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VIA E-MAIL & U.S. MAIL

Sheila Jones, Esq.
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Thomas Ogden, Esq.
Wollmuth Maher & Deutsch
500 Fifth Avenue
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Re: *Friends of the East Hampton Airport v. FAA*, Dist. Ct. Dkt. No. 15 Civ. 441 (JS) (ARL) (E.D.N.Y.), 2d Cir. Dkt. No. 16-931-cv.

Dear Ms. Jones and Mr. Ogden:

On March 25, 2016, your client, the Committee to Stop Airport Expansion (the "Committee"), filed a notice of appeal from Judge Seybert's February 29, 2016 order granting the Committee limited permissive intervention in this action and denying it intervention as of right.

We write to direct your attention to the precedent establishing that where a district court has granted permissive intervention *of any scope* to an intervenor (even if simultaneously denying that party's application for broader intervention), such order is interlocutory and non-reviewable until after final judgment has been rendered. *See Stringfellow v. Concerned Neighbors in Action*, 480 U.S. 370 (1987); *Eng v. Coughlin*, 865 F.2d 521, 526 (2d Cir. 1989); *S.E.C. v. Chestman*, 861 F.2d 49, 50 (2d Cir. 1988); *Shore v. Parklane Hosiery Co.*, 606 F.2d 354, 357 (2d Cir. 1979).

As the Supreme Court ruled in *Stringfellow*, if the intervening party "still wishes to challenge the denial of intervention as of right, or if it believes that the restrictions [on the scope of permissive intervention] imposed by the District Court prevented it from protecting its interests, it can raise these claims before the Court of Appeals . . . only after judgment." 480 U.S. at 376-77. Federal appellate courts accordingly lack jurisdiction over such interlocutory orders under either 28 U.S.C. § 1292(a)(1) or the collateral order doctrine. *Stringfellow*, 480 U.S. at 375-77.

That jurisdictional rule – first enunciated by the Second Circuit in *Parklane Hosiery* and adopted by the Supreme Court in *Stringfellow* – has been the law of this Circuit for 37 years and the law of *all* federal circuits for 29 years. The Supreme Court has never revisited its ruling in *Stringfellow*, and the circuit courts lack the authority to disregard it.

In light of that clear and controlling precedent, we call upon the Committee to immediately withdraw its interlocutory appeal. Should the Committee fail to do so within 10 days of receipt this letter, our clients will move for dismissal of the appeal and reserve the right to seek all remedies available to them – including but not limited to an award of costs and attorney's fees pursuant to Federal Rule of Appellate Procedure 38 – for the Committee's continued pursuit of a patently frivolous appeal.

Very truly yours,

Lisa Zornberg

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cc: AUSA Robert Schumacher
W. Eric Pilsk, Esq.