**UNITED STATES DISTRICT COURT**
**FOR THE**
**DISTRICT OF VERMONT**

| | |
|---|---|
| JANET JENKINS, for herself and as next friend of ISABELLA MILLER-JENKINS, a/k/a ISABELLA MILLER | : |
| | : |
| | : |

1 1 Tf:155 TD1001 Tc2.4 DISTRICT OFv.

aid after failing to comply with a Vermont court's orders granting Jenkins parental rights and visitation.

This Court previously granted the Defendants' request for a stay of this civil case in light of the federal indictment of Defendant Philip Zodhiates ("Zodhiates") and the criminal investigation of Defendant Response Unlimited, Inc. ("RUL") on the basis of facts closely related to the claims at issue here. ECF No. 192. Although the Court did not explicitly specify how long the stay would last, the Defendants' motion granted by the Court had requested the stay "pending the resolution of the criminal proceedings [then] pending in the United States District Court for the Western District of New York." ECF No. 172. Moreover, the Court ordered the parties to "inform the Court of the status of Zodhiates' criminal case within 14 days of the conclusion of the trial, a guilty plea, or dismissal of the charges in that case." ECF No. 192. Zodhiates was convicted by a jury in that district on September 29, 2016, and a sentencing hearing was initially scheduled for January 30, 2017. The trial judge granted Zodhiates' motion to adjourn sentencing, and sentencing is now set for March 22, 2017. Post-trial motions have been filed and are currently pending with the Court. On October 7, 2016, Plaintiffs filed the instant motion informing the Court that Zodhiates' trial had concluded in a guilty

subsequently ordered the parties to proceed with jurisdictional discovery to permit it to reach a more informed decision on this question. ECF No. 115. The Plaintiffs contend that information obtained through the criminal proceedings and jurisdictional discovery suffices to show that RUL had sufficient minimum contacts with Vermont to give rise to personal jurisdiction in this forum, and request that the Court rule on this question.

For the reasons outlined below, the Court **grants** Plaintiffs' motion to lift the stay of this civil case. Moreover, the Court **grants** Plaintiffs' motion to amend the complaint so as to join Lindevaldsen, Staver, Liberty Counsel and Liberty University. Finally, the Court finds that it has jurisdiction over Defendant RUL, and thereby **denies** RUL's pending motion to dismiss on this ground.

*2. New Facts Alleged in Revised Second Amended Complaint*

Plaintiffs put forth substantial additional evidence gathered through Zodhiates' criminal proceeding and in jurisdictional discovery, both in their revised pleadings, in the recitation of facts contained in their motion and reply brief, and in supporting exhibits. These facts are laid out in greater detail in the parties' filings, and will not be recited in their entirety here. However, several incidents described in the Plaintiffs' papers are worth highlighting briefly.

First, the Plaintiffs allege that Defendant RUL had a business relationship with Liberty Counsel specifically related to Liberty Counsel's efforts to terminate Jenkins' contact with Miller-Jenkins and entitle Miller to obtain sole custody of Miller-Jenkins. In particular, RUL entered into an agreement with Liberty Counsel to raise funds for Liberty Counsel's work on behalf of Miller by developing and sending out materials on the case to conservative mailing lists. Around the time that these entities entered into this agreement in 2007, Zodhiates met with Staver and toured Liberty University and Liberty Counsel's premises. Although the parties dispute how long this business relationship continued, Plaintiffs allege that RUL employees continued to correspond over Miller's case well into the fall of 2009. In January of 2009, Zodhiates wrote to William Sidebottom, the director of communications for Liberty Counsel, with whom he had communicated regarding RUL's work with Liberty Counsel, to suggest that he had a "personal option" for Lisa Miller that the lawyers "should not or would not want to know about". In addition, the Plaintiffs allege in their motion that as part of its work for Liberty Counsel, RUL hosted Miller and Miller-Jenkins at its offices, where its staff prayed that Jenkins' contact with Miller-Jenkins would be stopped. Finally, Plaintiffs assert that on the day that Zodhiates drove Miller to the United States border with Canada in order to flee the

country, he wrote to other RUL employees stating that he was working from home on Liberty Counsel, and that other employees speculated that he was working on the Lisa Miller case.

Furthermore, the Plaintiffs have alleged additional facts regarding Lindevaldsen's and Staver's involvement in Miller's scheme to transport Miller-Jenkins outside of the country and avoid detection by law enforcement. Specifically, they allege that Zodhiates was in touch with Lindevaldsen via his daughter, and that he asked Lindevaldsen through his daughter when others involved in the conspiracy could go to Miller's last apartment in the United States to obtain her belongings after she left the country. In addition, Jenkins alleges that Lindevaldsen deliberately misled a Vermont family court by stating that she did not know of her clients' whereabouts, when in fact she knew that her client had fled the country. Plaintiffs also allege that, in her role as a professor at Liberty University, Lindevaldsen essentially espoused the notion that Miller should commit civil disobedience rather than comply with a Vermont court's orders granting her former same-sex partner parental rights and full custody of Miller-Jenkins. Furthermore, Plaintiffs assert that Zodhiates was in contact with both Lindevaldsen and Staver on the day that he drove Miller to the border in order to flee the country. Finally, Plaintiffs contend

that Staver was Lindevaldsen's boss and supervisor during the relevant time period, both at Liberty Counsel and Liberty University, and specifically served as co-counsel to Miller alongside Lindevaldsen in Miller's family court litigation.

**Discussion**

*1. Lifting the stay on the case*

This Court has broad discretion in deciding whether to issue or extend a stay, and must exercise its "studied judgment," weigh "competing interests[,] and maintain an even balance" in doing so. *Louis Vuitton Malletier S.A. v. LY USA, Inc.*, 676 F. 3d 83, 96-97, 99 (2d Cir. 2012) ("[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort."). Nevertheless, staying a civil case until the conclusion of a parallel criminal prosecution "has been characterized as an extraordinary remedy," *id.* at 98, and a criminal defendant has "no absolute right to a stay of civil proceedings pending the outcome of criminal proceedings." *Guggenheim Capital, LLC v. Birnbaum,* 722 F.3d 444, 453-54 (2d Cir. 2013) (internal quotation omitted); *see also Gen. Dynamics Corp. v. Selb. Mfg. Co.*, 481 F.2d 1204, 1213 (8th Cir. 1973) (noting that protection of the rights of a defendant in a criminal case "does not mandate a complete disregard for the

rights of civil litigants). The Second Circuit has embraced a six-factor test for courts to consider as a "rough guide" in its exercise of this discretion. *Louis Vuitton*, 676 F. 3d at 99. Thus, as this Court previously noted, it should look to:

> 1) the extent to which the issues in the criminal case overlap with those presented in the civil case; 2) the status of the case, including whether the defendants have been indicted; 3) the private interests of the plaintiffs in proceeding expeditiously weighed against the prejudice to plaintiffs caused by the delay; 4) the private interests of and burden on the defendants; 5) the interests of the courts; and 6) the public interest.

*Id.* (citing *Trs. of Plumbers & Pipefitters Nat'l Pension Fund,* 886 F.Supp. 1134, 1139 (S.D.N.Y. 1995).

Here, there is no question that the issues in the criminal case, which center on Zodhiates' assistance to Miller in escaping the country with Miller-Jenkins in order to avoid complying with a Vermont court's custody orders, substantially overlap with the allegations in this civil case, as required by the first factor. In assessing the second factor, courts typically look to whether an indictment has been issued, in order to avoid giving weight to mere speculation that a criminal proceeding could result from a defendant's testimony. *See, e.g., Id.* at 1139 ("A stay of a civil case is most appropriate where a party to the civil case has already been indicted for the same conduct"); *Hicks v. City of New York*, 268 F. Supp. 2d 238, 242 (E.D.N.Y. 2003) ("[T]he strongest argument for granting a stay

is where a party is under criminal indictment"). However, the existence of an indictment itself does not weigh in favor of granting a stay where the case has already been tried. *Chartis Prop. Cas. Co. v. Huguely,* No. DKC 13–1479, 2013 WL 5634266, at *3 (D. Md. Oct. 15, 2013) ("Defendant is correct that courts are loath to stay a civil case when a criminal case is in the pre-indictment stage. But while this case is post-indictment, it is also post-trial, post-verdict, and post-sentencing, and currently on appeal. . . . Balancing the posture of the case weighs slightly against imposition of a stay.").

To be sure, as the Defendants posit here, a defendant is entitled to assert his Fifth Amendment privilege at sentencing, on appeal and at a potential re-trial. *See Mitchell v. United States,* [illegible] has been convicted

alongside a criminal case, even on appeal. *Sec. & Exch. Comm'n v. Braslau*, No. 14-CV-01290-ODW, 2015 WL 9591482, at *3 (C.D. Cal. Dec. 29, 2015). Nor do the Plaintiffs here contest that they are. The question "turns upon the *extent* to which his Fifth Amendment rights are implicated. *Id.* Since "[a] defendant has no absolute right not to be forced to choose between testifying in a civil matter and asserting his Fifth Amendment privilege," courts evaluate the likelihood that asserting the privilege in the civil case, and risking an adverse inference as a consequence, will hurt the defendant's case. *Louis Vuitton,* 676 F.3d at 98-100. Thus, while there is no clear standard that dictates when the constitutional privilege necessitates a stay, "a plausible constitutional argument would be presented only if, at a minimum, denying a stay would cause substantial prejudice to the defendant." *Guggenheim Capital*, 722 F.3d 453 (citing *Louis Vuitton,*676 F.3d 100) (internal quotation omitted).

In practice, courts evaluating a case after a defendant has been convicted have typically given less weight to the burden to a defendant of proceeding with a civil case than they would before the trial, even when the defendant may assert a Fifth Amendment privilege during the civil proceeding. For example, in *In re Terrorist Attacks on Sept. 11, 2001,* No. 03-MDL-1570-GBD-FM, 2011 WL 5913526, at *5 (S.D.N.Y. Nov. 22, 2011), the court

noted that "the status of a defendant's criminal case weighs strongly *against* granting a stay when the defendant has already been tried, convicted and sentenced." (citing *Sparkman v. Thompson,* No. 08-01-KKC, 2009 WL 1941907, at *2 (E.D.Ky. July 6, 2009)). Relying on the example from the Eastern District of Kentucky, the Southern District of New York in that case also noted that since the defendant had already challenged the government's case at trial and was able to ascertain its theories of guilt, he would be better positioned to avoid making incriminating statements if his civil case proceeded. Similarly, since the government already assembled the evidence needed for a conviction, the defendant would have "only a minimal concern that civil discovery will aid the criminal prosecution." *Id.*

appear weak if not entirely frivolous." As such, the likelihood of success on appeal also appears remote. Finally, sentencing is set to occur in two days, and will therefore likely have concluded by the time discovery in this case gets underway.

Even if a new trial were granted pursuant to Fed. R. Crim. P. 33 or on appeal, the bases for the retrial do not appear to implicate his Fifth Amendment rights in this civil proceeding, but rather the rights of other Defendants. According to the government brief, Zodhiates has requested a new trial on the basis of (1) the Court's denial of his motion to suppress RUL phone bills; (2) the Court's denial of his offer to introduce specific instances of good conduct in support of his character; (3) a legal error in the jury instructions regarding parental rights; and (4) the Court's allegedly improper questioning of a witness. Only the first of these grounds raises potential conflicts for the civil litigation. If the RUL phone bills indicating Zodhiates' location were to be excluded in a future retrial, for example, they may be discovered from RUL through this litigation and therefore introduced into the criminal proceeding regardless. In fact, the only prejudice that the Defendants point to in their response brief is a potential prejudice to RUL that would arise if Zodhiates invoked the Fifth Amendment rather than provided evidence that would weaken the

arguments for a finding of specific jurisdiction against RUL. Nothing in this opinion precludes Zodhiates from pursuing this strategy and continuing to assert the Fifth Amendment in this civil case or at later stages of the criminal proceeding. These forms of harm, however, do not rise to the level of a constitutional argument because they are not being asserted on behalf of a non-corporate defendant. *See Taylor,* 2011 WL 499944, at *4 (finding that a stay was not warranted where the "primary focus of the motion to stay appears to be the possible prejudice to the *other* defendants in this civil action" and "these other defendants are not attempting to exercise a constitutional privilege"). To the extent that discovery of RUL phone records would harm Zodhiates in a re-trial if an appeals court were to reverse the trial judge's ruling on the suppression claim, this Court could simply permit RUL to produce these documents subject to a protective order upon a motion by the Defendants. Plaintiffs have indicated that they are amenable to such an order on this or other specific issues that may arise.

In addition to bearing on the second and fourth factors (regarding the status of the case and the Defendants' interests) of the six-factor test identified in *Louis Vuitton*, the conclusion of the trial also touches on the Court's analysis of the fifth factor (its own interest). Courts deciding whether to

stay a case after an indictment has been issued have noted that doing so "will likely narrow the issues before the court, and prevent both parties from performing unnecessarily duplicative work." *Harris v. Nassau Cty.*, No. 13-CV-4728-NGG-RML, 2014 WL 3491286, at *4 (E.D.N.Y. July 11, 2014) (citing *Crawford & Sons,* 298 F.Supp. 2d 317, 319 (E.D.N.Y. 2004) (finding that a stay would "avoid duplication" as a "conviction or acquittal in the criminal action may negate or buttress some or all of the plaintiffs' claims" and provide the parties with the benefit of "the transcript and rulings in the criminal action") and *Trs. of Plumbers,* 886 F.Supp. at 1140 (finding that the criminal action "may reduce the scope of discovery in the civil case and the evidence gathered during the criminal prosecution can later be used in the civil action")). Having already incurred the benefits to judicial efficiency that stem from allowing the criminal case to go to trial before the civil case advances, this Court's interests will weigh in favor of allowing the civil case to proceed once Zodhiates has been sentenced.

Finally, the Supreme Court's ruling on same-sex partnerships and family rights since this Court's last opinion granting a stay touches on both the public's interest and the Plaintiffs' interests in this litigation and weighs in favor of lifting the stay under the third and sixth factors. In *Obergefell v. Hodges*,

In short, all of the factors analyzed above weigh in favor of lifting the stay once the trial and sentencing stages of Zodhiates' criminal case have been completed. Thus, the Court orders that the stay be lifted on March 23, 2017 or on the date Zodhiatez is sentenced, whichever occurs later.[2] Zodhiates may assert the Fifth Amendment as appropriate, but must otherwise proceed with discovery in this matter after the stay is lifted.

*2. Personal Jurisdiction Over Additional Defendants*

Plaintiffs have moved to amend the complaint to add several additional Defendants connected to Miller's legal representation over the course of her custody dispute pursuant to Fed. R. Civ.

has sufficient contacts with the forum state to justify the court's exercise of personal jurisdiction, courts distinguish between "specific" and "general" jurisdiction. "Specific jurisdiction exists when a State exercises personal jurisdiction over a defendant in a suit arising out of or related to the defendant's contacts with the forum; a court's general jurisdiction, on the other hand, is based on the defendant's general business contacts with the forum state and permits a court to exercise its power in a case where the subject matter of the suit is unrelated to those contacts." *Id.* at 568 (quoting *Helicopteros Nacionales de Colombia, S.A. v. Hall,* 466 U.S. 408, 414 (1984)). The Plaintiffs here do not assert that the Court has general jurisdiction over any of the alleged Defendants, but instead purport to show that the Defendants have established sufficient contacts with the forum because of their activities arising from the allegations in this suit. "Once it has been decided that a defendant purposefully established minimum contacts with the forum State, these contacts may be considered in light of other factors to determine whether the assertion of personal jurisdiction would comport with fair play and substantial justice." *Licci ex rel. Licci v. Lebanese Canadian Bank, SAL*, 732 F.3d 161, 170 (2d Cir. 2013) (quoting *Burger King Corp. v. Rudzewicz,* 471 U.S. 462, 476, 105 S.Ct. 2174, 85 L.Ed.2d 528 (1985) (internal quotation marks omitted)).

Defendants make three preliminary arguments that this Court must address before analyzing the jurisdictional claims against each particular Defendant in question. First, Defendants imply that this Court need not revisit the jurisdictional allegations against the Defendants that the Plaintiffs seek to add because it has already dismissed the same or closely connected Defendants on the ground that it lacked personal jurisdiction. Second, the Defendants contest the factual allegations made out in both the Plaintiffs' motion and in their proposed amended pleadings by submitting contrasting factual affidavits which, if taken as true, may defeat a showing of personal jurisdiction. Third, the Defendants take issue with the fact that parts of the Plaintiffs' prima facie showing of personal jurisdiction are made as factual assertions in Plaintiffs' motion rather than as a formal part of the Plaintiffs' pleadings. None of these arguments require the Court to hold in Defendants' favor.

First, Defendants assert that, because the Court previously found that it did not have personal jurisdiction over Liberty University, it need not re-evaluate this question now. Furthermore, relying on *Spiegel v. Schulmann*, 604 F.3d 72, 78 (2d Cir. 2010), they argue that an amendment to add Staver and Lindevaldsen as agents would be futile because they are essentially "another version of a defendant that the court [has]

already determined it [has] no personal jurisdiction over." To be sure, where a Plaintiff seeks to add a previously-dismissed defendant without adducing any evidence about her alleged wrongdoing to suggest that the Court's analysis should differ, courts have rejected these attempts with little additional guidance. *See, e.g., Spiegel*, 604 F.3d at 78 (rejecting attempt to join a defendant where "[n]either the plaintiff's third amended complaint nor the evidence adduced during discovery provided any basis to demonstrate that the district court would have had personal jurisdiction over [a defendant alleged to have committed the same wrongdoing as a previously-dismissed defendant]."); *Goins v. Longstreet*, No. 12-CV–55, 2013 WL 869844, at *7 (W.D.Pa. Feb. 13, 2013) (dismissing a plaintiff's attempts to revive claims against previously dismissed defendants where plaintiff "alleges no new violations of his civil rights"); *Zerman v. E.F. Hutton & Co.*, 628 F. Supp. 1509, 1511-1513 (S.D.N.Y. 1986) (rejecting plaintiff's attempt to rejoin previously dismissed defendants where the allegations in the modified complaint were little more than a rehash of the allegations in the original complaint which were previously rejected by the Second Circuit"); *Crenshaw v. Hamilton*, No. 08–CV–6186, 2012 WL 1565696, at *2-3 (W.D.N.Y. Mar. 30, 2012) (refusing to permit plaintiff to add defendants who were "previously dismissed with prejudice" where "the proposed

claims plaintiff seeks to assert against them were either previously dismissed with prejudice or are so closely related to those dismissed claims that they were logically encompassed by [the judge]'s rulings in [the] matter"). However, as explained more fully below, the Plaintiffs here provide evidence about Lindevaldsen's and Staver's allegedly tortious activity that they did not fully set forth before. Since the Court's prior ruling on the lack of personal jurisdiction over Liberty University relied on the conclusion that Lindevaldsen and Staver did not commit tortious acts over the course of their representation of Miller, the new evidence leads this Court to reconsider its prior holding.

Second, the Court need not base its jurisdictional conclusions solely on the facts alleged by Plaintiffs in their proposed amended complaint. "In order to survive a motion to dismiss for lack of personal jurisdiction, a plaintiff must make a prima facie showing that jurisdiction exists." *In re Terrorist Attacks on Sept. 11, 2001*, 714 F.3d 659, 673 (2d Cir. 2013) (internal quotation omitted). A "plaintiff must allege specific facts on which personal jurisdiction can be based," *Moore v. Motz,* 437 F. Supp. 2d 88, 91 (D.D.C. 2006), and "cannot rely on conclusory allegations", *id.*, or "a legal conclusion couched a factual allegation." *In re Terrorist Attacks*, 714 F.3d at 673; *see also*

*Chloé v. Queen Bee of Beverly Hills, LLC,* 616 F.3d 158, 163 (2d Cir.2010) (a prima facie showing "must include an averment of facts that, if credited by the ultimate trier of fact, would suffice to establish jurisdiction over the defendant") (internal quotation marks and brackets omitted). However, such a showing may be made through a plaintiff's "pleadings

made out in the Plaintiffs' briefs will not serve to undercut the Plaintiffs' prima facie showing of personal jurisdiction if the facts they present otherwise demonstrate that this standard has been met. Setting aside these preliminary arguments, the Court assesses the jurisdictional arguments against each of the proposed Defendants in turn.

3. *Joinder of Rena Lindevaldsen, Esq. and Mathew Staver, Esq.*

Plaintiffs have moved to name both of Miller's lawyers in her custody dispute as Defendants in this civil action. Neither Lindevaldsen nor Staver were named as Defendants earlier in this litigation, and this Court has therefore not ruled directly on whether it has jurisdiction over them before. However, in its prior ruling dismissing Liberty University as a Defendant, the Court rejected the Plaintiffs' argument that "the actions of Lisa Miller's attorneys in litigating her case are sufficient to give this Court jurisdiction over Liberty University." It first found that there was no factual support for the assertion that the attorneys had committed a tortious act in their representation of Miller in Vermont, and later found that the attorneys' contacts with the forum do not amount to a purposeful availment of the privilege of doing business here. The Defendants urge the Court to disregard many of the new factual allegations made out by Plaintiffs and to reiterate both

conclusions. However, under the facts now alleged by the Plaintiffs, the Court's holding would not be supported by the principles of specific jurisdiction articulated in this Circuit.

There are two theories of specific jurisdiction which could permit this Court to find that it has jurisdiction over Lindevaldsen and Staver. *See Licci ex rel. Licci v. Lebanese Canadian Bank, SAL,* 732 F.3d 161, 173 (2d Cir. 2013) (distinguishing between the "effects test" theory and "purposeful availment" theories of specific personal jurisdiction). First, in *Calder v. Jones*, 465 U.S. 783, 788–89 (1984), the Supreme Court held that specific personal jurisdiction exists even where a defendant engaged in activities entirely outside of the state if the defendant took "intentional, and allegedly tortinpjefe F.3d 1ns and 1ru2a.theorD(Calder v.

plaintiff." *Id.* at 1123–24. In addition, the Court has found specific jurisdiction in cases where a defendant's suit-related conduct occurred *within* the forum. *See Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474-476 (1985) ("where the defendant deliberately has engaged in significant activities within a State or has created continuing obligations between himself and residents of the forum, he manifestly has availed himself of the privilege of conducting business there"). This "purposeful availment" theory therefore looks to whether the plaintiff's claims arise from the defendant's activities in the forum. *See Waldman v. Palestine Liberation Org.*, 835 F.3d 317, 343 (2d Cir.

atratir343 (28.8dant
within

attorneys' efforts to prevent Jenkins from having contact with Miller-Jenkins. Furthermore, Plaintiffs claim that Miller was held in contempt by a Virginia court on August 25, 2009 for failing to comply with its prior orders. According to the pleadings, she failed to appear at the hearing imposing the contempt sanction and instead held a press conference with Staver and Lindevaldsen at her side. In other communications with RUL employees, Zodhiates stated that Lindevaldsen and Staver made representations regarding when they expected the Vermont court would award full custody to Jenkins. The amended pleadings further allege that Miller stated, after arriving in Nicaragua in 2009, that Liberty Counsel had advised her that it would be in her best interests to disappear (presumably through her attorneys or at their instruction, although the pleadings do not specify who at Liberty Counsel provided Miller with this advice).

Next, the pleadings claim that Hyden delivered emails from Zodhiates to Lindevaldsen after Miller fled the country regarding Miller's needs. Specifically, these emails requested donations for supplies to be sent to Miller and sought to coordinate the removal of items from Miller's apartment. According to the amended complaint, Lindevaldsen packed up Miller's personal belongings directly. During this time,

Plaintiffs allege that Lindevaldsen falsely claimed that she was unable to communicate with Miller to the Vermont family court in an attempt to delay contempt proceedings aimed at locating

that the “brunt of the harm” was felt by Jenkins in Vermont, where she resides and would have lawfully brought Miller-Jenkins to reside. *Calder,*

here. This Court previously rejected that argument, noting that the Second Circuit's reading of the "purposeful availment" theory of specific jurisdiction in *Bank Brussels Lambert v. Fiddler Gonzalez & Rodriguez,* 305 F.3d 120, 128 (2d Cir. 2002) requires more of attorneys and law firms representing clients in a particular district. Moreover, the cases cited by Plaintiffs in support of their assertion that an application for admission pro hac vice makes a lawyer and her law firm subject to specific jurisdiction are distinguishable. For example, the court's holding to that effect in *W. Thrift & Loan Corp. v. Rucci*, No. CIV. 11-3644 JNE/TNL, 2012 WL 1021681, at *3 (D. Minn. Mar. 27, 2012) was premised on the fact that the plaintiff's "suit directly arises from and relates to [his attorney's] unsuccessful attempt to become admitted pro hac vice in the [relevant] [l]itigation." Where a pro hac vice admission, or even the lawyer's engagement in litigation in a forum state, is not connected to the matter at issue, courts have refused to find personal jurisdiction solely on this basis. *See, e.g., Wolk v. Teledyne Indus., Inc.,* 475 F. Supp. 2d 491, 502 (E.D. Pa. 2007); *Lans v. Adduci Mastriani & Schaumberg L.L.P.,* 786 F. Supp. 2d 240, 275 (D.D.C. 2011) ("The … Defendants' participation in litigation-related activities alone also does not subject [the Defendants] to personal jurisdiction in [that forum]"); *Medina v. Medina*, 260 F.3d 622 (5th Cir. 2001)

(rejecting plaintiff's argument that an attorneys' pro hac vice representation of a client is sufficient to establish personal jurisdiction where the representation in that forum was not based upon the initial legal action challenged by the plaintiff).[5]

Nevertheless, Staver's leadership roles at both Liberty University and Liberty Counsel implicate him in the commission of the alleged torts for purposes of establishing jurisdiction. First, as Dean of Liberty University School of Law, Staver was allegedly both Hyden's and Lindevaldsen's boss and supervisor. As General Counsel of Liberty Counsel until 2006, he was also allegedly Lindevaldsen's boss and supervisor while she was

[5] Similarly, in most jurisdictions, the mere existence of an attorney-client relationship involving representation in a different forum, without more, does not establish personal jurisdiction in the place where the client resides. *Flagstar Bank, FSB v. Centerpointe Fin., Inc.*, No. 2:10-CV-14234, 2011 WL 2111982, at *4–5 (E.D. Mich. May 26, 2011) ("The situation Plaintiff describes is very similar to those cases involving plaintiffs who sue attorneys and law firms that represented them in out-of-state proceedings for malpractice. In those cases, courts in the plaintiff's home state routinely hold that they do not have personal jurisdiction over defendant law firms simply because the non-resident attorneys purportedly breached their fiduciary duties to the plaintiff or committed malpractice") (citing *Satwelle v. Farrell,* 70 F.3d 1381, 1392 (1st Cir.1995) (finding that New Hampshire court did not have jurisdiction over a claim by resident of that forum against law firm it hired in California to represent it in proceeding in Florida)); *Austad Company v. Pennie & Edmounds,* 823 F.2d 223 (8th Cir.1987) (finding that South Dakota court did not have jurisdiction over New York law firm hired by South Dakota resident to represent it in a Maryland lawsuit)).

employed there. In addition, Staver appeared as Lindevaldsen's co-counsel in her representation of Lisa Miller during the family court proceedings in Vermont and Virginia, suggesting that he had a particularly strong role in supervising Lindevaldsen in this particular case.

In determining whether the activities of an employee may count towards the minimum contacts necessary to establish personal jurisdiction over his employer, the Court may consider traditional common law principles of liability. *See Daynard v. Ness, Motley, Loadholt, Richardson & Poole, P.A.*, 290 F.3d 42, 55-60 (1st Cir. 2002) ("Traditional common law concepts support the conclusion that [defendants' relationship] suffices to bring the parties within the rule that permits imputation of contacts for jurisdictional purposes."). Even where an employee is acting outside of the scope of her employment, her contacts may be attributed to her employer if she was acting as the employer's agent in performing the tortious act. *See Myers v. Bennett Law Offices*, 238 F.3d 1068, 1073 (9th Cir. 2001) (rejecting the argument that employee's acts may not be considered for jurisdictional purposes since he "allegedly acted outside the scope of his employment", on the grounds that the employee had at least apparent authority to conduct those acts and that the employer subsequently ratified those acts).

It is well established that an employer may be found liable for the acts of his or her employee acting within the scope of his or her employment, and that the contacts established by the employee acting in this respect will be attributable to the employer for purposes of establishing jurisdiction. *See Myers*, 238 F.3d at 1073; *Doe v. Forrest*, 853 A.2d 48, 54 (Vt. 2004) ("Under the settled doctrine of respondeat superior, an employer or master is held vicariously liable for the tortious acts of an employee or servant committed during, or incidental to, the scope of employment") (quoting *Brueckner v. Norwich Univ.,* 730 A.2d 1086, 1090 (Vt. 1999)). Here, some of Lindevaldsen's allegedly tortious acts were clearly committed within the scope of her employment. For example, Lindevaldsen allegedly lied to the Vermont courts about her ignorance of Miller's whereabouts after Miller left the country. This statement, allegedly made in furtherance of the conspiracy to kidnap Miller-Jenkins and violate Jenkins' and Miller-Jenkins' civil rights, was clearly part of Lindevaldsen's legal representation, which Staver supervised. Under this theory alone, Lindevaldsen's tortious act could be attributable to Staver for jurisdictional purposes.

Moreover, Staver's alleged role as Lindevaldsen's supervisor, both at Liberty Counsel and at Liberty University School of Law, established an agency relationship between

Lindevaldsen and Staver. "A claim of agency requires facts establishing: (1) the manifestation by the principal that the agent shall act for him; (2) the agent's acceptance of the undertaking; and (3) the understanding of the parties that the principal is to be in control of the undertaking." *Allen v. Dairy farmers of Am., Inc.,* 748 F. Supp. 323, 342 (D. Vt. 2010) (quoting *Cleveland v. Caplaw Enters*, 448 F.3d 518, 522 (2d Cir. 2006)). An essential characteristic of an agency relationship is that the agent acts subject to the principal's direction and control. *In re Shulman Transp. Enters., Inc.,* 744 F.2d 293, 295 (2d Cir. 1984) (citing *Restatement (Second) of Agency* § 1(1) comment b, § 14 (1958)). Here, Lindevaldsen was conducting her representation of Miller on behalf of Liberty Counsel, but used her position at Liberty University to generate broader awareness of the case and to physically conduct some of her work. In both her role with Liberty Counsel and Liberty University, Staver was Lindevaldsen's superior. Although the Plaintiffs have not presented explicit evidence that Staver expressed that Lindevaldsen would act for him in the representation or that he would ultimately be in control of the undertaking, these elements of the agency relationship can be inferred from the respective roles of the two lawyers in both organizational settings.

Activities of a party's agent may count toward the minimum contacts necessary to support jurisdiction if these acts fall within the scope of the agent's authority. *See Grand Entm't Grp., Ltd. v. Star Media Sales, Inc.*, 988 F.2d 476, 483 (3d Cir. 1993); *Daynard v. Ness, Motley, Loadholt, Richardson & Poole, P.A.*, 290 F.3d 42, 55 (1st Cir. 2002). Lindevaldsen's representations to the Vermont courts about her knowledge of

T.44wmTng9yredr J93

that she did not know of her client's whereabouts, she made a motion on behalf of herself and Staver to withdraw as counsel based on the same claim of ignorance. Thus, in making this motion and representation as Staver's agent, her alleged knowledge of Miller's whereabouts would be attributed to him. As a result, the misrepresentation in question would be attributable to him as well. Finally, Plaintiffs claim that Staver "oppos[ed] Ms. Jenkins' efforts to locate Isabella or gain information about her kidnapping through the questioning of witnesses in Lynchburg" through his representation in the Virginia courts. ECF No. 216, p. 24. If Staver did so with the attributed knowledge that Miller had in fact left the country and was now located in Nicaragua, as Lindevaldsen is alleged to have known, then this manner of proceeding with the case may also have aided the conspiracy in question and could have been premised on tortious misrepresentations. As a result, once Lindevaldsen's knowledge is attributed to Staver, his own conduct during his continued representation of Miller could constitute an independent tort. This wrongful conduct, in turn, was specifically aimed at Vermont and produced harm in this state, thus establishing specific personal jurisdiction over him, as well. Accordingly, the relationship between Lindevaldsen and Staver allows this Court to find specific personal

jurisdiction over Staver, notwithstanding his secondary role in the alleged wrongdoing.

4. *Joinder of Liberty Counsel*

For the same reasons, this Court finds that it has personal jurisdiction over Liberty Counsel. By the Defendants' own admissions, Lindevaldsen and Staver represented Miller while they were employed by Liberty Counsel. Staver served as President and General Counsel of Liberty Counsel between 1989 and 2006. Between 2006 and 2014, Staver served as Dean of the law school and Professor of Law at Liberty University. According to the Plaintiffs, he continued to represent Miller until after she left the country, appearing pro hac vice in the Vermont courts. Despite Staver's position at Liberty University during that time, the Vermont family court filings attached to Plaintiffs' and Defendants' motions indicate that Staver represented Miller on behalf of Liberty Counsel after 2006. Similarly, Lindevaldsen was an employee of Liberty Counsel until 2006, and thereafter began working as a Professor of Law at Liberty University. While employed by Liberty University, she continued to represent Lisa Miller on behalf of Liberty Counsel as a contract attorney until after Miller left the country. During this time, Liberty Counsel engaged in fundraising efforts

to support the work of its employees in litigating Miller's case.

Here, Staver and Lindevaldsen's representation of Miller, including their allegedly tortious statements made during the course of that representation, can be imputed to Liberty Counsel regardless of Staver and Lindevaldsen's formal employment

…executed by one of its employees, however, unless it had granted the employee the authority to enter into the contract on the corporation's behalf"). Liberty University asserts as much in its motion. ECF No. 213 ("Staver, Lindevaldsen and Miller's other Liberty Counsel attorneys entered their appearances and litigated for Miller solely in their capacities with Liberty Counsel."). Therefore, their contacts in litigating the case can be imputed to Liberty Counsel for jurisdictional purposes. Since this Court has personal jurisdiction over Lindevaldsen and Staver, it must also have personal jurisdiction over Liberty Counsel.

5. *Joinder of Liberty University*

This Court previously granted the Defendant's motion to dismiss Liberty University on the ground that the Court lacked personal jurisdiction over it. In doing so, the Court noted that there was no factual support for the assertion that Miller's attorneys committed a tortious act that caused an injury to Jenkins, and that there was no evidence suggesting that Liberty University knew of Hyden's tortious conduct. As noted above, Plaintiffs have made specific allegations that the Liberty attorneys did in fact commit significant wrongdoing during the course of their representation in the Vermont family court proceedings. In addition, Plaintiffs argue that Hyden's acts

should be imputed to Liberty University because her supervisors were actually aware of her tortious conduct, she served as a critical link in the chain of the conspiracy, and her conduct was in furtherance of Liberty University's business or educational goals as a Christian law school. Furthermore, Plaintiffs contend that Lindevaldsen was acting on behalf of Liberty University and not *just* Liberty Counsel while representing Miller in Vermont, asserting that she used Liberty University resources and held herself out as acting on behalf of Liberty University when she engaged in this representation. Finally, Plaintiffs contend that Liberty Counsel and Liberty University were operating as one unified entity in supporting Lindevaldsen and Staver's representation of Miller.

Plaintiffs' last argument is the most compelling, and warrants a finding of personal jurisdiction by this Court. As the First Circuit has noted, even if two entities' relationship "were to fall slightly outside of the confines of [the specific common law doctrines of partnership or joint venture by estoppel]," it is "consistent with the Due Process Clause to attribute to [one entity] the retention of, and certain interactions with, [a third party] where, as [the third party] alleges, they have led [the third party] and the public to believe they were joint venturers." *Daynard v. Ness, Motley, Loadholt, Richardson &*

*Poole, P.A.*, 290 F.3d 42, 56–57 (1st Cir. 2002); *Mansfield Heliflight, Inc. v. Heli-One Canada Inc.*, No. 2:12-CV-46, 2012 WL 4479851, at *6 (D. Vt. Sept. 28, 2012) ("The issue is not one

that case, the Court looked to the company's public representations, its descriptions of itself in press releases and other public pronouncements and the actual conduct of the companies with third parties during the negotiation of the agreement which formed the basis of that matter. Finally, the Second Circuit has noted that where there is joint control of two business entities, one may be found to be the agent of the other for purposes of establishing jurisdictional contacts. *CutCo Indus., Inc. v. Naughton*, 806 F.2d 361, 365–66 (2d Cir. 1986).

at Liberty University. Lindevaldsen wrote a book about her representation of Miller which Plaintiffs allege was required reading for students at the law school, and, as noted above, designed exam questions based on this case. In addition, Plaintiffs allege that the entities held themselves out to the student body and the public as being closely connected. For example, when RUL was in the process of negotiating an agreement with Liberty Counsel to fundraise for Miller's legal representation, Staver gave Zodhiates a tour of the Law School building. Ms. Lindevaldsen communicated from a Liberty University email address and used a Liberty University phone when she served as counsel in the Miller litigation on behalf of Liberty Counsel.[6]

In short, because Liberty Counsel and Liberty University operated as a unified entity with respect to Lindevaldsen and Staver's representation of Miller, Liberty Counsel's contacts with Vermont may be imputed to Liberty University. Since Lindevaldsen and Staver's contacts with Vermont must be imputed

[6]

to Liberty Counsel, they must be imputed to Liberty University as well. Therefore, the Court finds that it has personal jurisdiction over Liberty University for the same reasons that it has jurisdiction over Liberty Counsel.

6. *Joinder of Response Unlimited, Inc.*

Plaintiffs have requested a ruling on the Court's jurisdiction over RUL. Defendants first assert that such a ruling would be premature, because in order to demonstrate that RUL is not subject to this Court's specific jurisdiction, Zodhiates would need to respond to Plaintiffs' allegations in a manner that would waive his Fifth Amendment privilege. However, Plaintiffs can prevail on their jurisdictional claim at this point so long as they make out a prima facie showing of sufficient minimum contacts and reasonableness on the basis of their pleadings and affidavits. *See In re Terrorist Attacks on Sept. 11, 2001*, 714 F.3d at 673. Even if Defendants, through Zodhiates' testimony, could present contrasting evidence, the Court must resolve those conflicts in the light most favorable to the Plaintiff. *Seetransport Wiking Trader*, 989 F.2d at580, Therefore, if Plaintiffs assert sufficient facts to make out a prima facie case for personal jurisdiction over RUL, Defendants do not suffer any harm from Zodhiates' continued assertion of the privilege. If Zodhiates waives the privilege at a subsequent

point in this action, Defendants are free to re-assert these jurisdictional arguments at that later stage.

Plaintiffs argue that this Court has jurisdiction both because of the direct conduct that RUL engaged in to harm Jenkins and because RUL is vicariously liable for the acts that Zodhiates performed in furtherance of the conspiracy at issue. They assert that RUL was essentially a co-conspirator in efforts to terminate Jenkins' contact with Miller-Jenkins, and that their attempts to finance Liberty Counsel's legal representation of Miller are sufficient to subject RUL to jurisdiction in Vermont.

The Second Circuit has previously concluded that in certain circumstances funders of organizations that caused harm to a plaintiff in a forum would not be subject to personal jurisdiction where the funding of the tortious act was indirect. *In re Terrorist Attacks on Sept. 11, 2001*, 538 F.3d 71, 94–95 (2d Cir. 2008), *abrogated on other grounds by Samantar v. Yousuf*, 560 U.S.a5In ri d C010)(ab 538 F.'nrsonal )Tjsdiction wher-9.6 32.2

that donating money to Muslim charities would lead to that money being re-directed to terrorist organizations, "foreseeability is not the standard for recognizing personal jurisdiction." *Id.* However, in a later, related case, the Circuit court granted jurisdictional discovery to determine whether individuals who *directly* funded terrorist organizations would be subject to personal jurisdiction. *In re Terrorist Attacks on Sept. 11, 2001,* 714 F.3d 659, 678–79 (2d Cir. 2013). In defining the range of the relevant inquiry, the court was concerned that "factual issues persist with respect to whether this support was 'expressly aimed' at the United States" because it was not clear from Plaintiffs' allegations "(1) when the alleged support was given to al Qaeda, (2) what support was given, (3) whether the support was "earmarked" for use in specific schemes or attacks not directed at the United States, or (4) specifically how these defendants were involved in the process of providing support to al Qaeda." *Id.*

Here, Plaintiffs offer evidence that the agreement between RUL and Liberty Counsel specifically concerned Miller's legal representation, and that RUL and Liberty Counsel sought to defend what they viewed as a moral and religious cause by preventing Jenkins' contact with Miller-Jenkins. The facts put forth by Plaintiffs suggest that the RUL staff was committed to

this objective at a spiritual level, inviting Miller and Miller-Jenkins to the RUL offices to pray for them. However, the evidence the Plaintiffs have presented does not demonstrate that in reaching its business agreement with Liberty Counsel, RUL intended to support Liberty Counsel's efforts to prevent that contact through unlawful or tortious means. Rather, the mailing produced by RUL requests donations specifically for Liberty Counsel's appeal to the Virginia Supreme Court, in which Miller sought to have Virginia's recognition of the Vermont court orders overturned. The letter also seems to acknowledge that when faced with the Virginia lower court decision, "Lisa had no choice but to comply with the Vermont courts." Thus, the intent of this arrangement, as expressed in the documents produced by the Plaintiff, was to support Miller's lawful effort to appeal the lower court decision, assuming that the consequence of not doing so would be personally and spiritually difficult, but legally required. As a result, RUL's direct business engagement and financial support for Liberty Counsel does not appear to be intended to be used specifically for Liberty Counsel's tortious conduct. Even if it was foreseeable that such support would be used in a tortious manner, foreseeability alone would not give rise to personal jurisdiction. *See In re Terrorist Attacks on Sept. 11, 2001*, 538 F.3d at 95.[7] Since Plaintiffs have not made

[7] In addition, efforts to finance Miller's legal representation

a prima facie showing that RUL provided support for Liberty Counsel in order to support intentionally tortious or unlawful conduct, this business engagement alone cannot give rise to personal jurisdiction over RUL.

He also allegedly coordinated with Lindevaldsen regarding the timing of Miller's departure and about providing support for Miller after she left the country. In its prior jurisdictional decision, this Court held that there was sparse evidence regarding whether Zodhiates was acting as RUL's agent in undertaking these acts, and granted jurisdictional discovery specifically on this ground.

As the Court noted in that decision, a corporation's presence

It contends that since RUL is "not engaged in the business of transporting people or third-party luggage," Zodhiates' actions cannot be imputed to RUL.

Plaintiffs assert that "it appears that RUL's entire staff knew of and supported the effort to interfere with Ms. Jenkins' rights in Vermont and that the staff also were aware of the company's role in those efforts." In addition, they argue that Zodhiates' email stating that he was working for RUL on Liberty Counsel on the day that he aided Lisa Miller in fleeing the country is "contemporaneous evidence …that he was engaged in RUL's work on behalf of Liberty Counsel" at that time. Finally, they argue that since it is "undisputed that RUL's business objective was to raise money to support Liberty Counsel and Lisa Miller's efforts to nullify Ms. Jenkins' parental rights in Vermont," Zodhiates was acting within the scope of those business objectives when he conspired to nullify Jenkins' parental rights and the Vermont orders through "other acts that were outside the law."

Since Zodhiates was RUL's employee during the time in question, there was undoubtedly an agency relationship between Zodhiates and RUL. In general, a principal is liable for an agent's acts if the agent has authority to bind the principle, and an agent's contacts are attributable to the principle if the

actions taken to establish those contacts were within the scope of the agent's authority. *See Daynard*, 290 F.3d at 55; *Myers*, 238 F.3d 1073. Here, the facts suggest that Zodhiates entered into an agreement with Miller's counsel to support Miller's escape, after suggesting this possibility to another Liberty Counsel employee. The jurisdictional question thus turns on whether Zodhiates had authority to enter into this agreement.

An agent's authority to act for a principle may be actual or apparent. Apparent authority relies on a showing that the person engaging with the agent believed that the agent was acting on behalf of the principle. *Myers*, 238 F.3d at 1073. The evidence set forth by Plaintiffs suggests that Liberty Counsel understood that Zodhiates was acting on behalf of RUL when he was engaged with Liberty Counsel on the lawful fundraising effort. However, Plaintiffs have not alleged facts to show that Lindevaldsen or Staver believed that Zodhiates was acting on behalf of RUL when he agreed to support Miller in her efforts to flee the country. Therefore, they have not shown that Zodhiates had apparent authority to undertake the tortious acts which formed the basis of the jurisdictional finding over him.

Alternatively, an agent's actions may be imputed to the principle if he has actual authority, which may be either express or implied. *City of Burlington*, 135 F. Supp. 2d 458.

“Implied authority is actual authority circumstantially proven from the facts and circumstances attending the transaction in question. Such authority may be implied or inferred from the words used, from customs and from the relations of the parties.” *Id.* (internal quotations omitted). In this case, RUL and Liberty Counsel had previously entered into an agreement to support Miller’s legal claims in opposition to the Vermont court’s orders. Although this agreement was not, on its face, intended to support Miller’s unlawful failure to comply with the court orders, the general purpose was to support her position in the litigation. As part of that relationship, Zodhiates regularly communicated with Sidebottom about matters related to Miller on behalf of RUL. This pattern of communication leads to the inference that Zodhiates had implied actual authority to act on RUL’s behalf when he again emailed Sidebottom about the possibility of an alternative option. In addition, Zodhiates’ emails to RUL employees 9 5yng thea herwas tordkng trom thomeon

bcnshtitues hircumstantiall viodnce that ZUL emplied y

In addition, numerous courts of appeals have held that an agent's actions may be attributed to the principle for purposes of personal jurisdiction where the principle later ratifies this conduct. *Stolle Machinery Co., LLC v. RAM Precision Industries*, 605 Fed. Appx. 473, 481 (6th Cir. 2015); *Daynard*, 290 F.3d at 55–60 (citing *Myers*

unauthorized" for purposes of establishing jurisdictional contacts); *Daynard*, 290 F.3d at 57 ("The sole requirement for ratification is a manifestation of assent or other conduct indicative of consent by the principal") (internal quotation omitted). Moreover, the employees took no action to support or follow through on Zodhiates' efforts, or otherwise indicate through their conduct that they were assenting to Zodhiates' unlawful activities.

In short, Zodhiates' contacts with Vermont can be imputed to RUL because Zodhiates had implied actual authority to act on RUL's behalf in suggesting the unlawful "option" for Miller to a Liberty Counsel employee, in allegedly communicating with Lindevaldsen to coordinate Miller's departure and to support her once she was abroad. Since the Court has already found that Zodhiates had sufficient jurisdictional contacts because he engaged in similarly wrongful conduct, RUL also has the necessary minimum contacts to establish personal jurisdiction.

7. *Reasonableness*

Having found that sufficient minimum contacts exist to justify the exercise of specific personal jurisdiction over the relevant Defendants, the Court must determine whether the assertion of personal jurisdiction comports with "traditional notions of fair play and substantial justice." *Metro. Life Ins.*, 84 F.3d at 568

(quoting *Int'l Shoe Co. v. State of Wash., Office of Unemployment Comp. & Placement*, 326 U.S. 310, 316 (1945)). This inquiry requires courts to "evaluate the burden on the defendant, the forum State's interest in adjudicating the dispute, the plaintiff's interest in obtaining convenient and effective relief, the interstate judicial system's interest in obtaining the most efficient resolution of controversies, and the shared interest of the several States in furthering fundamental substantive social policies." *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 477 (1985) (citing *World-Wide Volkswagen Corp. v. Woodson, supra,* 444 U.S. 286, 292 (1980)). The reasonableness and minimum contacts inquiries are interrelated: "depending upon the strength of the defendant's contacts with the forum state, the reasonableness component of the constitutional test may have a greater or lesser effect on the outcome of the due process inquiry." *Metro. Life Ins.,* 84 F.3d at 568. That is, "an especially strong showing of reasonableness may serve to fortify a borderline showing of minimum contacts." *Id.* at 560 (quoting *Ticketmaster-New York, Inc. v. Alioto*, 26 F.3d 201, 210 (1st Cir. 1994)); *see also Burger King Corp.*, 471 U.S. at 477 ("These considerations sometimes serve to establish the reasonableness of jurisdiction upon a lesser showing of minimum contacts than would otherwise be required.").

This Court has already found that Defendants Kenneth Miller, Zodhiates, Hyden and Linda Wall have not shown a compelling case that jurisdiction in this forum is unreasonable. Applying the same rationale articulated by the Court in that decision, the Court now finds that exercising jurisdiction over Defendants Lindevaldsen, Staver, Liberty University, Liberty Counsel and RUL would be similarly reasonable. To be sure, Lindevaldsen and Staver would suffer some difficulty in defending this suit in Vermont instead of their home states. However, since both attorneys have represented a client in this state before, the difficulty posed by the forum appears readily surmountable. Similarly, Liberty University and Liberty Counsel, while burdened somewhat by this choice of forum, have previously permitted their agents and employees to act on their behalf in this state. RUL's difficulty, like that of Zodhiates, is admittedly somewhat more cumbersome. However, this difficulty must be balanced against Plaintiffs' interest in obtaining convenient and effective relief, which will best be served by maintaining this suit in their chosen forum. In addition, Vermont has a strong interest in adjudicating claims involving a clear disregard for its own courts' orders, particularly those concerning fundamental rights which have recently been upheld by the Supreme Court on constitutional grounds. The Supreme Court's decision in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015) also

accentuates the states' shared interest in furthering the substantive social policy of protecting the rights of parents in same-sex relationships. This factor weighs in favor of permitting the matter to proceed in Vermont, where the court orders regarding Jenkins' parental rights were issued. In short, the factors to be evaluated at this stage largely weigh in favor of finding personal jurisdiction against all Defendants. To the extent that the showing of minimum contacts by the organizational Defendants is considered to be weaker because of their indirect nature, this "especially strong showing of reasonableness" strengthens the Court's exercise of personal jurisdiction. *See Metro. Life Ins.*, 84 F.3d at 560.

**CONCLUSION**

For the foregoing reasons, the Court **grants** the Plaintiffs' motion to amend the complaint so as to join Lindevaldsen, Staver, Liberty Counsel and Liberty University. ECF No. 204. Similarly, the Court holds that it has personal jurisdiction over RUL, and therefore **denies** giantscons8re bwert6 Tf-4o2 00eat 582.6 -2.

the Plaintiffs' Tf-4o2 0lifts the stcy of th

orders that the stcy beliftred-4oMarch 23,.

ofZodhitates' tenencoint, wicheoverhiselaery

to prevent Zodhiates or other Defendants from asserting their Fifth Amendment rights in this civil proceeding.

Dated at Burlington, in the District of Vermont, this 20th day of March, 2017.

/s/ William K. Sessions III
William K. Sessions III
District Court Judge