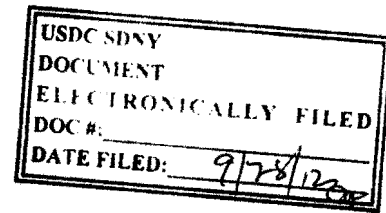


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Metropolitan Transportation Authority

State of New York



MEMO ENDORSED

By email

September 28, 2012

The Honorable Paul A. Engelmayer
United States District Judge
United States District Court
500 Pearl Street, Room 670
New York, New York 10007

Re: American Freedom Defense Initiative, et al. v. Metropolitan Transportation Authority, et al., No. 11 Civ. 6774 (PAE)

Dear Judge Engelmayer:

Pursuant to this Court's Order of September 21, 2012 (Doc. No. 42), the parties hereby jointly notify the Court of the status of the case, including the status of defendants' appeal.

Defendants' appeal of this Court's July 20, 2012 Order granting a preliminary injunction, notice of which was timely filed on August 6, 2012, has been voluntarily dismissed by a motion by defendants, without objection by plaintiffs, which the Second Circuit granted September 25, 2012.

Defendants have decided *not* to seek review of this Court's August 29, 2012 Order, which granted plaintiffs' motion for a permanent injunction of the Metropolitan Transportation Authority's no-demeaning standard as presently written; denied defendants' motion for a stay pending appeal; granted plaintiffs' motion for a declaratory judgment; awarded plaintiffs \$1 in nominal damages; and deferred consideration of plaintiffs' application for reasonable attorney's fees, costs, and expenses.

That leaves only consideration of plaintiffs' application for reasonable attorneys' fees, costs, and expenses. In an effort to efficiently resolve this matter, the parties have agreed that they will attempt to use the next two weeks, until October 12, 2012, to reach a settlement on plaintiffs' reasonable attorney's fees, costs, and expenses and toward that end, plaintiffs will be providing information about attorney's time, costs, and expenses to MTA for its review. To the extent that effort is not successful by October 12, the parties respectfully request that the Court permit plaintiffs to file their motion for attorneys' fees, costs, and expenses on or before October 26, 2012.

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Metro-North Railroad
MTA Bridges and Tunnels

MTA Capital Construction
MTA Bus Company

Respectfully submitted,

/s/ Peter Sstrom
Senior Associate Counsel
Metropolitan Transportation Authority

/s/ Richard Schoolman
Richard Schoolman
Special Counsel
New York City Transit Authority

Jointly submitted by plaintiffs' counsel:

/s/ David Yerushalmi
David Yerushalmi, Esq.

/s/ Robert J. Muise
Robert J. Muise, Esq.

Granted.

The parties are directed to notify the Court, by October 15, 2012, whether the settlement discussions were successful, or if plaintiffs will be filing their motion by October 26, 2012. In the event that such a motion is filed, defendants' opposition will be due on November 2, 2012.

SO ORDERED: 9/28/12

Paul A. Engelmayer

HON. PAUL A. ENGELMAYER
UNITED STATES DISTRICT JUDGE