**APPEAL NO. 22-CV-418**

---

**DISTRICT OF COLUMBIA**
**COURT OF APPEALS**

---

**THE BURRELLO GROUP, LLC**
**AND JOSE BURRELLO**

**Defendants, Appellants**

**v.**

**DISTRICT OF COLUMBIA**

**Plaintiff, Appellee**

---

**Appeal from the Superior Court for the**
**District of Columbia, Civil Division**
**Case No. 2020 CA 002870 B**
**(The Honorable Anthony Epstein, Judge)**

---

# REPLY OF APPELLANTS THE BURRELLO GROUP, LLC AND JOSE BURRELLO

---

Eric J. Menhart, Esq.
Lexero Law
512 C St NE
Washington, DC 20002
Phone: 202-904-2818

Attorney for Appellants

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

### Cases

## Statutes, Rules, Treatises

Defendants/Appellants, The Burrello Group, LLC, d/b/a Burrello Investment Group, and Jose Burrello, a District-licensed real estate broker and agent of The Burrello Group, LLC (collectively "Defendants" or "Burrello" or "Appellants") hereby file their Reply in Support of their Appellant Brief. This Reply addresses issues raised in the Brief for the District of Columbia ("Opposition").

## ARGUMENT

### A. This Court's Jurisdiction is Based on a "Final Order"

The District first argues that there is no "final order." *See* Opposition at 1. This Court has previously addressed this issue in detail:

> We have not construed the concept of finality in a rigid fashion. There is no statutory definition of a "final order," and our case law, which as a "general rule" deems an order or judgment final when "all issues as to all parties have been disposed of," does not strictly enforce that definition.

*Woodroof v. Cunningham*, 147 A.3d 777, 785 (D.C. 2016) (*citing Stuart v. Walker*, 6 A.3d 1215, 1221 (D.C. 2010) (Steadman, J., dissenting)). Moreover, this court has recognized its practice of giving finality a "practical rather than a technical construction." *Id.* (*citing Stuart*, 6 A.3d at 1223 (Steadman, J., dissenting) (*quoting Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 171, 94 S. Ct. 2140, 40 L. Ed. 2d 732 (1974)).

Turning to the instant case, the record reflects that the Superior Court plainly considered its actions "final." First, upon granting the Motion for Reconsideration, the Superior Court stated that "the only remaining issues involve remedies." (A.

289) The parties subsequently briefed those issues. (A. 291, A. 304, A. 313) The Superior Court then held a hearing on remedies and issued an Order addressing remedies. (A. 318) Specifically, that Order noted that "the pretrial conference on June 14, 2022 is vacated" and that "The District's May 10 motion to continue the pretrial conference is denied as moot." (A. 324) Finally, on May 13, 2022, the Docket reads "Judgment by Court Entered on Docket" and "Order Granting in Part Motion Entered on the Docket signed by Judge Epstein on 5 13 22. ae." (A. 7)

The District's suggestion that "multiple counts in its Complaint remain unresolved" is contrary to the Superior Court's rulings, statements, and docket entries. This Court has jurisdiction because there is a "final order" and there is no particular limit, as the District seems to suggest, to this Court's jurisdiction. As explained in Appellant's brief, this Court may review the entire matter on a *de novo* basis.

### B. District's Irrelevant "Policy" Arguments; No Dispute About Housing Affordability

While Defendants appreciate the District's interests in making this case a question of "policy," it is well worth remembering that this is a limited appeal, with limited *legal* issues to be resolved. *See generally* Appellant Brief. The District's Opposition addresses "policy" questions in numerous places. *See e.g.* Opposition at 3-4. The instant appeal is *not* a policy dispute.

Mr. Burrello does not dispute that housing affordability is an issue that deserves appropriate discussion and action. Mr. Burrello is a Latino[1] man that has experienced discrimination himself. (A. 196, 259) That being said, the *policy* of housing affordability is not a pertinent question in the case at bar.

### C. The Parties Agree that DC Regulations Impose Certain Requirements Before a Voucher May Be Employed; the Regulations Themselves Employ The Phrase "Not Approved"

The District correctly recognizes that, in order for a family to use a voucher, there are a series of steps that must be undertaken by the voucher holder ***and the owner*** before a voucher can be "approved." *See* Opposition at 4, citing 14 DCMR § 5212 et seq. These include, among other things, a requirement that the "owner and the Family . . . submit . . . documents to DCHA." *See* 14 DCMR § 5212. This first step in the process, document submission, requires an owner, like Burrello, to provide a variety of forms, including the "recorded deed," and "address for the Owner(s) current home or place of business." *See* 14 DCMR § 5212.1. Second, DCHA reviews, among other things, whether "the owner has requested a rent DCHA will approve." *See* 14 DCMR § 5212.2. Finally, "once the RTA and proposed lease are approved, DCHA shall schedule an HQS inspection." *See* 14 DCMR § 5212.9.

[1] Mr. Burrello's investments, smaller as they may be, are in areas of DC that have historically received a lower amount of investment compared to other parts of the city. Investment in underserved areas in the District of Columbia, particularly by racial minorities like Mr. Burrell, is arguably part of the *solution* to housing affordability.

Importantly, the Regulations state, in clear text:

> ***If the unit is not approved***, the expiration period of the Voucher shall resume on the date that DCHA notifies the Family to pick up the Voucher.

*See* 14 DCMR § 5212.11 (emphasis added). The regulations also provide that:

> Where the tenancy is ***not approved because the unit is ineligible***, the Family shall continue to search for eligible housing within the new timeframe of the issued voucher.

*See* 14 DCMR § 5214.16 (emphasis added). The regulations also provide that:

> If the tenancy is ***not approvable*** due to rent affordability (including rent burden and rent reasonableness), DCHA shall attempt to negotiate the rent with the owner . . .

*See* 14 DCMR § 5214.17 (emphasis added). Properties submitted for vouchers are indisputably "not approved" for vouchers unless they undertake the process set out by the applicable regulations. There is no factual dispute in the litigation record about any of these regulatory requirements.

**D. The Parties Agree that the Superior Court Initially Correctly Denied the Motion for Summary Judgment, but then Reversed Course**

The District correctly notes that "The trial court initially denied summary judgment because it found that a reasonable jury might conclude that Mr. Burrello did not subjectively intend to discriminate against voucher holders." *See* Opposition at 7, *citing* A. 269. The Burrello Defendants agree that the Superior

Court itself specifically found that a reasonable jury could possibly "credit Mr. Burrello's testimony and conclude that he did not subjectively intend to discourage voucher holders." (A. 269) The primary error in this case is the Superior Court's reversal of its *own* prior holding.

**E. The Standard of Review is *De Novo***

The parties agree that the Standard of Review is *de novo*. *See* Appellant Brief at 4; *see also* Opposition at 8.

**F. There is No "Discriminatory Intent" and any Factual Question About Intent Must Be Resolved by a Jury**

The District spends most of its Opposition arguing that "a facially discriminatory advertisement, in itself, violates the DCHRA as a matter of law." *See* Opposition at 10-14.

First, the District suggests that "This [C]ourt has often looked to cases construing Title VII to aid . . . in construing the [DCHRA]." Opposition at 11. (*citing Rose v. United Gen. Contractors*, --- A.3d ---, No. 20- CV-745, 2022 WL 16984725, at *4 (D.C. Nov. 17, 2022) (*quoting Arthur Young & Co. v. Sutherland*, 631 A.2d 354, 361 n.17 (D.C. 1993)). Notably absent from this portion of the Opposition is the *Rose* Court's direct limitation of this principle:

> However, "we have also observed that [the DCHRA] is different from the federal statutes in other significant ways[.]" Thus, while federal precedent is certainly persuasive, it "does not necessarily dictate the same result under DCHRA."

*Rose v. United Gen. Contractors*, 285 A.3d 186, 2022 D.C. App. LEXIS 376 at 11 (D.C. 2022) (*citing East v. Graphic Arts Indus. Joint Pension Tr.*, 718 A.2d 153, 159-160 (D.C. 1998). The District notably ignores the fact that the *Rose* court reversed and remanded the trial court in that case because the *bench trial* had not been sufficiently thorough in its factual inquiry *Id.* at 9 ("We conclude that a remand is necessary for further factual findings.") Compare *Rose* to this instant case, where no fact-finding trial, of *any* kind, was undertaken in the Superior Court. Remand is similarly appropriate.

The District next cites to *Hazen Paper Co. v. Biggins*, 507 U.S. 604, 610 (1993) for the idea that cases of a similar ilk "depend[] on whether the protected trait . . . actually motivated the [defendant's action]." *See* Opposition at 11. This case does not help the District's position. To the contrary, that matter required a factual inquiry as to "actual motivation." In this case, the record plainly reflects that Burrello testified that his intent was to inform prospects that the **property** was "not approved" for vouchers. (A. 227, 308-309) The "not approved" language used in the advertisement was *identical* to the language in the applicable regulations. *See* 14 DCMR § 5212.11 ("If the unit is not approved . . ."). Moreover, it is undisputed that the DCHA "approval" process for vouchers (a) existed and (b) was applicable to Burrello's property. In this case, the record plainly reflects that Mr. Burrello had *no* discriminatory intent. Even if the District argues otherwise, that

Burrello's actions were either partially or wholly discriminatory, then this disagreement is a factual question that must be resolved by a jury. A grant of summary adjudication, as occurred in this matter, is not appropriate.

The District next argues that it should automatically prevail in this matter merely because it presented evidence of the advertisement, with the "not approved for vouchers" language. *See* Opposition at 12-14. The District also cites numerous cases for the proposition that if it shows evidence of "a facially discriminatory policy" then a burden-shifting analysis should not apply. *Id.* This issue is discussed in detail below.

**G. The Advertisement was Not "Facially Discriminatory"**

The crux of this instant matter is whether the advertisement language "not approved for vouchers" was facially discriminatory. The Opposition is based, almost entirely, on the premise that these four words, taken alone, should preclude Burrello from presenting his defenses at trial before a fact-finding jury of his peers. The District's position is not supportable, for numerous reasons.

1. The Language Used By Burrello Was *Identical* to Language Used in the Applicable Regulations

This Court should take special note of this critical fact: the term "not approved" is the *exact* language used by the applicable Regulations in explaining the voucher process. The text of these regulations bear repeating:

> ***If the unit is not approved***, the expiration period of the Voucher shall resume on the date that DCHA notifies the Family to pick up the Voucher.
>
> *See* 14 DCMR § 5212.11 (emphasis added). The regulations also provide:
>
> Where the tenancy is ***not approved because the unit is ineligible***, the Family shall continue to search for eligible housing within the new timeframe of the issued voucher.
>
> *See* 14 DCMR § 5214.16 (emphasis added). The regulations also provide:
>
> If the tenancy is ***not approvable*** due to rent affordability (including rent burden and rent reasonableness), DCHA shall attempt to negotiate the rent with the owner . . .

*See* 14 DCMR § 5214.17 (emphasis added). The District, in its Opposition, completely ignores this reality, stating that Burrello's "alternative reading" of the advertisements is "untenable" and "makes no sense." *See* Opposition at 16. The District also cites to D.C. Code, which provides that it shall be an "unlawful discriminatory practice to do any of the following acts, wholly or partially *for a discriminatory reason*." *See* Opposition at 14 (*citing* D.C. Code § 2-1402.21) (emphasis added).

To the contrary, Burrello's advertisement employed the *exact* language used by the Board of Commissioners of the District of Columbia Housing Authority (DCHA) pursuant to D.C. Code § 6-203 (2008 Repl.) in describing the voucher program application and approval process.

With all due respect to the District, each of the regulations cited above that use the "not approved" language indisputably refer to the *property* or the

"tenancy." Mr. Burrello has unequivocally testified that the language in *his* advertisements refer to the *property*. (A. 308) ("Because from what I understand, you have to go through a process in order for your property to become eligible for a person who's utilizing a voucher."); *see also* (A. 309) ("I've never gone through the process and I wanted to let people know I have not gone through the process and the property has not gone through the process.").

Moreover, Burrello's communication about the property's status, and the fact that the property had not been "approved" for the voucher program was completely truthful and accurate. There *are* certain procedures that must be undertaken. The property had *not* yet been approved under the regulatory process. The District's suggestion that Burrello's non-discriminatory, truthful representation about the status of the property, using language the DCHA Board of Commissioners itself had used, is "facially discriminatory" is difficult to take seriously.

Moreover, Burrello's advertisement, providing information about his property, did not express *any* preference, whatsoever, about source of income. It made a factual, truthful statement about the property's status in the voucher program, using language virtually identical to language in the applicable regulations.

Mr. Burrello takes no position on the District's voucher program, the rules for participation, or the tasks that must be undertaken for both families and owners to take part in the program. Mr. Burrello's advertisement was *informational*, making truthful and accurate statements about the property's status in the voucher program. The law is clear that Mr. Burrello cannot be liable unless he is acting "for a *discriminatory* reason." *See* D.C. Code § 2-1402.21. The record is clear that Mr. Burrello had no discriminatory intent. A jury, to which Mr. Burrello is entitled to hear his defenses, will likely come to the same conclusion.

2. "Ordinary Reader" Standard

The District cites to several matters for the general proposition that a court should "consider only whether an ordinary reader would find that the advertisement indicates a preference." *See* Opposition at 15 (citing *Miami Valley Fair Hous. Ctr., Inc. v. Connor Grp.*, 725 F.3d 571, 577-78 (6th Cir. 2013); *see also Ragin v. N.Y. Times Co.*, 923 F.2d 995, 999 (2d Cir. 1991); *Spann v. Colonial Village, Inc.*, 899 F.2d 24, 29 (D.C. Cir. 1990)). Burrello does not generally challenge the legal standard set forth by the District. However, this legal standard necessarily *strengthens* Burrello's position on this instant appeal.

Even assuming that the "ordinary reader" standard applies, this almost certainly requires that a factfinder, in this case a jury, serve as the "ordinary

readers" for purposes of this case. Even the District's cited cases come to that conclusion.

For example, in evaluating a similar matter, the Sixth Circuit did "not believe that . . . [an] advertisement violate[d] the Fair Housing Act as a matter of law," decided that an ad "could be interpreted in multiple ways," and held that "such inferences are best left to the jury to consider." *Miami Valley Fair Hous. Ctr., Inc. v. Connor Grp.*, 725 F.3d 571, 578 (6th Cir. 2013) (*citing Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986) ("Credibility determinations, the weighing of the evidence and the drawing of legitimate inferences from the facts are jury functions.")).

In another case before the Second Circuit, the Court held that the "intent of the creator of an ad may be relevant to a factual determination of the message conveyed." *Ragin v. N.Y. Times Co.*, 923 F.2d 995, 1000 (2d Cir. 1991) (affirming a denial of a motion to dismiss).

Similarity, in another matter, the D.C. Circuit recognized that a Plaintiff "must ultimately prove at trial" that an applicable statute was violated. *Spann v. Colonial Vill., Inc.*, 283 U.S. App. D.C. 216, 899 F.2d 24, 29 (1990)

The cases noted above, namely, *Miami Valley*, *Ragin* and *Spann* are cases cited by the District itself. Each one of those cases recognizes that a factfinder should be entitled to arrive at a final resolution of the matter.

Finally, although *Miami Valley* correctly concluded that "reasonable minds could differ," the District argues, without evidence, that "not approved for vouchers" is not similarly susceptible to multiple reasonable interpretations. *See* Opposition at 17. To the contrary, Defendant has presented both (a) *uncontroverted* testimony of another reasonable non-discriminatory interpretation of the advertisements, and (b) reference to regulations that use identical language that similarly refer to the "property." The mere fact that the District *wants* the language to be facially discriminatory, and that the District *believes* that it is, does not preclude a finding that the language has differing reasonable interpretations that must be resolved by a jury.

The District spends pages and pages of its Opposition arguing that language used in the advertisement is "facially discriminatory." *See* Opposition at 15-21. While Defendants note and appreciate the District's arguments, neither the "Office of the Solicitor General" nor the "Office of the Attorney General" are the unbiased factfinders that must be utilized in this case. Consider the numerous issues that are in dispute in this case:

| **District Statement** | **Burrello Response** |
|---|---|
| The only reasonable inference an ordinary reader would draw from "not approved for vouchers" is a preference or limitation based on an individual's source of income that is indistinguishable from "no vouchers." *See* Opposition at 16. | The District is biased and not an ordinary reader. A jury of Mr. Burrello's peers can and should serve as the appropriate "ordinary readers." |

| | |
|---|---|
| Advertising rental property as "not approved for vouchers" is not an accurate reflection of how the voucher program works. *Id.* | As set forth above, the regulations themselves use the "not approved" language, and there are unequivocally circumstances where a property or tenancy may not be approved under the program. |
| Stating that the property is "not approved for vouchers" still indicates a limitation in a proposed real estate transaction based on an individual's source of income in violation of D.C. Code § 2-1402.21(a)(5). *Id.* | There is no stated limitation as to source of income, whatsoever. Moreover, the uncontroverted testimony plainly demonstrates that Burrello was referring to the property and the applicable regulations. |
| An ordinary reader would think "Not approved for vouchers" does so. See App. 269 (trial court concluded that "discourag[ing] voucher holders" was "the predictable result of the wording [Mr. Burrello] chose"). *Id.* at 17. | The trial court itself ***also*** previously concluded "that a reasonable jury would credit Mr. Burello's testimony and conclude that he did not subjectively intend to discourage voucher holders." (A. 269) |
| But the question is what the advertisements "indicate[]" to the ordinary reader—that is, what an ordinary reader would reasonably understand—not what the advertiser intended to convey." | Defendant agrees that "the question" to be resolved is "what an ordinary reader would reasonably understand." A jury of Mr. Burrello's peers can and should serve as the appropriate "ordinary readers." |

### H. Burrello's Motive is Not "Irrelevant" when the Advertisements Are *Not* Facially Discriminatory

The District attempts to sweep aside much of Burrello's initial argument and analysis by arguing "that facially discriminatory policies violate federal antidiscrimination statutes regardless of any supposed benign motive." *See* Opposition at 19. The District's arguments continue in this vein, assuming for itself that that advertisement is "facially discriminatory." *Id.* at 18-21.

As explained in his brief, Burrello's citations to *Futrell v. Dep't of Lab. Fed. Credit Union*, 816 A.2d 793, 802 (D.C. 2003), *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802, 93 S. Ct. 1817, 36 L.Ed.2d 668, (1973) and *Comcast Corp. v. Nat'l Ass'n of Afr. Am.-Owned Media*, 140 S. Ct. 1009, 1017, 206 L. Ed. 2d 356 (2020) are for purposes of explaining the proper analysis when an advertisement is *not* facially discriminatory, which is the circumstance in this instant case. *See* Appellant Brief at 6-12.

The District simply ignores the strong possibility that the advertisement was *not* facially discriminatory. Instead, the arguments in the cited portion of the District's Brief are largely restatements of its prior arguments, that is, that the District believes that the advertisement is facially discriminatory. Defendants address that issue in substantial detail above.

Moreover, the Court should be aware that the *Rose* decision relied upon by the District had not been published on the date that Burrello filed his initial Brief. *Rose v. United Gen. Contractors* was issued on November 17, 2022 but Burrello's Brief was filed on September 12, 2022. The Burrello Defendants did not have the benefit of the *Rose* matter when they filed their initial brief. Regardless, the *Rose* matter is completely consistent with Burrello's arguments in this instant matter, given that *Rose* found that "remand is necessary for further factual findings." *Rose*, 2022 D.C. App. LEXIS 376 at 9.

## I. Burrello's Right to a Jury Trial

1. "Damages" and "Civil Penalties" are Both Legal Remedies that Require a Jury Trial

The District's second core argument in their Opposition is that "civil penalties"[2] and "damages"[3] are completely different categories of relief that require completely different analysis. As Burrello explained, in detail in his Appellant Brief, this is simply not an accurate statement of law. *See* Appellant Brief at 13-17.

Defendants explained in detail at the trial level, and in the Appellate Brief, how the "the right to a jury trial extends to legal remedies in which legal, rather than equitable, rights are at issue." *District of Columbia v. Equity Residential Mgmt.*, *LLC*, 2019 D.C. Super. LEXIS 21 (*citing Johnson v. Fairfax Village Condominium IV Unit Owners Ass'n*, 641 A.2d 495, 505 (D.C. 1994)).

To determine whether a claim is a properly brought before a jury "the Court must examine both the nature of the action and of the remedy sought." *Id.* (citing *Tull v. United States*, 481 U.S. 412,417,107 S. Ct. 1831, 95 L. Ed. 2d 365 (1987).

---

[2] Defendant does note that the final order did refer to a "civil penalty," but, as explained herein, the terminology is irrelevant to the legal question at bar because "damages" and "civil penalties" are legal remedies that are both entitled to a jury trial under applicable law.

[3] For all the District's concerns about the purported differences between "damages" and "civil penalties" it was the District *itself* that sought "Damages" in its own Complaint. (A. 23). No amendments were made to the Complaint, and no attempt to amend was ever sought. If the District did not want "damages" to be an element of this case, it had complete and exclusive control over the content of its own Complaint. The record reflects that the District clearly sought "damages." Its attempt to disown its own legal work product at this stage of the litigation should not be given credence.

Superior Court Judge Williams previously, and correctly, held that "civil penalties sought pursuant to the CPPA constitute legal relief which provide a Seventh Amendment right to a jury trial." *Id.* Setting the specific terminology issue aside, whether "damages" or "civil penalties" were awarded, the law is clear that both categories of "legal remedies" require a jury trial.

2. "Amount" of Civil Penalty

Defendants clearly explained their position that they are entitled to a jury trial for *all* legal purposes. *See* Appellant Brief at 13 ("Defendants properly reserved the right to a trial by jury in their Answer and did not limit their demand in any way. (A. 38)").

*a. Jurisdiction*

First, the District argues that the Court lacks jurisdiction because there is no "final order" and argues that jurisdiction in this matter is "interlocutory." *See* Opposition at 23 (citing D.C. Code § 11-721(a)(2)(A)). As explained above in detail, this is simply not accurate, based on substantial precedent of record or the substantial Superior Court record. There *is* a final order, and this Court's jurisdiction is not artificially limited, in any respect, despite the District's arguments to the contrary.

*b. Applicable Arguments Presented in Opening Brief*

Next, the District argues that "the argument is not squarely presented in Mr. Burrello's opening brief." *See* Opposition at 23. Here, it is unclear "the argument" to which the District refers. This *entire appeal* is based on the fact that (a) summary judgment was improperly entered and (b) that Burrello is entitled to have a jury of his peers determine questions of liability and whether *any* damages/civil penalties are appropriately entered, at all. *See generally* Appellant Brief.

*c. "Amount" of Civil Penalties*

Defendant is of the position that, given that he has the right to a jury, *any* civil penalty in this case, as previously entered, is properly vacated.

Both parties have relied on the *same* case. *Tull v. United States*, 481 U.S. 412, 427, 107 S. Ct. 1831, 1840 (1987). That case *clearly* supports Defendant's position that he is entitled to a jury trial. *Id.* ("We conclude that the Seventh Amendment required that petitioner's demand for a jury trial be granted to determine his liability, but that the trial court and not the jury should determine the amount of penalty, if any.")

The confusion on this point, again, seems to relate back to the District's demand, in their own Complaint, for "damages" under their "Prayer for Relief." (A. 23). As of the moment of this appeal, the District's operative pleading seeks "damages" *and* "civil penalties." Defendant has plainly argued that to the extent

that "damages" are at issue, and of this filing, they are demanded in the Complaint, he is entitled to a jury trial.

For purposes of addressing the instant argument, and setting aside the question of "damages," Mr. Burrello agrees that ***if, and only if*** a jury finds liability, the trial court *is* likely entitled to set the amount of *civil penalties*. However, to the extent that the District is seeking damages, it is Burrello's position that the jury has the right to determine *damages*. Again, Burrello's position on this point is limited, and he does not waive, in any way, any of his rights to a jury trial.

**G. Summary of Burrello's Argument**

In summary, (a) the advertisement was not "facially discriminatory" and is subject to factual inquiry and determination, (b) given the factual questions, it was error for summary judgment to be entered against Burrello, (c) Burrello is accordingly entitled to a jury trial as to liability and as to "damages," if the District continues to seek them, (d) if the District does not seek "damages" but *only* seeks "civil penalties" and ***if and only if*** a jury finds liability, Burrello does not dispute that the trial court would have the right to set the amount of the civil penalty.

## CONCLUSION

Defendants respectfully request that this Court vacate the trial court's Order granting Plaintiff District of Columbia's Motion for Reconsideration and Summary Judgment. Defendants further request that this Court vacate the trial court's Order

partially granting Plaintiff's Motion for Remedies and remand this matter for further proceedings.

Respectfully submitted,

/s/Eric J. Menhart
Eric J. Menhart, Esq.
Lexero Law
512 C St NE
Washington, D.C. 20002
Phone: 202-904-2818

## STATEMENT AS TO TYPEFACE

The font used in this Brief is Times New Roman and the type size is 14 point.

# District of Columbia
# Court of Appeals

## REDACTION CERTIFICATE DISCLOSURE FORM

**Pursuant to Administrative Order No. M-274-21 (filed June 17, 2021), this certificate must be filed in conjunction with all briefs submitted in all cases designated with a "CV" docketing number to include Civil I, Collections, Contracts, General Civil, Landlord and Tenant, Liens, Malpractice, Merit Personnel, Other Civil, Property, Real Property, Torts and Vehicle Cases.**

I certify that I have reviewed the guidelines outlined in Administrative Order No. M-274-21 and Super. Ct. Civ. R. 5.2, and removed the following information from my brief:

1. All information listed in Super. Ct. Civ. R. 5.2(a); including:

   - An individual's social-security number
   - Taxpayer-identification number
   - Driver's license or non-driver's' license identification card number
   - Birth date
   - The name of an individual known to be a minor
   - Financial account numbers, except that a party or nonparty making the filing may include the following:

     (1) the acronym "SS#" where the individual's social-security number would have been included;
     (2) the acronym "TID#" where the individual's taxpayeridentification number would have been included;
     (3) the acronym "DL#" or "NDL#" where the individual's driver's license or non-driver's license identification card number would have been included;
     (4) the year of the individual's birth;
     (5) the minor's initials; and
     (6) the last four digits of the financial-account number.

2. Any information revealing the identity of an individual receiving mental-health services.

3. Any information revealing the identity of an individual receiving or under evaluation for substance-use-disorder services.

4. Information about protection orders, restraining orders, and injunctions that "would be likely to publicly reveal the identity or location of the protected party," 18 U.S.C. § 2265(d)(3) (prohibiting public disclosure on the internet of such information); *see also* 18 U.S.C. § 2266(5) (defining "protection order" to include, among other things, civil and criminal orders for the purpose of preventing violent or threatening acts, harassment, sexual violence, contact, communication, or proximity) (both provisions attached).

5. Any names of victims of sexual offenses except the brief may use initials when referring to victims of sexual offenses.

6. Any other information required by law to be kept confidential or protected from public disclosure.

Signature

22-CV-418

Case Number(s)

Eric Menhart, Esq,

Name

1/13/2023

Date

Eric.Menhart@Lexero.com

Email Address

## CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2023 a copy of the foregoing was delivered via the Court's electronic case filing system.

/s/ Eric Menhart
Eric J. Menhart