

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

SIMON BRONNER, MICHAEL
ROCKLAND, CHARLES KUPFER, and
MICHAEL BARTON,

Plaintiffs,

v.

LISA DUGGAN, CURTIS MAREZ,
NEFERTI TADIAR, SUNAINA MAIRA,
CHANDAN REDDY, J. KEHAULANI
KAUANUI, JASBIR PUAR, JOHN F.
STEPHENS, STEVEN SALAIT A, and
THE AMERICAN STUDIES
ASSOCIATION,

Defendants.

Case No.: 2019 CA 001712 B

Judge Robert R. Rigsby

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
SUBMITTED BY DEFENDANTS JASBIR PUAR AND KEHAULANI KAUANUI

Defendants Jasbir Puar and Kehaulani Kauanui submit the following Proposed Findings of Fact and Conclusion of Law:

As a preliminary matter, Puar and Kauanui join in each and every proposed finding of fact and conclusion of law proposed by their codefendants, the American Studies Association, Lisa Duggan, Sunaina Maira, Curtis Marez, Chandan Reddy, John Stephens, and Neferti, Tadia, and also the proposed findings of fact and conclusions of law submitted by their codefendant Steven Salaita.

PROPOSED FINDINGS OF FACT AND CONCLUSIONS

OF LAW SPECIFIC TO DR. PUAR

1. Plaintiffs have accused Dr. Puar of concealing her political agenda while getting appointed to the ASA's Nominating Committee. (Second Amended Complaint [hereinafter "SAC"] ¶6, and they acknowledge that Puar was appointed to the Nominating Committee in 2010. (SAC ¶ 58.) Yet the evidence Plaintiffs cite for this contradicts their "concealment" claim as it points only to statements Puar made years after she joined the Nominating Committee and in some cases years after her 2013 departure from the Nominating Committee. (SAC ¶¶ 59-61)

2. In 2013 58% of the members of the ASA Nominating Committee supported the proposed boycott of Israeli government-sponsored academics. (SAC ¶63), which very closely approximated the percentage of ASA members who voted to support the Boycott in the general membership referendum.

3. As a member of the Nominating Committee, Puar was a volunteer for the American Studies Association within the meaning of 42 U.S.C. §14501, the Volunteer Protection Act, and as such is not liable for harm caused while acting within the scope of her responsibilities unless it was caused in a willfully malicious or reckless manner. (See 42 U.S.C. §14503.)

4. Plaintiffs have not advanced evidence to show that Puar acted outside of the scope of her responsibilities with the ASA Nominating Committee.

5. Plaintiffs have not advanced evidence to show that Puar acted in a willfully malicious or reckless manner.

PROPOSED FINDINGS OF FACT AND CONCLUSIONS
OF LAW SPECIFIC TO DR. KAUANUI

6. Plaintiffs have accused Dr. Kauanui of concealing her political agenda while becoming a member of the ASA's National Council. (SAC] ¶67). Tellingly, Plaintiffs' original complaint acknowledged that that Kauanui's campaign statement stressed that she was on the USACBI's Advisory Committee. (Original Complaint [hereinafter OC"] ¶67.) Tellingly, Plaintiffs have disingenuously removed this central fact from their SAC.

7. Resorting to artful pleading is highly disfavored in the District of Columbia. *Hercules & Co. V. Shama Rest. Corp.*, 613 A.2d 916, 925 n.12 (D.C. 1992); *Newman v. District of Columbia*, 518 A.2d 698, 707 (D.C. 1986). Courts do not reward artful pleading. *Forrest v. Verizon Communs., Inc.* 805 A.2d 1007, 1014 (D.C. 2002.)

8. After the ASA National Council voted to submit the question of the Boycott resolution to its membership, Kauanui worked with other National Council members to revise the resolution's text.

9. As a member of the National Council, Kauanui was a volunteer for the American Studies Association within the meaning of 42 U.S.C. §14501, the Volunteer Protection Act, and as such is not liable for harm caused while acting within the scope of her responsibilities unless it was caused in a willfully malicious or reckless manner. (See 42 U.S.C. §14503.)

10. Plaintiffs have not advanced evidence to show that Kauanui acted outside of the scope of her responsibilities with the ASA National Council.

11. Plaintiffs have not advanced evidence to show that Kauanui acted in a willfully malicious or reckless manner.

TABLE OF AUTHORITIES

Forrest v. Verizon Communs., Inc. 805 A.2d 1007, 1014 (D.C. 2002.)

Hercules & Co. V. Shama Rest. Corp., 613 A.2d 916, 925 n.12 (D.C. 1992);

Newman v. District of Columbia, 518 A.2d 698, 707 (D.C. 1986).

Dated: November 24, 2022

Respectfully submitted,

/s/ Richard R. Renner

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Dated: November 24, 2022

/s/ Mark Allen Kleiman

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Attorneys for Defendants
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on November 24, 2022 a copy of the foregoing Proposed Findings of Fact and Conclusions of Law Submitted by Defendants Jasbir Puar and Kehaulani Kauanui was served by electronic means through email to counsel of record who have entered appearances.

/s/ Mark Kleiman

Mark Allen Kleiman