to rewrite the FSIA"; that task lies squarely with Congress. *Turkiye Halk Bankasi A.S. v. United States*, 598 U.S. 264, 280 (2023). Accordingly, I respectfully dissent.

I. The District Court Was Permitted to *Sua Sponte* Consider the Issue of Attachment Immunity

As a threshold matter, I agree with the majority that a district court may, but is not required to, *sua sponte* consider the issue of attachment (or execution) immunity "even when the sovereign status of the property at issue is disputed." Maj. Op. at 20–21. I therefore concur with Section II.A of the majority opinion, which is clearly supported by both the text and structure of the FSIA.

As the majority rightly notes, the FSIA's mandatory language that certain property "shall be immune," 28 U.S.C. § 1609, "signals that . . . immunity inures in the property itself and applies without regard to how the issue is raised," *Walters v. Indus. & Com. Bank of China, Ltd.*, 651 F.3d 280, 291 (2d Cir. 2011). For this reason, the Seventh Circuit has explained that "immunity does not depend on the foreign state's appearance in the case." *Rubin v. The Is-*

lamic Republic of Iran, 637 F.3d 783, 799 (7th Cir. 2011). Rather, "immunity is presumed[,] and the court must find an exception – with or without an appearance by the foreign state – . . . to give effect to the statutory scheme." *Id.* at 800; *see also Peterson v. Islamic Republic of Iran*, 627 F.3d 1117, 1125 (9th Cir. 2010) ("The structure of the FSIA – which codifies the background rule that foreign states are immune from suit and execution, and then creates narrow exceptions – suggest[s] that courts must begin with the presumption that a foreign state is immune and then the plaintiff must prove that an exception to immunity applies."). Likewise, the fact that execution immunity does not apply where the foreign state waives immunity, *see* 28 U.S.C. § 1610(a)(1), "strongly suggests that immunity from execution is presumed and waiver of immunity is the exception," *Rubin*, 637 F.3d at 800. This interpretation of the FSIA is further supported by "the common-law practice" whereby courts regularly determined immunity "without regard to the foreign state's appearance in the case." *Id.* at 800–01; *see also Peterson*, 627 F.3d at 1126–27.

The *Aliganga* plaintiffs nevertheless insist that the district court had no authority to *sua sponte* consider attachment immunity because the sovereign status of the property at issue was disputed. But that is hardly dispositive, since each of the above arguments based on the text and structure of the FSIA applies with equal force even when the sovereign status of the property is disputed. I therefore agree with the majority that the district court in *Aliganga* did not err in *sua sponte* examining the immunity issue. That, however, is where my agreement with the majority's interpretation of the FSIA ends.

II. Afghanistan Is Not a Foreign State Within the Meaning of the FSIA

The majority concludes that the Da Afghanistan Bank ("DAB") funds are immune from attachment and execution under FSIA section 1609, which provides that "the property in the United States of a foreign state shall be immune from attachment[,] arrest[,] and execution." 28 U.S.C. § 1609.

Naturally, the first step in determining whether section 1609 applies is to identify whether Plaintiffs seek to attach the property *of a foreign state*. While the FSIA does not define what constitutes a foreign state, our binding caselaw "has limited the definition of 'state' to entities that have a defined territory and a permanent population, that are under the control of their own government, and that engage in, or have the capacity to engage in, formal relations with other such entities." *Klinghoffer v. S.N.C. Achille Lauro Ed Altri-Gestione Motonave Achille Lauro in Amministrazione Straordinaria*, 937 F.2d 44, 47 (2d Cir. 1991) (alterations accepted and internal quotation marks omitted); *see also, e.g.*, *Kirschenbaum v. 650 Fifth Ave. & Related Props.*, 830 F.3d 107, 123 (2d Cir. 2016) (applying *Klinghoffer* definition of foreign state).

Applying that definition here, Afghanistan clearly lacks the core attributes of statehood. It is undisputed that Afghanistan is no longer "under the control of [its] own government," *Klinghoffer*, 937 F.2d at 47 (internal quotation marks omitted), but rather is controlled by a non-state actor, the Taliban. The previous government of Afghanistan fled the country and is now defunct. There is not even a government in exile seeking to assert its right to govern the territory. Tellingly, the United States does not recognize "the Taliban or any other entity as the Government of Afghanistan or as part of such a government." Bureau of S. & Cent. Asian Affs., *U.S. Relations with Afghanistan*, U.S. Dep't of State (Aug. 15, 2022), https://perma.cc/T45B-WQ8A; *cf. Baker v. Carr*, 369 U.S. 186, 212 (1962) ("[W]ithout executive recognition[,] a foreign state has been called a republic of whose existence we know nothing." (internal quotation marks omitted)). Nor has any other country recognized the Taliban as the government of Afghanistan. *See* Aliganga App'x at 283. In fact, the United Nations has repeatedly refused to grant diplomatic credentials to Taliban officials. *See* Michelle Nichols, *Afghan Taliban Administration, Myanmar Junta Not Allowed into United Nations for Now*, Reuters (Dec. 14, 2022, 8:29 PM ET), https://p erma.cc/HYL4-D2L2. And even if the Taliban may one day be vanquished and a democratic government may return to Afghanistan, "the status quo continues" today, *Morgan Guar. Tr. Co. of N.Y. v. Republic of Palau*, 924 F.2d 1237, 1244 (2d Cir. 1991), and we must determine immunity based on conditions "at the time the writ of attachment or execution [was] issued," *Aurelius Cap. Partners, LP v. Republic of Argentina*, 584 F.3d 120, 130 (2d Cir. 2009) (emphasis omitted).

Afghanistan – as distinct from the Taliban – no longer "engage[s] in, or [has] the capacity to engage in, formal relations with other" states. *Klinghoffer*, 937 F.2d at 47 (internal quotation marks omitted); *see also* Restatement (Third) of the Foreign Relations Law of the United States § 201 cmt. e (Am. L. Inst. 1987) ("An entity is not a state unless it has competence, within its own constitutional system, to conduct international relations with other states, as well as the political, technical, and financial capabilities to do so."). Many of Afghanistan's embassies have been forced to close, and its former diplomats face the risk of deportation. *See, e.g.*, Lara Jakes, *Afghan Embassy, Now out of Money, Will Shut Down, U.S. Says*, N.Y. Times (Mar. 11, 2022), https://perma.cc/WZ7C-RWM7. And even though one of the *amici* in these appeals calls himself the *Chargé D'Affaires* of the Permanent Mission of the Islamic Republic of Afghanistan to the United Nations, he openly admits that "he does not represent the former government of Afghanistan nor the interest of any political group" but rather "strives to represent the interests of the Afghan people." Faiq Amicus Br. at 1–2 (alterations accepted and internal quotation marks omitted).

At present, Afghanistan is more akin to a failed state. *See Failed State*, *Black's Law Dictionary* (12th ed. 2024) ("A state that does not or cannot meet or maintain some of the basic social, economic, or political conditions and responsibilities of a sovereign government."). Attributes of a failed state – each of which are present here – "include the loss of physical control of its territory, an inability to provide reasonable public services, and the erosion of legitimate authority." *Id.* It is therefore clear to me that Afghanistan no longer meets the definition of a foreign state and thus the DAB funds are not covered by the FSIA.

But rather than engage in this inquiry, the district court in *Aliganga* simply accepted the Executive Branch's assertion that the DAB funds were the property of a foreign state and thus immune from attachment. In fact, the district court issued its decision refusing to confirm its prejudgment attachment order *the very same day* that the Executive Branch outlined its views on immunity without giving Plaintiffs any opportunity to respond. Such blind deference to the

Executive runs contrary to the purpose of the FSIA and longstanding precedent.

As the Supreme Court has recounted, prior to the passage of the FSIA, immunity determinations were left to the Executive Branch, which generated countless problems because "foreign nations often placed diplomatic pressure on the State Department in seeking immunity," causing "political considerations," rather than predictable legal principles, to dictate the outcome. *Verlinden B.V. v. Cent. Bank of Nigeria*, 461 U.S. 480, 487 (1983). As a result, Congress passed the FSIA to strip the immunity determination from the Executive Branch and ensure that it was "made on purely legal grounds and under procedures that insure due process." *Id.* at 488 (internal quotation marks omitted). The FSIA therefore "vested *sole* responsibility for applying [its] standards in the federal judiciary." *Beierwaltes*, 999 F.3d at 818 (emphasis added). And "[w]hile the United States' views on [immunity] are of considerable interest," the Supreme Court has emphatically held that such views "merit no special deference." *Altmann*, 541 U.S. at 701.

The majority endorses the district court's error by holding that "[t]he Executive Branch's formal recognition of a state or government establishes that state or government as a foreign state for purposes of the Foreign Sovereign Immunities Act." Maj. Op. at 54. This case marks the first time that *any* Circuit across the country has reached such a sweeping conclusion. Not only does this holding fly in the face of the well-established principles that courts have used to interpret the FSIA, it also effectively overrules our decision in *Klinghoffer*. It is axiomatic that we are "bound by the decisions of prior panels until such times as they are overruled either by an *en Banc* panel of our Court or by the Supreme Court." *United States v. Peguero*, 34 F.4th 143, 158 (2d Cir. 2022) (internal quotation marks omitted). Neither has occurred here.

The majority advances three arguments in an attempt to escape the conclusion that it is single-handedly overturning Circuit precedent, but none is persuasive.

First, the majority seeks to cabin our use of the *Klinghoffer* definition to situations in which there is no "express determination from the Executive Branch" on whether to recognize a foreign state. Maj. Op. at 29. But there is nothing in *Klinghoffer* or our subsequent caselaw to even remotely suggest that our use of that definition is limited to contexts where the Executive Branch has not made a formal recognition decision.

Second, the majority asserts that its holding is compelled by the Supreme Court's more recent decision in *Zivotofsky ex rel. Zivotofsky v. Kerry*, 576 U.S. 1 (2015). *Zivotofsky*, of course, did not involve the FSIA but rather examined the constitutionality of a statute that required American embassy officials, upon request, to list on passports that Israel was the place of birth of American children born in Jerusalem. *See id.* at 7. The majority latches onto the Supreme Court's unremarkable statement that it is the "exclusive power of the President to control recognition determinations," *id.* at 32, to conflate the formal recognition of a foreign state, which is within the sole province of the Executive, with a determination of whether an entity is covered by the FSIA, which is a task for the judiciary.

Indeed, in *Zivotofsky*, the Supreme Court made clear that "[t]he Executive's exclusive power extends *no further* than his formal recognition determination," and affirmed that Congress could take a variety of actions that might "express its disagreement with the President" on the issue of recognition, such as by declining to confirm an ambassador or fund an embassy, enacting an embargo, or declaring war. *Id.* at 30 (emphasis added). In other words, *Zivotofsky* drew a line between "an official executive statement implicating recognition" – which is the sole prerogative of the Executive – and other acts that fall short of formal recognition and can be undertaken by other branches. *Id.*

The determination of whether an entity is entitled to immunity under the FSIA clearly falls into the latter category. As the Supreme Court has explained, "interpretation of the FSIA's reach" is a "pure question of statutory construction." *Altmann*, 541 U.S. at 701 (internal quotation marks omitted); *see also* Restatement (Fourth) of the Foreign Relations Law of the United States § 452 rptr. n.1 (Am. L. Inst. 2018) (noting that "the President has the exclusive power to recognize foreign states for diplomatic purposes," but "[c]lassification as a foreign state for FSIA purposes is a matter of statutory interpretation"). A court's interpretation of whether a certain entity constitutes a foreign state within the meaning of the FSIA does not tread on the Executive's authority to formally recognize (or withdraw recognition of) that entity, nor does it compel any diplomatic action from the Executive. As Professor William Burke White, who submitted an expert declaration in the *Havlish* case, explained, "recognition of a foreign government is a formal act that is circumscribed by form, and can generally be accomplished *only* by express, unambiguous statements or a narrow subset of diplomatic actions." Havlish App'x at 661 (emphasis added). These actions include "concluding a bilateral treaty or . . . sending or receiving diplomatic agents," neither of which is at issue here. *Id.* at 666 (internal quotation marks omitted); *see also* Restatement (Third) of Foreign Relations Law § 204 rptr. n.2 ("Recognition of a state has been effected by express official declaration, by the conclusion of a bilateral agreement with the state, by the presentation of credentials by a United States representative to the authorities of the new state, and by receiving the credentials of a diplomatic representative of that state."). In other words, a court's legal conclusion as to whether an entity falls within the coverage of the FSIA does not constitute an act of recognition and thus does not infringe on the exclusive powers of the Executive.[147] Accordingly, it seems clear to me that *Zivotofsky* has not abrogated the rule we set forth in *Klinghoffer*, which thus remains binding authority. *See Peguero*, 34 F.4th at 158.

Third, the majority contends that the Restatement (Third) of Foreign Relations Law, which was the basis for *Klinghoffer*'s definition of a foreign state, establishes "a two-step test for determining whether a foreign state legally exists for purposes of" the FSIA. Maj. Op. at 28 n.69 (citing Restatement (Third) of

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[147] The majority hangs onto a single statement in *Zivotofsky* that "[l]egal consequences follow formal recognition" because "[r]ecognized sovereigns . . . may benefit from sovereign immunity when they are sued." 576 U.S. at 11. Besides the fact that this statement is dicta, it is clear that the Court was referring to the common-law immunity that foreign states enjoyed prior to the enactment of the FSIA. *See id.* (citing *National City Bank of New York v. Republic of China*, 348 U.S. 356, 358–59 (1955), which predated enactment of the FSIA).

Foreign Relations Law § 204 cmt. a). That is simply not correct. For starters, *Klinghoffer* never cited section 204 of the Restatement, so the majority's reliance on it is misplaced. But more importantly, nothing in section 204's general observations about the President's recognition authority explains how courts should interpret the statutory text of the FSIA. In fact, the Restatement (Fourth) of Foreign Relations Law makes clear that "the views of the executive branch should not control the question of whether, under the FSIA, a foreign state . . . is entitled to immunity." Restatement (Fourth) of Foreign Relations Law § 452 rptr. n.1.

For all these reasons, I am convinced that when interpreting and applying the FSIA, we remain bound by the definition of foreign state that we set forth in *Klinghoffer*, and that Afghanistan clearly fails to meet that definition. As a result, I would (1) hold that the DAB funds are not entitled to immunity under the FSIA, (2) vacate the rulings of the district courts, and (3) remand this case for the district courts to apply New York attachment and execution law to determine whether Plaintiffs can use the DAB funds to satisfy their judgments against the Taliban.

III. DAB Is Not an Agency or Instrumentality of a Foreign State

But even if the majority is correct that we are bound by the Executive Branch's recognition decision and that the notional state of Afghanistan constitutes a foreign state, the DAB funds are still not entitled to immunity under the FSIA. That is because, in my view, DAB no longer constitutes an agency or instrumentality of a foreign state.

To qualify as an agency or instrumentality of a foreign state under the FSIA, the entity must, among other things, be "an organ of a foreign state or political subdivision thereof, or a majority of [its] shares or other ownership interest [must be] owned by a foreign state or political subdivision thereof." 28 U.S.C. § 1603(b)(2). To determine whether an entity constitutes an organ of a foreign state, we look to five factors:

> (1) whether the foreign state created the entity for a national purpose; (2) whether the foreign state actively supervises the entity; (3) whether the foreign state requires the hiring of public employees and pays their salaries; (4) whether the entity holds exclusive rights to some right in the [foreign] country; and (5) how the entity is treated under foreign state law.

Filler v. Hanvit Bank, 378 F.3d 213, 217 (2d Cir. 2004) (internal quotation marks omitted).

As the *Aliganga* Plaintiffs amply demonstrated before the district court, DAB is no longer supervised by the state of Afghanistan but rather by the Taliban. Indeed, the Taliban now controls the hiring of DAB employees, "purging prior leadership and technocrats and installing its own unqualified loyalists," including designated terrorists, at the highest levels of DAB's leadership structure. Aliganga App'x at 407. "[A]ny remaining DAB personnel who are not directly affiliated with the Taliban are . . . subject to intimidation and subjugation, preventing them from acting independently." *Id.* at 443. The Taliban has also prohibited women from working at DAB, mandated that employees grow beards and pray five times per day, and required that the Taliban flag be flown at DAB meetings. On this record, it cannot credibly be disputed that the notional state of Afghanistan no longer "actively supervises" DAB, and thus DAB cannot be considered an organ of Afghanistan. *Filler*, 378 F.3d at 217 (internal quotation marks omitted).

The majority sidesteps this analysis entirely and concludes that DAB is still an agency or instrumentality of a foreign state because "a majority of [its] shares or other ownership interest is owned by" the state of Afghanistan. 28 U.S.C. § 1603(b)(2). Even though this theory was never raised by the parties or considered by the district court, the majority hangs its hat on a clause in the Afghanistan Bank Law, which states that "[t]he capital of [DAB] shall belong to the State, and shall not [be] subject to lien or to encumbrance." Afghanistan Bank Law, art. 27.2 (Dec. 17, 2003), https://perma.cc/NM8N-3U9P. But this single sentence cannot carry the heavy weight the majority places on it. For starters, the Afghanistan Bank Law was passed in December 2003 and thus was not necessarily in force and effect "at the time the writ of attachment [was] issued" in 2022 or confirmation of attachment was sought in 2023. *Aurelius Cap. Partners*, 584 F.3d at 130 (emphasis omitted). Indeed, the *Aliganga* Plaintiffs documented that, at the time of attachment, DAB was openly flouting the Bank Law, including provisions related to the appointment of DAB's governor and first deputy governor, and that the Taliban had "established a committee" to replace the Bank Law with "traditional Islamic banking." Aliganga App'x at 413. What's more, it is not clear that ownership of DAB's capital is the same as the ownership of DAB itself, which is what section 1603 requires for an entity to be considered an agency or instrumentality of a foreign state. In fact, the *Aliganga* Plaintiffs argue that DAB "does not have or issue ownership shares." Aliganga Br. at 55.

With nothing in the record to suggest that DAB's "shares . . . [are] owned by a foreign state," 28 U.S.C. § 1603(b)(2), the majority reaches outside the record to locate a doctoral dissertation that asserts, without any citation or support, that DAB has "100% state ownership," Maj. Op. at 36 & n.95 (citing Jan Weidner, The Organisation and Structure of Central Banks 192 (Apr. 20, 2007) (Dr. rer. pol. dissertation, Technische Universität Darmstadt), https://perma.cc/P5TN-UZBY). But this cherrypicked statement is simply not sufficient, in my view, to establish that DAB remains an agency or instrumentality of the notional state of Afghanistan.

IV. The DAB Funds Were Not Being Used for Central Banking Functions

Upon finding that DAB is an agency or instrumentality of Afghanistan, the majority concludes that the DAB funds are entitled to immunity under FSIA section 1609 and ends its analysis there. But the *Aliganga* district court focused on FSIA section 1611, which provides that "the property of a foreign state shall be immune from attachment and from execution, if . . . the property is that of a foreign central bank or monetary authority held for its own account." 28 U.S.C. § 1611(b).

While it is true that "funds . . . held in an account in the name of a central bank or monetary authority . . . are presumed to be immune from attachment under [section] 1611(b)(1)," a plaintiff "can rebut that presumption by demonstrating with specificity that the funds are not being used for central banking functions as such functions are normally understood."

NML Cap., Ltd. v. Banco Cent. de la Republica Argentina, 652 F.3d 172, 194 (2d Cir. 2011). Our decision in *NML Capital* did not offer a list of those central banking functions, but we relied extensively on a law-review article that provided such a list. These functions include the:

> (1) issu[ance] of notes, coin, and legal tender, (2) custody and administration of the nation's monetary reserves through the holding of gold, silver, domestic and foreign securities, foreign exchange, acceptances and other credit instruments, and IMF Special Drawing Rights, (3) establishment and maintenance of reserves of depository institutions, (4) discounts and advances to depository institutions, (5) receipt of deposits from the government, international organizations, depository institutions, and in special cases, private persons, (6) open market operations, (7) credit controls, and (8) licensing, supervision, and inspection of banks.

Ernest T. Patrikis, *Foreign Central Bank Property: Immunity from Attachment in the United States*, 1982 U. Ill. L. Rev. 265, 274; *see also Central Bank*, *Black's Law Dictionary* (12th ed. 2024) ("A central bank normally issues currency, functions as the government's bank, regulates the credit system, provides oversight for commercial banks, manages exchange reserves, and implements monetary policy.").

As the *Aliganga* plaintiffs demonstrated through their expert affidavits, DAB no longer functioned as a central bank at the time of attachment in April 2022. For example, DAB was no longer able to print afghanis; DAB curtailed its auctions of U.S. dollars, which had been used to support the value of the afghani; and foreign currency and aid arriving in Afghanistan were routed through private banks and informal transfer systems rather than DAB. *See* Aliganga App'x at 414, 416. For these reasons, one expert reasonably concluded that DAB "cannot execute central bank functions." *Id.* at 419. That being the case, DAB's assets are not entitled to immunity under FSIA section 1611.

V. Even If It Could Be Argued That the FSIA Applies Here, TRIA Abrogates the Immunity of an Entity That Is an "Agency or Instrumentality of a Terrorist Party" at the Time of the Turnover Order

Because the majority concludes that the DAB funds are immune under the FSIA from attachment and execution, the majority must still contend with whether TRIA abrogates that immunity for the *Havlish* appeal. TRIA states that "[n]othwithstanding any other provision of law, . . . the blocked assets of [a] terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy [a] judgment" against that party. TRIA § 201(a). I agree with the majority that TRIA abrogates both jurisdictional and execution immunity and independently provides a grant of subject-matter jurisdiction over post-judgment execution and attachment proceedings. *See* Maj. Op. at 38–45. The majority nevertheless neuters that conclusion by insisting that an entity's status as an agency or instrumentality of a terrorist party under TRIA must "be assessed as of the date that the assets at issue were blocked," *id.* at 55 – an issue that was never considered by the district court, briefed by the parties, or discussed at oral argument.

In *Kirschenbaum*, we previously suggested that an entity's agency or instrumentality status under TRIA should be assessed as of the date the complaint was filed. *See* 830 F.3d at 136. I agree with the majority that *Kirschenbaum's* bright-line rule has been "unseated" by our subsequent caselaw, Maj. Op. at 49, which has made clear that developments subsequent to the filing of a complaint may affect whether an entity is entitled to immunity, *see Barlett v. Baasiri*, 81 F.4th 28, 33–37 (2d Cir. 2023); *Schansman v. Sberbank of Russ. PJSC*, 128 F.4th 70, 79–80 (2d Cir. 2025). But I disagree with the majority's holding that an entity's status as an agency or instrumentality of a terrorist party must "be assessed as of the date that the assets at issue were blocked." Maj. Op. at 55.

For starters, this reading imposes an extratextual limitation on plaintiffs' ability to enforce judgments against terrorist parties. Nowhere does the plain text of TRIA confine its applicability to assets that belonged to the terrorist party (or its agency or instrumentality) at the time those assets were blocked. In other words, the unambiguous language of the statute makes clear that as long as (1) the assets are blocked and (2) they belong to a terrorist party (or its agency or instrumentality), those assets can be used to satisfy a judgment against the terrorist party.

To hold otherwise runs contrary to the statute's purpose, which "is to deal comprehensively with the problem of enforcement of judgments issued to victims of terrorism in any U.S. court by enabling them to satisfy such judgments from the frozen assets of terrorist parties." *Weinstein v. Islamic Republic of Iran*, 609 F.3d 43, 50 (2d Cir. 2010) (internal quotation marks omitted). Indeed, we have recognized that "TRIA establishes once and for all, that such judgments are to be enforced against *any* assets available in the [United States]." *Id.* (emphasis added) (internal quotation marks omitted). And yet, under the majority's interpretation, if a terrorist party were to gain control over an entity whose assets were already blocked, those assets could not be used to satisfy a judgment against the terrorist party. In addition to defying logic, such an approach would defeat TRIA's objective of making "any assets available" to the victims of terrorism. *Id.* (internal quotation marks omitted).

The better approach, in my view, is to assess whether an entity is an agency or instrumentality of a terrorist party at the time of the turnover order. This would accord with the approach we have taken to determining attachment and execution immunity under the FSIA, which looks to conditions at the time of attachment or execution. *See Aurelius Cap. Partners*, 584 F.3d at 130. It would also avoid reading extratextual limitations into TRIA and would maximize the assets available to victims of terrorism to enforce judgments against terrorist parties, which was the clear purpose of the statute.

In response, the majority argues that we should look to conditions at the time the assets were blocked because "[i]f an entity becomes an agency or instrumentality of a terrorist party *after* that entity's property is blocked, those blocked assets cannot have been utilized to further the mission of the terrorist party." Maj. Op. at 51. But the majority cites no authority – nor am I aware of any – to suggest that Congress intended to limit TRIA's reach to assets that were "utilized to further the mission of the terrorist party." *Id.* Rather, as noted above, TRIA simply functions to ensure that the maximum assets are available to victims of terrorism.

The majority also make the semantic argument that "blocked assets are not 'of' a terrorist party if those assets did not belong to either the terrorist party, or an entity then operating as an agency or instrumentality of the terrorist party, as of the date that the assets were blocked." *Id.* at 52. But once again, the plain text of TRIA contains no such limitation, and it strains credulity to suggest that Congress intended to create roadblocks preventing victims of terrorism from accessing the assets of terrorist organizations.

For all these reasons, I would hold that an entity's status as an agency or instrumentality of a terrorist party for purposes of TRIA should be determined as of the date of the turnover order. Applying that test here, I would easily conclude that DAB was an agency or instrumentality of the Taliban when the district court issued its decision on the turnover motion in March 2023. At a minimum, as outlined above, DAB was "controlled[] or directed by" the Taliban as of that date. *Kirschenbaum*, 830 F.3d at 135. As the majority acknowledges, *see* Maj. Op. at 47, that is sufficient to be considered an agency or instrumentality of a terrorist party under our caselaw.

* * *

To sum up, I concur with the majority's holding that a district court may, but is not required to, *sua sponte* consider the issue of attachment (or execution) immunity even when the sovereign status of the assets at issue is disputed. But I disagree with the majority's novel conclusion that "[t]he Executive Branch's formal recognition of a state or government establishes that state or government as a foreign state for purposes of the [FSIA]." *Id.* at 54. That holding effectively overrules three decades of our precedents and ignores longstanding caselaw from the Supreme Court that makes clear the interpretation of the FSIA is purely a task for the judiciary. I would instead apply the test we set forth in *Klinghoffer*, conclude that Afghanistan no longer constitutes a foreign state for purposes of the FSIA, and thus hold that the DAB funds are not entitled to immunity from attachment or execution. I also disagree with the majority's holding that an entity's status as an agency or instrumentality of a terrorist party under TRIA must "be assessed as of the date that the assets at issue were blocked," *id.* at 55, as opposed to the date of the turnover order.

Accordingly, I would vacate the judgments below and remand for the district courts to apply New York attachment and execution law to determine whether Plaintiffs can use the DAB funds to satisfy their judgments against the Taliban.

For all the above reasons, I respectfully dissent.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 19th day of March, two thousand twenty-six.

Present:

DEBRA ANN LIVINGSTON,
Chief Judge,

RAYMOND J. LOHIER, JR.,
RICHARD J. SULLIVAN,
JOSEPH F. BIANCO,
MICHAEL H. PARK,
WILLIAM J. NARDINI,
STEVEN J. MENASHI,
EUNICE C. LEE,
BETH ROBINSON,
MYRNA PÉREZ,
ALISON J. NATHAN,
SARAH A. L. MERRIAM,
MARIA ARAÚJO KAHN,
Circuit Judges.

23-258 (L)
23-263 (CON)
23-304 (CON)
23-346 (CON)
23-444 (CON)

FIONA HAVLISH, ET AL., JOHN DOES 1 THROUGH 7, FEDERAL INSURANCE CO., ET AL., RAYMOND ANTHONY SMITH, ET AL., KATHLEEN ASHTON, et al.,
Plaintiffs-Appellants,

v.

THE TALIBAN,
Defendant-Appellee,

FEDERAL RESERVE BANK OF NEW YORK,
Garnishee-Interested-Party-Appellee,

23-354 (L)
23-797 (C)

ESTATE OF JESSE NATHANAEL ALIGANGA, ET AL., RIZWAN KHALIQ, ET AL., JAMES OWENS, ET AL.,
Plaintiffs-Appellants,

v.

TALIBAN, AKA THE ISLAMIC EMIRATE OF AFGHANISTAN,
Defendant-Appellee.

MATTHEW D. MCGILL, Gibson, Dunn & Crutcher LLP, Washington, D.C. (Jessica L. Wagner, Gibson, Dunn & Crutcher LLP, Washington, D.C.; Robert L. Weigel, Jason W. Myatt, Gibson, Dunn & Crutcher LLP, New York, NY; Clifton S. Elgarten, Emily M. Alban, Crowell & Moring LLP,

Washington, D.C.; Jane Carol Norman, Bond & Norman Law, PC, Rockville, MD, *on the brief*), *for Plaintiffs-Appellants* Estate of Jesse Nathanael Aliganga, et al., Rizwan Khaliq, et al., and James Owens, et al.

IAN HEATH GERSHENGORN, Jenner & Block LLP, Washington, D.C. (Douglass A. Mitchell, Jenner & Block LLP, Washington, D.C.; Lee Wolosky, Benjamin D. Alter, Jenner & Block LLP, New York, NY; Andrianna D. Kastanek, Jenner & Block LLP, Chicago, IL; David A. Barrett, Boies Schiller Flexner LLP, New York, NY; Stuart H. Singer, Boies Schiller Flexner, Fort Lauderdale, FL; Timothy B. Fleming, Wiggins Childs Pantazis Fisher Goldfarb, PLLC, Washington, D.C., *on the brief*), *for Plaintiffs-Appellants* Fiona Havlish, et al., *Appellants* in 23-258.

SAMUEL ISSACHAROFF, New York University School of Law, New York, NY (Andrew J. Maloney, III, Kreindler & Kreindler LLP, New York, NY; Noam Biale, Sher Tremonte, LLP, New York, NY, *on the brief*), *for Plaintiffs-Appellants* Kathleen Ashton, et al., *Appellants* in 23-444.

John Thornton, Orlando do Campo, do Campo & Thornton, P.A., Miami, FL, *for Plaintiffs-Appellants* John Does 1 through 7, *Appellants* in 23-263.

Sean P. Carter, Stephen A. Cozen, Cozen O'Connor, Philadelphia, PA; Richard Klingler, Ellis George Cipollone O'Brien Annaguey LLP, Washington, D.C.; Carter G. Phillips, Sidley Austin LLP, Washington, D.C., *for Plaintiffs-Appellants* Federal Insurance Co., et al., *Appellants* in 23-346.

Dion G. Rassias, The Beasley Firm, LLC, Philadelphia, PA, *for Plaintiffs-Appellants* Raymond Anthony Smith, et al., *Appellants* in 23-304.

Following disposition of this appeal on August 26, 2025, an active judge of the Court requested a poll on whether to rehear the case *en Banc*. A poll having been conducted and there being no majority favoring *en Banc* review, the petition for rehearing *en Banc* is hereby **DENIED**.

William J. Nardini, *Circuit Judge*, joined by Raymond J. Lohier, Jr., *Circuit Judge*, concurs by opinion in the denial of rehearing *en Banc*.

Richard J. Sullivan, *Circuit Judge*, joined by Debra Ann Livingston, *Chief Judge*, Joseph F. Bianco, and Michael H. Park, *Circuit Judges*, dissents by opinion from the denial of rehearing *en Banc*.

Steven J. Menashi, *Circuit Judge*, dissents by opinion from the denial of rehearing *en Banc*.

José A. Cabranes and Guido Calabresi, *Circuit Judges*, filed a statement with respect to the denial of rehearing *en Banc*.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

23-258 (L); 23-354 (L)
Havlish v. Taliban; Aliganga v. Taliban

NARDINI, *Circuit Judge*, joined by LOHIER, *Circuit Judge*, concurring in the denial of rehearing *en banc*:

I concur in the denial of rehearing *en banc*. In particular, I agree with the view, expressed by the panel majority and by Judge Menashi in Part I.A-B of his dissent from the denial of rehearing *en banc,* that the Executive Branch is generally entrusted with the power to recognize foreign governments.

23-258 (L); 23-354 (L)
Havlish v. Taliban; Aliganga v. Taliban

SULLIVAN, *Circuit Judge*, joined by LIVINGSTON, *Chief Judge*, BIANCO, PARK, *Circuit Judges*, dissenting from the denial of rehearing *en banc*:

In these cases, victims of terrorism seek to recover assets held by a Taliban-controlled bank. The panel rejected their claims after concluding that those assets belong to the notional State of pre-Taliban Afghanistan and accordingly enjoy immunity under the Foreign Sovereign Immunities Act (the "FSIA"), 28 U.S.C. §§ 1330, 1602–11. To reach that conclusion, the panel conflated diplomatic recognition with statutory immunity in civil litigation, subverted the purpose of the FSIA, and ignored the precedent interpreting it.

Even so, the victims still should have prevailed under the Terrorism Risk Insurance Act of 2002 (the "TRIA"), which overrides immunity as to "the blocked assets of [a] terrorist party." Terrorism Risk Insurance Act of 2002, Pub. L. No. 107-297, § 201(a), 116 Stat. 2322, 2337–40 (codified as amended 28 U.S.C. § 1610 note). But the panel sidestepped the TRIA's text, its purpose, and our own caselaw to conclude that the victims could not recover because the assets did not belong to the Taliban when the government froze them – even though they did when the victims sought turnover.

The full Court should have addressed those errors today. Instead, we double-down on a panel opinion that obscures the plain meaning of two federal statutes, muddies our jurisprudence, and blocks the families of those killed in Taliban-directed terrorist attacks from claiming assets held by a Taliban-controlled bank. For the reasons set forth below and in my prior dissent to the panel opinion, I respectfully dissent from the denial of rehearing *en banc*.

I. Background

The Taliban ruled Afghanistan from 1996 to 2001. During that period, it helped al-Qaeda kill and maim thousands of Americans through several infamous acts of terrorism: the 1998 bombing of the U.S. embassies in Kenya and Tanzania, and the unprecedented attacks of September 11, 2001 in the United States.

After the 9/11 attacks, a U.S.-led coalition invaded Afghanistan and toppled the Taliban. But when U.S. troops left Afghanistan twenty years later, Taliban insurgents once again seized control of the country, capturing Kabul, the capital of Afghanistan, on August 15, 2021. They later "attained *de facto* control" over the former central bank of Afghanistan – Da Afghanistan Bank ("DAB") – by filling its leadership positions with Taliban loyalists, including multiple designated terrorists. *Havlish v. Taliban*, 152 F.4th 339, 346 (2d Cir. 2025).

On the day that Kabul fell to the Taliban, the U.S. Treasury Department froze assets that DAB held in an account at the Federal Reserve Bank of New York (the "FRBNY"). Then-President Biden subsequently issued an Executive Order preventing the Taliban from accessing these funds in order to safeguard the "welfare of the people of Afghanistan." *Id.* (quoting Exec. Order No. 14,064, 87 Fed. Reg. 8391 (Feb. 11, 2022)). The Executive Branch does not view the Taliban as the legitimate government of Afghanistan, and it has transferred similar assets to individuals whom it has accredited as official representatives of the Afghan people. But it cannot be disputed that the former government of Afghanistan no longer exists, that Afghan embassies have been forced to close, and that the Taliban now controls the territory of the country, administers public services, and exercises governmental authority.

With the Taliban back in control, two sets of plaintiffs commenced legal actions to recover from it. In the first case, victims of the embassy bombings pursue pre-judgment attachment of DAB's assets. And in the second, 9/11 victims – who have already obtained a judgment against the Taliban – seek turnover of the same funds. The respective district courts dismissed both suits on FSIA immunity grounds.

A divided panel affirmed, holding *first* that the FSIA protects the assets here because the Executive Branch has recognized a notional state of Afghanistan, and *second* that the TRIA does not apply because the proper time to assess DAB's status as an agency or instrumentality of a terrorist party is as of when the assets were blocked – before the Taliban took control of DAB – and not when the plaintiffs sought turnover. As noted in the panel dissent, both holdings are incorrect as a matter of law. *Id.* at 366 (Sullivan, J., concurring in part and dissenting in part).

II. The FSIA

The panel opinion's analysis of the FSIA contravenes the statutory text, thwarts its purpose, and throws precedent to the wind. "The FSIA provides that 'a *foreign state* shall be immune from the jurisdiction of the courts of the United States and of the States.'" *Samantar v. Yousuf*, 560 U.S. 305, 313 (2010) (quoting 28 U.S.C. § 1604 (emphasis added)).

Accordingly, we must first determine whether the "defendant is a 'foreign state' within the meaning of the Act." *Id.* Such "[i]nterpretation of the FSIA's reach" presents "a pure question of statutory construction . . . well within the province of the Judiciary." *Republic of Austria v. Altmann*, 541 U.S. 677, 701 (2004) (internal quotation marks omitted).

For over thirty years, we have "construed 'foreign state' as used in the FSIA" by employing a judicially crafted test to examine whether an entity "bear[s] the attributes of statehood." *Kirschenbaum v. 650 Fifth Ave. & Related Props.*, 830 F.3d 107, 123 (2d Cir. 2016) (internal quotation marks omitted) (explaining that those attributes include "a defined territory and population, self-governance and foreign relations, and the capacity to wage war and to enter into international agreements"), *abrogated on other grounds by Rubin v. Islamic Republic of Iran*, 583 U.S. 202 (2018); *see also Samantar*, 560 U.S. at 314 ("The term 'foreign state' on its face indicates a body politic that governs a particular territory."). By parsing, interpreting, and applying the FSIA's text at the outset of private civil suits, we have consistently discharged our "solemn duty" to "interpret the act[s] of Congress, in order to ascertain the rights of the parties." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024) (internal quotation marks omitted); *see Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803) ("It is emphatically the province and duty of the judicial department to say what the law is.").

That duty has added force in the context of the FSIA – which expressly aimed to "transfer primary responsibility for deciding 'claims of foreign states to immunity' from the [Executive] to the courts." *Samantar*, 560 U.S. at 313 (quoting 28 U.S.C.

§ 1604). Prior to the FSIA's enactment, "initial responsibility for deciding questions of sovereign immunity fell primarily upon the Executive acting through the State Department, and the courts abided by 'suggestions of immunity' from the State Department." *Verlinden B.V. v. Cent. Bank of Nigeria*, 461 U.S. 480, 487 (1983). But rather than enhancing the Executive's flexibility in conducting foreign affairs, this deference to the Executive's immunity determinations instead resulted in foreign governments "putting strong pressure on the Department of State to decide a lawsuit." *Foreign Sovereign Immunities Act: Hearings on H.R. 11315 Before the Subcomm. on Administrative Law and Governmental Relations*, 94th Cong., 2d Sess. 34 (1976) (testimony of Monroe Leigh, Legal Adviser, Dep't of State). The Executive thus became "involved in a great many cases where [it] would rather not do anything at all," and it accordingly supported the effort to transfer immunity decisions to the courts, which it "would much rather" have "handle[]" such questions. *Id.* Heeding the Executive's request, "Congress passed the F[SIA] in order to free the Government from the case-by-case diplomatic pressures" of the prior approach. *Verlinden*, 461 U.S. at 488. For this reason, where the political branches have agreed that immunity decisions should be made by the courts, "the views of the executive branch should not control the question of whether, under the FSIA, a foreign state (or agency or instrumentality) is entitled to immunity." Restatement (Fourth) of Foreign Relations Law § 452 rptr. n.1 (2018) (hereinafter "Restatement").

The panel opinion brushes all this aside. Instead of attempting to interpret and apply the words "foreign state," it holds – flatly and categorically – that "[t]he Executive Branch's formal recognition of a state or government establishes [it] as a foreign state for purposes of the F[SIA]." *Havlish*, 152 F.4th at 365. But that oversimplistic approach to statutory interpretation disregards both the Supreme Court's clear instruction that the Executive's views regarding the FSIA's scope "merit no special deference," *Altmann*, 541 U.S. at 701, and our own Court's admonition that "reliance on Executive Branch definitions to construe 'foreign state' under the FSIA raises several concerns," *Kirschenbaum*, 830 F.3d at 124.[1]

The panel opinion races past these warnings because it confuses the "power to recognize foreign nations and governments," *Zivotofsky ex rel. Zivotofsky v. Kerry*, 576 U.S. 1, 14 (2015) – which unquestionably belongs to the Executive and confers a variety of tangible benefits on recognized States – with the separate and narrower authority to determine when statutorily created FSIA immunity should attach in

[1] To be sure, the Executive is free to "fil[e] statements of interest suggesting that courts decline to exercise jurisdiction in particular cases implicating foreign sovereign immunity." *Altmann*, 541 U.S. at 701–02 (expressing no opinion on the question of what level of deference such statements should be granted in cases covered by the FSIA). But the government filed no such statement in this appeal, and the panel opinion instead depends primarily on a State Department "Fact Sheet" – an online list of "independent states" – that "was last updated in March 2025." *Havlish*, 152 F.4th at 353. And while Judge Menashi insists that "the Executive Branch *did* provide its views in this case" via letters submitted in the district court proceedings, Menashi Dissent at 8–9, the panel opinion did not rely on those letters, which are brief squibs submitted years ago by a previous U.S. attorney under a prior presidential administration. *See, e.g.*, Letter of the United States, *Owens v. Taliban*, No. 22-CV-1949 (S.D.N.Y. Feb. 24, 2023). Accordingly, the question of what degree of deference might be afforded to formal executive intervention of that sort is not before us.

civil litigation, which clearly belongs to the Judiciary. *Havlish*, 152 F.4th at 351–52; *see* Restatement § 452 rptr. n.1 ("[While] the President has the exclusive power to recognize foreign states for diplomatic purposes[,] [c]lassification as a foreign state for FSIA purposes is a matter of statutory interpretation." (citations omitted)).

Both Judge Menashi's separate dissent and Judge Nardini's concurrence repeat this mistake of blurring the distinction between diplomatic recognition and statutory immunity.[2] But while it is true that certain legal benefits have historically flowed from "formal recognition," including the ability to sue in United States courts, to assert *common-law* sovereign immunity (prior to the passage of the FSIA), and to engage in "regular diplomatic relations," *Zivotofsky*, 576 U.S. at 11, *Zivotofsky* did not call into question Congress's substantial powers over foreign affairs generally. As the Supreme Court explained, "[t]he Executive's exclusive power *extends no further* than his

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[2] Judge Menashi persists in this error throughout his dissent. *See* Menashi Dissent at 9 ("The FSIA does not empower the courts to countermand the President's decision to recognize a country."); *id.* at 11 (similar); *id.* at 13 (similar). But no one disagrees that the Executive has the exclusive authority to recognize foreign states, or even that such a recognition decision may "aid" courts "exercising independent judgment in determining the meaning of [the FSIA's] provision[s]." *Loper Bright*, 603 U.S. at 371. Such Executive input does not, however, strip the courts of their capacity, and duty, to interpret the FSIA, which regulates only the narrow issue of immunity from litigation in a particular case. Judge Menashi's – and the panel's – maximalist approach would ignore that crucial distinction and dispense with any limiting principle: the Executive could recognize Disneyland, Facebook, or Purdue Pharma as a "foreign state," and courts would have to defer to that decision, toss the text of the FSIA aside, and dismiss all private civil suits against those entities.

formal recognition determination," and "Congress may . . . express its disagreement with the President in myriad ways." *Id.* at 30 (emphasis added). With the FSIA, Congress vested the courts – not the Executive – with the role of determining whether foreign states should enjoy statutory immunity. The determination of whether an entity is a "foreign state" under the FSIA in the narrow context of a particular civil suit, does not "alter the President's recognition decision[s]" or their discrete legal effects, *id.*; it merely reserves questions of statutory construction to the judicial branch, as Congress intended.

Answering the FSIA question thus requires the core judicial work of parsing the term "foreign state" – a task in which the Executive's input might assist us, but in which it certainly does not *bind* us. *See Beierwaltes v. L'Office Federale de la Culture de la Confederation Suisse*, 999 F.3d 808, 818 (2d Cir. 2021) (FSIA "vest[s] sole responsibility for applying [its] standards in the federal judiciary"); *Loper Bright*, 603 U.S. at 386 (emphasizing that while "[t]he views of the Executive Branch could inform the judgment of the Judiciary," they "d[o] not supersede it"). The panel opinion ignores that fundamental principle, making us the first Circuit court in history to conflate the Executive's power to recognize nations with the Judiciary's duty to interpret the jurisdictional grant of the FSIA. In essence, the panel opinion reduces statutory immunity to a mere subspecies of Executive recognition.

Our new rule will have disastrous consequences. In this case it impedes victims of terrorism in their multi-decade quest to recover lawful damages from the perpetrators of heinous acts of terrorism. More generally, it frustrates the congressional intent to com-

pensate victims of terrorism, makes a hash of fifty years of FSIA jurisprudence, and risks confusing other courts. Worst of all, this new rule marks a return to the very "bedlam" that Congress sought to abate by enacting the FSIA. *See Republic of Argentina v. NML Capital, Ltd.*, 573 U.S. 134, 141 (2014) ("Congress abated the bedlam in 1976, replacing the old executive-driven . . . immunity regime with the Foreign Sovereign Immunities Act's 'comprehensive set of legal standards governing claims of immunity in every civil action against a foreign state.'" (quoting *Verlinden*, 461 U.S. at 488)). Under the panel's theory, courts would have *no* role in interpreting the meaning of the term "foreign state," notwithstanding the clear purpose of the statute and the unmistakable precedents of the Supreme Court and our Court to the contrary. *See Samantar*, 560 U.S. at 323 n.19 (explaining that, through the passage of the FSIA, the State Department "sought and supported the elimination of its role with respect to claims against foreign
states and their agencies or instrumentalities"); *Kirschenbaum*, 830 F.3d at 124–25 (refusing to "rel[y] on Executive Branch definitions to construe 'foreign state' under the FSIA" in part because the FSIA aimed "to transfer the determination of sovereign immunity from the executive branch to the judicial branch" (internal quotation marks omitted)); *see also OI Eur. Grp. B.V. v. Bolivarian Republic of Venezuela*, 73 F.4th 157, 170 (3d Cir. 2023) ("For this Court to hold that . . . decisions about sovereign immunity from suit are once again an Executive prerogative . . . would undermine the principal purpose of the FSIA."). Remarkably, the panel opinion makes no attempt to engage with these problems or explain how

its holding comports with the language of the FSIA or the precedents interpreting it.[3]

III. The TRIA

The panel compounds its FSIA error by imposing extra-textual limits on the reach of the TRIA. But those limits foil that statute's purpose and have no mooring in any text or authority beyond the panel's own vague sense of good policy.

The TRIA broadly empowers plaintiffs to enforce their judgments against "the blocked assets of [a] terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party)." TRIA § 201(a). As we have explained, Congress passed the TRIA to "establish[] once and for all" that judgments obtained by terrorist victims "are to be enforced against *any assets available in the U.S.*" *Wein-*

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[3] Furthermore, even if Afghanistan qualifies as a foreign state, the FSIA would shield only its own "agen[cies] or instrumentalit[ies]." 28 U.S.C. § 1603(a)–(b). And DAB is an agency of the Taliban – not Afghanistan. The Taliban has slotted loyalists (including designated terrorists) into DAB's leadership positions, "prohibited women from working at DAB," and "required that the Taliban flag be flown at DAB meetings." *Havlish*, 152 F.4th at 371–72 (Sullivan, J., concurring in part and dissenting in part); *see also* Menashi Dissent at 13–16 (agreeing with this much of the panel dissent's agency-or-instrumentality analysis). Indeed, the panel opinion itself acknowledges that "[t]here is little question that the Taliban has attained *de facto* control over DAB" and that no country (including the United States) "has recognized the Taliban as Afghanistan's legitimate government." *Havlish*, 152 F.4th at 346. It nevertheless overlooks these inconvenient facts and instead relies on an almost twenty-year-old doctoral dissertation from outside the record to support its (never briefed or raised) theory that the notional state of Afghanistan theoretically owns DAB's capital. *Id.* at 357. But there is simply no evidence that the Taliban has respected the niceties of Afghan banking law as interpreted by a single graduate student in 2007.

stein v. Islamic Republic of Iran, 609 F.3d 43, 50 (2d Cir. 2010) (emphasis added and internal quotation marks omitted). Here, victims of terrorism seek blocked assets held in the U.S. account of a Taliban-controlled entity. The TRIA thus should make this an easy case.

The panel nevertheless holds that courts must assess the defendant's status as an "agency or instrumentality" of a terrorist group at the time when the assets are blocked, as opposed to when a turnover order is issued. *Havlish*, 152 F.4th at 366. That reading both conflicts with the text and purpose of the TRIA and clashes with our approach in FSIA cases, where we assess execution immunity by evaluating conditions at the time of execution. *See Aurelius Cap. Partners, LP v. Republic of Argentina*, 584 F.3d 120, 130 (2d Cir. 2009) (highlighting that, in the FSIA context, "the property that is subject to attachment and execution must be property in the United States of a foreign state and must have been used for a commercial activity *at the time* the writ of attachment or execution is issued" (first emphasis deleted and internal quotation marks omitted)). The panel insists, however, that its interpretation makes sense because "[i]f an entity becomes an agency or instrumentality of a terrorist party *after* that entity's property is blocked, those blocked assets cannot have been utilized to further the mission of the terrorist party." *Havlish*, 152 F.4th at 364.

But nothing in the text of the TRIA limits its scope to assets actively employed to fund a terrorist campaign; rather, the statute uses intentionally broad terms to advance its goal of "deal[ing] comprehensively with the problem of enforcement of judgments issued to victims of terrorism," *Weinstein*, 609

F.3d at 50 (internal quotation marks omitted); *see also Barnhart v. Sigmon Coal Co.*, 534 U.S. 438, 461–62 (2002) ("We have stated time and again that courts must presume that a legislature says in a statute what it means and means in a statute what it says there." (internal quotation marks omitted)). The panel's interpretation thus flows not from the text of the TRIA, nor even from that statute's purpose, but instead from its own sense of how Congress should have acted to limit the exposure of terrorist organizations. In addition to being illogical, that is simply not our role. *Zuni Pub. Sch. Dist. No. 89 v. Dep't of Educ.*, 550 U.S. 81, 122 (2007) (Scalia, J., dissenting) ("We must interpret the law as Congress has written it, not as we would wish it to be.").

IV. Conclusion

The panel opinion's pretzel logic, disregard of precedent, and indifference to text and purpose should not have survived *en Banc* review. But instead of giving that opinion our full scrutiny, we close our eyes. That inaction will prove costly, as the panel decision will contort our jurisprudence, confuse lower courts, and eviscerate the FSIA and TRIA – all while leaving victims of terrorism empty-handed. For these reasons, and for the reasons set forth in my original dissent to the panel opinion, I respectfully dissent from the denial of rehearing *en banc*.

MENASHI, *Circuit Judge*, dissenting from the denial of rehearing *en banc*:

I would reconsider these cases *en banc* because the panel opinion erred in concluding that the Afghan central bank—"Da Afghanistan Bank" or "DAB"—is entitled to immunity under the Foreign Sovereign Immunities Act.

I agree with the panel opinion that a court cannot second-guess the recognition decision of the President that a country is a "foreign state," even for purposes of the FSIA. The FSIA aimed to provide predictable standards by which foreign sovereigns receive immunity in American courts, and it would undermine that purpose if the Executive and Judicial Branches could reach conflicting conclusions about which states are sovereign in the first place. In our constitutional system, the President rather than the courts recognizes foreign states. Because the Executive Branch recognizes Afghanistan as a foreign state, the panel was bound to accept that determination. But DAB is not itself a foreign state. It receives immunity only if it qualifies as "an agency or instrumentality" of Afghanistan. 28 U.S.C. § 1603(a). DAB does not so qualify because Afghanistan neither owns nor controls it. I would therefore hold that DAB is not entitled to immunity.

The panel opinion further erred in concluding that for purposes of § 201 of the Terrorism Risk Insurance Act of 2002 ("TRIA"), the status of an entity as an agency or instrumentality of a terrorist party must be determined as of the date that the assets sought in the turnover motion were blocked. I would hold instead that a court must make that determination at the time of the turnover order. This approach accords with the text and purpose of the statute, and it parallels the related framework of the FSIA.

Because I would hold that (1) DAB is not an agency or instrumentality of Afghanistan that receives immunity under the FSIA, and (2) the status of an entity as an agency or instrumentality under the TRIA must be assessed at the time of the turnover order, I dissent from the denial of rehearing *en banc*.

I

The panel opinion correctly held that the President's determination that a country is a foreign state is conclusive. That holding accords with the text, structure, and purpose of the FSIA. The FSIA does not provide statutory standards for determining whether an entity qualifies as a foreign state, and it does not authorize a federal court to invoke principles of international law to override a recognition decision by the President acting within his exclusive constitutional sphere of authority. The FSIA does, however, provide standards for determining whether an entity qualifies as an agency or instrumentality of a foreign state, and under those standards DAB is not one.

A

Before the FSIA was enacted, "[t]he doctrine of foreign sovereign immunity developed as a matter of common law." *Samantar v. Yousuf*, 560 U.S. 305, 311 (2010). Early on, Chief Justice Marshall explained that a foreign sovereign lacks a right to immunity from suit in American courts because "[t]he jurisdiction of the nation within its own territory is necessarily exclusive and absolute" and "is susceptible of no limitation not imposed by itself." *Schooner Exch. v. McFaddon*, 11 U.S. (7 Cranch) 116, 136 (1812). As a matter of comity, however, countries typically waived jurisdiction over foreign sovereigns—and, on the suggestion of the Executive Branch, the Supreme Court agreed to waive its jurisdiction over an armed ship of a foreign state found in an American port. *See id.* at 137, 145-47. "[T]hat opinion came to be regarded as extending virtually absolute immunity to foreign sovereigns." *Verlinden B.V. v. Central Bank of Nigeria*, 461 U.S. 480, 486 (1983).

Following that precedent, the Supreme Court "consistently has deferred to the decisions of the political branches—in particular, those of the Executive Branch—on whether to take jurisdiction over actions against foreign sovereigns and their instrumentalities." *Id.* "For much of our history, claims of foreign sovereign immunity were handled on a piecework basis that roughly paralleled the process in *Schooner Exchange*." *Opati v. Republic of Sudan*, 140 S. Ct. 1601, 1605 (2020). "[A]fter a plaintiff sought to sue a foreign sovereign in an American court, the Executive Branch, acting through the State Department, filed a 'suggestion of immunity'—case-specific guidance about the foreign sovereign's entitlement to immunity." *Id.* If the State Department provided the suggestion of immunity, "the district court surrendered its jurisdiction." *Samantar*, 560 U.S. at 311. Only "in the absence of recognition of the immunity by the Department of State" did the district court exercise the "authority to decide for itself whether all the requisites for such immunity existed." *Ex parte Republic of Peru*, 318 U.S. 578, 587 (1943).

The State Department provided suggestions of immunity in all cases against friendly sovereigns until 1952, when it "announced the 'restrictive' theory of foreign sovereign immunity." *Turkiye Halk Bankasi A.S. v. United States*, 143 S. Ct. 940, 946 (2023); *see* *also Republic of Austria v. Altmann*, 541 U.S. 677, 689-90 (2004). Pursuant to the restrictive theory, "immunity was typically afforded in cases involving a foreign state's public acts, but not its strictly commercial acts." *Turkiye Halk Bankasi*, 143 S. Ct. at 946. The restrictive theory did not alter the role of the courts. "As in the past, initial responsibility for deciding questions of sovereign immunity fell primarily upon the Executive acting through the State Department, and the courts abided by 'suggestions of immunity' from the State Department." *Verlinden*, 461 U.S. at 487.

But the adoption of the restrictive theory produced inconsistent results. Diplomatic pressure and political considerations sometimes "led to suggestions of immunity in cases where immunity would not have been available under the restrictive theory." *Id.* When a foreign state failed to request a suggestion from the State Department, "the responsibility fell to the courts to determine whether sovereign immunity existed, generally by reference to prior State Department decisions." *Id.* "Not surprisingly, the governing standards were neither clear nor uniformly applied." *Id.* at 488.

By enacting the FSIA in 1976, Congress "sought to standardize the judicial process with respect to immunity for foreign sovereign entities in civil cases." *Turkiye Halk Bankasi*, 143 S. Ct. at 946. The FSIA "codifies a baseline principle of immunity for foreign states and their instrumentalities," *id.* (citing 28 U.S.C. § 1604), and it authorizes suit only if one of several enumerated exceptions to that principle applies, *see* 28 U.S.C. §§ 1605-07.

Congress explained that the purpose of this framework is to provide for "the determination by United

States courts of *the claims of foreign states to immunity*." *Id.* § 1602 (emphasis added). Congress furthered that purpose by codifying the restrictive theory of sovereign immunity into a set of rules that could be consistently applied. Those rules replaced the inconsistent invocation of sovereign immunity that prevailed when the courts relied on suggestions of immunity from the State Department. *See* H.R. Rep. No. 94-1487, at 7 (1976); *see also Altmann*, 541 U.S. at 691.

The FSIA provides no standards, however, for determining whether a country is a "foreign state" in the first place. It does not even define "foreign state." To be sure, in the absence of a recognition decision by the Executive Branch, courts have determined whether a state is sovereign by reference to "general principles of international law," but "those principles were defeasible, subconstitutional rules that the sovereign could override through clear command." *Fuld v. PLO*, 145 S. Ct. 2090, 2115 (2025) (Thomas, J., concurring in the judgment). Judicial deference to the decisions of the political branches to override international default rules "respects the Constitution's design by reserving matters of foreign affairs to the political branches." *Id.*

If courts were to develop rules that supersede the decision of the political branches that a country qualifies as a foreign state, those rules would replicate the patchwork immunity regime that the FSIA aimed to replace. Under the FSIA, a foreign state receives presumptive immunity from suit. *See* 28 U.S.C. § 1604. If immunity were to depend on a country persuading not only the State Department but each court in which litigation occurs that it should be considered a foreign state, there would be even less predictability than prevailed prior to the FSIA. A court in the Second Circuit might decide that Afghanistan is not a foreign state, but a court in the Fifth Circuit might decide that it is—perhaps based on different interpretations of the relevant international law standards. The Supreme Court would need to resolve such disagreements, followed by remands for previously dismissed litigation to proceed or for previously conducted litigation to be dismissed. This sort of system would not represent an improvement on the pre-FSIA framework; it would be more costly and time-consuming, and the strain on American foreign policy would result not from decisions of the politically accountable Executive Branch but from the unaccountable courts.

We have explained that "[i]n the FSIA, Congress set forth 'a comprehensive set of legal standards governing claims of immunity in every civil action against a foreign state or its political subdivisions, agencies, or instrumentalities' and vested sole responsibility for applying those standards in the federal judiciary." *Beierwaltes v. L'Office Federale de la Culture de la Confederation Suisse*, 999 F.3d 808, 818 (2d Cir. 2021) (citation and alteration omitted) (quoting *Verlinden*, 461 U.S. at 488). But that means the responsibility of the federal courts is to adjudicate the "claims of immunity" for which the FSIA provides standards. In contrast to those comprehensive standards, "[t]he FSIA begins with the baseline presumption that foreign states are 'immune from the jurisdiction of United States courts,'" *id.* (quoting *Chettri v. Nepal Rastra Bank*, 834 F.3d 50, 55 (2d Cir. 2016)), and it provides no standards—comprehensive or otherwise—for deciding which entities qualify as foreign states that receive the presumption.

In a different context, the Supreme Court has declined to interpret a statute in a way that "would require courts, rather than the President," to evaluate "a foreign government's conduct" because the statutory text "offers no standards that would enable courts to assess, for example, whether the situation in North Korea justifies entry restrictions while the terrorist threat in Yemen does not." *Trump v. Hawaii*, 138 S. Ct. 2392, 2415 (2018). The FSIA similarly offers no standards for courts to decide—in contravention of the diplomatic position of the United States—that an entity should not be recognized as a foreign state. "[T]he absence of any textual basis" for such authority "likely indicates that Congress did not intend" for courts to exercise it. *Id.*

In my view, the panel opinion was correct to observe that "while the FSIA 'defines the circumstances in which foreign states are immune from suit,' the FSIA emphatically does *not* charge the Judiciary with the threshold power to determine whether the basic legal existence of a foreign state is *recognized*, especially in contravention of the Executive." *Havlish v. Taliban*, 152 F.4th 339, 351 (2d Cir. 2025) (alteration omitted) (quoting *Turkiye Halk Bankasi*, 143 S. Ct. at 947).

"A principal purpose" of the FSIA was "to transfer the determination of sovereign immunity from the executive branch to the judicial branch, thereby *reducing* the foreign policy implications of immunity determinations and assuring litigants that these often crucial decisions are made on *purely legal grounds* and under procedures that insure due process." H.R. Rep. No. 94-1487, at 7 (emphasis added). To transfer the determination of not only immunity but also *statehood* would complicate foreign policy when courts disagreed with each other or with the political branches, and it would require courts to depart from purely legal grounds by making decisions based on extra-statutory standards that implicate political and diplomatic considerations. The FSIA does not suggest that Congress wanted courts to do that.

The other dissent says that if the President wants the courts to respect his recognition decisions, he "is free to file statements of interest suggesting that courts decline to exercise jurisdiction in particular cases implicating foreign sovereign immunity." *Ante* at 7 n.1 (internal quotation marks and alteration omitted). The other dissent reserves judgment on "the question of what degree of deference might be afforded to formal executive intervention" because "the government filed no such statement in this appeal." *Id*. So the other dissent might defer to the recognition decision of the Executive Branch when expressed in a court filing. That possibility undermines the otherwise confident assertion of the other dissent that "Congress vested the courts—not the Executive—with the role of determining whether foreign states should enjoy statutory immunity." *Id.* at 9.

Unquestionably, one purpose of the FSIA was to obviate the need for the State Department to file suggestions of immunity in every case. Yet the other dissent reads the FSIA to require *additional* court filings such that the State Department must provide suggestions not only of *immunity* but also of *statehood*. That approach defeats the purpose of the FSIA. Congress wanted the courts to decide whether a foreign state receives immunity *in a given case*. Nothing in the FSIA confers authority on the courts to determine whether a country should be considered a foreign state at all.

In any event, the Executive Branch *did* provide its views in this case. The United States submitted a letter to the district court arguing that the property of DAB should be immune from execution because "DAB is an agency or instrumentality of the State of Afghanistan." [4] And the United States filed statements of interest explaining that DAB "is the central bank of the foreign state of Afghanistan"[5] and that "DAB is an agency or instrumentality of the State of Afghanistan."[6] If the United States did not insist that Afghanistan is a foreign state as frequently and as fervently as the other dissent would have preferred, that is only because there has never been a practice of filing suggestions of statehood, and no court has ever said that such a practice is required.

B

The FSIA does not empower the courts to countermand the President's decision to recognize a country as a foreign state—and the Constitution certainly does not do so either.

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[4] Letter of the United States at 2, *Owens v. Taliban*, No. 22-CV-1949 (S.D.N.Y. Feb. 24, 2023), ECF No. 81; *see also id.* ("[A]s the United States has previously stated, and confirms again here, the Da Afghanistan Bank ('DAB') 'is an agency or instrumentality of the State of Afghanistan and thus is to be treated as a "foreign state" for purposes of the FSIA.'") (quoting Statement of Interest at 21, *Havlish v. Bin-Laden*, No. 03-CV-9848 (S.D.N.Y. Feb. 11, 2022), ECF No. 563).

[5] Statement of Interest, *supra* note 1, at 8; *see also id.* at 15 ("DAB is the central bank of the State of Afghanistan.").

[6] Statement of Interest at 21, *John Does 1 Through 7 v. Taliban*, No. 20-MC740 (S.D.N.Y. Feb. 11, 2022), ECF No. 49.

Under the Constitution, the President is "the sole organ of the federal government in the field of international relations." *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 320 (1936). The Constitution vests in the President the power to appoint and to receive ambassadors, U.S. Const. art. II, §§ 2-3, and these authorities mean that "recognition is exclusively a function of the Executive," *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398, 410 (1964); *see also Guaranty Trust Co. v. United States*, 304 U.S. 126, 137 (1938) ("What government is to be regarded here as representative of a foreign sovereign state is a political rather than a judicial question, and is to be determined by the political department of the government."). The Supreme Court has reaffirmed that "[r]ecognition is a topic on which the Nation must 'speak with one voice'" and "[t]hat voice must be the President's." *Zivotofsky v. Kerry*, 576 U.S. 1, 14 (2015) (alteration omitted) (quoting *American Ins. Assn. v. Garamendi*, 539 U.S. 396, 424 (2003)).

The other dissent does not dispute that the recognition power belongs exclusively to the President. It argues, however, that while the "formal" recognition of a foreign state is a decision that "unquestionably belongs to the Executive," the "separate and narrower authority to determine when statutorily created FSIA immunity should attach . . . clearly belongs to the Judiciary." *Ante* at 7-8. The other dissent describes the latter determination as involving "the core judicial work of parsing the term 'foreign state.'" *Id.* at 9. And it emphasizes that it "is emphatically the province and duty of the judicial department to say what the law is." *Id.* at 5 (quoting *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803)). But the invocation of that familiar truism begs the question of what the law requires. *Cf. Loper Bright Enters. v.*

Raimondo, 144 S. Ct. 2244, 2263 (2024) (recognizing that sometimes "the best reading of a statute" is that another branch of government has "discretionary authority").

Determining whether a country qualifies as a foreign state under the FSIA is—at the very least—not "a *pure* question of statutory construction." *Ante* at 4 (emphasis added) (quoting *Altmann*, 541 U.S. at 701). The FSIA provides comprehensive statutory standards for evaluating whether, for example, the activities of a foreign state at issue in a particular case were commercial rather than governmental. *See* 28 U.S.C. § 1605(a)(2). But it provides no standards for deciding that a country does not qualify as a foreign state at all and therefore cannot claim immunity in any case. Conducting such an inquiry necessarily requires a court to look beyond the statute to geopolitics, international legal standards, and American diplomacy. That exercise might be inevitable in the absence of a recognition decision by the Executive Branch. Indeed, the traditional approach has been that "a court will decide whether to treat an entity as a state, or a foreign regime as a government, where such a determination is necessary for the purposes of a case before the court" only "[i]n the absence of a Presidential decision." Restatement (Third) of Foreign Relations Law § 204 cmt. a (1987). But when the relevant constitutional actor has exercised the recognition power, the courts have no authority—based on the FSIA or the Constitution—to second-guess it.[7]

[7] I would not displace the traditional approach with the framework proposed in a more recent Restatement. *See Kansas v. Nebraska*, 574 U.S. 445, 475 (2015) (Scalia, J., concurring in part and dissenting in part) ("[M]odern Restatements ... are of questionable value, and must be used with caution. ... Over

The other dissent criticizes the panel opinion for purportedly making ours "the first [c]ircuit court in history to conflate the Executive's power to recognize nations with the Judiciary's duty to interpret the jurisdictional grant of the FSIA." *Ante* at 10. But no circuit court has overridden a decision of the President—acting within his exclusive constitutional sphere of authority—to recognize a country as a foreign state. The other dissent would have ours be the first circuit court in history to conclude that the FSIA requires that result.

The other dissent faults the panel opinion for "blurring the distinction between diplomatic recognition and statutory immunity." *Id.* at 8. But it is the other dissent that blurs the distinction between immunity and statehood, which have always been understood as different concepts. "[N]ineteenth-century courts deferred to executive findings of 'fact' as to whether the government was officially sovereign. But those findings typically did not resolve the immunity

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time, the Restatements' authors have abandoned the mission of describing the law, and have chosen instead to set forth their aspirations for what the law ought to be."); *see also United States v. Yousef*, 327 F.3d 56, 99 (2d Cir. 2003) (explaining that Restatements "are not primary sources of international law" and "at most provide evidence of the practice of States, and then only insofar as they rest on factual and accurate descriptions of the past practices of states, not on projections of future trends or the advocacy of the 'better rule'"). But even the most recent Restatement of Foreign Relations Law explains that "[t]o determine whether a particular territorial, political, or regional body is a foreign state under the FSIA, courts consider *whether it has been formally recognized by the United States*, as well as the criteria of statehood from international law." Restatement (Fourth) of Foreign Relations Law § 452 reporters' note 1 (2018) (emphasis added) (citing *Kirschenbaum v. 650 Fifth Ave. & Related Props.*, 830 F.3d 107, 123 (2d Cir. 2016)).

issue itself, which could be dependent on the facts of the case."[8] When courts "could make independent determinations on whether a foreign sovereign was immune from suit in a particular set of circumstances," the courts nevertheless "regarded themselves as bound by executive branch determinations of the existence of sovereign status."[9]

Perhaps Congress might be able to transfer from the President to the courts the determination of which entities qualify as foreign states under the FSIA. If Congress had provided statutory criteria for determining whether a country qualifies as a foreign state—in the same way that it provided criteria for adjudicating the claim of a foreign state to immunity—we would be compelled to conclude that Congress had attempted to do so. The question would then arise as to whether Congress was constitutionally permitted to transfer so integral an aspect of the recognition power away from the President. The last time such a dispute arose, the Supreme Court explained that "[t]he President's exclusive recognition power encompasses the authority to acknowledge, in a formal sense, the legitimacy of other states and governments, including their territorial bounds," and that this "is an executive power that Congress may not qualify." *Zivotofsky*, 576 U.S. at 17. In light of that decision, I lack the confidence of the other dissent that the Constitution would permit Congress to deprive the President of the power to recognize an entity as a foreign state eligible for a presumption of immunity in American courts—and to confer that power instead on the judiciary.

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[8] G. Edward White, *The Transformation of the Constitutional Regime of Foreign Relations*, 85 Va. L. Rev. 1, 27 (1999).

[9] *Id.* at 134.

But Congress has not even attempted to make such a transfer. Neither the text nor the structure nor the purpose of the FSIA indicates that Congress wanted courts to decide which countries should be recognized as foreign states. And the FSIA has not previously been understood to transfer this aspect of the recognition power to judges. In the absence of a clearly expressed congressional purpose to encroach on what would otherwise be the President's exclusive constitutional power of recognition, I would not conclude that Congress has impliedly so encroached. *See Ashwander v. Tenn. Valley Auth.*, 297 U.S. 288, 347 (1936) (Brandeis, J., concurring) ("[I]f a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter."); *see also Learning Resources, Inc. v. Trump*, 146 S. Ct. 628, 639 (2026) ("'Both separation of powers principles and a practical understanding of legislative intent' suggest[] Congress would not have delegated 'highly consequential power' through ambiguous language.") (plurality opinion) (alteration omitted) (quoting *West Virginia v. EPA*, 142 S. Ct. 2587, 2609 (2022)).

C

While the FSIA does not provide statutory standards for determining whether an entity qualifies as a foreign state, it does provide a detailed scheme for evaluating whether an entity qualifies as an agency or instrumentality of a foreign state. I would accept the determination of the President that Afghanistan is a foreign state but hold that DAB is not an agency or instrumentality of Afghanistan. Accordingly, I agree with the conclusion of the other dissent that

DAB is not entitled to sovereign immunity. *See ante* at 12 n.3.

The FSIA provides that not only the foreign state itself but also an agency or instrumentality of the foreign state receives immunity in American courts. *See* 28 U.S.C. § 1603(a). An agency or instrumentality of a foreign state is an entity that is (1) "a separate legal person, corporate or otherwise," (2) "an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof," and (3) "neither a citizen of a State of the United States . . . nor created under the laws of any third country." *Id.* § 1603(b).

No one disputes that DAB is a separate legal person or contends that it fails the third prong. The question is whether it is "an organ" of Afghanistan or whether a majority of its shares are "owned" by Afghanistan. To determine whether an entity is an organ of a foreign state, we consider "(1) whether the foreign state created the entity for a national purpose; (2) whether the foreign state actively supervises the entity; (3) whether the foreign state requires the hiring of public employees and pays their salaries; (4) whether the entity holds exclusive rights to some right in the foreign country; and (5) how the entity is treated under foreign state law." *Filler v. Hanvit Bank*, 378 F.3d 213, 217 (2d Cir. 2004) (alteration omitted).

The record here demonstrates that the Taliban rather than the State of Afghanistan controls DAB. The district court observed that the Taliban has "laid claim to the roughly $7 billion in assets held by [DAB] at the N.Y. Fed." *Owens v. Taliban*, No. 22-

CV-1949, 2023 WL 2214887, at *1 (S.D.N.Y. Feb. 24, 2023). And the district court found as follows:

> Since taking control of Afghanistan, the Taliban has installed its own officials at DAB, controlled DAB's decision-making, established a committee to replace Afghanistan's central banking laws with traditional Islamic banking, and eliminated (or, at a minimum, seriously compromised) DAB's anti-money laundering and anti-terrorism financing efforts. Foreign governments and organizations have avoided transacting with DAB due to its affiliation with the Taliban.

Id. at *2 (citations omitted). The Taliban has also set workplace conditions at DAB—which now include a prohibition on women employees, mandatory prayer, and the flying of the Taliban flag at meetings. *See Havlish*, 152 F.4th at 371-72 (Sullivan, J., concurring in part and dissenting in part). The record, in other words, shows that DAB is no longer "an organ" of the State of Afghanistan.

The panel opinion did not contend otherwise but concluded that DAB still qualifies as an agency or instrumentality because "a majority of [its] shares or other ownership interest is owned" by the State of Afghanistan. 28 U.S.C. § 1603(b)(2). That conclusion rested on two pieces of evidence. First, "the Afghanistan banking law sets forth th[at] 'the capital of Da Afghanistan Bank shall belong to the State of Afghanistan.'" *Havlish*, 152 F.4th at 357 (alterations omitted) (quoting Afghanistan Bank Law, art. 27.2 (Dec. 17, 2003)). Second, "a study analyzing the structure of central banks finds that DAB is subject to '100% state ownership.'" *Id.* (quoting Jan Weidner, The Organisation and Structure of Central Banks

192 (Dissertation, Technical University of Darmstadt 2017)). This evidence does not support the conclusion of the panel opinion.

The text of § 1603(b)(2) uses the present tense, and we have explained that "the present tense reflects the FSIA's concern with current political realities and relationships." *Bartlett v. Baasiri*, 81 F.4th 28, 33 (2d Cir. 2023) (internal quotation marks omitted); *see also Altmann*, 541 U.S. at 696 ("[S]uch immunity reflects current political realities and relationships, and aims to give foreign states and their instrumentalities some *present* protection from the inconvenience of suit as a gesture of comity.") (internal quotation marks omitted). As a result, we have held that "[t]he most natural reading of the statute is one that gives foreign sovereigns immunity even when they gain their sovereign status mid-suit," and for that reason "immunity under the Foreign Sovereign Immunities Act may attach when a defendant becomes an instrumentality of a foreign sovereign after a suit is filed." *Bartlett*, 81 F.4th at 33 (citation omitted). It follows that immunity may also be lost when a defendant ceases to be an instrumentality of a foreign sovereign because a non-sovereign entity has captured it.

So it matters that the Afghanistan banking law is no longer operative and does not reflect the current ownership of DAB. The study of central banks—which was published before the Taliban took over DAB—simply repeats the formalities of the inoperative banking law. *See* Weidner, *supra*, at 192. It does not address the current reality of the ownership or control of DAB.

The panel opinion departed from those precedents holding that claims of immunity must be evaluated in light of current political realities. I would rehear these cases *en banc* to eliminate the conflict with those precedents. *See* Fed. R. App. P. 40(b)(2)(A)-(B). In doing so, I would conclude that DAB is not an agency or instrumentality of Afghanistan but rather of the Taliban and is not entitled to immunity under the FSIA.

II

I agree with the other dissent that the panel opinion additionally erred in holding that the status of an entity as an agency or instrumentality of a terrorist party under the TRIA must be determined as of the time the assets were blocked. *See Havlish*, 152 F.4th at 364-65. I would rehear these cases *en Banc* to correct this second error as well.

Section 201(a) of the TRIA authorizes plaintiffs to seek execution or attachment of "the blocked assets of [a] terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party)." 28 U.S.C. § 1610 note. Section 201(d)(2)(A) defines "blocked asset" as "any asset seized or frozen by the United States." *Id.* The panel opinion concluded that "[t]he blocking date . . . serves as a critical inflection point ripe for determining the time at which we should evaluate an entity's status under the TRIA as an agency or instrumentality." *Havlish*, 152 F.4th at 364.

That analysis does not follow from the statutory phrase "blocked assets." An asset may be frozen by the United States, and its owner may later become an agency or instrumentality of a terrorist party. The asset would remain an "asset seized or frozen by the United States"—and accordingly a "blocked asset"—regardless of the change in status of the owner. While "'blocking' is a status *imposed* by the United States at a certain time," *id.* (emphasis added), the status of being a "blocked asset" continues past the blocking date.

The panel opinion suggested that "blocked assets are not 'of' a terrorist party if those assets did not belong to either the terrorist party, or an entity then operating as an agency or instrumentality of the terrorist party, as of the date that the assets were blocked." *Id.* But assets that yesterday were not "of" a terrorist party might today be "of" a terrorist party if the owner has become an agency or instrumentality of a terrorist party. *Cf. Bartlett*, 81 F.4th at 33. No one doubts that the blocked assets here are assets "of" DAB or that DAB is controlled by the Taliban. If the assets were unblocked today, DAB—and therefore the Taliban—would control the assets.

Even if there were some policy reason to approach blocked assets in the way the panel opinion described, that was not the policy that Congress adopted in the TRIA. The statute straightforwardly provides that assets shall be available to satisfy a judgment against a terrorist party if the assets are "blocked" and are "of th[e] terrorist party." 28 U.S.C. § 1610 note. There are no additional requirements.

The history of the statute confirms that Congress intended to adopt this uncomplicated rule. Prior to the TRIA, the President was statutorily authorized to prevent the attachment of the blocked property of foreign states, and he often did so.[10] Congress enacted

[10] *See Heiser v. Islamic Republic of Iran*, 735 F.3d 934, 939 (D.C. Cir. 2013) ("The President waived [attachment] in almost all cases after finding that attachment of blocked property would 'impede the ability of the President to conduct foreign policy' and 'impede the effectiveness of prohibitions and regula-

the TRIA to prevent the President from impeding recovery by judgment creditors. *See Heiser*, 735 F.3d at 939. The statute aimed not only to enable "victims of terrorism" to satisfy judgments "from the frozen assets of terrorist parties" but also to "establish[] once and for all, that such judgments are to be enforced against any assets available in the U.S., and that *the executive branch has no statutory authority to defeat such enforcement under standard judicial processes*." *Weinstein v. Islamic Republic of Iran*, 609 F.3d 43, 50 (2d Cir. 2010) (emphasis added) (quoting 148 Cong. Rec. S11528 (Nov. 19, 2002) (statement of Sen. Harkin)). Congress directed that the blocked assets could be used to pay victims "whether or not the executive agreed." *Heiser*, 735 F.3d at 939. But the panel opinion—by limiting the reach of the TRIA to assets that belonged to terrorists before the Executive Branch blocked the assets—effectively returned to the Executive Branch the sort of discretionary power over the assets that the TRIA aimed to eliminate.

These cases illustrate the problem. It is undisputed that the assets are blocked, and there is no real question that the owner of those assets—DAB—is an agency or instrumentality of the Taliban. Yet the panel opinion held that the assets are beyond the reach of victims of terrorism because DAB was not an agency or instrumentality of the Taliban at the time the Executive Branch decided to block the assets. The Executive Branch blocked the assets when the Taliban captured Kabul, however, precisely to *avoid* the use of the assets for terrorist purposes. Pursuant to

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tions upon financial transactions.'") (alteration omitted) (quoting Determination to Waive Requirements Relating to Blocked Property of Terrorist-List States, 63 Fed. Reg. 59201, 59201 (Oct. 21, 1998)).

the panel opinion, if the government had blocked the assets *after* the Taliban took over DAB, the funds would be available to victims of the Taliban. But if the government blocked the assets *because* the Taliban was *about* to take over DAB, the victims cannot recover.

The theory of the panel opinion seems to be that the assets continue to belong to the preexisting DAB that was not an agency or instrumentality of the Taliban. But that DAB does not exist. The assets belong to the actual DAB that is an agency or instrumentality of the Taliban. And the TRIA deals with actual rather than imaginary ownership. *Cf. id.* at 940 (deciding, for purposes of the TRIA, whether an entity "actually owns the contested accounts" by reference to a conventional and commonly accepted "measure of ownership").

I would rehear these cases to hold that the status of an entity as an agency or instrumentality of a terrorist party under the TRIA must be assessed at the time of the turnover order because the statute, as in the related context of the FSIA, concerns "current political realities and relationships." *Bartlett*, 81 F.4th at 33.

* * *

The panel opinion correctly accepted the recognition decision of the President that Afghanistan is a foreign state. But when evaluating whether DAB qualifies as an agency or instrumentality under either the FSIA or the TRIA, the panel opinion ignored the statutory command that sovereign immunity and the execution of judgments must reflect current political realities. DAB is an instrumentality of the Taliban rather than the State of Afghanistan. Because the panel opinion pretended otherwise, I would rehear the cases *en banc*. I dissent from the decision of the court not to do so.

JOSÉ A. CABRANES AND GUIDO CALABRESI, *Circuit Judges*:

After careful review, the Court has voted to deny *en banc* review of these cases. Rightly so. Although the cases involve highly complicated legal issues, we addressed them head-on and painstakingly in our Majority Opinion. Rather than re-engage in lengthy disputations here, we stand by—and refer all interested persons to—that Opinion.

APPENDIX C

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

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03 MDL 1570 (GBD) (SN)

IN RE: TERRORIST ATTACKS ON SEPTEMBER 11, 2001

This document relates to:

Smith v. The Islamic Emirate of Afghanistan, et al., No. 01-cv-10132
Ashton, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-6977
Havlish, et al. v. Bin Laden, et al., No. 03-cv-9548
Fed. Ins. Co. et al. v. Al Qaida, et al., No. 03-cv-6975
John Does 1 Through 7 v. The Taliban, et al., No. 20-mc-740

MEMORANDUM DECISION AND ORDER

GEORGE B. DANIELS, United States District Judge:

In this multidistrict litigation, four groups of judgment creditors ("Judgment Creditors")[1] with jud-

[1] The Judgment Creditors are the four sets of Plaintiffs in the following cases: *Smith v. The Islamic Emirate of Afghanistan, et al.,* No. 01-cv-10132 (the *"Smith* Creditors"), *Havlish, et al. v. Bin Laden, et al.,* No. 03- cv-9848 (the *"Havlish* Creditors"), *Fed. Ins. Co. et al. v. Al Qaida, et al.,* No. 03-cv-6978 (the *"Federal Insurance* Creditors"), and *John Does I Through* 7 v. *The Taliban, et al.,* No. 20-mc-740 (the *"Doe* Creditors"). In their filings,

gments against the Taliban stemming from the terrorist attacks on September 11, 2001 (the "9/11 Attacks") moved for turnover to satisfy their judgments with assets in the name of Afghanistan's central bank, Da Afghanistan Bank ("DAB"), held at the Federal Reserve Bank of New York (the "FRBNY"). (ECF Nos. 7763, 7767, and 7936 in No. 03-md-1570; ECF No. 62 in No. 01-cv-10132; ECF No. 597 in No. 03-cv-9848.)[2] Before this Court is Magistrate Judge Sarah Netburn's August 26, 2022 Report and Recommendation (the "Report"), recommending that this Court deny the Judgment Creditors' motions and not allow Judgment Creditors of the Taliban to satisfy their judgments with DAB funds. *(See* Report, ECF No. 8463, at 2.) Magistrate Judge Netburn advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. *(Id.* at 42-43.) Judgment Creditors filed objections on November 10, 2022, *(see* Objections, ECF No. 8733),[3] and *amicus curiae* Mr. Naseer A. Faiq, the *Chargé de Affaires* of the Permanent Mission of the Islamic Republic of Afghanistan, responded to those objections on November 25, 2022, *(see* Faiq Nov. 25, 2022 Letter, ECF No. 8773).[4]

Judgment Creditors refer to themselves collectively as the "Joint Creditors."

[2] Unless otherwise indicated, all references made herein to the docket sheet refer to the main docket sheet for this multidistrict litigation, No. 03-md-1570. Plaintiffs in *Ashton, et al. v. Al Qaeda Islamic Army, et al.,* No. 02-cv-6977 *("Ashton* Plaintiffs") also filed an *ex parte* motion for attachment. (ECF No. 8412; ECF No. 1724 in No. 02-cv-6977.)

[3] *Ashton* Plaintiffs joined the Judgment Creditors' objections in part. *(See Ashton* Nov. 16, 2022 Letter, ECF No. 8756.)

[4] This Court accepts the *amicus* letter from Mr, Faiq as a response to the Judgment Creditors' objections because Magis-

Because the parties filed timely objections, this Court undertakes a *de novo* review of the Report. After doing so, this Court ADOPTS Magistrate Judge Netburn's Report in finding that this Court lacks subject-matter jurisdiction over the turnover motions under the FSIA, (Report at 12-26), and that this Court is constitutionally restrained from determining the Taliban is the legitimate government of Afghanistan as required to attach DAB's assets, (Report at 27-37).[5] For the reasons stated herein, the Judgment Creditors' turnover motions are DENIED.

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trate Judge Netburn granted Mr. Faiq's motion, among others, for leave to file an *amicus* brief on April 27, 2022, prior to the issuance of her Report. *(See* Report at 10-11 (citing Order on *Amici,* ECF No. 7925; also citing Faiq Am. *Amicus* Br., ECF No. 7932-1); *see also* procedural history *infra* Section II.C.)

[5] This Court declines to adopt the Report's determination that the Taliban's nonconsensual control prevents DAB from being a Taliban agency or instrumentality. *(See* Report at 37-41.) It is not this Court's responsibility to assess whether the fact that "DAB has been violently occupied by the Taliban" via the Taliban takeover of Afghanistan consequently disqualifies DAB as an instrumentality of the Taliban. *(Contra id.* at 37.) One need only look at numerous examples throughout the world to understand the historic role of military force in the destruction and formation of recognized governments. This Court thus rejects the Report's finding that "the relationship between a terrorist [party] and its agency or instrumentality must be consensual." *(Id.* at 40); *see also, Kirschenbaum v. 650 Fifth Ave.,* 257 F. Supp. 3d 463, 523 (S.D.N.Y. 2017), *rev'd and remanded on other grounds sub nom. Havlish v. 650 Fifth Ave. Co.,* 934 F.3d 174 (2d Cir. 2019) *("Kirschenbaum II")* ("As a matter of law . . . this Court does not believe knowledge of instrumentality status is a required element for a TRIA § 201(a) claim; . . . people or entities may become the unwitting instruments of another.").

1. LEGAL STANDARD

A court "may accept, reject, or modify, in whole or in part, the findings or recommendations" set forth in a magistrate judge's report. 28 U.S.C. § 636(b)(1)(C). The court must review *de novo* the portions of a magistrate judge's report to which a party properly objects. *Id.* The court, however, need not conduct a *de novo* hearing on the matter. *See United States v. Raddatz,* 447 U.S. 667, 675-76 (1980). Rather, it is sufficient that the court "arrive at its own, independent conclusion" regarding those portions of the report to which objections are made. *Nelson v. Smith,* 618 F. Supp. 1186, 1189-90 (S.D.N.Y. 1985) (citation omitted).

Portions of a magistrate judge's report to which no or "merely perfunctory" objections are made are reviewed for clear error. *See Edwards v. Fischer,* 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006) (citations omitted). The clear error standard also applies if a party's "objections are improper—because they are conclusory," 'general,' or 'simply rehash or reiterate the original briefs to the magistrate judge.' *Stone v. Comm'r of Soc. Sec.,* No. 17-cv-569 (RJS)(KNF), 2018 WL 1581993, at *3 (S.D.N.Y. Mar. 27, 2018) (citation omitted). Clear error is present when "upon review of the entire record, [the court is] 'left with the definite and firm conviction that a mistake has been committed.'" *United States v. Snow,* 462 F.3d 55, 72 (2d Cir. 2006) (citation omitted).

II. BACKGROUND

A. Afghanistan and 9/11

The 9/11 Attacks resulted in the murder of nearly three thousand innocent people and injuries to thousands more.[6] In the ensuing days, U.S. President George W. Bush launched a global military campaign to respond to the 9/11 Attacks and counter international terrorism. Since 1996, the Taliban had *de facto* control over the Islamic Emirate of Afghanistan, although the United States did not recognize the Taliban as Afghanistan's government.[7] President Bush demanded that the Taliban permanently close terrorist training camps within Afghanistan's borders and hand over those responsible for the 9/11 Attacks, principally al Qaeda leader Osama bin Laden. *(See Smith,* No. 01-cv-10132, ECF No. 63-3, Clayton Thomas, CONG. RSCH. SERV., *Taliban. Government in Afghanistan: Background and issues for Congress* 2 (2021) ("Taliban Background").) When the Taliban refused, the United States and coalition allies invaded Afghanistan on October 7, 2001 as part of Operation Enduring Freedom. *See id.* 2-3. Taliban forces fled Kabul, and the Islamic Emirate of Afghanistan collapsed within weeks. *Id.* The United Nations helped form an interim, and then transitional, government backed by U.S. and allied forces, culminating in the formation of the Islamic Republic of Afghanistan (the "Republic") in 2004. *See id.* at 3, 28.

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[6] This Court assumes familiarity with the general background of this case and will only restate relevant factual background as necessary to address the pending motions. Because Sections I and II of the Report are adopted in full unless otherwise noted, this Court refers to facts detailed in the Report throughout this opinion.

[7] "The United States did not recognize the 1996-2001 Taliban government, maintaining that between 1996 and 2000, 'there was no functioning central government' in Afghanistan." *(Smith,* No. 0l-cv-l0132, ECF No. 63-3, Clayton Thomas, CONG. RSCH. SERV., *Taliban Government in Afghanistan: Background and* I*ssues for Cong*r*ess* 28 (2021) (citation omitted).)

Following a brutal war spanning two decades, the Taliban has returned to power in Afghanistan. During the administration of President Donald Trump, a February 2020 U.S.-Taliban agreement stipulated that the United States and its allies would fully withdraw all international forces from Afghanistan by May 2021. In April 2021, President Joseph Biden postponed this deadline to August of the same year. *Id.* at 6-7. The Taliban soon thereafter began a sweeping military offensive, capturing large swaths of Afghanistan before finally entering Kabul to overthrow the Republic on August 15, 2021. *See id.* at 7-8. Although U.S. forces managed to evacuate approximately 124,000 people up until the last American soldier left Afghanistan on August 30, 2021, the chaotic final days of U.S. presence coincided with a catastrophic suicide bombing at Kabul's international airport and stranded hundreds of U.S. citizens and tens of thousands of Afghans who had worked with the United States. *See id.* at 22-23.

The people of Afghanistan then faced a relentless barrage of calamities. Up to 97 percent of Afghans may fall into poverty amid the collapse of the banking sector, and more than a million children are at risk of dying of starvation. (See Report at 4 (citing Faiq Am. *Amicus* Br., ECF No. 7932-1, at 2-3).) Some families have resorted to selling bodily organs or their own children to afford food. *(See id.* (citing Afghan Civ. Soc'y Orgs. *Amicus* Br., ECF No. 7896-1, at 5; also citing Faiq Am. *Amicus* Br. at 3).) The Taliban is ruthlessly hunting down journalists, civil society leaders, women activists, religious and ethnic minorities, former Republic officials, and former Afghan security forces who served with U.S.-allied forces. *(See id.* (citing Afghan Civ. Soc'y Orgs. *Al* Br. at 6).) After issuing edicts banning women from attending high school or college, the Taliban recently imposed a ban on women conducting humanitarian work, endangering approximately 28 million Afghans who desperately need assistance to survive a harsh winter, economic collapse, and the risk of famine. *See UN and Top Aid Officials Slam Afghan Rulers' NGO Ban for Women,* UN NEWS (Dec. 29, 2022), https://news.un.org/en/story/2022/12/1132082.

As before, the United States does not recognize the Taliban regime as the *de jure* government of Afghanistan. *(See* Report at 4 (citing U.S. Statement of Interest, ECF No. 7661, at 34.) Indeed, no country in the world does. *See, e.g.,* Belquis Ahmadi & Scott Worden, *The Taliban Continue to Tighten Their Grip on Afghan Women and Girls,* U.S. INSTIT. PEACE (Dec. 8, 2022), https://www.usip.org/publications/2022/12/taliban-continue-tighten-their-grip-afghan-women-and-girls.

B. Da Afghanistan Bank

DAB has been the central bank of Afghanistan since its founding in 1939. (Report at 4 (citing Decl. Alex Zerden, ECF No. 7766 ¶ 16).) When the Republic fell in August 2021, DAB held approximately $7 billion in assets at the FRBNY. *(Id.* (citing *Havlish* Mem. of Law on Mot. for Turnover, ECF No. 7764). Most of these funds came from international donors and the savings of Afghan citizens. *(Id.* (citing Faiq Am. *Amicus* Br. at 19 n.18).) The U.S. Treasury Department blocked the assets on August 15, 2021—the same day that the Taliban entered Kabul. *(Id.* (citing Taliban Background at 39).) While the action helped ensure that the funds would not fall into Taliban hands, it further exacerbated Afghanistan's humanitarian crisis because Afghan "banks were unable to lend money and citizens [were] unable to withdraw their own funds." *(Id.* (citing Afghan Civ. Soc'y Orgs. *Amicus* Br. at 5).)

In February 2022, President Biden issued an executive order titled "Protecting Certain Property of Da Afghanistan Bank for the Benefit of the People of Afghanistan." Exec. Order No. 14,064, 87 Fed. Reg. 8391 (Feb. 11, 2022) ("E.O. 14,064"). The order addressed the frozen assets and stated that "the preservation of certain property of Da Afghanistan Bank (DAB) held in the United States by United States financial institutions is of the utmost importance to addressing this national emergency and the welfare of the people of Afghanistan." *Id.* Executive Order 14,064 determined that "the widespread humanitarian crisis in Afghanistan—including the urgent needs of the people of Afghanistan for food security, livelihoods support, water, sanitation, health, hygiene, shelter and settlement assistance, and COVID-19-related assistance, among other basic human needs" constituted an "unusual and extraordinary threat to the national security and foreign policy of the United States." (Report at 5 (quoting E.O. 14,064).) As a result, President Biden declared a national emergency and ordered that "[a]ll property and interests in property of DAB that are held . . . in the United States by any United States financial institution, including the Federal Reserve Bank of New York, are blocked . ." *(Id.* (quoting E.O. 14,064 § 1(a)).)

The U.S. Treasury's Office of Foreign Assets Control ("OFAC") implemented Executive Order 14,064 through its issuance of License No. DABRESERVES-EO-2022-886895-1. *(Id.* (citing U.S. Statement of Interest, Ex. B, ECF No. 7661-2 (the "OFAC License").) The United States sought to use the license to transfer $3.5 billion—approximately half of DAB's assets—

"for the benefit of the people of Afghanistan, including to an international financing mechanism (in which the United States is a member) holding and disbursing funds for the benefit of the people of Afghanistan, or to a United Nations fund, programme, specialized agency, or other entity or body for the benefit of the people of Afghanistan." *(Id.* (quoting OFAC License § 1(b)).) The United States reported that this OFAC License could not take effect without the Court modifying the writs of execution obtained by the Judgment Creditors or otherwise confirming that the writs did not restrain the $3.5 billion the license sought to transfer. *(Id.* at 5-6 (citing U.S. Statement of Interest at 2-3).) On February 25, 2022, Magistrate Judge Netburn issued an order with the parties' consent confirming that the writs did not restrain the $3.5 billion under the OFAC License. *(See* U.S. Dep't of Just. Feb. 24, 2022 Letter, ECF No. 7700; Order on OFAC License, ECF No. 7701.) The FRBNY retained the remaining DAB funds of $3.5 billion at issue here. (Report at 5-6.)

C. Procedural History

The Judgment Creditors hold default judgments against the Taliban for their losses arising from the 9/11 Attacks and other acts of terrorism. *(See id.* at 6-9 (detailing judgments and timeline).) The *Havlish* Creditors and *Smith* Creditors brought suit and obtained default judgments against the Taliban for losses suffered on 9/11. *(Id.* at 6-8.) The *Federal Insurance* Creditors are insurance companies that made payments because of the 9/11 Attacks and obtained a default judgment against the Taliban for their economic losses. *(Id.* at 7.) The *Doe* Creditors obtained a default judgment against the Taliban, among others, arising from a 2016 attack by the Taliban and other terrorist groups at a contractor compound in Afghanistan. *(Id.* at 8.) All of the Judgment Creditors hold judgments against the Taliban that remain substantially unsatisfied. *(See id.* at 6—9.)

The Judgment Creditors now seek to satisfy their judgments against the Taliban with DAB assets. The Republic was defending against claims consolidated in this multidistrict litigation until the Taliban takeover. *(See, e.g., Faulkner v. Bin Laden, et al.,* No. 09-cv-07055, ECF No. 184.) After the Republic fell, the Judgment Creditors obtained writs of execution targeting DAB funds held at FRBNY and later filed respective motions for turnover of the funds pursuant to Federal Rule of Civil Procedure 69(a), New York Civil Practice Law and Rules ("CPLR") §§ 5225(b) and 5227, and the Terrorism Risk Insurance Act of 2002 ("TRIA") § 201, Pub. L. No. 107-297, 116 Stat. 2337, as amended, Pub. L. No. 112-158, 126 Stat. 1260 (codified at 28 U.S.C. § 1610 note). *(See* Report at 6-9 (detailing motions and timeline).) No Judgment Creditor holds a judgment against the state of Afghanistan or DAB. *(Id.* at 6.) Further, no representative for Afghanistan, DAB, or the Taliban is currently defending in this multidistrict litigation. *(Id.)*

The United States Government filed a Statement of Interest for these turnover proceedings. *(See* U.S. Statement of Interest.) Factually, the United States stated that DAB is the central bank of Afghanistan, *(id.* at 8), and provided that the United States has not recognized the Taliban or any other entity as the government of the state of Afghanistan, *(id.* at 26). While acknowledging "a compelling interest in permitting victims of terrorism to obtain compensation to the greatest degree permitted under the law," *(id.*

at 19), the United States asserted "a strong interest in the President's constitutional authority to make decisions with respect to the recognition of foreign governments and . . . in ensuring the proper construction of TRIA and the Foreign Sovereign Immunities Act," *(id.* at 3). The United States took "no position" on whether the Judgment Creditors had satisfied TRIA's requirements for turnover of DAB's assets. (Report at 9 (citing U.S. Statement of Interest at 19-20).) However, the United States noted that the courts should narrowly construe exceptions to the immunity of foreign sovereign property and measure such exceptions "against a benchmark that accounts for the risk of reciprocal challenges to American property abroad." *(id.* at 10 (citing U.S. Statement of Interest at 27).) Further, the United States argued that the Judgment Creditors "must establish a theory of ownership by the Taliban that would not require this Court—either expressly or by implication—to make its own determination as to the identity of Afghanistan's government" because such a determination would infringe on the President's constitutional powers to recognize a foreign government. *(See* U.S. Statement of Interest at 26-27.)

Magistrate Judge Netburn accepted four *amicus curiae* briefs on these turnover motions. (Report at 10.) The briefs are from (1) the Women's Forum on Afghanistan (Women's F. Mar. 30,2022 Letter, ECF No. 7823, at 3-4), (2) the Center for Constitutional Rights on behalf of four Afghan civil-society organizations (Afghan Civ. Soc'y Orgs. *Amicus* Br.),[8] (3) the

[8] Those organizations are Global Advocates for Afghanistan, the Afghan Network for Advocacy and Resources, Afghans For A Better Tomorrow, and the Afghan-American Community Organization. *(See* Afghan Civ. Soc'y Orgs.. *Amicus* Br. at vi—vii.)

nongovernmental organization Unfreeze Afghanistan (Unfreeze Afghanistan *Amicus* Br., *Havlish,* No. 03-cv-9848, ECF No. 617), and (4) the Open Society Justice Initiative, submitted on behalf of Mr. Naseer A. Faiq, the *Chargé de Affaires* of the Permanent Mission of the Islamic Republic of Afghanistan (Faiq Am. *Amicus* Br.). Together, "[t]hese briefs describe the devastating effects that the Taliban's takeover has had on Afghan civil society and on the Afghan people. They also raise[] several legal arguments against the Judgment Creditors' turnover motions." (Report at 11.) Magistrate Judge Netburn rejected two amicus briefs from groups that included members already represented in this litigation. (Apr. 27, 2022 Order on *Amici,* ECF No. 7925; May 2, 2022 Order on *Amici,* ECF No. 7941.) This Court also denied, based on being unhelpful and untimely, subsequent separate motions for leave to submit briefs as *amici curiae* from Osen LLC and Freshfields Bruckhaus Deringer US LLP on behalf of unnamed "former members of Congress and former government officials." *(See* Nov. 29, 2022 Order on *Amici,* ECF No. 8776, at 3.) Additionally, the FRBNY submitted a single non-substantive letter. (FRBNY May 20, 2022 Letter, ECF No. 8040.)

On August 26, 2022, Magistrate Judge Netburn issued her Report recommending that this Court deny the Judgment Creditors' motions and not allow the Judgment Creditors' to satisfy their judgments with DAB funds. *(See* Report at 2.) The Judgment Creditors filed timely objections on November 10, 2022, *(see* Objections), and Mr. Faiq responded to those objections on November 25, 2022, *(see* Faiq Nov. 25, 2022 Letter). The Judgment Creditors then replied to Mr. Faiq's filing. (Joint Creditors Dec. 14, 2022 Letter, ECF No. 8805.) Additionally, Mr. Faiq filed a notice of supplemental authority relating to the Report's interpretation of TRIA, *(see* Faiq Oct. 17, 2022 Letter, ECF No. 8645), and the Judgment Creditors responded, *(see* Joint Creditors Mem. of Law in Resp. to Suppl. Authority, ECF No. 8735).

III. MAGISTRATE JUDGE NETBURN CORRECTLY DETERMINED THAT THIS COURT LACKS SUBJECT-MATTER JURISDICTION OVER THE TURNOVER MOTIONS UNDER THE FOREIGN SOVEREIGN IMMUNITIES ACT

This Court lacks subject-matter jurisdiction over DAB and, by extension, over these turnover motions under the Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. § 1602 *et seq.* DAB is the central bank of Afghanistan. As an instrumentality of a foreign state, DAB enjoys two presumptive immunities under the FSIA: (1) immunity from jurisdiction and (2) immunity from execution on its property. Both immunities must be independently overcome for a party to reach the assets of an instrumentality of a foreign state. Here, "the Judgment Creditors propose to take their judgments against the non-sovereign Taliban, have DAB declared a Taliban instrumentality, and obtain a waiver of both DAB'S immunities under TRIA § 201(a)." (Report at 20.) While TRIA can overcome jurisdictional immunity under certain circumstances, those circumstances are not present here. Therefore, DAB retains its jurisdictional immunity, and this Court lacks subject-matter jurisdiction over DAB and the turnover motions.

A. DAB is a Central Bank Under the FSIA with Both Jurisdictional Immunity and Execution Immunity

"[T]he FSIA is the 'sole basis for obtaining jurisdiction over a foreign state in [U.S.] courts.'" *Mobil Cerro Negro, Ltd. v. Bolivarian Republic of Venezuela,* 863 F.3d 96, 113 (2d Cir. 2017) (quoting *Argentine Republic v. Amerada Hess Shipping Corp.,* 488 U.S. 428, 434 (1989)). Foreign states are immune from court jurisdiction unless a specific exception to jurisdictional immunity applies. *Samantar v. Mitsui;* 560 U.S. 305, 313 (2010) ("The FSIA provides that 'a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States' except as provided in the Act." (quoting 28 U.S.C. § 1604)). The FSIA "must be applied by the District Courts in every action against a foreign sovereign, since subject matter jurisdiction in any such action depends on the existence of one of the specified exceptions to foreign sovereign immunity." *Verlinden B. V. v. Cent. Bank of Nigeria,* 461 U.S. 480, 493 (1983) (citation omitted). Thus, in order for a court to determine whether it holds subject-matter jurisdiction over a case against a foreign sovereign or its instrumentalities, the court must make a FSIA immunity determination regardless of whether the foreign state is participating in the proceedings. *d,* at 494 n.20 ("[E]ven if the foreign state does not enter an appearance to assert an immunity defense, a District Court still must determine that immunity is unavailable under the [FSIA].").

For the purposes of the immunity determination under the FSIA, a foreign state "includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state." 28 U.S.C. § 1603(a). The FSIA provides that an "agency or instrumentality of a foreign state" is any entity

> (1) which is a separate legal person, corporate or otherwise, and
>
> (2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and
>
> (3) which is neither a citizen of a State of the United States as defined in section 1332(c) and (e) of this title, nor created under the laws of any third country.

Id. § 1603(b)(1)—(3); *(see also* Report at 14 (quoting same)). A central bank is "the paradigm of a state agency or instrumentality." *S & S Mach. Co. v. Masinexportimport,* 706 F.2d 411, 414 (2d Cir. 1983). Here, all parties and the United States agree that DAB is the central bank of Afghanistan, although the United States has not yet recognized any regime as the *government* of Afghanistan. *(See* Report at 19.) The United States reconciles this apparent contradiction by noting that "there is a distinction between a foreign *government* and a foreign *state,* and '[a] state can . . recognize or treat an entity as a state while denying that a particular *regime is* its *government.*'" (Statement of Interest at 25 (quoting RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 203 cmt. a (1987)) (emphases added).) Therefore, as a central bank, DAB is the instrumentality of the foreign state of Afghanistan.

Generally, a foreign sovereign state and its agencies and instrumentalities, such as DAB, have "two types of foreign sovereign immunity [under the FSIA]—immunity from jurisdiction and immunity from attachment and execution of the sovereign's property." *Vera v. Banco Bilbao Vizcaya Argentaria, S.A.,* 946 F.3d 120, 133 (2d Cir. 2019) *("Vera II").* FSIA § 1604 grants foreign states and their instrumentalities immunity from *jurisdiction,* unless an exception under §§ 1605 to 1607 applies. In contrast, FSIA § 1609 renders the *property* of foreign states and their instrumentalities immune from *attachment* and *execution,* unless an exception under §§ 1610, 1611 applies. These "provisions governing jurisdictional immunity, on one hand, and execution immunity, on the other, operate independently." *Walters v. Indus. & Coin Bank of China, Ltd.,* 651 F.3d 280, 288 (2d Cir. 2011). "[A] waiver of immunity from suit does not imply a waiver of immunity from attachment of property, and a waiver of immunity from attachment of property does not imply a waiver of immunity from suit." *Id.* (quoting RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 456(1)(b)). Thus, a party seeking to attach the central bank assets of a foreign sovereign must overcome both immunities. *(See also* Report at 15.)

Because DAB is Afghanistan's central bank, it is immune from the jurisdiction of U.S. courts under 28 U.S.C. § 1604 unless an exception to jurisdictional immunity applies. As to foreign state property, the FSIA neither grants nor forbids *in rein* civil-forfeiture actions. *See United States v. Assa Co.,* 934 F.3d 185, 190 (2d Cir. 2019) ("The FSIA does not create jurisdiction over, and does not immunize a foreign state's property from, *in rem* civil-forfeiture actions."). However, such actions face a steep climb because the FSIA was designed "to prevent the location of the [foreign state] property from conferring jurisdiction on the court—i.e., to prevent *in rem* and *quasi-in-rein* actions from undermining the general principles codified in the FSIA." *Brenntag Int'l Chemicals, Inc. v.*

Bank of India, 175 F.3d 245, 253 (2d Cir. 1999). Through the FSIA, "Congress sought to clamp down on *quasi in rem* suits because they 'caused significant irritation to many foreign governments' and could potentially 'give rise to serious friction in United States' foreign relations.' *Assa Co.,* 934 F.3d at 190 (citation omitted).

Furthermore, central bank assets used for central banking enjoy stronger protection from execution. FSIA § 1611(b)(1) stipulates that, notwithstanding the normal exceptions permitting execution on a foreign sovereign's assets, "the property . . . of a foreign central bank or monetary authority held for its own account" is immune from attachment or execution. *(See also* Report at 15.) In drafting the FSIA, Congress determined that "[i]f execution could be levied on such funds without an explicit waiver, deposit of foreign funds in the United States might be discouraged. Moreover, execution against the reserves of foreign states could cause significant foreign relations problems." *EM Ltd. v. Republic of Argentina,* 473 F.3d 463, 473 (2d Cir. 2007) (quotation marks and citation omitted). Courts must therefore be especially cautious about "weakening the immunity from suit or attachment traditionally enjoyed by the instrumentalities of foreign states" because such actions "could lead foreign central banks, in particular, to withdraw their reserves from the United States and place them in other countries." *EM Ltd. v. Banco Cent. De La Republica Argentina,* 800 F.3d 78, 98 (2d Cir. 2015) (quotation marks and citation omitted).

Here, the Judgment Creditors seek DAB assets maintained for central banking and held at the FRBNY. Therefore, to reach DAB's assets, the Judgment Creditors need exceptions to the FSIA both for

DAB's jurisdictional immunity and execution immunity; they look to TRIA.

B. TRIA Does Not Nullify DAB's Jurisdictional Immunity to Provide This Court with Subject-Matter Jurisdiction

The Judgment Creditors argue that TRIA's text nullifies any relevant constraint on DAB's jurisdictional immunity provided by the FSIA. *(See generally* Objections at 28-39.) A court begins its statutory analysis by looking to the ordinary meaning of the statutory text, rules of grammar, and statutory context. *See N.L.R.B. v. SW Gen., Inc.,* 580 U.S. 288, 299-301 (2017); *see also United States v. Sampson,* 898 F.3d 287, 302 (2d Cir. 2018) (looking to the "plain language" of the statutory text). Codified as a note to 28 U.S.C. § 1610, TRIA § 201(a)'s terrorism-related exception reads

> Notwithstanding any other provision of law . . . in every case in which a person has obtained a judgment against a terrorist party on a claim based upon an act of terrorism, or for which a terrorist party is not immune under [28 U.S.C. § 1605A or 28 U.S.C. § 1605(a)(7)(repealed)], the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy such judgment to the extent of any compensatory damages for which such terrorist party has been adjudged liable.

TRIA § 201(a). As applicable to TRIA, "courts must be careful when interpreting the scope of the FSIA's exceptions" in order to ensure foreign sovereigns are held accountable "where Congress dictated," while avoiding "a flood of suits against foreign states, prompting those nations to reciprocate in foreign suits against the United States." *Beierwaltes v. L'Office Federale De La Culture De La Confederation Suisse,* 999 F.3d 808, 819 (2d Cir. 2021) (citations omitted).

In arguing that TRIA's exception abrogates the FSIA's provisions on jurisdictional immunity, the Judgment Creditors assert that TRIA § 201(a)'s clause of "[n]otwithstanding any other provision of law" overcomes any barrier to execution posed by DAB's jurisdictional immunities. *(See* Objections at 32-35; *see also* Report at 20-27.) For such a notwithstanding clause, courts must determine the statute's scope to understand what laws are overcome by the clause. *See Smith v. Fed. Rsrv. Bank of New York,* 280 F. Supp. 2d 314, 319 (S.D.N.Y. 2003), *aff'd, 75* F. App'x 860 (2d Cir. 2003), *and aff'd sub nom. Smith ex rel. Est. of Smith v. Fed. Rsrv. Bank of New York,* 346 F.3d 264 (2d Cir. 2003). In *Smith v. Federal Reserve Bank of New York,* the District Court determined that TRIA's notwithstanding clause, although broad, "necessarily has a scope and that scope depends on the substance of the provision to which it is attached." *Id.* TRIA's notwithstanding clause does not trump every statute but rather only those which conflict with TRIA. *See id.* ("The phrase 'notwithstanding any other provision of law' simply means that Section 201(a) controls if there is another provision of law that conflicts with it.").

Thus, the question is whether the FSIA and TRIA conflict with respect to jurisdictional immunity. They do not. "TRIA . . . [is] an execution statute," *see Weininger v. Castro,* 462 F. Supp. 2d 457, 480 (S.D.N.Y.

2006). "Congress . . . created terrorism-related exceptions to immunity under FSIA," and "[o]ne such exception is TRIA's authorization of the *attachment of the properly* of terrorist parties and that of their agencies or instrumentalities." *Hausler v. JP Morgan Chase Bank, NA.,* 770 F.3d 207, 211 (2d Cir. 2014) (per curiam) (emphasis added); *(see also* Report at 15--16).

As detailed in the Report, the language in TRIA resembles the other execution immunity language in the FSIA, distinguishing it from the FSIA's language abrogating jurisdictional immunity. "[I]dentical words used in different parts of the same statute are generally presumed to have the same meaning." *Bruce Katz, MD., P.C. v. Focus Forward, LLC,* 22 F.4th 368, 372-73 (2d Cir. 2022) (quotation marks and citation omitted). The sections of FSIA that 28 U.S.C. § 1604 expressly identifies as exceptions to immunity from *jurisdiction* are 28 U.S.C. §§ 1605 to 1607. 28 U.S.C. § 1604. Those exceptions stipulate when "[a] foreign state shall not be immune from the jurisdiction of the courts of the United States . . . ." *See* 28 U.S.C. §§ 1605 to 1607; *(see also* Report at 23 (quoting provisions)). In contrast, the sections of FSIA that 28 U.S.C. § 1609 expressly identifies as exceptions to immunity from *attachment* and *execution* are 28 U.S.C. §§ 1610 (where TRIA § 201(a) exists as a note) and 1611. 28 U.S.C. § 1609. Those exceptions specify when the "property of a foreign state" or "property of an agency or instrumentality of such a state . . . shall not be immune from attachment in aid of execution . . . ." *See* 28 U.S.C. §§ 1610 to 1611; *(see also* Report at 23-24 (quoting provisions)). TRIA § 201(a) mirrors this attachment and execution language, providing that "the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) *shall be subject to execution or attachment in aid of execution . . ."* (emphasis added). TRIA is thus rightfully categorized as an execution statute within the FSIA framework, "preserv[ing] a common law distinction between . . . jurisdictional immunity from actions brought in United States courts and immunity from attachment or execution of the foreign sovereign's property." *Weininger,* 462 F. Supp. 2d at 481.

As part of an execution statute, TRIA's notwithstanding clause defeats provisions that conflict with TRIA's specific terms of execution. The District Court in *Smith* addressed execution on Iraqi assets held at the FRBNY, which President Bush confiscated under the International Emergency Economic Powers Act ("IEEPA") and delivered to the U.S. Treasury. 280 F. Supp. 2d at 317-18. There, the plaintiffs argued that TRIA's notwithstanding clause trumped IEEPA and enabled them to reach the assets, but the *Smith* court rejected such an expansive scope of the notwithstanding clause. *Id.* at 319-20. The court held that "[a]lthough the 'notwithstanding' language Congress used in the TRIA was broad," "TRIA and the relevant provision of the IEEPA coexist with no conflict," so TRIA's notwithstanding clause did not permit the plaintiffs to execute on assets seized by the President under the IEEPA. *Id.* Applying these principles, TRIA would prevail in a statutory conflict if the Judgment Creditors sought to execute on assets but were prevented from doing so by an immunity to execution contained in 28 U.S.C. § 1610, § 1611, or some other statute. *(See also* Report at 25.) As Magistrate Judge Netburn rightly determined, TRIA's notwithstanding clause "is not a bulldozer that clears every possible legal obstacle between a litigant and their goal." *(Id.* at 21.) Because TRIA is an *execution* statute, it does not conflict with the provisions of FSIA that deal *with jurisdictional* immunity, and TRIA fails to provide the jurisdiction over DAB assets that the Judgment Creditors need. *See Walters,* 651 F.3d at 288 (stating immunities from jurisdiction and execution operate independently).

Although secondary to the plain text, the circumstances around TRIA's passage also supports this interpretation of TRIA's notwithstanding clause. When faced with a plausibly ambiguous statute, a court may turn to legislative history to determine the statute's underlying purpose or confirm a reading suggested by other tools.[9] *See, e.g., Milner v. Dep't of the Navy,* 562 U.S. 562, 572 (2011) ("Those of us who make use of legislative history believe that clear evidence of congressional intent may illuminate ambiguous text."). As noted by Magistrate Judge Netburn, TRIA resulted from a battle between Congress and the President over the extent to which foreign sovereign property was subject to execution. (Report at 26.) Congress modified the FSIA exceptions in 1998 by adding 28 U.S.C. § 1610(f), which waives execu-

[9] This Court rejects the Judgment Creditors' misplaced emphasis on statements of *individual* members of Congress as evidence of *congressional* intent. *(See* Objections at 39-41.) Such statements "reflect at best the understanding of individual Congressmen." *Zuber v. Allen,* 396 U.S. 168,186 (1969); *see also, e.g., SW Gen., Inc.,* 580 U.S. at 306 ("What Congress ultimately agrees on is the text that it enacts, not the preferences expressed by certain legislators."); *Oncale v. Sundowner Offshore Services, Inc.,* 523 U.S. 75, 79 (1998) ("[I]t is ultimately the provisions of our laws rather than the principal concerns of our legislators by which we are governed."); *(see also* Nov. 29,2022 Order on *Amici* at 4). This Court similarly declines to credit the floor statements of an individual senator cited in the Report as persuasive evidence of congressional intent. *(See* Report at 26-27 (quoting Sen. Tom Harkin).)

tion immunity for blocked assets of a foreign state where there is a judgment against the state for acts of terrorism. 28 U.S.C. § 1610(f)(1). However, this iteration of the FSIA enabled the President, in the interest of national security, to waive this immunity exception. 28 U.S.C. § 1610(f)(3); *(see also* Report at 26). The President consistently issued such waivers, preventing the terms of the § 1610(f) exception from ever taking effect. *Rubin v. Islamic Republic of Iran,* 138 S. Ct. 816, 826 n.6 (2018). Congress responded with TRIA, where it "placed the 'notwithstanding' clause in § 201(a) . . . to eliminate the effect of any Presidential waiver issued under 28 U.S.C. § 1610(f) prior to the date of the TRIA's enactment." *Ministry of Def.' & Support for the Armed Forces of the Islamic Republic of Iran v. Elahi,* 556 U.S. 366,386 (2009). Thus, TRIA's notwithstanding clause and other broad language such as the statute's application "in every case," *(cf.* Objections at 35-36), do not abrogate the jurisdictional immunity that applies to DAB and its assets under the FSIA.

C. Judgments Against the Taliban Are Insufficient to Reach DAB's Assets under TRIA

As an execution statute within the FSIA framework, TRIA § 201(a)'s waiver of immunity can provide a court with jurisdiction over the property of a foreign state or its instrumentality where there exists a valid underlying judgment *against the sovereign.* In *Weinstein v. Islamic Republic of Iran,* 609 F.3d 43 (2d Cir. 2010), plaintiffs obtained a default judgment against the Islamic Republic of Iran and then initiated execution proceedings against frozen assets held by separate entity Bank Melli, *id.* at 46-47. Plaintiffs held a valid judgment against Iran, for which Iran's jurisdictional immunity was waived under then 28

U.S.C. § 1605(a)(7), because the U.S. State Department had officially designated Iran as a "state sponsor of terrorism." *Id.* at 48. Bank Melli's status as an instrumentality of Iran was uncontested, but the bank argued that the district court lacked jurisdiction over the bank because it was not named in the original judgment. *Id.* at 48-49. The Court of Appeals for the Second Circuit rejected the argument and held that the plain language of TRIA § 201(a) covering "the blocked assets of any agency or instrumentality of that terrorist party" conferred subject-matter jurisdiction over an instrumentality not named in that original judgment if there was a valid judgment against the underlying sovereign. *Id.* at 50 (quoting TRIA § 201(a)).

Subsequent decisions reaffirmed that TRIA § 201 "provides for federal court jurisdiction over execution and attachment proceedings involving the assets of a foreign sovereign . . *only* where a valid judgment has been entered' against the sovereign." *Vera II,* 946 F.3d at 133 (quoting *Vera v. Republic of Cuba,* 867 F.3d 310, 321 (2d Cir. 2017) *("Vera* 1")) (emphasis added); *see also Kirschenbaum v. 650 Fifth Ave. & Related Properties,* 830 F.3d 107, 131 (2d Cir. 2016) *("Kirschenbaum 1"), abrogated on other grounds by Rubin,* 138 S. Ct. 816 ("TRIA provides jurisdiction for execution and attachment proceedings to satisfy a judgment for which there was original jurisdiction under the FSIA if certain statutory elements are satisfied."); *(see also* Report at 17-18 (quoting same)). Further, the waiver of immunity from execution for foreign sovereign property includes central bank assets otherwise protected under 28 U.S.C. § 1611, where a valid judgment has been entered against the sovereign. *Bank Markazi v. Peterson,* 578 U.S. 212, 217 n.2 (2016) ("FSIA's central-bank immunity provision" does not limit the availability of assets under TRIA).

While the sovereign's loss of jurisdictional immunity in the underlying judgment flows through to the instrumentality in the attachment proceeding, the Judgment Creditors here lack a judgment against a sovereign. There has been no waiver of jurisdictional immunity against DAB or Afghanistan in any of the Judgment Creditors' underlying judgments. *(See* Report at 18.) Without a waiver of jurisdictional immunity, TRIA § 201(a) does not offer a freestanding mechanism for waiving a foreign sovereign instrumentality's immunity to jurisdiction. *(Id.; supra* Section III.B.) The *Weinstein* court held that TRIA § 201(a) provided subject-matter jurisdiction over an instrumentality not named in that original judgment because there was a valid judgment against Iran—the underlying sovereign. 609 F.3d at 50. Here, the Judgment Creditors' judgments are inapposite because the Judgment Creditors hold valid default judgments against *the Taliban,* not the underlying sovereign. *(See* Report at 19-20 (listing Judgment Creditors' judgments against the Taliban as basis for turnover motions).) Without a waiver of jurisdictional immunity against DAB or Afghanistan in any of the Judgment Creditors' underlying judgments, *Weinstein's* application of TRIA is of no avail.

The Judgment Creditors misread the relevant case law in countering that any underlying judgment is sufficient to overcome the obstacle of jurisdictional immunity. In *Hausler v. JP Morgan Chase Bank, NA.,* 770 F.3d 207, the Second Circuit noted that "Congress . . . has created terrorism-related exceptions to immunity under FSIA," *id.* at 211; *(see also* Objections at 28 (quoting same)). The *Hausler* court continues, however, to explain that "[o]ne such exception is TRIA's authorization of *the attachment of the property* of terrorist parties and that of their agencies or instrumentalities to satisfy *certain judgments issued against them." Hausler,* 770 F.3d at 211 (emphasis added). The *Hausler* court thus construed TRIA as an execution statute where judgments are issued against parties that would otherwise have foreign sovereign immunity. In fact, *Hausler* offers yet another example of TRIA abrogating execution immunity in a case where the underlying judgment was against a foreign state—namely, the Republic of Cuba. Therefore, *Hausler,* like *Vera II,* confirms the narrowness of *Weinstein's* holding that pertains only to situations in which there is a valid underlying judgment against a foreign sovereign. Finding that TRIA permits execution to satisfy any valid underlying judgment, whether or not against a foreign sovereign, would require overlooking the defining feature of TRIA: its abrogation of immunity enjoyed by foreign sovereigns under the FSIA.

Moreover, TRIA § 201(a) could not be wielded against Afghanistan or its instrumentalities independently because Afghanistan has not been designated as a state sponsor of terrorism. TRIA defines a "terrorist party" whose assets may be targeted as "a foreign state designated as a state sponsor of terrorism under [former] section 6(j) of the Export Administration Act of 1979 . . . or section 620A of the Foreign Assistance Act of 1961." TRIA § 201(d)(4). A party may also use TRIA to collect on judgments for acts for which a terrorist party lacks immunity under 28 U.S.C. § 1605A. *See* TRIA § 201(a). Like TRIA § 201(d)(4), section 1605A requires that a foreign state be designated as a state sponsor of terrorism. 28 U.S.C. § 1605A(a)(2)(A)(i)(I), (c). Yet, Afghanistan does not qualify as either a "terrorist party" under TRIA § 201(d)(4) or a nation liable for acts of terrorism under 28 U.S.C. § 1605A because Afghanistan is not and has never been designated as a state sponsor of terrorism. *(See* U.S. Statement of Interest at 9 n.2; *Havlish* Mem. of Law on Mot. for Turnover at 3 n.7.)

In sum, the Judgment Creditors' motions fail because DAB is a central bank under the FSIA, and TRIA § 201(a) does not overcome DAB's jurisdictional immunity under 28 U.S.C. § 1604. Furthermore, the Judgment Creditors cannot use TRIA to reach DAB's assets because their judgments are against the non-sovereign Taliban—not the sovereign nation of Afghanistan—and Afghanistan has never been designated as a state sponsor of terrorism.

IV. THE U.S. CONSTITUTION RESTRAINS THIS COURT FROM THE FINDING REQUIRED UNDER TRIA TO ATTACH DAB'S ASSETS

Even if this Court had jurisdiction, the U.S. Constitution prevents this Court from rendering the findings that TRIA requires. For the Judgment Creditors to prevail, this Court must be able to find that DAB is a Taliban "agency or instrumentality." Finding that the Taliban controls DAB or can use DAB to advance its goals implies that the Taliban is Afghanistan's government. The Constitution vests this authority to recognize governments in the Executive Branch alone. *(See also* Report at 27-37.)

A. The Judgment Creditors Fail to Satisfy All the Required Elements in the Legal Framework Governing Their Turnover Motions

Federal Rule of Civil Procedure 69(a), New York CPLR §§ 5225(b) and 5227, and TRIA § 201 govern these turnover motions. Under Rule 69(a), judgments are enforced through a writ of execution, and the laws of the state where the court is located govern execution procedures unless a federal law applies. Fed. R. Civ. P. 69(a)(1). In New York, CPLR §§ 5225(b) and 5227 govern turnover proceedings. *CSX Transportation, Inc. v. Island Rail Terminal, Inc.,* 879 F.3d 462, 468 (2d Cir. 2018) ("CSX I"). These statutes are "essentially interchangeable," *CSX Transportation, Inc. v. Emjay Env't Recycling, LTD.,* No. 12-cv-1865 (JS)(AKT), 2016 WL 755630, at *3 (E.D.N.Y. Feb. 25, 2016) (quoting *LaBarbera v. Audax Constr. Corp.,* 971 F. Supp. 2d 273, 278 (E.D.N.Y. 2013)); *(see also* Objections at 5 n.5), and Magistrate Judge Netburn properly analyzed the turnover motions under CPLR § 5225(b) for simplicity,[10] (Report at 28). Under CPLR § 5225(b), the judgment creditor must show that (1) the judgment debtor has an interest in the property the creditor is targeting and (2) the judgment creditor is entitled to the property or has rights superior to the party possessing the property. *Commodities & Mins. Enter. Ltd. v. CVG Ferrominera Orinoco, C.A.,* 423 F. Supp. 3d 45, 51 (S.D.N.Y. 2019) (citation omitted).

A judgment creditor seeking turnover pursuant to TRIA will also have to satisfy the requirements of TRIA § 201(a): (1) the judgment creditor has obtained a judgment against a terrorist party, (2) on a claim based on an act of terrorism or an act for which

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[10] New York CPLR § 5225(b) permits judgment creditors to initiate "a special proceeding . . . against a person in possession or custody of money . . in which the judgment debtor has an interest, or against a person who is a transferee of money or other personal property from the judgment debtor, where it is shown that the judgment debtor is entitled to the possession of such property . . . ."

a terrorist party is not immune under 28 U.S.C. § 1605A or 28 U.S.C. § 1605(a)(7),[11] which the creditor seeks to satisfy with the (3) blocked assets, (4) of that terrorist party or that terrorist party's agency or instrumentality, (5) to the extent of only the creditor's compensatory damages. TRIA § 201(a); *(see also* Report at 29 (same).)

The Judgment Creditors satisfy all but one element under TRIA. First, the Judgment Creditors hold judgments against the Taliban, a "terrorist party" as defined under TRIA § 201(d)(4) by reference to 8 U.S.C. § 1182(a)(3)(B)(vi). *See* 8 U.S.C. § 1182(a)(3)(B)(iii)—(vi) (describing a terrorist organization as one committing or materially supporting activities such as hijacking, assassination, and the use of explosives to threaten individuals and property). Second, all of the judgments are based on the Taliban's role in the 9/11 Attacks or separate explosive attacks against Americans for which the Taliban is not immune. *(See* Report at 29 (listing judgments).) Third, the turnover motions seek DAB funds that constitute "blocked assets" under TRIA. *See* TRIA § 201(d)(2)(A) (defining blocked assets as "any asset seized or frozen by the United States . . . under sections 202 and 203 of the [IEEPA]. . ."); E.O. 14,064 (blocking DAB funds pursuant to IEEPA). Finally, the Judgment Creditors seek only compensatory damages. *(See* Report at 30 (citing turnover motions).) Missing is the fourth prong required by TRIA: the blocked assets must be the assets of the terrorist party or the terrorist party's agency or instrumentality. TRIA § 201(a).

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[11] As previously noted, Congress repealed FSIA § 1605(a)(7)'s terrorism exception to immunity and replaced it with § 1605A in 2008. Pub. L. No. 110-181, div. A, title X, § 1083(a)(1), 122 Stat. 338-44 (2008).

B. This Court Lacks the Power to Recognize the Government of Afghanistan under the U.S. Constitution

The Judgment Creditors urge this Court to find that DAB is an "agency or instrumentality" of the Taliban. "TRIA, unfortunately, does not" define the meaning of a terrorist party's "agency or instrumentality." *Kirschenbaum I,* 830 F.3d at 132. Thus, the Second Circuit in *Kirschenbaum I* construed the terms "according to their ordinary meanings," holding that an entity is an agency or instrumentality of a terrorist group if it "(1) was a means through which a material function of the terrorist party is accomplished, (2) provided material services to, on behalf of, or in support of the terrorist party, or (3) was owned, controlled, or directed by the terrorist party." *Id.* at 135. Here, for the Judgment Creditors to prevail in their turnover motions, this Court would have to make a judicial finding that DAB provided the Taliban with material functionality, material services, or was owned, controlled, or directed by the Taliban.

Under *Kirschenbaum I,* the government of Afghanistan necessarily exercises a degree of control or authority over its own central bank to make the central bank the Afghan government's agency or instrumentality. For instance, FSIA § 1611 stipulates that the property of a central bank is immune from attachment and execution "unless such bank or authority, or its *parent foreign government,* has explicitly waived its immunity from attachment in aid of execution, or from execution . . ." *Id*. § 1611(b)(1) (emphasis added). Section 1611 thus conveys that a foreign government exercises control over the central bank, *e.g.,* through the foreign government's ability to waive the immunity of its central bank's property to attachment and execution.

DAB is Afghanistan's central bank and thus a government instrumentality subject to the government of Afghanistan. *See supra* Section III.A. The Judgment Creditors further argue that the Taliban is exercising control over DAB. *(See, e.g.,* Objections at 11 ("the Taliban retook control of DAB"); *id.* at 43-51.) The Judgment Creditors assert that the Taliban has appointed loyalists to key DAB leadership positions, women and dissidents have left DAB jobs, and non-Taliban personnel are merely figureheads. *(See* Report at 32 (citing *Havlish* and *Smith* expert reports for claims that the Taliban appointed DAB's Acting Governor, First Deputy Governor, and Second Deputy Governor).) The Judgment Creditors also argue that the Taliban is using DAB to set Afghanistan's monetary policy and manage the country's financial sector. *(Id)* Additionally, in August 2021, "[t]he Taliban reportedly visited the central bank and asked to inspect its reserves, only to be told that most were located in New York." (Taliban Background at 39; *see also* Report at 33 (citing same).) The judicial finding the Judgment Creditors seek necessarily and impermissibly implies that the Taliban constitutes the recognized government of Afghanistan.

The Constitution vests in the Executive Branch the primary role of managing foreign affairs. *See Chicago & Southern Air Lines v. Waterman S. S. Corp.,* 333 U.S. 103, 109 (1948) (characterizing the President "as the Nation's organ in foreign affairs"); *U.S. v. Curtiss-Wright Export Corp.,* 299 U.S. 304, 320 (1936) (deeming the President "the sole organ of the federal government in the field of international relations"). Critically, "[t]he text and structure of the Constitution grant the President the power to recognize foreign nations and governments." *Zivotofsky ex rel. Zivotofsky v. Kerry,* 576 U.S. 1, 14 (2015); *see also Banco Nacional de Cuba v. Sabbatino,* 376 U.S. 398, 410 (1964) ("Political recognition is exclusively a function of the Executive."). Courts have long encouraged judicial modesty in recognizing foreign governments, understanding that "recognition of foreign governments so strongly defies judicial treatment that without executive recognition a foreign state has been called 'a republic of whose existence we know nothing.'" *Baker v. Carr,* 369 U.S. 186, 212 (1962) (quoting *United States v. Klintock,* 18 U.S. 144, 149 (1820)). Similarly, courts have consistently held that unrecognized regimes lack standard privileges and immunities of foreign sovereigns, reasoning that permitting such regimes to invoke that status would encroach on the President's recognition power. *See, e.g., Knox v. Palestine Liberation Org.,* 306 F. Supp. 2d 424, 444 (S.D.N.Y. 2004); *Fed. Rep. of Germany v. Elicon,* 358 F. Supp. 747, 756 (E.D.N.Y. 1970).

The President has the exclusive power to grant formal recognition to a foreign sovereign. *Zivotofsky,* 576 U.S. at 28 ("[T]he power to recognize foreign states and governments… is exclusive to the Presidency."). In *Zivotofsky ex rel. Zivotofsky v. Kerry,* the Supreme Court evaluated a conflict between the Foreign Relations Authorization Act, Fiscal Year 2003 (the "FRAA") and the U.S. State Department's Foreign Affairs Manual (the "FAM"). *See id.* at 5-8. In accordance with then-presidential policy to decline acknowledging any nation's sovereignty over the city of Jerusalem, the FAM required that the State Department list place of birth as "Jerusalem" rather than "Israel" on the passports for those born in Jerusalem. *Id.* at 6-7. However, the FRAA allowed (though did not require) those born in Jerusalem to list their place of birth as "Israel" on their passports. *Id.* at 7. The Supreme Court held that this accommodation, although "not itself constituting] a formal act of recognition," was unconstitutional because it was "a mandate that the Executive contradict his prior recognition determination in an official document issued by the Secretary of State." *Id.* at 30.

The Constitution forbids this Court from determining what the Judgment Creditors require under TRIA: a finding that the Taliban regime is in control of DAB—an instrumentality of the government of Afghanistan—and that the Taliban thus acts as the government of Afghanistan. Promoting financial stability and managing foreign reserves are the quintessential public and government functions performed by central banks. *See, e.g., Filler v. Hanvit Bank,* 378 F.3d 213, 217 (2d Cir. 2004); *NML Cap., Ltd. v. Banco Cent. de la Republica Argentina,* 652 F.3d 172, 195 (2d Cir. 2011). The Judgment Creditors "suggest that DAB is an agency or instrumentality of the Taliban because it has appointed leaders and those leaders are promulgating policies or taking acts like the elimination of money-laundering controls that materially advance the Taliban's goals." (Report at 35.) Accepting the Taliban's "appointments" to DAB as legitimate or its pronouncements as authoritative monetary policies bestows recognition on the Taliban that this Court may not constitutionally confer. *See, e.g.,* DAB, DA AFGHANISTAN BANK LAW art. 11 (2003), https://dab.gov.af/sit es/default/files/2018-12/DABLaw1English_2.pdf (last visited Feb. 7, 2023) ("The Governor, the First Deputy Governor and the other members of the Supreme Council shall be appointed by a decree of the *President* of Afghanistan . . .") (emphasis added). As Magistrate Judge Netburn rightly found, "To credit those appointments as evidence of Taliban control would be to suggest that the group is wielding power that was until recently vested in the Afghan state and the Republic." (Report at 36.)

This Court "can acknowledge the facts on the ground while recognizing that those facts do not permit it to recognize the Taliban as the government of Afghanistan directly or by implication." (Report at 34.) In September 2021, Secretary of State Antony Blinken did just that, acknowledging that the Taliban was the "*de facto* government" of Afghanistan. *(Id.* at 33 (citation omitted).) While Secretary Blinken and this Court can acknowledge the Taliban's *de facto* dominance over Afghanistan, accepting the Judgment Creditors' argument as to the Taliban's control over DAB makes the implied recognition of the Taliban as Afghanistan's government inescapable. *(See also* Report at 34.)

The Judgment Creditors' effort to distinguish between formal and informal recognition of a foreign government conflates Congress' powers with those of the Judiciary. The Judgment Creditors argue that only "formal" acts of recognition, such as an express declaration, concluding a treaty, or exchanging ambassadors, implicate the constitutional separation of powers. (Objections at 48-49.) While the *Zivotofsky* Court held that the "Executive's exclusive power extends no further than his formal recognition determination," 576 U.S. at 30, the non-exclusive, informal acts of recognition are shared with *Congress,* not the courts, *id.* at 22. "[The Court . . mentioned both of the political branches in discussing international recognition, but it [did] so primarily in affirming that the Judiciary is not responsible for recognizing foreign nations." *Id.* (citing *Oetjen v. Cent. Leather Co.,* 246

U.S. 297, 302 (1918) ("Who is the sovereign, *de jure* or *de facto,* of a territory is not a judicial, but is a political question, the determination of which by the legislative and executive departments of any government conclusively binds the judges.") (quotation marks and citation omitted)). The *Zivotofsky* Court thus denied any judicial role in the recognition of a foreign government.

"Recognition is a topic on which the Nation must 'speak . . . with one voice'" in order to determine "which governments are legitimate in the eyes of the United States and which are not." *Id.* at 14 (quoting *Am. Ins. Assn. v. Garamendi,* 539 U.S. 396, 424 (2003)). This Court would intrude with a voice of its own were it to permit Afghanistan's treasury to pay the Taliban's judgment debts, even as the President declines to recognize the Taliban as the government of Afghanistan.

The fundamental conclusion as required by TRIA and the Constitution—is that neither the Taliban nor the Judgment Creditors are entitled to raid the coffers of the state of Afghanistan to pay the Taliban's debts. While the "funds of foreign central banks are managed through those banks' accounts in the United States, those funds are, in fact, the reserves of the foreign states themselves." *NML Cap., Ltd.,* 652 F.3d at 189 (cleaned up). DAB funds are the property of the state of Afghanistan, and "a regime not recognized as the government of a state is not entitled to property belonging to that state located in the United States." RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 205(2); *see also Repub. of Panama v. Rep. Nat. Bank of N.Y.,* 681 F. Supp. 1066, 1071 (S.D.N.Y. 1988) ("[I]t is not a proper function of a domestic court of the United States to attempt to judge which government best represents the interests of a foreign nation.) (quotation marks and citation omitted). Therefore, as the Restatement provides and TRIA and the Constitution dictate, this Court cannot find that the Taliban is entitled to Afghanistan's state funds held at the FRBNY or that the Judgment Creditors can obtain those funds through their default judgments against the Taliban.

V. CONCLUSION

The Judgment Creditors are entitled to collect on their default judgments and be made whole for the worst terrorist attack in our nation's history, but they cannot do so with the funds of the central bank of Afghanistan. Pursuant to the FSIA, TRIA, and the U.S. Constitution, the Taliban—not the former Islamic Republic of Afghanistan or the Afghan people—must pay for the Taliban's liability in the 9/11 Attacks. Therefore, the Judgment Creditors' motions for turnover of DAB funds (ECF Nos. 7763, 7767, and 7936 in 03-md-1570; ECF No. 62 in 0l-cv-10132; ECF No. 597 in 03-cv-9848) are DENIED.[12] The Judgment Creditors' motion for post-judgment attachment (ECF No. 8586 in 03-md-1570), *Ashton* Plaintiffs' motion for attachment (ECF No. 8412 in 03-md-1570; ECF No. 1724 in 02-cv-6977), *Ashton* Plaintiffs' motion for a protective order (ECF No. 7895 in 03-md-1570), *Owens* Proposed Intervenors' motion to intervene (ECF No. 8018 in 03-md-1570; ECF No. 1120 in 03-cv-6978), and *Federal Insurance* Creditors' motion to vacate (ECF No. 8055 in 03-md-1570) are DENIED as

[12] This decision in no way affects the Executive Branch's prerogative in determining the ultimate disposition of the blocked DAB assets that remain held at the FRBNY.

moot. The Clerk of Court is directed to close the motions accordingly.

Dated: February 21, 2023
New York, New York

SO ORDERED.

GEORGE B. DANIELS
United States District Judge

APPENDIX D

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 3rd day of April, two thousand and twenty-six,

Before: Guido Calabresi,
José A. Cabranes,
Richard J. Sullivan,

Circuit Judges.

Docket No. 23-258 (L), 23-263 (Con)
23-304 (Con), 23-346 (Con), 23-444 (Con).

FIONA HAVLISH, ET AL., JOHN DOES 1 THROUGH 7, FEDERAL INSURANCE CO., ET AL., RAYMOND ANTHONY SMITH, ET AL., KATHLEEN ASHTON, ET AL.,

Plaintiffs-Appellants,

v.

THE TALIBAN,

Defendant-Appellee,

FEDERAL RESERVE BANK OF NEW YORK,

Garnishee-Interested-Party-Appellee.

AMENDED ORDER

Appellants, having filed a petition for panel rehearing and the panel that determined the appeal having considered the request,

IT IS HEREBY ORDERED that the petition is DENIED.

Judge Sullivan dissents from the denial of petition for rehearing.

For The Court:

Catherine O'Hagan Wolfe,
Clerk of Court

/s/ Catherine O'Hagan Wolfe

APPENDIX E

Terrorism Risk Insurance Act of 2002, § 201

Pub. L. No. 107-297, § 201, 116 Stat. 2322, 2337-2340, as amended, Pub. L. No. 112-158, 126

Stat. 1214, 1260 (codified at 28 U.S.C. § 1610 note)

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SEC. 201. SATISFACTION OF JUDGMENTS FROM BLOCKED ASSETS OF TERRORISTS,

TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

"(a) **IN GENERAL.—**

Notwithstanding any other provision of law, and except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim based upon an act of terrorism, or for which a terrorist party is not immune under section 1605A or 1605(a)(7) (as such section was in effect on January 27, 2008) of title 28, United States Code, the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy such judgment to the extent of any compensatory damages for which such terrorist party has been adjudged liable.

"(b) **PRESIDENTIAL WAIVER.—**

"(1) **IN GENERAL.—**

Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (a) in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

"(2) **EXCEPTION.—**A waiver under this subsection shall not apply to—

"(A) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used by the United States for any nondiplomatic purpose (including use as rental property), or the proceeds of such use; or

"(B) the proceeds of any sale or transfer for value to a third party of any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

"(d) **DEFINITIONS.—**In this section, the following definitions shall apply:

"(1) **ACT OF TERRORISM.—**The term 'act of terrorism' means—

"(A) any act or event certified under section 102(1) [Pub. L. 107–297, set out in a note under section 6701 of Title 15, Commerce and Trade]; or

"(B) to the extent not covered by subparagraph (A), any terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii))).

"(2) **BLOCKED ASSET.—**The term 'blocked asset' means—

"(A) any asset seized or frozen by the United States under section 5(b) of the Trading With the

Enemy Act (50 U.S.C. App. 5(b)) [now 50 U.S.C. 4305(b)] or under sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701; 1702); and

"(B) does not include property that—

"(i) is subject to a license issued by the United States Government for final payment, transfer, or disposition by or to a person subject to the jurisdiction of the United States in connection with a transaction for which the issuance of such license has been specifically required by statute other than the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.); or

"(ii) in the case of property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, or that enjoys equivalent privileges and immunities under the law of the United States, is being used exclusively for diplomatic or consular purposes.

"(3) **CERTAIN PROPERTY.—**

The term 'property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations' and the term 'asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations' mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

"(4) **TERRORIST PARTY.—**

The term 'terrorist party' means a terrorist, a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))), or a foreign state designated as a state sponsor of terrorism under [former] section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) [former 50 U.S.C. 4605(j)] or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371)."

****

28 U.S.C. § 1330

§ 1330. Actions against foreign states

(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603(a) of this title as to any claim for relief in personam with respect to which the foreign state is not entitled to immunity either under sections 1605-1607 of this title or under any applicable international agreement.

(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service has been made under section 1608 of this title.

(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605-1607 of this title.

28 U.S.C. § 1602

§ 1602. Findings and declaration of purpose

The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.

28 U.S.C. § 1603

§ 1603. Definitions

For purposes of this chapter—

(a) A "foreign state", except as used in section 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

(b) An "agency or instrumentality of a foreign state" means any entity—

(1) which is a separate legal person, corporate or otherwise, and

(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (e) of this title, nor created under the laws of any third country.

(c)The "United States" includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

(d) A "commercial activity" means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

(e) A "commercial activity carried on in the United States by a foreign state" means commercial activity carried on by such state and having substantial contact with the United States.

28 U.S.C. § 1604

§ 1604. Immunity of a foreign state from jurisdiction

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.

28 U.S. Code § 1605A

§ 1605A. Terrorism exception to the jurisdictional immunity of a foreign state

(a) **In General.—**

(1) **No Immunity.—**

A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case not otherwise covered by this chapter in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources for such an act if such act or provision of material support or resources is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency.

(2) **Claim Heard.—**The court shall hear a claim under this section if—

(A)

(i)

(I) the foreign state was designated as a state sponsor of terrorism at the time the act described in paragraph (1) occurred, or was so designated as a result of such act, and, subject to subclause (II), either remains so designated when the claim is filed under this section or was so designated within the 6-month period before the claim is filed under this section; or

(II) in the case of an action that is refiled under this section by reason of section

1083(c)(2)(A) of the National Defense Authorization Act for Fiscal Year 2008 or is filed under this section by reason of section 1083(c)(3) of that Act, the foreign state was designated as a state sponsor of terrorism when the original action or the related action under section 1605(a)(7) (as in effect before the enactment of this section) or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of division A of Public Law 104–208) was filed;

(ii) the claimant or the victim was, at the time the act described in paragraph (1) occurred—

(I) a national of the United States;

(II) a member of the armed forces; or

(III) otherwise an employee of the Government of the United States, or of an individual performing a contract awarded by the United States Government, acting within the scope of the employee's employment; and

(iii) in a case in which the act occurred in the foreign state against which the claim has been brought, the claimant has afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with the accepted international rules of arbitration; or

(B) the act described in paragraph (1) is related to Case Number 1:00CV03110 (EGS) in the United States District Court for the District of Columbia.

(b) **Limitations.—**

An action may be brought or maintained under this section if the action is commenced, or a related action was commenced under section 1605(a)(7) (before the date of the enactment of this section) or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of division A of Public Law 104–208) not later than the latter of—

(1)10 years after April 24, 1996; or

(2)10 years after the date on which the cause of action arose.

(c) **Private Right of Action.—**

A foreign state that is or was a state sponsor of terrorism as described in subsection (a)(2)(A)(i), and any official, employee, or agent of that foreign state while acting within the scope of his or her office, employment, or agency, shall be liable to—

(1) a national of the United States,

(2) a member of the armed forces,

(3) an employee of the Government of the United States, or of an individual performing a contract awarded by the United States Government, acting within the scope of the employee's employment, or

(4) the legal representative of a person described in paragraph (1), (2), or (3), for personal injury or death caused by acts described in subsection (a)(1) of that foreign state, or of an official, employee, or agent of that foreign state, for which the courts of the United States may maintain jurisdiction under this section for money damages. In any such action, damages may include economic damages, solatium, pain and suffering, and punitive damages. In any such action, a foreign state shall be vicariously liable for the acts of its officials, employees, or agents.

(d) **Additional Damages.—**

After an action has been brought under subsection (c), actions may also be brought for reasonably foreseeable property loss, whether insured or uninsured, third party liability, and loss claims under life and property insurance policies, by reason of the same acts on which the action under subsection (c) is based.

(e) **Special Masters.—**

(1) **In General.—**

The courts of the United States may appoint special masters to hear damage claims brought under this section.

(2) **Transfer of Funds**.—

The Attorney General shall transfer, from funds available for the program under section 1404C of the Victims of Crime Act of 1984 (42 U.S.C. 10603c),[1] to the Administrator of the United States district court in which any case is pending which has been brought or maintained under this section such funds as may be required to cover the costs of special masters appointed under paragraph (1). Any amount paid in compensation to any such special master shall constitute an item of court costs.

(a) **Appeal.—**

In an action brought under this section, appeals from orders not conclusively ending the litigation may only be taken pursuant to section 1292(b) of this title.

(g) **Property Disposition.—**

(1) **In General.—**

In every action filed in a United States district court in which jurisdiction is alleged under this section, the filing of a notice of pending action pursuant to this section, to which is attached a copy of the complaint filed in the action, shall have the effect of establishing a lien of lis pendens upon any real property or tangible personal property that is—

(A) subject to attachment in aid of execution, or execution, under section 1610;

(B) located within that judicial district; and

(C) titled in the name of any defendant, or titled in the name of any entity controlled by any defendant if such notice contains a statement listing such controlled entity.

(2) **Notice.—**

A notice of pending action pursuant to this section shall be filed by the clerk of the district court in the same manner as any pending action and shall be indexed by listing as defendants all named defendants and all entities listed as controlled by any defendant.

(3) **Enforceability.—**

Liens established by reason of this subsection shall be enforceable as provided in chapter 111 of this title.

Definitions.—

For purposes of this section—

(1) the term "aircraft sabotage" has the meaning given that term in Article 1 of the Convention for the

Suppression of Unlawful Acts Against the Safety of Civil Aviation;

(2) the term "hostage taking" has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages;

(3) the term "material support or resources" has the meaning given that term in section 2339A of title 18;

(4) the term "armed forces" has the meaning given that term in section 101 of title 10;

(5) the term "national of the United States" has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(6) the term "state sponsor of terrorism" means a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)),[1] section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 40 of the Arms Export Control Act (22 U.S.C. 2780), or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism; and

(7) the terms "torture" and "extrajudicial killing" have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note).

28 U.S. Code § 1605B

§ 1605B. Responsibility of foreign states for international terrorism against the United States

(a) **Definition.—**

In this section, the term "international terrorism"—

(1) has the meaning given the term in section 2331 of title 18, United States Code; and

(2) does not include any act of war (as defined in that section).

(b) **Responsibility of Foreign States.—**

A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which money damages are sought against a foreign state for physical injury to person or property or death occurring in the United States and caused by—

(1) an act of international terrorism in the United States; and

(2) a tortious act or acts of the foreign state, or of any official, employee, or agent of that foreign state while acting within the scope of his or her office, employment, or agency, regardless where the tortious act or acts of the foreign state occurred.

(c) **Claims by Nationals of the United States.—**

Notwithstanding section 2337(2) of title 18, a national of the United States may bring a claim against a foreign state in accordance with section 2333 of that title if the foreign state would not be immune under subsection (b).

(d) **Rule of Construction.—**

A foreign state shall not be subject to the jurisdiction of the courts of the United States under subsection (b) on the basis of an omission or a tortious act or acts that constitute mere negligence.

28 U.S. Code § 1606

§ 1606. Extent of liability

As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages; if, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

28 U.S. Code § 1607

§ 1607. Counterclaims

In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim—

(a) for which a foreign state would not be entitled to immunity under section 1605 or 1605A of this chapter had such claim been brought in a separate action against the foreign state; or

(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

28 U.S. Code § 1608

§ 1608. Service; time to answer; default

(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

(3) if service cannot be made under paragraphs (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court

a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a "notice of suit" shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of State by regulation.

(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process in the United States; or in accordance with an applicable international convention on service of judicial documents; or

(3) if service cannot be made under paragraphs (1) or (2), and if reasonably calculated to give actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—

(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or

(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

(C) as directed by order of the court consistent with the law of the place where service is to be made.

(c) Service shall be deemed to have been made—

(1) in the case of service under subsection (a)(4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section.

28 U.S.C. § 1609

§ 1609. Immunity from attachment and execution of property of a foreign state

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act the property in the United States of a foreign state shall be immune from attachment arrest and execution except as provided in sections 1610 and 1611 of this chapter.

28 U.S.C. § 1610

§ 1610. Exceptions to the immunity from attachment or execution

(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

(2) the property is or was used for the commercial activity upon which the claim is based, or

(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

(4) the execution relates to a judgment establishing rights in property—

(A) which is acquired by succession or gift, or

(B) which is immovable and situated in the United States: Provided, That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment, or

(6) the judgment is based on an order confirming an arbitral award rendered against the foreign state, provided that attachment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement, or

(7) the judgment relates to a claim for which the foreign state is not immune under section 1605A or section 1605(a)(7) (as such section was in effect on January 27, 2008), regardless of whether the property is or was involved with the act upon which the claim is based.

(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United State shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

(1) the agency or instrumentality has waived its immunity from attachment in aid of execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue

of section 1605(a)(2), (3), or (5) or 1605(b) of this chapter, regardless of whether the property is or was involved in the act upon which the claim is based, or

(3) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605A of this chapter or section 1605(a)(7) of this chapter (as such section was in effect on January 27, 2008), regardless of whether the property is or was involved in the act upon which the claim is based.

(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section, if—

(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.

(e) The vessels of a foreign state shall not be immune from arrest in rem, interlocutory sale, and execution in actions brought to foreclose a preferred mortgage as provided in section 1605(d).

(f)

(1)

(A) Notwithstanding any other provision of law, including but not limited to section 208(f) of the Foreign Missions Act (22 U.S.C. 4308(f)), and except as provided in subparagraph (B), any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701-1702), or any other proclamation, order, regulation, or license issued pursuant thereto, shall be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state (including any agency or instrumentality or such state) claiming such property is not immune under section 1605(a)(7) (as in effect before the enactment of section 1605A) or section 1605A.

(B) Subparagraph (A) shall not apply if, at the time the property is expropriated or seized by the foreign state, the property has been held in title by a natural person or, if held in trust, has been held for the benefit of a natural person or persons.

(2)

(A) At the request of any party in whose favor a judgment has been issued with respect to a claim for which the foreign state is not immune under section 1605(a)(7) (as in effect before the enactment of section 1605A) or section 1605A, the Secretary of the Treasury and the Secretary of State should make every effort to fully, promptly, and effectively assist any judgment creditor or any court that has issued any such judgment in identifying, locating, and executing against the property of that foreign state or any agency or instrumentality of such state.

(B) In providing such assistance, the Secretaries—

(i) may provide such information to the court under seal; and

(ii) should make every effort to provide the information in a manner sufficient to allow the court to direct the United States Marshall's office to promptly and effectively execute against that property.

(3) Waiver.—

The President may waive any provision of paragraph (1) in the interest of national security.

(g) Property in certain actions.—

(1) In general.--Subject to paragraph (3), the property of a foreign state against which a judgment is entered under section 1605A, and the property of an agency or instrumentality of such a state, including property that is a separate juridical entity or is an interest held directly or indirectly in a separate juridical entity, is subject to attachment in

aid of execution, and execution, upon that judgment as provided in this section, regardless of —

(A) the level of economic control over the property by the government of the foreign state;

(B) whether the profits of the property go to that government;

(C) the degree to which officials of that government manage the property or otherwise control its daily affairs;

(D) whether that government is the sole beneficiary in interest of the property; or

(E) whether establishing the property as a separate entity would entitle the foreign state to benefits in United States courts while avoiding its obligations.

(2) United States sovereign immunity inapplicable.—

Any property of a foreign state, or agency or instrumentality of a foreign state, to which paragraph (1) applies shall not be immune from attachment in aid of execution, or execution, upon a judgment entered under section 1605A because the property is regulated by the United States Government by reason of action taken against that foreign state under the Trading With the Enemy Act or the International Emergency Economic Powers Act.

(3) Third-party joint property holders.—

Nothing in this subsection shall be construed to supersede the authority of a court to prevent appropriately the impairment of an interest held by a person who is not liable in the action giving rise to a judgment in property subject to attachment in aid of execution, or execution, upon such judgment.

28 U.S.C. § 1611

§ 1611. Certain types of property immune from execution

(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution, if—

(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution, notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

(2) the property is, or is intended to be, used in connection with a military activity and

(A) is of a military character, or

(B) is under the control of a military authority or defense agency.

(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to the extent that the property is a facility or installation used by an accredited diplomatic mission for official Purposes.

APPENDIX F

List of Petitioners

John Ashton
Kathleen Ashton
Kathleen Ashton, Personal Representative
of the Estate of Thomas Ashton
Ascension Abad
Jennifer Abad
Lorraine Abad
Lorraine Abad, Personal Representative
of the Estate of Edelmiro Abad
Rebecca Abad
Serena Abad
Pasquale Abatangelo
Anthony Accardo
Joseph Accetta
Luis Acevedo
Peter Acquafrea
Michael Adams
Paul Adams
Kylie Adams-Floyd
Mary Adderley
Mary & Terence Adderley, Personal Representatives
of the Estate of Terence Adderley, Jr.
Terrence Adderley
Aldo Adissi, Personal Representative of the
Estate of Peter Bielfeld
Theodorus Adrichem
Carmen Agnes
Carmen Agnes, Personal Representative of the
Estate of David S. Agnes
Frank Agnes
Michael Agovino
Richard Agugliaro
Alamo Agustino

Roger Ahee
Miltiadis Ahladiotis
Miltiadis Ahladiotis, Personal Representative of the Estate of Joanne Maria Ahladiotis
Effie Ahladiotis-Salloum
Kenneth Ahlers
Andre Aileen
Cassandra Aileen
Kanian Aileen
Michael Aileen
Terrease Aileen
Kecia Aileen-Dorismond
Thomas Akerberg
David Albert
Donna Albert
Donna Albert, Personal Representative of the Estate of Jon Albert
Stephen Albert
Jevon Alexander Castrillo
Edward Alfarano
Roxana Alger Geffen
Cristina Alger Wang
Josephine Alger
Josephine & Frederick Alger, Personal Representative of the Estate of David D. Alger
Angelica Allen, Personal Representative of the Estate of Eric Allen
Kathleen Allen
Richard Alles
Emily Amaranto, Personal Representative of the Estate of Angelo Amaranto
Ashley Amato
Christopher Amato
Colleen Amato
Deborah Amato

Deborah Amato, Personal Representative of the Estate of James Amato
Katherine Amato
Sean Amato
Tara Amato
Nancy Amigron
Diane Ammirati
Anthony Anderson
Mary Anderson
Stephen Anderson
Vincent Anderson
Frank Andino
Laura Andrucki Izzo
George Andrucki
George & Mary Andrucki, Personal Representative of the Estate of Jean Andrucki
Mary Andrucki
Stanley Andrusyczyn
Anne Angelini
Anne Angelini, Personal Representative of the Estate of Joseph Angelini, Sr.
Annmarie Angelini
Mary Angelini
Michael Angelini
Salvatore Annerino
Robert Annunziato
Andrew Ansbro
Patricia Antonelle
Rafael Antonio Garcia
Harry Antonopoulos
Salvatore Anzalone
Christopher Apostol
Justin Apostol
Kathleen Apostol
Kathleen Apostol, Personal Representative of the Estate of Faustino Apostol, Jr.

Edward & Kathleen Arancio
Alexander & Winifred Aranyos,
Personal Representative of the
Estate of Patrick Michael Aranyos
Alexander Aranyos, Jr.
Stephanie Aranyos
Winifred Aranyos
Margaret Arce
Margaret Arce, Personal Representative of the
Estate of David Gregory Arce
Lawrence Archer
Raymond Arcos
Lori Arczynski
Lori Arczynski, Personal Representative of the
Estate of Michael G. Arczynski
Gregory Ardison-Gardner
Leonard & Barbara Ardizzone
Kristen Arestegui
Nancy Arestegui
Rosie Arestegui
Sharon Arestegui
Vickie Arestegui
Vickie Arestegui, Personal Representative of the
Estate of Barbara Arestegui
Vittorio Arestegui
Margit Arias
Margit Arias, Personal Representative of the
Estate of Adam Peter Arias
Michael Armetta
Jeanne Arnold
David Arocho
Evelyn Aron
Evelyn Aron, Personal Representative of the
Estate of Jack Charles Aron
Timothy Aron
Kelly Arrillaga

Ana Arvelo
Mariano Arvelo, Jr.
Robin Arvelo
Thomas Asher
Joseph Astarita
Gregg Atlas
JoAnn Atlas
JoAnn Atlas, Personal Representative of the Estate of Gregg Arthur Atlas
Sarah Atlas
Christopher Attanasio
Gerald Atwood
Margaret Atwood
Robert Atwood
Anthony Auciello
Marylou Aurrichio
Angel Ayala
Laura Bacarella
Christopher Bach
Joseph Bachert
John Badagliacca
Nancy Badagliacca
Nancy Badagliacca, Personal Representative of the Estate of John J. Badagliacca
Nikki Badagliacca
Benjamin Badillo
Thomas Baez
Michael Bailey
Darcie Bailey-Scauso
Louanne Baily
Louanne Baily, Personal Representative of the Estate of Brian Paul Dale
Christine Baione
Candiace Baker
Sharon Baker-Gual
Ava Baksh

Christina Baksh
Christina Baksh, Personal Representative of the Estate of Michael Baksh
James Baksh
Augustin Balaram
West Ballou
Nicholas Balsamo
Richard Banat
Arturo Banchs
Michael Banker
Robert Baran
James Baranek
Joanne Barbara
Joanne Barbara, Personal Representative of the Estate of Gerard Barbara
Paul Barbara
Paul Barbara
Frank Barbella
Frank Barbella
James Barbella
Louis Barbella
Michael Barbella
Monica Barbella
Monica Barbella, Personal Representative of the Estate of James Barbella
Ruth Barbella
Ruth Barbella
Sarah Barbella
Thomas Barbella
John Barbuto
Paul Bardo
Crystal Barkow
Daniel Barkow
Daniel Barkow, Personal Representative of the Estate of Colleen Ann Barkow
Kayla Barkow

Bernice Barletta
Nina Barnes, Personal Representative of the Estate of Durrell Pearsall, Jr.
Ethan Baron
Jeannine Baron
Jeannine Baron, Personal Representative of the Estate of Evan J. Baron
Julia Baron
Thomas Baroz
Geisel Barrera Pocasangre
Karen Barrera Pocasangre
Linda Barrera Pocasangre
Mauricio Barrera Pocasangre
Ernesto Barrera
Ernesto Barrera, Personal Representative of the Estate of Ana De Barrera
Lombardo Barrera
Christopher Barrett
Kevin Barrett
Robert Barrett
Eva Bartels
Jane Bartels
Jane Bartels, Personal Representative of the Estate of Carlton Bartels
Melina Bartels
Bruce Barvels
Steven Bascelli
Deborah Basham
Deborah Basham, Personal Representative of the Estate of Alfred Todd Rancke
Boris Basin
Vladimir Basin
Vladimir Basin, Personal Representative of the Estate of Inna Basin
Paul Basso
Susan Bauer

Akiko Baugin
Lynn Baumgarten
Tara Bayer
Andrew Beard
Edith Beaujon
Christopher Beaven
Dahlia Beaven
John Beaven
Kimberly Beaven
Kimberly Beaven, Personal Representative of the Estate of Alan Beaven
Sharlene & Reed, James Beckwith, Personal Representative of the Estate of Michele Reed
Sharlene Beckwith
Michele Bedigian, Personal Representative of the Estate of Carl Bedigian
Michael Behette
John Belford
Lowell Bell
Lowell Bell
Lowell & Patricia Bell, Personal Representative of the Estate of Nina P. Bell
Mario Bell
John Belmonte
Joseph Beltrani
Lori-Ann Beninson
Joseph Bennett
Timothy Bennett
Joseph Berardi
Joseph Berardi, Personal Representative of the Estate of Dominick J. Berardi
Maria Berardi
Nicholas Berardi
Tina Berardi
James Bergen
Melissa Berger Fried

Joseph Berger
Phyllis Berger
Rochelle Berger
Susan Berger
Susan Berger, Personal Representative of the Estate of Steven H. Berger
John Bergin
Katie Bergin
Madeline Bergin
Madeline Bergin, Personal Representative of the Estate of John Bergin
Shannon Bergin
Joseph Bering
Charles Berkeley
Charles & Pauline Berkeley, Personal Representative of the Estate of Graham Berkeley
Christopher Berkeley
Eric Berkeley
Jason Berkeley
Roger Berkeley
Robert Bermingham
Charles Bernardi
Mark Bernheimer
Frank Berran
Ruben Berrios
Alexander Berry
Nile Berry
Paula Berry
Paula Berry, Personal Representative of the Estate of David S. Berry
Reed Berry
Joseph Bertolino
Lorraine Betancourt
Marvin Bethea
Valerie Bethke

Valerie Bethke, Personal Representative of the Estate of William R. Bethke
Aron Betru
Ruth Betru
Sirak Betru
Sirak Betru, Personal Representative of the Estate of Yeneneh Betru
James Beuerman
Daniel Beyar
Arlene Beyer
Arlene Beyer, Personal Representative of the Estate of Paul M. Beyer
George Beyer
Jane Beyer
Mark Beyer
Michael Beyer
Shawn Beyer
Alan Biegeleisen
Israel Biegeleisen
Jacob Biegeleisen
Miriam Biegeleisen
Miriam Biegeleisen, Personal Representative of the Estate of Shimmy D. Biegeleisen
Mordechai Biegeleisen
Moshe Biegeleisen
Regina Biegeleisen
Brittany Bielfeld
Gregory Bierster
Donald Bigi
Steven Bilich
Christine Bini
Christine Bini, Personal Representative of the Estate of Carl Bini
Marcel Birnbaum
Marcel Birnbaum, Personal Representative of the Estate of Joshua Birnbaum

Samuel Birnbaum
Howard Bischoff
Joseph Biserta
Richard Bittles
Irene Blaich
Peter Blaich
William Blaich
Susan Blake
Mark Blanchard
Katina Blanding Carroll
Benjamin Blanding
Deborah Blanding
Deborah Blanding, Personal Representative of the Estate of Harry A. Blanding, Jr.
Hayley Blanding
Jeremy Blanding
Matthew Blaskovich
Tara Blessing
Constance Blood
Kris Blood
Kris Blood, Personal Representative of the Estate of Richard M. Blood, Jr.
Madeline Blood
Michael Blood
Richard Blood, Sr.
Stephen Blood
William Blood
Meg Bloom
Meg Bloom-Glasser, Personal Representative of the Estate of Thomas Glasser
Godfrey Blythe
Thomas Boccarossa
Linda Bodian
Dorothy Bogdan
Dorothy Bogdan, Personal Representative of the Estate of Nicholas Andrew Bogdan

Emily Bogdan
Nicholas Bogdan
Kenneth Bohan
Maria Boisseau
Maria Boisseau, Personal Representative of the Estate of Lawrence Boisseau
Michael Boland
Charles Bonar
John Bongiorno
Reginald Bonner
Mark Bonsanti
Alan Bordeaux
Andrew Borgese
Robert Bornhoeft
Nicholas Borrillo
Abigail Bosco
III., William Bosco
Richard Bosco, Jr.
Michael Bosco
Traci Bosco, Personal Representative of the Estate of Richard Edward Bosco
Traci Bosco-Myhal
Maria Bourdis
Frederick Bowers, Jr.
Frederick Bowers, Jr., Personal Representative of the Estate of Kimberly S. Bowers
Linda Bowman
Linda Bowman, Personal Representative of the Estate of Larry Bowman
Brigette Box
Dalton Box
Kathleen Box
Kathleen Box, Personal Representative of the Estate of Gary R. Box
Beata Boyarsky
Jolanta Boyarsky

Jolanta Boyarsky, Personal Representative of the Estate of Gennady Boyarsky
Michael Boyarsky
Enis Boyer
Barbara Boyle
James Boyle
James Boyle
James Boyle, Personal Representative of the Estate of Michael Boyle
Michael Boyle
Peter Boyle
George Braadt
David Braca, Personal Representative of the Estate of Alfred Braca
Jean Braca
David Braca
David Brace, Personal Representative of the Estate of Sandra Conaty Brace
Manuel Bracero
Alexandria Bradshaw
Nathan Bradshaw
Phillip Bradshaw
Phillip Bradshaw, Personal Representative of the Estate of Sandra W. Bradshaw
Shenan Bradshaw
Jennifer Brady Cieszko
Alice Brady
Erin Brady
Grace Brady
James Brady
Jennifer Brady, Personal Representative of the Estate of David B. Brady
Richard Brady, Jr.
Mark Brady
Matthew Brady
Michael Brady

Richard Brady
Scott Brady
Thomas Brady
Andrew Braun
Martin Braun
Albert Bravo
Norma Bravo
Awilda Breban
Joseph Breen
Gerald Brenkert
Edward Brennan
Gail Brennan
James Brennan
Ellen Brennan-Krebs
Ronald Brenneisen
Anne Brewer
Curtis Brewer
Curtis Brewer, Personal Representative of the Estate of Carol Keyes Demitz
Donald Brierley
Alexander Briley
Hillary Briley
Hillary Briley, Personal Representative of the Estate of Jonathan E. Briley
Joanne Briley
Timothy Briley
Gwendolyn Briley-Strand
Vito Brinzo
Ladwin Brissett
Michael Brocato
Michael Brody
John Broghammer
Ursula Broghammer
Ursula Broghammer, Personal Representative of the Estate of Herman C. Broghammer
Michael Broschart

Christopher Broughton
James Brown
Jozette Brown
Margaret Brown
Paul Brown
Peter Brown
Raymond Brown
David Bruce
Diane Bruce
Harold Bruce
Stephen Bruce
Danielle Bruehert
JoAnne Bruehert
JoAnne Bruehert, Personal Representative of the Estate of Richard G. Bruehert
John Bruehert
Peter Brunaes
Greg Bruno
Ida Bruno
James Bruno
Jason Bruno
Juan Bruno
Juan Bruno, Personal Representative of the Estate of Rachel Tamares
Robert Bruno
Stephen Bruno
Melissa Brunschwig
David Brunsden
Dawn Bryfogle
Dawn Bryfogle, Personal Representative of the Estate of Mark Bruce
Mary Buckley
Michael Buckley
Margaret Budde
Michael Budischewsky
Susan Buhse Whelan

Michael Buhse
Sloan Buhse
Susan Buhse, Personal Representative of the Estate of Patrick Joseph Buhse
Thomas Buhse
William Buhse
William Buhse
Matthew Buono
Vincent Buonocore
David Burford
David Burford, Personal Representative of the Estate of Christopher Burford
Vicki Burford
Charles Burge
Georgia Burgess
Nancy Burke Salter
Alexander Burke
Alexander Burke
Brian Burke
Brian Burke
Christopher Burke
George Burke
James Burke
James Burke
John Burke
Julia Burke
Julie Burke, Personal Representative of the Estate of Thomas Daniel Burke
Matthew Burke
Michael Burke
Stephen Burke
Suzanne Burke
Thomas Burke
Thomas Burke
William Burke
Kathleen Bums Reed

Charles Bums
Elizabeth Burns
Elizabeth Burns, Personal Representative of the
Estate of Donald J. Burns
Julia Bums
Michael Burns
Michael Burns
Patrick Bums
Robert Bums
Sandra Burnside Sturiano
Sandra Burnside, Personal Representative of the
Estate of John P. Burnside
Jacqueline Burton
Kelly Butler
Margaret Butler
Patrick Butler
Sean Butler
Stephen Butler
William Butler
William Butler
John Byrnes
Donna Caballero
Nelson Caban
Edward Cachia
Mary Caggiano Malfi
Elizabeth Caggiano
John Caggiano
Joseph Caggiano
Richard Caggiano
Brett Cahill
Christopher Cahill
James Cahill
James Cahill
James & Kathleen Cahill, Personal Representative of
the Estate of Thomas J. Cahill

James Cahill, Personal Representative of the Estate of Scott Walter Cahill
Jr, James Cahill
Kathleen Cahill
Linda Cahill
Michael Cahill
Patrick Cahill
Sean Cahill
Ashley Calabro
Francis Calabro
Susan Calcagno
Susan Calcagno, Personal Representative of the Estate of Philip V. Calcagno
Anthony Calderon
Cathy Calderon
Deborah Calderon
Deborah Calderon, Personal Representative of the Estate of Edward Calderon
Ilene Calderon
Jeremy Calderon
Vincent Calderon, Jr.
Mariza Calderon
Vicente Calderon
Kevin Calhoun
Gary Cali
Dominick Calia
Jaclyn Calia
Janet Calia, Personal Representative of the Estate of Dominick E. Calia
John Calia
Joseph Calia
Mildred Calia
Richard Calia
Christine Calia-Costa
Janet Calia-Donahue
Jeanann Calia-Kuhn

Jeanna Calia-Micallef
Robert Calise
Thomas Calkins
Vincenzo Calla
Thomas Callaghan
Robert Callanan
Chester Callum
Rodney Callum
Rodney Callum, Personal Representative of the Estate of Michell L. Robotham
Travis Callum
Emando Camacho
Patrick Camacho
Richard Camiolo
Ronald Cammarata
Tina Cammarata
Bryan Campbell
Richard Campbell
Therese Campbell
Atthew Campisi
Vincent Canale
Michelle Cangelosi
Vincent Cangelosi
Vincent & Michelle Cangelosi, Personal Representative of the Estate of Vincent A. Cangelosi
Thomas Cann
Christopher Cannizzaro
Jacqueline Cannizzaro
Jacqueline Cannizzaro, Personal Representative of the Estate of Brian Cannizzaro
Biagio Cantatore
Victor Cantelmo
Michael Capasso
Charles Caple
Robert Capolongo

Christina Caporicci
Lauren Caporicci
Lori Caporicci
Lori Caporicci, Personal Representative of the Estate of Louis Caporicci
Aleesia Capoziello
Sheila Capparis
Sheila Capparis, Personal Representative of the Estate of Edward A. Brennan, III
David Caputo
Frank Caputo
David Cardinale
Harry Cardio
Patrick Carey
Cathy Carilli-Sinton
Cathy Carilli-Sinton, Personal Representative of the Estate of Thomas E. Sinton, III
Peter Carino
Richard Carlino
William Carlson
Richard Camey
Richard Camey, Personal Representative of the Estate of Mark Stephen Camey
Angel Carrero
Christopher Carri
Alexander Carroll
Brendan Carroll
Eileen Carroll
Eleanor Carroll
John Carroll
Matthew Carroll
Nancy Carroll
Nancy Carroll, Personal Representative of the Estate of Michael T. Carroll
Olivia Carroll

Susan Carroll, Personal Representative of the Estate of Kevin Colbert
Toni Carroll, Personal Representative of the Estate of Peter J. Carroll
ToniAnn Carroll
William Carroll
William Carroll
William Carroll
Robert Caruso
Richard Casaletto
Joseph Casaliggi
Raymond Cascio
Thomas Cascio
Donald Casey
Gerard Casey
James Cash
Carlo Casoria
Carlo Casoria
Judith Casoria
Judith Casoria, Personal Representative of the Estate of Thomas Anthony Casoria
Debra Cassano
Stephen Casse
John Cassidy
Kevin Cassidy
Stephen Cassidy
Gregory Castellano
Leonard Castrianno, Sr.
Leonard Castrianno, Sr., Personal Representative of the Estate of Leonard M. Castrianno, Jr.
Karrie Castro
Karrie Castro
Joann Castronovo
Alexandria Catalano
Anamarie Catarelli
Santa Catarelli

Santa Catarelli, Personal Representative of the Estate of Richard G. Catarelli
John Catatano
Anthony Catera
John Cavaelli
Marissa Cayne Frankel
Gina Cayne
Gina Cayne, Personal Representative of the Estate of Jason Cayne
Raquel Cayne
Suzann Cayne
Claude Cefalu
Darren Cefalu
Geraldine Cefalu
Geraldine Cefalu, Personal Representative of the Estate of Jason Cefalu
Henry Cerasoli
Joseph Cestari
Anthony Chaimowitz
David Chazin
David Chazin, Personal Representative of the Estate of Ruth Lapin
Arthur Cheatham, Personal Representative of the Estate of Delrose Forbes Cheatham
Bobby Cheatham
William Chesney
Gerald Chiavelli
Pak Chin
Suk Tan Chin
Suk Tan Chin, Personal Representative of the Estate of Robert Chin
Yuet Chin
Dino Chirco
Stacy Chmil
Sherwin Chow
Jeffrey Christensen

Robert Christy
Bundy Chung
Dominic Ciafardini
Edward Ciafardini
Edward Ciafardini, Personal Representative of the Estate of Christopher Ciafardini
Maggie Ciafardini
Peter Ciappa
Frank Ciaravino
Andrzej & Zosia Cieslik
Sofie Cirinelli
James Cizike
Raymond Clancy
Donald Clark
Gail Clark
Lawrence Clark
Lisa Clark
Lisa Clark, Personal Representative of the Estate of Thomas R. Clark
Matthew Clark
Patricia Clark
Richard Clark
Robert Clark
Sarah Clark
Garry Clark, Sr.
Whitney Clark
Yuko Clark
Yuko Clark, Personal Representative of the Estate of Gregory A. Clark
Kathleen Clarke Head
Patricia Clarke Scudder
Dennis Clarke
Kelly Clarke
Timothy Clarke
Theresa Clamer
Brian Claro

David Clingain
John Clinton
Dermott Clowe
Charles Clyne
Charles Clyne, Personal Representative of the Estate of Susan M. Clyne
Kevin Clyne
Marie Clyne
Michael Clyne
Timothy Clyne
Caroline Coakley
Vincent Coakley
Vincent & Caroline Coakley, Personal Representative of the Estate of Steven Coakley
Christine Coates
Sharon Cobb-Glenn
Sharon Cobb-Glenn, Personal Representative of the Estate of Harry Glenn
James Cody
Christopher Coen
Alicia Cohen
Robert Colacino
Andrew Colbert
Jonathan Coleman
Maryann Colin
Maryann Colin, Personal Representative of the Estate of Robert Dana Colin
Robert Colligan
Julia Collins
Julia Collins, Personal Representative of the Estate of Thomas J. Collins
William Collins
Warren Colodner
Warren Colodner, Personal Representative of the Estate of Patricia M. Colodner
Alexis Colon

Benito Colon
Benito Colon, Personal Representative of the Estate of Soledi Colon
Shayla Colon
George Colucci
Carmelo Composto
Stephen Conklin
David Conlin
Kevin Connelly
James Connolly
Michael Connolly
Patrick Connolly
Thomas Connolly
William Connolly
Christopher Connor
Steven Connor
Karen Connors
Thomas Conroy, Jr.
Elvira Conti
Jeffrey Conti
Kenneth Cook
Walter Cook
Werner Cook
John Coombs
James Cooney
Douglas Copp
Patricia & Brennan, John Coppo, Personal Representative of the Estate of Joseph J. Coppo, Jr.
Joseph Coppo, III
John Coppo
Matthew Coppo
Patricia Coppo
Felicia Corbett Jones
Felicia Corbett Jones, Personal Representative of the Estate of Joseph Corbett
Jean Corbett

Joseph Corbett
Kathy Corbett
Michael Corr
Susan Correa
Susan Correa, Personal Representative of the Estate of Ruben D. Correa
Michael Corrigan
Christopher Corsi
Louis Cortes-Lauterbach
Ricardo Cortes-Rodriguez
Alicia Cortes-Rodriguez
Julio Cortes-Rodriguez
Maria Cortes-Rodriguez
Maria Cortes-Rodriguez
Martha Cortes-Rodriguez
Mercedes Cortes-Rodriguez
Steven Coscia
Michael Costa
Edward Costello
Roy Cotignola
Joseph Cotter
Jose Cotti
John Cotton
Patrick Cotton
Corey Cottoy
Kojo Cottoy
Conrod Cottoy, Jr.
Christopher Coughlin
Erin Coughlin
John Coughlin
Kayla Coughlin
Patricia Coughlin
Patricia Coughlin, Personal Representative of the Estate of John G. Coughlin
Tara Coughlin
Thomas Courtenay

Larry Courtney
Rubina Cox-Holloway
Rubina Cox-Holloway, Personal Representative of the Estate of Darryl Leron Mckinney
Brian Coyle
Edward Coyle
John Coyle
Mariann Coyle
Mariann Coyle, Personal Representative of the Estate of Andrew Gilbert
Richard Coyle
Terence Coyle
Richard Coyne
Gibson Craig
Ellis Crant
Hilda Crant
John Crant
John Crant, Personal Representative of the Estate of Denise Crant
Ellis Crant, Jr.
Shelley Crant-Baggot
Chris Craven
Connie Crawford
Elizabeth Crawford
Gerard Crawford
Isabelle Crawford
James Crawford
Lisa Crawford
Lisa Crawford, Personal Representative of the Estate of James L. Crawford, Jr.
William Crawford
Linda Creamer
Paul Cresci
George Criscitiello
Omar Crisostomo
Eileen Cristiano

Brent Crobak:
Charles Crocco
John Cronley
Brian Cross
JoAnn Cross
JoAnn Cross, Personal Representative of the Estate of Dennis Cross
Laura Cross
Denise Cross-Feldman
Dianne Crowe
Christina Cruikshank
Douglas Cruikshank
Douglas Cruikshank, Personal Representative of the Estate of Robert Cruikshank
Marianne Cruikshank
Edith Cruz
Edith Cruz, Personal Representative of the Estate of Angela Rosario
Maria Cruz
Maria Cruz, Personal Representative of the Estate of Eduvigis Reyes, Jr.
Beverly Cryne
Frank Cseko
Donald Csomy
Ildefonso Cua
Ildefonso Cua, Personal Representative of the Estate of Grace Alegre Cua
Nicole Cua
Patrick Cua
John Cucciola
Steven Cuevas
Diane Cuff
Patrick Cullen
Leonard Curcio
Peter Curcio
Linda Curia

Linda Curia, Personal Representative of the Estate of Laurence Curia
Richard Curiel
Edward Curley
John Curley
Frank Cumyn
Joseph Curran
Frederick Curry
David Cushing
David Cushing, Personal Representative of the Estate of Patricia Cushing
John Cushing
Pegeen Cushing
Thomas Cushing
Edward Cutting
Dennis Czeczotka
Alan Dagistino
Steven Dahlstrom
Kenneth D'Albero
Jacob Dale
Rachel Dale
Russell Dale
Caterina D'Alessandro
Mariano D'Alessandro
Albert D'Allesandro
James Dalton
Bradley Daly
Daniel Daly
Jeannine Daly
John Daly
Paul Daly
Dominick Damiano
Thomas Damore
Peter D' Ancona
Antonio D' Antonio
Elizabeth D' Antonio

Louisa D' Antonio, Personal Representative of the Estate of Mary D' Antonio
Abigail Danz
Angela Danz, Personal Representative of the Estate of Vincent Danz
Emily Danz
Winifred Danz
Angela Danz-Donohue
Arthur Darby
Kevin Darcy
Dominic D'Arrigo
Gerard Davan
Harrold Daver
Geraldine Davie
Geraldine Davie, Personal Representative of the Estate of Amy O'Doherty
Mark Davino
Jimmie Davis
Mary Davis
Tanya Davis
Tanya Davis, Personal Representative of the Estate of Mannie Leroy Clark
Joseph Dawson
Claire Dean
Donna Dean
Eleanor Dean
Malcolm Dean, Jr.
Mark Dean
Matthew Dean
Patricia Dean
Patricia Dean, Personal Representative of the Estate of William Dean
Malcolm Dean, Sr.
Timothy Dean
Nicole DeAngelis
Patricia DeAngelis

Patricia DeAngelis, Personal Representative of the Estate of Thomas P. Deangelis
James DeBlase
Joseph DeBlase
Marion DeBlase
Marion Deblase, Personal Representative of the Estate of James V. Deblase, Jr.
Nicholas DeBlase
Vincent Decicco
Rodney Decort
Beril Sofia DeFeo, Personal Representative of the Estate of David DeFeo
Francis Defeo
George Degeworth
Kristina DeJong
Kevin Delano
William Delehanty
Mariellen DeLellis
Rosemarie Delgado
Fred Delgrosso
Joseph Delgrosso
Robert D'Elia
James Della Bella
Vincent Della Bella
Vincent Della Bella, Personal Representative of the Estate of Andrea Della Bella
Christopher Della Pietra
Christopher Della Pietra, Personal Representative of the Estate of Joseph Della Pietra
Lisa Della Pietra
Sandra Della Pietra
Kirk Delnick
Amanda Deloughery
Michael Deloughery
Michael Deloughery

Michael Deloughery, Personal Representative of the Estate of Colleen Ann Deloughery
Marianne DeLuca
Philip Demaria
Vincent Demarinis
Violetta Demas
Vivi Demas, Personal Representative of the Estate of Anthony Demas
Nicholas Demasi
Brooke Deming
Brooke Deming, Personal Representative of the Estate of Francis X. Deming
Charles Demitz
Michael Demitz
Susan Demitz
Woody Demitz
Anthony DeNiro Graffino
Dana DeNiro
Raymond Denninger
Rudolf Dent
James Depaob
Michael Depietro
Robert Desandis
Christel DeSimone
Christel DeSimone, Personal Representative of the Estate of Christian Desimone
Martina DeSimone-Caliso
Ila Devani
Susanne Deverson
Etienne Devilliers
Dominick Devito
Todd Devito
Todd DeVito, Personal Representative of the Estate of Jerry DeVito
Joyce Devitt

Joyce Devitt, Personal Representative of the Estate of Robert Devitt
Robert Devitt, Sr.
John Devlin
Carl DiAgostino
Carlo DiAgostino
Christina DiAgostino
Clara DiAgostino
Donna DiAgostino
Donna DiAgostino, Personal Representative of the Estate of Michael L. DiAgostino
Frank DiAgostino
Paul DiAgostino
Pauline DiAgostino
Belkys Diaz
Carmen Diaz
John Diaz
John Diaz
Leocadio Diaz
Leocadio & Carmen Diaz, Personal Representative of the Estate of Nancy Diaz
Leonel Diaz
Milagros Diaz
Milagros Diaz, Personal Representative of the Estate of Lourdes Janet Galletti
Raymond Diaz
Roland Diaz
Gabriel Dick
Donald DiDomenico
Desiree DiDonna
Grace Dietrich
Henry Dietrich
Kurt Dietrich
Ronald DiFrancesco
Robert Digiovanni
Andrew Digiugno

Mark Dimaggio
Michael Dinatale
Amy Dincuff
Beth Dincuff
Frank Dincuff
Ian Dincuff
Joan Dincuff
Joan & Frank Dincuff, Personal Representative of the Estate of Christopher M. Dincuff
Andy & Sam, Dhanmatee Dinnoo, Personal Representative of the Estate of Rena Sam-Dinnoo
Andy Dinnoo
Richard Diorio
Joseph DiPilato
Leo DiPilato
Maria DiPilato
Maria DiPilato, Personal Representative of the Estate of Joseph DiPilato
Charles Dirico
Robert Disanza
Ann Distefano
David Distefano
Frank Distefano
Frank Distefano, Personal Representative of the Estate of Douglas Distefano
Sharon Distefano
John Dixon
Victor Diz
Ngoran Dje
Ngoran Dje, Personal Representative of the Estate of Irina Buslo
Peggy Dobrinski
James Dobson
Kevin Doherty
Thomas Doherty
Brian Dolan

Charles Dolan
Mary Dolan
Michael Dolan
Samantha Dolan
Sarah Dolan
Stacey Dolan
Stacey Dolan, Personal Representative of the Estate of Brendan Dolan
Susan Dolan
Thomas Dolan
Francis Donahue
Sean Donahue
Stephen Donnelly
Thomas Donnelly
Timothy Donnery
Michael Donohue
William Donohue
Catherine Donovan
Joseph Donovan
Michael Donovan
William Donovan
Michael Dorgan
James Dorman
Kevin Dorrian
Robert Dorritie
Nancy Doucette
John Dougherty
Charles Downey
Charles Downey
Joseph Downey
Joseph Downey
Joseph Downey, Personal Representative of the Estate of Raymond M. Downey
Raymond Downey
Rosalie Downey
Mary Doyle O'Neill

Rosaleen Doyle O'Neill
Margaret Doyle
Mary Doyle
Leonard Draves
Joseph Drexler
John Driscoll
Joseph Driscoll
Richard Driscoll
Marvin Duarte
Irina Dubenskaya
Irina Dubenskaya, Personal Representative of the Estate of Eugueni Kniazev
Richard Dubois
Richard Dubowy
Daniel Duddy
Bobby Dudley
Brian Duffy
Kevin Duffy
Kevin Duncan
Leslie Dunlevy
John Dunn
Joseph Dunn
Thomas Dunn
William Dunn
Charles Dunne
Jay Dunne
Jay Dunne, Personal Representative of the Estate of Christopher Joseph Dunne
Mary Dunne
Courtney Dunne-Keenan
Cynthia Dunne-Welch
Jody Dupuis
Irene Durbin
Irene Durbin, Personal Representative of the Estate of Suzanne H. Passaro
Erin Durkin

Erin Durkin, Personal Representative of the Estate of Suzanne Geraty
Erin Eagers
Brett Eagleson
Gail Eagleson
Gail Eagleson, Personal Representative of the Estate of John Bruce Eagleson
Kyle Eagleson
Timothy Eagleson
William Eagleson
Carol Eckna
Richard Eckna
Stanley Eckna
Stanley Eckna, Personal Representative of the Estate of Paul Robert Eckna
Steven Eckna
George Edgeworth
Christopher Edwards
Thomas Edwards, III
Marilyn Edwards
William Edwards
James Efthimiades
Brendan Egan
Brendan Egan
David Egan
David Egan
David Egan, Personal Representative of the Estate of Lisa E. Egan
David Egan, Personal Representative of the Estate of Samantha M. Egan
Elizabeth Egan
Elizabeth Egan
Lorraine Egan
Ernest Ehlberg
Myles Ehrlich
Ryan Ehrlich

Silvia Eiberman
Greg Binsfeld
Jillian Eisman
Sam Ellis
Sam Ellis, Personal Representative of the Estate of Valerie S. Ellis
William Ellis
James Elmendorf
Thomas Emperor
Thomas Emperor
Michael Endrizzi
John Engel
Joseph Enia
Kenneth Erb
Richard Ertley
Brendan Erwin
Eileen Erwin, Personal Representative of the Estate of William John Erwin
Eileen Erwin-Michael
Christian Espinoza
Luis Espinoza
Luis Espinoza, Personal Representative of the Estate of Fanny Espinoza
Stephanie Espinoza
Andrew Esposito
Denise Esposito
Denise Esposito, Personal Representative of the Estate of Michael Esposito
Michael Esposito
Albert Estrada
Dennis Eulau
Dennis Eulau, Personal Representative of the Estate of Michele Coyle Eulau
Eric Eulau
Mark Eulau
Matthew Eulau

Jeanne Evans
Jeanne Evans, Personal Representative of the Estate of Robert Evans
Kayla Fallon Arestivo
Elizabeth Fallon
Elizabeth Fallon
Kathleen Fallon
Kenneth Fallon
Laura Fallon
Laura Fallon, Personal Representative of the Estate of William L. Fallon, Jr.
William Fallon
Alexandra Fallone
Anthony Fallone, III
Katherine Fallone
Patricia Fallone
Patricia Fallone, Personal Representative of the Estate of Anthony J. Fallone
Patrick Fallone
Maureen Fanning
Maureen Fanning, Personal Representative of the Estate of John Fanning
Patrick Fanning
Sean Fanning
Amy Farnum, Personal Representative of the Estate of Douglas Jon Farnum
David Farran
Kaitlin Farrell Mullen
Colin Farrell
Dennis Farrell
Jean Farrell
Kevin Farrell
Maryanne Farrell
Maryanne Farrell, Personal Representative of the Estate of John Farrell
Molly Farrell

Patrick Farrell
Thomas Farrell
Joseph Fazzino
Elizabeth Featherston
Steven Fedorczuk
Francis Feehan
James Feeley
Steven Feidelberg
Steven Feidelberg, Personal Representative of the Estate of Peter Adam Feidelberg
Tara Feinberg Edgette
Michael Feinberg
Wendy Feinberg
Wendy Feinberg, Personal Representative of the Estate of Alan Feinberg
Elisabeth Feldon
Joseph Felle
Terry Felrice
Daniel Fennell
Ruth Fenner
Jill Fenwick
Christy Ferer
Christy Ferer, Personal Representative of the Estate of Neil D. Levin
Mary Ferguson
Mary Ferguson, Personal Representative of the Estate of George J. Ferguson, III
Matthew Ferguson
Wanda Ferguson
Rosario Ferlisi
Julio Fernandez
Julio Fernandez, Personal Representative of the Estate of Julio Fernandez
Manuel Fernandez
Thomas Ferranola
Edward Ferraro

Nicole Ferrell
Salvador Ferrer
James Filomino
James Finn
Terence Finnerman
Jessica Fiore Lacasse
Cristen Fiore Staiano
Charlene Fiore
Charlene Fiore, Personal Representative of the Estate of Michael Fiore
Frank Fiore
Michael Fiore
David Fischbein
Christopher Fischer
Lee Fischer
Carl Fisher
Robert Fithian
David Fitton
Michael Fitzmaurice
Mike Fitzpatrick
Patrick Fitzsimmons
Liam Flaherty
William Flaherty
Hollis Flanagan
James Flanagan
Michael Flanagan
Brian Flannery
Brian Flannery, Personal Representative of the Estate of Christina Donovan Flannery
Thomas Fleming
Joanne Fletcher
Lori Fletcher
Lori Fletcher, Personal Representative of the Estate of Andre G. Fletcher
Thomas Fletcher
Donald Flore

Daniel Florenco
Howard Flugmacher
John Flynn
Joseph Flynn
Michael Flynn
Richard Flynn
Claudia & Walsh, Nancy Flyzik, Personal
Representative of the Estate of Carol Flyzik
Charles Flyzik
Claudia Flyzik
Janet Flyzik
Mark Flyzik
William Foder
Gregory Fodor
Benjamin Fogel
Daniel Foley
Daniel Foley
Joanne Foley
Patricia Foley
Robert Foley
Thomas Foley
Michael Folger
Robert Folger
Robert Folger, Personal Representative of the Estate
of Jane Claire Folger
Thomas Folger
Frank Fontaino
Aidan Fontana
Marian Fontana
Marian Fontana, Personal Representative of the
Estate of David J. Fontana
Alan Forcier
George Foris
Nicholas Fomario
Vincent Forras
Warren Forsyth

Charles Fortin
Michael Fossati
Kurt Foster
Kurt Foster, Personal Representative of the Estate of Claudia Foster
Anthony Frachiolla
Leo Fragapano
Luis Fragoso
Carol Francolini
Carol Francolini, Personal Representative of the Estate of Arthur Joseph Jones, III
Peter Frank
Tierney Frawley, Personal Representative of the Estate of Kevin Frawley
Jeanine Frazier
Jeanine Frazier, Personal Representative of the Estate of Clyde Frazier, Jr.
Scott Frazier
Andrew Fredericks
Hayley Fredericks
Michelle Fredericks
Michelle Fredericks, Personal Representative of the Estate of Andrew Fredericks
James Freer
Lauren Fregonese
Dori Freund
Peter Freund
Robin Freund
Robin Freund, Personal Representative of the Estate of Peter L. Freund
Kenneth Fried
Kenneth Fried, Personal Representative of the Estate of Arlene E. Fried
Helen Friedlander Del Sindaco
Helen Friedlander, Personal Representative of the Estate of Alan W. Friedlander

Steven Friedlander
Daniel Friedman
Elaine Friedman
Melvin Friedman
Michael Friedman
Lisa Friedman-Clark
Lisa Friedman-Clark, Personal Representative of the Estate of Andrew Friedman
Patricia Friscia
Laura Froehlich
Timothy Frolich
Caley Fry
Charles Fry
Lance Fry
Meredith Fry
Meredith Fry, Personal Representative of the Estate of Peter C. Fry
Michael Fry
Taylor Fry
Daniel Fucella
Frederick Fuchs
Alfredo Fuentes
John Fullam
Daniel Furland
George Gabriel
Richard Gabriel
Anne Gabriel
Anne Gabriel, Personal Representative of the Estate of Richard P. Gabriel
Christopher Gabriel
James Gabriel
Patricia Gabriel
Wendi Gabrieli
Monica Gabrielle
Monica Gabrielle, Personal Representative of the Estate of Richard S. Gabrielle

Nicole Gabrielle
Charles Gaffney
Johnny Gagliano
John Gaine
Jack Galante
Andrew Galasso
Joyce Gales
Anne Galizia
Celine Gallagher
Dennis Gallagher
Francine Gallagher
Francine Gallagher, Personal Representative of the Estate of John Patrick Gallagher
James Gallagher
Robert Gallagher
James Gallicchio
Anthony Gallo
Emilio Gallo
John Gallo
Lisa Gallo
Raffaela Gallo
Charles Gallogy
Zhanna Galperina
Zhanna Galperina, Personal Representative of the Estate of Arkady Zaltsman
Kristin Galusha-Wild
Kristin Galusha-Wild, Personal Representative of the Estate of Michael J. Stewart
Philip Gambino
Edward Ganassa
Danielle Ganci Cowan
Christopher Ganci
Peter Ganci, III
Kathleen Ganci
Kathleen Ganci, Personal Representative of the Estate of Peter J. Ganci

Peter Gannon
Regina Gans
Regina Gans, Personal Representative of the Estate of Eugene Clark
Monica Garcia Lantigua
Anne Garcia
Dorothy Garcia, Personal Representative of the Estate of Andrew Garcia, Jr.
Hector Garcia
Hector & Carmen Garcia, Personal Representative of the Estate of Marlyn C. Garcia
Ingrid Garcia
Isabela Garcia
James Garcia
Karmen Garcia
Kenneth Garcia
Pedro Garcia
Rafael Garcia
Tania Garcia
Wanda Garcia
Dorothy Garcia-Bachler
Lorraine Gardella
Lorraine Gardella
Amy Gardner
Andrew Gardner
Elisabet Gardner
Elisabet Gardner, Personal Representative of the Estate of William A. Gardner
Elizabeth Gardner
Elizabeth Gardner, Personal Representative of the Estate of Thomas Gardner
Joseph Gardner
Margaret Gardner
Antonia Gargano
Andrew Gargiulo
Wayne Gargiulo

John Garnett
Robert Garofolo
Jamie Gartenberg Pila
Jill Gartenberg Pila
Jill Gartenberg Pila, Personal Representative of the Estate of James Gartenberg
Nicole Gartenberg Pila
Sharon Gatto
Stephen Gaudut
Rudolph Geiger
Griffin Gelinas
Jack Gelinas
Michelle Gelinas
Michelle Gelinas, Personal Representative of the Estate of Peter Gelinas
Debra Geller
Debra Geller, Personal Representative of the Estate of Steven Paul Geller
Hali Geller
Annalisa Genco
Diane Genco
Diane Genco, Personal Representative of the Estate of Peter V. Genco, Jr.
Victoria Genco
Sean Genovese
Christos George
Elmeda George
St. Elmo George
Eileen Geraty
Sean Geraty
Kathleen Gerbasio
Brian Germain
Michael Germain
Philip Germain
Philip Germain, Personal Representative of the Estate of Denis Germain

Paul Germann
Bruce Gerrie
Thomas Gerrish
Adina Gewirezman
Alexandra Giaccone
Elizabeth Giaccone
James Giaccone
Max Giaccone
Michael Giaccone
Sondra Giaccone
Sondra Giaccone, Personal Representative of the Estate of Joseph Giaccone
Vincent Giaccone
Peter Giammarino
Guerino Giannattanasio
Kenneth Giannelli
Bonnie Gieberied
Carol Gies
Carol Gies, Personal Representative of the Estate of Ronnie E. Gies
Robert Gies
Ronnie Gies
Thomas Gies
Salvatore Gigante
Joseph Gilden
Dennis Gilhooly
Aaron Gill
Joshua Gill
John Gill, Jr.
John Gill, Jr., Personal Representative of the Estate of Paul John Gill
Norman Gillard
Steven Gillespie
Rodney Gillis, II
Jonique Gillis

Serina Gillis, Personal Representative of the Estate of Rodney C. Gillis
Michelle Gill-Martinez
Michael Gimpel
Michael Ginty
Jessica Giordano
Jonathan Giordano
Jordan Giordano
Roxann Giordano
Roxann Giordano, Personal Representative of the Estate of John Giordano
Alexa Giorgetti
Armine Giorgetti
Armine Giorgetti, Personal Representative of the Estate of Steven A. Giorgetti
Paul Giorgetti
Angela Gitto
Angela Gitto, Personal Representative of the Estate of Salvatore Gitto
Gregory Gitto
Mary Gitto
Stephen Gitto
Thomas Gitto
Craig Giuffre
John Giuffrida
Larry Giugliano, Personal Representative of the Estate of Cynthia Giugliano
Lawrence Giugliano
Candy Glazer
Candy Glazer, Personal Representative of the Estate of Edmund Glazer
Nathan Glazer
Brian Gleason
Robert Gleason
William Gleason
Birdie Mae Glenn

Donald Glenn
Jalen Glenn
James Glenn
Roosevelt Glenn, Jr.
Michael Glenn
Roosevelt Glenn, Sr.
Kevin Glock
Peter Glowacz
Helene Gnazzo
John Gnazzo
Jule Gnazzo
Barry Goffred
Jodie Goldberg Sherer
Jodie Goldberg, Personal Representative of the Estate of Brian Goldberg
Shari Goldberg
Robyn Goldstein
William Goldstein
Mark Goldwasser
Donald Goller
Awilda Gomez
Mia Gonzalez
Mia Gonzalez, Personal Representative of the Estate of Lydia Bravo
Tony Gonzalez
Celia Gooding
Zaya Gooding
Zaya Gooding
Francine Goodman
Rachel Goodrich
Rachel Goodrich, Personal Representative of the Estate of Peter M. Goodrich
Gloria-Gigi Gordon
Rochelle Gordon
John Gorgone
Michael Gorman

Patrick Gorman
William Gorman
Richard Gould
Stephen Grabner
Kevin Grace
Michael Grace
John Graham
Lanaird Granger
John Graziano
Christopher Green
William Green
Anthony Greene
Charles Greene
Claudette Greene
Claudette Greene, Personal Representative of the Estate of Donald F. Greene
Jody Greene
Karen Greene
Patricia Greenleaf
Peter Greenleaf
Peter Greenleaf, Personal Representative of the Estate of James Arthur Greenleaf
Florence Gregory
John Gregory
John Gregory
John Gregory, Personal Representative of the Estate of Florence Moran Gregory
Michael Gregory
Robert Grell
Regan Grice
Regan Grice-Vega, Personal Representative of the Estate of Peter Vega
Aurelio Grillo
Joseph Grillo
Mary Jo Grillo

Mary Jo Grillo, Personal Representative of the Estate of Joseph Grillo
Matthew Grillo
Michael Grillo
Steven Grillo
Timothy Grillo
Daniel Grogul
Joanne Gross, Personal Representative of the Estate of Thomas Foley
Keith Gross
Kristen Gross
Lloyd Grossberg
Daniel Grossi
Michael Guardino
Philip Guarnieri
Thomas Guarnieri
Iliana Guibert McGinnis
Steven Guise
Frank Gunther
Eva Gurian
Susan Gurian
Susan Gurian, Personal Representative of the Estate of Douglas Brian Gurian
Tyler Gurian
Michael Gumick
Kevin Gutfleisch
Blanca Judith Gutierrez de Paz
Blanca Gutierrez De Paz, Personal Representative of the Estate of Victor Hugo Paz Gutierrez
Luis Gutierrez
Kevin Guy
Lori Haag Herrmann
Kevin Haag
Mary Haag
Mary Haag, Personal Representative of the Estate of Gary Haag

Michael Haag
Molly Haag
Robert Haag
Paul Haarman
Julie Haberman Osmus
Gordon Haberman
Gordon Haberman, Personal Representative of the Estate of Andrea Lyn Haberman
Kathleen Haberman
Dianne Hagerty
James Hagerty
Mary Haggerty
James Halaby
James Haley
Paul Haley
Gary Hall
Israel Halpern
Kenneth Hamilton
Eric Han
Floyd Han
Frank Han
Kim Han
Patricia Han
Patricia Han, Personal Representative of the Estate of Frederic K. Han
Joseph Hands
Leakat Hanif
Gary Hanley
Dennis Hannafin
John Hannafin
Kayla Hannafin
Kevin Hannafin
Patrick Hannafin
Peter Hannafin
Rene Hannafin

Rene Hannafin, Personal Representative of the Estate of Thomas Hannafin
Thomas Hannafin
Cynthia Hansen
Kenneth Hansen
Linda Hanson Callum
Scott Hanson
Carol Haran
Carol Haran, Personal Representative of the Estate of James Haran
Ron Harding
Douglas Harkins
Jeremiah Hamey
Emil Hamischfeger
Elyse Harrell
Holly Harrell
Margaret Harrell
Margaret Harrell, Personal Representative of the Estate of Stephen G. Harrell
Marissa Harrell
Rachel Harrell
Rachel Harrell, Personal Representative of the Estate of Harvey L. Harrell
Timothy Harrigan
Kirk Harrington
Thomas Harrington
Elissa Harris Sacket
Craig Harris
Eugene Harris
Joseph Harris
Michael Harris
Sheila Harris
Sheila Harris, Personal Representative of the Estate of Stewart D. Harris
William Harris
Deborah Harrison

Richard Harrison
Janice Hart
Michael Hart
Robert Hartie
Elinore Hartz
Elinore Hartz, Personal Representative of the Estate of John Clinton Hartz
Brian Harvey
Jennifer Harvey, Personal Representative of the Estate of Emeric J. Harvey
Michael Harvey
Virginia Harvey
Jennifer Harvey-Trainor
Francis Haskell
John Hassett
James Hawk
Larry Hawk
Phyllis Hawk
Patrick Hayden
Paula Hayes Cottoy
Paula Hayes Cottoy, Personal Representative of the Estate of Conrod Cottoy, Sr.
Philip Hayes, Jr.
Kelly Hayes
Kelly Hayes, Personal Representative of the Estate of Scott J. O'Brien
Virginia Hayes
Virginia Hayes, Personal Representative of the Estate of Phillip Thomas Hayes
Warren Hayes
Ann Haynes
Ann Haynes, Personal Representative of the Estate of William Ward Haynes
Barbara Haynes
Elizabeth Haynes
William Haynes, II

Leroy Haynes
Thomas Haynes
Katherine Haynes-Pepe
Raymond Haywood
Melford Hazel
James Heal
Kathryn Healey
Matthew Healey
Michael Healey
Theresa Healey
Theresa Healey, Personal Representative of the Estate of Michael Healey
Brian Healy
David Healy
George Hear
Stephen Heavey
Michael Heffernan
Todd Heiman
Gregory Helfer
Doron Henderson
Eugene Henderson
Hashim Henderson
Shirley Henderson
Shirley & Hashim Henderson, Personal Representative of the Estate of Ronnie Lee Henderson
William Henderson
Willie Henderson
Julie Henneberry
William Hennessy
Michael Hennigna
John Henricksen
Karine Henriquez
John Henry
Thomas Henry
William Herlihy

Lidia Hernandez Melendez
Digna Hernandez
Digna Hernandez, Personal Representative of the Estate of Raul Hernandez
Wanda Hernandez
Wanda Hernandez, Personal Representative of the Estate of Monique E. DeJesus
Jeff Hestnes
Esther Heymann
Daniel Hickey
Dennis Hickey
Donna Hickey
Donna Hickey, Personal Representative of the Estate of Brian Hickey
Herbert Hickey
Joseph Hickey
Kevin Hickey
Patrick Hickey
Sean Hickey
Karen Higdon
Joseph Higgins
Amanda Higley
Judith Higley
Robyn Higley
Victoria Higley
Victoria Higley, Personal Representative of the Estate of Robert Higley
Coleen Hinds
Collin Hinds
Ethlyn Hinds
J ameer Hinds
Karen Hinds
Karen Hinds, Personal Representative of the Estate of Neil Hinds
Wade-Roy Hinds
William Hoag

Sonya Hobbs Cuffee
Tammy Hobbs Ginsberg
Sherian Hobbs Lightfoot
Allison Hobbs
Allison Hobbs, Personal Representative of the Estate of Thomas A. Hobbs
Dennis Hobbs
Dennis & Dixie Hobbs, Personal Representative of the Estate of Tara Yvette Hobbs
Dixie Hobbs
Reginald Hobbs
James Hodges, II
Robert Hofer
Donald Hoffman
James Hoffman
James Hoffman, Personal Representative of the Estate of Marcia Hoffman
John Hogan
Pamela Hohlweck
Pamela Hohlweck, Personal Representative of the Estate of Thomas W. Hohlweck, Jr.
Gregory Hohmann
Matthew Hohmann
Rosemarie Hohmann
Rosemarie Hohmann, Personal Representative of the Estate of Jonathan R. Hohmann
Ida Holder
Michele Holland McLin
Brian Holland
Joseph Holland, IV
Kathleen Holland
Kathleen Holland, Personal Representative of the Estate of Joseph F. Holland, III
Caitlyn Holohan
Colleen Holohan

Colleen Holohan, Personal Representative of the Estate of Thomas P. Holohan
Thomas Holohan, III
John Holohan
Liam Holohan
Terrence Holt
Dennis Hoom
Kara Hoom
Katherine Hoom
Katherine & Dennis Hoom, Personal Representative of the Estate of Bradley Hoom
Timothy Hoppey
Bryan Horan
Michael Horan
Andrew Hornbuckle
Robert Hourican
Christopher Howard
Christopher Howard, Personal Representative of the Estate of George G. Howard
JoAnn Howard
JoAnn Howard, Personal Representative of the Estate of Joseph L. Howard
Joseph Howard
Robert Howard
Janice Howard-Battaglia
Andrea Howell
Robert Hoyt
Joseph Hromada
Stephen Hromada, Personal Representative of the Estate of Milagros Hromada
Edward Hronec
Morris Hubbard
Christina Hughes
Karen Hughes
Karen Hughes, Personal Representative of the Estate of Timothy Hughes

Kenneth Hughes
Scott Hughes
Thomas Hughes
Timothy Hughes
Robert Humphrey
William Humphrey
Paige Humphries
Marie Hunchak
Marie Hunchak, Personal Representative of the Estate of Andrew La Corte
Christopher Hunt
Bridget Hunter
Bridget Hunter, Personal Representative of the Estate of Joseph G. Hunter
Joseph Hunter
Sean Hunter
James Huron
James Hurson
Gwynetta Hurst Rossi
Gwynetta Hurst, Personal Representative of the Estate of Shannon L. Adams
Kathryn Hussa
Kathryn Hussa, Personal Representative of the Estate of Robert R. Hussa
Robert Hussa
Thomas Hussa
Susan Hutchins
Richard Hutra
John Iammatteo
David Ianelli
Michael Tannazzo
Michele Iavarone
Yesenia Ielpi Major
Andrew Ielpi
Austin Ielpi
Lee Ielpi

Yesenia Ielpi, Personal Representative of the Estate of Jonathan Ielpi
Rafael lglesais
Yelena Ilkanayev, Personal Representative of the Estate of Daniel Ilkanayev
Frederick Ill, III
Mary Ill
Mary Ill, Personal Representative of the Estate of Frederick J. Ill, Jr.
Chaim Ilowitz
David Ilowitz
Lillian Ilowitz
Lillian Ilowitz, Personal Representative of the Estate of Abraham Ilowitz
Michael Incantalupo
Lloyd lnfanzon
Eartha Ingram
William Ingram
Sheila Inserra
Peter Ioveno
Addison Irby
Agnes Irby
Frederick Irby
Kenneth Irby
Kenneth Irby, Personal Representative of the Estate of Stephanie Irby
Edward Ireland
Salvatore Isabella
Carol Iskyan
Carolynn Iskyan
Laura Iskyan
Margaret Iskyan
Margaret Iskyan, Personal Representative of the Estate of John Francis Iskyan
Paul Iskyan
Peter Iskyan

Andrew Isolano
Neta Issacof
Cindy Itzkowitz
Joseph Jablonski
Barbara Jackman
Erin Jackman
Robert Jackman
Robert Jackman, Personal Representative of the
Estate of Brooke Alexandra Jackman
Ross Jackman
Daniel Jackson
Claudia Jacobs
Daniel Jacobs
Jennifer Jacobs
Jennifer Jacobs, Personal Representative of the
Estate of Ariel Louis Jacobs
Melvin Jacobs
Veronica Jacobs
John Jagoda
Christopher Jakubiak
Joanna Jakubiak
Kazimierz Jakubiak
Kazimierz Jakubiak, Personal Representative of the
Estate of Maria Jakubiak
Pawel Jakubiak
Peter Jakubowski
Alan James
Howard James
Valerie James
Brian Janelli
Thaddeus Jankowski
Joseph Jankunis
Richard Janoscak
Matthew Jasko
William Jennerich
Lawrence Jensen

Peter Jensen
Walter Jensen
John Jermyn
Stanley Jessamine
Desmond Jhagroo
Eric Joglar
Gaspar John Morell, Jr.
Paul Johnsen
Anita Johnson
Brian Johnson
Byron Johnson
Dan Johnson
Keith Johnson
Nathanial Johnson
Joy Johnston
Joy Johnston, Personal Representative of the Estate of William Johnston
Robert Johnston
Robert Johnston
William Johnston
Leroy Jonas
Cary Jones
Charlotte Jones
Jeffrey Jones
Joseph Jones
Julia Jones
Peter Jones
Robert Jones
Scott Jones
Anne Jordan Stewart
Peter Jordan
Vincent Jordan
Kathleen Jordan-Hart
Niels Jorgensen
Irwin Joseph Brodsky
Henri Joseph

Jacqueline Joseph
Leila Joseph
Leila & Woodly Joseph, Personal Representative of the Estate of Karl H. Joseph
Ted Joseph
Woodly Joseph
John Joyce
Mary Judge
Doreen Jurczyk
Kazimierz Jurgiel
William Jutt
Joseph Kadillak
Keith Kaiser
Gary Kakeh
Prasanna Kalahasthi
William Kalletta
Beatrice Kandell
Beatrice Kandell, Personal Representative of the Estate of Shari Kandell
Jan Kandell
Steven Kandell
Jennifer Kane
Thomas Kane
Daniel Karp
Daniel Kates
Hannah Kates
Lucy Kates
Anthoula Katsimatides
Antonios Katsimatides
Calliope Katsimatides
George Katsimatides
George Katsimatides, Personal Representative of the Estate of John Katsimatides
Paul Kaufman, Personal Representative of the Estate of Scott Martin McGovern
James Kay

Suanne Kazanecki
Rose Kazi
Jurgiel Kazimierz
Daniel Keane
Robert Keane
Kenneth Keams
Robert Keating
William Keegan
Thomas Keery
Michael Kelleher
Brandon Keller
Gavin Keller
Kathryn Keller
Richard Keller
Robert Keller
Elizabeth Keller-Baker
Elizabeth Keller-Baker, Personal Representative of the Estate of Chandler R. Keller
Pamela Kellerman Fox
Elyssa Kellerman
Roberta Kellerman
Roberta Kellerman, Personal Representative of the Estate of Peter R. Kellerman
Cameron Kellett
Julie Kellett
Patricia Kellett
Patricia Kellett, Personal Representative of the Estate of Joseph P. Kellett
Jill Kelley
Christine Kelly Fabbri
Brian Kelly
Caroline Kelly
Caroline Kelly
Catherine Kelly
Christopher Kelly
Emmet Kelly

James Kelly
James Kelly
James Kelly, Personal Representative of the Estate of Thomas Richard Kelly
Jill Kelly
John Kelly
John Kelly
Julie Kelly, Personal Representative of the Estate of Timothy C. Kelly
Kevin Kelly
Mary Kelly
Maureen Kelly
Maureen Kelly, Personal Representative of the Estate of Mark Ludvigsen
Robert Kelly
Robert Kelly
Shawn Kelly
Susan Kelly
Susan Kelly, Personal Representative of the Estate of Joseph Anthony Kelly
Suzanne Kelly
Thomas Kelly
Timothy Kelly
Julie Kelly-McCormick
John Kelton
Daniel Kemmet
Daniel Kemmet, Sr.
Michael Kemper
Rosemary Kempton
Rosemary Kempton, Personal Representative of the Estate of Rosemary A. Smith
Donald Kennedy, Personal Representative of the Estate of Yvonne Estelle Kennedy
Gerard Kennedy
Jeanne Kennedy
Joseph Kennedy

Leigh Kennedy
Maureen Kennedy
Maureen Kennedy, Personal Representative of the Estate of Robert C. Kennedy
Simon Kennedy
Richard Kenny
Dennis Kerbis
Kerry Kerin
Kenneth Kerr
Laura Khait
Ella Khalif
Ella Khalif, Personal Representative of the Estate of Boris Khalif
Steven Khalif
Lauren Kiefer
Paul Kiefer, Personal Representative of the Estate of Brian Warner
John Kielty
John Kilcoyne
Roger Kilfoil
Joseph Killeen
Hwa Kim
Jin Hee Kim
Jin Kim, Personal Representative of the Estate of Hyun Joon Lee
Paul Kim
Paul Kim, Personal Representative of the Estate of Andrew Jay-Hoon Kim
William Kim
Christopher King
Elizabeth King
Stephen King
Theresa King
Theresa King, Personal Representative of the Estate of Robert King, Jr.
Thomas King

William King
Kathleen Kinne
John Kirk
Patrick Kissane
Douglas Klares
Richard Klares, Jr.
Scott Klares
Veronica Klares
Veronica Klares, Personal Representative of the Estate of Richard J. Klares
Nicole Klein Girouard
Jason Klein
Richard Klein
Richard Klein, Personal Representative of the Estate of Julie Lynne Zipper
Donna Klitzman
Donna & Susan Klitzman, Personal Representative of the Estate of Karen Klitzman
Robert Klitzman
Susan Klitzman
Winfield Kluth
Robert Kmak
William Knoth
Stuart Knox
Marion Knox
Marion Knox, Personal Representative of the Estate of Andrew Knox
Eric Knutsen
Craig Kobes
Yefim Kogan
Charles Kotov
Walter Kowalcezyk
Michael Kozak
Steven Krakower
Susan Kraljic
Donna Krinsky

Jeremy Krist
Frank Kropf
Catherine Kross
Richard Kuemer
Kathleen Kulik
Michael Kull
Nadadur Kumar, Personal Representative of the Estate of Pendyala Vamsikrishna
Carlos Kuper
Peter La Corte
Jaclyn LaBarbera
John Labarbera
Teresa Labo
Richard Lacerra
Robert Lacey
Raymond Lachhman
Elizabeth Ladley
James Ladley
Sheri Ladley, Personal Representative of the Estate of James P. Ladley
Sheri Ladley-Calamusa
Andrea Laforte
Frances Laforte
Frances LaPorte, Personal Representative of the Estate of Michael P. LaPorte
Michael LaPorte
Raymond Laforte
Edlene LaFrance
Edlene LaFrance, Personal Representative of the Estate of Alan Charles LaFrance
Ruth Lafuente Rockett
Catherine Lafuente
Christine Lafuente
Colette Lafuente
Colette Lafuente, Personal Representative of the Estate of Juan M. Lafuente

Jorge Lafuente
Jose Lafuente
Erik Lahoda
Anthony Laieta
Carol Laieta
Carol Laieta, Personal Representative of the Estate of Vincent A. Laieta
Josephine Laieta
Kevin Laieta
Vincent Laieta
Michael Lally
Emily LaMantia
Kimberly LaMantia
Stephen LaMantia
Kimberly Lamantia, Personal Representative of the Estate of Stephen Lamantia
Lance Lamazza
Raymond Lambdin
Morris Lamonsoff
Morris Lamonsoff, Personal Representative of the Estate of Amy Hope Lamonsoff
Steven Lamonsoff
Tina Lampart
Donald Lang
Gary Lang
Gerard Lang
James Lang
Martin Lang
Martin Lang
Mary Lang
Richard Lang
Richard Lang
Rose Lang
Timothy Lang
William Lang
Patrick Lanza

David Lapin
Christopher Larocca
Michael Larosa
Harlene Larry
Harlene Larry, Personal Representative of the Estate of Hamidou S. Larry
Rasheed Larry
Sheriffa Larry
Joseph Lasher
Deborah Lasko
Kim Lasko
Kim Lasko, Personal Representative of the Estate of Gary E. Lasko
Ellen Lassman
Ira Lassman
Laura Lassman
Laura Lassman, Personal Representative of the Estate of Nicholas Lassman
Robert Lastella
James Lauer
Laurie Lauterbach
Laurie Lauterbach, Personal Representative of the Estate of Carlos Cortes
Joseph Lavin
Patrick Lavin
Jeanne Lawler
John Layton
Houssain Lazaar
Chad Leach
Nathan Leaflight
Daniel Leahy
John Leahy
James Leahy, Jr.
Marcela Leahy
Marcela Leahy, Personal Representative of the Estate of James P. Leahy

William Leahy
Michael Leamy
Frank Leandro
Andrea LeBlanc
Andrea Leblanc, Personal Representative of the Estate of Robert G. LeBlanc
Carolyn LeBlanc
John LeBlanc
Paul LeBlanc
Joseph Leclair
Woody Ledwith
Edward Lee
Jiunn-Yih Lee
Ronald Lee, Jr.
Karen Lee
Karen Lee, Personal Representative of the Estate of Richard Yun-Choon Lee
Mei Lee
Philip Lee
Philip & Jy, Mei Lee, Personal Representatives of the Estate of Yang Der Lee
Stephen Lee
Yi Yann Lee
Zachary Lee
Artie Leecock
Daniel Lefebvre
Christos Letkaditis
Delores Legree
Delores Legree, Personal Representative of the Estate of Anthony Hawkins
Hafeezah Legree
Juan Legro Diaz
Jeanette Legro
Maria Legro
Maria Legro, Personal Representative of the Estate of Adriana Legro

James Leibman
Elaine Leinung
Elaine Leinung, Personal Representative of the Estate of Paul Battaglia
Eric Leinung
John Leinung
Kristen Leinung
Brian Leistman
Donald Leistman, Personal Representative of the Estate of David R. Leistman
Maryclair Leistman
Jean Lembo
Joseph Lembo
Richard Lemonda
Kevin Lenahan
Ingrid Lenihan
Ingrid Lenihan, Personal Representative of the Estate of Joseph A. Lenihan
John Lenihan
Hugh Lennon
John Lennon
Andrew Lenoir
Courtney Lenoir
Susan Lenoir
Susan Lenoir, Personal Representative of the Estate of John Robinson Lenoir
Thomas Lent
Elizabeth Leonardi
Andrew LeVeen
Christine LeVeen
Christine LeVeen, Personal Representative of the Estate of Jeffrey E. LeVeen
Jeffrey LeVeen, Jr.
Kathryn LeVeen
Margaret LeVeen
John Levendosky

Jeff Lever
Vincent Levien
Roberta Levine
Roberta Levine, Personal Representative of the Estate of Robert M. Levine
Abraham Levinson
Cynthia Lewis
James Lewis
Jerline Lewis
Jerline Lewis, Personal Representative of the Estate of Sherry Ann Bordeaux
John Lewis
Melvin Lewis
Melvin & John Lewis, Personal Representative of the Estate of Margaret Lewis
Patricia Lewis
Steve Lewis
Haydee Lillo
Haydee Lillo, Personal Representative of the Estate of Carlos Lillo
Daniel Lind
Michael Lindy
Dennis Linehan
Joseph Lipari
Michael Lipari
Ronald Littlejohn
Lance Lizzul
Robert Lodato
Deborah Loeffler
Edward Loehmann
Frank Lombardi
Michael Lombardi
Stella Lombardo
Thomas Lonegan
George Lonergan
Stephen Lonergan

Joan Lopatin
Christine Lopez
Jenny Lopez
Manual Lopez
Robert Lopez
Michael Loporcaro
Charles Losacco
Mark Lotito
Vincent Louis
John Lovett
Evan Lozier
Karoline Lozier
Kathleen Lozier
Kathleen Lozier, Personal Representative of the Estate of Garry W. Lozier
Olivia Lozier
Lauren Lucchesi
Edward Luciani
Mary Luciano
Steven Luisi
Vincent Luisi
Marie Lukas
Marie Lukas, Personal Representative of the Estate of Marie Lukas
Salvatore Lumia
David Lun
Mark Lunden
Michelle Lunden, Personal Representative of the Estate of Michael P. Lunden
Adam Lutfi
Barbara Lynch
Barbara Lynch, Personal Representative of the Estate of Robert W. O'Shea
Carol Lynch
Mary Lynch
Cathy Lynn Birch

David Lynn
Thomas Lyons
Christian Lysy
Leigh Macadlo
Gregory Macagnone
Jack Macaluso
Michael Macdonald
Anne MacFarlane
Anne MacFarlane, Personal Representative of the Estate of Marianne MacFarlane
George MacFarlane
Joseph Macfarlane
Mary Ellen Machcinski
Mary & Joseph (Pfeifer) Machinksi, Personal Representative of the Estate of Kevin Pfeifer
Lisanne Mackenzie
Lisanne Mackenzie, Personal Representative of the Estate of James P. O'Brien, Jr.
Michael Mackl
Frank Macri
Patricia Madamas
Robert Madden
Andrea Maffeo
Andrea Maffeo, Personal Representative of the Estate of Jennieann Maffeo
Frances Maffeo
Joseph Maffeo
Sam Maffeo
Joseph Maggi
Christopher Maggitti
Pamela Maggitti
Pamela Maggitti, Personal Representative of the Estate of Joseph Vincent Maggitti
Julie Magliulo
Kristin Maguire
Sandy Mahabir

James Mahon
Patrick Mahoney
Irene Mair Wells
Annette Mair
Lloyd Mair
Roger Mair
Frank Maisano
Andre Majors
Andrew Majors
Natalie Makshanov
Natalie Makshanov, Personal Representative of the Estate of Jason M. Sekzer
Glen Makuch
Patricia Malatesta
Chris Maldonado
Otelio Maldonado, Jr.
Otelio Maldonado, Jr., Personal Representative of the Estate of Debora Maldonado
Krystal Maldonado
Cecil Maloney
Patrick Maloney
Timothy Maloney
Toni Maloney
Deborah Mandell
Robert Mandia
Frank Manetta
Thomas Mangus
Charles Maniscalco
James Manitta
Gregory Manning
William Mannion
Daniel Manochio
Kelly Manzi
Wayne Manzie
Leon Marashaj
Felipe Marcano

Ann Marcelliano
Rebecca Marchand
Rebecca Marchand, Personal Representative of the Estate of Alfred G. Marchand
Anthony Marchese
Lorraine Marchese
Lorraine Marchese, Personal Representative of the Estate of Laura A. Giglio
Cathy Marchese-Collins
Edmond Marcoux
Robert Marcoux
Richard Margino
Mary Marinelli
Steve Marion
John Mark
Lawrence Marley
John Marr
Erik Marrero
Patricia Marrese
Felice Marrow
Meryl Marshall
Isa Martin
James Martin
John Martin
John Martin, Personal Representative of the Estate of Karen A. Martin
Paul Martin
Susan Martin
Willam Martin
Bettyann Martineau
Bettyann Martineau, Personal Representative of the Estate of Brian E. Martineau
Cathleen Martineau
Chelsea Martineau
Edward Martineau, Jr.
Ronnah Martineau

Scott Martineau
Irma Martinez
Amanda Martinez Diaz
Dario Martinez
Doris Martinez
Doris Martinez
Juan Martinez, Jr.
Reinaldo Martinez
Juan Martinez, Sr.
Juan Martinez, Sr., Personal Representative of the Estate of Waleska Martinez
William Martinez
Antonio Martino
Michael Martorana
Patricia Marzocchi
Christopher Mascali
Jennifer Mascali
Katelyn Mascali
Lori Mascali
Lori Mascali, Personal Representative of the Estate of Joseph Mascali
Jaclyn Mascarenhas
Raynette Mascarenhas
Raynette Mascarenhas, Personal Representative of the Estate of Bernard Mascarenhas
Sven Mascarenhas
Rocco Masciolo
Christopher Massaria
John Massarotti
Thomas Mastrodomenico
Marc Mastros
Daniel Matteo
Anthony Mattone
Garry Maurice
Dorothy Mauro, Personal Representative of the Estate of Charles A. Mauro

Dorothy Mauro-Jastremski
Thomas May
Arsen Mayer
Arsen Mayer, Personal Representative of the Estate of Irina Kolpakova
Kevin Maynard
Pearl Maynard
Pearl Maynard, Personal Representative of the Estate of Keithroy Maynard
Vernon Maynard
Robert Maynes
Corbin Mayo
Meryl Mayo, Personal Representative of the Estate of Robert Mayo
Richard Mayronne
Gary Mazalatis
Joseph Mazzarello
Lori Mazzeo
Ann McAlary
Bryan McAlary
James McAlary
Jeanne McAlary
Jeanne McAlary, Personal Representative of the Estate of James J. McAlary
Jillian McAlary
John McAlary
Joseph McAlary
Carolyn McAllister
Kevin Mcardle
Thomas Mcaree
Brian Mcavoy
Sean McBrien
James Mcburney
Edward Mccabe
Kevin Mccabe
Steven Mccaffery

Thomas Mccaffrey
Edward Mccamphill
John Mccann
Mary McCarthy O'Leary
Mary McCarthy O'Leary, Personal Representative of the Estate of Gerald Thomas O'Leary
Ann McCarthy
Ann McCarthy, Personal Representative of the Estate of Robert G. McCarthy
Betty Ann McCarthy
Betty Ann McCarthy, Personal Representative of the Estate of Justin McCarthy
Chris McCarthy
Dennis McCarthy
James McCarthy
Lauren McCarthy
Margaret McCarthy
Neil Mccarthy
Shane McCarthy
William McCarthy
William McCarthy
William McCarthy, Personal Representative of the Estate of Michael McCarthy
Harold Mcclutchy
Christopher Mccormack
Patrick Mccormack
Irving Mccoy
Derek McCrann
Maxine McCrann
Michelle McCrann
Michelle McCrann, Personal Representative of the Estate of Charles A. McCrann
Kevin Mccutchan
Susan McDermott
Susan McDermott, Personal Representative of the Estate of Matthew T. Mcdermott

Virginia McDermott
John Mcdonald
Kelly Mcdonald
Daniel Mcdonough
David Mcdonough
Kevin Mcdowell
Patricia McDowell
Patricia McDowell, Personal Representative of the Estate of John F. McDowell, Jr.
Charles Mcelhone
Wendy McEneany
Gregory Mcenroe
Allison McErlean Gerstenfeld
Mary Beth McErlean
Mary Beth McErlean, Personal Representative of the Estate of John T. McErlean, Jr.
Mary Kate McErlean
Ryan McErlean
Timothy McErlean
Patrick Mcevoy
Joann Mcfarland
Michael Mcfarland
Terrence Mcgann
James Mcgetrick
Shaun Mcgill
Anne McGinley
Constance McGinley
Dennis McGinley
Madeline McGinley
Margaret McGinley
Margaret McGinley, Personal Representative of the Estate of Daniel F. McGinley
Martin McGinley
Michael McGinley
Patrick McGinley
Peter McGinley

Terence McGinley
Thomas McGinley
Caitlin McGinnis
Iliana McGinnis, Personal Representative of the Estate of Thomas Henry Mcginnis
James McGinnis
Patricia McGinnis-Daly
Erin McGinty James
Cynthia McGinty
Cynthia McGinty, Personal Representative of the Estate of Michael Gregory McGinty
Daniel McGinty
David McGinty
Sandra McGinty
Patrick Mcgivney
John Mcgonigle
Alana McGovern
Cornelius Mcgovern
David Mcgovern
Elizabeth McGovern
Jill McGovern
Joseph Mcgovern
Lawrence McGovern
Nicole McGovern
Owen Mcgovern
Theresa McGovern
Theresa McGovern, Personal Representative of the Estate of Ann W. McGovern
Kevin Mcgowan
Brian Mcguire
Robert Mcguire
Thomas Mchugh
Tim Mcinerney
Margaret Mclnnes
James Mckay
Walter Mckee

Brain Mckeever
Thomas Mckenna
Shawn Mckeon
Dallas McKinney
Darryl McKinney
Ann McLaughlin
Christopher Mclaughlin
Dorothy McLaughlin
George McLaughlin
John Mclaughlin
Linda McLaughlin
Sheri McLaughlin
George McLaughlin, Sr., Personal Representative of the Estate of George P. McLaughlin, Jr.
William Mclaughlin
Ann McMahon
Joseph Mcmahon
Paul Mcmenamy
Cherilyn McMullen
William Mcnally
James Mcnamara
John Mcnamara
Anne McNeil
Anne McNeil, Personal Representative of the Estate of Martin Michelstein
Gary Mcnulty
Joseph McNulty
Michael McNulty
Gerard Mcparland
Ellen McQueen
Debra McSweeney
Debra Mcsweeney, Personal Representative of the Estate of Timothy Patrick Mcsweeney
Dennis Mcsweeney
Dennis McSweeney
Katherine McSweeney

Margaret Mcsweeney
Patrick Mcsweeney
Robert Meadows
Philip Medeiros
Paul Medordi
Vincent Medordi
Joann Meehan
Joann Meehan, Personal Representative of the Estate of Damian Meehan
Damian Meehan, Jr.
Kevin Meehan
Madison Meehan
Malka Melamed
Lidia Melendez, Personal Representative of the Estate of Mirna A. Duarte
Kevin Melfi
Michael Melillo
Kevin Melody
Pamela Melton
James Melvin
Richard Meo
Joseph Meola
Anthony Mercado
Austin Mercado
Joviana Mercado
Joviana Mercado, Personal Representative of the Estate of Steve Mercado
Louis Mercado, Jr.
Mary Mercado
Skylar Mercado
Louis Mercado, Sr.
Olga Merino
Olga Merino, Personal Representative of the Estate of George L. Merino
Tania Merino
Elizabeth Merkouris

Elizabeth Merkouris
Jack Merkouris
Jacob Merkouris
Koula Merkouris
Koula Merkouris, Personal Representative of the Estate of George Merkouris
Steve Merkouris
Meghan Metzemaekers
Kimberly Meyer
Dennis Meyers
Antonia Micko
Anna Milewska
Kamila Milewska-Podejma
Frederyk Milewski
Frederyk & Anna Milewski, Personal Representative of the Estate of Lukasz Milewski
Christina Millan
Mauricio Millan
Amber Miller
Amber & Jamie Miller, Personal Representative of the Estate of Karen Juday
Beatrice Miller
Cathleen Miller
Diane Miller
Diane Miller, Personal Representative of the Estate of Henry A. Miller, Jr.
Dina Miller
Edward Miller
Faith Miller
Faith Miller, Personal Representative of the Estate of Robert Alan Miller
Henry Miller
James Miller
Jamie Miller
Marjorie Miller

Marjorie Miller, Personal Representative of the Estate of Joel Miller
Neil Miller
Steven Miller
Wayne Miller
Michael Milner
Derrick Milone
Donald Mimnaugh
Christine Minardi
James Minardi
Robert Minardi
Stephanie Minardi
William Minardi
Barbara Minervino
Barbara Minervino, Personal Representative of the Estate of Louis J. Minervino
Laina Minervino
Marisa Minervino
Amanda Mingione
Jennifer Mingione
Jennifer Mingione, Personal Representative of the Estate of Thomas Mingione
Louis Minutoli
Richard Miranda
John Miskanic
Mark Missall
John Mixon
Joseph Miynarczyk
Joanne Modafferi
Joanne Modafferi, Personal Representative of the Estate of Louis J. Modafferi
Joseph Modafferi
Michael Modafferi
Anthony Modica
Steve Modica
Amon Modine

Anna Mojica
Anna Mojica, Personal Representative of the Estate of Manuel Mojica, Jr.
Letty Mojica
Manny Mojica
Stephanie Mojica
Janet & Timothy Molczyk
Frank Mollica
Peter Molnar
Paul Moloney
Christopher Monahan
Terrence Monahan
Diane Monahan
Diane Monahan, Personal Representative of the Estate of John G. Monahan
Alwish Monchery
Frank Mondelli
Paul Monfre
John Mongiello
Warren Monroe
Dominick Montalto
Jose Montalvo
Yvette Montalvo
Joseph Montanaro
Elizardo Montes
Kevin Montgomery
Kenneth Moody
Frank Moore
Gary Moore
Michael Moore
Robert Moore
Thomas Moore
Anitha Moorthy
Saradha Moorthy
Saradha Moorthy, Personal Representative of the Estate of Krishna Moorthy

Sriram Moorthy
James Moran
John Moran
William Moran
Mark Morell
Rita Morell Shea
Anthony Morell
George Morell, Jr.
Kelsey Morell
Roberta Morell
Roberta Morell, Personal Representative of the Estate of George W. Morell
Harvey Morgenstern
Howard Morgenstern
Jeffrey Morgenstern
Suri Morgenstern
Suri Morgenstern, Personal Representative of the Estate of Nancy Morgenstern
Donald Mormino
Brian Moroney
Elizabeth Moroney
Kevin Moroney
Michael Moroney
Nancy Moroney
Nancy Moroney, Personal Representative of the Estate of Dennis Moroney
Timothy Moroney
Alberto Morrales
Robert Morris
William Morris
Henry Morrison
Laura Morrison
Edward Morrissey
Blanca Morrone
Kevin Morrone
John Morrongiello

Audrey Mosley Marcus
Elizabeth Moss, Personal Representative of the Estate of Linda Oliva
Christopher Motroni
Emily Motroni
Emily Motroni, Personal Representative of the Estate of Marco Motroni
Joseph Mottola
Frank Motyka
Kevin Mount
Jerzy Mrozek
John Mucciola
Anthony Muia
Richard Mulhern
Mark Mullady
Kevin Mullane
William Muller
Hugh Mulligan
Kenneth Mulligan
Daniel Mullins
James Mullins
Brendan Mulroy
Brian Mulry
Leonard Munda
Raul Muniz
Michael Munoz
Murray Murad
Jonathan Murath
Lindsey Murdock
Angela Murolo
Angelo Murolo
Cathy Murolo, Personal Representative of the Estate of Marc A. Murolo
Dominick Murolo
Lauren Murphy Lewis
Elvira Murphy Trayner

Elizabeth Murphy
Elizabeth Murphy
Elizabeth Murphy, Personal Representative of the Estate of Charles A. Murphy
Elvira Murphy, Personal Representative of the Estate of Patrick Sean Murphy
Jesse Murphy
John Murphy
Keith Murphy
Kevin Murphy
Lauren Murphy, Personal Representative of the Estate of Matthew T. O'Mahony
Lori-Jean Murphy
Margaret Murphy
Michael Murphy
Patrick Murphy
Robert Murphy
Sean Murphy
Steven Murphy
Thomas Murphy
Thomas Murphy
Daniel Murray
Franklin Murray
John Murray
Kevin Murray
Gerard Murtha
Michael Musto
Leticia Muszel
Arthur Myers
Frank Myers
Gail Myhre, Personal Representative of the Estate of Richard Todd Myhre
Jonathan Myhre
Enrica Naccarato
Enrica Naccarato, Personal Representative of the Estate of Lorraine Lisi

Richard Naiman
Richard Naiman, Personal Representative of the Estate of Mildred R. Naiman
Russell Naiman
William Naiman
Andrea Nanna-Montgomery
Richard Naples
Joseph Napoli
Joseph Nardone
Reynaldo Narvaez
Louisa Natale
Edward Navarro
Edward Navarro, Personal Representative of the Estate of Karen Susan Navarro
Elizabeth Navarro
Sharon Navarro
Thomas Neary, III
Robert Nebel
Ralph Negron
David Nelson
Delroy Nelson
Sharon Baker-Gual & David Nelson, Personal Representative of the Estate of Kerene Gordon
William Nelson
William Nelson, Personal Representative of the Estate of Theresa Risco
James Neville
John Newell
Peter Newen
Steven Newman
Thomas Newman
Stephen Nichols
Mary Nicholson
Mary Nicholson
Mary Nicholson, Personal Representative of the Estate of Mary Kathleen Shearer

Mary Nicholson, Personal Representative of the Estate of Robert Shearer
Gerard Nicoletti
George Nicosia
George Nicosia, Personal Representative of the Estate of Kathleen Anne Nicosia
Robert Niebler
Paul Nigro
Manuela Nita-Gallo, Personal Representative of the Estate of Cono Gallo
Manuela Nita-Vazquez
Jeffrey Nix
Patricia Noah
Nancy Noble
Albert Nocella
Allen Noeth
Merrilly Noeth
Merrilly Noeth, Personal Representative of the Estate of Michael Allen Noeth
William Nolan
Alexander Noney
Anne Noonan Robertson
Anne Noonan
Ashley Noonan
Charles Noonan
Dana Noonan
Dana Noonan, Personal Representative of the Estate of Robert Walter Noonan
Daniel Noonan
Kelly Noonan
Walter Noonan
Daniel Novotny
John Novotny
Kevin Novotny
Mary Novotny
Michael Novotny

Robert Novotny
William Novotny
William Novotny
William & Michael Novotny, Personal Representative of the Estate of Brian C. Novotny
Melinda Nugent
Arline Nussbaum
Arline Nussbaum, Personal Representative of the Estate of Jeffrey Nussbaum
Craig Nussbaum
Martha O'Brien, Personal Representative of the Estate of Thomas M. Butler
Harrison O'Neil Morell
Richard Obermayer
Aiden O'Brien
Gregory O'Brien
Joan O'Brien
John O'Brien
Joseph O'Brien
Martha O'Brien
Richard 0 'Brien
Sean O'Brien
Steven O'Brien
Clare O'Connell
Michael O'Connell
Amanda O'Connor
Charlene O'Connor
Christopher O'Connor
Dennis O'Connor, Personal Representative of the Estate of Dennis O'Connor, Jr.
Erin O'Connor
John O'Connor
Lynne O'Connor
Lynne O'Connor, Personal Representative of the Estate of Richard J. O'Connor
Matthew O'Connor

Patrick O’Connor
Dennis O’Connor, Sr.
Thomas O’Connor
William O’Connor
William O’Connor
William O’Connor
William O’Connor
William O’Connor, Personal Representative of the Estate of Diana O’Connor
John Oddo
Janice O’Dell
Walter Odinokow
Maura O’Doherty Lee
George O’Doherty
Christopher O’Donnell
James O’Donnell
Joseph O’Donnell
Robert O’Dowd
Theresa O’Gara
Barbara O’Gorman
Michael O’Gorman
Kristin O’Grady Evans
James O’Grady
James O’Grady, Personal Representative of the Estate of James Andrew O’Grady
Sara O’Grady
Andrea O’Hagan
Andrea O’Hagan, Personal Representative of the Estate of Thomas G. O’Hagan
Patrick O’Hagan
Pierce O’Hagan
Joseph O’Hara
Howard O’Hringer
Joseph O’Keefe
Joseph O’Keefe, Personal Representative of the Estate of Lesley A. Thomas

Tracy 0 'Keefe
Desiree Okseniuk
Brian O'Leary
Michael O'Leary
Thomas O'Leary
Elizabeth Oliva Moss
Anthony Oliva
Frank Oliva
Audrey Olive
Barbara Oliver
Dale Oliver
Daniel Oliver
Donald Oliver
Donald Oliver
Edward Oliver
Emily Oliver
James Oliver
Sheryl Oliver
Sheryl Oliver, Personal Representative of the Estate of Edward Kraft Oliver
Theodore Oliver
Walter Oliver
Daniel Oliveri
Christopher Olson
John Olson
John Olson, Personal Representative of the Estate of Maureen Lyons Olson
Maeve Olson
David O'Neil
Brigid O'Neill Lamon
Katherine O'Neill Wilson
Charles O'Neill
Holly O'Neill
Holly O'Neill, Personal Representative of the Estate of Sean O'Neill
Sean 0 'Neill

Catherine Ong
Gloria Ong
Harry Ong, Jr.
Harry Ong, Jr., Personal Representative of the Estate of Betty Ann Ong
Harry Ong, Sr.
Yee Ong
Troisi Onofrio
Robert Opalecky
Deborah Opperman
Deborah Opperman, Personal Representative of the Estate of Michael Opperman
Michael Opperman, Jr.
Perry Oretzky, Personal Representative of the Estate of David L. Angell
Perry Oretzky, Personal Representative of the Estate of Mary Lynn Edwards Angell
Eduardo Ornedo
Mario Ornedo
Robin Ornedo
Sheila Ornedo
Sheila Ornedo, Personal Representative of the Estate of Ruben Ornedo
Sheila Ornstein
Michael O'Rourke
Thomas O'Rourke
William Orozco
Tracy Orr, Personal Representative of the Estate of Alexander Steinman
Alfredo Ortiz
Alfredo Ortiz, Personal Representative of the Estate of Alexander Ortiz
Jose Ortiz
Tracey Osborne
Arthur Oschmann
Michael O'Shea

Harry Oster
Luis Ostolozaga
Christopher O'Sullivan
Joseph O'Sullivan
Michael O'Sullivan
Sean O'Sullivan
Jane Oswald
Kenneth Oswald
Kenneth Oswald, Personal Representative of the Estate of Jason Oswald
Jennifer Oswald-Chen
Caroline Otero
Joy Ou
Susan Ou
Susan Ou, Personal Representative of the Estate of Michael C. Ou
Girard Owens
Joseph Owens
Kathleen Owens
Kathleen Owens, Personal Representative of the Estate of Peter Owens, Jr.
Maryellen Owens
Thomas Owens
Angel Pabon, II
Vanessa Pabon
Yvette Pabon
Yvette Pabon, Personal Representative of the Estate of Angel M. Pabon, Jr.
Gerard Pace
Jacqueline Padilla
Mary Padilla
Aaron Pagan
Elroy Pagan
Thomas Pair
Sampath Pakkala

Sampath Pakkala, Personal Representative of the Estate of Deepa Pakkala
Bettina Palazzo Grunke
Kristen Palazzo Libby
Kaitlin Palazzo Mamoury
Barbara Palazzo Sulliman
Irene Palazzo
Keri Palazzo
Lisa Palazzo
Lisa Palazzo
Lisa Palazzo, Personal Representative of the Estate of Jeffery M. Palazzo
Lisa Palazzo, Personal Representative of the Estate of Thomas A. Palazzo
Nicole Palazzo
Philip Palazzo
Richard Palazzo
Robert Palazzo
Samantha Palazzo
Elda Palma
Vincent Palmieri
Claudia Pancella
Marianne Panicola
Donna Paolillo
Donna Paolillo, Personal Representative of the Estate of John Paolillo
Ella Paolillo
Jake Paolillo
Michele Paolini
Stefanie Parish
Helene Parisi-Gnazzo, Personal Representative of the Estate of John T. Gnazzo
Edward Parker
Lula Parker
Robert Parker
Ronald Parker

Timothy Parker
Gregory Parr
Ronald Pascucci
Ada Pascuma
Christopher Pascuma
Linda Pascuma
Linda Pascuma, Personal Representative of the Estate of Michael J. Pascuma, Jr.
Melissa Pascuma
Michael Pascuma
Michael Pascuma
Scott Paskewitz
Joseph Pasquarello
Michael Pasquarello
Marie Passananti
Michael Passananti
Sean Passananti
Sean Passananti, Personal Representative of the Estate of Horace Passananti
Anthony Passaro
Helene Passaro
Kalpana Patel
Kantilal Patel
Kantilal Patel, Personal Representative of the Estate of Manish Patel
Parul Patel
Theresa Paterson
Peter Patterson
Dennis Patti
Maria Paulino
Melanie Pavelis
Jeffrey Pawlicki
Ana Paz Gutierrez
Jose Paz Gutierrez
Julia Paz Gutierrez
Hilton Pearce

Adrienne Pearl
Matthew Pegno
Michelle Pegno
Daniel Pelletier
Lillian Pelletier
Marcel Pelletier
Ronald Pelletier
Sophie Pelletier, Personal Representative of the Estate of Michel Pelletier
Nicolas Pelletier-Martinelli
Sophie Pelletier-Martinelli
Sydney Pelletier-Martinelli
Frank Pepe
George Pepe
Alexis Perez
Anthony Perez
Frank Perez
Julian Perez
Karen Perez
Luis Perez
Mary Perez
Mary Perez, Personal Representative of the Estate of Anthony Perez
Osvaldo Perez
Lourdes Perez-Berkeley
Lourdes Perez-Berkeley, Personal Representative of the Estate of Michael J. Berkeley
Daniel Peritore
Patricia Perroncino
Patricia Perroncino, Personal Representative of the Estate of Joseph Perroncino
Joseph Perroncino, Sr.
Stephen Perroncino
Jason Perrone
Josephine Perrotta

Josephine Perrotta, Personal Representative of the Estate of Edward Perrotta
Frank Perry
Michael Perry
Melissa Pescatore
Robert Pesce
Maureen Petronis
Loretta Petronzi
Darryl Pettigrew
Frank Pezzuti
Frank Pezzuti
Frank Pezzuti, Personal Representative of the Estate of Kaleen E. Pezzuti
Kathleen Pezzuti
Megan Pezzuti-Pelino
Robin Pfeffer
Ron Pfeffer
Joseph Pfeifer
Helen Pfeifer
William Pfeifer
Freedman Pfeil
Bernand Phair, Personal Representative of the Estate of Joanne Cregan
Christopher Phillips
Kevin Phillips
Vincent Picciano
Joseph Piccininni
Richard Picciotto
Gregory Picconi
George Pickett
David Pickford
Linda Pickford
Linda Pickford, Personal Representative of the Estate of Christopher Pickford
Thomas Pickford
James Picone

Nancy Picone
Nancy Picone, Personal Representative of the Estate of Arturo Sereno
Bozena Pielarz
Glen Pillarella
Robert Pillarella
Faygee Piller
Lorraine Pirillo
Christopher Pisano
Joanne Pitino
Richard Pitino, Personal Representative of the Estate of William G. Minardi
Murray & Richards, Erin Pitt, Personal Representative of the Estate of Gregory D. Richards
Perry Pizzolo
Lewis Pizzulli
Madeline Placek Zinzi
Thomas Plane
Dedie Plasencia
Bryan Platt
Michelle Pohl
Bernard Polatsch
Daniel Polatsch
Daniel Polatsch, Personal Representative of the Estate of Laurence Polatsch
Andrew Polinsky
Marie Polite
William Pollack
Amy Polmar
Dominick Poma
Joseph Poma
Salvatore Poma
Andrew Porrazzo
Stephen Pose
Anna Poulos

Jean Powell
Jean Powell, Personal Representative of the Estate of Shawn E. Powell
Joshua Powell
James Powers
Larry Prather
Frederick Prevete
Anita Princiotta
Bernadette Princiotta
Christina Princiotta
Karen Princiotta
Karen Princiotta, Personal Representative of the Estate of Vincent Princiotta
Robin Printy
Kirk Pritchard
Linda Pritchard
Daniel Pritzker
Mary Prokop
Martin Prokup
Dennis Prosick
Chaya Protovin
Lisa Prunty Aram
Christopher Prunty
Susan Prunty
Susan Prunty, Personal Representative of the Estate of Richard Prunty
Kathleen Psirogianes
Nicholas Pucciarelli
Robert Pugliese
Janna Pulver
Richard Pulzone
Frank Puma
Carl Punzone
Mark Puopolo
Sonia Puopolo
Dominic Puopolo, Sr.

Dominic Puopolo, Sr., Personal Representative of the Estate of Sonia Morales-Puopolo
Anthony Quaranti
Philip Quattrocchi
Pablo Quesada
Henry Quevedo
William Quick
Leah Quigley
Patricia Quigley
Patricia Quigley, Personal Representative of the Estate of Patrick J. Quigley
Rachel Quigley
Timothy Quin
Andrew Quinn
Dennis Quinn
Joseph Quinn
Joyce Quinn
Kevin Quinn
Michael Quinn
Richard Raccioppi
Edward Radburn
Edward Radburn, Personal Representative of the Estate of Bettina Browne-Radburn
Catherine Raddatz
Glenn Radermacher
Nancy Raeside Shea
Nancy Raeside Shea, Personal Representative of the Estate of Joseph P. Shea
Peter Raeside Shea
James Ragam
Francine Raggio
Francine Raggio, Personal Representative of the Estate of Eugene J. Raggio
Melissa Raggio-Granato
Syed Rahman
Michael Raimer

Louis Raimondi
Gregory Rakovsky
Jean Rall
Jindra Rambousek
Martin Rambousek
Michael Rambousek
Michael Rambousek, Personal Representative of the Estate of Lukas aka Luke Rambousek
Yvonne Ramirez
Yvonne Ramirez, Personal Representative of the Estate of Linda C. Mair Grayling
Brittany Rancke
Christina Rancke
Alfred Rancke, II
James Rand
James Rand
Lisa Rand
Mary Ann Rand
Mary Ann Rand, Personal Representative of the Estate of Adam David Rand
David Rapp
Thomas Rappe
Andrew Rasavongszuk
Aneesa Rasool
Aseefa Rasool
Farhaad Rasool
Sadiq Rasool
Sadiq Rasool, Personal Representative of the Estate of Amenia Rasool
Saeed Rasool
Michael Rasweiler
Stephen Rasweiler
Susan Rasweiler, Personal Representative of the Estate of Roger Mark Rasweiler
Beth Rasweiler-Griffin
Richard Rattazzi

David Raymond
Steven Razickas
Josue Recio
Christopher Reda
Frank Reda
John Reda
Matthew Reda
Nicholas Reda
Nicole Reda
Nicole Reda, Personal Representative of the Estate of Gregory Reda
Daniel Reddan
James Redmond
James Reed
Robert Reeg
Shaun Reen
David Reeve
James Regan
Jill Regan
John Regan
Peter Regan
Robert Regan
Shane Regan
Theresa Regan
Theresa Regan, Personal Representative of the Estate of Donald J. Regan
Albert Regenhard
Catherine Regenhard
Catherine Regenhard, Personal Representative of the Estate of Christian Michael Otto Regenhard
Christina Regenhard
Elizabeth Rego
Elizabeth Rego, Personal Representative of the Estate of Leah E. Oliver
Susan Reidlinger
Christine Reilly

Gerard Reilly
Jennifer Reilly
Jennifer Reilly, Personal Representative of the Estate of Kevin 0. Reilly
John Reilly
Kevin Reilly
Mark Reilly
Stephen Reilly
Thomas Reilly
William Reilly
William Reilly
William Reilly, Personal Representative of the Estate of James Brian Reilly
Leonard Reina
Robert Reip
Doreen Reith
Michael Relay
John Rementeria
William Rendino
Robert Renode, Jr.
Armand Reo
Armand Reo, Personal Representative of the Estate of John A. Reo
Judith Reo
Mark Reo
David Restuccio
Michael Reutter
Aidaline Reyes Concepcion
Nydia Reyes Rodriguez
Armando Reyes
Clementina Reyes
Enoel Reyes
Herman Reyes
Isabel Reyes
Kimberly Reyes
Luz Reyes

Nemesio Reyes
Tiffany Reyes
John Rhatigan
Vito Ribaudo
Michael Ricciardi
Robert Ricciardi
Stephen Riccio
Eugene Rice
Howard Rice
John Rice
Stephen Rice
Asher Richards Frankel
Erin Richards Frankel
Lisa Richards Keston
Carol Richards
Paul Richards
Roger Riches
Vasiliy Rijov
Vasiliy Rijov, Personal Representative of the Estate of Tatiana Ryjova
Frederick Rimmele, Jr.
Marilyn Rimmele
Rocco Rinaldi
John Rinciari
Louie Rios
David Rivas
Alcides Rivera
Alfred Rivera
Daniel Rivera
Hector Rivera
Robert Rivera
Terence Rivera
Danielle Riverso
Jodi Riverso, Personal Representative of the Estate of Joseph R. Riverso
Thomas Rivicci

John Rizzi
Matthew Roach
Gary Robbins
William Robbins, Personal Representative of the Estate of Clarin Schwartz
Rainford Roberts
Timothy Roberts
Thomas Robisky
Alexandra Robotham
Geoffrey Robson
Katherine Robson
Katherine Robson, Personal Representative of the Estate of Donald A. Robson
Scott Robson
Anthony Rocchio
Joseph Rocha
Robert Rochford
Alan Rockefeller
Brian Rocovich
Alphonso Rodgers, Jr.
William Rodgers
Brunilda Rodriguez
Brunilda Rodriguez
Celina Rodriguez
Derek Rodriguez
Evelyn Rodriguez
Evelyn Rodriguez, Personal Representative of the Estate of Anthony Rodriguez
Ivan Rodriguez
Janet Rodriguez
Lauren Rodriguez
Lynnette Rodriguez
Morgan Rodriguez
Pedro Rodriguez
Peter Rodriguez
Peter Rodriguez

Dale Rogers
Kenneth Rogers
Kevin Rogers
Steve Rogers
Katherine Rohner
Ronald Rohner
Ronald Rohner, Personal Representative of the Estate of Scott W. Rohner
Esther Romanoff
Yelena Romanoff
Carmen Romero
Ticey Rosario
Guy Rosbrook
Tamar Rosbrook
Fem Rosenbaum
Martin Rosenbaum
Martin Rosenbaum, Personal Representative of the Estate of Brooke David Rosenbaum
Alyssa Rosenberg
Glenna Rosenberg
Glenna Rosenberg, Personal Representative of the Estate of Lloyd Daniel Rosenberg
Kaylee Rosenberg
Samantha Rosenberg
Alissa Rosenberg-Torres
Alissa Rosenberg-Torres, Personal Representative of the Estate of Luis Eduardo Torres
Anne Rosenblatt Klein
Philip Rosenblatt
Adam Rosenblum
Barbara Rosenblum
Jason Rosenblum
Jill Rosenblum
Jill Rosenblum, Personal Representative of the Estate of Andrew I. Rosenblum
Jordan Rosenblum

Kyle Rosenblum
Richard Rosenblum
Lauren Rosenzweig Morton
Lauren Rosenzweig Morton, Personal Representative of the Estate of Phillip Rosenzweig
Allan Rosenzweig
Max Rosenzweig
Abigail Ross Goodman
Alison Ross
Bruce Ross
Franklin Ross
Irene Ross
Judi Ross
Judi Ross, Personal Representative of the Estate of Richard Ross
Marshall Ross
Susan Rossinow
Susan Rossinow, Personal Representative of the Estate of Norman Rossinow
Virginia Rossiter Valvo
Virginia Rossiter Valvo, Personal Representative of the Estate of Carlton F. Valvo, II
Dvora Rotberg
Christine Rothschild
Michael Roy
Donald Rozas
John Rubino
Keith Ruby
Stewart Rueter
Kathleen Ruggiere De Paris
Claudia Ruggiere Donovan
Patricia Ruggiere Scavuzzo
Claudia Ruggiere, Personal Representative of the Estate of Bart Joseph Ruggiere
Frank Ruggiere
Frank Ruggiere, Jr.

Mark Ruggiere
Joseph Ruggirello
Gilbert Ruiz, Jr.
Gilbert Ruiz, Jr., Personal Representative of the Estate of Gilbert Ruiz
Rafaela Ruiz
Richard Ruiz
James Ruland
Stephen Russack
David Russell
Alec Russin
Andrea Russin
Andrea Russin, Personal Representative of the Estate of Steven Russin
Ariella Russin
Olivia Russin
Brian Russo
Salvatore Russo
Theresa Ruther
Vito Ruvolo
Autumn Ryan
Brittany Ryan
Colin Ryan
Deena Ryan
Denis Ryan
Diane Ryan
Diane Ryan, Personal Representative of the Estate of Edward Ryan
Edward Ryan
Francis Ryan
Henry Ryan
James Ryan
Joseph Ryan
Matthew Ryan, Jr.
Kelly Ryan
Kevin Ryan

Margaret Ryan
Margaret Ryan, Personal Representative of the Estate of Matthew L. Ryan
Maria Ryan, Personal Representative of the Estate of Jonathan S. Ryan
Marie Ryan
Marie Ryan
Meaghan Ryan
Megan Ryan
Patricia Ryan
Paul Ryan
Richard Ryan
Robert Ryan
Robert Ryan
Robert Ryan
Scott Ryan
Thomas Ryan
William Ryan
Maria Ryan-Baldwin
Daniel Ryjov
Alex Ryjov
Dae Jin Ryook
Dae Jin Ryook, Personal Representative of the Estate of Christina S. Ryook
Edward Rzempolvch
Delphine Saada Samuel
Delphine Saada, Personal Representative of the Estate of Thierry Saada
Lior Saada
Robert Sacchi
Christine Sakoutis
Joseph Saladis
Pedro & Santos, Mary Salame, Personal Representative of the Estate of Carmen Milly Rodriguez
Lauren Salbeck

Paris Salem
Roni Salkin
Clarence Sam
Dhanmatee Sam
Gina Sam
Lisa Sam
Steven Sammis
Felix Sanchez
Aaron Sand
Michele Sand
Michele Sand, Personal Representative of the Estate of Eric Sand
Rudy Sanfilippo
John Sanjurjo
Peter Santelli
Bobby Santiago
Jeffrey Santo
Joseph Santo
Joseph Santo, Personal Representative of the Estate of Susan Santo
Michael Santo
Carlos Santos
Joseph Sapienza
Lachanze Sapp-Gooding
Lachanze Sapp-Gooding, Personal Representative of the Estate of Calvin J. Gooding
Lauren Saraniti
Joseph Sardo
John Sarle
Leeann Sarle
Linda Sarle
Linda Sarle, Personal Representative of the Estate of Paul F. Sarle
Norma Sarle
Paul Sarle
Mark Sames

Louis Sartini
Arthur Sartor
Jeremy Sassman
Narasimha Sattaluri
Narasimha Sattaluri, Personal Representative of the Estate of Deepika Sattaluri
Stephen Saucedo
Stephen Saucedo, Personal Representative of the Estate of Gregory Saucedo
Peter Savarese
Patricia Scaduto-Soto
Eric Scaknoff
Michael Scalard
Thomas Scally
Thomas Scambone
Kevin Scanlon
Barbara Scaramuzzino
Barbara Scaramuzzino, Personal Representative of the Estate of Nicholas Rossomando
Gilbert Scarazzini
Salvatore Scarentino
Patrick Scaringello
Steven Scarinzi
John Scarsella
Donald Scauso
Gabrielle Scauso
Janlyn Scauso
Janlyn Scauso, Personal Representative of the Estate of Dennis P. Scauso
Juliette Scauso
Salvatore Scauso
John Schaefer
Louis Schaefer
James Schiavone
Scott Schields
Brandon Schielke

Kenneth Schielke, Jr.
Kenneth Schielke
Kenneth Schielke, Personal Representative of the Estate of Sean Schielke
Patricia Schielke
John Schillinger
William Schillinger
Richard Schlueck
Charles Schmid
Robert Schmidt
Clinton Schmitterer
Robert Schmuck
Michael Schnitzer
Jessica Schoenholtz Murphy
Jason Schoenholtz
Robert Schor
Jeffrey Schorpp
Jeffrey Schorpp, Personal Representative of the Estate of Marisa DiNardo
Michael Schreiber
Mark Schreier
Phyllis Schreier
Phyllis Schreier, Personal Representative of the Estate of Jeffrey H. Schreier
Stephanie Schreier
Scott Schrimpe
Douglas Schroeder
Robert Schulz
James Schwicke
Vincent Scialpi
Victor Sciarappa
Gabriella Scibetta
Angelo Scifo
Christine Sciurba
Gregory Sclafani
Nichole Scochemaro

John Scotch
Elisabeth Scott
Robert Scott
Susan Scott
Catherine Scullin
Catherine Scullin, Personal Representative of the Estate of Arthur Warren Scullin
James Scullin
James Scullin
Arthur Scullin, Jr.
Nora Scullin
Michael Scully
Julia Sears
Lisa Seckler-Oode
Joseph Seeney
Evelyn Sekzer
Marc Sekzer
Wilton Sekzer
Vincent Sepe
Richard Sere
Anna Sereno
Tommaso Sereno
Angel Serrano
Luis Serrano
William Sesselman
James Seymour
Jason Seymour
Jason Seymour, Personal Representative of the Estate of Jacqueline Norton
Jason Seymour, Personal Representative of the Estate of Robert G. Norton
John Seymour
Micahel Sforza
David Sgromo
Kevin Shah
Nikita Shah

Jyothi Shah
Jyothi Shah, Personal Representative of the Estate of Jayesh Shah
Niloy Shah
Leonor Shahid
Leonor & Syed Shahid, Personal Representative of the Estate of Khalid Shahid
Syed Shahid
Nancy Shakouri
Beniamin Shamay
Beniamin Shamay, Personal Representative of the Estate of Gary Shamay
Gabriel Shamay
Simon Shamay
Eileen Shanahan
Eileen Shanahan, Personal Representative of the Estate of Earl R. Shanahan
Gregory Shanahan
Peter Shanley
James Shannon
Matthew Shannon
Jaclyn Shapiro
Lori Shapiro
Abigail Shea
Brian Shea
Catherine Shea
Colin Shea
Daniel Shea
Ellen Shea
Ellen Shea, Personal Representative of the Estate of Daniel James Shea
James Shea
Margaret Shea
Patrick Shea
Kevin Sheehan
Edward Sheehy

Gary Sheridan
Jason Sherman
Jason Sherman, Personal Representative of the Estate of Toyena C. Skinner
Matthew Sherman
Kevin Sherod
James Sherwood
Evelyn Shulman
Jaime Shulman
Lawrence Shulman
Lori Shulman
Lori Shulman, Personal Representative of the Estate of Mark Shulman
Giuseppe Sibilla
Alphonse Sicignano
Anthony Signorile
Danielle Silver
Holli Silver
Holli Silver, Personal Representative of the Estate of David Silver
Rachel Silver
Thomas Silvestri
Vincent Simeone
David Simms
Jeffrey Simms
Eileen Simon
Eileen Simon, Personal Representative of the Estate of Michael J. Simon
Kathleen Simon
Michael Simon
Patricia Simon
Tyler Simon
Augustine Simoncini
Raymond Simons
Gerard Simpson
Samba Sinera

Dhanraj Singh
Khemraj Singh
Alexandra Sinton
Dennis Sirjuesingh
Dennis Siry
Mark Siskopoulos
Mark Siskopoulos, Personal Representative of the Estate of Muriel F. Siskopoulos
Scott Sivert
Justin Sivin
Maxwell Sivin
Anthony Skomina
Joseph Skonieczny
Leo Skorupski
Gary Slattery
Liza Sloan
Linda Smagala Kuzmiskas
Alexa Smagala
Andrew Smagala
Dena Smagala
Dena Smagala, Personal Representative of the Estate of Stanley S. Smagala, Jr.
Gary Smagala
James Smagala
James Smagala
Robert Smagala
Gary Smiley
Jennifer Smith Riggs
Donna Smith Yule
Barbara Smith
Brian Smith
Brian Smith
Carlton Smith
Caroline Smith
Christopher Smith

Donna Smith, Personal Representative of the Estate of James Gregory Smith
George Smith
Gerard Smith
Harry Smith
James Smith
Jerome Smith
Jerri Smith
Jerri Smith, Personal Representative of the Estate of Kevin J. Smith
Josephine Smith
Terence Smith, Jr.
Kristen Smith
LaKimmie Smith
Michael Smith
Patrick Smith
Robert Smith
Stephen Smith
Thomas Smith
Warren Smith
William Smith
William Smith
Donna Smollen
Gerald Snell
Mary Snyder Coolican
Janine Snyder Oldenhage

Janine Snyder Oldenhage, Personal Representative of the Estate of Leonard J. Snyder, Jr.
Christopher Snyder
Darren Snyder
Jason Snyder
Lauren Snyder
Matthew Snyder
Nancy Snyder
Richard Snyder

Barbara Sohan
Barbara Sohan, Personal Representative of the Estate of Astrid Elizabetth Sohan
Clive Sohan
William Sohmer
Mark Solari
Gerard Somerville
Frank Somma
Maria Somogyi
Terri Sondak
Anne Sorge
Steven Sorger
Walter Sorrenti
Michael Sorrentino
Philip Soto
Della-Ann Spadafora
Robert Spadafora, Personal Representative of the Estate of James A. Trentini
Robert Spadafora, Personal Representative of the Estate of Mary Trentini
Dean Spadaro
William Spade
Joseph Spagnola
Frank Spaldo
David Spampinato
Donald Spampinato
Laurie Spampinato
Laurie Spampinato, Personal Representative of the Estate of Donald F. Spampinato, Jr.
Peter Spampinato
Douglas Spano
Christopher Sparacia
Nancy Sparozic
Henry Speicher
Joyce Speisman
Seymour Speisman

Steven Speisman
Robert Spellman
James Spencer
Robert Spinelli
Stephen Spinelli
Brian Spisto
Thomas Spitzbarth
Frank Spring
Bertram Springstead
Robert Sputh
Michael Spyntiuk
Chaleramcha Srinuan
Lawan Srinuan
Lawan & Chalermchai Srinuan, Personal Representative of the Estate of Saranya Srinuan
Vatchpol Srinuan
Anthony Srour
Eugene St. John
Amy Stabile
Clifford Stabner
Brian Stack
Dennis Stack
Kevin Stack
Michael Stack
Theresa Stack
Theresa Stack, Personal Representative of the Estate of Lawrence T. Stack
Thomas Stack
Bertram Stahlberg
John Staiano
Adolph Stampfel
Constantin Stan
Daniel Stan
Daniel Stan, Personal Representative of the Estate of Alexandru Stan
Elisabeta Stan

James Stang
Robert Stanlewicz
Robert Stanton
Diane Starita Renzulli
Diane Starita, Personal Representative of the Estate of Anthony Starita
Jason Starita
Kaila Starita
James Stasio
Derek Statkevicus
Kim Statkevicus, Personal Representative of the Estate of Derek J. Statkevicus
Kimberly Statkevicus
Tyler Statkevicus
Kevin Steininger
Susan Steinman Kelleher
Irwin Steinman
Laura Steinman
Linda Steinman
Antoinette Steo
Gregory Stevens, Personal Representative of the Estate of Lisa Terry
Liam Stewart
Sylvester Stewart
Mark Stone
Peter Strahl
Louis Strandberg
Brian Strenge
Ray Strong
Marilyn Stufano
Priscilla Stumm
Sophia Suarez
Angelic Suarez
Carmen Suarez
Carmen Suarez, Personal Representative of the Estate of Ramon Suarez

Jillian Suarez
Ramon Suarez, Jr.
Anne Sullivan
Brian Sullivan
James Sullivan
Jimmie Sullivan
Joanne Sullivan
Patrick Sullivan
Steven Supek
Daniel Surat
Gary Suson
Eric Sutton
Michael Suwalski
Emily Swaine
Francis Swaine
Hannah Swaine
Maryanne Swaine
Sarah Swaine
Suzanne Swaine
Suzanne Swaine
Suzanne Swaine, Personal Representative of the Estate of John F. Swaine
Barbara Swat
Barbara Swat, Personal Representative of the Estate of Gerald Thomas Atwood
Isa Swedin
Edward Sweeney
Edward Sweeney
Edward Sweeney, Personal Representative of the Estate of Brian E. Sweeney
Elena Sweeney
Mary Sweeney
Matthew Sweeney
Joseph Sykes
Dennis Taaffe
Tracy Taback Catalano

Tracy Taback Catalano, Personal Representative of the Estate of Harry Taback
Cheryl Taback
Lori Taback
Andrew Taddei
Fermo Taddei
Loretta Taddei
Mary Taddei
Mary Taddei, Personal Representative of the Estate of Norma C. Taddei
Harumi Takahashi
Harumi Takahashi, Personal Representative of the Estate of Keiichiro Takahashi
Hiroyuki Takahashi
Marie Takahashi
Midori Takahashi
Midori Takahashi, Personal Representative of the Estate of Keiji Takahashi
Shusaku Takahashi
Eileen Tallon
Eileen Tallon, Personal Representative of the Estate of Sean Patrick Tallon
Patrick Tallon
Rosaleen Tallon-Daros
Keith Tanico
David Tanzman
Allan Tarasiewicz
Melissa Tarasiewicz
Patricia Tarasiewicz
Patricia Tarasiewicz, Personal Representative of the Estate of Allan Tarasiewicz
Alpha Tarawally
Peter Tartaglione
Elizabeth Tatsuno
Rebecca Taylor Wynne
Cyann Taylor

Felicia Taylor
Frank Taylor
Frank Taylor, Personal Representative of the Estate of Lorisa C. Taylor
Imani Taylor
Samantha Taylor
Samantha Taylor, Personal Representative of the Estate of Sandra Carol Taylor
John Tedesco
Betru Tensay
Michael Tenteromano
Anthony Tepedino
Evelyn Tepedino
Evelyn Tepedino, Personal Representative of the Estate of Jody Tepedino Nichilo
Emily Terry
Emily Terry, Personal Representative of the Estate of Andrew Kates
Leland Terry
Tania Terry
Sara Teshebru
Jeff Tesoriero
Vincent Tesoriero
Janice Testagrose
Raj Thackurdeen
Raj & Sat Thackurdeen, Personal Representative of the Estate of Goumatie Thackurdeen
Rambascia Thackurdeen
Sat Thackurdeen
Vijay Thackurdeen
Barbara Theurkauf
Charles Theurkauf
Edward Theurkauf
Helen Theurkauf
Thomas Theurkauf, III

Thomas Theurkauf, III, Personal Representative of the Estate of Thomas F. Theurkauf, Jr.
Patricia Theurkauf
Robin Theurkauf
Thomas Theurkauf, Sr.
William Theurkauf
Luis Thomas
Marie Thomas
Sharon Thomas
Thomas Thomasen
Donald Thompson
James Thompson
Robert Thompson
Rosana Thompson
Rosana Thompson, Personal Representative of the Estate of Nigel
Bruce Thompson
Scott Thomson
Pamela Thornton
Ellen Tiesi
Joseph Tiesi
Joseph Tiesi, Personal Representative of the Estate of Mary E. Tiesi
Thomas Tighe
Thomas Tighe, Personal Representative of the Estate of Diane T. Lipari
Robert Tilearcio
Bissondai Tilkaren
Thomas Tillotson
Richard Ting
Richard Tipaldi
Barbara Tirado
Barbara Tirado, Personal Representative of the Estate of David Tirado
Rafael Tirado
Richard Tirado

Andrija Tomasevic
Radmila Tomasevic
Donald Tomm
Kevin Tonkin
Steven Tonrey
Alvin Toro
Angel Torres
Dean Torres
Denise Torres
Edgar Torres
Edith Torres
George Torres
Joshua Torres
Kevin Torres
Nicholas Torres
Richard Torres
Walter Torres
Dawn Torres-Brown
Joseph Torrillo
Marie Tortorici
Joseph Toscano
Russell Touhey
Charles Tozzo
James Tozzo
Peter Tracy
Tierney Tramontozzi
Mary Trant
Alexander Trant
Daniel Trant
Jessica Trant
Kathleen Trant
Kathleen Trant, Personal Representative of the Estate of Daniel Trant
Kevin Trant
Matthew Trant
Maureen Trant

Sally Trant
Timothy Trant
Francis Trapani
Peter Traut
Barry Travis
Louis Treglia
James Trentini, II
James Trentini, II
Pamela Trentini
Pamela Trentini
Patti Trentini
Patti Trentini
Tina Tresca
Michael Trezza
Michael Triglianos
Kimberly Trimingham-Aiken
Kimberly Trimingham-Aiken, Personal Representative of the Estate of Terrance Aiken
Robert Trivigno
John Troianiello
Victor Troisi
Kimberly Trudel
Kimberly Trudel, Personal Representative of the Estate of Frederick Rimmele, III
Mary Truelson
Mary Tselepis
Mary Tselepis, Personal Representative of the Estate of William P. Tselepis, Jr.
Jason Tucker
Karen Tucker
Ralph Tufano
Calvin Tull
Jennifer Tull
Francine Tull-Lindo
Caroline Tumulty

Cynthia Tumulty, Personal Representative of the Estate of Lance Tumulty
James Tumulty
Sara Tumulty
Shawn Tumulty
Cynthia Tumulty-Ollermar
Diane Tumulty-Searby
Edward Turner
Joseph Tustin
Eric Tvedt
Emeric Twomey
James Twomey
John Twomey
Marie Twomey, Personal Representative of the Estate of Robert T. Twomey
Richard Twomey
Robert Twomey
William Twomey
Leonard Tyrell
Thomas Ubertini
Kathy Ugalde
Diane Ugolyn
Trevor Ugolyn
Victor Ugolyn
Victor Ugolyn, Personal Representative of the Estate of Tyler Ugolyn
Alexander Uman
Anna Uman
Julie Uman
Julie Uman, Personal Representative of the Estate of Jonathan Uman
Michael Uman
Feliciana Umanzor
Feliciana Umanzor, Personal Representative of the Estate of Elsy C. Osorio
Anthony Umanzor, Jr.

Katherine Umanzor
Brian Urban
Katherine Uriguen
Neil Vaillancourt
Anthony Valetta
Eileen Valiente
Brandon Valvo
Carlton Valvo
Dante Valvo
Nicoletta Valvo
Trenton Valvo
Elizabeth Van Duyne
Melissa Van Ness Fatha
Melissa Van Ness Fatha, Personal Representative of the Estate of Syed Abdul Fatha
Charles Van Pelt
Elizabeth Vandevander
Elizabeth Vandevander, Personal Representative of the Estate of Jon C. Vandevander
Jane Vandevander
Jon Vandevander
Mary Vandevander
Thomas Vanrossem
John Vanwagoner
Mario Vascon
Donald Vastola
Mary Vatalaro
Mary Vatalaro
Margarita Vazquez
Onelia Vazquez
Ruby Vega
Emily Vega-Faltas
Emily Vega-Faltas, Personal Representative of the Estate of Harold Lizcano
Consuelo Velazquez

Consuelo Velazquez, Personal Representative of the Estate of Jorge Velazquez
Daniel Velazquez
Jose Velazquez
Jorge Velazquez, Jr.
Marilyn Velazquez
Steven Velazquez
Salvatore Ventimiglia
Caterina Venuto
Salvatore Venuto
John Veracka
Steven Verderosa
Theresa Vesnesky
Richard Vetland
Jasmine & Torres Brown, Dawn Victoria, Personal Representative of the Estate of Celeste Torres-Victoria
Jasmine Victoria
James Vider Rivers
Ricky Vider Rivers, Personal Representative of the Estate of David E. Rivers
Ricky Vider
Matthew Vilardo
Nicole Vilardo
Patricia Vilardo
Patricia Vilardo, Personal Representative of the Estate of Joseph Vilardo
Carlos Villa
Richard Villa
Richard Villa, Personal Representative of the Estate of Sharon Christina Millan
Guy Villano
Stephanie Villarin
Caren Villarreal
Anthony Vincelli

Anthony Vincelli, Personal Representative of the Estate of Chantal Vincelli
Antonio Vincelli
Philip Vincenzo
Robert Vinciguerra
Anthony Viola
Vincent Viola, Jr.
Betty Violeta-Llano
Lucy Virgilio
Lucy Virgilio, Personal Representative of the Estate of Lawrence J. Virgilio
Thomas Virgilio
Kerri Viverito
Gregory Voce
Mary Vogt
Russell Vomero
Cathy Vrachnas
Benhardt Wainio
Benhardt Wainio, Personal Representative of the Estate of Honor Elizabeth Wainio
Sarah Wainio
Thomas Wainio
Rema Waiser
Rema Waiser, Personal Representative of the Estate of Simon V. Weiser
Harry Waizer
Frederick Walker
Kara Walker
Avery Wall
Brian Wall
Diane Wall
Diane Wall, Personal Representative of the Estate of Glen J. Wall
Gary Wall
Jean Wall
Kevin Wall

Payton Wall
Ed Wallace
Robert Wallen
Daniel Walsh
Dianne Walsh
Dianne Walsh, Personal Representative of the Estate of Christine Barbuto
Edward Walsh
Joseph Walsh
Kevin Walsh
Kristin Walsh
Nancy Walsh
William Walsh
Christopher Wanker
Christopher Ward
Keith Ward
Allen Warner
Gerald Warner
Kathryn Warner
Patricia Warner-Proctor
Corrine Warnock
Gary Washington
Mack Washington
Jelena Watkins
Richard Watts
Amy Weaver Achilles
Amy Weaver, Personal Representative of the Estate of Todd Christopher Weaver
Albert Weber
John Weber
Floyd Weil
Judith Weil
Judith Weil, Personal Representative of the Estate of Joanne F. Weil
Jason Weinberg
Laurie Weinberg

Laurie Weinberg, Personal Representative of the Estate of Steven Weinberg
Lindsay Weinberg
Samuel Weinberg
Charles Weinsheimer
Andrew Weinstein
Gloria Weinstein
Seth Weinstein
Stanley Weinstein
Stanley Weinstein, Personal Representative of the Estate of Lisa Caren Orfi-Ehrlich
Paul Weis
Anatoly Weiser
Steven Weisner
James Weldon
Richard Weldon
Charles Wells
William Welsh
Terri Weitman
Christopher Welty
Darren Welty
Delia Welty
Delia Welty, Personal Representative of the Estate of Timothy Matthew Welty
Jake Welty
Julia Welty
William Welty
Gary Wendell
Leslie Werdann
James Wemer
Michael Wernick
James White
J. Whittaker
Lena Whittaker
Lena Whittaker, Personal Representative of the Estate of Karen E. Hagerty

John Wholihan
John Whyte
Robert Wiedmann
Patricia Wik Farese
Daniel Wik
Kathleen Wik
Kathleen Wik
Kathleen Wik, Personal Representative of the Estate of William J. Wik
Robert Wilday
Caryn Wiley
John Willadsen
Andrew Williams
Christina Williams
Craig Williams
Darren Williams
Darren Williams, Personal Representative of the Estate of Debbie Williams
Debbie Williams
Debbie Williams, Personal Representative of the Estate of Pauline Tull-Francis
Derek Williams
Herman Williams
Janice Williams
Janice Williams, Personal Representative of the Estate of Louis Calvin Williams, III
Kathleen Williams
Kenneth Williams
Kenneth Williams, Personal Representative of the Estate of Brian Patrick Williams
Kevin Williams
Payton Williams
Scott Williams
Thomas Williams
Tyrone Williams
Vandon Williams

Vincent Williams
Robert Williamson
James Willis
John Wilson
John Wilson
Robert Wilson
James Winters
Dennis Wirbickas
Amy Wiswall Edgington
Keith Wiswall
Patricia Wiswall
Patricia Wiswall, Personal Representative of the Estate of David Wiswall
Robert Wiswall
Michael Witkowski
Florence Wodenshek Garrett
Sarah Wodenshek Marqueling
Linda Wodenshek Remenschneider
Anne Wodenshek
Anne Wodenshek, Personal Representative of the Estate of Christopher W. Wodenshek
Florence Wodenshek
Haley Wodenshek
Mollie Wodenshek
Patricia Wodenshek
Raymond Wodenshek
William Wodenshek
Zachary Wodenshek
Elizabeth Wohlforth
Susan Wohlforth
Susan Wohlforth, Personal Representative of the Estate of Martin Wohlforth
Charles Wolf
Charles Wolf, Personal Representative of the Estate of Katherine Wolf
Gary Wood

Cella Woo-Yuen
Cella Woo-Yuen, Personal Representative of the Estate of Elkin Yuen
Daniel Wright
Jack Wright
Lynn Wright
Mary Wright
John Wrobel
Lisa Wylie
Chaniqua Wynter
Dawn Yamashiro
Michele Yaniz
Emily Yarembinsky
Evelyn Yeow
Evelyn Yeow, Personal Representative of the Estate of Michael Waye
Spiro Yioras
John Yorks
Vincent Yorks
Misha Yoshida Gnazzo
Mark Youngberg
Kjell Youngren
Nissa Youngren
Billy Yuen
Gilma Yuen
Nicole Yuen
Bette Zaccoli Cozy
Lori Zaccoli Davies
Anthony Zaccoli
Bret Zaccoli
Helen Zaccoli
Helen Zaccoli, Personal Representative of the Estate of Joseph Zaccoli
James Zaccoli
Joseph Zaccoli
Regina Zaccoli

Santo Zaccoli
James Zadroga
Robert Zajkowski
Alexander Zaltsman
Faina Zaltsman
Kathleen Zapata
Mary Zaremba
Stephen Zasa
Michael Zechewytz
Philip Zeiss
Thomas Zelios
Yun Yu Zheng
Yun Yu Zheng, Personal Representative of the Estate of Raymond Fai Kwok
David Ziminski
David Ziminski, Personal Representative of the Estate of lvelin Ziminski
Dean Zinzi
Dyan Zinzi
Dyan Zinzi, Personal Representative of the Estate of Michael Zinzi
Barbara Zion Green
Carol Zion, Personal Representative of the Estate of Charles A. Zion
Carole Zion
Jane Zion
Martin Zion
Zachary Zion
Patrick Zoda
Dorota Zois
Dorota Zois, Personal Representative of the Estate of Prokopios Zois
Theofanis Zois
Stefania Zois-Goel
Martin Zollner
Jolaine Zuccala

Madeleine Zuccala
Madeleine Zuccala, Personal Representative of the Estate of Joseph J. Zuccala
Sandra Zuccala
Kaylene Zuccala-Sams
Erica Zucker, Personal Representative of the Estate of Andrew S. Zucker
Erica Zucker Heisler
Jason Zucker
Nancy Zuckerman
Nancy Zuckerman, Personal Representative of the Estate of Alan Jay Lederman
Maurice Zuniga

APPENDIX G

List of Other Plaintiffs-Appellants Before the Second Circuit

Plaintiffs-Appellants in Havlish et al., No. 23-258 (2d Cir.)

Alan Gu
Alexander Rowe
Alice Carpeneto
Angela Stergiopoulos
Anne Marie Dorf
Barry Russin
Benefit of Devon Marie Rodak
Benefit of Maranda C. Ratchford
Brenda Sorenson
Brian Collman
Catherine Deblieck
Charles Collman
Chelsea Nicole Rodak
Christina Bane-Hayes
Christine Barton (now Pence)
Christine Papasso
Christopher Caproni
Clara Chirchirillo
Corazon Femandez
Daniel D. Coffey, M.D.
Diane Romero
Dolores Caproni
Donald Bane
Donald Havlish, Sr.
Doyle Raymond Ward
Dwayne W. Collman
Ed Russin
Ellen Saracini
Estate of Andrew Stergiopoulos
Estate of Brian Nunez

Estate of Daniel M. Coffey
Estate of Denis Lavelle
Estate of Donald J. Havlish, Jr.
Estate of Dorthy Mauro
Estate of Edward W. Straub
Estate of Elvin Romero
Estate of George Eric Smith
Estate of James D. Halvorson
Estate of Jason Coffey
Estate of Jeanmarie Wallendorf
Estate of Jeffrey Coale
Estate of Jeffrey Collman
Estate of Jennifer Tino
Estate of John Grazioso
Estate of John M. Rodak
Estate of John William Perry
Estate of Joseph Lostrangio
Estate of Joshua Scott Reiss
Estate of Judy Fernandez
Estate of Liming Gu
Estate of Linda Ellen Panik
Estate of Maria Theresa Santillian
Estate of Marsha Dianah Ratchford
Estate of Martin Boryczewski Estate
of Mary Melendez
Estate of Meta Waller
Estate of Michael A. Bane
Estate of Michael Boryczewski
Estate of Michael Diehl
Estate of Paul K. Sloan
Estate of Peter Chirchirillo
Estate of Peter T. Milano
Estate of Philip Paul Ognibene
Estate of Richard M. Caproni
Estate of Richard Rosenthal
Estate of Robert Levine

Estate of Ronald Gamboa
Estate of Salvatore T. Papasso
Estate of Scott Schertzer
Estate of Stephen Dorf
Estate of Steven Cafiero
Estate of Timothy P. Soulas
Estate of Timothy Raymond Ward
Estate of Victor Saracini
Estate of Vincent A. Ognibene
Estate of William R. Godshalk
Estate of William R. Steiner
Estate of Yvette Nichole Moreno
Ester Santillian
Expedito Santillian
Fiona Havlish
Frances M. Coffey
FuMei Chien
George Stergiopoulos, M.D.
Gerald Bingham
Gloria Russin Grace Kneski
Grace M. Parkinson-Godshalk
Guardian of Anne C. Saracini
Haomin Jian
Helen Rosenthal
Hui-Chien Chen
Hui-Chuan Jian
Huichun Jian
Hui-Zon Jian
Ivy Moreno
Jin Liu
Joan E. Tino
Joanne Gori
Joanne Lovett
Joanne Renzi
John Rodak
Joseph Dorf

Joslin Zeplin
Joyce Ann Rodak
Judith Reiss
Julia Boryczewski
Katherine Soulas
Kevin M. Coffey
Krystyna Boryczewski
Leona Zeplin
Leonard Zeplin
Linda Sammut
Lisa Caproni-Brown
Livia Chirchirillo
Loisanne Diehl
Loren Rosenthal
Margaret Mauro
Marie Ann Paprocki
Marshee R. Ratchford
Martin Panik
Mary Lynn-Anna Panik Stanley
Maureen Halvorson
Maureen R. Halvorson
Michael Caproni
Michael Loguidice
Michele Boryczewski
Michelle Dorf
Michelle Wright
Morris Dorf
Pamela Schiele
Patricia J. Perry
Patricia Milano
Paul Schertzer
Ralph S. Maerz
Ramon Melendez
Raymond Doyle Smith
Regina Maria Merwin
Regina Rodak

Richard A. Caproni
Robert Dorf
Rodney M. Ratchford
Rodney Ratchford
Ronald S. Sloan
Roni Levine
Russa Steiner
Sandra Straub
Stephen L. Cartledge
Susan Conklin
Tara Bane
Teresanne Lostrangio
Tina Grazioso
William Coale
William Havlish

Plaintiffs-Appellants in John Does 1–7,
No. 23-263 (2d Cir.)

John Doe 1, an individual
John Doe 2, an individual
John Doe 3, an individual
John Doe 4, an individual
John Doe 5, an individual
John Doe 6, an individual
John Doe 7, an individual

Plaintiffs-Appellants in Smith et al.,
No. 23- 304 (2d Cir.)

Raymond Anthony Smith, as Administrator of the Estate of George Eric Smith, deceased.
Katherine Soulas in her own right, as Representative of the Heirs, on behalf of her minor children, and as Executrix of the Estate of Timothy Soulas, Deceased.

Plaintiffs-Appellants in Federal Insurance Co., et al.,
No. 23-346 (2d Cir.)

Federal Insurance Company
Pacific Indemnity Company
Chubb Custom Insurance Company
Chubb Indemnity Insurance Company
Chubb Insurance Company of Canada
Chubb Insurance Company of New Jersey
Great Northern Insurance Company Vigilant Insurance Company
TIG Insurance Company

Plaintiffs-Appellants in Owens, et al.,
Nos. 23-354, 23-797 (2d Cir.)

James Owens
Estate of Betty Owens Evely
Gary Robert Owens
Barbara Goff
Estate of Jesse Nathanael Aliganga
Leah Ann Colston-Baker
Clara Leah Aliganga
Estate of Julian Leotis Bartley, Jr.
Estate of Julian Leotis Bartley, Sr.
Edith Lynn Bartley
Estate of Gladys Baldwin
Mary Linda Sue Bartley
Daniel Briehl
Gary Cross
Estate of Jean Rose Dalizu
Egambi Fred Kibuhiru Dalizu
Estate of Gwendolyn Tauwana Garrett
Estate of James Herbert Freeman
Estate of Jeanette Ella Marie Goines
Jewell Patricia Neal
Estate of Joyce McCray

June Beverly Freeman
Lawrence Anthony Hicks
Lori Elaine Dalizu
Mangairu Vidija Dalizu
Estate of Rose Banks Freeman
Estate of Sheila Elaine Freeman
Temina Engesia Dalizu
Estate of Molly Huckaby Hardy
Brandi Hardy Plants
Estate of Jane Huckaby
Lydia Hickey
Tabitha Carter
Robert Harris, Executor of the Estate of Laura Harris, deceased
Estate of Leroy Moorefield
Estate of Rodney Moorefield
Estate of Roger Moorefield
Lora Murphy
Loretta Paxton
Bettina Gould, Executrix of the Estate of Linda Shough, deceased
Estate of Howard Sparks, Sr.
Stephen Harding Martin
Rizwan Khaliq
Margaret Baker
Yasir Aziz
Estate of Kenneth Ray Hobson II
Robert Michael Kirk
Tara Lia Kavaler
Estate of Inez Hirn
Richard Martin Kavaler
Abdul Shabani Mtuyla
Tirisa George Thomas
Imran Khaliq
Estate of Pearl Daniels Kavaler
Howard Sparks, Jr.

Estate of Mary Louise Martin
Estate of Mary Katherine Bradley
Maya Pia Kavaler
Michael Ray Sparks
Imtiaz Begum
Estate of Kenneth Alva Bradley
James Robert Klaucke
Robert Kirk, Jr.
Douglas Norman Klaucke
Martha Martin Ourso
Karen Marie Klaucke
Venant Valentine Mathew Katunda
Estate of Kenneth Ray Hobson
Deborah Hobson-Bird
Estate of Arlene Bradley Kirk
Bonnie Sue Hobson
Estate of Leon Kavaler
Meghan Elizabeth Hobson
Gary Lonnquist
Estate of Kathleen Martin Boellert
Eloise Hubble
Diana Valentine Katunda
Estate of Patricia Anne Bradley Williams
Michael Hawkins Martin
Kamran Khaliq
Valentine Mathew Katunda
Estate of Prabhi Guptara Kavaler
Maisha Kirk Humphrey
Edwin Valentine Mathew Katunda
Neil Alan Bradley
Dennis Arthur Bradley
William Russell Klaucke
Jenny Christina Lovblom
Katherine Bradley Wright
Estate of Mtendeje Rajabu Mtulya
Estate of Samuel Thomas Marcus

Susan Elizabeth Marti Bryson
Desidery Valentine Mathe Katunda
Tehsin Khaliq
Estate of Howard Charles Kavaler
Abella Valentine Katunda
Estate of Clyde M. Hirn
Paul Hirn
Estate of Joseph Denegre Martin III
Estate of Joseph Denegre Martin, Jr.
Coronella Samuel Marcus
Naurin Khaliq
Patricia K. Fast
Shabani Saidi Mtulya
Irfan Khaliq
Estate of Sherry Lynn Olds
Kimberly Ann Zimmerman
Serpil Buyuk
Joseph Donti Mwaipape
James Paul O'Connor
Saidi Shabani Mtuyla
Jennifer Erin Perez
Upendo Ramadhani
Halima Ndange
Happiness Abasi Mwila
Estate of Yusuf Shamte Ndange
Estate of William Abbas Mwila
Mwajabu Yusuph Shamte Ndange
Hanuni Ramadhani Ndange
Tara Colleen O'Connor
Jon B. Pressley
Maua Ndange
Christa Gay DeGracia
Berk F. Pressley
Ramadhani Ndange
Estate of Dotio Ramadhani
Frank B. Pressley, Jr.

Elisha Donti Mwaipape
Gwendolyn Frederic Deney
Kulwa Ramadhani
Marsey Gayle Cornett
Micaela Ann O'Connor
Renema Ramadhani
Estate of Montine Bowen
Donti Akili Mwaipape
Delbert Raymond Olds
Michael F. Pressley
Mengo Ramadhani
Tulay Buyuk
William Abasi Mwila
Estate of Frank Pressley, Sr.
Edwina Abasi Mwila
Estate of Ann Michelle O'Connor
Sundus Buyuk
Ahmet Buyuk
Estate of Mary Evelyn Freeman Olds
Thomas C. Pressley
Dorothy Willard
David A. Pressley
Marc Y. Pressley
Bahar Buyuk
Juma Yusuph Shamte Ndange
Abdul Yusuph Shamte Ndange
Estate of Victoria Donti Mwaipape
Nicholas Mwaipape
Judith Abasi Mwila
Yasemin B. Pressley
Gary Spiers
Richard David Patrick
Estate of Donald G. Bomer
Linda Whiteside O'Donnell
John Rogath Saidi
Worley Lee Reed

Estate Adabeth Saidi Nang'oko
Estate of Rogath Saidi Saidi
Estate of Patricia Feore
Estate of Nicholas Karas
Estate of Flossie Varney
Eric Mathew Rutaheshelwa
Edward Mathew Rutaheshelwa
Idifonce Rogath Saidi
Sharon Teske
Happiness Mathew Rutaheshelwa
Victoria Q. Spiers
Estate of Eulogio Quilacio
Estate of Veronica Alois Saidi
Susan Quilacio Nicholas
Bret W. Reed
Selinia Rogath Saidi
Rolando Quilacio
Daniel Rogath Saidi
Joyce Reed
Victoria J. Spiers
Taylor Teske
George Karas
Estate of Edilberto Quilacio
Michael James Cormier
Estate of Aisha Mawazo
Estate of Candelaria Quilacio
Francisco
Timothy Teske
Jonathan Teske
Angelina Mathew Rutaheshelwa
Elizabeth Mathew Rutaheshelwa
Estate of Ruth Ann Whiteside
Cheryl L. Blood
Ellen Richard
Estate of Julita A. Quilacio