

LANKLER SIFFERT & WOHL LLP  
ATTORNEYS AT LAW

500 FIFTH AVENUE  
NEW YORK, N.Y. 10110-3398  
WWW.LSWLAW.COM

TELEPHONE (212) 921-8399  
TELEFAX (212) 764-3701

June 16, 2015

VIA ECF

The Honorable Joanna Seybert  
United States District Court  
100 Federal Plaza  
Central Islip, New York 11722

Re: *Friends of East Hampton Airport, et al. v. The Town of East Hampton*,  
15 Civ. 441 (JS) (ARL)

Dear Judge Seybert:

We respectfully write on behalf of Plaintiffs in the above-referenced action to briefly respond to yet another unauthorized filing yesterday by three non-parties.

Without seeking or obtaining leave of the Court, non-parties Committee to Stop Airport Expansion, Pat Trunzo, Jr., and Pat Trunzo III filed their latest unauthorized submission – over 100 pages of additional material, including an additional letter-brief and the underlying party submissions filed with the district court in 1996 in *National Helicopter Corp. of Am. v. City of New York*, 952 F. Supp. 1011 (S.D.N.Y. 1997), *aff'd in part and rev'd in part*, 137 F.3d 81 (2d Cir. 1998). The Committee and Trunzos filed this material while their untimely motion for leave to file expedited briefing as *amici* is still pending. The Committee and Trunzos have also stated that they intend to file *additional* materials with the Court.

Your Honor has not authorized these non-parties to file an *amicus* brief, let alone this supplemental filing or others. It is improper for *parties*, to say nothing of non-parties, to submit uninvited briefing in this manner. *Cf.* Fed. R. App. P. 28(j) (detailing when and how parties can cite court to supplemental authorities). Accordingly, the Committee and Trunzos' improper submission should be rejected.

If, however, Your Honor is inclined to consider the underlying briefing in *National Helicopter*, then Plaintiffs respectfully request leave to file a short letter of 4 pages or less by close of business tomorrow addressing why the perfunctory briefing on ANCA in *National Helicopter* was grossly inaccurate and unhelpful – making it unsurprising that neither the district court nor the Court of Appeals rested any part of their decisions in *National Helicopter* on ANCA or addressed ANCA's terms.<sup>1</sup>

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<sup>1</sup> Among other things, the defendant City of New York affirmatively misquoted ANCA's provision about its effect on prior laws (49 U.S.C. § 47533), omitting the key language to suggest a meaning opposite of the actual meaning; the City similarly misquoted the FAA's rulemaking comments. The

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While Plaintiffs certainly do not wish to burden the Court with additional briefing, we cannot leave unaddressed the Committee's erroneous suggestion that the underlying briefing in *National Helicopter* was correct or reliable, or that the courts' non-discussion of ANCA in *National Helicopter* should be regarded as anything other than non-discussion.

Respectfully submitted,



Lisa R. Zornberg

Copies to:

Eric Bregman, Esq.  
Peter Kirsch, Esq.  
W. Erik Pilsk, Esq.  
Thomas P. Ogden, Esq.  
AUSA Robert Schumacher

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plaintiff, National Helicopter (whose focus was not principally on ANCA), failed to correct the City's errors. Both parties failed to cite the district court to ANCA's provision assuming *Griggs* liability from local proprietors and other key terms confirming ANCA's express and implied preemptive effect. Those briefing errors and omissions, among others, infected the parties' appellate briefing in *National Helicopter* as well. If the Court so wishes, Plaintiffs can provide Your Honor with copies of the appellate briefing.