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September 13, 2019

Patricia S. Connor, Clerk
U.S. Court of Appeals for the Fourth Circuit
1100 East Main Street, Suite 501
Richmond, Virginia 23219

Re: *In re Donald J. Trump*, No. 18-2486; *District of Columbia v. Trump*,
No. 18-2488 (petitions for en banc review pending)

Dear Ms. Connor,

The District of Columbia and the State of Maryland (hereinafter “Petitioners”) submit this letter pursuant to Fed. R. App. P. 28(j) to inform the Court of the attached decision issued by the U.S. Court of Appeals for the Second Circuit on September 13, 2019. *See Citizens for Responsibility & Ethics in Wash. v. Trump*, No. 18-474 (2d Cir. Sept. 13, 2019) (“Slip. Op.”).

In its decision, the Second Circuit reversed the district court’s dismissal of plaintiffs’ complaint alleging violations of the U.S. Constitution’s Emoluments Clauses and, in so doing, expressly disagreed with the reasoning of this Court that the District and Maryland lacked Article III standing based on their proprietary interests. *See Slip. Op.* 30-43.

Specifically, the Second Circuit held that the plaintiffs before it—whose “factual allegations [are] almost identical to the allegations” made in the complaint in this case, *Slip. Op.* 31, n.9—had stated a “competitive injury . . . structurally identical to the economic reasoning that often supports standing in the unfair competition context.” *Slip. Op.* 35. The Court determined that the complaint’s allegations concerning the statements of foreign diplomats regarding their likely behavior and those of President Trump indicating that he favors governments that spend money at his establishments, were sufficient to establish causation. *Slip. Op.* 39-41. The Court also found that plaintiffs’ alleged injuries were redressable,

explaining that “[c]ommon sense and basic economics indicate that the elimination of any illegal competitive advantage that motivated government officials to give more business to the Trump establishments will cause at least some to cease to give preference to those businesses, thereby redressing the claimed injury.” Slip Op. 42 (internal citations omitted).

The Second Circuit’s reasoning supports petitioners’ arguments at pages 13-16 of their petition for rehearing en banc in No. 18-2486 and page 1 of their petition in No. 18-2488.

Sincerely,

/s/ Loren L. AliKhan

Loren L. AliKhan
Solicitor General
Office of the Attorney General for the
District of Columbia

/s/ Leah J. Tulin

Leah J. Tulin
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(Enclosure)

cc: all counsel via CM/ECF