UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

In re: APPLICATION OF ISAAC LEVI PILANT, FOR AN ORDER PURSUANT TO 28 U.S.C. § 1782 TO CONDUCT DISCOVERY FOR USE IN A FOREIGN PROCEEDING	Case No. 1:25-mc-00760-JMA-LKE

DECLARATION OF JONATHAN BERMAN
IN SUPPORT OF RESPONDENTS' OPPOSITION

1. I, Jonathan Berman, submit this declaration in support of Respondents' Opposition and declare, under 28 U.S.C. § 1746, as follows:

Experience and Expertise

2. I am currently a partner at Dr. Rhanan Har-Zahav Edelstein Berman, Law Offices in Tel Aviv, Israel. In this capacity, I primarily engage in administrative and constitutional litigation before the Supreme Court and the District Courts in Israel, as well as in civil-commercial litigation before the Supreme Court, the District Courts, and the Magistrates' Courts in Israel.

3. I have been practicing litigation in Israeli courts since my admission to the Israeli Bar in 2005. In the early years of my litigation career, I worked with human rights organizations—first in the legal department of the Association for Civil Rights in Israel (2005), then as Legal Advisor for the Hotline for Refugees and Migrants (2005–2011), and subsequently as Director of the Refugee and Immigration Clinic at the College of Law and Business in Ramat Gan (2011–2014). In 2015, I co-founded the law firm Edelstein Berman & Co., which merged in 2017 with the law offices of Dr. Rhanan Har-Zahav. Additionally, I held a position as an adjunct lecturer in

the M.A. Program in Migration Studies at Tel Aviv University (2012–2015), and in the LL.B. program at the Faculty of Law at Reichman University (2016–2018).

4. I hold an LL.B degree from Tel Aviv University, Tel Aviv, Israel (2004, *Magna cum Laude*) and an LL.M. degree from Columbia University, New York, U.S.A. (2009, Human Rights Fellowship; Harlan Fiske Stone Scholar; Parker School of Foreign and Comparative Law Certificate).

Civil Procedure and Discovery under Israeli Law

5. Under Israeli law, civil litigants are not permitted to engage in pre-litigation discovery.

6. Discovery of documents in civil proceedings is regulated by Sections 57–59 of the Civil Procedure Regulations, 5779-2018 and is permitted only after a civil proceeding has been initiated. Section 57 provides that no later than 30 days after the submission of the defendant's answer to the suit or the plaintiff's reply (before the pre-trial stage and the stage of submitting evidence and examining witnesses), the parties shall exchange written affidavits of document disclosure, confirming the list of all documents relevant to the matters in dispute, which are or were in the possession or control of the party and which the party located following inquiry and search.

7. According to Section 58, within 30 days thereafter, the parties must allow each other to review and copy the documents in their possession.

8. Pursuant to Section 49(c), the parties may submit a list of motions up to 20 days prior to the pre-trial hearing, in which they may request, among other things, that the other parties allow them to review specific documents. Under Section 49(b), at least seven days before

submitting such a motion to the court, the party must contact the opposing party and notify them of the intention to file such a motion.

9. As stated, all the above proceedings take place only after the civil suit has been filed and prior to the pre-trial hearing, and it is not possible to request document discovery before filing a claim.

10. Similarly, under Israeli law, civil litigants are not permitted to take depositions as part of civil discovery. The only way for parties to present questions to other parties, besides cross-examination in a court hearing, is through the procedure of written questionnaires following the filing of a civil lawsuit.

11. The questionnaires procedure is regulated by Section 56 of the Civil Procedure Regulations, 5779-2018. According to Section 56, no later than 30 days after the submission of the defendant's answer to the suit or the plaintiff's reply (before the pre-trial stage and the stage of submitting evidence and examining witnesses), each party may send a questionnaire to any other party, which may include questions relevant to the matter at hand. Answers to the questionnaire must be given in a written affidavit within 30 days from the day the questionnaire is received, or within another period of time set by the court.

12. According to Section 49(c), the parties may submit a list of motions up to 20 days prior to the pre-trial hearing, in which they may request, among other things, that the court order a party to answer questions they have failed to answer or have answered inadequately. Under Section 49(b), at least seven days before submitting such a motion to the court, the party must contact the opposing party and notify them of the intention to file such a motion.

13. As stated, the questionnaire procedure is conducted entirely in writing, through written inquiries and written responses, and takes place only after a lawsuit has been filed.

14. Under Israeli law, civil litigants must obtain permission from the court to seek discovery from third parties, and the court decides the scope of such discovery. The document discovery and questionnaire procedures described above apply only between the parties to the legal proceeding, and not between them and third parties. A party to the proceeding who wishes to obtain testimony or documents from a third party may file a motion to summon the third party to testify.

15. According to Section 69 of the Civil Procedure Regulations, 5779-2018, the court may summon any person to give testimony, and the court may issue any order in the course of a witness examination, including presenting any question to the witness as it sees fit or instructing the witness to produce any document in his possession or under his control.

16. Finally, Israeli courts may request foreign discovery assistance from U.S. courts.

17. The option to request assistance from foreign countries is regulated by the Legal Assistance between States Law, 5758-1998, which applies to both criminal and civil proceedings. Pursuant to Section 47 of the Law, the Attorney General may submit a request to another country for the collection of evidence, including the transfer of an object for the purpose of presenting it in Israel, if the court has approved that the evidence is necessary for a legal proceeding in Israel. According to the caselaw of the Israeli Supreme Court, a party wishing to conduct evidence collection proceedings abroad for the purpose of a civil legal proceeding taking place in Israel must first apply to the court, so that it may determine that the evidence is necessary for the proceeding (LCA 8692/09 **Discount Bank of Israel v. Hassan**, para. 5 (October 13, 2010)).

18. Additionally, assistance may be requested from foreign countries in accordance with the Regulations for the Implementation of the Hague Convention of 1970 (Collection of Evidence), 5737-1977. Under these regulations, the court may request, through the Director of the Courts, a judicial authority in another country to collect evidence in a civil matter.

Israeli Defamation Law

19. Under the Section 1 of Israeli Defamation Law, 5725-1965 defamation means a matter, the publication of which is likely to:

(a) humiliate a person in the eyes of others, or make him a target of hatred, contempt, or ridicule; or

(b) degrade a person due to acts, behavior, or attributes attributed to him; or

(c) harm a person in his profession – whether a public position or otherwise – in his business, occupation, or trade; or

(d) degrade a person due to his race, origin, religion, place of residence, age, sex, sexual orientation, or disability.

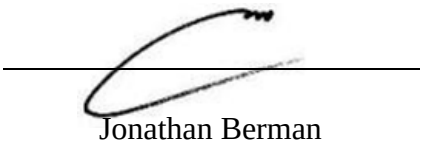
20. Pursuant to Section 2(a) of the law, "publication" includes any communication, whether oral or written, or by print, drawing, figure, gesture, sound, or any other means. In order to survive a motion to dismiss, a plaintiff must allege the abovementioned elements.

21. Pursuant to Section 7A of the law, however, a plaintiff does not need to allege damages to survive a motion to dismiss (or provide proof of damages to ultimately prevail on a defamation claim).

22. Finally, while in any civil or criminal proceeding for defamation, it is a valid defense that the matter published was true and that it was of public interest (Section 14 of the Defamation Law, 5725-1965), the burden is on the defendant to establish the truth of the alleged defamatory publication.

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

Executed this 16th day of April, 2025.



Jonathan Berman