No. ____

IN THE

Supreme Court of the United States

SOKOLOW, ET AL.,

Respondents,

v.

PALESTINE LIBERATION ORGANIZATION, ET AL.,

Petitioners.

UNITED STATES OF AMERICA,

Respondent,

v.

PALESTINE LIBERATION ORGANIZATION, ET AL.,

Petitioners.

APPLICATION TO STAY THE JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

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PARTIES TO THE PROCEEDING

Petitioners are the Palestine Liberation Organization and Palestinian Authority (aka Palestinian Interim Self-Government Authority and/or Palestinian Council and/or Palestinian National Authority), who were defendants-appellees below.

Respondents, who were plaintiffs below, are: Mark I. Sokolow, Rena M. Sokolow, Jamie A. Sokolow, Lauren M. Sokolow, Elana R. Sokolow, Dr. Alan J. Bauer, Revital Bauer, Yehonathon Bauer, Binyamin Bauer, Daniel Bauer, Yehuda Bauer, Shmuel Waldman, Henna Novack Waldman, Morris Waldman, Eva Waldman, Rabbi Leonard Mandelkorn, Shaul Mandelkorn, Nurit Mandelkorn, Oz Joseph Guetta, Varda Guetta, Nevenka Gritz, individually, and as successor to Norman Gritz, and as personal representative of the Estate of David Gritz, Shayna Eileen Gould, Ronald Allan Gould, Elise Janet Gould, Jessica Rine, Katherine Baker, individually and as personal representative of the Estate of Benjamin Blutstein, Rebekah Blutstein, Richard Blutstein, individually and as personal representative of the Estate of Benjamin Blutstein, Larry Carter, individually and as personal representative of the Estate of Diane ("Dina") Carter, Shaun Choffel, Dianne Coulter Miller, individually and as personal representative of the Estate of Janis Ruth Coulter, Robert L. Coulter, Jr., individually and as personal representative of the Estate of Janis Ruth Coulter, Ann Marie K. Coulter, as personal representative of the Estate of Robert L. Coulter, Sr., individually and as personal representative of the Estate of Janis Ruth Coulter, Chana Bracha Goldberg, Eliezer Simcha Goldberg, Esther Zahava Goldberg, Karen Goldberg, individually, as personal representative of the Estate of Stuart Scott

Goldberg, and as natural guardian of plaintiff Yaakov Moshe Goldberg, Shoshana Malka Goldberg, Tzvi Yehoshua Goldberg, Yaakov Moshe Goldberg, minor, by his next friend and guardian Karen Goldberg, Yitzhak Shalom Goldberg, Miriam Fuld, individually, as personal representative and administrator of the Estate of Ari Yoel Fuld, deceased, and as natural guardian of plaintiff Natan Shai Fuld, Natan Shai Fuld, minor, by his next friend and guardian Miriam Fuld, Naomi Fuld, Tamar Gila Fuld, and Eliezer Yakir Fuld. The United States, which was intervenor-appellant below, is Petitioner in case No. 24-151.

RELATED PROCEEDINGS

United States District Court (S.D.N.Y.):

Sokolow v. Palestine Liberation Org., No. 04-397 (Dec. 1, 2016)

United States Court of Appeals (2d Cir.):

Waldman v. Palestine Liberation Org., No. 15-3135 (Aug. 31, 2016) (initial panel opinion)

Waldman v. Palestine Liberation Org., No. 15-3135 (June 3, 2019) (panel opinion on motion to recall the mandate)

Waldman v. Palestine Liberation Org., No. 15-3135 (Sept. 8, 2023) (panel opinion after remand from this Court)

Waldman v. Palestine Liberation Org., No. 15-3135 (March 30, 2026) (panel opinion after remand from this Court)

United States Supreme Court:

Sokolow v. Palestine Liberation Org., No. 16-1071 (Apr. 2, 2018)

Sokolow v. Palestine Liberation Org., No. 19-764 (May 29, 2020)

Fuld v. Palestine Liberation Org., Nos. 24-20 & 24-151 (June 20, 2025)

APPLICATION TO STAY THE JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

Pursuant to Rule 23 of the Rules of this Court, Petitioners Palestinian Authority ("PA") and the Palestine Liberation Organization ("PLO") respectfully apply to the Honorable Sonia M. Sotomayor for a stay of enforcement of the underlying district court money judgment (App. 44a-50a) pending the timely filing and disposition of a petition for a writ of certiorari and any further proceedings in this Court.

This application concerns a judgment against Petitioners for $655.5 million, which was vacated for lack of personal jurisdiction in 2016. App. 44a-50a. That judgment became a "nullity" and "absolutely void" when the case became final after this Court denied certiorari in 2018. Congress then passed a statute that created personal jurisdiction over Petitioners in 2020, and this Court upheld the statute as constitutional. On remand, the court of appeals decided that its power to recall the mandate is expansive enough to revive and affirm the $655.5 million judgment even though it had become a nullity. App. 28a-33a. This was the first time an American court has ever held that a money judgment made without jurisdiction may be resurrected years after all appeals were exhausted.

The decision of the court of appeals to revive the judgment overturned longstanding limits on the Judicial Power. The constitutional rule "that the judgment of a court lacking jurisdiction is void traces back to the English Year Books." *Burnham v. Sup. Court of Calif.*, 495 U.S. 604, 608 (1990). As such, judgments made without jurisdiction are not "simply erroneous, but absolutely void." *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 589 U.S. 57, 63-64 (2020) (quoting *Kern v. Huidekoper*, 103 U.S. 485, 493 (1880)). *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211, 225 (1995), similarly held that courts cannot apply "retroactive legislation" to a case "already finally adjudicated." The court below held that these restrictions on the power of the federal courts were, in the end, only discretionary—an important decision of constitutional law worthy of this Court's attention.

This novel exercise of judicial power will create irreparable harm to Petitioners in the absence of a stay pending a decision on their forthcoming petition for certiorari. As explained below, immediate enforcement of such a large judgment will destabilize critical government services Petitioners provide in the West Bank, injure innocent citizens, and jeopardize regional security. As previously explained by the United States, enforcement will "severely compromise" Petitioners' "ability to operate as a governmental authority" and "could lead to widespread violence in the West Bank." App. 86a (U.S. Statement of Interest, ¶¶ 7-8). In support of their financial status, Petitioners have attached two declarations from the PA's Minister of Finance. App. 51a-79a (Salameh Decls.). Respondents plan to enforce the judgment against clearance revenues collected by Israel, revenue that is essential to the safety and security of the West Bank and ultimately to support U.S. foreign policy interests.

Finally, the public interest favors a functioning government in the West Bank. Respondents, on the other hand, will suffer little harm from a brief continuation of the status quo while this Court considers Petitioners' forthcoming petition.

Respondents, indeed, have publicly claimed Israel will allow them to enforce the judgment against clearance revenues owed to Petitioners, which have been withheld by Israel in an amount exceeding that of the judgment, leaving Respondents fully secure in the meantime.

BACKGROUND

This case arises from Anti-Terrorism Act claims relating to attacks in Jerusalem between 2002 and 2004. Following a 2015 trial, a jury returned a $218.5 million verdict, which was trebled to $655.5 million. The court of appeals vacated for lack of personal jurisdiction and the case was dismissed. *Waldman v. PLO*, 835 F.3d 317 (2d Cir. 2016). That judgment of dismissal became final when this Court denied certiorari in April 2018. *Sokolow v. PLO*, No. 16-1071 (Apr. 2, 2018).

Congress subsequently enacted the Anti-Terrorism Clarification Act, Pub. L. No. 115-253, 132 Stat. 3183 (2018), to create jurisdiction over Petitioners if they accepted certain foreign assistance or a waiver from the United States. The court of appeals refused to recall its mandate after Petitioners proved they stopped accepting any such aid or waiver. *Waldman v. PLO*, 925 F.3d 570, 573-75 (2d Cir. 2019).

Respondents again sought certiorari, and while their certiorari petition was pending, Congress passed the Promoting Security and Justice for Victims of Terrorism Act ("PSJVTA"), Pub. L. No. 116-94, div. J, tit. IX, § 903(b)(5), 133 Stat. 2534, 3082-83 (2019). The PSJVTA created personal jurisdiction over Petitioners if they made certain payments to Palestinians after April 18, 2020, or engaged in certain activities in the United States after January 4, 2020. *See* 18 U.S.C. § 2334(e)(1).

This Court granted certiorari, vacated the judgment, and remanded for consideration in light of the new statute. *Sokolow v. PLO*, 140 S. Ct. 2714 (2020). The court of appeals held that the PSJVTA violated Due Process. This Court reversed, holding that the Fifth Amendment allows Congress to link personal jurisdiction to U.S. foreign policy interests, even if the statute would fail a traditional Fourteenth Amendment due process analysis. *Fuld v. PLO*, 606 U.S. 1 (2025).

On remand, the court of appeals held that the "district court in this action lacked personal jurisdiction over the defendants when it entered its original judgment," and that jurisdiction was only created with the passage of the PSJVTA. App. 33a. But the court concluded that a judgment entered without personal jurisdiction can be reinstated years later through its power to recall the mandate, regardless of constitutional limits on finality. App. 32a ("defendants are mistaken that jurisdictional defects cannot be cured after final judgments are entered"). The court denied Petitioners' en banc petition (Ct. App. ECF 685) as well as their subsequent motion to stay the mandate pending a forthcoming petition for certiorari (Ct. App. ECF 704). Now that the case is before the district court, Respondents have moved to reinstate the original $655.5 million judgment based on the decision of the court of appeals recalling its mandate and affirming the judgment. Dist. Ct. ECF 1077. With this application, Petitioners seek a stay of enforcement of that original judgment pending the timely filing and disposition of a petition for a writ of certiorari and any further proceedings in this Court.

ARGUMENT

This Court should stay enforcement of the judgment under Rule 23 of this Court and 28 U.S.C. § 2101(f). This case asks whether federal courts have the power to revive a money judgment that became "absolutely void" when the dismissal became final for lack of personal jurisdiction. This critical issue of constitutional law should attract this Court's review, and has a fair prospect of reversal given *Burnham*, *Acevedo Feliciano*, and *Plaut*. *See Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam) (asking if the issue is "sufficiently meritorious to grant certiorari" with "a fair prospect" of reversal, as well as whether the movant will likely suffer "irreparable harm"). Nor is there a question about irreparable harm and the balance of the equities and public interest—the security, sanitation, and school services provided by Petitioners in the West Bank are hanging by a thread. As explained in the attached declarations from the PA's Finance Minister, immediate enforcement of the $655.5 million judgment may cut that thread, depriving millions of people of government services they depend on, and which provide security and stability for Israel, Palestine, and the region alike.

I. Petitioners' Forthcoming Petition Has a Reasonable Probability of Review and There is a Fair Prospect of Reversal.

Review and reversal are reasonably likely because the decision below marks the first time any United States court has resurrected a void judgment that had become final, sidestepping bedrock constitutional principles of due process and separation of powers. *See* 28a-33a (reinstating the original, void judgment). The money judgment at issue became a legal nullity when Respondents' appeals were exhausted in 2018. *Acevedo Feliciano*, 589 U.S. at 63-64 (judicial actions without jurisdiction are "absolutely void"). The court of appeals had the discretion to recall its mandate after Congress created jurisdiction over Petitioners, but that equitable power cannot overturn constitutional finality to reinstate a money judgment that was issued *coram non judice*.

Whether a court can revive a judgment entered without jurisdiction that reached post-appeal finality presents a question of exceptional importance that warrants this Court's review. For centuries, it was axiomatic "that the judgment of a court lacking jurisdiction is void." *Burnham*, 495 U.S. at 608. The court of appeals elevated its "limited" and "sparing" power to recall its mandate, *see Calderon v. Thompson*, 523 U.S. 538, 550, 558 (1998), over that longstanding constitutional axiom. By partly relying on the retroactive provisions of the PSJVTA, App 22a-24a, the decision also implicates significant separation of powers questions.

That no American court has ever made such a decision previously underscores the importance, and reasonable probability, of this Court's review. The Court has historically granted certiorari to resolve "difficult and important issue[s] of first impression." *Hahn v. Ross Island Sand & Gravel Co.*, 358 U.S. 272, 273 (1959) (Stewart, J., dissenting). That is particularly true where, as here, the decision "involve[s] constitutional issues of potentially broad significance." *Mills v. Rogers*, 457 U.S. 291, 298 (1982); *Perkins v. Lukens Steel Co.*, 310 U.S. 113, 123 (1940) ("The manifestly far-reaching importance of the questions thus raised prompted us to grant certiorari.").

Indeed, this Court previously granted certiorari regarding the retroactive alteration of final judgments in *Plaut*, 514 U.S. at 213, which reviewed a first-of-its-kind statute that "reopen[ed] final judgments" in securities actions. The petitioner asked this Court to overturn the rule "that Congress may not retroactively disturb final judgments of the Federal Courts." *Plaut* Br. for Pet., 1994 WL 17108528, at *8 (July 21, 1994). The respondents argued that the petitioner's proposed rule would render all judgments "forever vulnerable, inherently unstable and permanently open." *Plaut* Br. for Resp., 1994 WL 17108530, at *11 (Sept. 9, 1994).

This Court granted certiorari in *Plaut* because of the constitutional significance of encroachment on the "finality of judicial judgments." *Plaut*, 514 U.S. at 219-20. The lower court's decision raises similar concerns about finality, but goes even further by permitting courts to erase the finality of <u>any</u> judgment simply by recalling a mandate.

This case presents a "fair prospect that a majority of the Court will vote to reverse the judgment," *Hollingsworth*, 558 U.S. at 190, because the court of appeals decided that its inherent powers could trump a longstanding constitutional rule. *Acevedo Feliciano*, 589 U.S. at 63-64 (2020) (judicial actions taken without jurisdiction are not "simply erroneous, but absolutely void") (quoting *Kern*, 103 U.S. at 493); *see also Mansfield, Coldwater & Lake Mich. Ry. Co. v. Swan*, 111 U.S. 379, 382 (1884); *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 270 (2010) ("A void judgment is a legal nullity."); *Coney Island Auto Parts Unlimited, Inc., v. Burton*, 607 U.S. 155, 159 (2026) (same). This bedrock principle "traces back to the English Year Books." *Burnham*, 495 U.S. at 608-09.

Before now, no American court had ever resurrected a judgment void for personal jurisdiction after all appeals had been exhausted. As held in *Plaut*, such "prolonged reticence would be amazing if such interference were not understood to be constitutionally proscribed." 514 U.S. at 230. This novel mandate-recall workaround allows federal courts to disregard the constitutional safeguards confirmed by this Court in *Burnham*, *Acevedo Feliciano*, and *Mansfield*.

The Second Circuit's reliance on the PSJVTA to undermine finality also violates separation of powers. App. 22a-24a, 28a-33a. *Plaut* is again instructive. In finding a statute that purported to alter final judgments unconstitutional, it held that Congress "exceeds [its] powers" when it applies "retroactive legislation" to a case "already finally adjudicated." *Plaut*, 514 U.S. at 225. Such infringement on finality "substantially subvert[s] the doctrine of separation of powers." *Id.* at 226, 229.

There is a fair prospect that the Court will reverse the Second Circuit's decision doing precisely what centuries of precedent explicitly forbade. *See, e.g.*, *Lamb's Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384, 390, 394 (1993) (granting certiorari where "the holding below was questionable under our decisions" and reversing because the holding "was plainly invalid under our [precedent]").

II. Petitioners and Palestinian Citizens Will Face Irreparable Harm as Security, Education, and Other Services Will Be Cut.

Without a stay, Petitioners will suffer irreparable harm while this Court considers their petition for certiorari. Enforcement of the $655.5 million judgment will "severely compromise the PA's ability to operate as a governmental authority" and "could lead to widespread violence in the West Bank." *See* App. 86a (U.S. Statement of Interest ¶¶ 7-8). This court evaluates the "likelihood of irreparable harm" while "assuming the applicant's position on the merits is correct." *Philip Morris USA Inc. v. Scott*, 561 U.S. 1301, 1302 (2010) (Scalia, J., in chambers). That Petitioners cannot pay the judgment immediately without risking collapse certainly qualifies as irreparable harm. *See Ledbetter v. Baldwin*, 479 U.S. 1309, 1310-11 (1986) (Powell, J., in chambers) (irreparable harm from administrative cost of complying with a potentially erroneous order, where cost cannot be recovered); *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931-32 (1975) ("bankruptcy … sufficiently meets the standard[]" for "irreparable injury"); Order, *Rollins v. Rhode Island State Council of Churches*, No. 25A539 (Nov. 7, 2025) (Jackson, J., in chambers) (same as to SNAP benefits).

The United States has previously explained the impact of this judgment on Petitioners. "An event that deprives the PA of a significant portion of its revenues would likely severely compromise the PA's ability to operate as a governmental authority." App. 86a (U.S. Statement of Interest ¶ 7). "[T]he collapse of the PA would undermine several decades of U.S. foreign policy and add a new destabilizing factor to the region, compromising national security," leaving Palestine "without an institutional vehicle with which to govern, maintain order, and provide basic services for the Palestinian people in the West Bank." *Id.* (¶¶ 7-8). This "would plunge the Palestinian economy into a deep recession including a sudden dramatic increase in the already high unemployment rate, and failure of critical social services," which "would likely fuel anger and frustration, and could lead to widespread violence in the West Bank" and harm "the security situation of neighboring Israel, Jordan, and Egypt—key U.S. allies." App. 86a-87a (¶¶ 8-10).

This statement regarding irreparable harm is even more significant today. As explained by the PA's Minister of Finance, the recent regional conflicts have sent Palestinian finances into acute distress. App. 64a, 71a-74a (Salameh Decl. ¶¶ 39, 62-63, 65-68). The present crisis is "<u>the worst collapse in the Palestinian economy on record</u>."[1] The PA is accumulating debt at an increasing rate, with a total debt of nearly $5 billion, including $1.29 billion last year. App. 56a-57a, 59a-60a, 65a-67a (Salameh Decl. ¶¶ 18-21, 26-27, 43-47).

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[1] *Palestinian Economy Suffers Worst-Ever Collapse After Israel-Hamas Conflict, UN Says*, Reuters (Nov. 25, 2025), https://www.reuters.com/world/middle-east/palestinian-economy-suffers-worst-ever-collapse-after-israel-hamas-conflict-un-2025-11-25 (emphasis added).

Respondents plan to enforce the judgment against clearance revenues collected by Israel,[2] which is the PA's primary source of income under the Oslo Accords.[3] App. 54a-55a, 60a-63a (Salameh Decl. ¶¶ 11-13, 29-37). Israel already withholds an increasing portion of that revenue, which is a longstanding problem for the PA. App. 60a-63a (Salameh Decl. ¶¶ 29-37). Israel has recently proposed to freeze even more PA funds, which will further "deepen the financial crisis."[4] Withholding the $655.5 million judgment from the remaining revenue this year will leave critical services unfunded. App. 54a-55a. (Salameh Decl. ¶ 13).

Respondents' judgment amounts to over a third of the annual wages, salaries, and pensions of all public employees in Palestine—including teachers, doctors, sanitation workers, judges, construction, and security forces. App. 57a-59a (Salameh Decl. ¶¶ 22-24). Clinics, hospitals, and schools are already closing for lack of funds,[5]

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[2] *Where terror meets the rule of law*, The Jerusalem Post (May 20, 2026), https://www.jpost.com/diaspora/antisemitism/article-896846. Israel may be taking steps towards accommodating Respondents. *See Knesset passes law to deduct compensation for terror victims from PA tax revenues over pay-for-slay stipends*, Times of Israel (June 8, 2026), https://www.timesofisrael.com/liveblog_entry /knesset-passes-law-to-deduct-compensation-for-terror-victims-from-pa-tax-revenues-over-pay-for-slay-stipends/.

[3] Under the Oslo Accords, Israel collects the "clearance revenue" on behalf of the PA, which include tariffs, customs, purchase and other taxes on imports from Israel and elsewhere. Roughly half of the monthly clearance revenue due from Israel is owed to Palestinian private sector businesses that paid the charges in advance on goods imported through Israel. App. 54a (Salameh Decl. ¶ 12).

[4] *Israel parliament advances bill to freeze more Palestinian Authority Funds*, Anadolu Agency (July 9, 2026), https://www.aa.com.tr/en/middle-east/israel-parliament-advances-bill-to-freeze-more-palestinian-authority-funds/3992857.

[5] *Short of Funds for Drugs or Doctors, West Bank Health System Falters Under Israeli Sanctions*, Times of Israel (June 29, 2026), https://www.timesofisrael.com/short-of-

and public employees are working without pay,[6] leading to dangerous political, security, and economic instability.[7] Immediate enforcement would devastate the remaining public safety, security, the judicial system, health care, public schools, public works, communications, transportation, and reconstruction. *Id.*

The World Bank is already warning of a complete "fiscal collapse, with attendant risks to institutional continuity and broader socioeconomic stability." App. 64a (Salameh Decl. ¶ 39). As the Finance Minister explained in a recent interview: "If you ask me at the beginning of the month whether we're going to be able to pay salaries at the end of the month, I will tell you I don't know. We have no way to plan more than a day. We are in survival mode. And we are under an existential threat."[8]

The impact of Petitioners' dire financial situation already reverberates throughout Palestinian life. The PA "struggles to pay its employees," with many

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funds-for-drugs-or-doctors-west-bank-health-system-falters-under-israeli-sanctions/ ("years of financial deterioration in the PA, stemming largely from tax revenues withheld by Israel," have closed or hobbled "clinics and hospitals"); *Israel is fueling the collapse of the Palestinian healthcare system*, The Hill (July 15, 2026), https://thehill.com/opinion/international/5968217-gaza-health-crisis-israel/ (due to "a financial crisis engineered by Israel" by increased withholding and freezing clearance revenues, the Palestinian "healthcare system will soon collapse completely").

[6] *The PA's Collapse Could Lead to Hamas's Rise in the West Bank*, The Jerusalem Post (June 10, 2026), https://www.jpost.com/opinion/article-898833 (the PA's "enormous deficit" has impaired its "functioning" and "ability to provide services").

[7] *The Economy in the Occupied West Bank Is Being Dismantled, Report Says*, The Associated Press (June 15, 2026), https://apnews.com/article/israel-palestinians-west-bank-economy-45b202b4cfc648582b65101ec97e2cfb (Israeli actions "are not only crippling the Palestinian economy but also fueling deep instability").

[8] *Palestinian Authority finance minister: 'We are in survival mode and under an existential threat,'* Le Monde (June 10, 2026), https://www.lemonde.fr/en/international/article/2026/06/10/palestinian-authority-finance-minister-we-are-in-survival-mode-and-under-an-existential-threat_6754310_4.html.

having "only received partial salaries, often at irregular intervals, for years." App. 69a (Salameh Decl. ¶ 56). The PA's inability to pay resulted in schools shutting down, affecting 600,000 children. App. 70a (Salameh Decl. ¶ 57). Palestinian schools currently only have funding to open three days a week.[9] Over half of Palestinians are already unemployed. App. 70a-71a (Salameh Decl. ¶ 60). In Gaza, over 70% of civilian infrastructure, including hospitals and schools, has been destroyed. App. 73a (Salameh Decl. ¶ 66). Millions of Gazans have been displaced, and the majority live in poverty. App. 70a-73a (Salameh Decl. ¶¶ 60, 66). Reconstructing Gaza alone is expected to cost $70 billion. App. 73a (Salameh Decl. ¶ 67).

The PA has implemented reforms and extreme cuts, including ending the old payments programs,[10] but remains unable to meet its operational obligations. App. 60a, 62a-63a (Salameh Decl. ¶¶ 28, 34-37). The PA cannot implement further cost-cutting initiatives without all but eliminating the wages of essential public sector employees and social services. *Id.*

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[9] *The Palestinian Authority is Being Strangled to Death*, The Nation (June 1, 2026), https://www.thenation.com/article/world/palestinian-authority-collapse-west-bank/ ("Palestinian youth are attending school only three days a week, as schools struggle to pay rising electricity costs and teachers go without salaries. Ministerial offices, even in … Ramallah, are mostly empty.").

[10] *External audit finds PA no longer rewarding security prisoners – diplomats*, Times of Israel (June 11, 2026), https://www.timesofisrael.com/external-audit-finds-pa-no-longer-rewarding-security-prisoners-diplomats/ (an external audit from global professional auditors Alvarez and Marsal concluded "that the new system does not condition payments on whether a family member has served time in prison or was deemed by the PA to be a 'martyr' — a casualty of the Palestinian-Israeli conflict in some manner" and instead "found that payments are made strictly based on recipients meeting criteria based on their financial situation").

Foreign aid to Palestine is lower than ever and wholly insufficient to make up the difference. App. 74a (Salameh Dec. ¶ 68). Indeed, "international aid currently covers less than 40 per cent of the Palestinian Authority's financial gap, leaving it unable to invest meaningfully in recovery, economic stabilization or development." *Id.* Most foreign aid is also restricted and earmarked so that it cannot be used for anything but what donors intend. App. 75a (Salameh Decl. ¶ 71).

Finally, Petitioners would never recover those funds once Israel disburses them to Respondents, even if Petitioners prevail before this Court. *Heckler v. Turner*, 468 U.S. 1305, 1307-08 (1984) (Rehnquist, J., in chambers) (risk of irreparable harm includes the inability "to recover funds improperly paid"). Once given to the Respondents, Israel could not, as a political matter, allow the funds to return to Petitioners.[11]

III. The Balance of the Equities and the Public Interest Favor a Stay.

Finally, "the relative harms to applicant and respondent, as well as the interests of the public at large," also favors a stay of enforcement of the judgment. *Conkright v. Frommert*, 556 U.S. 1401, 1402 (2009) (Ginsburg, J., in chambers).

Respondents would not be unduly prejudiced by a temporary stay that maintains the status quo. The only possible harm Respondents could identify is

[11] *See, e.g., How Israel's financial strangulation of the West Bank is killing Palestinian public education*, Progressive Int'l (July 9, 2026), https://progressive.international/wire/2026-07-09-how-israels-financial-strangulation-of-the-west-bank-is-killing-palestinian-public-education/en/ (discussing "Israel's ongoing withholding of Palestinian customs money," which "Israeli officials have made clear … is part of Israel's strategy to collapse the PA and annex the West Bank").

having to wait for payment of the judgment, which is exactly the same injury faced by every plaintiff facing a stay. Given the poor financial state of Petitioners—and Israel's control over the PA's clearance revenues—Respondents' ability to enforce the judgment against revenue held by Israel is no different now than it will be in the near future. *See Barnes v. E-Sys., Inc. Grp. Hosp. Med. & Surgical Ins. Plan*, 501 U.S. 1301, 1305 (1991) (Scalia, J., in chambers) (balance of equities favored a stay where there was "no irreparable harm that granting the stay would produce"); *Scott*, 561 U.S. at 1305 (Scalia, J., in chambers) ("equitable balance favors issuance of the stay" where "a stay may visit an irreversible harm on applicants, but granting it will apparently do no permanent injury to respondents").

On the other side of the scale, the harm of enforcement would be immediate and irreparable, not only to Petitioners, but also to the Palestinian public and the public at large. Enforcing the judgment would undermine the ability of the PA to govern and provide essential services to a population already in crisis. *See, e.g.*, App. 57a (Salameh Decl. ¶ 22). As the State Department previously confirmed, "the continued viability of the PA is essential to key U.S. security and diplomatic interests, including advancing peace between Israel and the Palestinians, supporting the security of U.S. allies such as Israel, Jordan, and Egypt, combatting extremism and terrorism, and promoting good governance." App. 87a. (U.S. Statement of Interest ¶ 11). The equities, including the harm to Petitioners and the public interest and U.S. national security interests, strongly favor granting a stay.

This Court should thus maintain the status quo until it has the chance to consider and decide the issues at stake—in a case which this Court has already twice granted certiorari.

CONCLUSION

For these reasons, Petitioners respectfully request that the Court stay enforcement of the judgment below pending the filing and disposition of Petitioners' petition for a writ of certiorari.

Dated: July 27, 2026

Respectfully submitted,

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15-3135-cv (L)
Waldman v. Palestine Liberation Org.

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

August Term 2025
Motion Filed: August 11, 2025
Motion Decided: March 30, 2026

Docket Nos. 15-3135-cv (L), 15-3151-cv (XAP), 22-1060-cv (Con)

EVA WALDMAN, REVITAL BAUER, INDIVIDUALLY AND AS NATURAL GUARDIAN OF PLAINTIFFS YEHONATHON BAUER, BINYAMIN BAUER, DANIEL BAUER AND YEHUDA BAUER, SHAUL MANDELKORN, NURIT MANDELKORN, OZ JOSEPH GUETTA, MINOR, BY HIS NEXT FRIEND AND GUARDIAN VARDA GUETTA, VARDA GUETTA, INDIVIDUALLY AND AS NATURAL GUARDIAN OF PLAINTIFF OZ JOSEPH GUETTA, NORMAN GRITZ, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID GRITZ, MARK I. SOKOLOW, INDIVIDUALLY AND AS A NATURAL GUARDIAN OF PLAINTIFF JAMIE A. SOKOLOW, RENA M. SOKOLOW, INDIVIDUALLY AND AS A NATURAL GUARDIAN OF PLAINTIFF JAIME A. SOKOLOW, JAMIE A. SOKOLOW, MINOR, BY HER NEXT FRIENDS AND GUARDIAN MARK I. SOKOLOW AND RENA M. SOKOLOW, LAUREN M. SOKOLOW, ELANA R. SOKOLOW, SHAYNA EILEEN GOULD, RONALD ALLAN GOULD, ELISE JANET GOULD, JESSICA RINE, SHMUEL WALDMAN, HENNA NOVACK WALDMAN, MORRIS WALDMAN, ALAN J. BAUER, INDIVIDUALLY AND AS NATURAL GUARDIAN OF PLAINTIFFS YEHONATHON BAUER, BINYAMIN BAUER, DANIEL BAUER AND YEHUDA BAUER, YEHONATHON BAUER, MINOR, BY HIS NEXT FRIEND AND GUARDIANS DR. ALAN J. BAUER AND REVITAL BAUER, BINYAMIN BAUER, MINOR, BY HIS NEXT FRIEND AND GUARDIANS DR. ALAN J. BAUER AND REVITAL BAUER, DANIEL BAUER, MINOR, BY HIS NEXT FRIEND AND GUARDIANS DR. ALAN J. BAUER AND REVITAL BAUER, YEHUDA BAUER, MINOR, BY HIS NEXT FRIEND AND GUARDIANS DR. ALAN J. BAUER AND REVITAL BAUER, RABBI LEONARD MANDELKORN, KATHERINE BAKER, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF

BENJAMIN BLUTSTEIN, REBEKAH BLUTSTEIN, RICHARD BLUTSTEIN, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF BENJAMIN BLUTSTEIN, LARRY CARTER, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DIANE ("DINA") CARTER, SHAUN COFFEL, DIANNE COULTER MILLER, ROBERT L COULTER, JR., ROBERT L. COULTER, SR., INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JANIS RUTH COULTER, CHANA BRACHA GOLDBERG, MINOR, BY HER NEXT FRIEND AND GUARDIAN KAREN GOLDBERG, ELIEZER SIMCHA GOLDBERG, MINOR, BY HER NEXT FRIEND AND GUARDIAN KAREN GOLDBERG, ESTHER ZAHAVA GOLDBERG, MINOR, BY HER NEXT FRIEND AND GUARDIAN KAREN GOLDBERG, KAREN GOLDBERG, INDIVIDUALLY, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF STUART SCOTT GOLDBERG/NATURAL GUARDIAN OF PLAINTIFFS CHANA BRACHA GOLDBERG, ESTHER ZAHAVA GOLDBERG, YITZHAK SHALOM GOLDBERG, SHOSHANA MALKA GOLDBERG, ELIEZER SIMCHA GOLDBERG, YAAKOV MOSHE GOLDBERG, TZVI YEHOSHUA GOLDBERG, SHOSHANA MALKA GOLDBERG, MINOR, BY HER NEXT FRIEND AND GUARDIAN KAREN GOLDBERG, TZVI YEHOSHUA GOLDBERG, MINOR, BY HER NEXT FRIEND AND GUARDIAN KAREN GOLDBERG, YAAKOV MOSHE GOLDBERG, MINOR, BY HER NEXT FRIEND AND GUARDIAN KAREN GOLDBERG, YITZHAK SHALOM GOLDBERG, MINOR, BY HER NEXT FRIEND AND GUARDIAN KAREN GOLDBERG, NEVENKA GRITZ, SOLE HEIR OF NORMAN GRITZ, DECEASED,

Plaintiffs – Appellants,

UNITED STATES OF AMERICA,

Intervenor – Appellant,

—v.—

PALESTINE LIBERATION ORGANIZATION, PALESTINIAN AUTHORITY, AKA PALESTINIAN INTERIM SELF-GOVERNMENT AUTHORITY AND/OR PALESTINIAN COUNCIL AND/OR PALESTINIAN NATIONAL AUTHORITY, *Defendants – Appellees,*

YASSER ARAFAT, MARWIN BIN KHATIB BARGHOUTI, AHMED TALEB MUSTAPHA BARGHOUTI, AKA AL-FARANSI, NASSER MAHMOUD AHMED AWEIS, MAJID AL-MASRI, AKA ABU MOJAHED, MAHMOUD AL-TITI, MOHAMMED ABDEL RAHMAN SALAM MASALAH, AKA ABU SATKHAH, FARAS SADAK MOHAMMED GHANEM, AKA HITAWI, MOHAMMED SAMI IBRAHIM ABDULLAH, ESTATE OF SAID RAMADAN, DECEASED, ABDEL KARIM RATAB YUNIS AWEIS, NASSER JAMAL MOUSA SHAWISH, TOUFIK TIRAWI, HUSSEIN AL-SHAYKH, SANA'A MUHAMMED SHEHADEH, KAIRA SAID ALI SADI, ESTATE OF MOHAMMED HASHAIKA, DECEASED, MUNZAR MAHMOUD KHALIL NOOR, ESTATE OF WAFA IDRIS, DECEASED, ESTATE OF MAZAN FARITACH, DECEASED, ESTATE OF MUHANAD ABU HALAWA, DECEASED, JOHN DOES, 1-99, HASSAN ABDEL RAHMAN,

Defendants.

Before: LEVAL AND BIANCO, Circuit Judges, AND KOELTL, District Judge.*

The plaintiffs are a group of United States citizens who were injured during terrorist attacks in Israel (and their estates and survivors). They brought this action against the Palestine Liberation Organization ("PLO") and the Palestinian Authority ("PA") pursuant to the Anti-Terrorism Act ("ATA"), 18 U.S.C. § 2333, seeking damages for alleged violations of the ATA related to those attacks. This Court concluded on appeal that the district court lacked personal jurisdiction over the PLO and the PA. We therefore vacated the judgment entered against the

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* The Honorable John G. Koeltl, of the United States District Court for the Southern District of New York, sitting by designation.

defendants and issued a mandate that remanded the action to the district court with instructions that the district court dismiss the case. The plaintiffs subsequently requested that we recall the mandate based on a new statute, the Anti-Terrorism Clarification Act of 2018 ("ATCA"), Pub. L. No. 115-253, 132 Stat. 3183. We denied that motion on the ground that the statute's prerequisites had not been met.

Congress then enacted yet another statute, the Promoting Security and Justice for Victims of Terrorism Act of 2019 ("PSJVTA"), Pub. L. No. 116-94, § 903(c), 133 Stat. 2534, 3082. The PSJVTA provides that the PLO and the PA "shall be deemed to have consented to personal jurisdiction" in any civil ATA action if, after a specified time subsequent to the enactment of the PSJVTA, those entities either (1) make payments, directly or indirectly, to the designees or families of incarcerated or deceased terrorists, whose acts of terror injured or killed a United States national, if such payment is made by reason of the terrorist's incarceration or death, or (2) undertake any activities within the United States, subject to limited exceptions. Id. § 903(c).

The Supreme Court vacated and remanded our judgment denying the motion to recall the mandate in light of the PSJVTA. We in turn remanded the case to the district court to consider whether the PSJVTA applied and, if so, whether exercising personal jurisdiction was constitutional. The district court (Daniels, J.) concluded that the defendants had engaged in jurisdiction-triggering conduct under the PSJVTA, but that the statute was inconsistent with constitutional due process. The plaintiffs again appealed the district court's judgment.

This Court ruled in Fuld v. Palestine Liberation Organization, 82 F.4th 74 (2d Cir. 2023), that the PSJVTA was inconsistent with the Fifth Amendment's Due Process Clause, which we held was coextensive with the Fourteenth Amendment's Due Process Clause. On the basis of our holding in Fuld, we affirmed the district court's judgment in this case and again declined the plaintiffs' request that we recall our original mandate. Waldman v. Palestine Liberation Organization, 82 F.4th 64 (2d Cir. 2023) (per curiam).

The Supreme Court again granted certiorari, this time reversing and remanding our judgment on the ground that the Fifth Amendment does not impose the same limitations on jurisdiction as the Fourteenth Amendment. Moreover, the PSJVTA tied federal jurisdiction to conduct closely related to the United States that implicates important foreign policy concerns. The plaintiffs now move again to recall our original mandate and to affirm the original judgment for the plaintiffs. The plaintiffs' motion is **GRANTED**. The original judgment of the district court is **AFFIRMED**.

KENT A. YALOWITZ, Arnold & Porter Kaye Scholer LLP, New York, NY (Avishai D. Don, Arnold & Porter Kaye Scholer LLP, New York, NY, Allon Kedem, Dirk C. Phillips, Stephen K. Wirth, Bailey M. Roe, Arnold & Porter Kaye Scholer LLP, Washington, D.C., on the brief), for Plaintiffs-Appellants.

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Tad Thomas, Jeffrey R. White, American Association for Justice, Washington, D.C., for Amici Curiae American Association for Justice in Support of Plaintiffs-Appellants.

KOELTL, District Judge:

This case returns to us on remand from the Supreme Court.

The Supreme Court's recent decision in Fuld v. Palestine Liberation Organization, 606 U.S. 1 (2025), reversed and remanded this Court's judgment in Waldman v. Palestine Liberation Organization (Waldman III), 82 F.4th 64 (2d Cir. 2023) (per curiam). Waldman III had held that the personal-jurisdiction provision of the Promoting Security and Justice for Victims of Terrorism Act (the "PSJVTA"), Pub. L. No. 116-94, § 903(c), 133 Stat. 2534, 3082, violated the Due Process Clause of the Fifth Amendment, which followed the Due Process Clause of the Fourteenth Amendment.

The Supreme Court reversed our judgment and held that

> the Due Process Clause of the Fifth Amendment necessarily permits a more flexible jurisdictional inquiry commensurate with the Federal Government's broader sovereign authority.... The PSJVTA ties federal jurisdiction to conduct closely related to the United States that implicates important foreign policy concerns.… It is sufficient unto the day that, whatever the Fifth Amendment's outer limits on the territorial jurisdiction of federal courts, the PSJVTA does not transgress them.

Fuld, 606 U.S. at 16–19.

The parties in this case now dispute the effect of the Supreme Court's decision. The plaintiffs argue that the Supreme Court has ruled that the original district court judgment in favor of the plaintiffs has been reinstated. The Palestine Liberation Organization (the "PLO") and the Palestinian Authority (the "PA") argue that the original judgment in favor of the plaintiffs cannot be reinstated because, among other reasons, there was no jurisdiction to enter the judgment at the time it was entered. We conclude that the original judgment for the plaintiffs should be reinstated. That conclusion is consistent with the plain import of the Supreme Court's decision.

Background

The plaintiffs are a group of United States citizens who were injured during terrorist attacks in Israel (and their estates and survivors). The plaintiffs brought this action against the PLO and the PA pursuant to the Anti-Terrorism Act ("ATA"), 18 U.S.C. § 2333, seeking damages for alleged violations of the ATA related to those attacks. After a seven-week trial, a jury returned a verdict for the plaintiffs. On October 1, 2015, the district court (Daniels, J.) entered judgment for the plaintiffs in the total amount of $655.5 million.

On appeal, this Court held that the district court lacked personal jurisdiction over the defendants. Waldman v. Palestine Liberation Org. (Waldman I), 835 F.3d 317, 344 (2d Cir. 2016). The Court vacated the district court's judgment and remanded the action with instructions to dismiss the case. Id. The Court entered judgment on August 31, 2016, and issued its mandate on November 28, 2016. The plaintiffs filed a petition for a writ of certiorari, which the Supreme Court denied on April 2, 2018. Sokolow v. Palestine Liberation Org., 584 U.S. 915 (2018) (Mem.).[1]

[1] This case has been recaptioned Waldman v. Palestine Liberation Organization. For procedural reasons not relevant here, however, the proceedings before the district court are captioned differently as Sokolow v. Palestine Liberation Organization, No. 04-cv-397, 2011 WL 1345086 (S.D.N.Y.). See Waldman III, 82 F.4th at 69 n.2.

On October 3, 2018, Congress enacted the Anti-Terrorism Clarification Act of 2018 (the "ATCA"), Pub. L. No. 115–253, 132 Stat. 3183. On October 8, 2018, the plaintiffs moved to recall the mandate in this case based on the ATCA. To preserve their options given the statute of limitations, the plaintiffs filed a second complaint alleging the same claims as those advanced in the original litigation. See Complaint, Sokolow v. Palestine Liberation Org., No. 18-cv-12213 (S.D.N.Y. Dec. 27, 2018), ECF No. 6. This second action has been stayed but remains pending. See Order, Sokolow v. Palestine Liberation Org., No. 18-cv-12213 (S.D.N.Y. Sept. 17, 2019), ECF No. 18.

This Court denied the plaintiffs' motion to recall the mandate because the statute's jurisdictional requirements had not been satisfied. Waldman v. Palestine Liberation Org. (Waldman II), 925 F.3d 570, 574–75 (2d Cir. 2019) (per curiam). The plaintiffs again petitioned the Supreme Court for a writ of certiorari. While the plaintiffs' petition was pending, Congress enacted, and the President signed, the PSJVTA. The PSJVTA provides that the PLO and the PA "shall be deemed to have consented to personal jurisdiction" in any civil ATA action if, after a specified time subsequent to the PSJVTA's enactment, those entities either (1) make payments, directly or indirectly, to the designees or families of incarcerated or deceased terrorists whose acts of terror injured or killed United States citizens, if such payment is made by reason of the terrorist's incarceration or death, or (2) undertake any activity within the United States, subject to enumerated exceptions.[2] Id. § 903(c).

In light of the PSJVTA, the Supreme Court granted the plaintiffs' petition, vacated this Court's judgment denying the motion to recall the mandate, and remanded for further consideration. Sokolow v. Palestine Liberation Org., 590 U.S. 921 (2020) (Mem.). This Court in turn remanded the action to the district court to determine in the first instance whether the PSJVTA applied and, if so, whether it comported with due process. On remand, the district court concluded that the defendants had engaged in conduct sufficient to establish personal jurisdiction under the PSJVTA, but that the statute violated the Due Process Clause of the Fifth Amendment. Sokolow v. Palestine Liberation Org., 590 F. Supp. 3d 589, 595–97 (S.D.N.Y. 2022), reconsideration denied, 607 F. Supp. 3d 323 (S.D.N.Y. 2022).

The plaintiffs appealed again. According to the defendants, the district court correctly held that the PSJVTA was unconstitutional. The defendants also argued, however, that even if the PSJVTA were constitutional, that statute could not revive

[2] Unless otherwise noted, this Opinion omits all internal alterations, citations, footnotes, and quotation marks in quoted text.

the district court's original judgment, which was rendered before the PSJVTA was enacted and thus was still void. Moreover, the defendants claimed that they would be entitled to a retrial if this Court's decision vacating the judgment for the plaintiffs was itself vacated because the district court abused its discretion in the original trial by admitting certain portions of the plaintiffs' experts' testimony.

This Court held in Fuld v. Palestine Liberation Organization, 82 F.4th 74 (2d Cir. 2023), that the PSJVTA violated the Due Process Clause of the Fifth Amendment, which was coextensive with the Due Process Clause of the Fourteenth Amendment under circuit precedent. We incorporated that analysis in Waldman III and again declined to recall the mandate. The Supreme Court granted the plaintiffs' petition for certiorari, reversed this Court's judgments in Fuld and Waldman III, and remanded for further proceedings consistent with the Supreme Court's opinion.

DISCUSSION

We must decide three questions in light of the Supreme Court's decision in Fuld. First, should we recall the November 28, 2016, mandate instructing the district court to vacate its judgment for the plaintiffs and to dismiss the case? Second, is the district court's original judgment unsalvageable because the district court lacked personal jurisdiction over the defendants when it rendered the judgment? And third, if recalling the mandate is appropriate and the original district court judgment is not void, are the defendants entitled to a new trial on the ground that the district court erroneously admitted certain expert testimony?

I.

Initially, the parties dispute whether it is necessary to recall the November 2016 mandate that instructed the district court to vacate its judgment in favor of the plaintiffs. In the plaintiffs' view, the Supreme Court's decision in Fuld, which reversed and remanded this Court's decision in Waldman III, automatically reopened the case before the district court. But even if the Fuld decision did not reopen the case, the plaintiffs contend that this Court should exercise its discretion to recall the November 2016 mandate and reopen the case.

The plaintiffs' first argument is unpersuasive. In their view, the Supreme Court's decision to reverse and remand this Court's judgment in Waldman III, rather than to vacate and remand, "supports the conclusion that the case has already been reopened." Pls.' Mot. to Remand ("Remand Mot.") 8, ECF No. 631. The plaintiffs claim that "[t]his Court has issued one judgment in this case, in 2016," and thus the "Supreme Court has … reversed this Court's 2016 judgment—i.e., its holding that the district court could not constitutionally exercise personal jurisdiction over the defendants in this case." Id. at 9.

The plaintiffs are mistaken. This Court decided in Waldman III that the PSJVTA violated the Fifth Amendment's Due Process Clause, which under existing circuit precedent was coextensive with the Fourteenth Amendment's Due Process Clause. This Court denied the plaintiffs' motion to recall the mandate on that basis. The Supreme Court held that this Court used the wrong test to analyze the constitutionality of the PJSVTA under the Fifth Amendment and thus this Court's basis for declining to recall the mandate rested on a legal error. The Supreme Court did not hold that this Court must recall the mandate. Indeed, there was no discussion in Fuld about recalling the mandate that was issued in 2016.

The Supreme Court's reversal and remand of the decision in Waldman III therefore requires this Court to consider again whether to recall its 2016 mandate. In conducting that analysis, we must first decide whether, as the PLO and the PA contend, recalling the mandate would be futile because the PSJVTA's jurisdiction-creating language does not apply retroactively to the PLO and the PA in the Sokolow action. If the PSJVTA can extend personal jurisdiction over the defendants in the Sokolow action, then we must decide whether this Court should exercise its discretion to recall the mandate.

A.

The defendants' main argument is that recalling the mandate would be futile because the PSJVTA does not and cannot create personal jurisdiction retroactively.

In Fuld, the Supreme Court explained that the Fifth Amendment's Due Process Clause imposes fewer limits on the territorial jurisdiction of the federal courts than the Fourteenth Amendment's Due Process Clause. Although the Court declined to delineate the Fifth Amendment's outer boundaries, the Court concluded that the combined foreign-policy judgment of the political branches and the narrowness of the statute justified the PSJVTA's jurisdictional provisions. "In respectively passing and signing the PSJVTA into law, Congress and the President made a considered judgment to subject the PLO and PA to liability in U.S. courts as part of a comprehensive legal response to 'halt, deter, and disrupt' acts of international terrorism that threaten the life and limb of American citizens." Fuld, 606 U.S. at 19–20 (quoting H.R. Rep. No. 115–858, pp. 7–8 (2018)). "The PSJVTA thus reflects the political branches' balanced judgment of competing concerns over 'sensitive and weighty interests of national security and foreign affairs' and fairness to these particular defendants …." Id. at 20 (quoting Holder v. Humanitarian Law Project, 561 U.S. 1, 33–34 (2010)). The Court also held that the statute was "suitably limited to those ends." Id. It applies only to ATA cases; its "jurisdiction triggering predicates are likewise narrow"; and it "limits jurisdiction to only two enumerated nonsovereign foreign entities, both of which have been subject to a series of congressional enactments aimed at deterring terrorism." Id. at 21.

According to the defendants, "Fuld's Fifth Amendment analysis" "depended on post-enactment conduct," and thus "does not allow the exercise of jurisdiction to support a pre-PSJVTA money judgment in Sokolow." Defs.' Response to Pls.' Mot. to Remand ("Remand Opp'n") 15–16, ECF No. 640. That is allegedly because "[b]efore the PSJVTA, there was no 'considered judgment' by [the executive and legislative] branches to subject Defendants to personal jurisdiction." Id. at 17.

This argument fails because it confuses the content of the political branches' "considered judgment" with its timing. Congress and the President made the relevant judgment in 2019, when they respectively passed and signed into law the PSJVTA—more than three years after the original trial. But "a 'key premise' of the PSJVTA was Congress's desire to facilitate 'the adjudication of ATA claims like the plaintiffs',' which it views as 'vital' to 'furthering the safety of Americans abroad, facilitating compensation for injuries or death, and deterring international terrorism.'" Fuld, 606 U.S. at 20 (emphasis added); see also Pub. L. No. 116–94, § 903(d)(1)(A) (providing that the PSJVTA "should be liberally construed to carry out the purposes of Congress to provide relief for victims of terrorism"). Indeed, the PSJVTA expressly provides that it "shall apply to any case pending on or after August 30, 2016," id. § 903(d)(2)—one day before this Court's decision in Waldman I. Although the PSJVTA became law after Waldman I was decided, Congress and the President plainly intended for the PSJVTA to create personal jurisdiction over the defendants in that particular action based on the defendants' continuing conduct.

If the defendants mean to argue that Congress and the President cannot, consistent with the Fifth Amendment's limitations on territorial jurisdiction, extend personal jurisdiction over the defendants retroactively based on the defendants' knowing post-enactment conduct, irrespective of any considered judgment by the political branches that doing so is necessary to advance national-security interests, then that argument also fails. First, the Supreme Court already explained in Fuld that whatever the Fifth Amendment's outer limits, a jurisdictional statute enacted pursuant to the combined judgment of the legislative and executive branches with respect to an issue of foreign policy will likely fall within permissible bounds. Because Congress and the President made such a judgment here, their action is "supported by the strongest of presumptions and the widest latitude of judicial interpretation, and the burden of persuasion … rest[s] heavily upon" the defendants. Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 637 (1952) (Jackson, J., concurring).

Moreover, assuming the Due Process Clause of the Fifth Amendment incorporates an "inquiry into the reasonableness of the assertion of jurisdiction in [a] particular case"—a question the Supreme Court expressly declined to answer in Fuld, 606 U.S. at 23 (quoting Asahi Metal Indus. Co. v. Super. Ct. Cal., 480 U.S. 102, 115 (1987))—the PSJVTA's application of personal jurisdiction over the PLO and the PA satisfies that test. As the Court explained in Fuld, "the Federal Government has an exceedingly compelling interest, as part of its comprehensive efforts to deter international terrorism, in providing a forum for American victims to hold the perpetrators of such acts accountable." 606 U.S. at 24. "For similar reasons, American plaintiffs have a strong interest in seeking justice through an ATA damages action in U.S. courts." Id. And the defendants "do not complain of any lack of notice or contend that litigating these cases in the United States would force them to bear an unfair or unmanageable burden." Id.

The defendants resist this conclusion by arguing that any interests justifying litigation in U.S. courts were "created in 2019 by the concurrent actions of both political branches." Remand Opp'n 17. But this argument again confuses when the political branches made their judgment with the content of that judgment. As the PSJVTA's text makes clear, Congress and the President decided that the relevant interests justified federal courts' exercising personal jurisdiction in any action pending on August 30, 2016, Pub. L. No. 116–94, § 903(d)(2), a plain reference to jurisdiction in this case.

The defendants also contend that the burden "of litigating in a U.S. forum was far greater before the PSJVTA put them 'on clear notice' that 'certain specified conduct would open them up to potential federal court jurisdiction.'" Remand Opp'n 17. This argument is unpersuasive because the PSJVTA put the defendants on notice that specific post-enactment conduct would retroactively trigger personal jurisdiction in the Sokolow litigation. And that jurisdiction-triggering conduct "in and of itself bears a meaningful relationship to the United States." Fuld, 606 U.S. at 23. Furthermore, the district court made a factual finding in this case that the defendants engaged in the predicate conduct within the timeframe set out by the PSJVTA. Sokolow, 590 F. Supp. 3d at 595–97. The defendants do not meaningfully dispute that finding. See Remand Opp'n 4–5 (the plaintiffs "want this Court to" subject the defendants to personal jurisdiction based on "predicate conduct occurring solely between 2020 and early 2025").[3]

The defendants thus had clear notice after the PSJVTA was enacted that their future conduct could subject them to personal jurisdiction in the Sokolow litigation. They proceeded to engage in that conduct, thereby subjecting themselves to personal jurisdiction in that litigation. They cannot credibly claim that they lacked notice that the PSJVTA could subject them to personal jurisdiction in the Sokolow litigation.

[3] The defendants also claim that they have a constitutional due-process right to finality and repose. See Bank Markazi v. Peterson, 578 U.S. 212, 229 (2016) ("The Due Process Clause also protects the interests in fair notice and repose that may be compromised by retroactive legislation."). But any retroactive effect the PSJVTA's jurisdictional provision has depends on the defendants' knowing post-enactment conduct. Moreover, the defendants cannot credibly appeal to an interest in repose because the relief they seek is not dismissal on the merits but a new trial. As the defendants acknowledge, the plaintiffs' "separate case has remained stayed at the pleadings stage" and the plaintiffs "can proceed with their claims there on the same footing as they would in" the original Sokolow litigation. App. 219.

B.

Because the PSJVTA provided the constitutional basis for the district court to exercise personal jurisdiction over the PLO and the PA in this case, the question remains whether this Court should recall its mandate that found that the district court lacked personal jurisdiction over those defendants.

The federal courts of appeals have "an inherent power to recall a mandate, subject to review for abuse of discretion." Taylor v. United States, 822 F.3d 84, 90 (2d Cir. 2016). Courts are reluctant, however, to exercise that discretion because of "the need to preserve finality in judicial proceedings." Sargent v. Columbia Forest Prods., Inc., 75 F.3d 86, 89 (2d Cir. 1996). Recalling a mandate is therefore "an extraordinary remedy to be used 'sparing[ly].'" Waldman II, 925 F.3d at 574 (quoting Calderon v. Thompson, 523 U.S. 538, 550 (1998)).

Although "[n]o formal test governs the exercise of this discretion," Taylor, 822 F.3d at 90 (citing 16 Charles A. Wright, et al., Federal Practice and Procedure § 3938 (3d ed. 2015)), this Court's precedent identifies several relevant factors. For example, in Sargent, this Court recalled a mandate when (1) there had been a "supervening change in governing law that call[ed] into serious question the correctness of the court's judgment"; (2) the movant had preserved the issue in the original appeal; (3) there was "not a substantial lapse of time" before the motion to recall the mandate; and (4) the equities "strongly favor[ed]" recalling the mandate. 75 F.3d at 89–90. The plaintiffs contend that each of the factors identified in Sargent weighs in favor of recalling the mandate in this case. For the reasons explained below, we agree.

1.

The plaintiffs argue that the PSJVTA constitutes a "supervening change in governing law that calls into serious question the correctness of the court's judgment." Sargent, 75 F.3d at 90. The plaintiffs argue that subsequent changes in substantive law can sometimes justify recalling a mandate. For example, the plaintiffs cite Bryant v. Ford Motor Co. for the proposition that "an abrupt change in the law shortly after the panel's opinion justifies a recall of the mandate" because it would be "patently unfair" to deprive a litigant of the benefit of new legislation. 886 F.2d 1526, 1530 (9th Cir. 1989). In the plaintiffs' view, this principle applies with even greater force than usual in this case because "[t]he PSJVTA does not merely create a new rule," but also "reflects the views of Congress and the President that national security and foreign policy are best served by providing relief to plaintiffs in this case." Remand Mot. 11.

In this case, the combined efforts of the political branches to express their dissatisfaction with the state of the law when the mandate issued constitute an "extraordinary circumstance[]" that weighs in favor of recalling a mandate. Taylor, 822 F.3d at 91. Congress cannot, consistent with constitutional principles of separation of powers, require a court of appeals to recall a mandate or otherwise set aside a final judgment. Once a judicial decision achieves finality, it "becomes the last word of the judicial department with regard to a particular case or controversy, and Congress may not declare by retroactive legislation that the law applicable to that very case was something other than what the courts said it was." Plaut v. Spendthrift Farm, Inc., 514 U.S. 211, 227 (1995); see also Schwartz v. Merrill Lynch & Co., 665 F.3d 444, 454 (2d Cir. 2011) ("[A] statute that would 'require an Article III court to set aside a final judgment' 'entered before its enactment' would violate the constitutional principle of separation of powers.").[4] A court of appeals can, however, consider as a matter of comity the views of the legislative and

[4] The plaintiffs cite Salazar v. Buono for the proposition that "[r]espect for a coordinate branch of Government" can require federal courts to evaluate the propriety of a judicial remedy following a change in congressional policy. 559 U.S. 700, 721 (2010). But Buono stands for the more limited proposition that courts must reevaluate the continuing need for an injunction in light of intervening changes in underlying law. That is because injunctions, unlike final money judgments, involve continuing prospective relief. The Court was clear, however, that "Congress, of course, may not use its legislative powers to reopen final judgments." Id. at 717. The plaintiffs acknowledge as much and clarify that they mean to "argue only that the PSJVTA authorizes the Judiciary to reopen the case and encourages it to do so because that would serve important national interests." Reply Suppl. Mot. to Remand ("Remand Reply") 8 n.1, ECF No. 644.

executive branches in deciding how to exercise its discretion. See also Waldman II, 925 F.3d at 574 (acknowledging that "the passage of a new law might warrant recalling a mandate in some circumstances").

In this case, the Supreme Court has respected the considered judgment of the political branches concerning the exercise of personal jurisdiction over the PLO and the PA for violations of the ATA. This Court will do the same.

2.

Second, the plaintiffs argue that they preserved the argument they are now pressing—that the defendants in the Sokolow litigation are subject to personal jurisdiction. The defendants do not dispute this factor.

3.

Third, the plaintiffs contend that their motion to recall the mandate "does not involve the sort of 'substantial lapse of time' that counsels against recalling the mandate." Remand Mot. 15. They note that they filed their motion to recall the mandate on October 8, 2018—six months after the Supreme Court denied their petition for a writ of certiorari and five days after Congress enacted the ATCA.

The defendants respond that although the plaintiffs may have initially moved to recall the mandate within an appropriate amount of time, it has now been nine years since the Court issued its mandate. In the defendants' view, recalling the mandate would "undermine[] 'the profound interests in repose attaching to the mandate of a court of appeals.'" Appendix to Pls.' Mot. to Remand ("App.") 218–19, ECF No. 631 (quoting Calderon, 523 U.S. at 550). This argument is unpersuasive, however, because the defendants do not seek repose. The dismissal of the Sokolow action was without prejudice for lack of personal jurisdiction; the defendants expressly acknowledge now that the plaintiffs can still "pursue their claims and raise any new 'developments' regarding personal jurisdiction in a separate action." App. 219. They also note that the plaintiffs' "separate action," Sokolow v. Palestine Liberation Org., No. 18-cv-12213 (S.D.N.Y.), "has remained stayed at the pleadings stage," and that the plaintiffs "can proceed with their claims there on the same footing as they would in this case." App. 219. Thus, failing to recall the mandate would not advance the interest of finality but would simply require the plaintiffs to start anew in the second action they brought. Recalling a mandate where, as here, the underlying disposition was "based on a procedural shortcoming rather than the merits" generally will not "threaten the central value[] of repose." 16 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 3938 (3d ed. 2015).

4.

Finally, the plaintiffs argue that the equities favor recalling the mandate. Sargent, 75 F.3d at 90 (noting that "the equities strongly favor Sargent"); Greater Boston Television Corp. v. FCC, 463 F.2d 268, 279 (D.C. Cir. 1971) ("The recall of an appellate mandate to avoid injustice is a continuation, in the appellate sphere, of a deeply rooted equity jurisprudence."). The plaintiffs specifically argue that recalling the mandate would promote judicial economy, fairness, and finality.

Given the unusual procedural posture of this case, considerations of judicial economy favor recalling the mandate. Recalling the mandate here would have the effect of reinstating the district court's jury verdict (assuming none of the defendants' other arguments in favor of a new trial, discussed below, succeed). Declining to recall the mandate, by contrast, would lead the Sokolow plaintiffs to relitigate the same claims against the same defendants in the same forum. When, as in this case, "a district court has proceeded to final judgment, 'considerations of finality, efficiency, and economy become overwhelming.'" United Republic Ins. v. Chase Manhattan Bank, 315 F.3d 168, 170 (2d Cir. 2003) (quoting Universal Reinsurance Co., Ltd. v. St. Paul Fire & Marine Ins. (Universal IV), 312 F.3d 82, 88 (2d Cir. 2002)).

Considerations of fairness also favor recalling the mandate. The Sokolow plaintiffs filed this action in 2004; a jury entered a verdict for the plaintiffs in 2015. Fuld, 606 U.S. at 7. In the twenty-one years after this action began, "[s]ome plaintiffs have died," and "others would be unable to travel to New York due to age and illness." Remand Mot. 17. Declining to recall the mandate would require the surviving plaintiffs to try their case starting anew. And even if "the evidence c[ould] be reassembled, conducting retrials years later inflicts substantial pain on … victims who must testify again and endure a new trial." Edwards v. Vannoy, 593 U.S. 255, 263 (2021).

Finally, the plaintiffs contend that the interest in finality actually supports recalling the mandate. This interest "protects the prevailing party's (and the courts') tangible interest in avoiding the costs, uncertainty, and even disrespect reflected by repeated and otherwise unfounded challenges to its judgments." Thai-Lao Lignite (Thailand) Co., Ltd. v. Gov't of Lao People's Democratic Republic, 864 F.3d 172, 188 (2d Cir. 2017). As explained above, declining to recall the mandate in this case does not protect either the parties or the courts from costs and uncertainty. On the contrary, the parties will likely relitigate the same dispute anew. The defendants do not explain how declining to recall the mandate would protect any reasonable expectation of repose.

* * *

In short, all of the relevant considerations support the conclusion that this Court should exercise its discretion to recall its mandate that reversed the district court's judgment for the plaintiffs.

II.

The defendants argue that even if the Court chose to exercise its discretion to recall the mandate, doing so would also be futile because the district court lacked personal jurisdiction when it entered its original judgment. According to the defendants, that means that the district court's judgment is void and cannot be revived.

"The proposition that the judgment of a court lacking jurisdiction is void traces back to the English Year Books." Burnham v. Super. Ct. of Cal., 495 U.S. 604, 608 (1990) (plurality opinion). This principle is now embodied in the Constitution's Due Process Clauses, and thus a court that issues a judgment without personal jurisdiction over a defendant violates that defendant's constitutional due-process rights. Id. at 609 ("[T]he judgment of a court lacking personal jurisdiction violated the Due Process Clause of the Fourteenth Amendment ....”); see also Pennoyer v. Neff, 95 U.S. 714, 732–33 (1878).

The PLO and the PA argue not only that a district court cannot enter a valid judgment without personal jurisdiction, but that federal courts may not revive a judgment made without such jurisdiction, even when later developments cure the earlier jurisdictional defect. In their view, “[p]rior decisions made without jurisdiction remain ‘absolutely void’ even if a court later acquires jurisdiction in the same case.” App. 222 (quoting Roman Cath. Archdiocese of San Juan v. Acevedo Feliciano, 589 U.S. 57, 64 (2020) (per curiam)).

The defendants are correct that a court cannot issue a judgment without jurisdiction and that enforcing a judgment of a court lacking personal jurisdiction violates due process. But it does not follow that post-judgment developments cannot cure earlier jurisdictional deficiencies. On the contrary, it is well-settled that certain post-judgment conduct can insulate a judgment from even potentially meritorious jurisdictional objections.

A classic example is waiver: “[b]ecause the requirement of personal jurisdiction represents first of all an individual right, it can, like other such rights, be waived.” Ins. Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee, 456 U.S.

694, 703 (1982). And defendants can waive or forfeit objections to personal jurisdiction even after a final judgment is entered. See Shatsky v. Palestine Liberation Org., 955 F.3d 1016, 1029 (D.C. Cir. 2020) ("[P]ersonal jurisdiction is a 'forum objection,' and so can be forfeited 'at any stage of a proceeding,' including by failing to challenge the district court's exercise of jurisdiction on appeal." (quoting Spann v. Colonial Vill., Inc., 899 F.2d 24, 32–33 (D.C. Cir. 1990)).

For example, in Corporación Mexicana de Mantenimiento Integral, S. de R.L. de C.V. v. Pemex-Exploración y Producción, 832 F.3d 92 (2d Cir. 2016), the defendant, which lost in the district court, raised both merits and jurisdictional arguments on appeal. After a favorable development, however, the defendant requested that this Court remand the action to the district court for further consideration on the merits. Id. at 99–100. This Court obliged. When the defendant lost at the district court a second time, it appealed, again raising both merits and jurisdictional objections. This time, this Court held that because the defendant "affirmatively and successfully sought relief from this Court remanding for a new merits determination in the Southern District, it forfeited its argument that personal jurisdiction is lacking." Id. at 101.

Pemex undermines the defendants' claim that "[p]rior decisions made without jurisdiction remain 'absolutely void' even if a court later acquires jurisdiction in the same case." App. 222. If that were true, then a defendant would never be able to forfeit a meritorious objection to personal jurisdiction, and a district court could never enter and enforce a judgment that was "void" when it was entered, even though the defendant waived the defense. The point is that post-judgment conduct can sustain a district court judgment that otherwise might be vulnerable to a jurisdictional challenge.

Courts have also held that congressional changes in law expanding subject-matter jurisdiction between the time of the district court's judgment and appeal can cure earlier jurisdictional deficiencies. See, e.g., Andrus v. Charlestone Stone Prods. Co., 436 U.S. 604, 607 n.6 (1978) ("[T]he fact that in 1973 respondent in its complaint did not allege $10,000 in controversy is now of no moment," given Congress's 1976 amendment "to eliminate the amount-in-controversy requirement" in cases against the United States); United States v. Union Gas Co., 832 F.2d 1343, 1357 (3d Cir. 1987) (the Supreme Court "has held with equal[] clarity that, when a law expands the jurisdiction of the federal courts, that expansion governs cases on direct appeal"). "Thus, 'where Congress has expanded the jurisdiction of the courts in response to a perceived gap in a statutory judicial scheme,' we are not free to ignore that jurisdictional grant when considering cases on direct appeal." Union Gas, 832 F.2d at 1357 (quoting Dedham Water Co. v. Cumberland Farms Dairy, Inc., 805 F.2d 1074, 1084 (1st Cir. 1986)); see also Sandefur v. Cherry, 718 F.2d 682, 684–85 (5th Cir. 1983) ("[I]t would be wasteful to both the parties and the courts to dismiss this appeal for lack of federal jurisdiction, for it could be at once refiled.").

The defendants attempt to distinguish between cases that involve curing jurisdictional defects on direct appeal, like Pemex and Andrus, and those that involve curing deficiencies after final judgment, like this case. In the defendants' view, the former is permissible, but the latter is not.

Initially, it is not obvious why this distinction should make a difference if the defendants' claim is that a judgment entered without jurisdiction is "'absolutely void' even if a court later acquires jurisdiction in the same case." App. 222. If the district court lacked jurisdiction when it entered its judgment, that should end the matter on the defendants' theory, irrespective of the appellate posture.

More importantly, however, the defendants are mistaken that jurisdictional defects cannot be cured after final judgments are entered. In United Republic

Insurance, this Court recalled its earlier mandate affirming a final judgment dismissing the plaintiff's claims. 315 F.3d at 170–71. It did so after discovering that the parties may have lacked diversity of citizenship. Id. Critically, after recalling the mandate, this Court instructed the district court on remand "to salvage jurisdiction" by severing nondiverse and dispensable parties. Id. at 169. This Court explained that "[o]nce a district court has proceeded to final judgment, 'considerations of finality, efficiency, and economy become overwhelming,' and federal courts must salvage jurisdiction where possible." Id. at 170 (quoting Universal IV, 312 F.3d at 88).

The district court in this action lacked personal jurisdiction over the defendants when it entered its original judgment. But Congress could and did cure that deficiency when it created a statutory basis for jurisdiction in the PSJVTA consistent with the Fifth Amendment's Due Process Clause. That statutory basis has been satisfied, and therefore Congress's determination, endorsed by the Supreme Court, should be respected.

III.

Finally, the PLO and the PA argue that if this Court decides to recall the mandate and to reject their voidness argument, they are still entitled to a new trial because the district court allowed improper expert testimony to be admitted at trial. According to the defendants, of the thirty-eight witnesses who testified at trial, only three—Kaufman, Eviatar, and Shrenzel—testified about whether the defendants knowingly supported the terrorist attacks and whether the attackers acted within the scope of their employment with the defendants. The defendants contend that the district court abused its discretion by allowing these witnesses to testify as experts and that the defendants were prejudiced as a result. The defendants concentrate on Eviatar and Shrenzel.

The admission of expert testimony is governed by Federal Rule of Evidence 702, which provides that an expert may testify if the expert's "scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue." Fed. R. Evid. 702(a). "For an expert's testimony to be admissible under this Rule, however, it must be directed to matters within the witness's scientific, technical, or specialized knowledge and not to lay matters which a jury is capable of understanding and deciding without the expert's help." United States v. Zhong, 26 F.4th 536, 555 (2d Cir. 2022). "The law assigns district courts a 'gatekeeping' role in ensuring that expert testimony satisfies the requirements of Rule 702." United States v. Farhane, 634 F.3d 127, 158 (2d Cir. 2011); see also Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993).

District courts "enjoy considerable discretion in deciding on the admissibility of expert testimony," and an appellate court "will not disturb a ruling respecting expert testimony absent a showing of manifest error." Farhane, 634 F.3d at 158 (citing Kumho Tire Co. v. Carmichael, 526 U.S. 137, 152 (1999) and Zerega Ave. Realty Corp. v. Hornbeck Offshore Transp., LLC, 571 F.3d 206, 213 (2d Cir. 2009)). Moreover, "[e]ven if a district court errs, a defendant ordinarily is not entitled to a new trial if those errors were 'harmless—i.e., … unimportant in relation to everything else the jury considered on the issue in question.'" Zhong, 26 F.4th at 558 (quoting Cameron v. City of New York, 598 F.3d 50, 61 (2d Cir. 2010)).

The defendants identify two kinds of errors that they believe the district court made. First, they argue that Eviatar and Shrenzel did not use a reliable methodology and simply interpreted factual evidence in the same way a layperson would.[5] Second, the defendants contend that the district court allowed Eviatar and Shrenzel to "speculate[] on mental states, summarize[] hearsay, and [provide] ultimate-issue opinions." Defs.' Suppl. Br. 8, ECF No. 650.

[5] Although the defendants object to certain specific portions of Kaufman's testimony, they level their reliability arguments at Eviatar and Shrenzel.

A.

District courts are assigned "the task of ensuring that an expert's testimony both rests on a reliable foundation and is relevant to the task at hand." Daubert, 509 U.S. at 597. The reliability test is "flexible" and "the law grants a district court the same broad latitude when it decides how to determine reliability as it enjoys in respect to its ultimate reliability determination." Kumho, 526 U.S. at 141–42. "[T]he expert must form his own opinions by applying his extensive experience and a reliable methodology to the inadmissible materials. Otherwise, the expert is simply repeating hearsay evidence without applying any expertise whatsoever, a practice that allows the [proponent] to circumvent the rules prohibiting hearsay." United States v. Mejia, 545 F.3d 179, 197 (2d Cir. 2008).

The defendants argue that the district court erred by allowing Eviatar and Shrenzel to testify because they did not use reliable methodologies and instead merely interpreted factual evidence. But experts are routinely permitted to opine on the structure of criminal enterprises and terrorist organizations. See, e.g., United States v. Locascio, 6 F.3d 924, 936 (2d Cir. 1993) ("We have … previously upheld the use of expert testimony to help explain the operation, structure, membership, and terminology of organized crime families."); United States v. Mustafa, 406 F. App'x 526, 528–29 (2d Cir. 2011) (summary order) (affirming the admission of expert testimony as to "the history, structure and leadership of al Qaeda, the recruitment of terrorists, and the means by which terrorist organizations raise money, distribute propaganda, and provide training" and noting that such expert testimony is "appropriate in the context of a case … which implicates the activities of terrorist organizations and their supporters"); United States v. Paracha, 313 F. App'x 347, 351 (2d Cir. 2008) (summary order) (affirming that the district court "was well within its discretion in ruling that [the expert's] methodology was sufficiently reliable and his testimony relevant to the jury's understanding of al Qaeda so as to be admissible under Fed. R. Evid. 702 and [Daubert]").

This Court has recognized that "[a]n increasingly thinning line separates the legitimate use of an [] expert to translate esoteric terminology or to explicate an organization's hierarchical structure from the illegitimate and impermissible substitution of expert opinion for factual evidence." Mejia, 545 F.3d at 190. But to the extent the expert testimony by Eviatar and Shrenzel occasionally veered from the "dry explanation of an organization's activities that is an appropriate use of expert testimony," United States v. Gentile, 233 F. App'x 86, 89 (2d Cir. 2007) (summary order), the jury was presented with the underlying documents from which the experts formed their allegedly impermissible testimony, and the jury was therefore free to credit or discount their testimony. See United States v. Felder, 993 F.3d 57, 74 (2d Cir. 2021) (noting that the "jury remained free to accept or reject [the expert's] opinion based on its assessment of the sufficiency of the data and experience informing the proffered opinion, [the expert's] credibility generally, and the jury's own evaluation of the [underlying evidence]").

The defendants also analogize this case to Gilmore v. Palestinian Interim Self-Government Authority, in which the Court of Appeals for the D.C. Circuit affirmed a district court's decision to exclude testimony from Eviatar because he did not employ a reliable methodology and instead "simply repeat[ed] hearsay evidence without applying any expertise whatsoever." 843 F.3d 958, 972 (D.C. Cir. 2016). The Court of Appeals noted that "[i]t was also unclear how Eviatar's approach differed from that of a layperson." Id. at 973. But Gilmore is distinguishable.

Eviatar's testimony in Gilmore was about a different subject, and the relationship between his proffered methodology and conclusion was far murkier than in this case. In Gilmore, Eviatar testified that he believed a particular person, Muhanad Abu Halawa, murdered the decedent. Although he alluded to his experience as an intelligence officer and his use of various sources, he never "explain[ed] how his 'cumulative experience and knowledge' as an IDF intelligence officer, as opposed to commonsense and general deductive principles that any non-expert finder of fact would rely on, le[]d him to the conclusion that Abu Halawa was the likely murderer." Gilmore v. Palestinian Interim Self-Gov't Auth., 53 F. Supp. 3d 191, 212 (D.D.C. 2014). By contrast, in this case, the crux of Eviatar's and Shrenzel's opinions was not a bare recitation of the ultimate issue of liability. Rather, they opined on the relationship between the PLO and the PA on the one hand, and Fatah, Hamas, and Al-Aqsa Martyr Brigades on the other. Indeed, the district court qualified Eviatar and Shrenzel as experts on the relationship between these organizations and the policies and practices of the PLO and the PA.

Moreover, unlike in this case, Eviatar's analysis in Gilmore was "based entirely on hearsay evidence that the Court ha[d] already ruled [wa]s inadmissible." Gilmore, 53 F. Supp. 3d. at 212. According to the district court, Eviatar did not apply "any specialized knowledge to the hearsay materials on which he relie[d]." Id. at 213. He was thus merely acting as a conduit for inadmissible hearsay. But in this case, Eviatar relied primarily on documents admitted in evidence, including "original reports of the Palestinian General Intelligence Service," "payroll records," criminal convictions, and official government reports.

See Joint Appendix ("Joint App.") 4182–84. Eviatar explained that in reviewing these materials, his methodology was "identical to all of the professional tools and instruments that [he] made use of and that [he] worked with during the course of [his] years in the military." Joint App. 4184.

B.

The defendants also object to specific testimony by the experts on the grounds that the experts merely "speculated on mental states, summarized hearsay, and [provided] ultimate-issue opinions." Defs.' Suppl. Br. 8.

As an initial matter, experts in civil cases may, while providing otherwise appropriate expert opinions, speak to mental states, provide ultimate-issue opinions, and consider inadmissible evidence. Federal Rule of Evidence 704(a) provides that "[a]n opinion is not objectionable just because it embraces an ultimate issue." Rule 704(b) adds a caveat for opinions about mental states in criminal cases, but that "exception does not apply in civil cases." Diaz v. United States, 602 U.S. 526, 534 (2024). Moreover, Rule 703 provides that "experts can testify to opinions based on inadmissible evidence, including hearsay, if experts in the field reasonably rely on such evidence in forming their opinions." Mejia, 545 F.3d at 197.

In any event, the district court did not abuse its discretion in admitting the expert testimony. While the defendants object to specific instances of expert testimony, those instances do not amount to reversible error.

The defendants argue that Eviatar inappropriately testified that the defendants "were responsible for the attacks because their social welfare programs were intended to (and did) motivate terrorist attacks." Defs.' Suppl. Br. 9. They note that Eviatar testified that welfare payments made to prisoners "represent[ed] a positive incentive that multiplies [their] motivation" and "prod and assist the prisoner[s] to go ahead and carry out those things that [they] want[] to do," namely "terror attacks and terror incidents." Joint App. 4374.

The district court was within its discretion in allowing Eviatar to testify about the relationship between this specific Palestinian welfare law and acts of terrorism. Eviatar purported to base his testimony on his familiarity with the PA as an intelligence officer, his review of the relevant Palestinian law, and documents itemizing payments to released prisoners. It was not unreasonable for the district court to conclude that Eviatar's experience and methodology would allow him to speak about the effect of these welfare payments in a way that a lay person could not.

The defendants also argue that the plaintiffs' experts offered "improper summary and ultimate-issue testimony that Defendants knowingly provided material support, and that terrorism was within the scope of their employment and in furtherance of the PA's activities." Defs.' Suppl. Br. 10. But the evidentiary bases for this testimony was introduced at trial and the jury was carefully instructed:

> You may give the expert testimony whatever weight, if [] any, you find it deserves in light of all the evidence in this case. You should not, however, accept an expert's opinion testimony merely because he or she is an expert. Nor should you substitute it for your own reason, judgment, and common sense. The determination of the facts in this case rests solely with you.

Joint App. 8202. Although "such a charge cannot always cure the trial court's error in allowing inadmissible evidence," on this record, "the instruction adequately protected against the jury's giving undue weight to [the experts'] opinion[s]." Fiataruolo v. United States, 8 F.3d 930, 942 (2d Cir. 1993). The defendants' arguments with respect to the admission of expert testimony provide no basis for reversal.

Conclusion

We have considered all of the arguments of the parties. To the extent not specifically addressed above, those arguments are either moot or without merit.

For the foregoing reasons, the plaintiffs' motion to recall the November 28, 2016 mandate is **GRANTED.** The district court's October 1, 2015 judgment is **AFFIRMED**.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---X
MARK I. SOKOLOW, et al.,

Plaintiffs,

-against-

THE PALESTINE LIBERATION ORGANIZATION and THE PALESTINIAN AUTHORITY,

Defendants.
---X

04 CIVIL 00397 (GBD)

JUDGMENT

A Jury Trial before the Honorable George B. Daniels, United States District Judge, began on January 14, 2015, and at the conclusion of the trial, on February 23, 2015, the jury rendered a verdict in favor of each Plaintiff and against both Defendants the Palestine Liberation Organization and the Palestinian Authority resulting in the following judgment:

I. JANUARY 22, 2002 - JAFFA ROAD SHOOTING:

1. A jury verdict in favor of Plaintiff Elise Gould in the amount of $3,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$9 million**;

2. A jury verdict in favor of Plaintiff Ronald Gould in the amount of $3,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$9 million**;

3. A jury verdict in favor of Plaintiff Shayna Gould in the amount of $20,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$60 million**;

4. A jury verdict in favor of Plaintiff Jessica Rine in the amount of $3,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$9 million**;

5. A jury verdict in favor of Plaintiff Henna Novack Waldman in the amount of $2,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$7.5 million**;

6. A jury verdict in favor of Plaintiff Morris Waldman in the amount of $2,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$7.5 million**;

7. A jury verdict in favor of Plaintiff Shmuel Waldman in the amount of $7,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$22.5 million**;

II. JANUARY 27, 2002 - JAFFA ROAD BOMBING:

1. A jury verdict in favor of Plaintiff Elana Sokolow in the amount of $2,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$7.5 million**;

2. A jury verdict in favor of Plaintiff Jamie Sokolow in the amount of $6,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$19.5 million**;

3. A jury verdict in favor of Plaintiff Lauren Sokolow in the amount of $5,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$15 million**;

4. A jury verdict in favor of Plaintiff Mark Sokolow in the amount of $5,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$15 million**;

5. A jury verdict in favor of Plaintiff Rena Sokolow in the amount of $7,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$22.5 million**;

III. MARCH 21, 2002 - KING GEORGE STREET BOMBING:

1. A jury verdict in favor of Plaintiff Alan Bauer in the amount of $7,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$21 million**;

2. A jury verdict in favor of Plaintiff Binyamin Bauer in the amount of $1,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$3 million**;

3. A jury verdict in favor of Plaintiff Daniel Baur in the amount of $1,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$3 million**;

4. A jury verdict in favor of Plaintiff Yehonathon Bauer in the amount of $25,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$75 million**;

5. A jury verdict in favor of Plaintiff Yehuda Bauer in the amount of $1,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$3 million**;

IV. JUNE 19, 2002 - FRENCH HILL BOMBING:

1. A jury verdict in favor of Plaintiff Leonard Mandelkorn in the amount of $10,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$30 million**;

V. July 31, 2002 - HEBREW UNIVERSITY BOMBING:

1. A jury verdict in favor of Plaintiff Katherine Baker in the amount of $6,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$18 million**;

2. A jury verdict in favor of Plaintiff Benjamin Blutstein in the amount of $2,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$7.5 million**;

3. A jury verdict in favor of Plaintiff Rebekah Blutstein in the amount of $4,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$12 million**;

4. A jury verdict in favor of Plaintiff Richard Blutstein in the amount of $6,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$18 million**;

5. A jury verdict in favor of Plaintiff Diane Carter in the amount of $1,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$3 million**;

6. A jury verdict in favor of Plaintiff Larry Carter in the amount of $6,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$19.5 million**;

7. A jury verdict in favor of Plaintiff Shaun Choffel in the amount of $1,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$4.5 million**;

8. A jury verdict in favor of Plaintiff Robert L. Coulter Jr. in the amount of $3,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$9 million**;

9. A jury verdict in favor of Plaintiff Diane Coulter Miller in the amount of $3,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$9 million**;

10. A jury verdict in favor of Plaintiff Robert L. Coulter Sr. in the amount of $7,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$22.5 million**;

11. A jury verdict in favor of Plaintiff Janis Ruth Coulter in the amount of $2,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$7.5 million**;

12. A jury verdict in favor of Plaintiff David Gritz in the amount of $2,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$7.5 million**;

13. A jury verdict in favor of Plaintiff Nevenka Gritz in the amount of $10,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$30 million**;

14. A jury verdict in favor of Plaintiff Nevenka Gritz, as successor to Norman Gritz, in the amount of $2,500,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$7.5 million**;

VI. JANUARY 29, 2004 - BUS NO. 19 BOMBING:

1. A jury verdict in favor of Plaintiff Chana Goldberg in the amount of $8,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$24 million**;

2. A jury verdict in favor of Plaintiff Eliezer Goldberg in the amount of $4,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$12 million**;

3. A jury verdict in favor of Plaintiff Esther Goldberg in the amount of $8,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$24 million**;

4. A jury verdict in favor of Plaintiff Karen Goldberg in the amount of $13,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$39 million**;

5. A jury verdict in favor of Plaintiff Shoshana Goldberg in the amount of $4,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$12 million**;

6. A jury verdict in favor of Plaintiff Tzvi Goldberg in the amount of $2,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$6 million**;

7. A jury verdict in favor of Plaintiff Yaakov Goldberg in the amount of $2,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$6 million**;

8. A jury verdict in favor of Plaintiff Yitzhak Goldberg in the amount of $6,000,000.00, which is trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$18 million**.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED: That Plaintiffs have a judgment as against Defendants the Palestine Liberation Organization and the Palestinian Authority jointly and severally in the amounts specified above for a total jury verdict of $218.5 million, trebled automatically pursuant to the Antiterrorism Act, 18 U.S.C. § 2333(a), for a total award of **$655.5 million**.

DATED: New York, New York
October 1, 2015

So Ordered:

George B. Daniels

U.S.D.J.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MARK I. SOKOLOW, *et al.*, Plaintiffs, v. PALESTINE LIBERATION ORGANIZATION, *et al.*, Defendants.	)	Nos. 15-3135-cv (L); 15-3151-cv (XAP); 22-1060-cv (Con)

DECLARATION OF DR. ESTEPHAN SALAMEH

Pursuant to 28 U.S.C. § 1746, I, Estephan Salameh, declare under penalty of perjury as follows:

1. I am over eighteen years old and am competent to make this declaration. Unless otherwise stated herein, the facts set forth below are based on my personal knowledge.

2. I was appointed Minister for Planning and International Cooperation, as well as Minister of Finance and Planning, for the Palestinian Authority ("PA") in 2025.

3. As Minister of Finance and Planning, I am primarily responsible for managing the public finance of the Palestinian government, developing and executing the PA's annual budget, implementing fiscal reforms, and overseeing the national accounting and reporting systems. In addition, I am the principal counterpart for the international donor community, and I oversee, manage, and report on foreign financial aid directed to the PA. As part of my responsibilities, I ensure compliance with Palestinian legal and administrative procedures. I also approve, and obtain PA Cabinet ratification of, the annual budget of all PA Ministries and the Palestine Liberation

Organization ("PLO"), and I approve the monthly disbursement of funds allocated to the PA Ministries and the PLO under that annual budget.

4. I am a Palestinian, born in Jerusalem in 1975.

5. I earned a bachelor's degree in architectural engineering from Birzeit University. I received a PhD in Urban Planning and Public Policy from the University of Illinois Chicago in 2009.

6. I have been an assistant professor in the field of public policy at Birzeit University since 2013. I have also served as the Advisor to the Prime Minister for Planning and Aid Coordination since 2019. Before that, from 2018 to 2019, I was a Senior Advisor for the United Nations Development Programme – Programme of Assistance to the Palestinian People. From 2015 to 2017, I served as the Head of Policy and Reform Unit at the Office of the Palestinian Prime Minister. I was the CEO of Jerusalem Policy and Development from 2013 to 2014. From 2013 to 2014 I was a freelance policy and planning consultant, focusing on local governance, aid effectiveness, and land administration. And from 2006 to 2013, I served as a Policy Advisor for the PA's Ministry of Planning.

7. This declaration is based on my personal knowledge of the financial condition of the PA and PLO. Since 1993, when the PLO, Israel and the United States created the PA under the Oslo Accords, the PLO has not had any material source of revenue other than the funding it receives from the PA. Accordingly, this declaration focuses almost entirely on the PA's financial obligations and financial condition.

8. Included with this declaration are true and accurate copies of PA financial statements and related reports, including the PA's most recent monthly reports for January and

February 2026,[1] as well as monthly reports for December 2020 to December 2025.[2] The PA produces financial reports in accordance with international standards of national accounting and reporting. These reports include a monthly record of financial activity, and are monitored and audited by both internal and external controls. The PA's financial and operational reports and budgets are further monitored and verified by the International Monetary Fund ("IMF") and World Bank resident staff. In the interest of providing greater financial transparency, the PA publishes many of these financial documents and reports through its website, including Monthly Reports, Yearly Reports, Quarterly Reports, Final Accounts, and Property Tax Reports, which can be accessed at: https://pmof.ps/en/index.php.

9. I understand that this declaration will be submitted in support of a motion by the PA and the PLO requesting that the Court stay its mandate affirming the underlying judgment in this case pending the disposition of the PA and PLO's petition for certiorari to the Supreme Court of the United States. This declaration is made in order to demonstrate that there is good cause for such a stay, as neither the PA nor the PLO has the financial capacity, liquidity, or access to credit facilities to pay the judgment.

The PA's Assets and Income

10. The PA's grim fiscal condition is a function of its limited stream of revenues, its entrenched deficits, and its existing high levels of debt and accumulated arrears.

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[1] *See* Ex. 1, PA Fiscal Operations for February 2026 ("PA Feb. 2026 Operations").

[2] *See* Ex. 2, PA Fiscal Operations for December 2020 ("PA Dec. 2020 Operations"); Ex. 3, PA Fiscal Operations for December 2021 ("PA Dec. 2021 Operations"); Ex. 4, PA Fiscal Operations for December 2022 ("PA Dec. 2022 Operations"); Ex. 5, PA Fiscal Operations for December 2023 ("PA Dec. 2023 Operations"); Ex. 6, PA Fiscal Operations for December 2024 ("PA Dec. 2024 Operations"); Ex. 7, PA Fiscal Operations for December 2025 ("PA Dec. 2025 Operations").

11. The PA does not have any commercial business interests that generate income. Instead, the primary sources of PA income are indirect taxes, namely customs-clearance revenues, followed by domestic tax revenues. In 2024, the PA's sources of revenue were: (i) clearance revenues resulting from commercial transactions between private sector parties in Palestine and Israel; (ii) domestic tax revenues collected by the Ministry of Finance, including from income tax, value-added tax, customs, property tax, and other excise revenues; (iii) domestic non-tax revenues, including fees and licenses collected by various PA government ministries; and (iv) earmarked collections, which are collections from property taxes and transportation-fee revenues due to Palestinian Local Government Units.

12. Clearance revenues are revenues to the PA in the form of indirect taxes on imported goods.[3] Israel collects the taxes and customs duties on the PA's behalf, and is obligated to refund those revenues monthly to the PA. The PA is obligated to transfer onward roughly half of the monthly clearance revenues due from Israel to the Palestinian private sector businesses that paid the customs and clearance charges in advance on goods imported from the Israeli market.

13. Clearance revenues ordinarily account for the vast majority (approximately 60%) of the PA's yearly revenue. The following chart summarizing the PA's annual sources of income for 2023 illustrates the importance of the clearance revenues in millions of U.S. dollars:[4]

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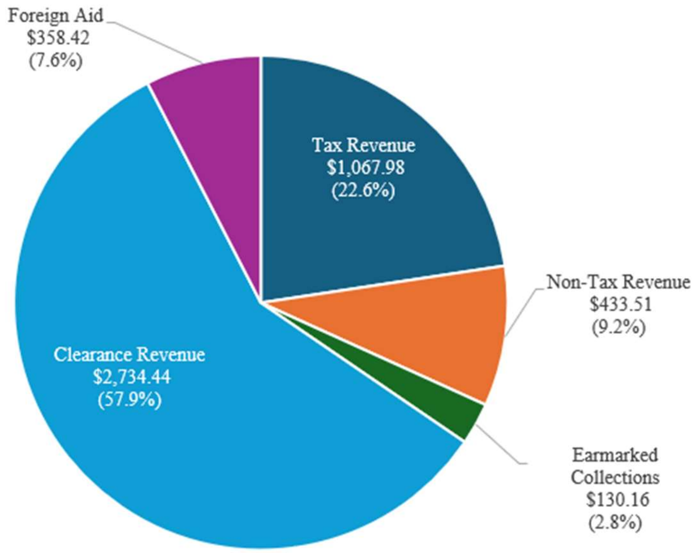
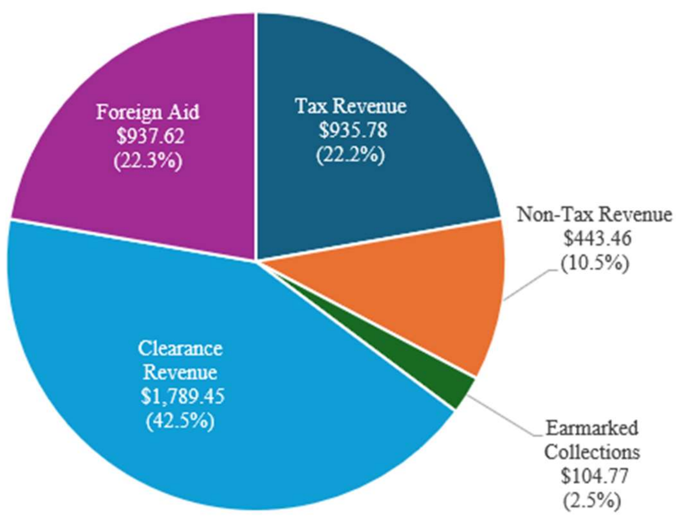
[3] *See* Ex. 8, United Nations Trade and Development Board, Report on UNCTAD assistance to the Palestinian people (July 23, 2024) ("UNCTAD July 23, 2024 Report") at 14, *available at* https://www.un.org/unispal/wp-content/uploads/2024/08/g2412912.pdf.

[4] All of the conversions in this Declaration from new Israeli shekels (NIS) to U.S. dollars are based on the average exchange rate for the respective year. For 2020, the average exchange rate was 3.43 NIS per dollar; for 2021, the average exchange rate was 3.24 NIS per dollar; for 2022, the average exchange rate was 3.36 NIS per dollar; for 2023, the average exchange rate was 3.67 NIS per dollar; for 2024, the average exchange rate was 3.70 NIS per dollar; and for 2025, the average exchange rate was 3.44 NIS per dollar. *See* Ex. 2, PA Dec. 2020 Operations, at 1; Ex. 3, PA Dec. 2021 Operations, at 1; Ex. 4, PA Dec. 2022 Operations, at 1; Ex. 5, PA Dec. 2023 Operations, at 1; Ex. 6, PA Dec. 2024 Operations, at 1; Ex. 7, PA Dec. 2025 Operations, at 1. January 2026 and February 2026 figures are based on the individual or averaged exchange rates in Ex. 1, PA Feb. 2026 Operations, at 1.



[5]

14. But as explained further below, following the Israeli-Hamas war that began in 2023, Israel has repeatedly withheld the clearance revenues it is obligated to transfer. Even with those withholdings, clearance revenues accounted for nearly half of the PA's annual revenue in 2025, as the following chart shows:



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[5] *See* Ex. 5, PA Fiscal Operations for December 2023, at 2 (Revenues, Expenditures and Financing Sources (Cash Basis)).

[6] *See* Ex. 7, PA Fiscal Operations for December 2025, at 2 (Revenues, Expenditures and Financing Sources (Cash Basis)).

15. To the best of my knowledge and understanding, the PA does not own any real estate other than property located in Gaza, the West Bank and certain overseas embassies, all of which are used for government operations. Similarly, the PA does not own any buildings, plants or equipment in the West Bank or Gaza other than those being used for government operations.

16. To the best of my knowledge and understanding, the PA does not sell its land holdings, buildings or other assets in order to generate cash. The PA cannot liquidate its government assets without impairing its ability to function and perform its governance duties.

17. Furthermore, because the PA does not engage in commercial business activities, the PA does not have any accounts receivable.

The PLO's Assets and Income

18. The PLO receives its funding under a budget ratified by the PA Cabinet and Legislative Council. When the PA approves the monthly disbursement of funds allocated to the PLO under that budget, the PA transfers the funds to the Palestinian National Fund ("PNF"), which is the PLO's treasury. The PNF disburses funds received from the PA to the PLO for its operating expenses, including salaries for PLO officials and diplomatic corps.

19. The PLO does not prepare consolidated financial statements separate from the PA's accounting structure. The PLO was in existence before the creation of the PA by virtue of the Oslo Accords. After the PA was created, the PLO continued in existence with a focus on conducting the overseas foreign affairs of the Palestinian people. The PLO accounts for the budgeted and allocated funds that are disbursed to it by the PA in keeping with the same PA zero-balance accounting policies that apply to PA Ministries and agencies with "line" functions. This means that, at the end of each month, the accounts of the PLO, like the accounts of PA line Ministries and agencies, have a zero balance in advance of the disbursement of the next month's transfer of

budgeted and allocated funds. The PLO therefore does not have any funds with which it can pay a judgment.

20. The PLO does not own any businesses that generate revenue.

21. The PLO does not own any commercial real estate; instead, its property is comprised of overseas missions and diplomatic offices. Similarly, the PLO does not own any buildings, plants or equipment, other than those used by PLO employees in the course of performing their diplomatic functions.

<u>The PA's Expenditures</u>

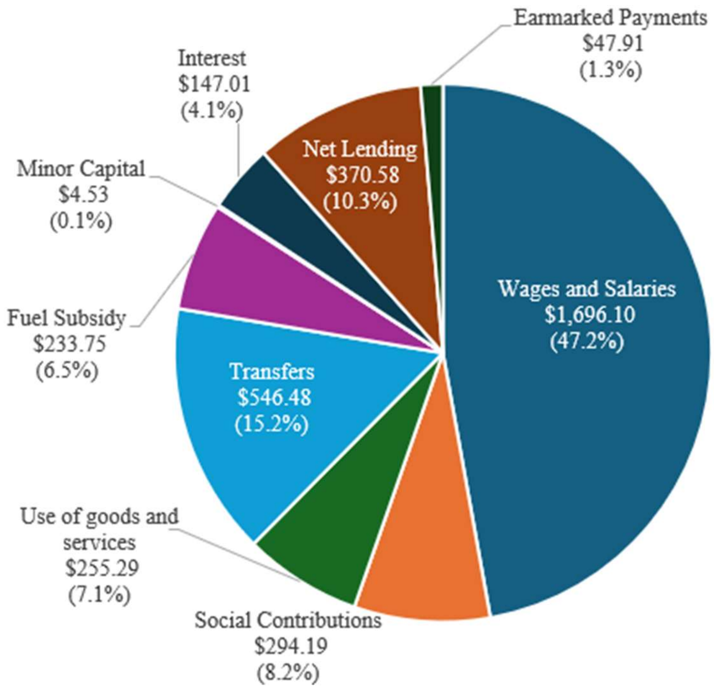
22. The PA funds conventional government services, including developing infrastructure; public safety and the judicial system; health care; public schools and education (including teachers' salaries); foreign affairs; economic development initiatives in agriculture, energy, public works, and public housing; social security benefits; payments to universities and scholarships; the payment of more than 140,000 government employees, related pension funds, and unemployment benefits; communications and information technology services; and developmental expenditures.[7] For the reasons explained in this declaration, immediate enforcement of the judgment would materially impair the ability of the PA to provide these essential governmental and humanitarian services.

23. The PA's recurrent expenditures go to wages and salaries, social contributions, goods and services that the PA needs to operate, transfers to the social security fund, pensions and social welfare payments, interest on existing debt, and public safety and security. By far the PA's

[7] *See* Ex. 7, PA Dec. 2025 Operations, at 6-7 (Expenditure by PA organizations, (Commitment Basis)), 11 (Transfers, (Commitment Basis)); Ex. 9, A. Boxerman & A. Rasgon, *Israeli Minister Will Release Palestinian Funds if Settlements Are Legalized, Officials Say*, New York Times (June 29, 2024) ("NYT June 29, 2024 Article") at 4, https://www.nytimes.com/2024/06/29/world/middleeast/israel-funds-palestinian-authority-smotrich.html (PA employees "number at least 140,000").

largest annual expenditure is salary and wage payments to government employees. In 2025, the vast majority of salaries and wages (approximately 70%) were paid to employees in education, health, and the national security and public safety sector.[8]

24. Due to financial constraints, the PA's annual expenditures decreased by 3.3% (over $120 million) from 2024 to 2025.[9] The following two charts demonstrate the proportion of these expenditures for 2025, first by type and then by sector of the Palestinian economy:

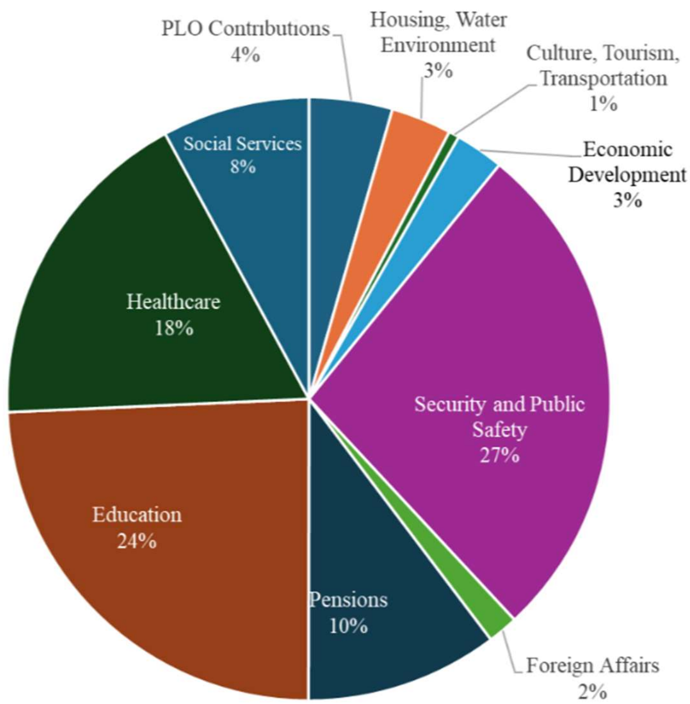


[10]

[8] *See* Ex. 7, PA Dec. 2025 Operations, at 6-7 (Expenditure by PA organizations, (Commitment Basis))

[9] Ex. 6, PA Dec. 2024 Operations, at 2 (Revenues, Expenditures and Financing Sources (Cash Basis)); Ex. 7, PA Dec. 2025 Operations, at 2 (Revenues, Expenditures and Financing Sources (Cash Basis)).

[10] Ex. 7, PA Dec. 2025 Operations, at 2 (Revenues, Expenditures and Financing Sources (Cash Basis)).



[11]

<u>The PA's Deficit, Debt, and Arrears</u>

25. For definitional purposes, the PA uses the term "deficits" to describe the amount by which PA expenditures exceed PA revenues. PA "debt" means the amounts that the PA has borrowed from domestic banks, multilateral, quasi-sovereign institutions like the World Bank and the European Investment Bank, and governments, which must be repaid with interest. PA "arrears" can refer to accumulated amounts owed by the PA to the private sector and to public sector employees, payment of which has been deferred due to the PA's cash constraints, but that must eventually be paid in full. These arrears currently include withheld payments due for goods and services, and interest payments due on existing debt.

26. The PA historically has operated at a deficit because its income is insufficient to cover its current expenses and debt obligations. The United Nations has highlighted the PA's

[11] Ex. 7, PA Dec. 2025 Operations at 6-7 (Expenditures by PA organizations).

operational deficit (on a commitment basis) for certain years between 1995 and 2023, with deficits reaching as high as 26% of Palestine's gross domestic product ("GDP") in 2002.[12]

27. The PA's chronic budget deficit is due, further, to the PA's inability to collect taxes, invest in, or develop roughly 63% of the area assigned to the PA under the Oslo Accords (specifically, "Area C") as a result of the lack of progress in the peace process. The PA's budget deficit was $800.88 million in 2023;[13] $1.49 billion in 2024;[14] and $1.29 billion in 2025.[15]

28. To reduce these recurring deficits, the PA has implemented reform measures, including efforts by the PA to broaden its tax base and improve the efficiency of government spending. The PA is also implementing a structural reform program with support from the International Monetary Fund ("IMF") aimed at improving the Palestinian business environment attracting investments to support more sustainable economic growth. Although it has explored further expenditure cuts, the PA has determined that it cannot implement further cost-cutting initiatives without severely reducing or eliminating the wages of essential public sector employees or social services to the Palestinian people.

29. The PA's historically bleak financial picture began to deteriorate further following October 2023, particularly since March 2025 when Israel began withholding all of the clearance revenues which, as previously discussed, comprise the majority of the PA's annual domestic revenues. Since October 2023, Israel has withheld approximately $90 million in clearance revenues per month.[16]

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[12] *See* Ex. 8, UNCTAD July 23, 2024 Report at 9 (Table 2).

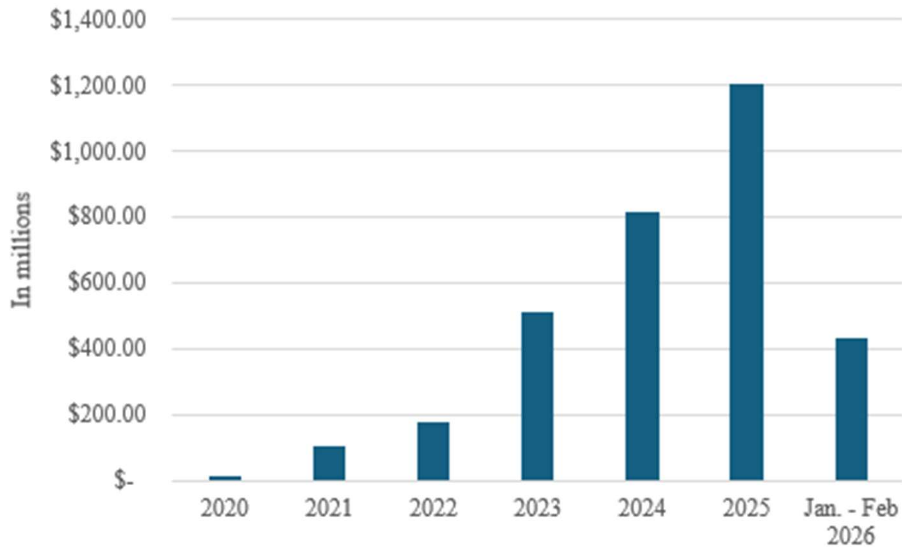
[13] Ex. 5, PA Dec. 2023 Operations, at 1.

[14] Ex. 6, PA Dec. 2024 Operations, at 1.

[15] Ex. 7, PA Dec. 2025 Operations, at 1.

[16] *See* Ex. 5, PA Dec. 2023 Operations, at 3; Ex. 6, PA Dec. 2024 Operations, at 3; Ex. 7, PA Dec. 2025 Operations, at 3 (Consolidated Statements on Fiscal Operations and Arrears).

30. The following chart illustrates Israel's withholding of clearance revenues in USD millions:



[17]

31. In the above timeframe, cumulative clearance revenue deductions and withheld amounts surpassed $3.2 billion. Since May 2025, Israel has withheld an even greater amount of clearance revenues, bringing total amounts withheld in 2025 alone to over $1.2 billion.[18]

32. Israel's withholding and freezing of clearance revenues has continued. As recently as April 2026, Israel deducted $197.7 million (80%) of the approximately $248 million collected

[17] Ex. 2, PA Dec. 2020 Operations, at 3 (Consolidated Statement on Fiscal Operations and Arrears); Ex. 3, PA Dec. 2021 Operations, at 3; Ex. 4, PA Dec. 2022 Operations, at 3; Ex. 5, PA Dec. 2023 Operations, at 3; Ex. 6, PA Dec. 2024 Operations, at 3; Ex. 7, PA Dec. 2025 Operations, at 3; Ex. 1, PA Feb. 2026 Operations, at 3.

[18] *Id.*

that month, while freezing and refusing to transfer the remaining balance.[19] As of May 2026, Israel's total withholding of clearance revenues was approximately $5.2 billion.[20]

33. The freeze itself, and Israel's decision to withhold the full returns of the PA's clearance revenues, demonstrates the unilateral political and economic power that Israel exercises over the Palestinian economy.

34. Israel's ongoing withholding of clearance revenues has exacerbated the PA's financial crisis, causing Palestine's real GDP to contract by approximately 27% from 2023 to 2024.[21] Accordingly, and as the United Nations reported, 2024 was "the worst fiscal year in the history of the Palestinian Government."[22] The PA received even less clearance revenues from Israel in 2025, marking a 3.4% decrease from those received in 2024.[23]

35. This drastic cut in revenue has forced the PA to make equally drastic cuts to its funding for government operations. For example, from 2024 to 2025, the PA:

a. cut its total expenditures by over $120 million;

b. cut social contributions by $61.22 million;

c. cut its use of goods and services by $32.82 million; and

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[19] *See* Ex. 10, Abdel Ra'ouf Arnaout, *Israel withholds Palestinian clearance funds again, deducts $200 million*, Anadolu Agency (Apr. 27, 2026) at 2, https://www.aa.com.tr/en/middle-east/israel-withholds-palestinian-clearance-funds-again-deducts-200-million/3919451.

[20] *See* Ex. 11, Times of Israel, PA's Abbas Blasts Israel for Holding $5 Billion in Tax Revenue Belonging to Palestinians (May 14, 2026), https://www.timesofisrael.com/liveblog_entry/pas-abbas-accuses-israel-of-holding-5-billion-in-tax-revenue-belonging-to-palestinians/.

[21] Ex. 12, United Nations Trade and Development Board: Report on Developments in the economy of the Occupied Palestinian Territory (Sept. 30, 2025) ("UNCTAD September 30, 2025 Report"), at 9, *available at* https://unctad.org/system/files/official-document/tdb72_d3_en.pdf.

[22] *Id.* at 8.

[23] Ex. 6, PA Dec. 2024 Operations, at 2; Ex. 7, PA Dec. 2025 Operations, at 2 (Revenues, Expenditures and Financing Sources (Cash Basis)).

d. cut its transfers (e.g., to social security and pension funds) by $36.46 million.[24]

36. From just December 2025 to February 2026, the PA cut:

a. its total expenditures by another $59.53 million;

b. its monthly wages and salaries by $23.73 million, or over 15%; and

c. its developmental expenditures by $17.11 million—a nearly 80% cut during a time when re-development efforts, particularly in Gaza, are crucial given the impact of the Israeli-Hamas conflict.[25]

37. Israel's deductions and withholdings of clearance revenues are expected to cause lasting harm to Palestinian economy. According to the Palestine Monetary Authority's 2026 economic forecast,

> Public finances are expected to remain under substantial pressure due to continued Israeli deductions from clearance revenues and the irregularity of their transfers. This will leave the [PA] in a persistent state of deficit, unable to fully meet its operational obligations. … Consequently, the [PA] will be compelled to adopt a restrictive fiscal policy focused on essential expenditures, with minimal capacity for capital investment or expanded social spending.[26]

38. As the World Bank explained, the catastrophic impact of these fiscal pressures "reverberate beyond the public sector. They not only constrain the provision of essential services but also weaken household income, ultimately feeding back into the collapse of aggregate demand and amplifying the downturn."[27]

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[24] *Id.*

[25] *Id.*

[26] *See* Ex. 13, Palestine Monetary Authority, Economic Forecasts Report 2026 (Dec. 2025) ("PMA 2026 Economic Forecasts Report"). The PMA is an independent public institution overseeing certain monetary and banking policies.

[27] *See* Ex. 14, World Bank Palestinian Fund for Reconstruction and Development Review: April – June 2025 (Oct. 23, 2025) ("World Bank PFRD 2025 Review") at 2, *available at* https://documents1.worldbank.org/curated/en/099041510232548310/pdf/IDU-d1a59472-316c-436f-8cc0-3ad483915545.pdf.

39. No government could long survive the sudden loss of the majority of its funding for government operations and social services for its people, but the loss of revenue is even more concerning because of its impact on security and stability in the region. As the World Bank explained, without "urgent corrective measures to resume the [clearance revenue] transfers," the current economic "dynamics have the potential to precipitate fiscal collapse, with attendant risks to institutional continuity and broader socioeconomic stability."[28]

40. But even if the PA were to receive the clearance revenues in the ordinary course, the PA runs at a substantial deficit.[29] Assuming the receipt of the full amount of withheld clearance revenues in 2025, the PA nonetheless would have realized a deficit of $85.8 million.[30]

41. Moreover, even before Israel froze the PA's clearance revenues, the PA was unable to fully service its public debt, including domestic and foreign and loans, and credit facilities owed to institutions like the World Bank and the European Investment Bank.[31]

42. Prior to Israel's withholding of clearance revenues at its current rate, the PA's total (domestic and foreign) debt was $3.65 billion in 2020,[32] $3.85 billion in 2021,[33] and $3.54 billion in 2022.[34] Notably, those amounts include $507.1 million, $562.8 million, and $506.5 million for annual bank overdrafts, respectively, which indicate that even before Israel's freeze of clearance

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[28] *See* Ex. 15, World Bank Economic Monitoring Report: Impacts of the Conflict in the Middle East on the Palestinian Economy (Sept. 2025) ("World Bank September 2025 Report") at 2, 10, *available at* https://thedocs.worldbank.org/en/doc/88b250e19a55174787bafafd5322360e-0280012025/original/Palestinian-Economic-Update-Sept2025-FINAL.pdf.

[29] *See, e.g.*, Ex. 3, PA Dec. 2021 Operations, at 1 (approximately $1.8 billion deficit); Ex. 4, PA Dec. 2022 Operations at 1 (approximately $1.07 billion deficit).

[30] Ex. 7, PA Dec. 2025 Operations, at 1, 3 ("Balance" and "Clearance Revenue Withheld").

[31] *See, e.g.*, Ex. 4, PA Dec. 2022 Operations, at 10 (Public Debt).

[32] Ex. 2, PA Dec. 2020 Operations, at 10 (Public Debt).

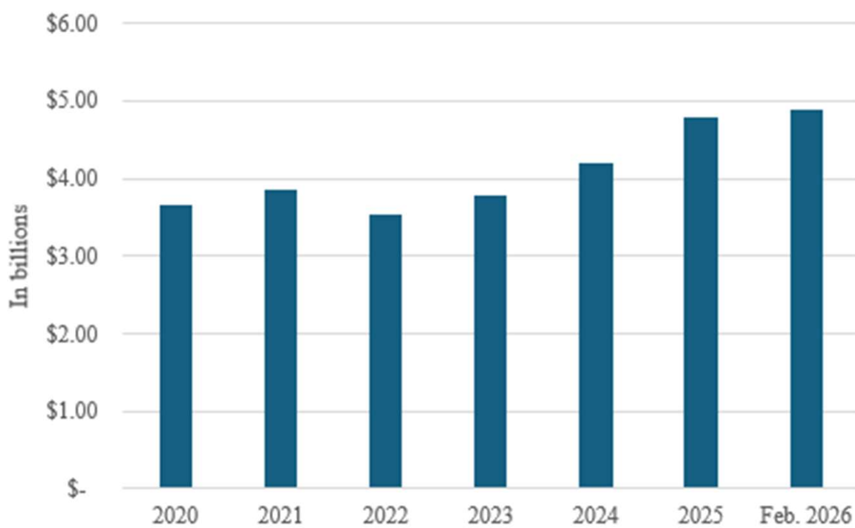
[33] Ex. 3, PA Dec. 2021 Operations, at 10 (Public Debt).

[34] Ex. 4, PA Dec. 2022 Operations, at 10 (Public Debt).

revenue transfers, the available credit at lending institutions was insufficient to meet the PA's borrowing needs.[35]

43. Once Israel froze the clearance revenues, the PA's debt intensified. The PA's total debt increased to $4.2 billion in 2024[36] and $4.79 billion in 2025.[37] By February 2026, the PA's total debt had grown to $4.89 billion. From 2021 to February 2026, the PA's debt increased by over $1 billion, or by 27%.[38] This debt does not include arrears to private sector, employees, or the pension agency which amounts to $15.4 billion in total.

44. The following chart illustrates the growth of the PA's total public debt since Israel began withholding large sums of clearance revenues in 2023:



[39]

[35] Ex. 2, PA Dec. 2020 Operations, at 10; Ex. 3, PA Dec. 2021 Operations, at 10; Ex. 4, PA Dec. 2022 Operations, at 10.

[36] Ex. 6, PA Dec. 2024 Operations, at 10 (Public Debt).

[37] Ex. 7, PA Dec. 2025 Operations, at 10 (Public Debt).

[38] Ex. 3, PA Dec. 2021 Operations, at 10; Ex. 1, PA Feb. 2026 Operations, at 10.

[39] Ex. 2, PA Dec. 2020 Operations, at 10; Ex. 3, PA Dec. 2021 Operations, at 10; Ex. 4, PA Dec. 2022 Operations, at 10; Ex. 5, PA Dec. 2023 Operations, at 10; Ex. 6, PA Dec. 2024 Operations, at 10; Ex. 7, PA Dec. 2025 Operations, at 10; Ex. 1, PA Feb. 2026 Operations, at 10.

45. In addition to debt owed to banks and financial institutions, the PA is heavily indebted to the Palestinian Pension Agency ("PPA"), which provides pensions for the PA's numerous public employees. As reported by the IMF, "the PA has not been able to pay full contributions to the [PPA]. This practice has translated into the accumulation of (i) a sizeable stock of arrears to the PPA (estimated at 14 percent of GDP in 2023[, or over $2 billion]) and (ii) invested pension fund assets far insufficient to meet future obligations."[40] The United States Department of State noted that in 2024 that arrears to the PA's civil servants' pension fund were "estimated at $3 billion."[41]

46. The PA cannot look to the PPA for assistance in paying the underlying judgment. The PPA is a separately established legal entity, which makes payments for the benefit of retired Palestinian public sector employees. It would violate Palestinian law for the PA to try to access, for its own purposes, the limited amount of money held by the PPA. In particular, such actions would violate the Law of Public Retirement No. 7 of 2005, Art. 3-7, 11-14. The PPA is in any event severely underfunded due to the PA's arrears described above.

47. As noted above, the PA suffers from a chronic liquidity shortage, and does not have the cash it needs to support its short-term obligations. To cover its operational costs, the PA has had to obtain credit facilities and loans from local commercial banks, including the Bank of Jordan, the Cairo Amman Bank, the Arab Bank, the Bank of Palestine, and The National Bank (also a

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[40] Ex. 16, West Bank and Gaza Recent Economic Development and Outlook, the International Monetary Fund (Sept. 8, 2023) ("2023 IMF Recent Economic Developments and Outlook") at 16, *available at* https://www.imf.org/-/media/files/publications/cr/2023/english/1wbgea2023003.pdf; *See* Ex. 17, World Bank, Palestinian Territories (2024), *available at* https://thedocs.worldbank.org/en/doc/65cf93926fdb3ea23b72f277fc249a72-0500042021/related/mpo-pse.pdf.

[41] Ex. 18, U.S. Department of State 2024 Investment Climate Statements: West Bank and Gaza ("2024 U.S. Department of State Investment Statement") at 4, *available at* https://www.state.gov/reports/2024-investment-climate-statements/west-bank-and-gaza/.

Palestinian bank). By February 2026, the PA's total debt (long-term and short-term) to local banks was $3.03 billion, a $912.86 million increase over the last five years.[42]

48. While the PA also maintains depository accounts at these institutions, the available balances in those depository accounts are at or near zero on a month-to-month basis. Any available balances in the PA's bank accounts are encumbered by each bank's contractual set off rights—that is, the right of each bank to use PA deposit balances to reduce the bank's loan exposure to the PA in the event that the bank terminates or calls the PA's credit facilities or loans.

49. In any event, the PA's expenses run so far in excess of the PA's available funds that the PA's overdrafts at these banks exceeded $832.62 million in February 2026. The Petroleum Authority, which is under the control of the PA's Ministry of Finance, is independently indebted to local banks in the amount of $361.52 million, as of February 2026.[43]

50. Because the PA has negative balances in these accounts, when the PA does have funds available to make a deposit into the account, the deposited money is not available to withdraw because the banks immediately apply those funds against the overdraft balance. PA expenses that draw on the account are therefore not paid from existing funds, but rather increase the overdraft balance.

51. As a result, though undesirable, the PA's unavoidable approach to this persistent financial crisis has been to accumulate arrears. For example, the PA withholds payments to the private sector for goods and services, minor capital, development, interest payments, and tax refunds. The PA's public debt does not include the PA's accumulating arrears payment obligations.

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[42] Ex. 3, PA Dec. 2021 Operations, at 10 (Public Debt); Ex. 1, PA Feb. 2026 Operations, at 10 (Public Debt).

[43] Ex. 1, PA Feb. 2026 Operations, at 10 (Public Debt).

52. Growing arrears presented a problem even before Israel froze the clearance revenues. The PA's net arrears were $1.13 billion in 2020[44] and $1.43 billion in 2021.[45]

53. The PA made paying down its arrears a strategic imperative in 2022. That year, net arrears totaled $993.91 million, an over 30% decrease from the PA's net arrears in 2021.[46]

54. But Israel's freeze of the PA clearance revenues eliminated revenue earmarked to pay down the PA's arrears. Accordingly, the PA's net arrears grew to $1.18 billion in 2023 and $1.4 billion in 2024.[47] As a result of the ongoing freeze, by 2025, the PA's net arrears totaled $1.87 billion.[48] As of February 2026, the PA's net arrears on pace to exceed $1 billion for the fourth year in a row.[49] The following chart shows the exponential increase in the PA's arrears caused by Israeli withholdings:

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[44] Ex. 2, PA Dec. 2020 Operations, at 3 (Consolidated Statement on Fiscal Operations and Arrears).

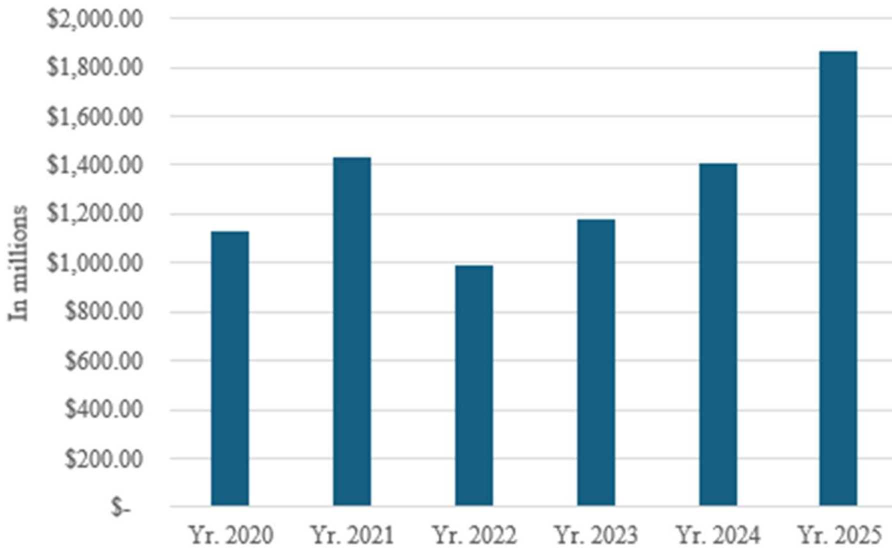
[45] Ex. 3, PA Dec. 2021 Operations, at 3 (Consolidated Statement on Fiscal Operations and Arrears).

[46] Ex. 4, PA Dec. 2022 Operations, at 3 (Consolidated Statement on Fiscal Operations and Arrears).

[47] Ex. 5, PA Dec. 2023 Operations, at 3; Ex. 6, PA Dec. 2024 Operations, at 3 (Consolidated Statements on Fiscal Operations and Arrears).

[48] Ex. 7, PA Dec. 2025 Operations, at 3 (Consolidated Statement on Fiscal Operations and Arrears).

[49] *See* Ex. 1, PA Feb. 2026 Operations, at 3 (Consolidated Statement on Fiscal Operations and Arrears).



[50]

55. Among the most significant consequences of the PA's increasing arrears has been its resulting inability to pay its employees' wages and salaries. Even before the Israeli freeze of clearance revenues, the PA's wages and salaries arrears were $150.9 million in 2020. By 2024, those arrears rose by nearly 400% to $749.94 million.[51]

56. The New York Times has reported that the PA "constantly struggles to pay its employees," with many having "only received partial salaries, often at irregular intervals, for years."[52] From January to April 2025, the PA was only able to pay 70% of its employees' salaries. That figure dropped to 60% in May 2025, and further to 50% in June 2025.[53] As reported by the World Bank, those partial "payments were financed through additional domestic borrowing, pushing public debt beyond the prudential limits set by the [PMA]."[54]

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[50] *See supra* notes 44–48.

[51] *See* Ex. 2, PA Dec. 2020 Operations, at 3; Ex. 7, PA Dec. 2025 Operations, at 3 (Consolidated Statement on Fiscal Operations and Arrears).

[52] Ex. 9, NYT June 29, 2024 Article.

[53] Ex. 14, World Bank PFRD 2025 Review at 1.

[54] Ex. 15, World Bank September 2025 Report at 10.

57. The PA's inability to pay public teachers' salaries shuttered schools for a week at the beginning of the 2025 school year, affecting more than 600,000 school-aged Palestinians, as confirmed by the Times of Israel. Moreover, cuts to employees' wages have greatly diminished consumer spending, further contracting the local economy.[55]

58. As of February 2026, the PA's total current debt from all sources was $4.89 billion. The largest components of this debt include: (i) $3.03 billion owed to local banks and (ii) $1.36 billion in debt to foreign loans.[56] All of the loans to the PA are earmarked to pay existing and past accrued PA operational costs, such as employee wages.

59. Taken together, the PA's substantial deficit, debt, and constrained sources of revenue result in a very poor credit rating. The PA accordingly is unable to increase its debt to pay the underlying judgment in this case. Furthermore, it should be emphasized that both industry guidelines and regulations pertaining to local banks' acceptable lending ratios preclude the possibility of increasing those banks' risk exposure by lending additional money to the PA. Palestinian banks consider it unsafe to carry more than 25% exposure to a single borrower.[57]

60. The PA therefore has no liquidity to pay the underlying judgment, and its enforcement would be catastrophic. The United Nations reported in July 2025 that over half (51%)

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[55] Ex. 19, *School delayed and wages unpaid, Palestinian Authority faces deep economic crisis*, Times of Israel (Sept. 11, 2025) at 2, https://www.timesofisrael.com/school-delayed-and-wages-unpaid-palestinian-authority-faces-deep-economic-crisis/.

[56] Ex. 1, PA Feb. 2026 Operations, at 10 (Public Debt).

[57] Ex. 20, International Capital Market Association Q&A with Sherin Al-Ahmad, Chief Macro-prudential supervision, Palestinian Monetary Authority at 2, *available at* https://www.icmagroup.org/assets/documents/Media/Interview%20with%20Sherin%20Al-Ahmad%20-%20PMA.pdf (describing Palestinian banks' "strict concentration limits in terms o[f] their lending exposure by borrower" and implementation of the "Basel III rules on capital"); Ex. 21, Basel Committee on Banking Supervision Supervisory Framework for Measuring and Controlling Large Exposures (Apr. 2014) at 4, *available at* https://www.bis.org/publ/bcbs283.pdf ("The sum of all the exposure values of a bank to a single counterparty or to a group of connected counterparties must not be higher than 25% of the bank's available eligible capital base at all times.").

of Palestinians were unemployed. In Gaza, given the military hostilities still ongoing, unemployment spiked to 80%.[58] In 2023, when the Gaza conflict had just begun, 63.6% of Gazans were in poverty, and 43% were in deep poverty.[59] As the World Bank reported in 2025, "[t]he conflict and the resulting economic contraction have deeply disrupted the already fragile Palestinian labor market, which has historically been highly impacted by external factors."[60]

<u>A Long-Term PA Economic Crisis</u>

61. These economic hardships are just the latest in a long series of PA financial problems. As previously discussed, the PA has long struggled with deficit issues and accumulating debts and arrears in payments in order to finance the PA's government expenditures.

62. The Palestinian economy has historically been depressed because Israel controls and restricts all major Palestinian border crossings and the free movement of people and goods. Israel's movement and access restrictions disrupt labor and trade flows, industrial capacity and basic commerce internally and with neighboring countries, including Israel and Egypt. By default, then, the Palestinians are obliged to import most of their goods either from the Israeli market or through Israeli ports, which, in addition to Israel's control of clearance revenues, gives Israel enormous influence over the Palestinian economy.[61]

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[58] Ex. 22, United Nations General Assembly Economic and Social Council, Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan (July 21, 2025) ("UN GAESC July 21, 2025 Report") at 13, *available at* https://docs.un.org/en/A/79/975.

[59] Ex. 23, Palestinian Central Bureau of Statistics, Poverty and Deep Poverty Rates Among Individuals in Palestine According to Monthly Consumption Patterns, *available at* https://www.pcbs.gov.ps/Portals/_Rainbow/Documents/Levels_of_living_POV_WB_2009-2023_eng.html.

[60] *See* Ex. 24, World Bank Economic Monitoring Report: Impacts of the Conflict in the Middle East on the Palestinian Economy (Apr. 2025) ("WBEM Apr. 2025 Report") at 6, *available at* https://www.un.org/unispal/wp-content/uploads/2026/03/82687546-6fc3-46fa-80ba-5ce29d2148bc.pdf.

[61] *See, e.g.*, Ex. 25, United Nations, Economic costs of the Israeli occupation for the Palestinian people: the post-October 2023 shocks compounding the historical cumulative cost of the occupation of the West Bank

63. Matters have only gotten worse. As NPR reported this year, "Israel has constructed hundreds of new barriers, including gates and checkpoints, across the West Bank, further stifling economic activity."[62] According to the United Nations, "[t]he economic impact of Israeli restrictions in profound. Closures, checkpoints and restricted access to Area C inflate costs, reduce employment opportunities, depress wages and hinder market access."[63] Far from new, "[t]hese practices have been key factors for decades of persistent stagnation, anaemic growth, and enduring lack of sustainable development in the West Bank."[64]

64. The warfare in Gaza beginning in 2023 caused a significant economic retraction with Palestine's real GDP contracting by 27% from 2023 to 2024.[65] Inflation surged by over 230% in Gaza.[66] The World Bank reported that "[a]fter an 83 percent year on year contraction in 2024, Gaza's GDP fell an additional 12 percent in Q1-2025."[67]

65. This ongoing conflict has led independent observers, including the United Nations, to state that the current "economic shock" in Palestine "is among the largest observed in recent global history."[68]

(Aug. 29, 2025) ("UN August 29, 2025 Report") at 4, *available at* https://docs.un.org/en/A/80/356 ("The cumulative economic cost of the closures and restrictions Israel imposed after the outbreak of the Second Intifada (2000–2006) was substantial. The measures severely restricted economic activity, caused significant income losses and exacerbated pre-existing structural weaknesses and vulnerabilities. Their lasting impact continues to undermine growth, hinder human capital development and result in persistently high unemployment and widespread entrenched poverty, with poor outcomes in health and education.")

[62] Ex. 26, Emily Feng, *Palestinians in the West Bank face a deepening economic crisis since the Gaza war*, NPR (Jan. 28, 2026) at 2, *available at* https://www.npr.org/2026/01/26/nx-s1-5672355/palestinians-west-bank-economic-crisis.

[63] Ex. 25, UN August 29, 2025 Report at 5.

[64] *Id.*

[65] Ex. 12, UNCTAD September 30, 2025 Report at 9.

[66] Ex. 24, WBEM Apr. 2025 Report at 2.

[67] Ex. 15, World Bank September 2025 Report at 1.

[68] Ex. 25, UN August 29, 2025 Report at 4; *see also* Ex. 27, Emma Farge, Palestinian economy suffers worst-ever collapse after Israel-Hamas conflict, UN says, Reuters (Nov. 25, 2025) at 2,

66. As the United Nations reported, recent Israeli operations "have resulted in the displacement of over 40,000 Palestinians, the demolition of residential structures and widespread damage to civilian infrastructure."[69] In Gaza, "[o]ver 70 per cent of its civilian infrastructure, including hospitals, schools and water systems, has been destroyed, displacing 1.9 million people and leaving almost the entire population reliant on humanitarian aid." Approximately "292,000 housing units – 61.8 per cent of the total housing stock – have been reduced to rubble." Gaza has also experienced "extensive damage" to "agricultural infrastructure, including wells, warehouses and productive assets," with over 3,000 damages agricultural structures since December 2024.[70]

67. The PA and the international donor community agree that the Gaza reconstruction will cost many billions of dollars. The United Nations reports that approximately $70 billion will be necessary,[71] and that even "[i]n an optimistic scenario of double-digit growth rates facilitated by a significant level of foreign aid, it will take several decades for Gaza to return to pre-October 2023 welfare levels."[72] That such a substantial sum and amount of time will be needed for emergency and reconstruction services in Gaza means that the PA's liquidity crisis will deepen, and that its budgetary shortfall will only grow.

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https://www.reuters.com/world/middle-east/palestinian-economy-suffers-worst-ever-collapse-after-israel-hamas-conflict-un-2025-11-25/ ("The two-year Gaza war and economic restrictions in the Israeli-occupied West Bank have triggered the worst collapse in the Palestinian economy on record, wiping out decades of growth, a United Nations report said on Tuesday.").

[69] Ex. 22, UN GAESC July 21, 2025 Report at 4.

[70] *Id.* at 5-6.

[71] *See* Ex. 28, United Nations, *Gaza: $70 billion needed to rebuild shattered enclave, says UN*, United Nations (Oct. 14, 2025), *available at* https://news.un.org/en/story/2025/10/1166096.

[72] Ex. 12, UNCTAD September 30, 2025 Report at 16.

Foreign Aid

68. The long-standing economic crisis in Palestine has, as noted by the United Nations, "forced a dependence on foreign aid."[73] Apart from the clearance revenues, the PA is highly dependent on foreign aid to meet its budget and development obligations. After several years of continuous decline since 2015, during which foreign aid reached historically low levels, foreign aid increased in 2024, but still remains below pre-2015 levels,[74] which were already insufficient to make up the PA's financing gap that has only gotten worse in recent years. In 2024, the donations and foreign aid accounted for approximately 25% of total net public revenues and grants, and covered only approximately 22% of expenditures and net lending.[75] Despite the brief resurgence in foreign aid, external grants and aid remain insufficient to make up the PA's financing gap, regardless of whether the PA is receiving clearance revenue transfers.[76] As the United Nations noted last year that, "[d]espite some donor assistance, international aid currently covers less than 40 per cent of the Palestinian Authority's financial gap, leaving it unable to invest meaningfully in recovery, economic stabilization or development."[77]

69. Although foreign aid does not eliminate the PA's deficits, particularly given the decline in aid in the last decade, every dollar of foreign aid is a dollar that the PA does not have to obtain through a loan or accumulated arrears.

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[73] *Id.* at 2.

[74] *Compare* Ex. 29, PA Fiscal Operations for December 2013, at 10, *with* Ex. 6, PA Dec. 2024 Operations, at 8 (Total External Financing, Budget Support and Development Financing).

[75] Ex. 6, PA Dec. 2024 Operations, at 2, 8.

[76] Ex. 7, PA Dec. 2025 Operations, at 1 (Revenues, Expenditures and Financing Sources (Commitment Basis)).

[77] Ex. 22, UN GAESC July 21, 2025 Report at 13.

70. While donor nations may commit to provide certain levels of assistance in a given month or year, the PA does not know how much it will actually receive until the payment arrives. In recent years, there has been increased uncertainty regarding the amount of aid that will be received.

71. In addition to the decline in foreign aid in recent years, the allocation of foreign aid to the PA is restricted. A portion of foreign aid is allocated by the donor countries to specific purposes, such as pre-selected and approved development projects, wage bill support, and social welfare payments. With restricted aid, certain donors transfer the foreign aid money directly to the beneficiary or the vendor, while others will not disburse funds until they approve the ultimate recipient of the donor aid. The majority of foreign donors audit the disbursements of the funds to ensure compliance with those restrictions. Earmarked aid cannot be diverted or used for any other purpose, including to pay a judgment in U.S. litigation.

72. The foreign aid not earmarked for specific projects goes to pay salaries and pension obligations for PA government employees, to fund social services (including for public safety, healthcare, education, public housing and transportation), and to pay the service on existing debt or to pay past arrears accumulation. The PA cannot divert these unrestricted donor funds without causing the international donor community to reduce aid to the PA or, at a minimum, to increase restrictions on the use of the funding—further reducing the amount of unrestricted aid that can be directed to the areas of greatest need.

73. The chronic aid shortages have further aggravated what the United Nations characterized as "[t]he worst fiscal crisis to date,"[78] and the PMA has projected that "external grants and aid [will] remain limited" throughout 2026 and beyond.[79]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: May 25, 2026

Ramallah, Palestine

Estephan Salameh

[78] Ex. 12, UNCTAD September 30, 2025 Report at 8.

[79] *See* Ex. 13, PMA 2026 Economic Forecasts Report at 11.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MARK I. SOKOLOW, *et al.*, Plaintiffs, v. PALESTINE LIBERATION ORGANIZATION, *et al.*, Defendants.	)	Nos. 15-3135-cv (L); 15-3151-cv (XAP); 22-1060-cv (Con)

SUPPLEMENTAL DECLARATION OF DR. ESTEPHAN SALAMEH

Pursuant to 28 U.S.C. § 1746, I, Estephan Salameh, declare under penalty of perjury as follows to the best of my knowledge, belief, and information available to me in my official capacity:

1. I am the Minister of Finance and Planning for the Palestinian Authority ("PA"). My background is set forth in further detail in my May 25, 2026 Declaration previously filed in this case ("May 25 Declaration"). I submit this Supplemental Declaration to address certain factual assertions made in Plaintiffs' Opposition to Motion to Stay Mandate Pending Petition for Certiorari.

2. As I stated previously, the PA disburses funds allocated to the PLO through transfers to the Palestinian National Fund ("PNF"), and all PLO-related expenditures are accounted for in the financial statements appended to my May 25 Declaration.[1] The PNF is referred to as the "treasury" of the PLO. The PNF issues its own financial statements, separate from the PLO, as a

[1] *See, e.g.*, 2d Cir. Doc. No. 692-9, PA December 2025 Operations, at Table 5-A: Expenditure by PA organizations (listing expenditures for "P.L.O. Institutions" and "Embassies").

matter of good accounting practice. However, the finances of the PNF and the PLO are fully included in, and accounted for, in the PA's consolidated financial statements. Neither the PNF nor the PLO have any material assets other than what is already accounted for in the PA's consolidated financial statements attached to my previous declaration.

3. The financial costs and benefits of the real estate owned by the PLO are already accounted for in the PA's consolidated financial statements attached to my previous declaration. The PLO's buildings, as I explained previously, are occupied and used by PLO employees, and are not used to generate rental income.

4. Earlier in this proceeding, sworn testimony and exhibits submitted to the district court explained in great detail that the Palestine Investment Fund ("PIF") is a distinct entity, entirely financially and administratively independent of the PA's budgets and government departments, and that the PA has no power to, and does not, direct the PIF's operations.[2] That remains true today. The PIF is still financially and administratively independent of the PA and PLO. Any dividends the PA receives from the PIF (which are usually minimal) to fund budgeted government services are already accounted for in the financial statements appended to my May 25 Declaration.[3]

5. Earlier in this proceeding, sworn testimony submitted to the district court explained that neither the PA nor the PLO exercises oversight or control of Al Sanabel for Trade and Investment Company or its assets, and that Al Sanabel is instead a private company operated and

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[2] Dist. Ct. Dkt 950, Declaration of Abdel Hamid Al Abwah, Chief Audit Executive of the PIF; Dist. Ct. Dkt 950-1, 950-2, Bylaws of the Palestine Investment Fund Company of 2007 and its Amendments; Dist. Ct. Dkt 950-3, Companies Controller Certificate.

[3] *See, e.g.*, 2d Cir. Doc. No. 692-3, PA February 2026 Operations, at Table 4A: Revenues by Source (Commitment Basis), "Investments Profits."

managed by individuals in their personal capacity.[4] That testimony is still accurate today. The PA and PLO still have no oversight or control over Al Sanabel.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: July 2, 2026

Ramallah, Palestine

Estephan Salameh

[4] *See* Dist. Ct. Dkt. 951, Declaration of Bilal Mousa Kamal, Counsel for Al-Sanabel.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARK I. SOKOLOW, *et al.* Plaintiffs, v. PALESTINE LIBERATION ORGANIZATION, *et al.*, Defendants.	04 Civ. 397 (GBD) (RLE) ECF Case

STATEMENT OF INTEREST OF THE UNITED STATES OF AMERICA

The United States submits this Statement of Interest, pursuant to 28 U.S.C. § 517,[1] to apprise the Court of its interests as they relate to the Rule 62 Motion to Stay Execution of the Judgment and to Waive the Bond Requirement (ECF No. 897) filed by defendants Palestinian Authority and Palestine Liberation Organization.

In deciding whether to stay execution of a judgment without a supersedeas bond or to reduce the bond amount, courts may consider a number of factors, including the public interest. *See In re Nassau Cnty. Strip Search Cases*, 783 F.3d 414, 417-18 (2d Cir. 2015) (providing a list of "non-exclusive factors that a district court may consider" in assessing a Rule 62 motion); *Morgan Guar. Trust Co. v. Republic of Palau*, 702 F. Supp. 60, 65-66 (S.D.N.Y. 1988) (considering the public interest in ruling on a Rule 62 motion). This Statement of Interest, including the attached declaration from Deputy Secretary of State Antony J. Blinken addresses critical national security and foreign policy interests of the United States that should be considered as the Court determines whether to impose

[1] 28 U.S.C. § 517 provides that: "The Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States."

a bond requirement in this case and, if so, in what amount. The United States strongly supports the rights of victims of terrorism to vindicate their interests in federal court and to receive just compensation for their injuries. *See* 18 U.S.C. § 2333 (providing U.S. national victims of international terrorism with a cause of action, with treble damages and attorney fees, against terrorists and those who actively support terrorism that harms Americans abroad); Attached Declaration of Deputy Secretary of State Antony J. Blinken ¶¶ 3-6, 12 (Aug. 10, 2015); *see also, e.g., Brabson v. The Friendship House of West. New York, Inc.*, 2000 WL 1335745, at *2 (W.D.N.Y. Sept. 6, 2000); *Harris v. Butler*, 961 F. Supp. 61, 63 (S.D.N.Y. 1997). At the same time, the declaration notes that the United States has significant concerns about the harms that could arise if the Court were to impose a bond that severely compromised the Palestinian Authority's ("PA") ability to operate as a governmental authority. *See* Attached Declaration of Deputy Secretary of State Antony J. Blinken ¶¶ 7-11; *see, e.g.*, *Morgan Guar.*, 702 F. Supp. at 66; *Teachers Ins. & Annuity Ass'n v. Ormesa Geothermal*, 1991 WL 254573, at *4 (S.D.N.Y. Nov. 21, 1991).

The United States respectfully urges the Court to take into account these factors as it considers the evidence regarding the PA's financial situation. The Court and the parties made clear at the July 28, 2015 hearing that they are aware of the issues regarding the PA's financial stability, and the need to have some mechanism for plaintiffs to secure payment if the Court's judgment is affirmed.

The United States does not herein express a view on the ultimate merits of defendants' Rule 62 motion (or any other issue in the case). The United States files this Statement of Interest solely to inform the Court of its interests as the Court considers where the public interest lies in ruling on defendants' Rule 62 motion.

Respectfully submitted this 10th day of August, 2015.

/s/ Kathleen R. Hartnett

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CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notice of such filing to all parties.

/s/ Kathleen R. Hartnett
KATHLEEN R. HARTNETT

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MARK I. SOKOLOW, *et al.*	)	
Plaintiffs	)	Civil Action No.
v.	)	
PALESTINE LIBERATION ORGANIZATION, *et al.*,	)	1: 04 Civ. 397 (GBD) (RLE)
Defendants.	)	

DECLARATION OF ANTONY J. BLINKEN

I, Antony J. Blinken, hereby declare pursuant to 28 U.S.C. § 1746:

1. I am the Deputy Secretary of State. I make this declaration based on my personal knowledge and on information I have received in my official capacity. I have served as Deputy Secretary of State since January 9, 2015. In my capacity as Deputy Secretary of State, I serve as principal adviser to the Secretary of State and assist the Secretary in the formulation and conduct of U.S. foreign policy and in giving general supervision and direction to all elements of the Department.

2. This declaration addresses critical national security and foreign policy interests of the United States that should be considered as the Court determines whether to impose a bond requirement in this case and, if so, in what amount. It does not address the judgment on the merits that was entered in favor of the plaintiffs or any issues that may be raised by the parties on appeal. As detailed below, the United States strongly supports the rights of victims of terrorism to vindicate their interests in federal court and to receive just compensation for their injuries. At the same time, the United States has significant concerns about the harms that could arise if the Court were to impose a bond that severely compromised the Palestinian Authority's ("PA") ability to operate as a governmental authority.

U.S. Commitment to Victims of Terrorism

3. The United States strongly supports U.S. victims' efforts to seek and receive just compensation from the terrorists and sponsors of terrorism responsible for attacks that kill and injure Americans abroad. In enacting the Antiterrorism Act ("ATA"), 18 U.S.C. § 2333, Congress provided U.S. citizen victims of international terrorism with a cause of action against terrorists and those who actively support terrorism that harms Americans outside of the United States.

4. The ATA promotes the public interest in providing just compensation to terrorism victims, and limiting recovery without due cause would undermine a central purpose of the law. While no amount of money can truly compensate terrorism victims for what they have suffered, obtaining financial recompense for terrorism victims in civil litigation is part of the process of achieving justice.

5. The ability of victims to recover under the ATA also advances U.S. national security interests. The law reflects our nation's compelling interest in combatting and deterring terrorism at every level, including by eliminating sources of terrorist funding and holding sponsors of terrorism accountable for their actions. Imposing civil liability on those who commit or sponsor acts of terrorism is an important means of deterring and defeating terrorist activity. Further, compensation of victims at the expense of those who have committed or supported terrorist acts contributes to U.S. efforts to disrupt the financing of terrorism and to impede the flow of funds or other support to terrorist activity.

6. The United States is also committed to using a variety of law enforcement tools to bring those who have engaged in acts of terror to justice. The cooperation of victims of terror is crucial to U.S. efforts to prosecute perpetrators of terror, particularly in cases of international terrorism. Their cooperation with the United States in these matters often comes at substantial personal cost, financial and otherwise. These burdens may be ameliorated to some extent through mechanisms like the ATA, easing the burden of cooperation and thereby enhancing the law enforcement interests of the United States.

U.S. Foreign Policy and National Security Interests in Continued PA Governance

7. On the limited issue of setting a bond amount in this case, the United States respectfully urges the Court to carefully consider the impact of its decision on the continued viability of the PA in light of the evidence about its financial situation. In furtherance of U.S. foreign policy interests, the United States has provided billions of dollars in assistance to strengthen Palestinian institutions, promote security in the West Bank, expand Palestinian economic growth and help create the conditions for peace. An event that deprives the PA of a significant portion of its revenues would likely severely compromise the PA's ability to operate as a governmental authority. As I explain below, the collapse of the PA would undermine several decades of U.S. foreign policy and add a new destabilizing factor to the region, compromising national security. Senior U.S. officials have made clear to other governments that if the PA were to collapse, we would be faced with a crisis that would not only impact the security of Israelis and Palestinians, but would potentially have ripple effects elsewhere in the region.

8. <u>Impact on Efforts to Achieve Peace</u>: A PA insolvency and collapse would harm current and future U.S.-led efforts to achieve a two-state solution to the Israeli-Palestinian conflict. If the PA were to collapse, the Palestinian leadership would find itself without an institutional vehicle with which to govern, maintain order, and provide basic services for the Palestinian people in the West Bank. The current Palestinian leadership would likely find its legitimacy and authority undermined. The vacuum in governance and security could be filled by violent Palestinian groups that seek Israel's destruction and reject the goal of a two-state solution. The instability and violence that would result from the loss of the PA's governing authority would likely fuel anger and frustration, and could lead to widespread violence in the West Bank. In such a political environment, it would be extremely difficult for any Palestinian leader to marshal domestic political support to enter into and sustain peace negotiations.

9. <u>Impact on Stability and Security in the Region</u>: The PA and Israel currently have mechanisms and channels for security coordination, helping to maintain security for Palestinians and Israelis living in the West Bank, and identifying and thwarting potential terrorist attacks in Israel. The collapse of the PA would break this channel of coordination. Economic insecurity and instability in the West Bank also risks seeping into neighboring Jordan, a country with a

significant Palestinian refugee population and its own acute economic and social problems, compounded by the Syrian refugee crisis and the international effort to counter the Islamic State. The combination of a security vacuum, economic downturn, unemployment, and social frustration could create a dangerous atmosphere that could make the West Bank fertile ground for terrorist and extremist recruitment. At a time when the United States is leading international efforts to counter extremism and degrade and defeat the Islamic State, the collapse of the PA could potentially create a new vulnerability for terrorists to exploit. A worsening of the security situation in the West Bank could also have negative implications for the security situation of neighboring Israel, Jordan, and Egypt—key U.S. allies in the Middle East.

10. Humanitarian Crisis: The PA is in the midst of a deteriorating economic and political environment, generating a slow-onset humanitarian crisis in the West Bank that threatens to unravel the economic, security, and humanitarian gains of the past ten years. In Gaza, where the situation is far more dire, a worsening economic situation could be exploited by Hamas to create an atmosphere for violent conflict. Further, the collapse or near-collapse of the PA would plunge the Palestinian economy into a deep recession including a sudden dramatic increase in the already high unemployment rate, and failure of critical social services.

11. In sum, the continued viability of the PA is essential to key U.S. security and diplomatic interests, including advancing peace between Israel and the Palestinians, supporting the security of U.S. allies such as Israel, Jordan, and Egypt, combatting extremism and terrorism, and promoting good governance. In furtherance of U.S. foreign policy interests, the United States has provided billions of dollars in assistance to strengthen Palestinian institutions, promote security in the West Bank, expand Palestinian economic growth and help create the conditions for peace.

12. In making this declaration, I would like to stress that the Department of State shares in the grief and outrage over all terrorist attacks, including the grievous injuries and losses suffered by the American victims of the attacks at the heart of this case. Indeed, as discussed above, I believe it is in our national security interest to support fair compensation for American victims of terrorism from those responsible for their losses.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date: August 10, 2015

Antony J. Blinken